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# Mackenzie Valley Environmental Impact Review Board

Box 938, 5102-50th Avenue, Yellowknife, NT X1A 2N7

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Date:	February 26, 2003	Pages:	25 <sup>*</sup> including this page
To:	<b>Ms. Rachel Crapeau, YDFN</b>	Fax:	873-5969
CC:		Fax:	
Re:	<b>Tom tech report 02.14.03 (582 kB)</b>		

## NOTES:

Rachel:

As requested, please find attached the above noted report prepared by Watershed Writing on behalf of NSMA. I am also attaching the summary for this report just submitted by NSMA today (still to be circulated to the other parties)

Regards,  
Glenda

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WATTS - C. M. H.

# Watershed Writing

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## Summary

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1. **Cultural and heritage resource.** De Beers acknowledges that it did not consider the potential effects of the project on Métis archeological resources. De Beers committed to a re-analysis of artifacts to determine if they contribute to knowledge about Métis heritage in the NWT. Until this ToR requirement (438-441) is met, potential contributions to knowledge have not been achieved and create considerable uncertainty about the effects of the project on NSMA cultural and heritage resources.
2. **Traditional Knowledge.** De Beers acknowledges that it did not facilitate the collection of TK among NSMA members (ToR 45-55). A NSMA TK project is yet to be implemented. Continued failure to facilitate the collection of NSMA TK will prevent the NSMA from 1) making TK contributions to ongoing environmental predictions, 2) contributing to mine management.
3. **NSMA's existing subsistence economic environment.** De Beers did not describe the existing subsistence economy of the NSMA (ToR 471). The NSMA provides data on their subsistence economy to De Beers. De Beers must analyze this data and determine how the NSMA subsistence economy can be protected from negative effects of increased wage work and propose mitigation measures, if necessary.
4. **NSMA's existing economy.** De Beers did not describe the existing economy of the NSMA (ToR 229, 459-470) or conduct a survey of the employment, skill, and education levels in the NSMA community. This data is important for three reasons. First, it will enable the development of a recruitment program specific to the NSMA that will create certainty over what numbers of members are qualified for employment. Second, it will enable the development of training and education programs for members so that they become skilled and qualified for employment before trained southerners are sought for employment. Third, it forms a baseline of data on the existing employment, education, and skill levels of the community before the mine is approved from which changes in these baseline economic conditions can be monitored over time and mitigated, if necessary. The NSMA's economy is different from other aboriginal communities and generic predictions for all communities are not reliable or in keeping with best practices in SEEIA. The NSMA provided De Beers with data on its economy, but the company did not analyze this data or initiate the training programs outlined in its EA. De Beers must immediately analyze all the economic data submitted by the NSMA and then develop recruitment, education, and training programs immediately so that Métis

will qualify for meaningful employment before opportunities are provided to southerners.

5. **Housing.** De Beers recognizes there is a chronic housing shortage and high levels of overcrowding in aboriginal communities (EAR: 5-52, 5-57, 5-63, 5-67, 5-72, 5-76, 5-80). De Beers recognizes that housing conditions are linked to individual and community health (EAR section 5.2.2.5). De Beers states that housing upgrades are required and more housing units are needed within the affected communities (5-102). De Beers did not describe the existing housing environment of the NSMA community (ToR line 228). This data gap makes predictions about impacts on individual and community health impossible. A housing survey must be conducted immediately to collect the data necessary for potential mitigation and long term monitoring.
6. **NSMA infrastructure.** De Beers did not describe the existing infrastructure environment of the NSMA as required (ToR line 231). The infrastructure conditions of the NSMA are unique from all other affected communities as the NSMA receives no core funding from government. De Beers has not determined how this infrastructure variable regarding the NSMA affects the community's resiliency and ability to adapt. De Beers' predictions about positive community impacts are uncertain in the case of the NSMA given this key variable.
7. **NSMA language use.** De Beers needs to determine the anticipated or possible changes to the NSMA's use of their indigenous Métis language (*Michif*) as a result of the project (ToR line 441). The absence of this data makes it impossible to determine what the adverse impacts on NSMA language use and retention will be. The NSMA provides De Beers with data on its language use. This data must be analyzed and mitigation and monitoring programs developed.
8. **Mine Production Rate.** In its EAR, De Beers proposed a 3000 tpd production rate but that that mine production rates may increase if additional resources are located. I understand De Beers recently committed to a production rate of 3000 tpd with no potential increase. It is critical that the MVEIRB impose a condition on approval of the De Beers project that this tpd not change in order to create certainty over the socio-economic and environmental predication and mitigation measures developed during the EA process.
9. **Public consultation.** De Beers articulates a consultation methodology in its EA. With respect to the NSMA, I conclude that this methodology was not rigorously pursued. I also have concerns about whether government and De Beers are meeting their obligations pursuant to the duty to consult. I understand that the NSMA's legal counsel will deal more comprehensively with the issue of the failure to consult. The Board must require De Beers and government fulfill their obligation to properly consult with the NSMA before approving this project.
10. **Resource use, spatial boundaries, and cumulative effects.** De Beers concludes there will be no impacts on NSMA fisheries in the regional study area (RSA). De Beers has not properly established the maximum zone of influence of its project on Métis fisheries proximal to Yellowknife. There is evidence that the mine's development will negatively affect NSMA fisheries outside of the RSA with corresponding effects on fisheries and the Métis' culture, land use, economy, health, aboriginal rights, and spiritual and cultural practices. The absence of this

data makes it impossible to determine what the adverse impacts on NSMA fisheries and associate economy, cultural, spirituality, community health, and rights will be. There is thus considerable uncertainty over the sustainability of these fundamental facets of the NSMA culture and economy.

# Watershed Writing

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14 February 2002

**Re: NSMA's Technical Report on Social, Cultural, and Economic Issues  
Prepared by J. Michael Thoms**

The North Slave Métis Alliance (NSMA) requested I review the DeBeers' EAR and related Information Responses (IRs) to identify the social, cultural, and economic impacts the NSMA is predicted to experience and assess the certainty that DeBeers' proposed mitigation measures will offset these effects. I am a social science researcher with experience conducting research about aboriginal social, health, economic, and cultural issues through funding from various First Nations, Health Canada, Corrections Canada, and DIAND.

I must stress that many of the issues I identify are not questions of interpretation of specific datasets, but represent concerns with De Beers' fundamental methodology, and in most cases, the complete absence of data. My comments also contain general references to the duty to consult. I expect the latter issue will be more fully canvassed by the NSMA's legal counsel.

As requested, I present each issue in the format suggested by the MVEIRB. These issues are:

- 1) Cultural and heritage resources
- 2) Facilitation and collection of NSMA TK
- 3) The NSMA's existing subsistence economy
- 4) The NSMA economy
- 5) NSMA housing
- 6) NSMA infrastructure
- 7) NSMA language use
- 8) Mine production rate
- 9) Public consultation
- 10) Resource use, spatial boundaries, cumulative effects

The attached pages contain my comments on all issues identified.

J. Michael Thoms

**Specific comment # 1.****1. Reference 2.7.1 Culture and Heritage Resources. ToR line #438-441.****Developer's Conclusion**

At the MVEIRB pre-technical hearing on 8 November 2002, De Beers acknowledged before officers of the MVEIRB that it erred when it did not consider potential impacts of the project on Métis archeological resources. De Beers also acknowledged that it did not consider whether the artifacts located at the site represented Métis heritage and history in the NWT. At this meeting, De Beers committed to a re-analysis of the artifacts to determine if they contribute to knowledge about Métis heritage in the NWT.

**My conclusion**

Potential contributions to knowledge about Métis heritage have not been assessed. De Beers' has not fulfilled this ToR requirement or its commitment made on 8 November 2002. It is impossible to assess the impacts on the NSMA's cultural resources without this data.

**Evidence**

The evidence is De Beers' own acknowledgement.

**Recommendation**

De Beers re-analyze the artifacts for its potential contributions to knowledge about Métis heritage. De Beers commit to NSMA participation in ongoing and future archeological work related to its project. These actions must be taken immediately so that the NSMA can make informed decisions about project impacts on their heritage. Failure to act on these requirements will create considerable uncertainty about these impacts on the NSMA.

**Specific comment # 2.****2. Reference 2.2.2. Facilitation and Collection of NSMA TK. ToR line #45-55.****Developer's Conclusion**

At the MVEIRB pre-technical hearing on 8 November 2002, De Beers acknowledged before officers of the MVEIRB that it did not facilitate the NSMA's collection of TK. At this meeting, De Beers committed to the establishment and funding of a TK program with the NSMA.

**My conclusion**

The NSMA first identified this issue on 13 April 2002 in its report on "De Beers' conformity with the ToR". The NSMA in collaboration with the MVEIRB again identified this issue in IR 3.11.2. On 8 November 2002, Beers' acknowledged its failure to complete this ToR requirement and committed to immediately fund the NSMA efforts to collect this information. De Beers' failure to act promptly has prevented the NSMA from contributing TK to the project design as required in the ToR. Continued failure will prevent the NSMA from: 1) making TK contributions to ongoing environmental predictions, 2) contributing to the knowledge base for monitoring the mine's impacts over time.

**Evidence**

The evidence is De Beers' own acknowledgement.

**Recommendation**

De Beers implement its commitment to facilitate and fund the NSMA's collection of their TK.

**Specific comment # 3****3. The NSMA's existing subsistence economic environment. ToR line #471****Developer's conclusions**

The developer provided data on the traditional land use of Lutsel K'e (EA 5-51), Gameti (5-56), Rae-Edzo (5-61), Wha Ti (5-66), Wekweti (5-71), Dettah (5-75), and Yellowknife and N'Dilo (5-79). De Beers made no effort to provide comparable data regarding the NSMA (5-81). Although De Beers provided some basic data on other aboriginal communities, it did not analyze this data. De Beers does not, for instance, attempt to explain factors that account for higher subsistence harvesting in some communities than others. This analysis may inform mitigation and enhancement strategies. De Beers does not outline factors that may positively or negatively impact the subsistence economy of the NSMA. De Beers provides no concrete plans on how to work with the NSMA to ensure that its subsistence economy is enhanced and protected from negative impacts.

**My conclusion**

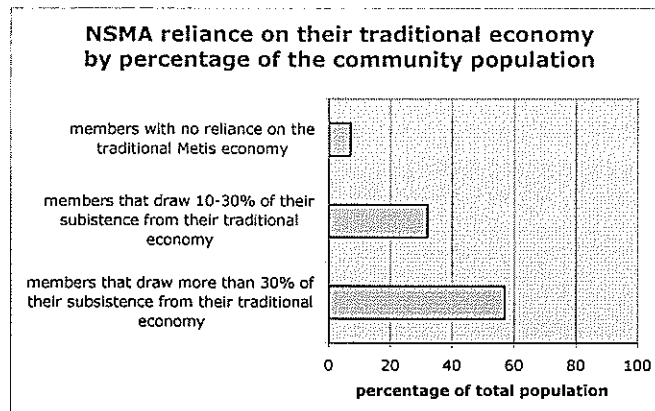
The NSMA has a strong subsistence economy and participation rate in traditional land use activities (see evidence below). The NSMA wants to protect this economy and traditions. In the SEIA literature, there is no reliable evidence that aboriginal subsistence economies can be blended successfully with wage-based, rotational work schedules. My conclusion is that the impact on the wage employment impacts on subsistence economic activity is uncertain. De Beers has not conducted sufficient analysis of the available data to determine how aboriginal subsistence economies can best be protected from negative impacts or how the impacts will be monitored.

**Evidence**

The NSMA has a vibrant traditional subsistence economy. In addition to the fact that many members hunt and fish for their family's subsistence, cultural norms in the community dictate that catches are shared within the community. The NSMA actively manages aspects of this economy with harvester subsidies. It also organizes community hunts after which food is processed and stored for distribution to elders, persons with disabilities, and others, to ensure these members supplement their nutrition with country foods.



The NSMA surveyed a representative sample of total community population regarding their land use activities and reliance on the traditional Métis subsistence economy. Fifty-seven percent of the community obtains over 30% of its subsistence foodstuffs from this economy. Only 7% of the community has no reliance on the traditional economy.



In terms of land use, 88% of the sample reported that they participate in traditional land use activities throughout a single year. These activities include hunting, fishing, drying and curing food, berry-picking, and trapping. Forty-two percent of the sample reported that they spend over 2 months on the land during the year. Sixty-two percent reported over one month of land use during a year.

De Beers has not analyzed this type of data. De Beers needs to understand how this informal economy functions and ensure that it will not be impacted. Questions need to be answered. What happens when community hunters exit their traditional economy to pursue wage work? What will be the effects on Métis health if this economy collapses? What will be the effect on Métis spiritual and emotional health if land use activities decrease? How might increased land use improve Métis community “healing” from adverse social and cultural impacts experienced during the 20<sup>th</sup> century?

My conclusion is that De Beers has not analyzed or tried to understand the NSMA traditional economy and its links to community health and wellness. De Beers is therefore unable to predict effects and propose concrete mitigation measures if necessary.

Failure to understand the Métis’ traditional economy could lead to impacts on cultural survival, individual health, and stresses on the wage economy and social cohesion of the community.

**Recommendation**

Further analysis is necessary to create certainty that the wage economy will not negatively impact the NSMA's traditional economy, social cohesion, and member health and wellness. De Beers possesses sufficient data on the traditional activities of many aboriginal nations and now must analyze it, predict impacts, propose mitigation measures if necessary, and establish reliable monitoring protocols to determine if this economy changes over time.

**Specific comment # 4****4. NSMA Economy, ToR lines 229, 459-470****Developer's conclusions**

Here, I review De Beer's conclusions and commitments to understanding the NSMA's current employment, skill, and education levels. This knowledge is important for three reasons. First, that a recruitment program be developed specific to the NSMA to create certainty over what numbers of members are qualified for employment. Second, that training and education programs be initiated for members so that they are skilled and qualified for employment before trained southerners are sought for employment. Third, that a baseline of knowledge on the current employment, education, and skill levels of the community be developed before the mine is approved so that changes in the baseline economic conditions of the NSMA community can be traced over time.

On 27 February 2001, the NSMA requested De Beers "carry out a survey to identify who would be interested in working in underground mining and then train them." De Beers committed: "comprehensive recruitment and training programs are being developed (EAR appendix IV.1-23)."

Also on 27 February 2001, the NSMA informed De Beers: "Many of our people want to work for you. De Beers needs a more aggressive training program, so that we can compete with southerners. Training should be started during, and as part of the operation phase." Again, and remember this was two years ago, De Beers confirmed it was developing recruitment and training programs (EAR appendix IV.1-23).

Also on 27 February 2001, De Beers acknowledged the NSMA's "concern expressed about youth becoming involved in the project, in terms of education, training and employment." De Beers committed to work with the NSMA on these education and training needs for youth (EAR appendix IV.1-23).

Despite the NSMA identification of the need for a survey of its existing members skills, education, and employment potential, prior to the release of the EAR, De Beers did not describe the existing wage economy, skills, and barriers to employment of the NSMA in its EAR (EA 5-81). The ToR required this information (line 229).

In its EAR, De Beers repeated its committed to the optimization of each community's capacity to make the most of potential economic opportunities, through the identification of each community's skill levels, educational needs, and identification of barriers to employment from which recruitment, training, and business programs could be developed with each community. De Beers committed that it would start this work in the "next months" after the release of its EAR. De Beers has yet to do any such work with the NSMA.

De Beers' failure to survey the NSMA community and understand its employment, education, and skill levels to date has caused the loss of 2 years of time in which NSMA members could have been training for work at the mine and be prepared to compete with southerners.

In terms of monitoring, De Beers concluded that it will: "monitor socio-economic indicators that pertain to the areas of socio-economic effects..." (EAR section 5.3.6). De Beers' failure, however, to describe the existing economy of the NSMA (ToR line 229) means that De Beers is unable to monitor and trace impacts on the NSMA economy over time.

Over the last year, the NSMA provided De Beers with community-based economic data to assist De Beers with the development of recruitment and training programs designed to meet the unique economic conditions of the NSMA (the data presented to De Beers is replicated below on pages 9 to 12). The data reveal that the NSMA's economic environment differs in key respects from other aboriginal communities, emphasizing the fact that a generic recruitment and training program will not optimize economic opportunities, mitigate harm, or increase community capacity unless it is specific to the circumstances of each community. De Beers has made no effort to analyze this data and work with the NSMA to develop community-specific programs, mitigation measures, and monitoring protocols.

### **My conclusion**

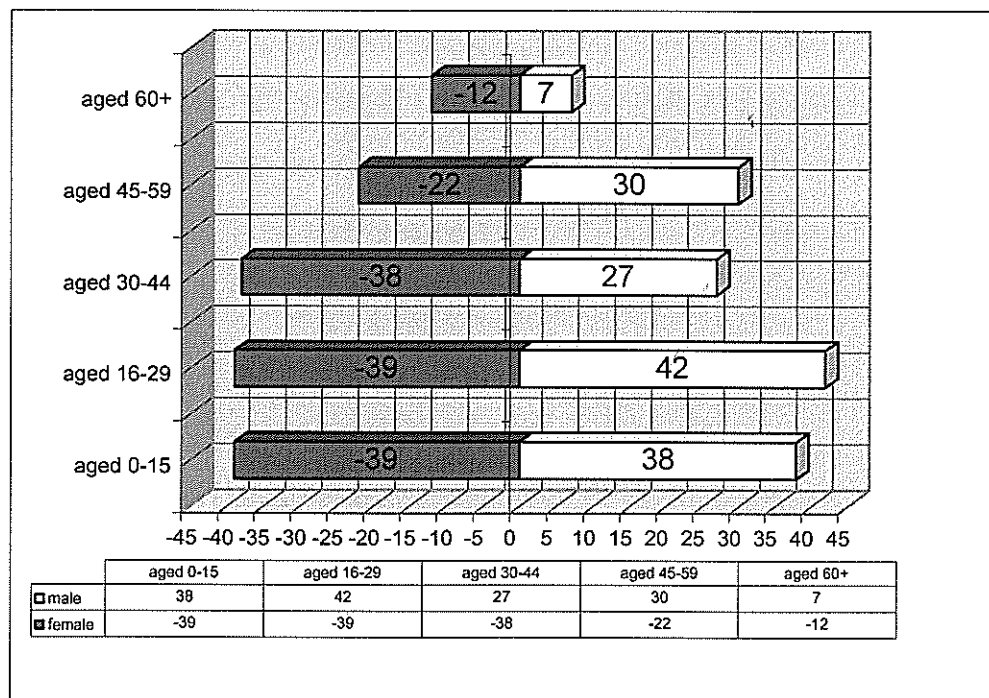
It is essential that De Beers understand the existing employment skills, and education levels of the NSMA community so that accurate predictions of employment levels can be made. More importantly, De Beers must assess the skills and education levels in the

community in order to implement training programs immediately to fulfill its commitment to hire as many northern workers as possible and increase skill capacity within the NSMA community. Only once this data is collected and analyzed can education, recruitment, and training programs be developed and create certainty that De Beers will meet its commitment to hire aboriginal workers and increase community capacity.

### Evidence

The NSMA surveyed the total population of the NSMA community (n= 294) to collect the following economic data.

**Figure 1: sex and age distribution of the total NSMA population**

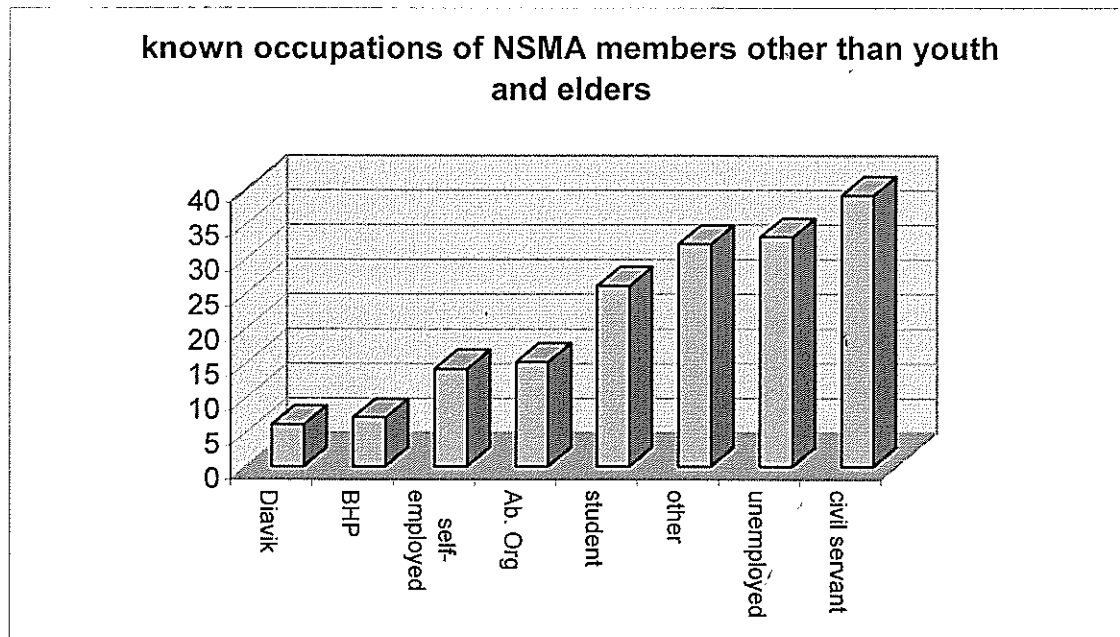


Overall, the NSMA population is young. Over a quarter (26%) of the population is under the age of 15. It is clear that this sector of the population requires information on employment opportunities at the mine and that counseling programs be offered regarding career choices and educational needs so that this youth can make informed decisions about their future opportunities within the NWT.

Half the NSMA population is between the ages of 16 and 29. Once again, this number represents a large potential workforce who require potential career information and access to education and training programs so that, if they desire, they can be prepared for employment at the mine before competition opens to southerners.

Figure 2 illustrates the current occupations of NSMA members other than elders, and youth.

Figure 2



**Current occupations:**

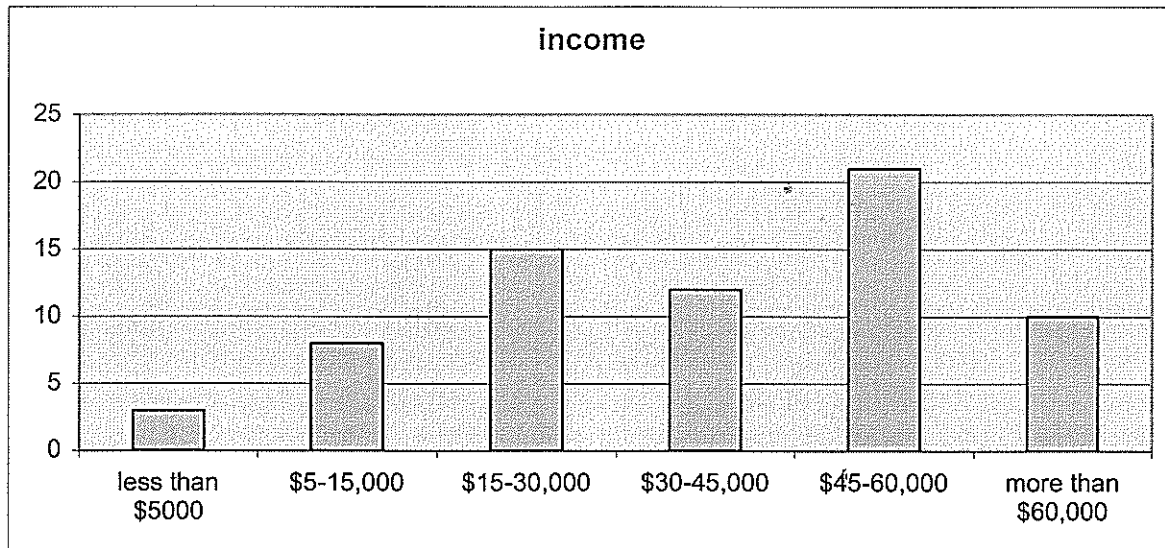
Twenty-eight percent of the NSMA population is employed in the civil service and 11% work for aboriginal governments. De Beers EAR focuses on labour employment, yet the data suggest a large number of NSMA members possess managerial and office-based skills. It is unknown what types of managerial skills are available to NSMA members at De Beers and what types of training and education upgrades will De Beers provide? De Beers will also need to assess the impacts on community capacity if its members employed in aboriginal government seek employment with the mine.

BHP and Diavik employ 9% of the NSMA membership.

Ten percent of NSMA members are self-employed and possess welding, carpentry, aviation, electrical, and food preparation skills. De Beers has not assessed if these skills can be transferred to their operations if it is desired.

**Is this employment adequate?**

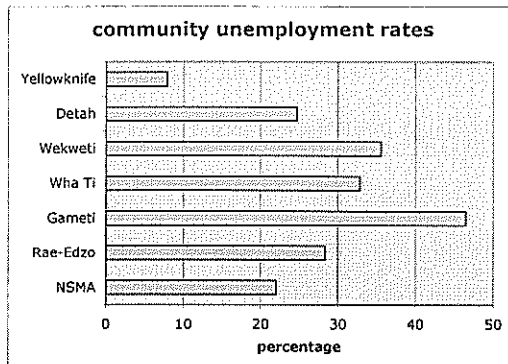
Forty-three percent of NSMA households are dependent on a single income. The next figure shows that average NSMA family incomes are low and inadequate.



The majority of NSMA members earn between \$45 and \$60,000 a year. A significant number of families report that their current income fails to meet their financial needs. Developing employment with an adequate income is important to the NSMA community and family well-being.

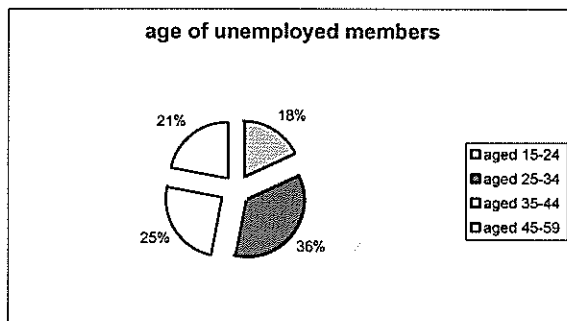
### Unemployed membership

Twenty-two percent of the NSMA population is unemployed. This number is significantly higher than the national average and the average for Yellowknife. The next figure compares this number to other affected communities.



Based on this employment and occupation data, it is clear that the NSMA has an unemployment level (22%) significantly higher than the national average. Developing employment opportunities for this segment of the NSMA population is critical to its well-being.

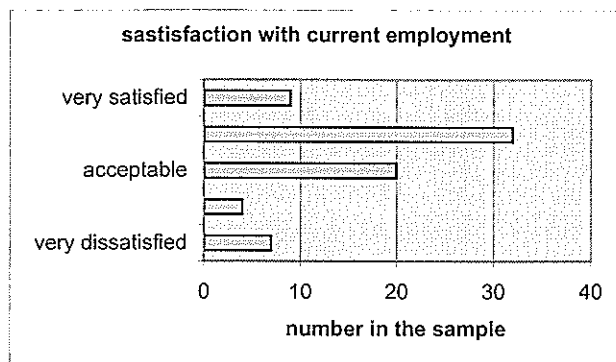
The next figure breaks down the age of unemployed members of the NSMA. Thirty six percent are between the ages of 25 and 34. This number suggests that many unemployed members may be interested in training and education opportunities to build a career with De Beers. In terms of gender, 45% are women and 55% are men. New employment opportunities should therefore consider jobs for both NSMA men and women.



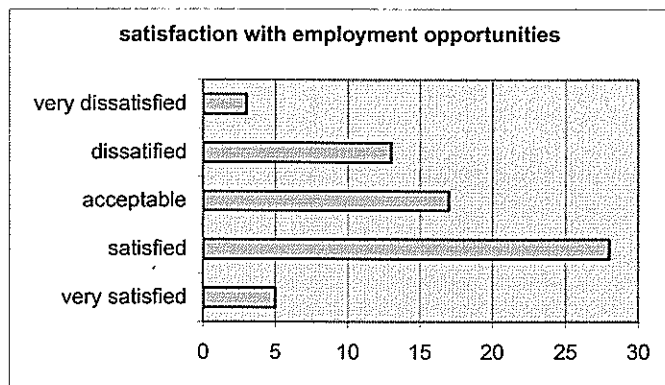
It is important to consider whether NSMA members find their employment adequate and personally satisfying? A representative sample of NSMA members were asked about their job satisfaction. The data suggest that few members find their



employment to be “very” satisfying, while majority are satisfied or describe their work as “acceptable”



The sample was also asked about their satisfaction with employment opportunities in their region. Half the sample was “satisfied”, but an almost equal portion were dissatisfied or very dissatisfied.



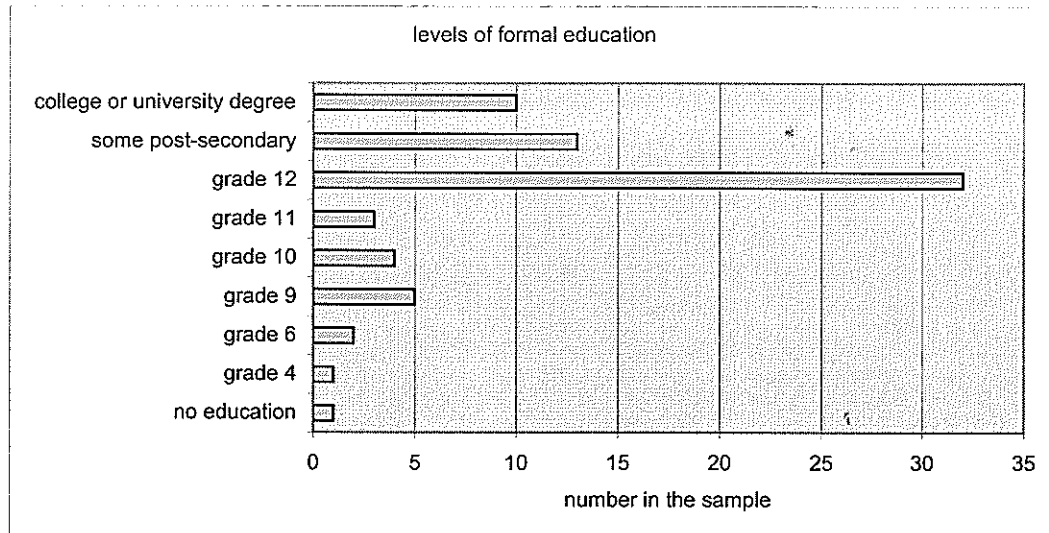
Job satisfaction is important for community and individual wellness.

It is critical that mine related jobs be satisfying or members of the community will seek employment outside of the NWT. All members of the NSMA have close ancestral ties to the North Slave Region, but for a variety of reasons, especially the search for employment or an education, 61% of the sample left the region for a period of time. Members reported that they returned to the region because they wanted to be closer to their family. The message is clear. Members prefer to find employment in the region as it is their homeland and place of their relatives, but satisfactory employment / career opportunities are lacking.

De Beers has not explained how it will determine factors of job satisfaction to keep skilled aboriginals in the North. How will De Beers provide satisfying employment?

### Education

The NSMA surveyed the education levels of a representative sample of the population.



The data reveal that a significant majority of the NSMA membership completed grade 12 and that a significant portion have attended or completed a university or college degree. The lowest levels of educational achievement are reported among elders and persons born before 1948. Attaining a formal education appears to be very important to Métis. Only 4% of the sample is “very satisfied” with their education. 37% are satisfied and 29% felt their formal education achievement was “acceptable”. A full 32% are “dissatisfied” or “very dissatisfied” with their education.

### Barriers to employment

Most members sampled indicate that they would enroll in further educational programs to build their skills and acquire a preferred form of employment. There are, however, significant barriers to Métis educational upgrading. 46% of the sample reported that finances or small children prevented them from accessing the education services they desire. It is crucial that any training and education opportunities related to the mine include funding programs and culturally appropriate and affordable daycare.

**Students:**

Nineteen percent of the NSMA membership is enrolled in school. Nearly half of these students are between the ages of 15 and 24 while the other half is between the ages of 25 and 34. A large majority of the students are women (65%).

Developing meaningful employment for these students, once they graduate, is critical to the community's well being. The mining industry presents many new and important opportunities for Métis employment. Currently, 10% of NSMA workers are employed in the diamond industry. The NSMA expects to develop meaningful employment for the 45% of its population under the age of 25, especially those under the age of 18 who can enroll in university and college training programs to develop skills necessary for such employment. The identification of future satisfying employment opportunities with the mining industry and development of training and education programs is critical to meeting this goal.

**Recommendation**

It is my conclusion that: to meet the requirements of the ToR, its own commitments, and create certainty regarding the economic effects of the project on the NSMA community.

De Beers must:

- 1) use the NSMA's community-based data to develop the necessary training, education, and recruitment programs that meet the specific needs of the community.
- 2) work with the NSMA to ensure that proper baseline data is in place and monitoring protocols are developed before the project is approved so that deviations in the NSMA economic baseline may be traced.

**Specific comment # 5****5. NSMA Housing, ToR line 228****Developer's conclusion**

De Beers recognizes there is a chronic housing shortage and high levels of overcrowding in aboriginal communities (EAR: 5-52, 5-57, 5-63, 5-67, 5-72, 5-76, 5-80). De Beer's recognizes that housing conditions are linked to individual and community health (EAR section 5.2.2.5). De Beers states that housing upgrades are required and more housing units are needed within the affected communities (5-102). De Beers did not describe the existing housing environment of the NSMA community. De Beers produced no data on housing conditions and crowding in the NSMA community.

**My conclusion**

Without baseline data on the adequacy of housing and levels of crowding in the NSMA community, it is impossible to understand the existing housing environment of the NSMA. This data gap makes predictions about impacts on individual and community health impossible. No baseline data exists for monitoring changes in the NSMA housing environment and for the analysis of links between housing conditions and individual health and community wellness.

**Evidence**

There is no NSMA housing data in the EAR (section 5.2.3.9)

**Recommendation**

De Beers and the NSMA immediately develop a survey of existing housing conditions in the NSMA using universally accepted indicators. The absence of this data makes it impossible to determine what the adverse impacts on NSMA housing conditions will be. Once data is collected, how will the adequacy of NSMA housing be mitigated, if necessary?

**Specific comment # 6****6. NSMA infrastructure, ToR line 231****Developer's conclusions**

De Beers does not describe the existing infrastructure environment of the NSMA as required in the ToR line 231.

**My conclusion**

The NSMA represents an indigenous Métis community that delivers services and holds the same governmental responsibilities as other aboriginal communities in the NWT. Unlike other communities, the NSMA receives no core funding from government. This critical variable requires analysis. It appears likely that the NSMA will not be able to adapt to changes on the same plane as other communities because it does not possess the same resources and infrastructure. De Beers has not determined how this infrastructure variable regarding the NSMA affects the community's resiliency and ability to adapt. De Beers' predictions about positive community impacts are uncertain in the case of the NSMA given this key variable.

**Evidence**

There is no review of NSMA infrastructure in section 5.2.3.9 of the EAR.

**Recommendation**

De Beers and the NSMA determine how the capacity of the community can be equalized to other communities to ensure the NSMA has the same resiliency and ability to adapt to change. The absence of this data makes it impossible to determine what the NSMA resiliency and ability to adapt to change is. Once data is collected, how will the adequacy of NSMA infrastructure be mitigated, if necessary?

**Specific comment # 7****7. NSMA language use, ToR line 441****Developer's conclusions**

De Beers reached no conclusion about anticipated or possible changes to the NSMA's use of their indigenous Métis language: *Michif*.

**My conclusion**

The NSMA represents an indigenous Métis community. The indigenous language of this unique culture is *Michif*. *Michif* is an endangered language in all Métis homelands across Canada. The anticipated or possible changes in the NSMA's use of *Michif* are unknown and must be assessed.

**Evidence**

The NSMA surveyed a representative sample of the NSMA community to determine the level of *Michif* use in the community. The language is well known and spoken by NSMA elders but due to residential schooling, cultural shame induced by non-Native racism, the absence of modern *Michif* language schooling, and the absence of *Michif* in the workplace, the language has not passed successfully to younger generations. The NSMA survey found that 15% of the community currently speaks *Michif*. This number is low and the retention of the language is threatened.

**Recommendations**

De Beers needs to determine the anticipated or possible changes to the NSMA's use of *Michif* as a result of their project. The absence of this data makes it impossible to determine what the adverse impacts on NSMA language use and retention will be. Once data is collected, how will the issues of *Michif* protection be mitigated, if necessary? A significant majority of NSMA members indicate a strong interest in learning *Michif*. I recommend the NSMA and De Beers develop a *Michif* language program as part of De Beers mitigation protocols regarding affects of the project on NSMA heritage.

**Specific comment # 8****8. mine production rate, ToR line 195****Developer's conclusion**

I understand De Beers recently committed to a production rate of 3000 tpd at Day 1 of the technical sessions in order to ensure a mine life of 25 years or more.

**My conclusion**

I agree with the conclusion of Gartner Lee Limited that "changes to the production rate have impacts on the mine life, socio-economic of the project and the proposed mine site facilities" (GLL report to MVEIRB 1 November 2002). I therefore agree that a 3000 tpd should not be deviated from.

**Evidence**

The NSMA, GLL, DIAND, and GNWT all expressed concern that mine production rates be confirmed. GLL stated: "confirmation of the production rate will provide more certainty and less conjecture to the components of the project being considered in the EA" (ibid). Any potential for De Beers to change mine rates during production jeopardizes all predictions and mitigation measures in the EAR.

**Recommendation**

The Board state De Beers' tpd commitment of 3000 tpd and impose a condition on approval that this tpd not be exceeded.

**Specific comment # 9**

**9. public consultation, ToR line 23-41**

**Developer's conclusion**

In its EAR, De Beers described its consultation methodology and claimed that it was implemented successfully.

**My conclusion**

In my pre-technical report of 13 November 2002, I identified concerns about whether De Beers adhered to its consultation methodology. I also have concerns about whether government and De Beers are meeting their obligations pursuant to the duty to consult. I understand that the NSMA's legal counsel will deal more comprehensively with the issue of the failure to consult

**Evidence**

I provided my evidence in my 13 November 2002 report (issue #5).

**Recommendation**

The Board must require De Beers and government fulfill their obligation to properly consult with the NSMA before approving this project.



**Specific comment # 10****10. Resource use (ToR line 442-455), Spatial boundaries (ToR line 235-240), Cumulative Effects (ToR line 546-550)****Developer's conclusions**

De Beers concluded that there will be no impact on NSMA fisheries in the regional study area (RSA).

**My conclusion**

De Beers has not properly established the maximum zone of influence of its project on Métis fisheries proximal to Yellowknife. I outlined these issues in my pre-technical report of 13 November 2002 (issue #7). There is evidence that the mine's development will negatively affect NSMA fisheries outside of the RSA with corresponding effects on fisheries and the Métis' culture, land use, economy, health, aboriginal rights, and spiritual and cultural practices.

**Evidence**

I outlined the evidence in my pre-technical report of 13 November 2002 (issue #7),

**Recommendation**

De Beers assess the resource use of the NSMA, determine the maximum zone of influence of its workforce on local fisheries, and determine both direct and cumulative effects. If it is found that there is probability of an impact, De Beers must develop mitigation measures with the NSMA. The absence of this data makes it impossible to determine what the adverse impacts on NSMA fisheries and associated economy, cultural, spirituality, community health, and rights will be. Once data is collected, how will impacts on these fisheries be mitigated, if necessary?