

Mackenzie Valley
Review Board



Interim Draft Work Plan

EA1314-01

Jay-Cardinal Project

Dominion Diamond Ekati Corporation

February 21, 2014

Mackenzie Valley Review Board

200 Scotia Centre

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1. Introduction

This is the interim draft work plan for the environmental assessment (EA) of the Jay-Cardinal Project, or the Project. The developer is Dominion Diamond Ekati Corporation (DDEC).

This EA is subject to the requirements of Part 5 of the *Mackenzie Valley Resource Management Act* (MVRMA). The Review Board has published Environmental Impact Assessment Guidelines and Rules of Procedure which describe the environmental assessment process and rules for its proceedings in detail. They are located on the Review Board website:

http://www.reviewboard.ca/process_information/guidance_documentation/guidelines.php

This interim draft work plan describes roles and responsibilities of the developer, parties and the Review Board. The interim draft work plan also summarizes project phases and provides an estimated schedule for the environmental assessment of Jay-Cardinal Project. When the developer submits its Developer's Assessment Report a draft work plan with detailed dates will be issued for comment from parties.

2. Roles and responsibilities

This section outlines the roles and responsibilities of the Review Board and its staff, as well as other parties involved in this EA.

2.1. Review Board and Review Board staff

The Review Board conducts an EA according to Part 5 of the MVRMA.

Review Board staff are the main contacts for the developer, parties and the public on behalf of the Board. The primary contact on behalf of the Review Board is:

Chuck Hubert
Senior Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
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While the Review Board has a coordinating role in the EA, the developer and parties may meet to discuss issues outside the formal process steps. The Review Board encourages meetings and discussions between the developer and parties throughout the EA.

2.2. Developer

The developer is Dominion Diamond Ekati Corporation. During this environmental assessment, the developer has a responsibility to respond in an adequate and timely manner to directions and requests issued by the Review Board. Such requests include a Developer's Assessment Report that adequately reflects the requirements of the Terms of Reference, responses to information requests and other submissions as well as participation in technical meetings and a public hearing. The developer must meet deadlines set by the Review Board.

The developer may present additional information at any time prior to closure of the public record to the Review Board beyond what specific requests arise during the EA. The Review Board encourages the developer to continue consulting all potentially-impacted communities and organizations throughout the EA. The Review Board requests that the developer provide written records of consultations and other meetings for the public registry.

2.3. Party status

Party status allows organizations and individuals the ability to submit information requests, participate in technical meetings, issue technical reports, make presentations and ask questions of other parties at hearings. The developer is automatically a party to this environmental assessment. The Review Board issues party status on a case-by-case basis.

Parties are expected to participate in the EA process steps as described in this work plan and as directed by the Review Board. Submissions from parties must meet deadlines set by the Review Board.

2.4. The public and other organizations

The public and organizations that do not have party status may still participate in this EA by submitting comments to the Review Board at any time. Organizations and the public may also address the Review Board during public hearings at designated times.

2.5. Technical advisors to the Review Board

In addition to the expertise available from parties, the Review Board may also choose to hire technical advisors to provide technical expertise on specific issues. The Review Board will place notice on the public registry of any technical advisors it engages.

3. Work Plan phases

The phases in this EA include the start-up, scoping and Terms of Reference, analytical, hearing and decision phases. They are briefly described below.

3.1. Start-up phase

The Review Board began the EA by notifying the public and its distribution list of the referral of the project to EA and opened a public registry. All documents related to this EA are accessible on the public registry at www.reviewboard.ca.

The Review Board asked that interested organizations and individuals apply for official party status to the EA. On February 21, 2014, The Review Board granted party status to the following organizations:

- Deninu Kue Fist Nation
- Diavik Diamond Mines Inc.
- Environment Canada
- Fisheries and Oceans Canada
- Fort Resolution Metis Council
- Government of the Northwest Territories

- Independent Environmental Monitoring Agency
- Lutsel K'e Dene First Nation
- North Slave Metis Alliance
- Tlicho Government
- Transport Canada
- Yellowknives Dene First Nation

3.2. Scoping and Terms of Reference phase

Dominion Diamonds conducted preliminary issues scoping work prior to the EA referral and submitted its own draft Terms of Reference as an appendix to its Project Description. Comments and responses on the developer's draft Terms of Reference took place from December 2013 through January 3, 2014.

Review Board staff held a technical issues scoping meeting in Yellowknife on January 8, 2014 in addition to community issues scoping meetings in Yellowknife, Behchoko and Lutsel k'e on January 7, 14 and 16, 2014 respectively. The community and technical issues scoping meetings were held in order to help the Review Board identify what issues people in the communities most affected by the project and other organizations felt were important and to also prioritize those issues.

The Review Board then prepared its own draft Terms of Reference based on the developer's preliminary draft submission, information from community and technical scoping meetings and standard EA practice. The Review Board sent its draft Terms of Reference to the distribution list for comment on January 24, 2014 and published its final Terms of Reference on February 21, 2014.

3.3. Analytical phase

The purpose of the analytical phase is to collect information required for the Review Board to make a determination on whether the project is likely to have significant adverse impacts on the environment including people. This phase includes the following steps:

Developer's Assessment Report: The developer submits its Developer's Assessment Report (DAR) to the Review Board according to the requirements of the Terms of Reference.

Adequacy Review: The Review Board does an adequacy review of the DAR to ensure that the developer has adequately responded to the requirements of the Terms of Reference. If the DAR does not adequately address the requirements of the Terms of Reference, the Review Board will issue a deficiency statement identifying those areas in which the developer has not provided adequate information. The developer is required to submit information to the Review Board to fill the information gaps identified in the deficiency statement. When the DAR is found to be in conformity with the Terms of Reference, the Review Board will instruct parties that review of the DAR can begin.

Information requests and responses: Information requests provide an opportunity for parties to seek additional information or clarification on specific and focused aspects of the DAR in order to better understand impacts from the proposed development. Responses to the information requests are required unless rationale is provided on why a response cannot be submitted.

Party status is required in order to submit Information Requests. Guidance and examples on the submission of information requests can be found in Appendix F of the *Environmental Impact Assessment Guidelines 2004*, available on the Review Board's website.

Information Requests need to be directly relevant to the scope of the environmental assessment and must add value to the assessment and determination of impacts from the project on the biophysical, socio-economic and cultural environment in the project study area(s). The Review Board will provide direction on information request procedures.

Informal meetings: In order to improve process efficiencies and reduce the number of formal information requests, the Review Board encourages the developer and parties to discuss issues at any time during the EA through informal meetings. A summary of discussions between parties and the developer at these meetings should be recorded and submitted in writing to the Board for the public registry. A template on how to complete a meeting report can be found on the Review Board website.

http://www.reviewboard.ca/registry/forms_and_templates.php

Technical meeting: The Review Board may choose to hold technical meetings that allow for in-person question-and-answer sessions between parties and the developer in a facilitated setting. Board members are not present. Prior to a technical meeting, parties may submit questions to the developer to allow for informed discussion during the meeting. Review Board staff record the meeting and any of the developer's commitments. The Review Board either records verbatim transcripts or prepares meeting notes that identifies main topics of discussion, resolution of issues and commitments. Following the meeting, correspondence to clarify issues and commitments may be required.

Technical reports from parties: Parties submit technical reports prior to public hearings. Technical reports from parties clearly state the parties' conclusions, recommendations and supporting rationales. The developer is welcome to provide responses to technical reports prior to the public hearing, including any proposed amendments, additions or refinements to the development description, its own prediction of impacts, or mitigation commitments. The Review Board will provide a template and format for preparing a technical report.

3.4. Hearing phase

The Review Board may choose to hold a hearing or hearings to address issues that remain outstanding and allow for parties and the public to speak to the Review Board directly. The Board will provide public notice a minimum of 30 business days in advance of the hearing. Hearings offer an opportunity for the developer, parties and the public to directly address the Review Board with evidence regarding the potential impacts of the proposed project. Parties may provide formal presentations at hearings. All parties and the Review Board have the opportunity to question the developer and other parties at hearings through the Review Board Chair. At the hearing, the Review Board may identify undertakings that parties or the developer commit to along with submission deadlines for closing statements from parties and the developer. Specifics on hearing format are set out in a hearing directive prior to the hearings.

3.5. Decision phase

Following the hearing phase, the Review Board closes the public record for the environmental assessment and begins final deliberations, culminating in a *Report of Environmental Assessment and Reasons for Decision*. If, during deliberations, the Review

Board requires clarification of evidence on the public record it may issue “requests for clarification” without reopening the public record. Unlike Information Requests, a “request for clarification” does not seek new information or evidence but rather a clarification of evidence already on the public record.

The Review Board’s decision will include a single recommendation from among the options available to it under subsection 128(1) of the *MVRMA*, and may also require mitigation measures be put in place in order for the development to proceed. The Review Board’s decision document may also identify non-binding suggestions for the developer or other responsible groups to better protect the environment. The Review Board will provide the Minister of Indian and Northern Affairs Canada (the Federal Minister) with its *Report of Environmental Assessment* as per subsection 128(2) of the *MVRMA*

4. Estimated schedule

This section provides an estimate of the date and duration of the phases in the environmental assessment of the Jay-Cardinal Project.

Process steps Completed as of February 21, 2014

| | |
|--|-----------------------------|
| Referral by AANDC to environmental assessment | Nov 21, 2013 |
| Comments and responses on developer's draft Terms of Reference | Dec 11, 2013 to Jan 3, 2014 |
| Community scoping meetings in Yellowknife, Behchoko and Lutsel k'e Technical scoping meeting in Yellowknife | Jan 7-16, 2014 |
| Review Board draft Terms of Reference issued | Jan 24, 2014 |
| Comments and responses on draft Terms of Reference | Feb 10-17, 2014 |
| Final Terms of Reference and interim draft Work Plan issued | Feb 21, 2014 |

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| Process step | Cumulative Board process time (months) | Due/completion date | Total time (months) |
|--|---|----------------------------|--------------------------------|
| Analytical phase | | | |
| Submission of Developer's Assessment Report | | Jun 2014 | 7 |
| Adequacy review of the DAR (and deficiency statement if required ¹) | 4 | Jul 2014 | 8 |
| Developer's response | | Aug 2014 | 9 |
| Board's review of deficiency response (if required) | 4.5 | Aug 2014 | 9 |
| Information requests round one, preparation by Board and parties | 5.5 | Sept 2014 | 10 |
| Information request responses | | Oct 2014 | 11 |
| Technical sessions | 6.5 | Nov 2015 | 12 |
| Information requests round two, preparation by Board and parties (if required) | 7.5 | Dec 2014 | 13 |
| Technical reports (parties) | 8.5 | Jan 2014 | 14 |
| Hearing Phase | | | |
| Pre-hearing conference | 9 | Feb 2015 | 15 |
| Public hearing preparation (Board, parties) | 9.5 | Mar 2015 | 16 |
| Hearings | 10 | Mar 2015 | 16 |

| | | | |
|--|----|----------|----|
| Hearing undertakings (developer, parties) | 11 | Apr 2015 | 17 |
| Closure of public record | 11 | Apr 2015 | 17 |
| Decision phase | | | |
| Evidence analysis (Board) | 12 | May 2015 | 18 |
| Board deliberation and initial report drafting | 13 | Jun 2015 | 19 |
| Board, legal and editorial reviews | 14 | Jul 2015 | 20 |
| Decision and Report of EA issued | 14 | Jul 2015 | 20 |
| Ministers Response | | | |

¹ Deficiency statement not required if Developer's Assessment Report adequately answers requirements of the Terms of Reference