



JUL 04 2019

Ms. Kate Mansfield
Senior Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
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PO BOX 938
YELLOWKNIFE, NT X1A 2N7

VIA EMAIL

Dear Ms. Mansfield:

Government of the Northwest Territories' response to the Review Board's Information Request #2 for Diavik EA1819-01

I am writing to provide the Government of the Northwest Territories' (GNWT) response to the Mackenzie Valley Environmental Impact Review Board's (Review Board) April 29, 2019 Information Request regarding the environmental assessment of Diavik Diamond Mines Inc.'s proposal to deposit processed kimberlite in pits and underground.

The Review Board has noted that the currently approved Interim Closure and Reclamation Plan (ICRP) v.3.2 requires Diavik Diamond Mines Inc. (DDMI) to reconnect the flooded pits and underground mine workings to Lac de Gras once water quality is deemed to be acceptable. Under the proposal being assessed in EA 1819-01, some of the pits that would be reconnected with Lac de Gras to serve as fish habitat could contain processed kimberlite.

On April 29, 2019 (PR #43), the Review Board posed the following questions to the GNWT and other parties:

- 1. When determining if the pits should be reconnected to Lac de Gras at closure, is water quality in the pit lake the only criteria that should be considered?**
- 2. If not, please describe what additional criteria for re-connection should be considered.**

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Context

The GNWT notes that the Review Board's Information Request did not define 'criteria.' The GNWT understands that the Review Board is seeking input on considerations to inform the environmental assessment, as distinct from input on the 'closure criteria' that are being developed and reviewed through continuing Wek'èezhì Land and Water Board (WLWB) processes.

The GNWT recognizes the need for the Review Board to assess potential impacts from the proposed development (i.e. the deposition of processed kimberlite in the pits and underground) as part of the environmental assessment process. The GNWT provides the following considerations in relation to biophysical and social well-being matters.

Biophysical considerations

The GNWT concurs with the Review Board's understanding of the currently approved closure option for the Diavik mine pits, i.e. that they would be re-connected to Lac de Gras upon closure of the site (see ICRP v.3.2). As such, approved closure criteria would be required to ensure that the closure objectives are met prior to re-establishing the connection between the pits and Lac de Gras.

Reclamation at mine sites in the Northwest Territories (NWT) is guided by the *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories* which were published jointly by the Land and Water Boards of the Mackenzie Valley and Aboriginal Affairs and Northern Development Canada in 2013. These guidelines outline the process for development of Closure and Reclamation Plans, including the establishment of Interim Closure and Reclamation Plans (ICRPs) during operations and the submission of a Final Closure and Reclamation Plan (FCRP) prior to final closure of the site. These plans outline closure objectives for particular project components, as well as closure options to achieve these objectives, and require the establishment of closure criteria to measure when an objective has been met.

In relation to the closure status of the Diavik Diamond Mine, the most recent proposed ICRP (Version 4.0) was denied approval by the WLWB on December 17, 2018. DDMI is due to submit the next version (4.1) to the WLWB by December 19, 2019. The closure planning process is a public collaborative process facilitated through the WLWB, which involves the proponent (developer) and other stakeholders, such as federal and territorial government organizations, Indigenous

governments and organizations, and the Environmental Monitoring Advisory Board. Through this process, stakeholders recommend and discuss specific closure objectives, options, activities and criteria that they would like to see incorporated into the closure plans.

However, as DDMI is applying to modify the existing authorizations to deposit processed kimberlite into open pits, it is important to note that in Appendix V of DDMI's proposed ICRP v.4.0, proposed closure objectives for open pits include, but are not limited to:

- water quality in Lac de Gras;
- protection of water uses in Lac de Gras, the Coppermine River and groundwater;
- establishment of fish habitat;
- navigation; and
- physical stability of the pit.

As noted above, the WLWB has not approved ICRP v.4.0 and several stakeholders continue to provide input on these items through the closure planning process.

Social well-being considerations

When considering closure options, including whether or not pits containing processed kimberlite should be reconnected to Lac de Gras at closure, the GNWT recommends that the Review Board consider¹

- the impacts that the proposed closure options could have on the well-being of NWT residents and communities, including Indigenous and non-Indigenous peoples and individuals, and
- the potential interactions that adverse biophysical impacts, including impacts to water quality, may have with cumulative social impacts to communities from diamond mining.

The GNWT issued an Information Request to DDMI on June 20, 2019 recommending that, "should PK [processed kimberlite] be deposited in the pits, Diavik actively engage and collaborate with affected small local communities during the closure phase to ensure that open communication and community concerns with well-being are being identified and addressed in a reasonable and responsive manner."

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¹ References cited within this section, and other relevant materials, are listed in the attachment.

The GNWT provides the following context for the below comments on social well-being:

- Together with the Government of Canada, the GNWT initiated Aboriginal consultation for the EA 1819-01 proceeding in March 2019 (PR#28 and PR#35);
- The GNWT's overall mandate includes promoting, protecting and providing for the health and well-being of the people of the NWT;
- As a signatory to the Diavik Environmental Agreement and the Diavik Socio-economic Monitoring Agreement, the GNWT acknowledges that the development being assessed under EA 1819-01 is of interest to, and may have impacts on, residents and communities in the NWT and in the west Kitikmeot region of Nunavut;
- The Government of Nunavut and/or the Kitikmeot Inuit Association may choose to make submissions to the Review Board for the EA 1819-01 proceeding regarding the potential impacts of the Diavik proposal on the residents and communities of the west Kitikmeot region of Nunavut.

Feedback provided to the Review Board during the scoping phase for EA1819-01, as well as information provided by Indigenous governments and Indigenous peoples in previous environmental assessments, demonstrates that the project area is socially, culturally and spiritually important to Indigenous peoples. The GNWT recommends that the Review Board and parties apply a holistic and integrated approach to the complex relationship between the biophysical environment, human and non-human health and well-being when considering if processed kimberlite should be placed in the pits; and should processed kimberlite be placed in the pits, and water quality is acceptable, if the pits should be reconnected to Lac de Gras at closure. According to Jones and Bradshaw (2015, 87), community resistance to traditional evaluation approaches in impact assessment “typically stems from the failure of the HIA [health impact assessment] to capture communities’ understandings of their health and hence identify the nuanced ways in which a mine development might generate health impacts. This is particularly germane in the North, where communities, though often small in population, are diverse, and where health inequities experienced by Indigenous peoples persist disproportionately to other parts of Canada and the United States.”

Recent NWT environmental assessments and academic research have demonstrated that past assessment approaches, as well as government and industry monitoring of impacts to health and well-being, have not adequately captured local communities’

understandings of impacts to well-being from mining and mining activities.² In addition, academic research on socio-economic and cultural effects of NWT diamond mining on Indigenous communities demonstrates that the well-being of northern residents and communities is linked to the health of the biophysical environment.

Recent research in environmental history highlights the impacts that past contamination from other northern mining projects have had on northern Indigenous communities. This work points to the importance of considering how potential hazards and/or environmental effects from the deposition of processed kimberlite in Lac de Gras will be communicated to affected residents and communities and how this change in project closure options may influence residents' and communities' perceptions of the site area.

In its Summary Impact Statement, DDMI concludes that the project "has the potential to affect traditional activities, sites, and resources identified by Indigenous groups," (PR#53, 145). The Summary Impact Statement does not, however, discuss how residual effects may or may not be connected to community well-being or adequately discuss and develop mitigations to support Indigenous communities' perceptions of adverse effects to the safety, quality and health of Lac de Gras and the surrounding area. With this in mind, the GNWT:

- a) posed the above-noted June 20, 2019 Information Request to DDMI, and
- b) recommends that the Review Board consider during the current EA 1819-01 proceeding whether potential and/or perceived impacts to Lac de Gras at closure as a result of the PK to pits closure proposal could contribute to existing cumulative impacts from the Diavik mine in combination with other NWT diamond mining projects and, if so, how such impacts could adversely affect the well-being of Indigenous peoples and cultural users.

More specifically, the GNWT provides the following social well-being considerations:

- i. holistic and integrated approach between the biophysical environment, and human and non-human health and well-being;
- ii. local communities' understanding of impacts to well-being;
- iii. cultural continuity and cultural preservation in relation to community well-being;

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² For recent critiques of assessment processes and/or monitoring activities and well-being, as well as the call for more holistic approaches that align with indigenous concepts of well-being in assessment, see: Jones and Bradshaw 2015; Mackenzie Valley Environmental Impact Review Board 2016; Parlee et al. 2007; Parlee 2016; and Sandlos and Keeling 2016.

- iv. communication of potential hazards and/or contamination; and
- v. impacts of perceived contamination on well-being and cultural use of site after closure.

Closing

If you have any questions about these responses, please contact Katie Rozestraten, Project Assessment Analyst, at [Katie Rozestraten@gov.nt.ca](mailto:Katie.Rozestraten@gov.nt.ca) or 867-767-9180 ext. 24022 or Melissa Pink, Project Assessment Manager, at [Melissa Pink@gov.nt.ca](mailto:Melissa.Pink@gov.nt.ca) or 867-767-9180 ext. 24021.

Sincerely,



Lorraine Seale
Director, Securities and Project Assessment
Department of Lands

Attachment

References: Social well-being considerations

- Jones, Jen and Ben Bradshaw. 2015. "Addressing Historical Impacts through Impact and Benefit Agreements and Health Impact Assessment: Why it Matters for Indigenous Well-Being." *The Northern Review* 41: 81-109.
- Keeling, Arn and John Sandlos. 2009. "Environmental Justice Goes Underground? Historical Notes from Canada's Northern Mining Frontier." *Environmental Justice* 2(3): 117-125.
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- . 2017. "Ghost Towns and Zombie Mines: The Historical Dimensions of Mine Abandonment, Reclamation and Redevelopment in the Canadian North." In *Ice Blink: Navigating Northern Environmental History*, edited by Stephen Bocking and Brad Martin, 377-420. Calgary: University of Calgary Press.
- Mackenzie Valley Environmental Impact Review Board. 2016. Report of Environmental Assessment and Reasons for Decision: Dominion Diamond Ekati Corp. Jay Project. Available online: [http://reviewboard.ca/upload/project document/EA1314-01 Report of Environmental Assesment and Reasons for Decision.PDF](http://reviewboard.ca/upload/project_document/EA1314-01_Report_of_Environmental_Assesment_and_Reasons_for_Decision.PDF).
- Parlee, Brenda. 2016. "Resource Development and Well-being in Northern Canada." Resources and Sustainable Development in the Arctic (RESDA), Gap Analysis Report #7. Accessed May 26, 2019. Available online: <http://yukonresearch.yukoncollege.yk.ca/resda/wp-content/uploads/sites/2/2013/09/Gap-Analysis-7-Resource-Development-and-Well-Being-in-Northern-Canada-2016.pdf>.
- Parlee, Brenda, John O'Neil and Lutsel K'e Dene First Nation. 2007. ""The Dene Way of Life": Perspectives on Health from Canada's North." *Journal of Canadian Studies* 41(3): 112-133.
- Sandlos, John and Arn Keeling. 2016. "Aboriginal Communities, Traditional Knowledge, and the Environmental Legacies of Extractive Development in Canada." *The Extractive Industries and Society* 3(2): 278-287.

