

March 9, 2016

The Honourable Robert C McLeod
Minister of Lands
Government of the Northwest Territories
P.O. Box 1320
Yellowknife, NT X1A 2L9

Via email: Robert_C_McLeod@gov.nt.ca

Dear Minister McLeod,

Re: Rectification of Clerical Error – Measure 13-4 of EA1314-01 Report of Environmental Assessment and Reasons for Decision – Jay Project, Dominion Diamond Ekati Corporation

On February 1, 2016, the Mackenzie Valley Environmental Impact Review Board (Review Board) submitted its *Report of Environmental Assessment and Reasons for Decision* (Report) for the Jay Project.

Since the release of the Report, a clerical error has been identified. The clerical error affects Measure 13-4: “Annual reporting from regulatory authorities” on page 228 of the Report and in Appendix A. Measure 13-4 states that:

In order to evaluate the effectiveness of mitigation measures for the protection of the environment, each regulatory authority that is wholly or partly responsible for implementation of any measure in this Report of EA will prepare an annual *Report on Implementation of Jay Project Measures*.

The text of Measure 13-4 goes on to describe the reporting requirements recommended by the Review Board.

The Report clearly sets out the Review Board’s intent with regard to the measures in section 13, which is: to ensure all measures in the Report are followed up on, including measures that are the responsibility of Dominion and measures that are wholly or partly the responsibility of other bodies. Predominantly, the other bodies referred to in the measures in the Report are: the Government of the Northwest Territories (GNWT) and the Wek’ èzhìi Land and Water Board.

In the Report released February 1, 2016, Measure 13-4 refers to these other bodies as “regulatory authorities.” The Review Board acknowledges that the GNWT may be considered a regulatory authority for the purposes of a surface lease for the Jay Project; however, the Review Board’s intention was for Measure 13-4 to refer to government and regulatory authorities. The Board approved the inclusion of government under Measure 13-4;



unfortunately, a clerical error resulted in the reference to government not being included in the text of the Report.

To prevent confusion and to more accurately represent the Review Board's decision, the Review Board is rectifying the clerical error and replacing **regulatory authorities** in the text of Measure 13-4 and section 13 with **regulatory authorities and/or government**. The full final text of the rectified measure is attached and the text of the Report on the Review Board's public registry has also been rectified. This letter is also being posted to the public registry, which will result in notification being sent to the developer and all parties to the environmental assessment.

Rectification of this clerical error brings the text of the Report in line with the Review Board's decision on this topic. If you have any questions, please contact our office.

Sincerely,

JoAnne Deneron
Chairperson

Attached: Rectified text of Measure 13-4, with rectifications shown in red

Preamble to Measure 13-4: Annual reporting from **government and regulatory authorities**

Dominion, regulatory authorities, **and government** share responsibility to implement some of the measures in this REA. For other measures, **government or** regulatory authorities are solely responsible. All measures, regardless of who is responsible for implementing them, are necessary to prevent significant adverse impacts on the environment. Regular reporting is needed to demonstrate that the measures in this REA are being implemented and are fulfilling their purposes. Given that this REA includes some measures specifically directed to regulatory authorities **or government**, and others which they are in part responsible for implementing (under subsection 130(5) of the Act), **government and** regulatory authorities must play a role in follow-up and reporting to ensure the measures are effective.

The measure below consolidates the reporting required for those measures that **government and** regulators are responsible for implementing. The questions listed under part b) of the measure below were adapted from those used by the GNWT to evaluate the effectiveness of past Review Board measures (PR#678; PR#679). The Review Board will receive the reports required below, publish them to the Review Board's registry so they are accessible to the parties and the public, and learn from them to improve future EAs and EA measures.

Measure 13-4: Annual reporting from government and regulatory authorities

In order to evaluate the effectiveness of mitigation measures for the protection of the environment, each regulatory authority or government that is wholly or partly responsible for implementation of any measure in this Report of EA will prepare an annual *Report on Implementation of Jay Project Measures*. The Report will:

- a) describe the actions being undertaken to implement the EA measures or the part(s) of the EA measure for which the regulatory authority or government is responsible; and
- b) explain how the implementation actions, including any actions implemented through adaptive management, fulfill the intent of the EA measures, including consideration of the following questions:
 - i. How are implementation actions addressing a likely significant adverse impact on the environment?
 - ii. How effective are implementation actions at reducing, controlling, or eliminating the impact or its likelihood?
 - iii. If the measure is for monitoring or research, are the implementation actions clearly linked to mitigation and/or operations?
 - iv. How are process considerations (such as consultation or engagement requirements, statutory obligations, etc.) being considered, and, if applicable, how are they affecting implementation of the EA measures?

Prior to July 1 of each year, during all phases of the Jay Project to which a particular measure applies, each regulatory authority and government will provide a copy of this annual report to the Review Board.