



October 7, 2020

Mr. William Liu
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Dear Mr. Liu:

Wildlife Act Section 95(1) determination of the requirement for a Wildlife Management and Monitoring Plan for De Beers Canada Inc. Gahcho Kué Mine

The Minister of Environment and Natural Resources (ENR) of the Government of the Northwest Territories (GNWT) has considered the potential impacts to wildlife and wildlife habitat associated with the operation of De Beers Canada Inc.'s (De Beers) Gahcho Kué Mine, as presented in submissions to the public registry (EIR0607-001) of the Mackenzie Valley Environmental Impact Review Board (MVEIRB) and the Mackenzie Valley Land and Water Board (MVLWB) during environmental impact review (EIR) and post-EIR phase of this development.

The Minister of ENR has determined that, in accordance with the *Wildlife Act* and for the purposes of requiring a Wildlife Management and Monitoring Plan (WMMP), activities outlined for the operations phase of the Gahcho Kué Mine are likely to satisfy criteria (a), (b), (c) and (d) of subsection 95(1) of the *Wildlife Act* which states:

"A developer or other person or body may be required, in accordance with the regulations, to prepare a wildlife management and monitoring plan for approval by the Minister, and to adhere to the approved plan, if the Minister is satisfied that a development, proposed development, or other activity is likely to

- (a) result in a significant disturbance to big game or other prescribed wildlife;*
- (b) substantially alter, damage or destroy habitat;*
- (c) pose a threat of serious harm to wildlife or habitat; or*
- (d) significantly contribute to cumulative impacts on a large number of big game or other prescribed wildlife, or on habitat."*

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These activities include:

- Winter Access Road construction and operation – potential for sensory disturbance to caribou and serious harm to wildlife through animal-vehicle collisions.
- Open pit mining, milling, site infrastructure, ore stockpiles, processed kimberlite containment facilities, waste rock piles, quarrying – potential for substantial alteration, damage or destruction of habitat.
- Storage and disposal of wastes, including wildlife attractants – potential for serious harm to wildlife attracted to waste storage facilities and resulting human-wildlife interactions.
- Blasting, hauling, use of heavy equipment – potential to create significant sensory disturbance to big game or other prescribed wildlife.

The determination of the need for a WMMP largely reflects the potential impacts of the project on the Bathurst barren-ground caribou herd, whose population has declined by 98 percent since the 1980s and the Threatened status of barren-ground caribou in the Northwest Territories. Habitat changes due to climate change, industrial development, and wildfires, as well as predation pressures are identified as threats contributing cumulatively to impacts on barren-ground caribou according to both science and traditional knowledge¹. A [range plan](#) for the Bathurst barren-ground caribou herd was finalized in August 2019. The Gahcho Kué Mine site occurs within range assessment area 2 (which is at a Cautionary status for levels of human land-caused disturbance). The mine site also overlaps with the Bathurst caribou summer core seasonal range.

This determination is also consistent with the Gahcho Kué Panel's *Report of Environmental Impact Review and Reasons for Decision*² (Report of EIR) which concluded that "the impacts to caribou and caribou habitat are likely to be significant because any negative adverse impact that contributes to on-going harvest restrictions is significant". The Report of EIR identified the need for follow-up programs to test the effectiveness of De Beers' environmental design features, mitigations and impact predictions, to be implemented through a Wildlife Effects Monitoring Program and Wildlife and Wildlife Habitat Protection Plan for the project. As per the Report of EIR (page A-iii), requiring a WMMP under s.95 of

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¹ Conference of Management Authorities. 2020. Recovery Strategy for Barren-ground Caribou (*Rangifer tarandus groenlandicus*) in the Northwest Territories. Conference of Management Authorities, Yellowknife, NWT.

² http://reviewboard.ca/upload/project_document/EIR0607-001_Gahcho_Kue_Diamond_Mine_Project_Report_of_EIR.PDF

Wildlife Act fulfills ENR's role and responsibility as a regulatory authority by ensuring that "the follow-up programs are designed and implemented and that they hold the developer accountable for the components of the follow up programs that are the developers' responsibilities".

ENR acknowledges that De Beers already has a Wildlife Effects Monitoring Plan (WEMP) in place, as well as a Wildlife and Wildlife Habitat Protection Plan (WWHPP) required by the MVLWB under Condition #45 of the Land Use Permit (MV2005C0032) for the mine. ENR notes that a Memorandum of Understanding (MOU) signed by ENR and DeBeers on September 24, 2014, considered these two plans as constituting a WMMP for the purpose of the new *Wildlife Act* which was to come into force after the MOU was signed. The MOU expired on September 24, 2019 and ENR is now requiring the WMMP under subsection 95(1) of the *Wildlife Act*. ENR expects that the WWHPP and WEMP for the project already satisfy most of the WMMP content requirements set out in subsection 95(2) of the *Wildlife Act* and in the [WMMP Process and Content Guidelines](#) (July 2019).

In accordance with subsection 95(2) of the *Wildlife Act*, the WMMP submitted for approval must include:

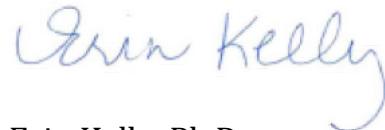
- (a) *a description of potential disturbance to big game and other wildlife included in the regulations, potential harm to wildlife and potential impacts on habitat;*
- (b) *a description of measures to be implemented for the mitigation of potential impacts;*
- (c) *the process for monitoring impacts and assessing whether mitigative measures are effective; and*
- (d) *other requirements that are outlined in the regulations.*

In addition, the WMMP will need to explicitly demonstrate how the proposed wildlife mitigation and monitoring programs address Measures 1-3 and the specific follow-up programs requirements outlined in the *Report of EIR*. ENR recommends that the WMMP should consolidate DeBeers' existing WWHPP and WEMP into one document, and be updated to reflect any recent regulatory changes for wildlife, new assessments/listing of species at risk and any lessons learned or changes to the wildlife mitigation measures and monitoring programs that have taken place since the existing WWHPP and WEMP were drafted.

ENR acknowledges the difficult circumstances currently posed by restrictions related to the Covid-19 pandemic which may be impacting normal operations at the mines. We also acknowledge the need to reconvene the Technical Task Group (TTG) to finalize the guidance document for caribou zone of influence (ZOI) monitoring at the mines. ENR intends to hold a meeting of the TTG in fall 2020. In addition to discussion of ZOI monitoring for caribou, this meeting will also include discussion about the future of DNA-based grizzly bear and wolverine monitoring programs. Given that the existing land use permit for the project is set to expire August 10, 2021, and based on discussion with the MVWLB, ENR suggests there is an opportunity to combine submission of the WMMP with the application to renew the Land Use Permit for the project.

Recognizing the above circumstances, ENR requires that DeBeers submit a **Tier 3 WMMP for approval at the same time the application to renew Land Use Permit MV2005C0032 is submitted to the Mackenzie Valley Land and Water Board.** This should allow sufficient time for DeBeers to consider the outcomes of discussions regarding ZOI and regional monitoring. The WMMP should also be included as part of the Land Use Permit renewal application package to the MVLWB, so that the WMMP can undergo a 30-calendar-day public comment period, as per ENR's WMMP Process and Content Guidelines. Based on ENR's review and the comments received from other parties, ENR will notify De Beers of required revisions to the WMMP, if any, before its approval. Following any subsequent revisions to the WMMP, if required, ENR will provide De Beers with a written notice of approval, conditional approval or rejection of the WMMP within 30 calendar days. The notification will also be posted to the MVLWB public registry.

Sincerely,



Erin Kelly, Ph.D.
Deputy Minister
Environment and Natural Resources

c: Mr. Brett Elkin
A/Assistant Deputy Minister, Operations
Environment and Natural Resources

Mr. Nathan Richea
A/Assistant Deputy Minister, Environment and Climate Change
Environment and Natural Resources

Ms. Karin Clark
A/Director, Wildlife and Fish
Environment and Natural Resources

Mr. Bruno Croft
Superintendent, North Slave Region
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Ms. Sarah McLean
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De Beers Canada Inc.

Mr. Mark Cliffe-Phillips,
Executive Director
Mackenzie Valley Land Review Board

Ms. Shelagh Montgomery
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Mackenzie Valley Land and Water Board

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Mr. Bill Enge
President
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Chief Louis Balsillie and Band Council
Deninu Kue First Nation

Chief Daryl Marlowe and Band Council
Lutsel Kè Dene First Nation

Chief Edward Sangris and Band Council
Yellowknives Dene First Nation (Detah)

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Chief Ernest Betsina and Band Council
Yellowknives Dene First Nation (Ndilo)

Mr. Garry Bailey
President
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