



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

P.O. Box 1500
Yellowknife, NT X1A 2R3

October 21, 2011

File: EA1112-001

Mr. Alan Ehrlich
A/Manager, Environmental Impact Assessment
Mackenzie Valley Impact Review Board
Box 938
5102 50th Avenue
Yellowknife, NT X1A 2N7

**Re: Response to Undertakings from the Debogorski Diamond Exploration
Project Public Hearing**

Dear Mr. Ehrlich:

Aboriginal Affairs and Northern Development (AANDC) is providing the following attached response to the undertakings given at the Public Hearing for the Debogorski Diamond Exploration Project (EA1112-001).

If you have any further questions, please contact Mike Byrne at (867) 669-2628 or via email at Mike.Byrne@aandc.gc.ca.

Sincerely,

Kate Hearn
Director
Mineral and Petroleum Resources

Canada

Attachment: Undertakings from the Debogorski Diamond Exploration Project Public Hearing

Undertaking #1: to Aboriginal Affairs and Northern Development Canada (AANDC) to provide additional information on the granting of s.81 relief (NWT and Nunavut Mining Regulations) in the Drybones Bay area prior to 2005.

AANDC Response:

During the time period from 2003 to 2011, within the area of the 5 NTS Map Sheets* which encompass the "Shoreline Zone" as described by the MVEIRB, and which includes the Drybone Bay area, the NWT Mining Recorders Office has granted 48 Orders for Section 81 relief involving a total of 89 mineral claims held by 14 individuals or companies. All such relief orders were for periods not exceeding one year. The NWT Mining Recorders Office database records which go from 1999 to the present, indicate no Section 81 Orders were granted in that area from 1999 to 2003. Of the 89 mineral claims which were granted relief under Section 81 in the described area, 48 claims have since lapsed and 41 are active and held by 8 individuals or companies.

*NTS areas 85 J 01, 85 J 08, 85 I 0 3, 85 I 0 4 and 85 I 05

Undertaking #2: Aboriginal Affairs and Northern Development Canada to indicate if the NWT mining regulations are broad enough to contemplate exemption for a longer period of time than annually; for instance, until the plan of action is concluded and/or land claims are settled.

AANDC Response:

The mining regulations work within a broader resource management system. Within that broader system, the only role of mining regulations is to regulate the methods of acquisition and maintenance for mineral rights and set royalties for mineral production.

Section 81 of the Northwest Territories and Nunavut Mining Regulations provides that where a rights holder is prevented through circumstances beyond their control from fulfilling any requirement of the regulations, the rights holder may apply for an order granting whatever relief is necessary in the circumstances, to maintain the lease, permit or claim in good standing for the period within which fulfilment of the requirement is prevented.

While Section 81 of the Northwest Territories and Nunavut Mining Regulations does not expressly limit discretion in the appropriate circumstances to grant relief for periods greater than one year, such greater relief would run counter to the purpose and intent of the Northwest Territories and Nunavut Mining Regulations. Under the regulations, discretion is not unlimited and absolute, and can only be exercised in the context of whether the rights holder's circumstances justify the granting of relief, and for how long. It is a limited jurisdiction and decisions must be made within jurisdiction. Section 81 does not give the jurisdiction to take into account any matter or thing that does not directly pertain to the interest holder, and jurisdiction is not even triggered until an interest holder applies.

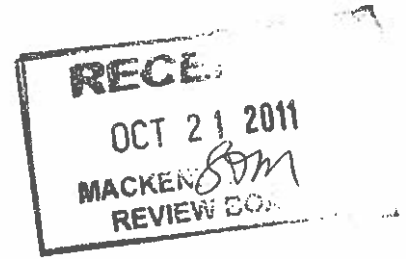
Notwithstanding, a holder of a mineral claim is not precluded from re-applying under section 81 for further relief if, at the time of the expiration of an existing one year relief order, that party is still prevented from maintaining the mineral claim in good standing. Each application is dealt with on a case-by-case basis and is dependent upon the individual circumstances of the interest holder at the time of application. AANDC cannot speculate regarding future circumstances.

Jarha

Facsimile Transmittal

**To: Mackenzie Valley Environmental Impact Review Board
ATTENTION: Mr. Alan Ehrlich**

**Tel: (867) 766-7056
Fax: (867) 766-7074**



**From: Mineral & Petroleum Resources Directorate, NT Region
Aboriginal Affairs and Northern Development Canada**

**Tel: (867) 669-2571
Fax: (867) 669-2705**

Date: October 21st, 2011

Pages: three including fax cover

Subject: Response to Undertakings from Alex Debogorski EA Hearing

Message: Please see attached letter with attachment regarding the above subject.