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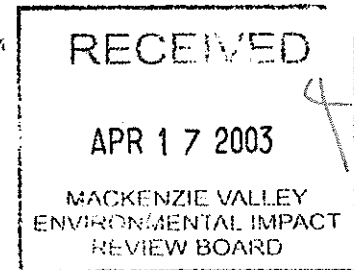
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Fax Transmittal**To: MVEIRB****From: Jean Teillet****Attention: Glenda Fratton****Fax No: 867 766-7074****Date: April 17, 2003****File: Dogrib 400-DeBeers****Originals to be sent: Yes ☐ No X**

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**Re: Outline of Dogrib Treaty 11 Council's Submissions for the DeBeers
Snap Lake Public Hearing**



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April 17, 2003

Ms Glenda Fratton
De Beers Snap Lake Environmental Assessment Coordinator
Mackenzie Valley Environmental Impact Review Board
Box 938, 5102-50th Avenue
Yellowknife, NT, X1A 2N7
By Fax: 867 766-7074

Re: Outline of Dogrib Treaty 11 Council Submissions for DeBeers Snap Lake Public Hearing

Dear Ms Fratton:

Attached please find an outline of the submissions the Dogrib Treaty 11 Council will make at the DeBeers Snap lake Public Hearing.

Please feel free to contact me should you have any further questions.

Yours truly,



Jean Teillet
Attachment

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**Dogrib Treaty 11 Council
Outline of Submissions
DeBeers Snap Lake Public Hearing
Mackenzie Valley Environmental Impact Review Board
Yellowknife, April 28th – May 2nd, 2003**

1. Opening Statement

The Dogribs opening statement will briefly set out the following points:

(a) General Structural Characteristics of the Project

Snap Lake is an underground mine with a small footprint and short haul roads. The Dogribs take the position that the Board should encourage each mining project in the Mackenzie Valley to make its footprint – including all surface structures and roads – as small as possible.

(b) Dogrib Interest in the Area

Snap Lake is wholly within the Mackenzie Valley as defined by the MVRMA. Snap Lake is within the *Monhwi gogha de niitle* (the area where the Dogribs have harvesting rights).¹ Because of this, the Dogribs have a special interest in this area and it is for this reason that they sought and were granted party standing at this hearing.

(c) Changing Regulatory Regime

Dogribs believe in and fully support regulatory oversight with respect to environmental issues. Dogribs understand that properly functioning regulatory oversight can be critical in reducing the accumulation of undesirable effects. However, we are living in a changing regulatory environment. Since 1998 there is a new Act – the MVRMA. Now there are soon to be amendments to the regulatory regime. The Dogrib Agreement (now known as the *Tlicho Agreement*) has been initialed and is in the ratification process. Upon the completion of the ratification process, the Dogribs will be included in the MVRMA. This is relevant to this proceeding even though the amendments to the MVRMA have not yet been made. The Dogrib's future inclusion is relevant because it is foreseeable. We say this puts an obligation on this Board to take into account the effects of the Dogrib well-being and way of life.

(d) Dogrib Approach to the Public Hearing

The task before the Board is to determine whether there will likely be any adverse impacts from the project and if so, the significance of any such impact. (s. 115-117 MVRMA) As the Dogribs participate in the hearing, our approach will be based on the precautionary principle, which is now a principle of Canadian public law. The precautionary principle was adopted by the Supreme Court of Canada in the recent case of *Spraytech v. Town of Hudson* [2001] SCJ No. 42:

[para31] ... international law's "precautionary principle", ... is defined as follows ...

¹ See attached map of the *Monhwi gogha de niitle* from the *Tlicho Agreement*

In order to achieve sustainable development, policies must be based on the precautionary principle. Environmental measures must anticipate, prevent and attack the causes of environmental degradation. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. {emphasis added}

The Dogribs are not participating in this process with a view to prevent development. The concern is to be sure that development proceeds in a way that does not have a negative impact on the lands and resources on which the Dogribs rely or on the Dogrib way of life.

The *Tlicho Agreement* shows throughout a concern about the protection of lands and resources. This is not an agreement that moves the Dogribs away from their traditional relationship with the land. The *Tlicho Agreement* in fact has quite the opposite intention -- to embrace that traditional relationship, to encourage stewardship, and to make it possible for both the Dogribs and the government to act together to protect the lands and resources on which the Dogribs rely.

It is for this reason that the Dogribs take the position that the Board and the proponent need to be aware of the precautionary principle, particularly with respect to cumulative effects. The Dogribs are particularly concerned that "lack of full scientific certainty" is not used to postpone measures to prevent impacts. The Dogribs will urge the Board and the proponent to use the precautionary principle as a guide, particularly with respect to the following issues:

- (1) Hydrogeology - mine water discharge (quantity & quality);
- (2) Surface Water - Water Quality, and Fish and Aquatic Habitat; and
- (3) Wildlife, Wildlife Habitat & Vegetation (focus on caribou)

2. Hydrogeology - Mine Water Discharge (Quantity and Quality)

The volume of mine-water inflow may present challenges for water management at the site, including water treatment before discharging it to Snap Lake. The proponent is convinced that it has confidently predicted potential maximum flows from the mine workings and has demonstrated that the contingencies for water storage and treatment are adequate.

The Dogribs are not totally convinced that the proponent's overall approach adequately addresses all the uncertainties and is sufficiently conservative in terms of evaluating potential impacts. Additionally, the Dogribs will comment on the practicality of the proponent's contingencies.

We will address their conclusions by briefly describing what we believe are the real uncertainties in their analysis, and potential problems that may arise as a result of underestimating flows.

Further, there are a number of uncertainties associated with the predictions of water quality from the mine as well as the modeling to predict the dispersion and movement of effluent once in Snap Lake. We recognize that De Beers has attempted to address this issue in several further

analysis. However, we still consider their approach to have several deficiencies, and we will focus our presentation on these specific issues.

3. Surface Water - Water Quality, and Fish and Aquatic Habitat

Throughout the EIS process, there has been much concern expressed by various parties regarding the issues associated with the predicted effects of mine-water discharge into Snap Lake, and the resulting potential changes in water quality and impacts to aquatic life. De Beers has responded to these concerns by gathering additional data, undertaking further study or elaborating on existing analyses to try and answer these concerns. We appreciate their effort, but would like to use this time to focus on some key areas that we do not believe have been addressed to this point. The issues include:

- The potential effects on aquatic organisms due to reduced dissolved oxygen concentrations are greater than that indicated by DeBeers.
- DeBeers indicates the range of phosphorous predicted in Snap Lake is similar to current streamwater inflows entering the lake, however, the maximum projected concentration is more than five-fold greater than the maximum current inflow concentration. Since pulse episodic inflow events will disproportionately effect the mean and median baseline concentrations of phosphorous in the lake, the effective concentrations for impact analyses are higher than that offered by DeBeers.
- Conclusions regarding the effects of the phosphorous enrichment on zooplankton community structure are less clear and remain speculative.
- Impacts to benthic invertebrates from phosphorous enrichment cannot be predicted from the information provided. Impacts are likely in some basins due to dissolved oxygen depression.
- The proponent attempted to address the issue of interactive effects of the predicted changes to water quality and aquatic community in a recent document. The proponent claims that the state of science does not allow a quantitative prediction of the net result of these individual stresses to be determined. Therefore they developed a more qualitative or subjective approach, based on a "weight of evidence" approach to examine the issues. However, their results were not convincing. This work does not provide any increased accuracy as to what will happen if the project proceeds. The uncertainty surrounding the predictions of individual components that will be loaded into Snap Lake, their behaviour and distribution within the lake itself and, particularly, the net interactive effects of these on the aquatic ecosystem has not been narrowed by the proponent's most recent work.
- We also note that the additive and synergistic effects have still not been addressed – for example, the relationship of predicted changes in water quality and aquatic community to the potential changes between aquatic and terrestrial ecosystem interactions.

We will hopefully address this issue by summarizing much of the relevant data and information presented by De Beers from many of their recent documents into a format that we believe may help the Board address the potential interactive, synergistic and additive effects associated with the various components of the proposed project. These effects are serious issues for the Board to consider, for it is understanding the overall net effect of the mine-related changes in Snap Lake that will guide a responsible determination of environmental acceptability of this project.

4. Wildlife, Wildlife Habitat & Vegetation (focusing on caribou)

The potential cumulative effects of another mining development within the range of the Bathurst caribou herd are a major concern of the Dogribs. There is as yet no process in place for monitoring the effects of these disturbances on caribou. The proponent submitted two reports in February that deal with the results of recent wildlife surveys, including caribou. However, there is no additional information relating to the assessment of potential additive and synergistic effects on caribou, or to the cumulative impacts issue.

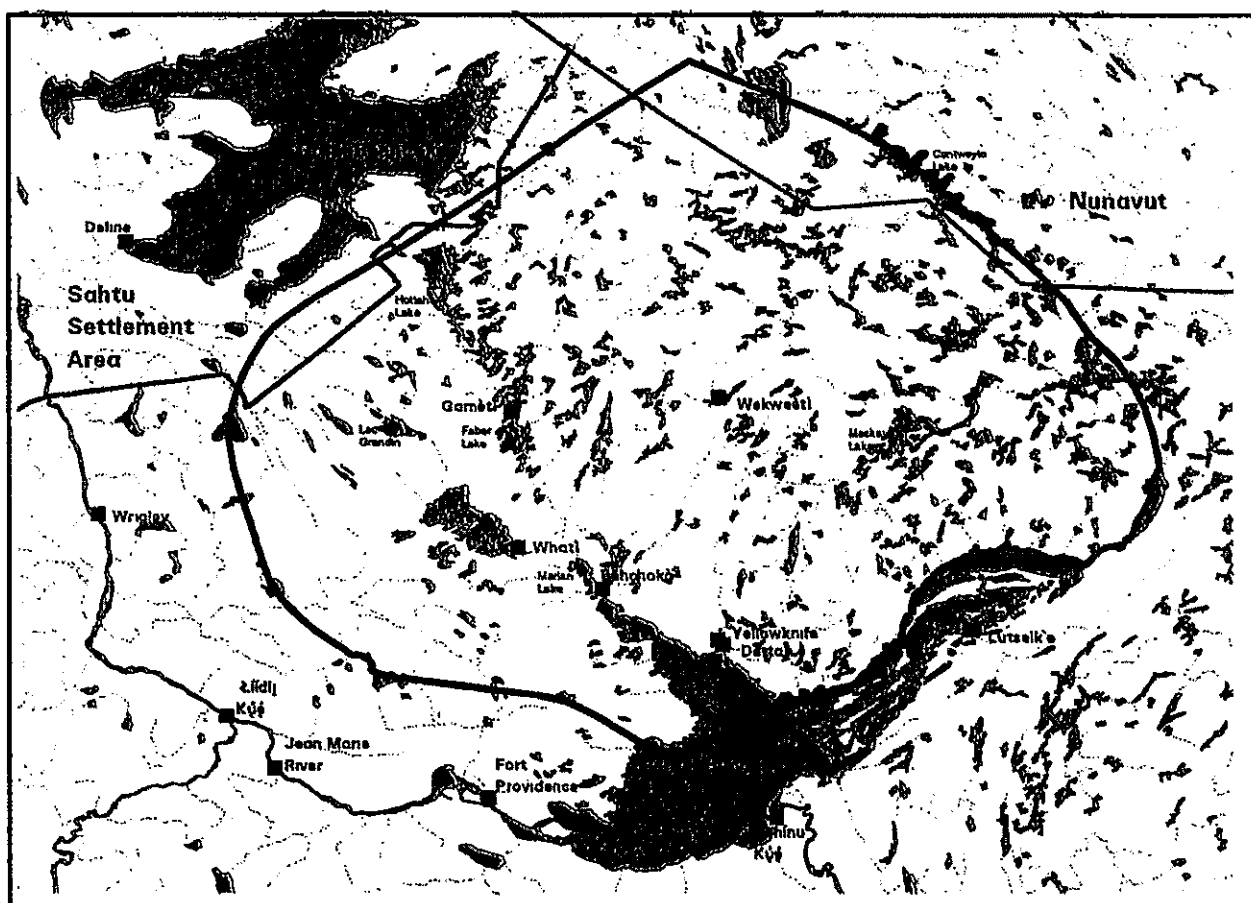
Recent studies centering on the cumulative effects of northern developments on caribou herds have been completed in Alaska (2003 National Academy of Sciences, National Research Council report: *Cumulative Environmental Effects of Energy Development on Alaska's North Slope*; the U.S. Department of Energy and Bureau of Land Management's 2002 *Trans-Alaska Pipeline Right of Way - TAPs ROW - renewal EIS*). These studies provide a useful benchmark for developing similar studies in the NWT. We will summarize some of the relevant methodologies employed by various parties, and present some of their findings. It is imperative that the proponents, territorial government and appropriate agencies act now and together to develop comparable studies to predict cumulative impacts and develop appropriate monitoring tools to minimize potential impacts to caribou.

Ṭḥcḥq̣ Agreement

PART 3 ILLUSTRATIVE MAPS

The coloured maps in this part of the appendix are for illustrative purposes only. They are not official descriptions.

ṂQ̣WḤÌ GOGHA DÈ ṆIṬLÈÈ

Legend

- ṂQ̣WḤÌ Gogha Dè ṆIṬLÈÈ boundary line
- Nunavut boundary line
- Sahtu settlement area boundary line