



INDEPENDENT ENVIRONMENTAL MONITORING AGENCY

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October 18, 2006

Ms. Violet Camsell-Blondin
Chairperson
Wek'eezhi Land and Water Board
c/o Mackenzie Valley Land and Water Board
Box 2130
Yellowknife NT
X1A 2P6

Dear Ms. Camsell-Blondin

Re: BHP Billiton Response to Comments on the 2005 Ekati Waste Rock Storage Area Seepage and Waste Rock Survey Report

The Agency has had an opportunity to review the June 2, 2006 letter and comment table submitted by BHPB in response to comments it had received on the 2005 Waste Rock Storage Area Seepage and Waste Rock Survey Report.

We note that the Agency commissioned independent reviews and has sent comments directly to BHPB on the 2003 and 2004 Seepage Reports on June 23, 2004 and September 12, 2005 respectively. On April 7, 2006 the Agency wrote the Board regarding the 2005 Seepage Report with our observations that the terms of the current water licence had not been met and that our previous comments on the 2003 and 2004 Seepage Reports had not been addressed.

While we welcome a response from BHPB to our April 7, 2006 letter we find it necessary to provide some further comments to the Board. The only comment that BHPB addressed in its comment table was the Agency's assertion that BHPB has not met the terms of its current water licence with the 2005 Seepage Report.

Part F, item 4(f) of water licence MV2003L2-0013 states as follows:

A report interpreting the results of both surveys shall be submitted to the Board for approval within sixty (60) days of the second survey and shall include site plans indicating the locations of any Seepage; the QA/QC protocols used; **and a consideration of how the results will affect the Waste Rock and Ore Storage Management Plan required under part F, item 3.** [emphasis added]



It may also be useful to repeat the Mackenzie Valley Land and Water Board's rationale for this new term in the licence as found in its Reasons for Decision:

Part F, item 4(f): The Board agrees with IEMA, EC and DFO that all monitoring programs, including seepage surveys, require links to the appropriate management plans. The purpose of management plans is to ensure that protection of the environment and this can only be achieved if management plans are revised to mitigate or prevent further changes observed through monitoring.

The Agency fully supports this rationale that is consistent with the broadly held view of adaptive management, one of the key foundations for the review and operation of the Ekati mine. The application of adaptive management is also fundamental to building public confidence in the mine and its regulators.

In carefully reviewing the 2005 Seepage Report and its covering letter again, we see limited evidence that BHPB has considered how the monitoring results will or should affect its management of Waste Rock or seepages, including specific changes to the appropriate management plan. There is some discussion of specific seeps that display changes and some proposed follow-up activities are generally mentioned in the covering letter.

We had hoped to see a list of the key issues identified through the monitoring of seeps and waste rock, an explanation of these key issues, a firm commitment to action including further research and application of further mitigation measures within a defined timeframe, and any proposed changes to the appropriate management plans. Without this systematic approach to adaptive management, the Agency remains of the view that the 2005 Seepage Report does not fully comply with the concept of adaptive management explicitly required in Part F, item 4(f) of the water licence.

We hope that this letter is helpful in better setting out our expectations regarding adaptive management and compliance with the current water licence. We would be happy to meet with your staff, BHPB, other regulators and interested parties to continue to improve environmental management at Ekati.

Sincerely,



Bill Ross
Chairperson

cc. Brent Murphy, BHP Billiton Diamonds Inc.