

NOV 04 2014

Garry Bailey
President
Northwest Territory Métis Nation
BOX 720
FORT SMITH, NT, X0E 0P0

Dear President Bailey:

Report of Environmental Assessment and Reasons for Decision for the Snap Lake Amendment Project (File: EA1314-02)

As you are aware, on October 30, 2014, the Minister of Lands, Government of the Northwest Territories (GNWT), as the territorial Minister with delegated authority under the *Mackenzie Valley Resource Management Act* (MVRMA), and on behalf of the Minister of Environment and Natural Resources, who is the other Responsible Minister (RM) with jurisdiction in relation to the environmental assessment (EA) of the subject-noted project (the Project), conveyed the RMs' decision to adopt the Mackenzie Valley Environmental Impact Review Board's (MVEIRB) recommendation that the Project be approved subject to the implementation of mitigation measures and developer commitments contained in the Report of Environmental Assessment and Reasons for Decision (the Report).

I am responding to the Northwest Territory Métis Nation (NWTMN) email received on October 22, 2014, to outline some of the considerations taken by RMs in reaching their decision on the Report. Full and fair consideration was given to the views expressed in the NWTMN email.

The NWTMN email expressed concern about unknown impacts to fish; about the effects of acid-rock runoff from waste-rock piles; about the effects of changing water-quantity levels on wildlife; and it also expressed potential question regarding Project water-treatment plans and tailings measurements.

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With respect to unknown impacts to fish occurring from the Project, RMs note that Report Measure #1c requires Mackenzie Valley Land and Water Board (MVLWB) to set site specific water quality objectives (SSWQOs) that ensure fish are safe to eat in Snap Lake and downstream. Measure #1a requires MVLWB to set SSWQOs that ensure fish populations and fish-species composition are not adversely affected compared to pre-mining conditions. During the Project water-licencing regulatory process, NWTMN will have the opportunity to provide its concern and comment on the appropriate SSWQOs it believes are required by these measures. NWTMN will

also have the opportunity during the regulatory process to comment on the Aquatic Effects Monitoring Program (AEMP) and AEMP Response Framework, which will likely require updating as a result of the regulatory process and as a result of Report Suggestion #1. The AEMP requires a number of studies to be carried out on fish health, including studies on the concentration of metals in fish and a fish tasting program. Furthermore, Commitment #2 (Appendix B, Report) made by De Beers Canada Incorporated (the Developer) identifies its promise to document community visits, particularly on community perception of Snap Lake and its water quality, and to submit this information to MVLWB to support regulatory processes and annual reviews.

Another specific matter raised by NWTMN relates to the effects of acid-rock runoff from waste-rock piles. RMs note, during EA, Environment Canada raised similar concerns and the Developer provided a response that was adequate to Environment Canada. Total dissolved solids (TDS) and its constituent ions from Snap Lake Mine can be generated by the seepage from the North Pile (where processed kimberlite is stored) but the majority of TDS is generated from discharged effluent. Under Measure #1, MVLWB will set SSWQOs for the TDS of discharged effluent from the Project. As similarly noted above, NWTMN will have the ability to provide comment on SSWQOs during the regulatory process.

NWTMN noted its concern that fluctuating water quantity levels at Snap Lake could lead to changes in water quantity levels at Artillery Lake and its watershed, and thus impact NWTMN ability to harvest wildlife. RMs note this issue is not within the scope of this EA decision. The EA focused on the effects that a proposed change in water quality (i.e., an increase in TDS) could have on the environment; water quantity was not included in this scope. Water quantity predictions were prepared and submitted by the Developer to MVEIRB in February 2002 during EA of the currently-authorized Snap Lake Mine. The Developer is required to submit an Annual Water Licence Report, which contains information on water levels in Snap Lake, under its current water licence for the mine. The Developer also monitors mine effluent quantity that is released into Snap Lake at station 02-17b as part of its Surveillance Network Program (SNP). NWTMN have the ability to comment to MVLWB on the Annual Water Licence Report and SNP reports for the currently operating aspects of Snap Lake Mine.

In its email to RMs, NWTMN mentioned treatment plans and tailings measurements. RM's note, MVEIRB chose to assess the unmitigated Project scenario, which consequently did not require detailed analysis, qualification and assessment of treatment plans. Numerical Requirements for mitigation details have been deferred by MVEIRB to MVLWB, and may be assessed as a result of SSWQO determinations made by MVLWB during its regulatory process for the water-licence amendment. Treatment plans may be analyzed and assessed where appropriate during the process and NWTMN will have the ability to provide comment at these times.

With respect to tailings measurements and management, while not within the scope of the Project EA, NWTMN will have the ability to provide comment on this management during the water-licence amendment regulatory process if the topic arises. NWTMN also have the ability to comment on tailings management through the West Cell Design Plan, the North Pile Management Plan and the Acid/Alkaline Rock Drainage and Geochemical Characterization Plan, all of which are regularly reviewed by MVLWB with opportunity for comments from interested parties including NWTMN.

Snap Lake Environmental Monitoring Agency (SLEMA), established under the Snap Lake Environmental Agreement (the Environmental Agreement), has the mandate of, among other things, reviewing and monitoring the environmental performance of the Project using western science and traditional knowledge; and serving as a public watchdog of the Developer, the regulatory process and implementation of the Environmental Agreement. As such, SLEMA has been copied on this correspondence to inform it of RM considerations relevant to its mandate and for its consideration when fulfilling its mandate with respect to the Project.

Ultimately, RMs are satisfied with the Report's conclusion that implementation of its measures and Developer commitments will ensure that potential adverse impacts are no longer significant.

RMs want to assure the NWTMN that its views are important and that they look forward to NWTMN participation in the regulatory phase of the Project. RMs recognize that Crown consultation is an ongoing process that does not end with section 130 decision-making, but will extend into the MVLWB water-licencing regulatory phase, where Aboriginal groups will be afforded the opportunity to raise future Project-related concerns should they arise.

Thank you for taking the time to provide your views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Hearn', with a stylized, flowing script.

Kate Hearn
Assistant Deputy Minister
Planning and Coordination

c.

Ray Case, Assistant Deputy Minister, Corporate and Strategic Planning
Environment and Natural Resources

Mark Cliffe-Phillips, Executive Director
Mackenzie Valley Environmental Impact Review Board

Zabey Nevitt, Executive Director
Mackenzie Valley Land and Water Board

Paula Isaak, Director General, Natural Resources and Environment Branch,
Aboriginal Affairs and Northern Development Canada

Mohan Denetto, Regional Director General, Northwest Territories Region,
Aboriginal Affairs and Northern Development Canada

Erica Bonhomme, Manager, Environment, Snap Lake Mine
De Beers Canada Incorporated

Matthew Spence, Director General, Northern Projects Management Office,
Canadian Northern Economic Development Agency

Philippe di Pizzio, Executive Director
Snap Lake Environmental Monitoring Agency

NOV 04 2014

Chief Felix Lockhart
Łutsel K'e Dene First Nation
PO BOX 28
YELLOWKNIFE NT X0E 1A0

Dear Chief Lockhart:

Report of Environmental Assessment and Reasons for Decision for the Snap Lake Amendment Project (File: EA1314-02)

As you are aware, on October 30, 2014, the Minister of Lands, Government of the Northwest Territories (GNWT), as the territorial Minister with delegated authority under the *Mackenzie Valley Resource Management Act* (MVRMA), and on behalf of the Minister of Environment and Natural Resources, who is the other Responsible Minister (RM) with jurisdiction in relation to the environmental assessment of the subject-noted project (the Project), conveyed the RMs' decision to adopt the Mackenzie Valley Environmental Impact Review Board's (MVEIRB) recommendation that the Project be approved subject to the implementation of mitigation measures and developer commitments contained in the Report of Environmental Assessment and Reasons for Decision (the Report).

I am responding to the Łutsel K'e Dene First Nation (LKDFN) letter received on September 23, 2014, to outline some of the considerations taken by RMs in reaching their decision on the Report. Full and fair consideration was given to the views expressed in the LKDFN letter.

Your letter expressed concern about downstream protection in the event of action levels being triggered; requirement for De Beers Canada Incorporated (the Developer) to implement water treatment and mitigation; and, compliance and enforcement of necessary water treatment and mitigation for the Developer.

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LKDFN sought greater clarity as to contingency actions that are to take place if water-quality changes are detected beyond 44 km downstream of Snap Lake. RMs note the Developer committed to undertake monitoring 44km downstream at the inlet of Mackay Lake as a component of the Aquatic Effects Monitoring Program (AEMP; Developer Commitment #8, Appendix B, Report). An AEMP is designed to determine short and long term effects in the receiving environment resulting from a project; to evaluate the accuracy of impact predictions; to assess the effectiveness of impact mitigation measures; and, to identify the need for additional impact mitigation measures to reduce or eliminate environmental effects. The associated AEMP Response Framework provides for a systematic approach to responding when the results of an AEMP indicate that an action level has been triggered. With respect to the Project, since the monitoring described in Commitment #8 is a component of the AEMP and its response framework, it will be subject to the approval of the Mackenzie Valley Land and Water Board (MVLWB) during the regulatory process.

During this regulatory process, Aboriginal groups, as well as RMs and other interveners, will have the ability to comment on the AEMP and its response framework relating to the creation of appropriate action levels and descriptions of what type of action shall be taken if such action levels are exceeded.

In addition to Aboriginal groups having the individual opportunity to comment during the regulatory process, the Snap Lake Environmental Monitoring Agency (SLEMA), on behalf of all Aboriginal parties (including LKDFN) to the Snap Lake Environmental Agreement (the Environmental Agreement), has a mandate to serve as a public watchdog of the Developer and of the regulatory process for the Project, which includes monitoring and making recommendations on the AEMP and its response framework. It also has the mandate, among other things, to support LKDFN efforts to protect the environmental interests on which LKDFN rely, and review and monitor the environmental performance of the Project using western science and traditional knowledge. As such, SLEMA has been copied on this correspondence to inform it of RM considerations relevant to its mandate and for its consideration when fulfilling this mandate.

Furthermore, the Developer is required, under the Environmental Agreement, to produce an annual report illustrating the results of its environmental monitoring programs, which include the AEMP and its response framework, and detailing the adaptive management measures taken. Aboriginal groups have the opportunity to comment on this report and provide their rating of satisfactory or unsatisfactory. The minister, as defined under the Environmental Agreement, must consider Aboriginal-party comments when making determinations on the adequacy of these annual reports, including determinations on the adequacy of adaptive management measures taken by the Developer.

Another specific matter raised by LKDFN related to the requirement for the Developer to implement water treatment and mitigation. RMs note that MVLWB is required to implement, to the extent of its authority, the appropriateness of standards defined by the narrative water-quality objectives prescribed in Report Measure #1. MVLWB cannot issue a licence unless it is satisfied that the waste that would be produced by the Project will be treated and disposed of in a manner that is appropriate for the maintenance of water quality and effluent standard as set out in the licence. RMs further note that, on the face, Report Measure #2 appears to require voluntary compliance from the Developer; however, the mitigation technologies required in this measure can be required by MVLWB in terms and conditions of a water licence if MVLWB deems such technologies necessary to achieve its chosen site specific water quality objectives.

As a natural progression from the above, with respect to LKDFN views of Developer enforcement and compliance to water licence conditions, the Developer must comply with any terms and conditions of its licence. GNWT staff conduct inspections of the Snap Lake Diamond Mine to confirm compliance with water licence terms and conditions. GNWT provides inspection reports to MVLWB for posting to its public registry. Non-compliance is an offence and subject to penalty. Any offence that continues for more than one day constitutes a separate offence for each day where the Developer would be liable to fines and punishments. If the Developer contravenes a provision of a term or condition of its licence, MVLWB may suspend the licence.

Under the Snap Lake Environmental Agreement (the Environmental Agreement), the Developer must also be in compliance with all its regulatory instruments (including provisions of the Environmental Agreement itself). If the minister, as defined in the Environmental Agreement, determines the Developer is in non-compliance, they can issue a minister's report.

Ultimately, RMs are satisfied with the Report's conclusion that implementation of its measures and Developer commitments will ensure that potential adverse impacts are no longer significant.

RMs want to assure the LKDFN that its views are important and that they look forward to continued LKDFN participation in the regulatory phase of the Project. RMs recognize that Crown consultation is an ongoing process that does not end with the environmental assessment decision, but will extend into the MVLWB water-licencing regulatory phase, where Aboriginal groups will be afforded the opportunity to raise future Project-related concerns should they arise.

Thank you for taking the time to provide your views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Hearn', with a stylized flourish at the end.

Kate Hearn
Assistant Deputy Minister
Planning and Coordination

c.

Ray Case, Assistant Deputy Minister, Corporate and Strategic Planning
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Canadian Northern Economic Development Agency

Philippe di Pizzio, Executive Director
Snap Lake Environmental Monitoring Agency

Mike Tollis, Wildlife, Lands and Environment Manager
Łutsel K'e Dene First Nation

NOV 04 2014

Chief Louis Balsillie
Deninu Kue First Nation
BOX 1899
FORT RESOLUTION NT X0E 0M0

Dear Chief Balsillie:

Report of Environmental Assessment and Reasons for Decision for the Snap Lake Amendment Project (File: EA1314-02)

As you are aware, on October 30, 2014, the Minister of Lands, Government of the Northwest Territories (GNWT), as the territorial Minister with delegated authority under the *Mackenzie Valley Resource Management Act* (MVRMA), and on behalf of the Minister of Environment and Natural Resources, who is the other Responsible Minister (RM) with jurisdiction in relation to the environmental assessment of the subject-noted project (the Project), conveyed the RMs' decision to adopt the Mackenzie Valley Environmental Impact Review Board's (MVEIRB) recommendation that the Project be approved subject to the implementation of mitigation measures and developer commitments contained in the Report of Environmental Assessment and Reasons for Decision (the Report).

I am responding to the Deninu Kue First Nation (DKFN) letter of September 22, 2014, to outline some of the considerations taken by RMs in reaching their decision on the Report. Full and fair consideration was given to the views expressed in the DKFN letter.

Your letter expressed concern about the means of mitigation that remains to be specified by the Developer in relation to the need to ensure protection of the aquatic environment. RMs note that rather than extend the environmental assessment process to obtain further mitigation information, MVEIRB found it had sufficient evidence to carry out an environmental assessment of the unmitigated Project scenario. MVEIRB went as far to say, "that even with a more complete record, it would not be necessary or appropriate for [it] to enter into the exercise of developing numeric [site specific water quality objectives (SSWQOs)]," as MVEIRB believes this kind of work is more appropriate for MVLWB. As a result, MVEIRB prescribed qualitative Report measures, detailing thresholds of acceptable change based on narrative water-quality objectives, to mitigate any significant adverse impacts.

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In the context of the current Northwest Territories environmental-governance regime, RMs believe it is appropriate that MVEIRB deferred the numerical prescription of SSWQOs to the MVLWB water-licencing phase. In this phase, MVLWB will be required to set SSWQOs that maintain the narrative water quality prescriptions set out in Report measures, and which, as a result, will require the Developer to propose appropriate forms/methods of mitigation that will be necessary to satisfy MVLWB that such SSWQOs will be met.

Snap Lake Environmental Monitoring Agency (SLEMA), established under the Snap Lake Environmental Agreement (the Environmental Agreement), has the mandate of, among other things, reviewing and monitoring the environmental performance of the Project using western science and traditional knowledge; and serving as a public watchdog of the Developer, the regulatory process and implementation of the Environmental Agreement. As such, SLEMA has been copied on this correspondence to inform it of RM considerations relevant to its mandate and for its consideration when fulfilling its mandate.

Snap Lake Environmental Monitoring Agency (SLEMA), established under the Snap Lake Environmental Agreement (the Environmental Agreement), has the mandate of, among other things, reviewing and monitoring the environmental performance of the Project using western science and traditional knowledge; and serving as a public watchdog of the Developer, the regulatory process and implementation of the Environmental Agreement. As such, SLEMA has been copied on this correspondence to inform it of RM considerations relevant to its mandate and for its consideration when fulfilling its mandate.

Ultimately, RMs are satisfied with the Report's conclusion that implementation of its measures and Developer commitments included in the Report will ensure that potential adverse impacts are no longer significant.

RMs want to assure the DKFN that its views are important and that they look forward to continued DKFN participation in the regulatory phase of the Project. RMs recognize that Crown consultation is an ongoing process that does not end with the environmental assessment decision, but will extend into the MVLWB water-licencing regulatory phase, where Aboriginal groups will be afforded the opportunity to raise future Project-related concerns should they arise.

Thank you for taking the time to provide your views.

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