

**Mackenzie Valley  
Review Board**



## **Scoping Meeting Summary**

EA1819-01

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

## Meeting overview and details

The following is a summary of the primary issues identified at the scoping meeting for EA1819-01 Depositing Processed Kimberlite in Pits and Underground, Diavik Diamond Mines Inc. The meeting was held on March 18th, 2019 in Yellowknife.

The session began with a presentation from the Mackenzie Valley Review Board (the Review Board) staff describing the environmental assessment (EA) process in the Mackenzie Valley and the purpose of scoping. Representatives from the developer, Diavik Diamond Mines Inc. (Diavik), then gave a presentation describing the proposed project and Diavik's views on scoping.

The remainder of the meeting was devoted to identifying and prioritizing issues for this EA and discussing questions related to the coordinated process proposed for this EA.

**Note to participants:** If there are any topics that were raised that the Review Board staff have not included in this document, or if you believe clarification is needed on any of the discussions summarized below, please contact Kate Mansfield (867-766-7062 or [kmansfield@reviewboard.ca](mailto:kmansfield@reviewboard.ca)) or Catherine Fairbairn (867-766-7054 or [cfairbairn@reviewboard.ca](mailto:cfairbairn@reviewboard.ca)).

## Scoping Meeting

### EA1819-01 Depositing Processed Kimberlite in Pits and Underground

Diavik Diamond Mines Inc.

Monday March 18, 2019

Yellowknife, NOVA Hotel, Lynx Room

#### Present:

Kofi Boa-Antwi (Diavik)  
Gord Macdonald (Diavik)  
Sean Sinclair (Diavik)  
Mark Nelson (Diavik)

John McCullum (EMAB)  
Allison Rodvang (EMAB)  
Violet Camsell-Blondin (TG)  
\*Ginger Gibson (TG)

Bill Pain (GNWT-ENR)  
Lorraine Seale (GNWT-Lands)  
Rohan Brown (GNWT-Justice)  
Mark Ishack (GNWT-Justice)  
Mark Riepl (GNWT-Lands)  
Melissa Pink (GNWT-Lands)  
Jamie Steele (GNWT-Lands)  
LeeAnn Malley (GNWT-ENR)  
Lorie Fyfe (GNWT-MACA)  
Katie Rozestraten (GNWT-Lands)  
Morgan Moffitt (GNWT-HSS)  
Moses Hernandez (GNWT-ECE)  
Loretta Ransom (GNWT-ENR)  
Jessica Hurtubise (NSMA)  
Machel Thomas (YKDFN)  
Johanne Black (YKDFN)  
James Marlowe (LKDFN)

Angie McLellan (DFO)  
Dan Coombs (DFO)  
Russell Wykes (ECCC)  
Georgina Williston (ECCC)  
Scott Duke (Justice Canada)  
Dinah Elliott (CIRNAC)  
Janice Larocque (CIRNAC)  
\*Maureen Flagler (CIRNAC)  
Chris Rose (MVEIRB)  
Jeremy Freeman (MVEIRB)  
Amanda Annand (MVEIRB)  
Brett Wheler (MVEIRB)  
Alan Ehrlich (MVEIRB)  
Catherine Janz (MVEIRB)  
\*John Donihee (MVEIRB)  
\*Mark Cliffe-Phillips (MVEIRB)  
\*Kate Mansfield (MVEIRB)

\*by phone

## Project details

Below are the main topics discussed regarding the details of what the developer is proposing to do.

- As part of mine closure, Diavik is proposing to amend its water license to allow mined-out kimberlite pipes (pits) to be filled with processed kimberlite. Diavik wants to be able to use any of the three pits on site for processed kimberlite storage.
- Mining operations are expected to finish in 2025, then the closure activities will begin.
- The primary need for the project is to store processed kimberlite, because there is more processed kimberlite than expected and the processed kimberlite containment facility is running out of room. The Processed Kimberlite Containment facility (PKC) has been raised 6 times by 3-5 meters, with the 7<sup>th</sup> upcoming.
- PKC expansion is limited by Lac de Gras and other mine workings.

- Four project alternatives were considered, including raising PKC and using additional on-land containment sites.
- According to Diavik, the benefit of putting processed kimberlite in pits includes reduced environmental risks, including the potential removal of slimes from PKC (exposed slimes are like quicksand and pose a hazard).
- LKDFN expressed that they did not know enough about the proposed project and would like to meet with Diavik again.

## Proposed Scope of Development

Below are the main topics discussed related to the proposed scope of development for the EA:

- The Review Board staff clarified that the specific project components and activities proposed by Diavik can be found in its water licence application and that this project is specifically about Diavik's proposed new activity to put processed kimberlite in pits (not other aspects of closure).
- Diavik was asked why all the pits are included as processed kimberlite storage options, when only one (the A418 pit) has been modelled. Diavik responded that things can change (for example, the mine could have technical issues that make some pits not available) and having all pits approved for processed kimberlite storage gives them flexibility (the most likely scenario is still to use A418 only).
- Diavik was asked whether there is one pit that might be worse or riskier than using another (in terms of affecting water quality). Diavik responded that the amount of water (in the cap above the processed kimberlite) will differ and that the A154 pit is the best (biggest), A418 next and A21 least desirable. The A418 pit is expected to be available first, which is why the developer considers it the best candidate for depositing PK.
- Diavik was asked whether the Review Board has the scope right in its Scoping Document, and responded that the Review Board's summary accurately reflects what it is proposing and captures the scope of what it will be doing.
- During a discussion about possible future uses of the project area, it was pointed out that there's already a mine there and the Review Board's scope needs to be clear about this.
- During a discussion about the need for the project, Diavik explained that the pipes were bigger than expected and more processed kimberlite has been or will be produced by the end of mine life. The Review Board asked how using the pits to store processed kimberlite might change other mine components and activities (such as closure of the

existing PKC). Diavik responded that being able to use the pits gives them the option to remove some material from the PKC (such as the slimes). Parties later asked if other components of closure could be affected if something goes wrong with the project. Diavik responded that this project will simply create another closure option, and that the overall closure plan would be no different with this option available.

- Diavik was asked if the project will have socio-economic impacts for Indigenous groups (for example, by increasing jobs). Diavik responded that there will be some new infrastructure construction, but additional human resource needs will be relatively small. Diavik stated that this should still be part of the scope.
- In response to a question about what government parties' thoughts are on the project, DFO stated that it is hard to bring in past evidence, but under Diavik's current fisheries authorization it cannot reconnect the pits to Lac de Gras without proving that the water in the pits will not harm fish. The GNWT added that it is still looking for more information about the project and its potential impacts (hence why it is participating).

## Proposed Scope of Assessment

Below are the main topics discussed related to the proposed scope of assessment for the EA:

- There were questions as to why Diavik was only focusing on fish and fish habitat and not other wildlife. Diavik stated that because the main concern with the proposed project is changes in the water chemistry, impacts to fish was the main impact pathway it considered for wildlife.
- There was a question about any other advantages and disadvantages in terms of effects on wildlife with the chosen option. Diavik responded that it hasn't identified any other disadvantages for this option, and that the main potential environmental effect is post-closure water quality on fish.
- Concern was raised that processed kimberlite could contaminate water in Lac de Gras and that when the dikes are breached, the water could mix. Diavik responded that it would need to prove this mixing won't happen, and that anything that mixes won't be in a quantity that will be harmful. LKDFN stated they want to directly observe when the dams are breached.
- The developer was asked if there are any case studies for capping water in pits. Diavik pointed out that Ekati is using the same technology for its Beartooth pit and have approval to apply it to its Panda and Koala pits. Flooding is quite common for mine

workings and there are examples from other types of mines (but not diamond mines). YKDFN stated they would like to see outcomes or evidence of these techniques' success.

- The Review Board asked Diavik how the project might affect the closure of the PKC and, if any, what potential impacts could result from these changes. Diavik stated that having the ability to use mine workings gives it the option to remove some material from PKC, and will be beneficial for closure.
- Diavik was told it needs to clarify and work with Indigenous groups to identify what traditional knowledge reports will be used to assess how Indigenous groups used the area pre-mining. Parties noted that the area is culturally important, but that the whole area was traditionally used (for activities such as fishing) and asked Diavik what the “preferred future” use looks like. Diavik said it will look at the things that will be affected by processed kimberlite in pits (such as impacts on fish, drinking water), but it doesn't think that other environmental components would be affected. Parties wanted to know how Diavik decided on these only and why other components (such as caribou) are not part of the scope of the work it has already done for this proposal. Diavik stated that the Review Board will do its scoping, but in Diavik's opinion water quality is the linkage to these effects. There were concerns about the narrow focus for an area that has been used extensively by First Nations, that these uses have not been mentioned and the need to know this to understand how First Nations' rights might be affected.
- Concerns were raised that the project information to date is scattered among the water licence materials, information requests, closed-door tech panels, and that there is no consolidated project description or description of impacts that would be needed to typically start an EA. The Review Board responded that it will find a way to consolidate this information (possibly by an annotated bibliography).
- One party expressed gratitude that impacts on cultural use is part of the scope.
- The Review Board was asked its reasons for including wildlife, and caribou specifically in the scope of assessment. The Review Board responded that caribou was mentioned specifically as an important species in decline in the territory, and other wildlife due to the Board's responsibilities under the *Species at Risk Act*.
- One party pointed out that Diavik needs to know what First Nation's uses there are in the area. Diavik responded that it hasn't commented on the uses in its submissions, but focussed on what parts of the environment might be affected (water, fish).
- Parties discussed whether they will be able to reflect in the EA on whether above ground or below water storage is the preferred option in terms of cultural effects. The Review Board said that this is included in the draft scope.

- One party pointed out that the question of acceptability is complex and asked how the Board is planning to reflect closure trade-offs when framing this to parties in the EA. It asked that if the proposal turns out to be not acceptable, what are the alternatives? The Review Board staff reminded parties of the scoping question “are there effects that would limit Diavik’s ability to reconnect?” and what kinds of things (impacts) would parties want to measure? If the closure criteria cannot be met, what’s the acceptability of maintaining a pit lake that doesn’t reconnect to Lac de Gras? The party then asked if saying no to the project meant another EA. The Review Board staff responded that the Board will make an informed subjective decision on scoping and reminded parties that it may consider re-connectivity of pits with processed kimberlite in this EA, and the question of whether re-connectivity is viable once the processed kimberlite is in pits. The Board staff reiterated that some other alternatives to the project already exist in Diavik’s closure plan (such as using the existing PKC).
- Legacy issues were raised, including changes visible to land users, and that there needs to be monitoring and making sure everything is cleaned up before leaving. Indigenous parties want to ensure that future generations can use the area and practice their way of life. Legacy issues can affect future generations and maybe this should be included in scope (e.g. what are acceptable uses or a “legacy document for future uses” to be included in the closure plan).
- Parties discussed the changing climate in the north and asked if Diavik has considered this in the project. Diavik responded that it has done a sensitivity analysis in its models and studied how wind could affect mixing (80km/hour winds constantly for 100 years), and no effects shown. The movement of species (such as Bald Eagles, which prey on caribou calves) north due to climate change was also mentioned.
- A party asked that cumulative effects of loadings from other mines (including future) on Lac de Gras being considered. The Review Board responded that it has included cumulative effects in the scope. Diavik stated that the Ekati mine has looked at cumulative effects of diamond mining activities (including Diavik), and what’s missing is just the contribution of this project. The Review Board clarified that it can ask IRs to other groups (e.g. Indigenous groups) during the EA and it may ask how parties feel about reconnecting the pits with processed kimberlite in them to Lac de Gras.
- Diavik was asked if it could do a risk assessment and one of the Indigenous groups stated that First Nations should be asking themselves whether reconnecting pits will affect future uses, and what those are (but that this should be done with First Nations during an engagement process first). This involves identifying value components with

First Nations and determining what their objectives for the future use of the closure area are.

- There was a question about whether effects on wildlife included waterfowl, and the need to consider other things in water (such plants and benthic invertebrates like worms as indicators of water health) and to look at the whole ecosystem. The Review Board reminded parties that effects on water quality and use would include effects on wildlife as a broad topic, but scoping should specifically identify how wildlife could be affected. A party asked if they would be able to eat fish and harvest berries (and cited the example of Ray Rock mine groundwater effects contaminating plants that are harvested). The party said that industry always gives their word that there will be no changes, but things are always changed afterwards.
- There was a question as to whether SNP stations in Lac de Gras and Lac de Sauvage could be expanded and monitored. Diavik was asked if water quality will be monitored for all of Lac de Gras, or just around mine site. The party recommended monitoring all of Lac de Gras for safety of water for humans and fish. Diavik noted this and reminded parties that there are some water quality results on the LWB registry.
- Diavik was asked if fish downstream in the Coppermine River were considered and they have heard of fewer char at outlet in Kugluktuk.
- There was a question as to whether socio-economic benefits are part of the scope and that parties want to participate in monitoring. Indigenous groups don't want to have a gap in knowledge at this site, because areas that are not monitored continuously during traditional use are viewed as potentially hazardous and avoided. Indigenous groups want to monitor it themselves.
- Diavik asked the Review Board about the geographic and temporal scope of assessment and said it proposes to use the same assessment methodology and geographic/temporal scope (e.g. temporal scope of 100-years for water quality effects) as in the original CEAA Comprehensive Study Report (1999). The Review Board staff said its Board does things differently than CEAA, and that these scoping considerations may be different from an assessment done two decades ago without the benefit of co-management, but it will not be duplicative.
- Diavik asked the Review Board about accidents and malfunctions and said it has only considered meromixis failure as a malfunction. Diavik was asked what causes of failure they've considered, and Diavik said no causes specifically were considered, just failure.



## About the Proposed Coordinated Process

Below are the main topics discussed related to the proposed coordinated water licencing and EA process, including the workplan:

- The Review Board staff made a few clarifications that it will be a coordinated and not joint process. The Minister’s decision may take five months with the possibility of a two month extension, and the Review Board has no control over this. The draft workplan includes the duration of steps, but dates may change. There are still key questions about the extent of the coordination, and comments on the workplan should be directed to both boards, but comments on the scope should be to just the Review Board.
- In response to a question on if there is a timeline for the Minister’s decision for the WL amendment, the Review Board staff said it is common to have 45 days, but there may well be other factors and this timeline could change.
- The Review Board staff was asked what the difference is between a coordinated and joint hearing. Review Board staff responded that a joint hearing would occur with a joint review (e.g. joint panel), but in this case it would likely be separate back-to-back hearings, with coordinated timing.
- There was also a question if there would be separate community vs technical hearings. The Review Board staff responded that at this draft workplan stage, the Board still envisions both community and technical aspects, but this may occur in different ways.
- In response to a question on avoiding duplication of process, the Review Board responded that if there are community hearings, it will make sure that the purpose of each is clear, but it hasn’t thought this far ahead yet. Review Board counsel said there is a need for separate records for each Board to make a decision, but Boards haven’t had detailed discussions yet. The WLWB clarified that the Land and Water Boards don’t have community hearings, and that they are at the hearing stage already, so they have not planned additional community hearings.
- The Review Board heard some confusion about the process. One party suggested while they are in favour of a coordinated process, they should still be separate (e.g. EA hearing one week, water licence hearing the next) and that this will work better in communities.
- Diavik asked the Review Board staff if the EA could have only a written hearing. The Review Board responded that it’s possible under the Act, but has only been done once and the Board’s standard practice is to have a hearing. This has helped ensure meeting its requirements under the Act, and has helped others meet their s.35 fiduciary

consultation requirements. The Board staff stated that the Board are committed to a timely EA, but also a participatory one.

- GNWT asked if the scoping document replaces the Terms of Reference. The Review Board responded that this scoping document would enable us to make a scoping decision (one function of the Terms of Reference) and that the process could use information requests instead of a Terms of Reference to gather outstanding information. The Board said that fundamentally, both the terms of reference and information requests are tools to ask the developer questions, and there is no formal requirement to link scoping to the terms of reference.
- Parties asked if there would be Board information requests and then party information requests (like it says in the workplan) and the Board responded that it would be because Board requests may inform parties' information requests. Diavik asked if it would be easier to incorporate party and Board information requests and the Review Board staff said that this could well be a better approach, but that the Board already has some ideas for information requests and can start this process earlier with party information requests to follow. It said this approach may also avoid duplication (with parties able to see Board questions first).
- One party said that part of the purpose of Terms of Reference and Developer's Assessment Report is to consolidate fragmented information, and so having this could make this project easier to review. The Review Board responded that the Board could still ask for a consolidated impact statement, and does not have to do this through a Terms of Reference (it could easily be done in a Board information request). Diavik asked the Review Board to clarify what they meant by an "annotated bibliography" and the Board responded that an index to existing documentation may be more user-friendly for parties than having them search the website directly, but it might not serve the purpose to consolidate information as a DAR typically does.
- Diavik asked if the water licencing process could be done without a hearing. The WLWB said it is open to suggestions, but stated that the coordinated process is meant to be more efficient overall.
- One party asked if having a water licence hearing before the Report of EA is problematic. The Review Board responded that there are process tools that the LWB could employ to deal with EA outcomes (e.g. post-EA project changes) and there are a few steps after the Report of EA (draft water licence conditions review, closing arguments) so there are still opportunities for input on the water licence. Diavik asked if it could submit new evidence following the water licence hearing if the record is closed and the WLWB said that in this case it would have to keep record open during that time.

- EMAB asked when parties could expect a revised final workplan. The Review Board staff reminded parties that written comments on the scoping document and workplan are due March 22 (and responses from developer March 29) and the Board will then issue a final scope and revised workplan. Diavik asked if these will be issued together, and the Review Board said yes.

## Other

Below are some other topics that were discussed at the scoping meeting, including the availability of participant funding for the EA:

- One Indigenous group expressed concern about the (lack of) engagement and not knowing the risks from each project option. They stated that First Nations are the end user, that the closure plan is for them and that they need to know the risks (but haven't seen them). They would like more engagement to help understand the risks, options, etc; for them to be comfortable with the plan, they need to be part of it. Diavik stated that they had been working with the TK Panel in developing the project. They pointed to their engagement record in the water license amendment. The Review Board clarified that this is what scoping is for, to hear concerns from parties and that even though there is a lot of information on the water licence amendment, the EA process starts here and the Board will consider what it hears in scoping. The Review Board staff said they might ask for a consolidation of the information to date (e.g. annotated bibliography or index of existing documents). One party said this might not be enough to help them with their issues, and they need a new engagement process (similar to the Giant Mine Remediation Project options analysis). If that was mirrored they would feel much better about the project.
- Parties said they need to have project information in more plain language to understand it.
- One Indigenous group commented on the lack of interpretation and asked for interpretation at meetings (generally); the Review Board said that there will be interpretation at the hearings on request.
- LKDFN requested that Diavik go to the community to tell members about their plan.
- Parties asked about participant funding from CIRNAC. One group pointed out that they will need to hire staff, lawyers, etc., and will need to take advantage of this funding. CIRNAC said it is working on getting an announcement about funding out shortly. The

group responded that it is hard for them to comment on the workplan without knowing funding availability and schedule. CIRNAC responded that there is 300K available for the EA (divided among applicants based on applications) and they will follow up soon on timeline. The Review Board clarified that as soon as the announcement comes out, the Board will post a notice and be the coordinator for this funding. The Board's goal is to have this out in the next few of days.

- An Indigenous group said they want to participate, but it's hard for them and they need resources. They asked if there are deadlines for the EA, and what happens if they miss deadlines for comments. The Review Board staff said that it does have legislative timelines, and is typically are well within them. The Board staff said that the WLWB is on a tighter timeline, and part of the idea for the coordination is that the LWB can keep working during the EA. There are also fairness considerations and the company's own timelines. The Review Board staff clarified that it does have a late submission policy, and anyone can contact Board staff directly for any concerns they have about missing comment deadlines.
- Diavik asked when it will know who the parties to the EA will be. The Review Board staff responded that participation in the EA is open, but parties will be asked whether they want to formally intervene at the hearings before the pre-hearing conference.

## Next Steps

In addition to the scoping meeting, parties and the public are invited to submit comments on the draft scoping document and workplan through the Review Board's [online review system](#). The deadline for party comments on the scoping document and workplan is **Friday March 22, 2019**. The deadline for Diavik's comments is **Friday March 29, 2019**.<sup>1</sup>

The Review Board will release a final Scope of Assessment, a Reasons for Decision on scoping, an updated workplan, and a description of next steps for this environmental assessment based on information it receives during scoping.

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<sup>1</sup> Please note that these deadlines have been updated from the original draft workplan posted on the public registry and Online Review System.

**Attachment 1: Scoping meeting Agenda**



## Scoping Meeting - AGENDA

### EA1819-01 Depositing Processed Kimberlite in Pits and Underground Diavik Diamond Mines Inc.

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**Date:** Monday March 18, 2019

**Location:** Yellowknife, NOVA Hotel, Lynx Room

**Time:** 9am-12:30pm (1:30-3pm if required)

**Teleconference:** 1-877-733-5390 **Code:** 4631621989

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#### *Agenda*

Time	Agenda Item
9:00-9:20	Welcome and introductions
9:20-9:40	Review Board presentation
9:40-10:00	Developer presentation
10:00-10:15	Break
10:15-11:30	Draft scoping document review
11:30-12:15	Description of coordinated process and draft workplan review
12:15-12:30	Next steps and wrap up
12:30-1:30	Lunch (not provided)
1:30-3:00	Afternoon if required

Coffee, tea and snacks will be available. Breaks may be taken at other times as required. Schedule is subject to change. Additional information can be found on the *Scoping FAQ* sheet below.

Please direct any questions to Kate Mansfield, Senior Environmental Assessment Officer at 867-766-7062 or [kmansfield@reviewboard.ca](mailto:kmansfield@reviewboard.ca) or Catherine Fairbairn, Environmental Assessment Officer at 867-766-7054 or [cfairbairn@reviewboard.ca](mailto:cfairbairn@reviewboard.ca).

## *Scoping FAQ*

### **What is scoping?**

Scoping is one of the first steps in environmental assessment. During scoping, the Review Board seeks to understand peoples' views on the issues to focus on in the environmental assessment. To do this, we:

- host scoping meetings
- collect written comments from parties and the public and
- **identify** and **prioritize**, with parties and the developer, the issues that will be examined during the environmental assessment.

### **Why does scoping matter?**

The Review Board investigates many topics in every environmental assessment. The Review Board relies on parties and the public to highlight issues that matter most to them. This ensures that environmental assessments are focused, efficient, and meaningful.

The law requires the Review Board to consider several things when doing an environmental assessment<sup>2</sup>. These include:

- the impacts that might occur (that is, the issues), and their significance
- mitigation measures needed to prevent or avoid any potential impacts
- public comments

The law also requires the Board to make decisions that ultimately protect the environment and the social, cultural, and economic well-being of people and communities in the Mackenzie Valley.

Scoping is not about resolving issues, but about identifying and prioritizing them. Input from parties and the public during scoping can help ensure that we can focus the environmental assessment on what matters, prevent negative impacts from development, and maximize benefits to communities.

### **How do you participate in scoping?**

Scoping asks participants what is important to them and how a project might affect those things. The Review Board then uses this information to focus the environmental assessment on what people value most. In order to get the most and the best scoping information, the Review Board asks interested parties to participate in scoping by:

- reviewing and commenting on the draft scoping document on the online review system

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<sup>2</sup> MVRMA subsection 117(2)

- participating in the scoping meeting

To effectively participate in scoping activities, parties and the public should be familiar with the project materials. Important information about the project can be found on the Review Board's [public registry](#) for this file, including:

- the developer's project description
- information from the Wek' èezhì Land and Water Board's concurrent water licence amendment process

If you have not had time to review these project materials, the developer will be at the scoping meetings to present its project proposal and answer any questions you have.

Please note that the intent of the scoping meeting is to facilitate discussion. Comments will be recorded but not attributed to parties in the final scoping document. The Review Board requests that parties' official positions on scoping are provided in the ORS.

### **What happens after scoping?**

After scoping, the Review Board will issue a final *Scoping Document* for this environmental assessment. The final *Scoping Document* will define for parties and the developer, what issues will be examined during the environmental assessment. It will also describe in detail the scope of the development that will be assessed. Following the issuance of the final *Scoping Document*, the assessment will proceed to the information request phase. More information about this process step will be provided in a Notice of Proceeding.

You can find additional information on scoping on the Review Board's [Scoping Phase fact sheet](#). For a more thorough description of the environmental assessment process, please see the Review Board's [Environmental Impact Assessment Overview](#) .