



Box 1500
Yellowknife NT X1A 2R3

Your file - Votre référence

Our file - Notre référence

August 23, 2006

Mr. Sean Brennan
President and Chief Operating Officer
EKATI Diamond Mine
BHPBilliton Diamonds Inc.
1102-4920 52nd Street
YELLOWKNIFE NT X1A 3T1

Dear Mr. Brennan

RE: Dispute Resolution Process for (Appointment of Directors to the Independent Environmental Monitoring Agency) the Agency

Article XIV of the Environmental Agreement for the BHPBilliton (BHPB) Ekati Diamond Project sets out a dispute resolution process whereby all matters of dispute arising from the Agreement are to be resolved. As you are well aware, BHPB, the Government of the Northwest Territories- Environment and Natural Resources (GNWT-ENR) and Indian and Northern Affairs Canada (INAC) have been unable to resolve the dispute regarding appointment under Article 4(a)(ii) of the Environmental Agreement to fill the two vacant positions on the Board of the Independent Environmental Monitoring Agency.

The replacement of Directors was initiated on July 2, 2005 with the GNWT-ENR nominating four candidates and BHPB nominating two candidates in their letter of July 11, 2005. INAC and GNWT have reviewed these nominations and agree that the most suitable and most qualified candidates are, Dr. Laura Johnson (mining issues with particular emphasis on water quality and remediation) and Mr. Kim Poole (wildlife expertise). Over the past year we have had numerous discussions among INAC, GNWT-ENR and the BHPB representatives and exchanged correspondence on several occasions, with the result that BHPB supports Dr. Johnson's appointment but does not support Mr. Poole's appointment. INAC and GNWT-ENR have not received any substantial rationale as to why BHPB does not consider Mr. Poole to be a suitable candidate, although BHPB has indicated that it has offered Mr. Poole contract work during the last year. Both INAC and GNWT-ENR support Mr. Poole and Dr. Johnson and would like both appointed simultaneously.

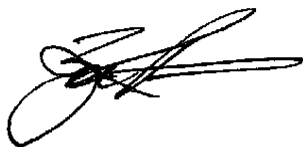
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BHPB has not responded to our May 1, 2006 letter which again requests your endorsement of these appointments or any indication you are prepared to meet on this matter. Having exhausted all attempts to resolve this matter through discussions, INAC and GNWT-ENR are therefore triggering section 14.1 (b) of the Environmental Agreement which states that, "in the event that any one of Canada, the GNWT-ENR or BHPB determine that the dispute cannot be resolved through discussions, Canada and the GNWT-ENR shall appoint, in Consultation with BHPB, a mediator to assist in further discussions to resolve the matter."

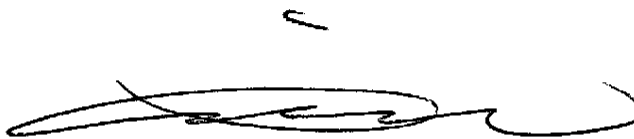
We propose to appoint Mr. William Tilleman, Q.C., William A. Tilleman Professional Corporation to undertake the mediation process. However, if BHPB would prefer, we are prepared to move directly to arbitration as set out in 14.1 (c) of the Environmental Agreement.

We are prepared to meet with you at your earliest convenience and have directed our staff (David Livingstone-Director R.R.& E., Lionel Marcinkoski-INAC, Tom Beaulieu-Associate Deputy Minister, and Gavin More GNWT-ENR) to make the necessary arrangements.

Sincerely,



Bob Overvold
Regional Director General
Northwest Territories



R. P. Bailey
Deputy Minister
Environment and Natural Resources

cc: Bill Ross, Chair, Independent Environmental Monitoring Agency