



INDEPENDENT ENVIRONMENTAL MONITORING AGENCY

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February 25, 2005

Chris Hanks
Chief Environmental Officer – TK and Permitting
BHP Billiton Diamonds Inc.
1102 4920-52nd Street
Yellowknife NT
X1A 3T1

Dear Chris,

Re: BHPB Response to IEMA Additional Funding Request

Your letter of February 21st, 2005 to the Agency concerning our funding request includes a rejection of our request for \$30,000 of additional funding. The denial is problematic but the reasons for this denial are most troubling to the Agency and raise some very fundamental questions about how an independent watchdog should be dealt with under the Environmental Agreement.

It is clearly the view of all of our Directors that that Agency is fully within our mandate in carrying out the environmental workshops. Article IV, paragraph 2 of the Environmental Agreement states that our Agency is to serve as a “public watchdog of the... implementation of the Agreement” and to “review, report and make recommendations concerning...the environmental effects monitoring program...carried out by BHPB”. We conclude that the environmental workshops are a very effective means of fulfilling this part of our mandate.

The **main principle** is that we have concluded it is improper to have BHPB choose to fund us or not based on whether it approves of legitimate activities in which we engage. That is exactly what you have indicated. Our choice to run the environmental workshops is the reason BHPB has declined funding. If our activities are wrong, the Society through our AGM or any other special meeting can redirect us. In this case, we purposely raised the issue of our running the environmental workshop at our annual general meeting last November. The Aboriginal members generally had a strong preference for BHPB running the workshop but saw it as valuable in any case. The Government of Canada noted that BHPB is not obliged to run the workshop and indicated it is willing to provide significant funding should the Agency run it. Thus, the Society members are generally supportive of our running this workshop (because BHPB has declined to do so). We reiterate our offer to have BHPB presents its monitoring program results.

In view of our presenting a plan to run the environmental workshops and to promote an open discussion of this plan at our AGM in November 2004, it should not have been a surprise to



BHPB that we announced dates for this event to be held in mid March. We set these dates immediately after meeting with the Company the night before announcing them. We needed to wait until after the BHPB meeting to be sure we would have the necessary materials in time for the workshops.

You raise the concern about the workshops not being a part of our approved workplan. This reinforces the need for the workplan to be interpreted flexibly. When our 2003-2005 workplan was submitted and approved, BHPB was still planning to do the environmental workshops. Indeed, seven months into the 2003-04 financial year we met with BHPB to discuss not **if** BHPB would run the workshops but **how best** it ought to run the workshops. Only after BHPB cancelled the workshops, did we feel that running them was not only within our mandate but it is one of our highest priorities. Thus, we decided that running the environmental workshops is crucial for effective adaptive environmental management at Ekati. We could not have anticipated this very significant change in environmental management at the mine many months before it happened. That is why the workshop is not in our workplan. It is, as you will note, in the workplan submitted for 2006-07.

To repeat, the main point is that an **independent** watchdog has no credibility if the activities in which it engages are restricted by the company over which it watches. The task of directing our activities is that of our Society members.

There is another reason why we were surprised at the rejection and the reasons for it. At our meeting in November 2004, you indicated that you “don’t care how you [the Agency] spend money but concerned that it is within mandate”. We believe that meeting with key stakeholders to review monitoring programs and their findings is very much within our mandate. Indeed, we place it as a very high priority and it is not a marginal activity to be carried out only if additional funding can be found.

Your earlier assurances that BHPB would provide the funding led us to advise DIAND that BHPB and the Agency had reached an agreement that, while imperfect, would suffice to get us through this financial year. Had we believed that the funds would be tied to our work being pre-approved by BHPB, we would, I believe, not have so advised DIAND.

In closing, we would request a meeting between BHPB and our Chair at your earliest convenience. We would seek to determine if there are not any means of coming to a mutually agreeable solution to this impasse before we proceed to a dispute resolution process.

Sincerely,

-ORIGINAL SIGNED BY-

William A. Ross,
Chairperson

Cc. Society Members