



Yellowknife Office (BHPB & Diavik only)
#1 4905 - 48th Street, Yellowknife, NT, X1A 3S3
Tel: 867-713-2500 • Fax: 867-713-2502

May 25, 2009

File: MV2001L2-0008 & MV2003L2-0013

To: BHP Billiton Distribution List

Re: Postponement of Hearing on BHP Billiton Motion

On Wednesday May 13, 2009 BHP Billiton Diamonds Inc. submitted the following motion (the Motion) to the Wek'èezhìi Land and Water Board (the Board), requesting a ruling:

“Whether the Wek'èezhìi Land and Water Board, in the context of BHP Billiton Diamond Inc.'s obligations relating to closure and reclamation of the EKATI Diamond Mine, has the jurisdiction to require that BHP Billiton Diamond Inc. establish and maintain fish or fish habitat in the closed pit lakes or the Long Lake Containment Facility at the EKATI Diamond Mine.”

On May 15, 2009, the Board issued a letter outlining a process for the review of the Motion which required parties to respond by May 29, 2009 with oral presentations to be heard on June 19, 2009. However, on May 21, 2009, the Board received a request from the Independent Environmental Monitoring Agency (IEMA) to extend the response deadline. On May 25, 2009, the Department of Justice Canada, on behalf of the federal government, submitted a letter to the Board supporting IEMA's request. Both letters are attached.

The Board has decided grant an extension in order to ensure that all parties can prepare fully on this important issue.

The Public Hearing to hear argument on the Motion, currently scheduled for June 19, 2009, is therefore postponed and new dates for this process are given below. The Public Hearing on the Interim Closure and Reclamation Plan (ICRP), currently scheduled for July 15, 2009, has also been postponed but no new date has been set.

The Board is setting the following deadlines to allow for the consideration of the Motion. More information on the format for the July 15, 2009 hearing is forthcoming.

Motion Process

Parties respond to the Motion	deadline June 24, 2009
BHP Billiton reply to comments	deadline July 2, 2009
Public Hearing to hear argument on the Motion	July 15, 2009

The Board will issue dates for the ICRP Public Hearing as soon as possible.

Please forward any comments you have on the Motion to our Executive Director, Zabey Nevitt via email; zabey@wlb.ca, or by fax ; (867) 669-9593 by the deadlines indicated above.

If you have any questions or comments please do not hesitate to contact Kathleen Racher via email (racherk@wlb.ca) or phone (867) 669 9591.

Sincerely,



Violet Camsell-Blondin
Chair

Cc. Mackenzie Valley Land and Water Board
Sahtu Land and Water Board
Gwich'in Land and Water Board
NWT Water Board
Mackenzie Valley Environmental Impact Review Board
Rio Tinto – Diavik Diamond Mine
Fortune Minerals