



INDEPENDENT ENVIRONMENTAL MONITORING AGENCY

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August 5th, 2005

Meighan Andrews
Head, Major Projects
Water Resources Division
Department of Indian Affairs and Northern Development
P.O. Box 1500
Yellowknife NT X1A 2R3

Re: Mine Site Reclamation Guidelines for the Northwest Territories

Dear Ms. Andrews

Thank you for an opportunity to comment on the *Mine Site Reclamation Guidelines for the Northwest Territories* as sent to our Agency on June 20, 2005.

We would like to commend the Department for the initiative of attempting to provide further clarification on the issue of mine reclamation. This is a particularly important area for our Agency as the BHP Billiton begins a more concerted effort towards developing a significantly improved closure and reclamation plan for the Ekati Mine. As you know, we expect to be working closely with all of our partners, including BHP Billiton, over the next year on a revised Closure Plan. Our comments are rooted in our concerns in ensuring that there is a sound Closure Plan for the Ekati Mine that is developed in a cooperative manner.

Our general comments are contained in this letter while detailed substantive and editorial suggestions can be found in the attached electronic file through the tracked changes.

We were surprised to find that there are no overarching principles or goals that set the context for the Guidelines. We had hoped to see some reference to concepts such as sustainability, the precautionary principle, biodiversity, or ecological productivity. Given the importance of these concepts and clear commitments by the federal government through international conventions and domestic policies (including DIAND's Sustainable Development Strategies), we would strongly recommend that a new section be added on this subject. This position is consistent with the statement of purpose as set out in the Environmental Agreement for the Ekati Mine. Furthermore, the links between the 2002 Mine Site Reclamation Policy and these Guidelines are not clear and in some cases, the Guidelines appear to contradict or set a lower bar than the Policy. For example, there are

objectives and principles spelled out in the Policy but there is nothing comparable in the Guidelines, and the Policy adopts the ‘polluter pays’ approach while the Guidelines have only a vague statement that reclamation costs ‘should be supported by the mining operation’.

Overall, we find the Guidelines do not provide much, if any, direction in developing closure objectives or more importantly, closure criteria for various mine components. The Guidelines tend to provide some information and options for closure planning without clearly stating what the preferred options or desired end points are for the Department. For example, there is no clear goal of minimizing long-term care or prohibiting perpetual care as a reclamation activity, or requirements for backhauling all or some of the mine infrastructure, or backfilling of pits. It is also not clear how the Guidelines are to be implemented or what use is expected of them both within the Department and by other regulators, specifically the Mackenzie Valley Land and Water Board.

There seems to be some confusion over how reclamation objectives and criteria are to be used in evaluating reclamation success. Progressive reclamation and post-closure reclamation success needs to be based on satisfactory achievement of **closure criteria** as measured through appropriate monitoring programs. Reclamation can only be judged to be successful, and security returned, if the monitoring results clearly demonstrate that closure criteria have been reached. For this reason, much more attention should be paid in these guidelines to the development of closure criteria.

There is almost no reference to financial security and how that relates to reclamation planning, post-closure monitoring or other reclamation activities. This is an odd absence given the commitments in the 2002 Policy to protect the public purse and the inclusion of section on this topic in the last draft of the Guidelines. We recommend that there be a section in the Guidelines that clearly outlines the links with financial security held under water licences, surface dispositions and environmental agreements. This should address not only the role of financial security to ensure adequate reclamation but also the need to return reclamation security deposits to the mine operators as soon as reclamation has been completed satisfactorily in accordance with approved reclamation criteria.

One of the areas needing greater attention, as highlighted at the Agency’s Closure and Reclamation Workshop held in February 2005, is better information management concerning retention of engineering plans, ‘as-built’ drawings, monitoring results and other studies. This information is necessary in evaluating the success of reclamation activities and in the event any further care or maintenance is required. Another area important for the post-closure phase, is a clear understanding of roles, responsibilities for monitoring and care or maintenance and costing (i.e. who pays, how this is managed and how this relates to financial security). We recommend that these concepts be included in several places in the Guidelines as suggested in our detailed comments.

We would also suggest that there be a section of the Guidelines that discusses the next steps by DIAND in ensuring that mining reclamation becomes a success story. This could



include a clear commitment to revising the Guidelines on a reasonable schedule, the need for specific research to improve the Guidelines and their application, how the implementation of the Guidelines will be achieved and evaluated, and any plans or strategies for providing further direction on reclamation.

We look forward to DIAND's continued commitment to improve mine closure and reclamation in the NWT. We would be pleased to discuss any of our comments with you at your convenience.

Sincerely,

-ORIGINAL SIGNED BY-

William A. Ross
Chairperson

cc. Aboriginal Society Members
Gavin More, Environment and Natural Resources, GNWT
Jane Howe, BHP Billion Diamonds Inc.
John McCullum, EMAB

Attachments:

1. Agency tracked changes to Minesite Reclamation Guidelines for the NWT draft 2, August 5th, 2005
2. Summary table of Agency changes to previous and current draft of Minesite Reclamation Guidelines for the NWT, August 5th, 2005.

