

# Canadian Environmental Network (CEN)

## REPORT

**Submitted by: Brenda Kelley, BSD  
November 2006**

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**Title of Consultation: Towards Sustainable Mining (TSM) Community of Interest Panel (COI)**

**Date(s) held:** 2004-2006

**Location:** Meetings and workshops held in various locations (see attached detailed report)

**Delegate: Brenda Kelley**

**Name and Affiliation:** Brenda Kelley, Bathurst Sustainable Development, representing the Canadian Environmental Network on the TSM COI Panel

**Number of ENGO Delegates at Consultation:** 1 from CEN, 10 from other groups such as industry, Aboriginals and other ENGO's.

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### **What was the purpose of the consultation?**

The purpose of our participation on the TSM COI panel is to provide, on behalf of Canadian Environmental Networks members and Communities of Interest, ENGO input, direction, comment and advice to the Mining Association of Canada, its membership and TSM on the progress, development and implementation of the TSM principles throughout the Mining Sector and MAC members.

### **Background**

The Mining Association of Canada began developing the Towards Sustainable Mining (TSM) initiative in 2000, with the aim of enhancing the industry's reputation by improving its environmental, social and economic performance. On May 10, 2004, TSM was launched publicly. On November 24, 2004, MAC's Board of Directors made TSM a condition of membership. The condition requires that MAC members endorse the TSM guiding principles, a set of commitments that address all areas of the industry's performance. It also requires all members to report on key performance areas within three years at all Canadian operating facilities.

In the Towards Sustainable Mining Annual Progress Reports for 2004 and 2005, member companies begin to report on four key performance areas: tailings management, energy use and greenhouse gas emissions management, external outreach, and corporate crisis management planning. Companies also publish their overall releases as required by the NPRI, as well as energy use and GHG emissions data. The objective is to show Canadians the industry's current performance and ways of improving it. The TSM results in these two reports are based on self assessments conducted internally by the company. MAC has developed an external verification system which will be launched in 2007 that will require that companies and facilities to have their TSM performance indicator assessments externally verified. The TSM Annual Report for 2004 and 2005 also presents the results of progress in designing a TSM verification system and the work of the COI Advisory Panel. MAC requires all member companies who have adopted TSM, its guiding principles and its obligations to report on key performance areas within three years.

TSM is spearheaded by the TSM Governance Team, a committee led by MAC's Board of Directors. Within each member company, TSM is supported by internal representatives called "initiative leaders." Committees of MAC members are leading the

development of performance indicators and technical guidelines for implementing TSM. The Advisory Panel provides one way of strengthening engagement with mining communities of interest, and of helping to achieve TSM's objectives and guide its evolution. An important objective as the initiative moves forward is to encourage mining companies that do not belong to MAC to join TSM.

In 2002 MAC's Board of Directors adopted a three-year plan for TSM that included some ambitious tasks: developing performance indicators for tailings management, energy use and greenhouse gas emissions management, external outreach, and corporate crisis management planning developing indicators for three more performance areas by the end of 2004 establishing the Community of Interest Advisory Panel designing a system to verify performance developing TSM-based criteria for membership in MAC. Ambitious as it is, the TSM plan is on track, though the development of new performance indicators is taking more time and work than anticipated. An important objective as the initiative moves forward is to encourage mining companies that do not belong to MAC to adopt TSM, its guiding principles and its obligations.

In May, 2005, MAC was presented with the Globe Foundation's award for Environmental Performance in the Industry category largely for developing the TSM Initiative.

## **FACT SHEETS AVAILABLE:**

[TSM Guiding Principles](#). Also available in [French](#)  
[TMS Performance Indicators](#). Also available in [French](#).  
[Total Releases by Company and Substance](#). Also available in [French](#).  
[Greenhouse Gas Progress Report](#). Also available in [French](#).  
[Metal Mining Effluent Regulations \(MMER\) and Environmental Effects Monitoring \(EEM\)](#). Also available in [French](#).  
[Metals in the Human Environment Research Network \(MITHE-RN\)](#). Also available in [French](#)  
[Mine Environment Neutral Drainage \(MEND\)](#). Also available in [French](#).  
[Orphaned/Abandoned Mines in Canada](#). Also available in [French](#)  
[Tailings and Water Management Facilities](#). Also available in [French](#)  
[Contact Information](#). Also available in [French](#).

## **Community of Interest Advisory Panel**

The TSM Community of Interest Advisory Panel includes representatives from labour, Aboriginal organizations and communities, NGOs, mining communities and the investment sector. The panel, which held its founding meeting in March 2004, meets twice a year. Work between meetings has also been supplemented with conference calls. Its mandate is to help MAC members and communities of interest improve the industry's performance, to foster dialogue between the industry and its communities of interest, and to help shape TSM goals.

## **TSM Community of Interest Advisory Panel Members** (current as of August 2006)

Gordon Ball	Syncrude Canada Ltd.
Chief Jim Boucher	Fort McKay First Nation
Richard Briggs	Canadian Auto Workers
Charles Campbell	United Steelworkers of America
Ginger Gibson	CoDevelopment Canada
Larry Haber	City of Kimberley
Douglas Horswill	Teck Cominco Limited
Peter R. Jones	HudBay Minerals Inc.
Brenda Kelley	Canadian Environmental Network
Soha Kneen	Inuit Tapiriit Kanatami
Stefan Lopatka	Nunavut Tunngavik Incorporated
Christy Marinig	Timmins Economic Development Corporation
Elizabeth May	
Allan Morin	Métis National Council
Peter C. Jones	CVRD Inco (retiring)
Gordon Peeling	Mining Association of Canada
Alan Penn Cree	Regional Authority
David Scott	CIBC World Markets
Chief Darren Taylor	Assembly of First Nations
Eira Thomas	Stornoway Diamond Corporation

## Community of Interest Advisory Panel

[Terms of Reference](#)  
[Panel Members](#)

Minutes of Meetings  
[March 10, 2004](#)  
[September 22, 2004](#)  
[March 9-10, 2005](#)  
[September 20, 2005](#)  
[March 7-8, 2006](#)

Meeting Agendas  
[September 22, 2004](#)  
[March 9-10, 2005](#)  
[September 19, 2005](#)

## Performance Indicators

The TSM guiding principles are backed by specific performance indicators, which companies will report against each year in the Towards Sustainable Mining Progress Report. Performance indicators help to show Canadians what the industry's current performance is and how it can be improved. Performance indicators have been developed for tailings management, energy management, external outreach and crisis communications management. These indicators are also supported by good practice guidance or tools. Additional indicators, addressing issues such as Aboriginal relations, biodiversity and health and safety, are under development.

**Crisis Communication**  
[TSM Crisis Management Planning Protocol](#)

*Background Information:*  
[Guidelines for Corporate Crisis Management Planning](#)

**Tailings Management**  
[TSM Tailings Management Protocol](#)

*Background Information:*  
[A Guide to the Management of Tailings Facilities](#). Also available in [French](#) and [Spanish](#).  
[Developing an Operation, Maintenance and Surveillance Manual for Tailings and Water Management Facilities](#). Also available in [French](#) and [Spanish](#).

**Energy and Greenhouse Gas Emissions Management**  
[TSM Energy and Greenhouse Gas Protocol](#)

*Background Information:*  
[Towards Sustainable Mining: Energy Use and Greenhouse Gas Emissions Management Indicators: Measuring Performance and Setting Targets](#). Presentation by Dan Paszkowski to the Canadian Institute of Mining, Metallurgy and Petroleum Annual General Meeting, April 25, 2006.

**External Outreach**  
[TSM External Outreach Protocol](#)

*Background Information:*  
[Outreach and Dialogue - A Field Guide for Building Shared Understanding for Towards Sustainable Mining](#)

## **The COI Panel is also working with MAC to develop and implement:**

A TSM Verification Program  
Biodiversity Protocols  
Environmental Management Systems Protocols  
Closure and Reclamation TSM Protocols

## **We have recommended that the panel also begin to work on:**

Climate Change and Adaptation  
Water Impacts  
Orphaned and abandoned mines

## **TSM has developed and published a number of excellent documents and reports:**

[Towards Sustainable Mining Progress Report, 2005](#)  
[Outreach and Dialogue - A Field Guide for Building Shared Understanding for Towards Sustainable Mining](#) 2005  
[Developing an Operation, Maintenance and Surveillance Manual for Tailings and Water Management Facilities](#) 2005  
[Brochure - Towards Sustainable Mining - Common Ground](#) 2005  
[Towards Sustainable Mining Progress Report, 2004](#) 2004  
[Guidelines for Corporate Crisis Management Planning](#) 2004  
[Scoping of Ecological Impacts of Mining on Canada's National Parks](#) 2002 Report  
[A Guide to the Management of Tailings Facilities.](#) 2000

These documents and reports can all be downloaded on the MAC TSM web site available in French and some in Spanish at: [http://www.mining.ca/www/Towards\\_Sustaining\\_Mining/index.php](http://www.mining.ca/www/Towards_Sustaining_Mining/index.php)

## **In addition MAC/ TSM held three workshops this past year:**

- 1) Aboriginal Issues Workshop held in Fort McKay, Alberta, September 27, 2006-11-13
- 2) Biodiversity Workshop (in collaboration with the ICMM) - Good Practice Guidance Document for Mining and Biodiversity; October 16, 17, Ottawa
- 3) Self Assessment Workshop for TSM Member Facilities
- 4) Verification Workshop- for Verification Service Providers who will conduct external verification of TSM progress by member facilities in Canada.

**CEN attendance:** Throughout 2005-2006 I, your CEN representative, attended all COI Panel meetings, the Biodiversity Workshop and the Verification Workshop.

## **What were the outcomes of the consultation?**

### **TSM Reporting**

16 MAC members are now reporting. Not all its member companies have operating facilities (some have properties that are closed or in development), some are not far enough along in the TSM process to begin to report and some do not yet

appear fully committed to TSM. Some of the smaller companies of course are challenged with the cost of preparing documents, some facilities are just beginning to get their TSM documents/ protocols for GHG emissions reporting systems and the verification requirements ready. Still others are challenged with meeting the high standards of TSM due to their age, impacts of their operations, and over all relations with their communities. Then there are the many companies in the industry that are not part of MAC and therefore not committed to TSM – an issue the panel has discussed often.

The 16 MAC-member companies that participated in TSM include 48 mining, smelting and refining facilities. While this appears to represent a small portion of total mining establishments in Canada (757), the number is misleading. The vast majority of Canadian mining establishments are sand, gravel and stone quarries that usually pose fewer environmental or social risks (550) to the environment and communities. The 48 MAC-member facilities represent most, though not all, of Canada's major base metal operations, iron ore establishments, gold and precious metal mines, oil sands and diamond production.

The challenge for MAC and TSM will be to attempt to have 100% of all of Canada's major base metal, iron ore, establishments, gold and precious metal mines, oil sands and diamond production adopt the TSM initiative and implement its protocols. It is also imperative that these protocols are applied internationally by these companies in their overseas operations.

The timeframe of reporting every 12 months is challenging for most companies. There is a great deal of work involved in preparing some of the protocols such a GHG emissions reporting and being required to report within a 12 month window each year seems to be a challenge for some. Others simply are not at the level of TSM to have reported yet. When you read the TSM Annual Reports you may see a company or facility listed and no data. This could be because they are not finished developing their required TSM protocol documentation, processes, and or systems in order to file a report but will report in the next year or as soon as their data and self assessments are completed. It is important that companies are required to report each and every year. If they do not, there is the risk of public confidence being weakened because the public may think they are not reporting because of a problem in that indicator, or a negative change.

### **Currently the list of Mining Companies who have adopted TSM and are reporting are:**

Albain Sands Energy Inc.	Falconbridge Ltd.	Placer Dome Canada
Barrick Gold Corporation	HudBay Minerals Inc.	Quebec Cartier Mining Company
BHP Billton Diamonds Inc.	Inco Limited	Suncor Energy Inc.
Diviak Diamond Mines Inc.	Inmet Mining Corporation	Newmont Mining Corporation of Canada
Dynatec Corporation	Iron Ore Company of Canada	
Syncrude Canada Ltd	Teck Cominco Limited	

\*16 out of the 20 MAC members (with operating facilities) are now reporting as of the 2005 report.

The 16 MAC-member companies that participated in TSM include 48 mining, smelting and refining facilities. While this appears to represent a small portion of total mining establishments in Canada (757), the number is misleading. The vast majority of Canadian mining establishments are sand, gravel and stone quarries that pose fewer environmental or social risks (550) to the environment and communities. The 48 MAC-member facilities represent most, though not all, of Canada's major base metal operations, iron ore establishments, gold and precious metal mines, oil sands and diamond production.

### **Energy Use and GHG Emissions Management Assessments**

Originally, the TSM protocols for this section included a 1% reduction target per year in absolute GHG emissions targets. This year, without consultation with most of the COI panel members, the MAC Board removed this requirement from the TSM protocols for this section. The CEN rep expressed great disappointment and concern about this lack of consultation and asked for decisions of this matter to have appropriate input from the COI panel members in the future.

The rationale as we understand it is that some of the companies have been voluntarily working on GHG emissions reduction targets for several years now and some have already reached reduction levels of between 15- 25% below levels in previous years. To require through the Energy Use and GHG Emissions Management section of TSM that they commit to a further 1% per year would be difficult for some to achieve. When reading the TSM Annual report you will see that

even though this actual target of 1% has been removed from the TSM protocols, some of the mining companies are still making a corporate voluntary commitment to reach a 1% reduction annually.

However, as we know, some companies do not expect to reach this voluntary target or in fact achieve any absolute GHG emissions reductions in their operations and in fact expect to continue to increase their GHG emissions levels over the foreseeable future as their operations grow. These companies, while still reporting GHG emissions reductions and not reducing absolute GHG emissions reductions are achieving admirable reduction in energy intensity levels.

TSM requires that the company have their own voluntary internal facility specific GHG emissions target established at level 3. TSM does not dictate what the target amount is required to be or any percentage of reduction as an over all industry wide target. The issue of no written commitment to a numerical GHG emissions reduction target in the TSM protocols may not necessarily be received well by the public. No firm target commitments translates to the public as no action, even though we know that at several facilities even though their main goal was energy efficiency and reduced energy costs the co benefit has resulted in progress in absolute GHG emissions reductions. However, if mandatory regulation of emissions, emissions caps and a carbon trading market are established in Canada in the future this will force substantial GHG emissions reduction from mining operations however it also will result in grave hardship for some companies who either are small and cannot afford to cover the costs of improving operations to meet the requirements or who lack the financial resources to purchase credits. The international issue again emerges in that if the hardship on the mining sector in Canada is too difficult from imposed caps and regulations on GHG emissions reductions the risk emerges that it may be easier and more profitable for them to abandon Canadian operations and exploration and simply only consider operating in countries with lower regulations. It is believed that most of the mining operations in Canada operate in this country due to the vast mineral resources available, have large investments already committed and will remain operating here by choice. They simply will have to accept that soon global pressure will impose mandatory emissions caps and regulations on all industries including the mining sector and GHG emissions reductions will become enforceable. They will need to begin now to prepare themselves for not only reporting but also in identifying efficiencies and technologies available to their operation that will allow them to reach their mandatory requirements. The start up of the Carbon Market in Canada both domestically and internationally will be critical to assisting some of these companies in meeting their targets.

## **Climate Change Modeling**

At the last COI panel meeting in Edmonton, a presentation was given by Ekati Mine (BHP Billiton). They stated that from their modeling and forecasting they expected a minimal disruption in the number of weeks that the winter road would be accessible across the northern lakes during the next 50 years which is the life expectancy of the mining operation. The CEN rep asked whether there is consensus within BHP and MAC companies in general on a reliable source of climate change data for modeling future climate change impacts and scenarios since there are some sources of data that are overly conservative and may result in overly conservative modeling for the northern mining operations concerning the timelines on winter roads, permafrost melting and other major risks. BHP noted that they have their own climate change policy and methodology, and that there is no policy suggesting the most reliable source of climate change data or predictions on which models should be built.

The CEN rep suggested that an understanding of the science of climate change to inform northern mining projects could be a possible issue for consideration under TSM in the future as well as how to determine the most credible and current source of data for modeling future climate change impact and scenarios for northern mining operations.

## **Biodiversity Workshop Report:**

The Biodiversity Workshop was attended by representatives of Mining companies, government representatives, ENGO's such as Richard Cellarius, Sierra Club US and Canada, Steven Price, World Wild Life Fund, Nicolas Bertrand, Secretariat of the Convention on Biological Diversity and many others.

**a) ICMM Good Practice Guidance for Mining and Biodiversity:** The ICMM has developed an extensive document for good practice and guidance on Mining and biodiversity. The contents and recommendation contained in the document is what ENGO's, communities and conservation groups have been waiting for and show a commitment and acknowledgement by the mining sector of the importance of developing principles and commitment to protecting and integrating biodiversity considerations into all stages of a mine development from exploration to closure and post closure.

Again the issue of the importance of International Application of the guidance will be critically important especially given the diverse impact potential from mining. Recommendations include that each mining operation should develop in

partnership with key stakeholders and the communities a suite of indicators for biodiversity and impacts that will be required to measure and manage impacts from the mining operation. It recommends that the mining operation work with governments and obtain expert assistance in selecting the most appropriate indicators of biodiversity to be measured. It also suggests that potential levels of impacts be determined that range from Insignificant to Catastrophic, how likely it is that this will occur from the operation proposed and what aspects of the mining operation are likely to be the result of the impact.

The issue of if the TSM protocols will be extended to include all International operations of each TSM company will eventually need to be resolved by MAC. One can already see and hear concerns from the public and professionals on having one set of best management TSM protocols here in Canada and not following them in international operations. The desire to continue the credibility of TSM will eventually require MAC companies to adopt the International Commitment to TSM standards and protocols in their operations and explorations world wide.

The initiative of ICMM and MAC members on biodiversity was well received and has great potential to make a real difference on mining impacts. However the issue of off sets is currently of great concern to many stakeholders.

## **b) Biodiversity Offsets:**

**The ICMM Good guidance document states on page 99, section 7.4: “Where permanent destruction of a valuable ecosystem is unavoidable, other compensatory options may be considered as a last resort. These are commonly referred to as “offsets”.**

The recent changes by Environment Canada (EC) to amend the MMER, a regulation under the Fisheries Act, to allow Aur Resources Duck Pond copper-zinc-gold to use Trout Pond (Lake) and a second unnamed lake as a tailings impoundments sets a frightening future for fresh water bodies, aquatic habitats and biodiversity protection. Now that Trout Pond and the other lake have been redefined as a tailings impoundments they no longer are considered to be a lake and, therefore, are no longer protected under the Fisheries Act. No viable alternative appears to have been presented by either the company or the governments in this case even though options are available and have been successfully tested at other sites where “man made tailings impoundment” have been a successful alternative for tailings impoundment as opposed to impacting a natural water body and habitat. If governments and regulators do not impose the will and require less destructive alternatives the risk is that much of the remaining fresh water bodies in Canada where mineral exploration and mining operations wish to proceed will be negatively impacted or destroyed in future years.

The fact that the regulators approved this despite the fact that Trout Pond (or Trout Lake) and another nearby unnamed lake, both in Newfoundland, are part of the provinces largest watershed, the Exploits River system and the fact that the Exploits river has had millions of taxpayer dollars pumped into it for fish habitat restoration over the past years and continues to have this investment, is of great concern. The two decisions: one to allow the negative mining impact to occur and risk the watershed and the other to attempt to conduct restoration and protect the aquatic life appear to be in conflict.

*We shall borrow a quote:*

***“There is nothing sustainable in resource extraction that results in the wanton destruction of freshwater ecosystems. Regardless of the slight of hand that the MMER allows, the result is that we are using viable fisheries habitat and drinking water resources as the dumping ground for mining effluent. As the world acknowledges every day the limitations of fresh water resources, Canada continues to abuse what we believe, foolishly, we have in abundance and there fore can wantonly destroy”.***

*Quote from Kevin Mercer | Executive Director, RiverSides | “Where Water Quality Begins”; Letter Dated Tuesday, October 24, 2006 addressed to Minister of Environment, Rona Ambrose and Loyola Hearn, Minister of Fisheries and Oceans.*

The proponents of offsets include some conservation organizations, mining companies, investors and some government agencies, which see mutual advantages in their development. Some conservation groups see offsets as a legitimate means of ensuring that additional land areas elsewhere are negotiated to be secured for long-term protection as a compromise for allowing the destruction of the localized natural habitat at the proposed mining site.

Opponents challenge the actual ability of the stated “net gains” for biodiversity. In absence of meaningful scientific data to measure biodiversity recovery both during operations and post closure, and as well as in the man made lakes that are often built as offsets from past initiatives one cannot prove that a “no net loss” or “net gain” is being achieved.

The issue of further allowing natural fresh water resources to be impacted by mining tailings is not sustainable given the increasing demands on both availability, quality and future supplies needed for drinking water for communities plus the climate change impacts on fresh water resource and the continuing diminishment of biodiversity rich eco systems and species population on this planet.

While the ICMM and MAC development of the biodiversity guidelines are most welcome and the initiative highly respected, and as previously stated it has great potential for positive gains, the public will need to see long term biodiversity data that substantiates net gains from the practice of continuing to not only allow offset but now to allow the redefining of natural lakes, habitats and water bodies through the MMER.

In terms of other biodiversity work such as increasing the amount of protected areas, the establishment of the ICMM and hopefully TSM biodiversity protocols is very encouraging and if acted on throughout all stages of mining operations will make a positive difference with the potential for vast tracts of sensitive and ecologically significant lands to be protected and localized impacts to be reduced so long as the issue of permitting mining operations to use nature water bodies for tailings impoundments instead of using a less destructive method of tailings management can be assured.

The public however will still always want each parcel of land assessed for its biological diversity on a case by case basis. Attempting to create an agreement where a certain percentage of Canada's land base is protected as a "no go zone" from mining operations is an admirable concept so long as it does not remove the requirement or dilute the rigor of proposed mining operations from being required to complete full and detailed EIA assessments, Biodiversity assessments and extensive community consultation on any and all other lands they wish to explore.

Participants were asked to provide feedback on MAC's proposed biodiversity policy framework. Participants stated that they want a commitment to excellence in addressing biodiversity issues in the mining sector, the establishment of clear objectives and time-bound targets, and the corresponding need for metrics and reporting to track progress. Reference was made to possible linkages with the NatureServe initiative and other conservation data centers to help build a body of biodiversity knowledge.

Relevant Issues that were identified from the workshop are: Understanding the Systems Nature of Biodiversity, Social Aspects of Biodiversity and Sustainable Development, Consultation and Involvement of Aboriginal Peoples, the Role for Governments, Innovation, Research and Best Practices, International Application, Transparency and Reporting and Sphere of Influence.

Participants indicated that the draft policy framework should be everlasting and avoid referencing commitments that "expire" (e.g. 2010 commitments). However, biodiversity program elements can focus on these time-limited commitments.

One of the results from the Biodiversity Workshop is that the MAC Board has now approved a TSM biodiversity plan for 2007, which includes working with IUCN Canada on the 2010 Challenge, a review of the ICMM GPG from a Canadian perspective and other activities.

### **Verification Workshop Report: Self Assessments**

MAC held a Verification Service Providers training workshop at the XStrata Nickel Inc. office in Toronto November 9, 2006. I attended as an observer and COI panel representative.

The MAC verification system consists of three key elements:

1. External verification of TSM Assessment protocols
2. A letter of assurance signed by the CEO or Authorized officer confirming the verification took place and what the results showed
3. A random post-verification review by the COI Panel of 2-3 companies each year, selected by the panel

The workshop focused on the first element. In attendance were many representatives of consultants and companies who wish to receive the training in order to potentially be able to conduct the external verification of the TSM protocols with MAC TSM member companies.

Several role playing scenarios were conducted in which a facilitator played the role of the TSM rep from a mining facility who has submitted the TSM self assessment report to MAC. Those of us in each of the groups were charged with the role of being the independent external verifier and attempting to verify if the facilities self assessment of their attainment of various levels of each of the TSM performance indicators was in fact true and verifiable. The exercises were excellent and

the workshop participants at first were cautious and somewhat uncertain about how to reach a professional decision on verification of each protocol but as the day progressed and each opportunity for practicing a verification took place, everyone participating had a much clearer understanding of the TSM indicators and what is physically required for a facility to attain each of the TSM rankings which go from 1-5 for all but one of the Protocols.

Companies with single Canadian operating facilities will have all indicator results verified. If a company has multiple facilities, the verifier may choose random samples from each facility to verify an indicator that year. The verifier will inform the company which TSM protocol they will be verifying. The company does not get to suggest, choose or request which facility or TSM protocol is to be verified that year. All facilities and all indicators must be verified, but not necessarily all indicators at all facilities each year. One facility may only be verified for outreach and tailings, while another for energy and crisis in a given verification year, but every facility has to have some indicators verified that year.

Some of the verifiers at the workshop have concerns about being able to guarantee that from the random samples they can confirm that all facilities operated by that company have indeed attained a verified TSM level. The issue for MAC members seems to be the cost if they had to verify 100% of all indicators of all of the company's facilities in each year and the fact that, over time, all indicators will be subject to verification so this will result in an over all verification of all indicators over time. The fact that facilities do not know which of their indicators will be assessed, plus the fact that the Panel gets to review 2-3 of them per year, should ensure that the self-assessment part is taken seriously and done properly.

There were several issues raised that are in the grey areas that are of concern to the verifiers and to me as well and so MAC will need to find a way to clarify these in order to assist the verifiers to reach their expert determination on each level of TSM reported to be attained by the company. Also, several of these issues would benefit from a discussion with the COI panel members at our next meeting.

- 1) International Application: Again the issue of International Application of TSM will eventually need to be resolved. One can already see and hear concerns from the public and professionals on having one set of best management TSM protocols here in Canada and not following them in international operations. The desire to continue the credibility of TSM will eventually require MAC companies to adopt the International Commitment to TSM standards and protocols. An example of international application leadership can be shown by the fact that Inmet has voluntarily applied TSM at all of its international and closed properties.
- 2) The issue of transference of TSM commitment when facilities or companies are purchased by foreign owners will also need to be discussed and clarified. What do we realistically expect to happen in those cases?
- 3) The Tailings Management Protocols include Post Closure but the grey area of what if the facility in its post closure state is sold to a maintenance company or as part of a "total company sale of all facilities" is still not answered and needs to be clarified.
- 4) What if in the post closure or pre closure stage the facilities operations are broken into separate companies for each mineral or operating section? How will TSM protocols be applied then? If the new company is not responsible for any operations at a specific site then are they still required to adhere to TSM protocols or are those facilities exempt? It is hoped that TSM will be applied to closed sites as well as operating sites.
- 5) How will MAC and the TSM COI identify potential soft auditors and ensure consistency of ratings and professional judgements?
- 6) Do the auditors require a certification permit and have to be registered to operate in the Province as an engineer, consultant, auditor or other technical professional? Do they have to be a specific professional at all? Who can be accepted as a verifier? Readers can refer to the Terms of Reference for Verifiers on the MAC TSM web site. While there is no requirement for verifiers to hold a specific license or permit they must prove that they have some past auditing experience, knowledge of the sector and types of protocols being assessed and have attended a MAC training workshop.

## **What are the implications of the outcomes of the consultation?**

Having the COI Panel and our presence there along with the other stakeholders is helping the mining companies to be more accountable, transparent in their operations and dialogue with stakeholders and communities and is in fact helping to remove some of the barriers to effective interactions and consultation between ENGO's and MAC members.

The fact that the COI panel intends to randomly request that 2-3 companies per year table and or present their external verification reports at the COI panel meetings will help to ensure that the companies do their very best and will allow CEN and its members to address specific issues.

**What action, in your opinion, should be taken by the ENGO community in the aftermath of this consultation?**

- 1) Continuing the presence of a CEN rep on the TSM COI panel.
- 2) I would suggest and request that I be allowed to remain for at least another year to follow this process through and for continuity of the ENGO participation and knowledge on the panel. 2 or 3 of the companies will be tabling their external verification report next year and I would really like to stay on to see this part of the process. (MAC has indicated that it would prefer all current members to remain at least until fall 2007, at which point the full implementation of TSM will have been completed (including verification). At this time, both MAC and the Panel agree that the issue of panel renewal should be considered.)
- 3) As well, as you know, I am from a region with major mining operations and two facilities entering closure stages within 2-5 years unless a second life is found for the facilities. My increasing knowledge of the details of closure and reclamation, outreach and tailings management gained by being a part of the COI panel is helping me to be able to be of better service to my community stakeholders, CEN and have more capacity to assist in National as well as local mining issues as they arise.
- 4) It may be possible that MAC would agree for either CEN to have two seats, one of which BSD fills for at least another year, or for BSD to retain its own seat and CEN rotate their rep. Not all members attend each and every meeting so in terms of additional costs to MAC I don't foresee any issue but we would have to discuss this with MAC.

Yours sincerely,

Brenda Kelley, Bathurst Sustainable Development

CEN rep on the MAC TSM COI panel