



Water Resources Division
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PO Box 1500
Yellowknife, NT

File: MV2003L2-0013
MV2001L2-0008
BHP Billiton Diamond Inc.

July 23, 2008

Zabey Nevitt
Executive Director
Wek'eezhi Land and Water Board
c/o Box 2130
Yellowknife, NT X1A 2P6

Dear Mr. Nevitt:

**Re: Summary of Discussions Between INAC-WRD and BHP-Billiton
Concerning the Unresolved ICRP Issue – Subsurface Pore Water Expulsion
in the LLCF**

During the Section 4 meeting on May 29 and May 30 2008, INAC– Water Resources Division (WRD) committed to meet with BHP Billiton and its consultants to discuss the unresolved issue of subsurface pore water expulsion. In that regard on July 2, 2008 the first meeting was held to discuss the issue and try and work toward a solution. This issue is best described in detail in the Section 3 comment letter from INAC-WRD and was subsequently discussed at the Section 3 working group meeting.

In general the concept of subsurface pore water expulsion is as follows. As the tailings begin to freeze from the top down (over time from the side and bottom as well), solutes will continue to be released in advance of the freezing front. A progressively higher concentration of solutes will be present in the pore water. Solutes may affect surface water quality. There is also a likelihood that the pore water will build up pressure as it is forced against bedrock or pre-existing permafrost. Increased pore water pressure may lead to the movement of solute-rich pore water into surface water and potentially cause deformation of the tailings.

This process is very similar to the formation of pingos which has been well documented in peer reviewed journals. Attached is a journal article which explains pingo formations and the pore water expulsion process that causes it. Although the LLCF is not a recently drained lake, the physical attributes that cause this process to occur are all present. For this reason INAC – WRD believes that this process needs to be further studied and understood.



The people in attendance at the July 2, 2008 meeting were:

INAC

Marc Casas – INAC-WRD

Krystal Thompson – INAC-E&C

BHP Billiton and Consultants

Helen Butler – BHP Billiton

Marc Wen – Rescan Environmental Services (conference call)

Nigel Goldup – EBA Engineering (conference call)

Bill Horn – EBA Engineering (conference call)

The purpose of the meeting was for INAC-WRD to clearly express its concerns and to discuss the necessary steps towards finding a solution. The meeting was very helpful and everyone is now clear on exactly what INAC-WRD is looking for and the reasons for this request. The concern raised by BHP Billiton and its consultants is that it is very difficult to work in the deeper, wetter sections of the LLCF with heavy equipment. BHP Billiton proposed to have an in house meeting in order to discuss the various options at which point we will set up another meeting to continue discussions. BHP Billiton committed to updating the reclamation research plan of the ICRP to include new research commitments.

During the section 3 working group meeting BHP Billiton committed to gather all the borehole and thermister information for the LLCF that has been gathered to date. Unfortunately, Kevin Jones of EBA who was addressing this on BHP Billiton's behalf was not available for the meeting. We were reassured that this information will be forthcoming.

Although the issue is not resolved, we are confident that we will be able to work together to come up with a solution in the near future. We would like to thank BHP Billiton and their consultants for getting together with INAC on short notice and making a genuine effort to understand and ultimately address our concerns. If anyone has any more questions or would like more detail on the subsurface pore water expulsion issue please feel free to call Marc Casas (867) 669-2664 or by email at casasm@inac.gc.ca.

Sincerely,

Original Signed by

Carole Mills

Acting Manager

Water Resources Division



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada