

*9<sup>th</sup> Environmental Agreement Implementation Meeting  
Yellowknife, NWT  
June 2, 2010  
Summary of Discussion*

Revised: July 28, 2010

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Participants

Bill Ross, Independent Environmental Monitoring Agency  
Kevin O'Reilly, Independent Environmental Monitoring Agency  
Monica Krieger, Independent Environmental Monitoring Agency  
Eric Denholm, BHP Billiton Diamonds  
Lionel Marcinkoski, Department of Indian Affairs and Northern Development  
Lorraine Seale, Department of Indian Affairs and Northern Development  
Patrick Clancy, Government of the Northwest Territories

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1. *Introductions and Selection of Chairperson*

Round-table introductions were given. Eric Denholm was selected to serve as the chairperson for the meeting.

2. *Minutes*

The minutes of the January 18, 2010 meeting were reviewed and accepted by consensus with a minor typo corrected.

3. *Review of Purpose and Agenda*

The purpose of the meeting as set out in the Resolution Agreement was reviewed. The opportunity for BHPB, DIAND and GNWT initial responses to 2009-10 Agency recommendations was added to the agenda.

4. *Agency Presentation on Communications Responsibilities and Plans for Community Meetings*

Bill reviewed the Agency's mandate and communications responsibilities arising from the Environmental Agreement, the Resolution Agreement, Agency Society bylaws, and Agency Communications Protocol. He also presented a chart that summarized the Agency's communications activities for 2009-10 (see Power Point presentation [\(on the Agency web page\)](#) for details).

**Comment [b1]:** If this is where one would find it

Eric expressed an interest in re-examining the purpose and value of IACT meetings to ensure a worthwhile information exchange. He suggested that everyone come to the next meeting with ideas on restructuring or reinvigorating the process. Lionel agreed that the intent of the group is to enhance communications, which is difficult when some parties

are not in attendance. For example, GNWT was not at the last meeting and there was no one to answer questions which arose regarding caribou, grizzly bears, enforcement issues, and more. Lorraine suggested that standard scheduling of meetings could be helpful.

Lionel noted that Monica had done the summary from the last IACT meeting, and these would be sent out to everyone shortly. Bill said that the Agency Directors find these minutes to be very useful updates on what is happening, although they are not released until they have been approved by the group.

Eric reported that the ICRP hearing dates (September 28-29, 2010) were firm, and BHPB has no desire to change the scheduling.

**Comment [b2]:** BHPB does not have the AUTHORITY to change this; hence my suggestion.

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#### 5. *Agency Presentation on Preliminary Content of 2009-10 Annual Report*

Bill reviewed the contents of the 2009-10 Agency Annual Report (see Power Point presentation for details where would one find this?).

Bill presented three Agency recommendations for 2009-10, to be discussed later in the agenda.

- Recommendation # 1: The Agency recommends that BHPB (in collaboration with GNWT-ENR and the other mines) complete its diamond mines wildlife monitoring program review and develop an improved WEMP, addressing recommendations from the September 2009 workshop, evaluation of monitoring program objectives, and development of innovative methodologies and study designs to address these objectives.
- Recommendation # 2: The Agency recommends that BHPB invite all interested parties to an Environmental Impact Report (EIR) workshop to be held not later than spring 2011. This will make the results available in time for BHPB's preparation of the 2012 EIR and hopefully avoid disagreement on future EIRs. The workshop should be to better define the purpose and focus of the EIR, review the methodology used (especially for determining significance of impacts), to better define adaptive management in the context of the Ekati Mine and such other matters as others may contribute.
- Recommendation # 3: BHPB should carry out and make public a 10-year review of its use of Traditional Knowledge (TK) in its environmental plans and programs. This review should document how the company has given full consideration to the incorporation of TK into environmental plans and programs, the successes and lessons learned from the TK Studies, and what changes or improvements in adaptive management can be attributed to TK.

#### 6. *BHPB Presentation on Communications Responsibilities and Plans for Community Meetings*

Eric spoke to a PowerPoint presentation from BHPB. He noted that the surface miners are not problem-free (e.g. they are very sensitive to even small bits of granite inclusions in kimberlite, which are especially prevalent in Fox, so BHPB has to keep replacing teeth on the cutting wheel), but in general are helpful and working well. Winter is not an issue, but they are a bit top-heavy so need a smooth driving surface.

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Lionel mentioned that Jason Brennan raised the issue of hydrocarbon contamination on kimberlite at the last IACT meeting. Eric said there was one instance of a hydraulic spill where the operator should have followed proper procedures and cleaned it up right away. He acknowledged that these hydrocarbons will end up in the LLCF, but the quantities are small so there is no opportunity for separation at the process plant. He added there were two documented spills on kimberlite over the last year where the ore went into the plant, but he doesn't believe this is a viable link to the hydrocarbons appearing in fish metabolites, and has had discussions with the inspector about it.

Beartooth Pit pipeline has been commissioned as a minewater sump, and Panda underground mining is nearly complete. After an options assessment for Misery, the "deep" open pit option has been selected for both environmental and cost considerations. It is now in final design stage, and new haul trucks will be needed. Pre-stripping will occur next spring after the trucks arrive on the winter road. The Pigeon bulk sample pit is completed, but ore has not been processed in the plant yet. This will provide final confirmation of the kimberlite values. Assuming success, BHPB will proceed with more planning. The Pigeon Diversion Channel would be constructed prior to pre-stripping using the trucks bought for Misery.

Ore sources for the next year will be Fox open pit and Koala underground, with further engineering work on Misery and Pigeon. Research has been ongoing into bucket mining for Beartooth, which involves blasting out the bottom, pumping out the water, and a floating dredge. There is some value at the bottom of Beartooth but not enough to justify full underground development. The top 10 metres would be targeted, which is fairly cheap to do. Bill indicated that the longer you wait, the more water would need to be dealt with. Eric mentioned that Beartooth will now be used for minewater storage, and that with Panda underground almost finished, there is space for water storage there as well (below the connection to Koala). An engineering analysis would be needed, but if so BHPB, would stop dewatering Panda. Cleanup of Panda underground would obviously have to stay ahead of any water storage. Dyke C at the LLCF, which had previously been raised on the downstream side, would be completed. This will increase the storage capacity in cells A, B, and C.

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Eric presented BHPB communications activities and responsibilities. The 2009 EIR workshop and wrap-up meeting was very useful, as was the AEMP 3-year review workshop and wrap-up. Annual reports have been circulated, and there was a meeting with NSMA as well as lots of other meetings with communities. WEMP review process is ongoing. A report on the nitrate reduction experiment has been released. Bill noted it seemed like an unqualified success. Eric agreed, saying we still need to understand the side effects of manipulating pond water, but essentially is working well.

Lionel noted that Marc Casas has been dealing with water issues for DIAND but will be away from August to February on parental leave, so someone else will be taking over. Bill stated that following what happened in Kodiak Lake 12 years ago, the Agency was concerned about under-ice dissolved oxygen levels. There seems to be no evidence that this is happening in cells E and D, which is encouraging. Patrick suggested that as temperatures drop, there could be a big die-off. Eric responded that Cell D turns over fairly completely and mixes in spring, so there is no year-round thermal stratification.

Eric reported on BHPB's upcoming communications activities for the next 6-12 months as detailed in the presentation.

#### 7. Discussion of Draft Agency Annual Report 2009-10 Recommendations and Responses

- Recommendation # 1: The Agency recommends that BHPB (in collaboration with GNWT-ENR and the other mines) complete its diamond mines wildlife monitoring program review and develop an improved WEMP, addressing recommendations from the September 2009 workshop, evaluation of monitoring program objectives, and development of innovative methodologies and study designs to address these objectives.

Bill noted that recent NSMA and YKDFN letters encouraged the same actions. Eric said he had not seen the NSMA letter yet, but Dave Abernethy has been on holidays. E-mails have been circulating from DDMI attempting to get the process started. Kevin noted the Agency wanted to ensure the meeting will be productive.

BHPB Response: BHPB has committed to continuing the WEMP review process and has suggested two workshops in 2010 to facilitate technical and community collaboration with the aim of developing an improved WEMP.

Eric explained that there will be a technical workshop in June to follow up on questions from the September workshop, and to discuss technical and scientific merits of various options. The fall workshop will be more TK/community oriented. BHPB realizes these are not completely separate issues, but feels it will be more productive to have separate discussions. Depending on results, they will have information to put together an updated WEMP for 2011. Changes have been made already to monitoring programs in 2010, and results will feed into revisions.

Bill noted the Agency is concerned about the June workshop since nothing much has happened since the last workshop in September 2009. It was hoped that a response from the companies to the previous workshop report would be helpful and/or initial ideas and agenda should be available before the next meeting to ensure it is more productive. For specific species such as caribou or grizzly bear, new or revised hypotheses and methodologies should be suggested vs. having people start all over again.

**Comment [b3]:** On my version, these two lines are duplicated. Maybe a quirk???????

Eric suggested that the Agency send an e-mail to Dave Abernethy and Colleen English (DDMI) to note this (cc Eric). He asked if it was the Agency's preference that companies take more time to put information together, even it means delaying the date. Kevin and Bill agreed, even if it means an extra month or two to ensure a productive outcome. Eric noted that summer fieldwork results would be helpful to have. Bill added that the recommendations last year and this year make specific reference to ENR, because there is a lot of wildlife expertise and they should be engaged and get to a good WEMP that coordinates responsibilities. Eric said that the three-year AEMP review has clear steps and a clear decision maker at the end vs. the WEMP which gets revised from time to time but there is no established process.

GNWT Response: Patrick indicated there was no response he was aware of. Kevin added that Gavin had declined to comment on this.

- Recommendation # 2: The Agency recommends that BHPB invite all interested parties to an Environmental Impact Report (EIR) workshop to be held not later than spring 2011. This will make the results available in time for BHPB's preparation of the 2012 EIR and hopefully avoid disagreement on future EIRs. The workshop should be to better define the purpose and focus of the EIR, review the methodology used (especially for determining significance of impacts), to better define adaptive management in the context of the Ekati Mine and such other matters as others may contribute.

Bill explained the purpose of this recommendation is to ensure pre-emptive discussions take place before the next EIR to avoid the same difficulties.

DIAND Response: DIAND supports this and plans to participate in the workshop. Lionel will send a few sentences this afternoon as an official response.

GNWT Response: No formal response to date.

BHPB Response: BHPB has committed to an open "pre-EIR" meeting in 2011 to kick-off the 2012 EIR process. The workshop could address the items identified by IEMA as well as other topical issues. BHPB believes that fall 2011 would be a better time because the meeting would then be after completion of the 2011 field monitoring programs and at the time when work is starting on the 2012 EIR.

Bill explained that a spring deadline was chosen because the workshop outcome could change the mindset in terms of how to lay out the EIR. For example, if the EIR was to become more focused on key issues vs. comparison with predictions from the Environmental Impact Statement (EIS) 15 years ago, it would be better to know that sooner rather than later.

Eric responded that the workshop report would likely just "sit there" anyway until the spring and summer field programs were complete. The actual work on the EIR wouldn't start until the fall because the field monitoring data would be needed.

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Lionel said that as per the December meetings, the concern is about the process of report development and the interpretation, not necessarily the data. Kevin noted that the Agency would be preparing and distributing a discussion paper on the purpose and focus of the EIR, improvements, significance ratings, and other matters, in the fall of 2010.

Eric suggested that the second sentence in BHPB's response could be dropped. He added that spring 2011 could work in terms of preparation time, as a lot of BHPB staff take holidays in the fall after field season. The Agency discussion paper would prompt the next step. Bill and Kevin agreed, and Lionel suggested that this discussion could take place at the next IACT meeting.

- Recommendation # 3: BHPB should carry out and make public a 10-year review of its use of Traditional Knowledge (TK) in its environmental plans and programs. This review should document how the company has given full consideration to the incorporation of TK into environmental plans and programs, the successes and lessons learned from the TK Studies, and what changes or improvements in adaptive management can be attributed to TK.

Bill reported that the Agency decided to repeat this recommendation from last year, as further discussion indicated that perhaps enough rationale had not been provided. The intent is to encourage BHPB to explain how TK is used in environmental management at Ekati. This would be highly regarded in communities, and would be a benefit for the mining industry in general (i.e., BHPB's work could be emulated).

BHPB Response: BHPB recognizes the importance of the inclusion of TK into our environmental practices and designs. There are a number of past and current successes in which BHPB is proud to have played a part. BHPB sees better value in pursuing forward-looking opportunities rather than a retrospective review. This approach inherently incorporates past experience in a constructive manner.

Eric stated it is BHPB's view that documenting TK "to date" would be interesting but prefers to focus on future initiatives. Rescan has been to Lutsel K'e to look at the [Lutsel K'e database](#), GIS system, and the Kugluktuk NTKP program has been training GIS technicians. They see better value in continuing to get new things underway (e.g., community involvement in monitoring/WEMP process).

Bill indicated there is cynicism from communities and documenting the company's use of TK would have been helpful. The Agency will continue to raise this issue in future discussions. Kevin asked if Natasha Thorpe had been hired a few years ago to compile something with regard to BHPB's use of TK. Eric responded that Natasha did a series of community workshops to generate ideas for TK projects, which did not necessarily need to have a direct link to Ekati (e.g. the Lutsel K'e projects). TK database preservation was at the top of the list (information management for data already collected), as well as camps on the land to transfer TK (e.g. recent drum-making workshop at Ekati). Bill suggested that drum making is clearly TK but has a modest link (or none at all) to

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Comment [b4]: I would fix up this slash but I have no idea what it means.

environmental management at Ekati. The intent of the recommendation was to encourage BHPB to make the information known, to show that the company is listening and using community ideas. Eric said that BHPB's idea of TK expanded into cultural information exchange, and to plan or structure for TK is somewhat difficult. Kevin added that further rationale to support the recommendation and ideas to think about are in the text of the Annual Report.

#### 8. *Other Business*

Lorraine noted that 'INAC' rather than 'DIAND' is to be used now in most correspondence. DIAND will continue to be used for legal purposes (e.g. Environmental Agreement, mediation agreement). She also mentioned that all three diamond mines had written a letter to Minister of the Environment regarding diamond mine effluent regulations. The letter is dated May 7, 2010. Lorraine provided copies to those at the meeting.

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Eric explained there has been discussion for years regarding an apparent regulatory gap, identified by DFO. There is no ability to authorize a PK containment facility for diamond mines (e.g. dam off a lake) as there is under the *Metal Mine Effluent Regulations (MMERs)*. The solution is to either write diamond mines into the *MMERs* or create new but parallel effluent regulations for diamond mines (which is the companies' preference). This should fall under the *Fisheries Act*, but effluent regulations are currently under Environment Canada (EC). Staff at EC said they had done some preliminary work on this, but there is no corporate direction to move ahead. It was recommended that the mines go to a higher level to prompt direction, hence this letter to bring the issue to the Minister's attention and request this important work be completed.

It has no regulatory bearing on Ekati per se as all permits are in place. BHPB is participating and supporting as part of the diamond mining industry, but is not leading the charge. **DBCI** (Gahcho Kue project) and Stornoway (projects in Nunavut and northern Quebec) have the most interest in seeing this resolved.

Comment [b5]: I am curious. What does this stand for. (I assume the DB is De Beers but what is the "CI"?)

Lorraine requested that if Eric sees a response to the letter, he should forward it to INAC. Eric agreed. Lorraine also noted that the name change from BHP Diamonds to BHPB would not impact securities held under the Environmental Agreement. Kevin also suggested that the Dogrib Treaty 11 Council might be changed to Tlicho Government.

Patrick stated he would follow up with the GNWT wildlife staff for responses to recommendations, and advised that Susan Fleck is the main contact for issues related to diamond mines and wildlife monitoring (also Steve Matthews).

The date for the next meeting was tentatively set for January 2011.

*Meeting adjourned 11:00 am*