



## Lutsel K'e Dene First Nation

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BY EMAIL

Katie Rozestraten  
Project Assessment Analyst  
Government of the Northwest Territories  
Department of Lands  
Via email: [Katie\\_rozestraten@gov.nt.ca](mailto:Katie_rozestraten@gov.nt.ca)

To, Katie Rozestraten:

**Re: Aboriginal consultation on the Report of Environmental Assessment for Diavik Diamond Mine Inc.'s kimberlite desposit proposal [EA1819-01]**

On January 6, 2020, the Mackenzie Valley Environmental Impact Review Board (the "Review Board") issued the above-referenced Report of Environmental Assessment and Reasons for Decision ("REA") for Diavik Diamond Mine Inc.'s ("DDMI") kimberlite disposal proposal (the "Project"). In a letter of the same date, the Government of Canada ("GoC") and Government of the Northwest Territories ("GNWT") asked Akaitcho Dene First Nations for feedback regarding any unaddressed potential adverse impacts of the project on LKDFN's asserted Aboriginal and Treaty rights that may not have been addressed by the Review Board's recommended measures and DDMI's commitments as written in the REA.

The Review Board's key findings were:

- Impacts from the project on cultural uses of the Lac de Gras area are significant;
- Diavik's assessment of water quality impacts are inconclusive because Diavik's preliminary water model leaves too much uncertainty; and
- Mitigation measures and suggestions are required to reduce the projects impacts (PR# 196, p. 64).

To address shortcomings of the preliminary water modeling and minimize uncertainty surrounding water quality impacts, the Review Board has put forth Measure 3: Diavik will update modelling periodically to show whether water in the pits and Lac de Gras will meet the water quality objectives. The Measure specifies that the water model will be updated by Diavik "before depositing processed kimberlite into the pit(s) and underground" (PR#196, p. 85). **The**

**Lutsel K'e Dene First Nation requests the Wek'eezhii Land and Water Board (WLWB) to require an updated water model before a water licence is issued.** Otherwise, the First Nation does not feel Measure 1 has addressed potential adverse impacts of the project on LKDFN's asserted Aboriginal and Treaty rights to continue to use the Lac de Gras area for traditional uses, such as traveling, camping, fishing, and harvesting.

Furthermore, the First Nation believes Diavik should have conducted more robust water modelling during the environmental assessment. The type of water model should have been identified during the scoping phase.

One of the significant challenges associated with deferring comprehensive water modeling to the water licence phase is funding for participants. The Northern Participant Funding Program does not provide funding for the water licence phase. As such, the Lutsel K'e Dene First Nation does not have the funding to meaningfully participate in the next phase of the process. **The Lutsel K'e Dene First Nation requests funding from the Crown-Indigenous Relations and Northern Affairs Canada to participate in the water licence phase of this project.** Otherwise, the First Nation does not feel Measure 1 has addressed potential adverse impacts of the project on LKDFN's asserted Aboriginal and Treaty rights to continue to use the Lac de Gras area for traditional uses, such as traveling, camping, fishing, and harvesting.

The Review Board and most of the Intervenor's found that Diavik did not properly assess potential impacts on cultural use (PR#196, p. 68). To mitigate this deficiency, it appears the Review Board has put forth Measure 6: Adaptive management of cultural impacts. This measure requires the GNWT to support Indigenous intervenors to "develop community-specific cultural well-being indicators" and "produce an annual progress report" (PR#196, p. 90). The measure does not require the development of thresholds or corrective action. This is a deficiency of the measure that should be rectified.

Sincerely,



Glen Guthrie  
Manager, Wildlife, Lands, and Environment Department  
Lutsel K'e Dene First Nation