

OCTOBER 23, 2015



CLOSING COMMENTS

Dominion Diamond Jay Project Environmental Assessment

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Summary

North Slave Metis Alliance (“NSMA”) provides the following final recommendations to the Review Board regarding the Dominion Diamond Jay Project. NSMA would like to thank the Review Board, the Proponent, and all the intervenors for their insights. We believe that this Environmental Assessment process has made the Project better, with greater benefits to the communities and lesser impacts to the environment.

The following is not a complete list of NSMA recommendations. There are a number of recommendations that IEMA made that NSMA endorses. Those are not included in this list.

1. NSMA recommends establishment of an independent panel of researchers or an advisory board, who will periodically assess the socio-economic impacts and programs in the IBA communities.
2. Dominion Diamond will track feedback received from Exit Interviews completed by exiting female employees to identify barriers to successful retention. If such barriers are identified, Dominion Diamond is committed to investigating what can be done to address the issue. Mechanisms to address barriers will be developed as part of Dominion Diamond’s commitment to ongoing improvement, and will be specific to the issue in question. DDEC will support and seek input from the Status of Women Council of NWT in the design of the “mechanisms to address barriers” and the design of the Exit Interviews.
3. Where employment barriers for women are seen as related specifically to social issues, Dominion Diamond is committed to raising these issues with the Government of the Northwest Territories to determine how the two parties can work together to improve or remove the barrier that is being experienced. Dominion Diamond and GNWT will invite the Status of Women Council of NWT to the discussion, and provide support as necessary so the Council can provide meaningful input towards the removal of the barrier that is being experienced by women.
4. Dominion Diamond evaluates its programs aimed at improving the training and recruitment of women in the North, and will continue to adapt programs in response to feedback from female employees, and community members, interested in a career in mining. DDEC will also re-engage and consult with Status of Women Council of NWT to identify and address relevant concerns related to women.
5. DDEC maintain the reinstated Workplace Learning Program and funding of adult educator positions, with the goal of improving the education literacy of employees, and that the continued operation of the program becomes a condition of the Report of Environmental Assessment.

6. NSMA recommends the establishment of an Expert Panel on Traditional Knowledge research program
7. DDEC will commit, at a minimum, \$200,000 of direct financial support annually from the start of construction to mine closure, and \$100,000 of direct financial support thereafter until all adverse effects on the Bathurst caribou herd from mine development have been reversed
8. DDEC will commit to a Caribou Recovery Security deposit that is equivalent to 10% of the existing Ekati Mine security deposit required under the land use permit and water license
9. Establish Caribou Expert Panel
10. Caribou Expert Panel evaluate the Russel and Golder caribou models to determine which models to be used for the offset determination
11. NSMA recommends that the research fund committed by DDEC to be set up to support independent research initiatives. The research fund may be managed by a collaborative board whose mandate it is to develop and implement a long term Bathurst caribou management plan. ENR and impacted parties including NSMA will be represented in the board, and will collaboratively manage the fund towards research that will help determine the magnitude and spatial and temporal extents of the key factors limiting the Bathurst herd
12. The Project shall source 10% of its energy from renewable sources, if the conceptual study finds it economically feasible
13. DDEC shall develop a long-term GHG reduction strategy, with a target to reduce or offset GHG emissions from the Project by 80% within the operational life of the Project
14. NSMA recommends the Review Board to provide a measure requiring an independent expert review of the hydrological modeling of the establishment of meromictic pit lakes in Misery and Jay pits.
15. The GNWT will commit to assume responsibility for the monitoring and management of meromictic pit lakes at Ekati site, after the liabilities of Dominion Diamond or any other subsequent owners of the Ekati mine are relinquished. The government will ensure, through appropriate levels of monitoring and management, the water quality of Lac du Sauvage and Lac de Gras will be suitable for traditional use by Aboriginal peoples

Socio-Economics

NSMA appreciates the commitments DDEC has made respecting socio-economic aspects of the Project effects on communities.

Among other commitments, the acknowledgement from the Developer that “adverse health and wellbeing trends exist, are significant, and may continue into the future” (PR#681 P33) is a commendable step that the GNWT has not yet taken (PR#639 P193). Combined with the commitment towards greater transparency (PR#681 P34), it is NSMA’s view that a strong base is set to finally work towards reversing the trend to positive on the communities’ health and well-being. We only hope that GNWT will come on board with this effort by recognizing the significance of the problem.

The problem communities face dwarfs us. It has been over nineteen years since the original Report of the NWT Diamonds Project Environmental Assessment Panel was published by Canadian Environmental Assessment Agency (CEAA 1996). Nineteen years ago the social problems in the communities were already described as “moderate to severe” (CEAA 1996 P54). In this report we also find that the communities predicted the same social, health, economic, and cultural hardships that people experience today. For example:

“[R]epresentatives of women’s organizations criticized the lack of gender-specific employment analysis and noted obstacles to full participation by women... The

Proponent offered to work with women’s groups to eliminate barriers to employment of women at the site.”

“[F]ear was expressed that the difficulties of coping with fortnightly absences of family members would increase stress in families already dealing with cultural disruption.”

“The Project...must avoid any damage to the close relationship that Aboriginal people have with the land, and must not limit other available options.”

“Many spoke of their concerns that the Project would interfere with people’s abilities to obtain caribou”

These issues they predicted, unfortunately, materialized, and are worsening.

While it has become reasonably evident through the Jay EA process, that the Proponent has made attempts to address some of these issues, the urgency and severity of the situation persists as long as there are significant adverse trends in the communities.

It is time, after nineteen years of negative impacts, to fundamentally review and renew the Developer and GNWT’s approach to the problem people face in the impacted communities.

Understanding Social Impacts of Diamond Economy

Despite a nearly 50% increase in average income between 1997 and 2011, majority of health and well-being indicators that are not income or employment related have either stagnated or worsened in all communities (Communities and Diamond 2014).

It has been repeated many times that causal linkages between effects and specific projects cannot be made. This argument advances the position that, since there are no established causal linkages, no significance determinations can be made, and therefore no actions by the Review Board can be taken.

Meanwhile the rates of STI, crimes, single parent families, and substance abuse continue to climb in the impacted communities.

It was made clear during the GNWT-NSMA meeting (PR#596) that the SEA was not intended to answer the question of causality, especially when sample sizes were small. Under the current SEA regime, people will have to wait until the negative trends are statistically significantly correlated to the specific project, before they can expect even an acknowledgement from the GNWT. In a community of a few hundred residents, that could be a catastrophic threshold.

It was also made clear that the GNWT was not willing to undertake extra studies to investigate the causal linkages between observed indicators (PR#596).

As such, it is NSMA's view that the SEA is an inadequate measure to mitigate

real and potential impacts from the Project.

Recommendation 1: Research Panel

To overcome the limitations of the SEA, NSMA recommends **establishment of an independent panel of researchers or an advisory board, who will periodically assess the socio-economic impacts and programs in the IBA communities.**

NSMA notes that in the original EA in 1996, Metis Nation "proposed an agency to monitor socio-economic effects of the Project" (CEAA 1996 P57). The Review Panel decided on the current SEA model, provided "any negative effects that can reasonably be related to the Project are identified and that action is taken to deal with problems." (P58)

As we explained, the current SEA does not provision actions, nor does it have necessary and reasonable provisions to attribute impacts to the Project. Without these efforts, the SEA cannot "reasonably" relate any impacts to the Project activities.

Another option that was proposed at that time was to include socio-economic monitoring in the Independent Environmental Monitoring Agency's mandate (P57).

NSMA would be pleased to see either form of independent oversight, provided they are adequately funded for the duties.

Recommendation 2: Consultation with Women's Groups

Women in diamond mine economy are structurally disadvantaged. They have been for nearly 20 years.

Women comprised 15% of workforce at Ekati in 2013 (DAR-NSMA-IR2-01). Women also typically work in less paid, less-skilled occupations. This is despite the long list of programs and efforts DDEC provided in the past (DAR-NSMA-IR-27).

Among potential effects of disempowerment of women is that, it is generally understood that likelihood of violence against women tends to increase in households where women earn less than men (McCloskey 1996).

As quoted earlier, in the original 1996 Report of EA by CEAA, women's organizations made major contributions to the assessments (e.g. CEAA 1996 P55, 56, and P64). In particular, Status of Women Council of NWT ("the Council") has continued to advocate for women's rights in NWT.

NSMA recently met and discussed with the Council, and agreed that they are an appropriate organization that can represent the views and interests of women, both Aboriginal and non-Aboriginal, in the context of socio-economic impacts of the Project. Their letter of support is attached as Annex A.

In light of the commitments already made by the Developer, NSMA recommends the following underlined modifications to the Developer's commitments regarding women (PR#681):

- I. **Dominion Diamond will track feedback received from Exit**

Interviews completed by exiting female employees to identify barriers to successful retention. If such barriers are identified, Dominion Diamond is committed to investigating what can be done to address the issue. Mechanisms to address barriers will be developed as part of Dominion Diamond's commitment to ongoing improvement, and will be specific to the issue in question. DDEC will support and seek input from the Status of Women Council of NWT in the design of the "mechanisms to address barriers" and the design of the Exit Interviews.

- II. **Where employment barriers for women are seen as related specifically to social issues, Dominion Diamond is committed to raising these issues with the Government of the Northwest Territories to determine how the two parties can work together to improve or remove the barrier that is being experienced. Dominion Diamond and GNWT will invite the Status of Women Council of NWT to the discussion, and provide support as necessary so the Council can provide meaningful input towards the removal of the barrier that is being experienced by women.**

- III. **In addition, Dominion Diamond evaluates its programs aimed at improving the training and recruitment of women in the North, and will continue to adapt programs in response to feedback from female employees, and community members, interested in a career in mining. DDEC will**

also re-engage and consult with Status of Women Council of NWT to identify and address relevant concerns related to women.

Recommendation 3: Education Program

NSMA also wishes to see the following programs continue or come back to the worksite and communities:

DDEC maintain the reinstated Workplace Learning Program and funding of adult educator positions, with the goal of improving the education literacy of employees, and that the continued operation of the program becomes a condition of the Report of Environmental Assessment.

Caribou

The North Slave Metis Alliance is of the view that there will be residual effects from the Project, which are expected to contribute negatively to the cumulative effects on barren-ground caribou energetics, calf production, and survival.

We recognize that there will be a new Ekati Mine Caribou Road Mitigation Plan, which advances existing Jay-specific mitigation measures to further reduce risks to caribou.

A key problem with the scope of the EA is that measures are all directly placed within the context of the mine footprint, while we are dealing with a migratory species with cumulative effects.

Whereas NSMA acknowledges and commends that Dominion Diamond has committed to prepare a Caribou Mitigation Plan (Plan) within one year of the acceptance of the Report of Environmental Assessment; and

Whereas NSMA suggested, in the NSMA Technical Report and during the Public Hearing, for the establishment of an Expert Panel on Traditional Knowledge research program;

NSMA recommends the Review Board the following additions to the DDEC's proposed Caribou Mitigation Plan.

Caribou Monitoring

DDEC to modify this section as following:

DDEC to convene, in collaboration with IBA parties and ENR, an Expert Panel on Barren-ground Caribou, which will, among other things, advise on-the-ground caribou monitoring by the impacted community members. The Expert TK Panel will also participate in this program.

In each of spring migration, calving/post-calving period, fall migration, and wintering; impacted community members will conduct on-the-ground monitoring of caribou movement patterns, cow/calf ratios, mortality rates, body condition, insect harassment, diet, and other indicators of caribou herd viability. The Expert TK Expert Panel and Caribou Expert Panel will support the program design and analysis.

The TK Monitoring program will be designed and implemented primarily by the impacted communities.

Outcome of the monitoring and analysis will be reported annually to the communities and DDEC. Subject to confidentiality of TK, the report will be made public. Reporting requirements and structure will be designed by the impacted communities.

To implement above, DDEC will commit, at a minimum, \$200,000 of direct financial support annually from the start of construction to mine closure, and \$100,000 of direct financial support thereafter until all adverse effects on the Bathurst caribou herd from mine development have been reversed, as determined by an expert panel of reviewers, for the development and

implementation of a TK Caribou Monitoring Strategy.

Project Mitigation

In additions to what has already been committed by DDEC (PR#681), DDEC will develop a clear mechanism for temporary (seasonal or when caribou are in the vicinity of the mine) halting of mine work and/or introducing additional mitigations and offsets, should the Bathurst caribou herd population continue to decline.

NSMA also endorses the following suggestions from IEMA:

- Selection of the Jay haul road route that minimizes disturbance to high quality caribou habitat (PR#305 DAR-IEMA-IR-28 and PR#356 Anne Gunn's proposed routing);
- Additional mitigation to reduce the effect of haul truck and other traffic on caribou (e.g., a dust management best practices document with adaptive management triggers for additional dust suppression; more precautionary traffic management to reduce sensory disturbance such as greater use of convoys and scheduling breaks in traffic); develop rules for blasting to reduce sensory disturbance;
- Investigate and implement an esker crossing that involves selection of less critical habitat, one-way traffic, buried power lines, remote sensory devices, and other innovative approaches; and
- Fund a panel of experts (beyond those involved in the current assessment and review) to help

better design and monitor the results of the Jay Project infrastructure, including the crossing of the Misery esker system.

- Consider delaying or phasing in other activities in the claims block including the Sable Project, or scheduling winter-only operations at the Sable and/or Jay Projects.

Zone of Influence Research

In additions to the commitments already made, NSMA recommends the following modification:

Bathurst Herd Research: NSMA recommends that the research fund committed by DDEC to be set up to support independent research initiatives. The research fund may be managed by a collaborative board whose mandate it is to develop and implement a long term Bathurst caribou management plan. ENR and impacted parties including NSMA will be represented in the board, and will collaboratively manage the fund towards research that will help determine the magnitude and spatial and temporal extents of the key factors limiting the Bathurst herd. The fund should not be used for the general operation of the board.

Researchers with leveraged funding will be prioritized, but is not a necessary condition for a successful application. Applications will be assessed based on the merit of the research.

Dust

No additions or modifications

Application of Research Outcome

In order to ensure that research and monitoring commitment made by DDEC will be useful for the recovery of Caribou in the future, DDEC will commit to a Caribou Recovery Security deposit that is equivalent to 10% of the existing Ekati Mine security deposit required under the land use permit and water licence.

This fund will be used either to:

- Offset/mitigate the negative impacts DDEC is having on barren ground caribou that is later recognized as outcome of future research and monitoring; or
- To compensate for the impact on Aboriginal rights to harvest incurred by activities of DDEC, if later recognized through research and monitoring.

Progressive Reclamation of Existing Ekati Mine

In additions, the Expert TK Panel should be involved in the designing and planning process of the Progressive Reclamation.

Offset Determination and Reporting

In additions, NSMA comments that:

DDEC has vocally and consistently adopted the most conservative tools to estimate the impact of the Project. NSMA supports this approach and suggests the same should apply to the proposed offsetting programs.

There is a reason to believe that the updated Russel Model may be a more conservative and informed

approach to estimating the project impact on caribou than the Golder model, which was used for the purpose of the EA to date.

NSMA recommends that Caribou Expert Panel evaluate the two models to determine which models to be used for the offset determination, based on the conservatism of the models.

The goal of the Caribou Mitigation Plan should be to achieve net-positive impacts to Bathurst caribou herd.

Air Quality

NSMA will maintain our endorsement of IEMA's recommendations regarding air quality. In particular, NSMA is concerned to learn that the current standard recommended by the GNWT and adopted by DDEC:

"would not satisfy requirements of those Canadian jurisdictions that currently regulate or control incinerator emission and CEM requirements."

It is our view that the recommendations by IEMA is consistent with the requirements adopted by other jurisdiction, and is fair and protective. Our special concerns extend also to dust monitoring and management, as it is recognized as a contributor to cumulative effects on caribou. More specific and timely fugitive dust management plan with triggers should be adopted by DDEC to reduce cumulative impacts on the Bathurst caribou. NSMA endorses IEMA's recommendations on this regard.

Climate Change

During the Public Hearing Day 1, we heard from Mr. Sparling (GNWT ENR) that "the cost of fuel in our communities is so high that we in essence already have a carbon tax" (PR#639 P229). What in essence we learned was that the GNWT is not going to have any enforceable mechanism to regulate the emissions of greenhouse gases. GNWT did not even ask the Developer to adhere

to the guideline during the Technical Session in April, 2015. We also heard from DDEC that they are unwilling to meet the GNWT guideline of adopting 10% renewable energy in every new project.

NSMA would like to remind the Review Board that this conversation took place in the context where the International Panel on Climate Change recommends, urgently, to reduce GHG emissions by 80% to avoid the catastrophic change in climate. While NSMA appreciates DDEC's commitment to conduct a conceptual study of renewable energy sources, we stress that the looming catastrophe is not conceptual, but is real. Even though the NWT Guideline is vastly inadequate to reverse the catastrophic trends in climate, it is nonetheless a step. In the absence of any other existing or foreseeable tools to reduce GHG emissions by the industry, NSMA strongly recommends the Review Board to issue the following two Measures:

"The Project shall source 10% of its energy from renewable sources, if the conceptual study finds it economically feasible"; and

"DDEC shall develop a long-term GHG reduction strategy, with a target to reduce or offset GHG emissions from the Project by 80% within the operational life of the Project."

Water and Fish

As stated in the NSMA Technical Report (PR#522), NSMA generally relies on IEMA for technical analysis and intervention. We continue to endorse IEMA's updated conclusions and recommendations on Water and Fish as submitted in PR#682. However, in additions to IEMA's recommendations, NSMA is introducing a new measure in response to the arguments heard since the Public Hearing.

Recommendation: Expert Review of Meromixis Modelling

NSMA has repeatedly stated that, due to lack of staff and financial capacity, it is unable to provide adequate technical reviews pertinent to the Project. NSMA therefore relies on the expertise provided by organizations such as IEMA, but also the GNWT, Environmental Canada, Department of Fisheries and Oceans, and Department of Transport Canada. During the Public Hearing, NSMA learned that Environment Canada did not have the expertise to conduct its own assessment, nor did they acquire an external expertise. IEMA also did not have internal expertise, and was compelled to use its limited resources for acquiring a caribou expert.

This leaves the GNWT ENR as the only third party that conducted technical review of the assumptions and modeling behind the establishment of meromictic condition in pit lakes.

Without any intention of insulting the expertise of the ENR, NSMA is nonetheless concerned that adequate level of scrutiny may not have been given to the model that

the Proponent used, to predict the hydrological conditions of pit lakes during and after the closure. For this reason, **NSMA recommends the Review Board to provide a measure requiring an independent expert review of the hydrological modeling of the establishment of meromictic pit lakes in Misery and Jay pits.**

Recommendation: Water Quality after the Closure

NSMA would like to emphasize that it is our members' wish to see the water quality of Lac de Gras and Lac du Sauvage return to the pre-development condition as soon as the current technology allows. By the time Jay Project closes, it is going to be well over 30 years that Aboriginal peoples will have been denied access to the Lac de Gras area for traditional use.

NSMA also understands that the Jay pit will remain filled with contaminated water for eternity in Lac du Sauvage, with the hope that the contaminated water will forever segregated from the pristine water that the Metis people relied on. While it is concerning to say the least, the GNWT assured, during the Public Hearing, that:

"[T]here's a number of sites that government is undertaking where the liability has fell to government, either the federal government or territorial government. And so, ultimately, there will be someone responsible, should there be issues at a site that need to be addressed" (PR#663 P233-234)

Therefore, as a measure of caution, NSMA asks the Review Board to add the following to the Commitment Table (PR#681):

“The GNWT will assume responsibility for the monitoring and management of meromictic pit lakes at Ekati site, after the liabilities of Dominion Diamond or any other

subsequent owners of the Ekati mine are relinquished. The government will ensure, through appropriate levels of monitoring and management, the water quality of Lac du Sauvage and Lac de Gras will be suitable for traditional use by Aboriginal peoples.”

Annex A: Status of Women Council of the NWT



Status of Women Council of the N.W.T.

P.O. Box 1320, Yellowknife, NWT X1A 2L9

October 23, 2015

JoAnne Deneron
Chairperson
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre P.O. Box 938 Yellowknife, NT
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Dear Mme. Chair Deneron,

RE: Status of Women Council of NWT Support for North Slave Metis Alliance's Closing Comments Regarding Status of Women

The Status of Women Council of the NWT ("the Council") met with a representative of the North Slave Metis Alliance ("NSMA") on October 23, 2015 to discuss matters pertinent to the status of women in the communities impacted by the Dominion Diamond's Jay Project.

The Council was established under the NWT Status of Women Council Act, and our mandate includes advising the GNWT, research, advocacy on behalf of women, and supporting other women's groups.

The Council understands that NSMA makes the following recommendations to the Review Board in their Closing Comments:

- An Independent Expert Panel or Board to be established to assess the socio-economic impacts of the Jay Project on the impacted communities;
- Dominion Diamond and GNWT will consult and engage with the Council on matters pertinent to the status of women and the Project; and
- Dominion Diamond and/or GNWT provide appropriate support for the Council to be meaningfully engaged in the above process.

The Council supports these recommendations.

The Council was an active intervener during the original Report of Environmental Assessment of the NWT Diamonds Project in 1996. The Council was unable to intervene during the Jay Project Environmental Assessment due to capacity constraints. It is our understanding that the concerns the Council brought forward during the original assessment still persists and/ are worsening.

We believe that the above recommendations, if accepted by the Review Board, will help advance our effort in bringing equality and security to the women in the NWT.

Sincerely

Lorraine Phaneuf, Executive Director