



SEP 24 2021

BY EMAIL

Mark Cliffe-Phillips
Executive Director
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre
PO BOX 938
YELLOWKNIFE NT X1A 2N7

Dear Mark Cliffe-Phillips:

Government of the Northwest Territories' Response to Review Board's Information Request for Point Lake Project at Ekati Diamond Mine

On behalf of the Government of the Northwest Territories (GNWT), this letter responds to the Mackenzie Valley Environmental Impact Review Board's (Review Board) information request to the GNWT regarding Arctic Canadian Diamond Company's (ACDC) proposed Point Lake Project at the Ekati Diamond Mine. The Departments of Lands; Environment and Natural Resources; Health and Social Services; Industry, Tourism and Investment; Justice; and Education, Culture and Employment assisted with the GNWT's overall response.

Cancellation of Jay Project

Per ACDC's July 29, 2021 [letter](#) to the Wek'èezhì Land and Water Board, the GNWT understands ACDC's "proposal to remove the Jay Project in its entirety from the Water Licence" to mean that ACDC is cancelling the Jay Project. Cancellation of this project will be complete once the Jay Project is not authorized under Water Licence W2020L2-0004, Water Licence W2016L8-0003 and Land Use Permit W2013D0007. This would mean the Jay-related measures from EA1314-01 are defunct in so far as they relate to work on the Jay Project that was never undertaken.

Applicability of the Jay Project measures

The GNWT notes that once the Jay Project is no longer authorized, there is no legal requirement to continue the implementation of those Jay Project measures. There is also no legal requirement to apply measures from the Jay Project to the Point Lake Project. However, some components of the wildlife related measures from the Jay Project were incorporated into the Ekati Wildlife Effects Monitoring Plan (WEMP) and on June 23, 2021, the Department of Environment and Natural Resources accepted the WEMP under section 95(3) of the *Wildlife Act*.

.../2

Regardless of the status of the measures from the Jay Project, the GNWT will continue to work with co-management partners and Indigenous governments to manage the Bathurst Caribou herd, uphold the Socio-Economic Agreement for the Ekati Mine, and administer the Ekati Environmental Agreement, which requires, among other things, air quality and wildlife monitoring at the Ekati Mine. These activities will continue, as they are applicable sitewide. The GNWT will also continue to fulfill all legal responsibilities related to the Ekati mine site as a whole (e.g. inspections, etc.).

GNWT's response to the Review Board's three questions:

Q1. List which GNWT measures are already implemented

The [GNWT's most recent annual Jay measures report](#) from 2020, submitted to the Review Board on June 30, 2021, describes measure implementation.

The GNWT has been implementing the following measures directed primarily at the GNWT:

- Measure 6-2(b): Research to design and implement successful offsetting projects (partially completed)
- Measure 6-4: Dustfall standards (completed)
- Measure 6-6: Timely completion of caribou management plans (completed)
- Measure 8-1: Minimize negative socio-economic impacts of the Project on communities (ongoing)
- Measure 13-4: Annual reporting from government and regulatory authorities (completed annually, starting in 2017)

The GNWT has been implementing the following measures directed partially at the GNWT:

- Measure 4-4: Dike stability and safety
- Measure 6-1(d): Road mitigations from caribou impacts
- Measure 6-2(a)(iii and iv): Caribou offset and mitigation plan
- Measure 6-3: Air Quality Emissions Monitoring and Management Plan
- Measure 9-1: Incineration – Stack testing and reporting

Measure 6-2(b), which was directed primarily at the GNWT, has been advanced as much as it can at this point. Full implementation was dependent on the Jay Project advancing or dependent on actions from ACDC.

- On June 4, 2017, the GNWT provided the Review Board with *A Preliminary Assessment of Offset Measures for Caribou for the Development of the Dominion Jay Diamond Mine* and a framework document titled *Offsetting for Caribou: Toward an Assessment Framework for the Northwest Territories*. The GNWT has not fully completed this measure as ACDC has not yet submitted a Caribou Offset and Mitigation Plan to the GNWT for approval.

Measure 8-1, which was directed primarily at the GNWT, is ongoing and is being currently implemented through the following activities:

- The GNWT has initiated a program review of socio-economic agreements, which will evaluate indicators of well-being with a focus on efficiency, relevance, administration, and sustainability. Measure 8-1 will be considered as a part of the review and will add context to the redesign efforts planned following the review. The socio-economic program review is mandated by the 19th Legislative Assembly and includes a public presentation and engagement at a socio-economic forum to be held by the GNWT in fall 2022.
- Implementation of Measure 6 from the Diavik Processed Kimberlite to Pits Report of Environmental Assessment (EA 1819-01), which aims to produce a definition of cultural well-being, establish indicators, and propose possible monitoring options. Implementation of Measure 6 from EA18-19-01 will also address related suggestions within the Review Board's Report on Environmental Assessment for the Jay Project.
- Indigenous governments participate on Technical Advisory Panels that provide input to all stages of the socio-economic agreement program review and implementation of Measure 6 from the Diavik Processed Kimberlite to Pits Report of Environmental Assessment (EA 1819-01).

Q2. List which measures GNWT will maintain or adapt for Point Lake Project

Q3. List which measures GNWT considers to not be required to mitigate the potential impacts of the Point Lake Project

Our response to Q2 and Q3 is outlined below:

The GNWT understands that all Jay measures will be defunct, in so far as they relate to work on the Jay Project that was never undertaken, when ACDC cancels the Jay Project and the Jay Project is removed from the Land and Water Board's authorizations. The GNWT will make recommendations for mitigations related to land and water, in addition to our July 15, 2021 comments on the applications, for the Point Lake Project in our intervention for Water Licence W2020L2-0004.

At this time, the GNWT can confirm that mitigations contained in Jay measures directed to the GNWT which have been adopted to apply sitewide at the Ekati mine will continue via their respective sitewide mechanisms. For example, the components of Measure 8-1 will be captured under the Socio-Economic Agreement, and the Caribou Road Mitigation Plan (Measure 6-1(d)), which underwent public review, has been integrated into the site wide Wildlife Management and Monitoring Plan. Under the Ekati Environmental Agreement, ACDC will continue to be required to implement a sitewide air quality management plan.

Given the shorter duration and smaller scale of the Point Lake Project compared to the Jay Project, the GNWT intends fulfillment of the mitigations contained in Measure 8-1 to be

limited to initiatives already underway. The GNWT will continue its efforts to improve engagement with diamond mining communities, and the topics identified in Measure 8-1 will be specifically explored in community engagement meetings.

If the Review Board has any questions or concerns about the GNWT's response, we are willing to continue this discussion outside of the ongoing Land and Water Board process, and recommend any correspondence be posted on the Review Board's public registry. Please contact Katie Rozestraten, Project Assessment Analyst, by email at [Katie Rozestraten@gov.nt.ca](mailto:Katie.Rozestraten@gov.nt.ca).

Sincerely,

A handwritten signature in blue ink, appearing to read "L Seale".

Lorraine Seale
Director, Securities and Project Assessment
Lands

c. Sheila Chernys, Head, Health, Safety, Security, Environment & Communities, Arctic Canadian Diamonds Company Ltd.

Ryan Fequet, Executive Director, Wek'èezhì Land and Water Board