

September 11, 2019

Notice of Proceeding: submitting post-hearing materials

Depositing Processed Kimberlite into Pits and Underground, Diavik Diamond Mines Inc.

1. Introduction

The Mackenzie Valley Environmental Impact Review Board (the Review Board) held public hearings for the Diavik Diamond Mines Inc. (Diavik) proposal to put processed kimberlite into pits and underground (the Project) from September 3-6, 2019. Transcripts from the public hearings are available on the [public registry](#).

This notice of proceeding outlines the remaining steps of the environmental assessment.

- **Hearing undertakings and commitments (Section 2)**
 - response to undertakings – due on September 20, 2019
 - revised commitments table – due on September 20, 2019
- **Supplemental information requests (IRs) (Section 3)**
 - opportunity for interveners to comment on Diavik’s response to the supplemental IRs – due on September 20, 2019
 - Diavik’s response to the additional comments – due on September 27, 2019
- **Closing arguments (Section 4)**
 - closing arguments from interveners – due on October 4, 2019
 - closing argument from Diavik – due on October 18, 2019
- **Review Board deliberations and decision (Section 5)**

2. Hearing undertakings and commitments

Undertakings are questions or issues that the developer or other interveners are unable to answer immediately during the hearing. There were five undertakings identified during the public hearings in Yellowknife on September 5 and 6, 2019 (PR#[169](#)). Three of the undertakings were resolved during the public hearing (see PR#[160](#), [163](#), and [166](#)), while two remain outstanding. The due date for undertakings is **September 20, 2019**.

Diavik made two new commitments during the hearing (PR#[169](#)). Diavik has agreed to provide an updated table of commitments that includes commitments made at the hearing and in response to interventions by **September 20, 2019**.



3. Supplementary Information Requests

On July 26, 2019, the Review Board issued five supplemental information requests to Diavik (PR#[98](#)). Diavik responded to the first four requests on July 29 and the fifth request on August 9 (PR#[100](#), [127](#)). The Review Board issued a notice to interveners, describing the opportunities to consider this information ([PR#103](#)). There are two remaining opportunities for interveners to comment on this information.

- a) Intervenors have until **September 20, 2019**, to provide additional comments related to Diavik's response to supplemental information requests. These submissions may include additional evidence and comments but should not be used as another round of information requests.¹ Diavik will have until **September 27, 2019**, to respond to these submissions.
- b) Intervenors can consider evidence related to the supplemental information requests in their closing arguments, which are **due October 4, 2019**.

4. Closing arguments

The due date for closing arguments from **intervenors is October 4, 2019**. The due date for closing arguments from the **developer is October 18, 2019**.

Closing arguments are the final opportunity for intervenors and Diavik to:

- summarize their conclusions on the acceptability and significance of impacts of the proposed development and the evidence that supports those conclusions, and
- make clear recommendations to the Board.

Closing arguments must be **based on the evidence** on the public record, including from the supplemental information requests, hearings, and undertakings. Your conclusions should be based on technical and traditional knowledge evidence that has been compiled during the environmental assessment. Although new comments or arguments about the evidence may be included, **you must not introduce new evidence** in your closing submission, in fairness to other intervenors and the developer.²

¹ If intervenors have outstanding questions on this topic, the Review Board encourages them to meet with Diavik to discuss, and provide a meeting report (see PR#[66](#) for more details) to the Review Board.

² For example, the use of scientific articles or other documents that are not on the public record would be introducing new evidence, which is not allowed at this late stage in the environmental assessment. However, intervenors are encouraged to provide their views and recommendations related to evidence already on the public record. For example, if Diavik has made a commitment that it believes mitigates an impact, intervenors could comment on whether they agree, and if not, provide a recommendation to the Review Board.



If you identify the potential for significant adverse impacts, please describe what mitigation you believe is required. Specifically, please describe:

- **the subject** (such as adaptive management) or the valued component (such as a wildlife species)
- **the impact(s)** that require further mitigation and **why these impacts matter**;
- **your recommended mitigation**, including a discussion of how it would reduce or avoid the impact to an extent that is acceptable to you.

In addition, the Review Board is particularly interested in your views on:

- qualitative water quality objectives (what the water will be used for and how clean the water needs to be);
- the acceptability of potential impacts of this project compared to the status quo (continuing to deposit and store processed kimberlite in the on-land processed kimberlite containment facility, with the already-approved dam raise); and,
- whether Diavik's proposed mitigation and commitments will allow land users to feel safe eating the fish, drinking the water, and using the area – and if not, what additional mitigations would address these concerns (that is, what can Diavik do to make sure the fish and wildlife are safe to eat and the water is safe to drink?).

If your closing arguments are more than three pages long, please include a **short plain language summary**.

5. Review Board decision and report

After the Review Board receives closing arguments from interveners and Diavik, the public record will close. The Review Board will then begin its deliberations and prepare its *Report of Environmental Assessment and Reasons for Decision*. The *Report of Environmental Assessment and Reasons for Decision* will then be submitted to Government of the Northwest Territories Minister of Lands.

If you have any questions, please contact Catherine Fairbairn at 867-766-7054 or cfairbairn@reviewboard.ca and Kate Mansfield at 867-766-7062 or kmansfield@reviewboard.ca.