



Canadian Northern Economic
Development Agency

Agence canadienne de développement
économique du Nord

May 22, 2014

VIA EMAIL

Todd Slack
Research and Regulatory Specialist
Land and Environment
Yellowknives Dene First Nation
PO Box 2514
Yellowknife, NT X1A 2P8

Dear Mr. Slack:

RE: Your email of May 13, 2014 concerning Crown consultation with regard to the Snap Lake Water Licence Amendment Environmental Assessment

In your email of May 13, 2014, following the pre-conference hearing for the environmental assessment ("EA") of proposed amendments to DeBeers Canada Inc.'s Snap Lake water licence, you raise a number of questions concerning Crown consultation in regard to the EA. This letter is intended to respond to your questions.

The Government of Canada and the Government of the Northwest Territories ("GNWT") have concurrent responsibilities for ensuring Aboriginal groups are consulted prior to making any decision with regard to a recommendation from the Mackenzie Valley Environmental Impact Review Board ("Review Board"). With devolution of land and water resources management from the Government of Canada to the GNWT on April 1, 2014, EA and regulatory decision-making for this EA will rest with the GNWT. Canada is confident that the GNWT has the means and expertise to discharge its new responsibilities under legislation. Federal responsibilities related to the Snap Lake Mine (as originally approved) which remain under Canada's jurisdiction will continue under the mandated responsibilities of those individual federal departments.

As noted in the joint letter sent to the Yellowknives Dene First Nation ("YKDFN") on March 25, 2014, the Canadian Northern Economic Development Agency ("CanNor") and the GNWT notified the YKDFN of the EA, identified opportunities for communicating related concerns to the Review Board (which continue to be available to YKDFN) and explained the means for consulting potentially affected Aboriginal groups. The Government of Canada and the GNWT continue to be committed to this process.

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The GNWT is responsible for consulting with Aboriginal groups where it has a decision-making authority which may adversely impact asserted and established s.35 rights, as well as responsibility for tracking and maintaining the record of territorial consultation. The Northern Projects Management Office ("NPMO") of CanNor acts as the Crown consultation coordinator on behalf of the federal ministers with statutory decisions to make in relation to a project where those decisions may adversely impact asserted and established s.35 rights. NPMO officials monitor EA and regulatory processes and may attend public hearings and other significant activities in order to identify issues related to adverse impacts on established or asserted Aboriginal or treaty rights. However, as there are no federal statutory decisions for this EA of the Snap Lake Water Licence amendment, NPMO will continue to monitor the process, while recognizing that the GNWT has the statutory responsibilities related to this proposed amendment.

With regard to other federal departments' roles in this EA, Environment Canada ("EC") is participating in the EA based on its scientific expertise available under mandated responsibilities as it relates to water quality and the receiving environment. EC has determined that they do not have any jurisdiction with respect to this EA, nor will they be making any regulatory decision or issuing any authorization in connection with it. For that reason, EC has concluded that it is not a "responsible minister" ("RM") as defined in the Mackenzie Valley Resource Management Act ("MVRMA") for the purposes of this EA.

Similarly, the Department of Fisheries and Oceans ("DFO") has no regulatory decision, nor is it issuing any authorization with respect to this EA and it does not have RM responsibilities in this instance. DFO's potential issues on the original Snap Lake EA are being addressed through the fish habitat compensation plan and existing mitigation or monitoring plans. For matters related to serious harm to fish that are part of, or support a fishery, please contact DFO through Stuart Niven, Senior Fisheries Protection Biologist (867-669-4928; Stuart.Niven@dfo-mpo.gc.ca).

Aboriginal Affairs and Northern Development Canada is also not an RM for this EA and, since there are no federal RMs involved, AANDC will not be making any decisions on behalf of any minister of the Crown (as set out in s.111.1 of the MVRMA).

With respect to any concerns that your organization may have over this application from DeBeers Canada for the amendment to its water licence, the YKDFN is highly encouraged to continue to participate in the Review Board's process in order to communicate these to the Review Board. When providing such input, the YKDFN is encouraged to:

- clearly indicate, in as much detail as possible, whether any adverse impacts on YKDFN established or asserted Aboriginal or treaty rights are anticipated as a result of any proposed amendments to the water licence; and, if so,
- clearly indicate the specific right(s) that may be affected, the specific impact(s) on those right(s), how those impacts can be further mitigated, as well as any evidence that will help in understanding those impacts; and,

- support the Review Board in understanding the evidence, including traditional knowledge, with respect to both potential impacts and mitigations.

If you have any questions related to the technical input provided by EC or questions concerning the mandates or questions concerning the post-devolution roles of individual federal departments or the overall process, please contact me and I will provide the appropriate contact information.

Sincerely,



Marie Adams

Senior Project Manager

Northern Projects Management Office,
Canadian Northern Economic Development
Agency

cc: Matt Hoover, Regulatory Analyst, North Slave Métis Alliance
Mike Tollis, Wildlife, Lands, and Environment Manager, Lutsel K'e Dene First Nation
Mark Cliffe-Phillips, Executive Director, Mackenzie Valley Environmental Impact Review Board
Lorraine Seale, Manager, Project Assessment, Department of Lands, Government of the Northwest Territories
Carey Ogilvie, Head, Environmental Assessment North (NT and NU), Environment Canada
Stuart Niven, Senior Fisheries Protection Biologist, Fisheries and Oceans Canada
Catherine Conrad, Director, Environment and Renewable Resources, Aboriginal Affairs and Northern Development Canada
Erica Bonhomme, Manager, Environment - Snap Lake Mine, DeBeers Canada Inc.