

**bhpbilliton****BHP Billiton Diamonds Inc.**
Operator of the EKATI Diamond MineBHP Billiton Diamonds Inc.
#1102 4920-52nd Street
Yellowknife NT Canada X1A 3T1
Tel 867 669 9282 Fax 867 669 9293
bhpbilliton.comSarah Baines,
Regulatory Officer,
Wek'eezhii Land and Water Board,
1 4905 - 48th St,
Yellowknife, NT,
X1A 3S3

File: 4.5.1.1

May 10, 2007

RE: Submission of Verification Comments on Section 1 of the Interim Closure and Reclamation Plan (ICRP).

Dear Ms Baines,

The Terms of Reference for the EKATI Diamond Mine Interim Closure and Reclamation Plan (ICRP) require parties to the Working Group respond with verification comments to the Section 1 review within one week of the Section 1 Working Group Meeting. The following are BHP Billiton Diamonds Inc's (BHP Billiton) comments on recommendations made during the May 3, 2007 Working Group Meeting.

Framework for Closure Goal, Objectives and Criteria.

- **Working Group Response to Option D:** BHP Billiton was pleased to see positive agreement by the WLWB and the Working Group of BHP Billiton's proposed framework submitted April 27, 2007.
- **Separation of Regulatory and BHP Billiton Closure Objectives:** At the May 3rd meeting participants requested that BHP Billiton update the framework by separating out those Site Specific Objectives which were the responsibility of the regulatory approval process, and those which were the responsibility of the company. BHP Billiton agrees with this recommendation and the separation between these two groups of objectives has been provided in the attached Figure 1.
- **Reclamation Research Linkage:** Participants at the meeting also requested identified linkage between the Closure Objectives and Closure Criteria, and the Reclamation Research Plan on the Goals, Objectives and Criteria framework figure (Figure 1 on the April 27th BHP Billiton proposed option). BHP Billiton believes the addition of a linkage box on the framework figure is unnecessary and redundant because this is already provided by the company on the closure objectives/criteria tables for the mine components, and as indicated on the Table 1 example submitted April 27. That table includes where the research work to assist the refinement of the closure objectives and criteria for Open Pits would be identified and linked with the Reclamation Research Plan. BHP Billiton also believes that the intent of the framework is to provide a simplistic overview of the key concepts of Goals, Principles Objectives and Criteria. Linkages with processes which guide these key concepts should be dealt with elsewhere, in the text or associated tables. In addition BHP Billiton would expect that if the company has already identified this linkage the Working Group would 'trust' the company to follow through with this proposal, rather than request that it be stated twice.

However, in the interests of co-operative engagement, the company has updated the Closure Objectives and Criteria Framework to include the linkage to the Reclamation Research Plan on

the figure and has provided this (Figure 1 below) together with the attached Table 1, for the WLWB's review.

Definitions.

BHP Billiton agrees with the Working Group recommendations for changes to the Terms and Definitions, as discussed at the May 3, 2007 meeting. In particular the company agrees that all terms used in the ICRP Terms of Reference, that are also in the Class A Water Licenses MV2001L2-0008 and MV2003L2-0013, will have the same definitions as those licenses.

Appendix E – Risks and Contingencies

Following a question from INAC at the May 3, 2007 meeting, (related to Tracking # 95 on the Section 1 Comments/Response Table) the Independent Environmental Monitoring Agency (IEMA) requested that ICRP Appendix E Risks and Contingencies be included as part of the Working Group review. In the WLWB's letter January 18, 2007, the Board outlined 'Sections of the ICRP that will not be reviewed by the Working Group' but which would 'be used as a source of supplementary and background information'. Appendix E was included on that list. BHP Billiton agrees with the WLWB that this is not part of the Working Group review process for the following reasons:

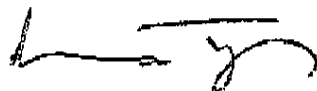
- **Risk Identification is a development process of the ICRP, and an internal company process:** As stated in Appendix E Section 5.1 'The risk based approach is a requirement of the BHP Billiton Closure Standard and Requirement 3 in the Standard states that "the closure planning process must involve identification of the full range of risks and potential outcomes associated with the closure of the operation, in order to control or minimize the negative HSEC [Health, Safety, Environment and Community], financial and other impacts." The company has a guideline on how to undertake a risk analysis and this process was followed. The risks and contingencies form part of the development of the ICRP. The risk identification process was used to identify the risks associated with development of the ICRP Project, the risks associated with all the preliminary closure options for the large mine components, and the risks and residual risks associated with the reclamation and closure plans of the mine components that were outlined in the ICRP (submitted to the WLWB January 15, 2007). The company sees these steps as important to the internal process in developing the plan to ensure all the risks are identified and taken into account, including risks associated with activities, costs, environment, operations and company reputation.
- **Appendix E provides supplementary and background information:** The Risk Assessment process and results are background information, similar to the consultation process and the comments which were noted from the communities and the regulators during that process. This information informs the reviewers of the planning process, but should not detract from the main purpose of the ICRP which states the methods used to reclaim and close the mine, the objectives and criteria to be met at the completion of reclamation, and when the reclamation will take place.
- **Community and Regulatory Stakeholder Identification of risks has been incorporated into the ICRP:** To ensure that communities and the regulatory stakeholders had an opportunity to participate in the identification of risks associated with mine closure, they were asked during community visits early in the ICRP development planning for their issues and concerns with reclaiming and closing the large mine components. Representatives from communities and regulatory agencies were also asked to identify the pros and cons associated with closing the mine, involving a number of closure options, at the Closure Options Workshop July 2006. In the interests of simplicity for all the participants and based on learnings from other workshops, the "pros" and "cons" approach resulted in more clarity (on the risks) for all attendees. Participants were also asked at that time to provide other suggestions for closing these components. BHP Billiton used this information when developing this update of the ICRP.

In conclusion, the company makes the following observations, and proposal regards the question raised by INAC on the Section 1 Comments/Response Table (Tracking # 95). The Working Group was clearly asked by the WLWB to review the full ICRP document over the period of January 23 to February 18, 2007, and following that, complete the Section 1 review with the use of Appendices B and E as supplementary and background information. The review comment sent by INAC in their letter March 19, 2007 indicates that perhaps a full review of the document was not completed, and also the request to use the Appendices noted above as supplementary information may have been misunderstood, or misinterpreted. The INAC response states that 'This section of the ICRP makes reference to a "risk based approach". No further information is provided on this'. INAC's comment is then followed by a list of specific questions related to this statement. In BHP Billiton's response to comments (sent to the WLWB April 18, 2007) the company addressed INAC's question by indicating where this information is found in Appendix E, thinking at the time that INAC had not used Appendix E as supplementary information.

The company proposed to the Working Group on May 3, 2007, and restates in this letter that to ensure the requested information is available to readers Appendix E Section 5.1 will be referenced in Appendix C, Section 3.3, following the sentence 'The ICRP has been developed using a risk based approach'. In addition a short summary of the risk-based approach outlined in Appendix E will follow this reference.

Should you have any questions concerning the above comments or suggestion, please contact Helen Butler (867) 669-6104.

Sincerely,



PP David Scott
Manager Business Development
EKATI Diamond Mine.

Attachments:

Figure 1. ICRP Reclamation Goal, Closure Objectives and Criteria Framework.

Table 1. Example of Specific Closure Objectives and Criteria for the Open Pits Mine Component.

Figure 1. ICRP Reclamation Goal, Closure Objectives and Criteria Framework.

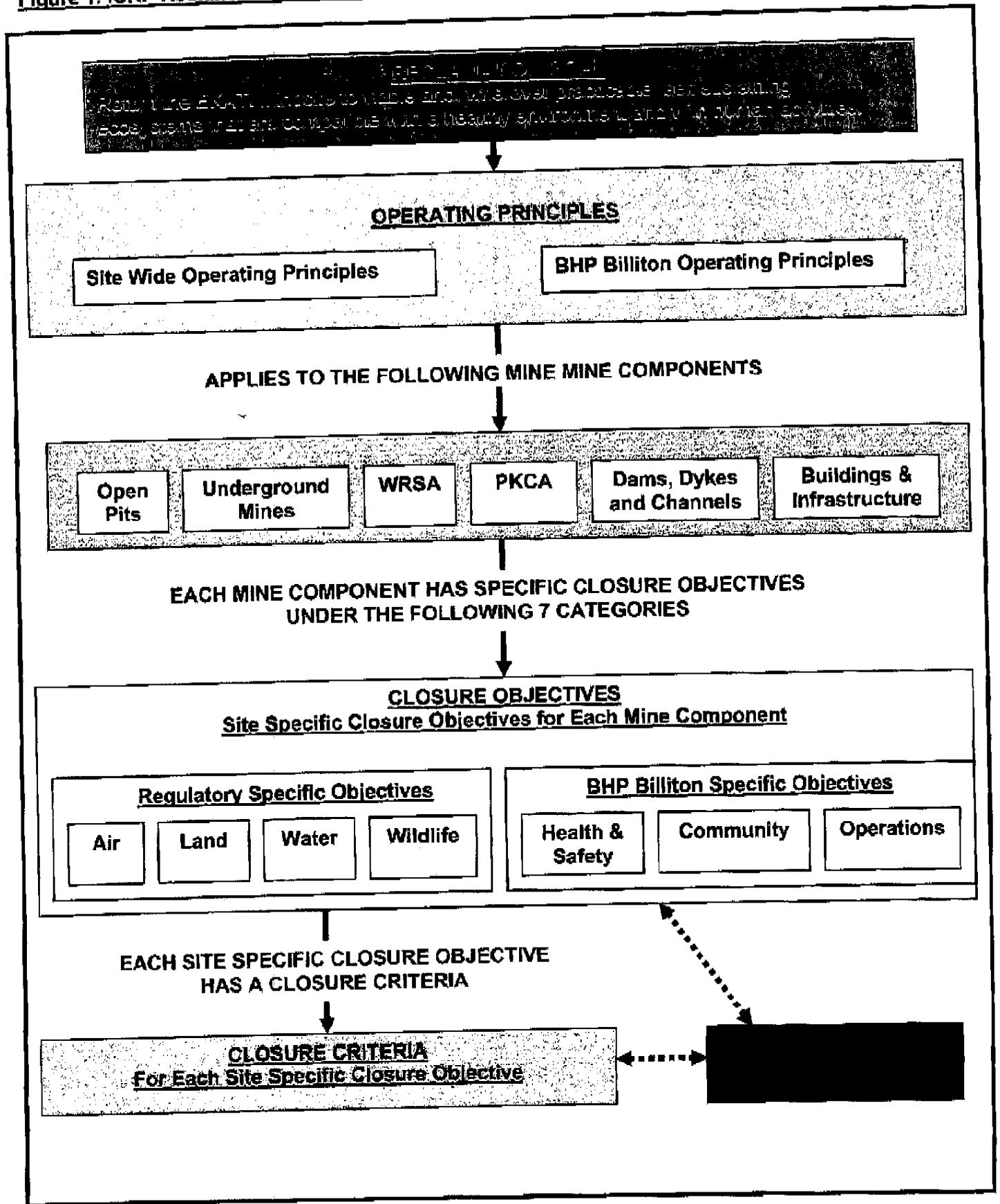


Table 1: Example of Specific Closure Objectives and Criteria for the Open Pits Mine Component

CLOSURE OBJECTIVES AND CRITERIA - OPEN PITS				
Open Pit Specific Closure Objectives	Closure Criteria	Action/Measurements	Reclamation Research Reference	Monitoring Reference
HEALTH & SAFETY Example for Health & Safety: Minimize access to protect human and wildlife safety.	Minimum 2m high berm constructed around open pit.	Physical inspection and survey control.	Appendix F, Tables 42 and 43	Appendix H, Tables 49 and 55
AIR Example for Air: Ensure fugitive dust is minimized				
LAND Example for Land: Remove (or cut to surface) surface infrastructure (i.e. building, pipelines, tanks, electrical).				
WATER Example for Water: Water discharge from pit lake meets water license criteria.				
WILDLIFE Example for Wildlife: Wildlife are using the area.				
COMMUNITY Example for Community: Archeological sites are protected.				
OPERATIONS Example for Operations: Appropriate documentation is maintained				