



Yellowknife Office (BHPB & Diavik only)
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May 15, 2009

File: MV2001L2-0008 & MV2003L2-0013

To: BHP Billiton Distribution List

Re: BHP Billiton Motion Regarding Board Jurisdiction over Fish and Fish Habitat

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.”

A copy of the Motion is attached to this letter.

BHP Billiton has requested the Board rule on the Motion prior to hearing interventions or providing further direction on issues relating to the review of BHP Billiton's Interim Closure and Reclamation Plan for the EKATI Diamond Mine (ICRP).

The Board has reviewed the Motion and determined that a process is required to allow all parties to review and comment. To allow oral presentation to the Board on the Motion, the Board will also hold a public hearing. The Board will rule on the Motion prior to the continuation of the ICRP Public Hearing.

The Public Hearing currently scheduled for May 25 and 26, 2009 is therefore postponed.

The Board is setting the following deadlines to allow for the consideration of the Motion and the continuation of the ICRP Public Hearing.

Motion Process

Parties respond to the Motion	deadline May 29, 2009
BHP Billiton reply to comments	deadline June 5, 2009
Public Hearing to hear argument on the Motion	June 19, 2009
Board Decision and direction relating to the Motion	by June 26, 2009

ICRP Public Hearing Process

Submission of revised interventions (based on Board ruling)	July 6, 2009
Deadline for BHP Billiton Response	July 10, 2009
ICRP Public Hearing	July 15, 2009

Please forward any comments you have on the Motion to our Executive Director, Zabey Nevitt via email; zabey@wlwb.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 Zabey via email or phone (867) 669 9590.

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
Rio Tinto – Diavik Diamond Mine
Fortune Minerals