

JUN 04 2020

By Email

Chief Edward Sangris and Band Council
Yellowknives Dene First Nation (Detah)
PO BOX 2514
YELLOWKNIFE, NT X1A 2P8

Chief Ernest Betsina and Band Council
Yellowknives Dene First Nation (Ndilq)
PO BOX 2514
YELLOWKNIFE, NT X1A 2P8

Dear Chief Sangris and Chief Betsina:

Responsible Ministers' Decision to Adopt the Recommendation of the Mackenzie Valley Environmental Impact Review Board and Allow the Diavik Diamond Mines Inc.'s Kimberlite Deposition Proposal to Resume the Regulatory Process

The responsible ministers from the Government of the Northwest Territories (GNWT) and the Government of Canada (Canada) have recently concluded the decision phase for the environmental assessment of Diavik Diamond Mines Inc.'s (Diavik) proposal to store processed kimberlite in pits and underground (the Project). Their decision was to approve the Project subject to the implementation of six measures and the commitments from Diavik.

Previous communication with the Yellowknives Dene First Nation

On February 19, 2019, the Mackenzie Valley Environmental Impact Review Board (Review Board) referred the Project to environmental assessment. The GNWT and Canada wrote to the Yellowknives Dene First Nation (YKDFN) on March 15, 2019 to advise you of potential government decisions relating to this Project. The letter also noted that both governments would be relying on the Review Board's process to assist in fulfilling Aboriginal consultation requirements in relation to the Project. Both governments also encouraged the YKDFN to participate in the Review Board's process.

Responsible ministers also wrote to YKDFN after the Review Board released its recommendation. In concluding its environmental assessment process, the Review Board released its *Report of Environmental Assessment and Reasons for Decision* (REA) on January 6, 2020. The GNWT and Canada wrote to you at that time to continue dialogue regarding potential responsible ministers' decisions relating to the Review Board's findings in the REA. Responsible ministers also asked the YKDFN if the REA addressed concerns as they relate to potential adverse Project impacts on your members' asserted Aboriginal and Treaty rights.

Consideration of concerns raised by Indigenous governments and organizations

In making the decision to adopt the Review Board's recommendation, responsible ministers considered comments made by Indigenous governments and organizations (IGOs). This included what responsible ministers heard from the YKDFN during the environmental assessment and after the REA was issued. Your letter of February 7, 2020 agreed with the Review Board's recommendation as it "took into due consideration concerns of cultural significance...and arrived at commendable measure[s] regarding consultation."

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YKDFN did identify one outstanding concern: that Diavik should provide "a suitable time frame when the site location can be reasonably expected to once again be used by the YKDFN and the other aboriginal groups [to] carry out traditional practice on and within the vicinity." Responsible ministers note that this timeline has not been currently provided by Diavik. However, we also note that there is the opportunity during the regulatory process, including mine closure planning, for Diavik and IGOs to develop appropriate closure criteria for the Diavik mine site. Measure 2 should also help guide this process as Diavik is required to work with IGOs to develop clear, measurable, and meaningful criteria to determine if water is suitable for cultural use prior to any deposition of processed kimberlite into pits. Once these criteria have been satisfied, this would help signify when the area can once again be used by IGOs, including YKDFN.

Responsible ministers view the measures as reasonable mitigation to prevent significant adverse impacts on the cultural use of Lac de Gras. They also believe that while YKDFN's outstanding concern is outside the scope of the environmental assessment, there are opportunities during the mine site's overall interim closure and reclamation planning process to seek clarity about future site access. Based on the analysis above, responsible ministers respectfully believe the duty to consult and accommodate the YKDFN for the purposes of EA1819-01 have been fulfilled.

Next steps for Diavik's Project

Responsible ministers emphasize that consultation and accommodation with respect to your asserted Aboriginal and Treaty rights do not end with the responsible ministers' decision on the environmental assessment of the Project. The Project will now resume the regulatory process and any other post-environmental assessment processes. These processes will include opportunities for IGOs to offer input on authorizations and management plans and help ensure that potential adverse impacts to Aboriginal and Treaty rights are accommodated, as necessary. The responsible ministers encourage the YKDFN to participate in the Wek'èezhì Land and Water Board's water licensing process and any other post-environmental assessment processes relating to this Project.

If you have any questions about the decision, please contact Ms. Melissa Pink, Manager, Project Assessment Branch, at Melissa_Pink@gov.nt.ca or by telephone at 867-767-9180 ext. 24021.

Sincerely,



Kate Hearn
Assistant Deputy Minister
Planning and Coordination
Lands



Lisa Dyer
Director General
Northern Projects Management Office

- c. Honourable Caroline Cochrane
Premier

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Principal Secretary

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