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Your file Votre référence

EA1314-01

June 12, 2015

Our file Notre référence

15-HCAA-00266

Mackenzie Valley Environmental Impact Review Board
Attention: Mark Cliffe-Phillips, Executive Director
P.O. Box 938
Yellowknife, NT X1A 2N7

Dear Mr. Cliffe-Phillips:

Subject: Dominion Diamond Ekati Corporation – Jay Project, Second round of information requests

Fisheries and Oceans Canada – Fisheries Protection Program (DFO-FPP) has reviewed the intervention provided by the Mackenzie Valley Environmental Impact Review Board (MVEIRB) on June 5, 2015 during the second round of information requests (IR) for Dominion Diamond Ekati Corporation's (the Proponent) Jay project. The intervention addressed specifically to DFO contained the following questions:

1. MVEIRB IR#12: "Does the construction of a temporary diversion channel built exclusively for migration purposes meet the requirements of a DFO offsetting and/or compensation plan? If, at this stage, DFO is unable to make a determination on this question, what additional information would allow them to make their determination?"

As mentioned at the technical meeting DFO-FPP can't confirm whether or not designing the diversion channel exclusively for fish migration meets the requirements of a DFO-FPP offsetting plan at this time. More information will be required during the regulatory phase in order to make this determination. For your information, the proponent received a DFO- licence to fish for scientific purposes on May 14, 2015 to carry out additional baseline studies in Streams Ac35, B0 and B1 from May 18, 2015 to September 30, 2015. These baseline studies should provide more information on the species of fish that utilize these waterbodies, and which stages of their life cycle are carried out in these waterbodies. Once we have reviewed this information DFO-FPP will be able to confirm whether or not the



diversion channel as currently designed meets our requirements or if it will need to be redesigned.

2. MVEIRB IR #16: "What type of confidence in population estimates does DFO require in order to adequately develop an Offsetting Plan with Dominion? Additionally, with what level of conservatism will DFO approach this plan's development, given the high level of uncertainty involved?"

It is acknowledged that there is uncertainty associated with fish population estimates provided during the Environmental Assessment Phase. The population estimates will be confirmed during the fish-out program. Generally, the proponent provides an estimate of the fish population in the offsetting plan; if based on the data from the fish-out program it is determined that the proponent underestimated the population, they have to offset for the actual loss of fish and not the estimated amount. During the Regulatory Phase, the *Fisheries Act* authorization will specify that the fish population is to be confirmed during the fish-out.

If you have any questions, please contact Véronique D'Amours-Gauthier at 867-669-4912, by fax at 867-669-4940, or by email at veronique.damours-gauthier@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with DFO-FPP.

Yours sincerely,

Georgina Williston
A/Senior Fisheries Protection Biologist
Fisheries Protection Program

cc:

Véronique D'Amours-Gauthier, DFO-FPP

Dominion Diamond Ekati Corporation – Jay Project (EA1314-01 [2013])
Government of Canada
Second Information Request Responses

Information requests directed to Fisheries and Oceans Canada:

MVEIRB IR#12 – Response included in attached letter

MVEIRB IR#16 – Response included in attached letter

Information requests directed to all parties:

MVEIRB IR#11 – Environment Canada, Transport Canada and Fisheries and Oceans Canada have provided responses to this information request in the first round.

MVEIRB IR#31 – This information request is outside the mandates of Environment Canada, Transport Canada and Fisheries and Oceans Canada. As such, these parties will not be providing a response to this request.