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Mr. Chuck Hubert
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Mackenzie Valley Environmental Impact Review Board
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22 October 2015

Re: Jay Project Environmental Assessment (EA1314-10)
DDMI Closing Arguments

Please find attached the Diavik Diamond Mines (2012) Inc. (DDMI) closing arguments for the Dominion Diamond Ekati Corporation Jay Project environmental assessment.

Please let me know if you require any additional clarification.

Regards,



Gord Macdonald

Attached: DDMI Closing Arguments

Closing Arguments – Jay Project Environmental Assessment

Diavik Diamond Mines (2012) Inc.

October 22, 2015

Diavik Diamond Mines (2012) Inc. (DDMI) is the operator of the Diavik Mine. The proposed Jay Project is within close proximity to the Diavik Mine site. The environmental impacts resulting from the Jay Project are predicted to extend spatially to include the area surrounding the Diavik Mine. The Jay Project, if approved, would operate concurrent with Diavik which is anticipated to continue operations until 2023 with mine closure activities anticipated to extend from 2024 to 2030.

DDMI's environmental performance is a key aspect governing the mine site licenses to operate and close and the expectations of communities. DDMI continues to make significant investment into the ongoing development and operation of the Diavik Mine with a reasonable expectation for a level of certainty that it can operate without impact from new developments. The Government of the Northwest Territories holds financial guarantees in excess of \$150 million that will not be fully relinquished until closure environmental performance can be demonstrated.

DDMI provided a Technical Report for the MVEIRB's consideration on July 31, 2015. In that report we presented two lines of evidence to support the conclusion that the proposed Jay Project will likely cause changes to the environment that are expected to extend spatially to include the area surrounding the Diavik Mine.

- Water quality in Lac de Gras is currently elevated relative to background and this condition is expected to continue until 2023. Without the Jay Project, Lac de Gras water quality is expected to begin to recover starting in 2023. This recovery will not occur with the Jay Project. Water quality in Lac de Gras is expected to worsen with the Jay Project, particularly from 2023 to 2033. With worsened water quality in Lac de Gras, DDMI's ability to demonstrate acceptable closure performance will be adversely impacted.
- Caribou movement is currently affected by an existing mine zone of influence resulting in fewer numbers of caribou using the Diavik mine site. With the development of the Jay Project the number of caribou using the Diavik mine site will continue to be reduced. Without the Jay Project caribou use of the mine site is expected to increase after 2023. With fewer caribou using the reclaimed Diavik mine site as a result of the Jay Project, DDMI's ability to demonstrate acceptable closure performance for caribou will be adversely impacted.

These environmental changes may adversely affect DDMI as the operator of the Diavik Mine. In particular DDMI is likely to face increased pressures with regard to demonstrating closure performance. Pressures would adversely affect the scope of operations and/or closure activities and the relinquishment of financial security.

The information DDMI presented regarding predicted environmental change to water quality and local caribou distribution was from Dominion Diamond Ekati Corporation (DDEC) and included in the Developers Assessment Report (DAR). DDMI participated in the Public Hearings September 14-16, 2015. DDEC did not question or challenge DDMI's use or interpretation of the DAR predictions and did not question or challenge DDMI's conclusions regarding likely impacts of the Jay Project on DDMI. DDEC confirmed that their environmental assessment did not fully consider the significance of impacts to Diavik (see Hearing Transcripts Day 3 Page 127 and 128).

MR. GORD MACDONALD: Gord MacDonald, with Diavik. In that assessment, you've basically said that, if it's -- if the water around Diavik meets aquatic standards or drinking water standards, that there wouldn't be an impact on Diavik. That was as far as the evaluation went. Did -- my question is: Did it go any further than that? We -- we think there are other potential effects to Diavik. That's what's in our technical submissions. We just wanted to confirm that you haven't done any further evaluation on that.

MR. RICHARD BARGER: Richard Barger, Dominion Diamond. The -- the extent of our assessment is -- is in MVEIRB IR232, and we have not gone further 18 than that.

No intervenor questioned or challenged our rationale or conclusions regarding impacts to Diavik. The Board Staff did not question or challenge our rationale or conclusions.

DDMI concludes that without mitigation, the potential impacts on Diavik would be significant. It is not unreasonable to expect that without mitigation some \$10 million of the \$150 million in financial guarantees would be at risk of not be relinquished (or require additional site remediation/monitoring with an equivalent cost) as a direct result of the Jay Project proceeding.

DDMI also expects that with appropriate commitments from DDEC and regulatory authorities these impacts can be effectively mitigated. However, monitoring commitments from DDEC alone are insufficient. As confirmed during Public Hearing questioning by DDMI, the GNWT did not provide any assurances or commitments with regard to separating Jay effects on the Diavik environment when evaluating final closure performance and financial security relinquishment (please see Hearing Transcripts Day 2 Page 254 and Day 3 Pages 234 through 238). The GNWT responses provided no comfort to DDMI rather they reaffirmed the potential for significant impacts to Diavik if the Jay Project proceeds.

For the reasons provided here, and supported by our Technical Report submission, DDMI suggests that the MVEIRB find that without mitigation, the Jay Project is likely to cause adverse effects to DDMI as the operator of the Diavik Mine. Further, we request that the MVEIRB recommend Measures, to the Responsible Ministers, requiring:

- GNWT-ENR to include considerations for monitoring and mitigation, specific to impacts on Diavik, in the regulatory phase for the Jay Project.

- DDEC to engage with DDMI to develop mutually acceptable monitoring and mitigation that ensure environmental changes caused by the Jay Project do not impact on DDMI's ability to operate or close the Diavik mine.
- DDEC to advancing these monitoring and mitigation measures, with any necessary revisions, for review and acceptance by the Land and Water Board.
- DDEC to advancing these monitoring and mitigation measures, with any necessary revisions, for review and acceptance by Diavik's Environmental Monitoring Advisory Board.
- GNWT to fully recognize the impact of the Jay Project on Diavik's closure performance and ensure that DDEC monitoring and mitigation is in place to adequately separate environmental changes at the Diavik mine site caused by the Jay Project when evaluating relinquishment of DDMI's closure security.