



INDEPENDENT ENVIRONMENTAL MONITORING AGENCY

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September 30, 2004

David Livingstone
Director, Renewable Resources and Environment Directorate
Department of Indian Affairs and Northern Development
P.O. Box 1500
Yellowknife, NT X1A 2N8

Dear Mr. Livingstone,

Re: Comments on draft Mine Reclamation Guidelines

The Independent Environmental Monitoring Agency has reviewed the draft *Mine Reclamation Guidelines for NWT and Nunavut* dated June 2004. We used the principles listed in the *Mine Site Reclamation Policy for the NWT* to guide our review and have provided general comments below. Specific comments are embedded in the draft document attached.

General comments on the draft guidelines:

1. In our view, guidelines should be as succinct and streamlined as possible if they are going to be useful as a reference document. The draft is unnecessarily long, containing too much background or descriptive information in many sections. Specific guidelines are lost in the text. The guidelines should be short and to the point, and clearly set out in the text to highlight them. Some serious rethinking of format would significantly improve this document. (See Manitoba Guidelines – they are about 10 pages or so)
2. Wording is vague, equivocal and noncommittal in many places. The guidelines should state clearly what the operator is expected to do and what DIAND's priorities are for any given reclamation strategy. The guidelines should also be clear on what is required and what is optional. Editorial changes have been made in the text to strengthen the language.
3. The guidelines focus on the water aspects of the mine. More focus is required for the land reclamation issues.
4. The first principle listed in the policy is that the reclamation activities should reflect a commitment to the principles of sustainable development and the "polluter pays" principle, yet the guidelines do not provide guidance on how these principles should be considered when developing objectives. In fact the only mention of either principle is in the glossary. The guidelines should reflect best



- practices and lessons learned from recent mining and reclamation projects. For example, the guidelines state that a reclamation measure for reclaiming tailings is to use indigenous vegetation that absorbs contaminants. While this may be a desirable measure, it should be noted that Aboriginal peoples have expressed concerns about such practices at Ekati, and did not support revegetation of tailings for the Colomac reclamation project as a preferred remedial option.
5. The concept of ‘designing for closure’ needs to be elaborated on, and made more central as a reclamation goal, with stress placed on the fundamental requirement of integrating mine planning with closure planning.
 6. There is no mention of public or community consultation requirements, or the use of traditional knowledge, despite a stated principle in the policy that communication and consultation among all applicable parties should be comprehensive, complete and timely. Proponents should be required to seek informed input from affected communities during the preparation of draft closure plans, and on proposed modifications to the reclamation plan. This process should be transparent and well documented. Good examples exist of how community consultation should be conducted. As with mining practices, the elements of best practices for consultation should be included in the guidelines.
 7. There is little recognition of the need to have explicit criteria identified for reclamation in the closure plan - for all mine components. The policy states that regulators should develop site-specific criteria for reclamation standards and some existing water licences require specific closure criteria be included in the abandonment and reclamation plan. This document should include guidelines for closure criteria. For example, revegetation criteria should describe the number of years by which vegetation cover is firmly established, free-growing, and without residual effects of fertilizer or other amendments used.
 8. The commitment to revegetating disturbed landscapes (other than tailings) is weak; this needs to be made more clear as a priority objective for closure. A revegetation research program should normally accompany the early stages of a mining operation so that revegetation planning can be accurate and relevant.
 9. The Guidelines need to address the issue of ‘evolving’ closure plans. There ought to be an ‘initial closure plan’ that can be determined by decision authorities to be conceptually viable prior to project approval. This should be submitted with the project application and be subject to the environmental assessment stage. Some guidance as to the level of detail required at the outset of the project is essential. ‘Interim closure plans’, which contain increasing detail over time as various components of the mine plan get executed, and as research programs produce results, should be described. Criteria for acceptability of interim plans should be identified. ‘Final closure plans’ ought to be described similarly, with the required level of detail for all surface disturbance and mine facilities identified.
 10. At all times, an approved closure plan should exist; one that can be implemented should the mine close earlier than expected. There is little information about ‘premature’ closure. The plan should be developed to the level of detail commensurate with constructed mine components so that, in the event of



premature closure, closure activities are readily implementable. It is critical that triggers be identified in the closure plan for when certain kinds of decommissioning and reclamation activities are to be carried out. It cannot be left to an operator to decide that short-term closure measures can be extended indefinitely.

11. The guidelines cite numerous references to other documents in NWT and other jurisdictions, but it is not clear what the role of these might be in developing closure plans. It might be helpful to extract key points and incorporate these directly into the Guidelines instead of by vague reference. Reference to the last set of guidelines for mine reclamation from 1992 should be removed to avoid confusion or provision of contradictory advice. Pertinent guidance from the 1992 document should be included in the new guidelines.
12. Sections 6 and 7, while providing additional information for consideration, should be included in an appendix. If specific mines are to be highlighted, a focus on diamond mines or metal mines in general would be more representative of the types of mining expected in the NWT over the next few years, rather than uranium and coal mines.
13. If there are known conditions or methodologies which are not acceptable to DIAND, the guidelines should be clear on this. For example, should a new mining project, predicted to have significant adverse post-closure impacts in perpetuity, be approved?
14. The guidelines should address exploration and development phases of mining, not just production.
15. The guidelines could be more specific about the situations in which expert advice must be sought by the operator.
16. The guidelines should be reviewed to ensure consistency and to avoid contradiction with direction provided in other federal policies particularly those related to the management of contaminated sites and abandoned mines.

We note that a document outlining best mining practices has been circulated for comments. We encourage DIAND to incorporate a discussion of such practices into the guidelines. We are available to discuss our comments further.

Sincerely,

-ORIGINAL SIGNED BY-

William A. Ross

Chairperson

Cc: Society members, EMAB

