



JAY PROJECT

**NORTH SLAVE MÉTIS ALLIANCE**

**TECHNICAL REPORT RESPONSES**

August 2015

## Table of Contents

<b>1</b>	<b>INTRODUCTION .....</b>	<b>1-1</b>
<b>2</b>	<b>RECOMMENDATION AND RESPONSE .....</b>	<b>2-1</b>
2.1	Incorporation of Traditional Knowledge .....	2-1
2.1.1	Measure 1 .....	2-1
2.1.2	Response to Measure 1 .....	2-1
2.1.3	Measure 2 .....	2-2
2.1.4	Response to Measure 2 .....	2-2
2.2	Measure 3 .....	2-2
2.3	Response to Measure 3 .....	2-2
2.4	Ekati Socio-Economic Agreement .....	2-2
2.4.1	Measure 4 .....	2-2
2.4.2	Response to Measure 4 .....	2-3
2.5	Resilience and Uncertainty .....	2-3
2.5.1	Measure 5 .....	2-3
2.5.2	Response to Measure 5 .....	2-3
2.5.3	Measure 6 .....	2-3
2.5.4	Response to Measure 6 .....	2-3
2.6	Greenhouse Gas Emissions .....	2-3
2.6.1	Measure 7 .....	2-3
2.6.2	Response to Measure 7 .....	2-3
2.6.3	Measure 8 .....	2-4
2.6.4	Response to Measure 8 .....	2-4
2.7	Cumulative Effects on Caribou .....	2-4
2.7.1	Measure 9 .....	2-4
2.7.2	Response to Measure 9 .....	2-5
2.7.3	Measure 10 .....	2-5
2.7.4	Response to Measure 10 .....	2-5
2.7.4.1	Jay Haul Road Route Selection .....	2-5
2.7.4.2	Caribou Overpass .....	2-6
2.7.4.3	Underground Power Lines and Pipes .....	2-7
2.7.4.4	Aerial Surveys for Zones of Influence .....	2-7
2.8	Air Quality Monitoring and Management .....	2-8
2.8.1	Measure 11 .....	2-8
2.8.2	Response to Measure 11 .....	2-8
2.8.3	Measure 12 .....	2-8
2.8.4	Response to Measure 12 .....	2-8



2.9 Concluding Remarks..... 2-9

2.9.1 Measure 13..... 2-9

2.9.2 Response to Measure 13..... 2-9

**3 REFERENCES ..... 3-1**

**Tables**

Table 2.8-1 Adaptive Management Response Plan Triggering Criteria..... 2-9



## Abbreviations

Abbreviation	Definition
AQEMMP	Air Quality and Emissions Monitoring and Management Plan
DAR	Developer's Assessment Report
Dominion Diamond	Dominion Diamond Ekati Corporation
EA	Environmental Assessment
Ekati Mine	Ekati Diamond Mine
ENR	Environment and Natural Resources (for GNWT)
GNWT	Government of Northwest Territories
IBA	Impact Benefit Agreement
IR	information request
LKDFN	Lutsel K'e Dene First Nation
MVEIRB	Mackenzie Valley Environmental Impact Review Board
NSMA	North Slave Métis Alliance
NGO	Non-Governmental Organization
NWT	Northwest Territories
SEA	Socio-Economic Agreement
TK	Traditional Knowledge
ZOI	zone of influence

## Units of Measure

Unit	Definition
%	percent
km	kilometre
m	metre



# **1 INTRODUCTION**

Dominion Diamond submitted a Developer's Assessment Report (DAR) to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) in November 2014. Following completion of the DAR, Dominion Diamond submitted Round 1 and Round 2 information request (IR) responses (April 7, 2015 and July 3, 2015, respectively), and attended Technical Sessions hosted by MVEIRB in Yellowknife between April 21 and 24, 2015, to address regulator and parties' questions and concerns in regard to the Jay Project (Project) and the DAR.

On July 31, 2015, North Slave Métis Alliance (NSMA) submitted their technical report to MVEIRB for the Project outlining recommendations on remaining topics of concern. This report provides responses to those recommendations outlined in the NSMA technical report (NSMA 2015), with the intent of clarifying these remaining topics as the Project moves into the MVEIRB Hearings Phase.

## **2 RECOMMENDATION AND RESPONSE**

### **2.1 Incorporation of Traditional Knowledge**

#### **2.1.1 Measure 1**

The Developer shall establish an expert panel of traditional knowledge researchers. This panel will work with the Developer and traditional knowledge holders to develop a sound traditional knowledge research protocols that will contribute to a better environmental management at Ekati Mine. Agreed upon research protocols shall be implemented prior to the submission of application for Type A Water Licence for the Jay Project.

#### **2.1.2 Response to Measure1**

In respect of the importance of Traditional Knowledge (TK) to Dominion Diamond's Impact Benefit Agreement (IBA) communities and to the Ekati Mine's environmental programs, Dominion has an experienced internal team that develops and manages TK Projects in collaboration with the Ekati Mine IBA communities. The team is led by Mr. Robert Overvold and implementation is through Ms. Ora-Naja Wah-Shee and Mr. Charles Klengenberg, all of whom are Northern Aboriginal persons. Mr. Klengenberg works specifically on TK projects in the role of Advisor-Traditional Knowledge. The Environment Department and particularly the wildlife technicians within that department also plays a key role in implementing Ekati Mine-based TK projects.

Dominion Diamond's performance record on TK projects is documented in the DAR and also described in Dominion Diamond's Response 16 to the Lutsel K'e Dene First Nation (LKDFN) Technical Report. The Dominion team collaborates on TK Projects with staff or advisors working on TK for Aboriginal governments and organizations. The TK-Holders themselves are considered experts in their field to provide guidance and input on Ekati Mine TK Projects.

Dominion Diamond often retains qualified external assistance on an as-needed basis for numerous topic areas, including TK. This may be necessary at times when additional assistance is required during busy periods, or at times when specific expertise is required that is not available internally. The use of external assistance cannot reasonably be pre-determined on a general basis; it is determined on a project-by-project basis. Dominion Diamond will continue to work in collaboration with all of the IBA communities to develop and implement effective TK projects, and will utilize external assistance when necessary to ensure the success of a TK project.

Dominion Diamond's approach to TK projects is focused on utilizing local TK Holders as leading 'experts' to provide input and direction. To this end, Dominion Diamond has previously proposed the concept of a multi-party elders panel that could provide input and guidance to TK projects at the Ekati Mine including the Jay Project. Although this initiative was not pursued by the Aboriginal organizations at that time, the approach of working firstly with local TK Holders themselves remains Dominion Diamond's preferred approach.

Dominion Diamond will continue to be open to discussing new ideas for TK projects or ideas on improving existing TK projects with the IBA communities. However, Dominion Diamond recommends against the MVEIRB mandating project requirements in a specific short timeframe as recommended by NSMA because this would be done with no context for TK ideas or initiatives that may be under development

and could 'force' a project before its merits and details had been adequately laid out. As described in Response 16 to the LKDFN Technical Report, in addition to Dominion Diamond's performance record and commitments, TK requirements are established and well documented in the Ekati Mine Water Licence, Environmental Agreement, and IBAs, such that the MVEIRB can rely on those instruments to ensure the continuity of TK Projects at the Ekati Mine.

### **2.1.3 Measure 2**

The Developer shall enter into a traditional knowledge sharing agreement with the Aboriginal Parties within six months of the issuance of the Report of EA. The expert panel described in Measure 1 should assist the Developer and Aboriginal Parties in this process.

### **2.1.4 Response to Measure 2**

Dominion Diamond will continue to be open to discussing new ideas for TK Projects or ideas on improving existing TK Projects with the IBA communities. However, Dominion Diamond recommends against the MVEIRB mandating TK requirements in a specific short timeframe as recommended by NSMA because this would be done with no context for TK ideas or initiatives that may be under development and could 'force' agreements before the merits and details had been adequately laid out. As described in Response 16 to the LKDFN Technical Report, in addition to Dominion Diamond's performance record and commitments, TK requirements are established and well documented in the Ekati Mine Water Licence, Environmental Agreement, and IBAs, such that the MVEIRB can rely on those instruments to ensure the continuity of TK Projects at the Ekati Mine.

## **2.2 Measure 3**

The Developer shall provide ongoing support, in kind or financial, to the aboriginal parties in order that they can manage and keep track of traditional knowledge that is relevant to the Project. This traditional knowledge will be shared with the Developer, in accordance with the sharing agreement (Measure 2), and used for environmental management at the Ekati mine.

## **2.3 Response to Measure 3**

The Developer shall provide ongoing support, in kind or financial, to the aboriginal parties in order that they can manage and keep track of TK that is relevant to the Project. This TK will be shared with the Developer, in accordance with the sharing agreement (Measure 2), and used for environmental management at the Ekati Mine.

## **2.4 Ekati Socio-Economic Agreement**

### **2.4.1 Measure 4**

The GNWT and the Developer shall hold a special Ekati Socioeconomic Agreement Implementation Meeting ("the Meeting"), to discuss and agree on whether they will fully implement the agreement, or amend the agreement. The GNWT and the Developer shall consult the impacted communities prior to the Meeting, in order to reflect their concerns in the implementation strategy or the amendment. The GNWT and the Developer shall invite the impacted aboriginal parties to the Meeting as observers. The Meeting shall be held prior to the issuance of Type A Water Licence for the Project.

## **2.4.2 Response to Measure 4**

Dominion Diamond does not agree with this recommendation. Dominion Diamond does not intend to approach the Government of Northwest Territories (GNWT) regarding an amendment of the Socio-Economic Agreement (SEA) for the Ekati Mine. Dominion Diamond remains committed to fully implementing the agreement as it exists today without amendment, recognizing that while Dominion has taken aggressive action to reach socio-economic objectives, reaching all objectives at all times will be difficult. However, Dominion Diamond is open to continued engagement with communities regarding the improvement of the transparency of discussions with the GNWT on matters pertaining to the Ekati Mine SEA, and on the reporting of SEA implementation.

Dominion Diamond has committed to working with the GNWT to share minutes from meetings regarding the SEA, as appropriate, except where proprietary or confidential information is concerned. Dominion Diamond will also discuss other ways to improve transparency with the GNWT. As Dominion Diamond is but one party to the agreement, the Company will engage the GNWT on a mutually-agreed path forward.

## **2.5 Resilience and Uncertainty**

### **2.5.1 Measure 5**

In order to mitigate significant and detrimental impacts on NSMA members' aboriginal rights, Canada shall expediently initiate the process of strength of claim assessment with the NSMA.

### **2.5.2 Response to Measure 5**

This recommendation is not directed to Dominion Diamond; as such, a response is not provided as part of this document.

### **2.5.3 Measure 6**

The responsible minister (the Minister of ENR, GNWT), shall take into considerations the unique vulnerability that NSMA experiences, when delivering his or her decision on the EA.

### **2.5.4 Response to Measure 6**

This recommendation is not directed to Dominion Diamond; as such, a response is not provided as part of this document.

## **2.6 Greenhouse Gas Emissions**

### **2.6.1 Measure 7**

The Developer shall conduct a feasibility study on renewable energy technologies, in collaboration with the Arctic Energy Alliance. The Developer shall enter into this study in a view that, technically feasible, and economically achievable alternative should be adopted and operationalized.

### **2.6.2 Response to Measure 7**

As noted in the Round 2 IR response DAR-LKDFN-IR2-05, since Dominion Diamond has taken ownership of the Ekati Mine, several programs and improvements to reduce emissions have been put in place. Dominion Diamond has established a Greenhouse Gas and Energy Management Steering



Committee comprising of energy leaders in each area of the business. The Steering Committee's mandate is to *"ensure that effective and efficient energy use remains part of the way that we do business and to ensure that we seek out opportunities to reduce our energy use and greenhouse gas emissions at Ekati"*. The Steering Committee has prepared and released a monthly summary on energy and diesel use and emissions generated for the information of staff. The Steering Committee is also responsible for reviewing and identifying projects that meet the above mandate, as well as potential alternative energy projects.

Further to the substantial investments Dominion Diamond has already made (both at Ekati, and through its minority ownership interest in Diavik Diamond Mines Inc.) in energy efficiency and alternative energy technologies, Dominion Diamond commits to conducting a concept study of additional potential investments in alternative energy including areas such as wind and solar energy. This study will be led by Dominion Diamond staff drawing on appropriate external expertise, with a summary of results to be made publicly available within one year of the MVEIRB's Report of Environmental Assessment.

### **2.6.3 Measure 8**

Alternatively to the Measure 1, every year, the Developer shall contribute 10 percent(%) of the cost-saving from its various energy use reduction campaigns towards GHG reduction initiatives in the NWT. This may be implemented through establishment of a fund or trust, co-managed by the Developer, the GNWT, aboriginal parties, and a representative from the public (e.g. an environmental NGO).

### **2.6.4 Response to Measure 8**

Dominion Diamond has committed to continue its efforts towards responsible energy reductions at the Ekati Mine. It would be counter-productive and would run counter to the GNWT's strategy and stakeholders' expressed interest in encouraging energy efficiency to penalize Dominion Diamond for its successful energy reduction initiatives.

Further, Dominion Diamond has committed to a concept study of additional potential investments in alternative energy including areas such as wind and solar energy (as described in the response to NSMA Recommendation 7 above). This study will identify potentially feasible areas of energy reduction and cost savings at the Ekati Mine. Dominion Diamond recommends against the MVEIRB mandating any single actions at this time that would prematurely anticipate what, if any, energy reduction measures may be feasible at the Ekati Mine.

## **2.7 Cumulative Effects on Caribou**

### **2.7.1 Measure 9**

NSMA believes that it is now a time to consider off-setting of the impacts already incurred – future additional impacts must naturally be off-set. Therefore, the Developer shall develop a Caribou Compensatory Off-set Plan, in collaboration with interested parties, in order to enhance the recovery of the Bathurst caribou herd. The Plan must be made public within one-year of the Report of EA, and it shall be made public. The Plan shall also be a condition of the land use permit.

## 2.7.2 Response to Measure 9

Dominion Diamond does not agree that there is a need for offsetting. As presented in the response to the Round 1 IR to DAR-MVEIRB-IR-90, adverse effects from a project should be mitigated following a standard mitigation hierarchy (IFC 2012; BBOP 2015). The hierarchy is, in order of priority:

- avoidance;
- minimization;
- reclamation; and,
- offsetting.

Effects that are avoided entirely or are minimized yield a reduction in the residual effects of a project prior to implementing reclamation or offsetting. The Project will use mitigation to avoid, minimize, and reclaim adverse effects associated with the effects pathways (see Appendix D, Dominion Diamond 2015a). The results presented in the DAR indicate that there are no significant adverse effects from the Project, and no offset mitigation has been proposed. Further, there is no regulatory requirement, guideline or precedent in the NWT for offsetting residual adverse effects to caribou and other wildlife.

Effective mitigation through avoidance, minimization, and reclamation removes the need for offsetting the effects of the Project.

## 2.7.3 Measure 10

The Developer shall put further effort into minimizing the ZOI and the mine footprint in order to absolutely ensure the minimal impact to caribou. The Developer shall consider and appropriately implement, at minimum:

- Rerouting of Jay road, as proposed by Anne Gunn (PR#356)
- Caribou over-pass for the esker crossing of the Jay road
- Underground power lines and pipes along the Jay road
- Caribou aerial surveys to aid the better understanding of ZOI, in collaborations with the industry, government, and aboriginal partners.

## 2.7.4 Response to Measure 10

### 2.7.4.1 Jay Haul Road Route Selection

Dominion Diamond has identified the Jay Road route and design that minimizes the effects on barren-ground caribou. The selected alternative (Alternative 3) meets the key criterion of minimizing the effect of the Jay Road on caribou migratory movements. In the first round of IRs, IEMA (DAR-IEMA-IR-28) requested that "DDEC should re-evaluate the Jay road options and demonstrate that from a caribou movement perspective that the route selected has the least potential to disturb caribou movement through the project."

Anne Gunn proposed Alternative 4 for the Jay Road based on the map of the density of observed caribou trails. In the response to DAR-IEMA-IR-28, it was noted that methods for identifying caribou trails from aerial photographs and later used for trail distribution mapping were not able to distinguish between historic caribou trails and trails that are actively in use. The density of caribou trails is also limited by detectability from aerial photographs and field observations.

Disturbance to caribou movement was addressed in DAR Section 12.6.2. The area of the Jay Road is recognized as a historic migration route for the Bathurst caribou herd; the main caribou migration route in the Project area runs northwest-to-southeast towards the Narrows. All alternatives for the Jay Road, including Alternative 4 (the Anne Gunn route), must run in an approximately east-west direction to connect the Misery Road to the Jay Pit. As such, all alternatives for the Jay Road cross the main caribou migration path in the area and traffic on the road will affect caribou similarly under all alternatives. Beyond traffic, the other factor contributing to the barrier effect of the Jay Road is the physical structure of the road. A detailed alternatives analysis was conducted on all Jay Road alternatives (Technical Sessions Undertaking Request Response DAR-MVEIRB-UT-02) and the selected alternative for the Jay Road crosses the least amount of the esker and requires the least amount of road to be constructed with safety berms, which present obstacles to caribou crossing. Alternative 4 also has two very significant downsides. First, it has a steep maximum grade that may not be technically feasible for large payload haul trucks to climb. Reducing haul truck payload would increase the frequency of haul truck traffic, an undesirable outcome. Second, it passes through the Misery Camp, increasing potential concerns for Health and Safety and traffic management. There is no corresponding reduction in risk to caribou that would offset these negative aspects of Alternative 4.

Dominion Diamond has indicated that the main portion of the Jay Road (i.e., roughly between King Pond Dam and the junction with the Jay North Road, a distance of 2.8 kilometres [km]) will be constructed with caribou crossings. However, no caribou crossings will be constructed where raised safety berms are required or where portions of the pipeline will require visual inspection (i.e., joints, valves, vents, and drains). Dominion Diamond will continue to engage with our IBA communities and other people affected by the Project to receive input regarding the design of the caribou crossings for the Jay Road. This input will be incorporated into the final detailed design of the Jay Road. Once roads are constructed, it is anticipated that as part of annual visits of community members to the Ekati Mine and for monitoring the effectiveness of the caribou crossings will be reviewed, and if necessary, modifications can be implemented. This procedure is currently in place for the Ekati Mine and would be continued for the Project.

The selected alternative for the Jay Road (Alternative 3) is consistent with the minimization of the barrier effect of the Jay Road to caribou movement and migration, a key element of the Caribou Road Mitigation Plan for the Jay Project (Dominion Diamond 2015b).

#### **2.7.4.2 Caribou Overpass**

Dominion Diamond does not agree that an overpass is a viable alternative to the design proposed. Wildlife crossing structures are typically coupled with continuous exclusion fencing on both sides of the highway (e.g., Banff National Park, Sawaya et al. 2013). Hence, to be effective, the construction of a wildlife overpass on the Jay Road would need to be accompanied by a continuous fence on either side of the road that would exclude caribou from crossing anywhere else. At the esker crossing, the maximum elevation difference between the road surface and top of the esker will be approximately 5 metres (m).

The height of some of the largest pieces of equipment that operate in the open pit are well in excess of this (e.g., shovels are approximately 15 m in height, loaders 8 m), and therefore, the configuration of any overpass that would allow large mining equipment to pass underneath, and provide adequate clearance, would not conform to the natural topography of the esker.

During community engagement meetings, wildlife crossing options were discussed. In general it was felt that wildlife, and in particular caribou, should be allowed to cross the road where they choose and not have access restricted. The primary mitigation for caribou movement at the esker crossing is to construct that section of the road as a continuous caribou crossing, except where pressure relief valves or other item need to be accessible for safe operations of the pipelines. This approach, in combination with the Ekati Mine traffic management practices, will allow caribou to cross the road at this location if they choose.

#### **2.7.4.3 *Underground Power Lines and Pipes***

Research suggests that effects from power lines are minor when compared to active roads (Berger et al. 2000; Reimers et al. 2000, 2007; Vistnes et al. 2008). Qualitative analysis predicted that the presence of the powerlines should result in negligible changes to caribou movements and distribution relative to increased traffic on the Misery and Jay roads; rather it is the potential adverse effects of increased traffic on Misery and Jay roads that are recognized as the focus of concern. Burying the power line would require substantive extra work to bring the (high-voltage) cables to the ground, encase them in a protective conduit, and elevate them again. The loss of ability for safety inspection on that portion of the high-voltage cables would introduce unnecessary operational and safety risks, for no or little environmental benefit. As a result, Dominion Diamond disagrees that the burying the powerline is an appropriate alternative to the current design.

Dominion Diamond has indicated that the main portion of the Jay Road (i.e., roughly between King Pond Dam and the junction with the Jay North Road, a distance of 2.8 km) will be constructed with caribou crossings including covered pipelines where possible. However, no caribou crossings will be constructed where raised safety berms are required or where portions of the pipeline will require visual inspection (i.e., joints, valves, vents, and drains). Dominion Diamond will continue to hold discussions and receive input from IBA community members regarding the design of the caribou crossings for the Jay Road. This input will be incorporated into the detailed design of the Jay Road. Once roads are constructed, it is anticipated that as part of annual visits of community members to the Ekati Mine and for wildlife monitoring the effectiveness of the caribou crossings will be reviewed, and if necessary, modifications can be implemented. This procedure is currently in place for the Ekati Mine and would be continued for the Project.

#### **2.7.4.4 *Aerial Surveys for Zones of Influence***

Following Recommendations #7 and #8 in the Technical Report of the GNWT, Dominion Diamond will collaborate with the GNWT on regional programs and actions, and work with the Zone of Influence Technical Task Group to revise the monitoring methods to address the prediction that the Project will not affect the size and magnitude of the area of caribou avoidance, including methods for measuring zone of influence (ZOI). Dominion Diamond will work with the ZOI Task Group to evaluate the survey, analytical methods, and results and to undertake surveys based on the recommendations of that group. Results of monitoring will be presented in annual Wildlife Effects Monitoring Program reports. Dominion Diamond

has also partnered with the Canada Centre for Remote Sensing (Natural Resources Canada) on their SMART program on the effects of development on the Bathurst caribou herd, which includes ZOI assessment. Dominion Diamond recommends that the GNWT's ZOI Technical Task Group is the appropriate means of carrying this work forward.

## **2.8 Air Quality Monitoring and Management**

### **2.8.1 Measure 11**

The Developer shall adhere to the NWT Ambient Air Quality Guideline, and recognizes that the exceedance of the Guideline will constitute significant effects to the environment.

### **2.8.2 Response to Measure 11**

Dominion Diamond intends to apply the NWT ambient air quality guidelines (GNWT-ENR 2014) as standards for purposes of air quality monitoring and management at the Project. The proposed Air Quality and Emissions Monitoring and Management Plan (AQEMMP) for the Project includes a comprehensive air quality monitoring program and an adaptive approach to manage potential air quality effects from the Project (Dominion Diamond 2015c). The adaptive management approach includes development of trigger levels set at various percentages of the NWT ambient air quality guidelines (refer to Measure 12 for a detailed listing of Dominion Diamond's recommended adaptive management triggers). If monitoring data exceed a trigger level, a corresponding management action will be taken by Dominion Diamond. The goal of the adaptive management approach in the proposed AQEMMP is for Dominion Diamond to take appropriate responsive actions well in advance of an significant environmental effect.

### **2.8.3 Measure 12**

The Project shall commit to the action levels and triggers suggested by the ENR in the email sent from Matthew Seaboyer to the Review Board on July 27, 2015 (PR#492).

### **2.8.4 Response to Measure 12**

The GNWT final recommendations for action levels and triggers were provided to the MVEIRB in the GNWT Technical Report. Dominion Diamond's response is provided as Response 1 to the GNWT Technical Report and also included below.

Dominion Diamond agrees with the recommendations of the GNWT with the following minor revisions noted below in Table 2.8-1 (underlined text to identify the change). Dominion Diamond recommends these final revisions to ensure that the development of action plans are prepared for a change based on an increase in year to year concentrations.

**Table 2.8-1 Adaptive Management Response Plan Triggering Criteria**

Action Level	Dominion Diamond Revised Triggering Criteria
1st Action Level	1) Concentrations below 80% of the applicable air quality standard  <b>-OR-</b>  2) Less than 10% year to year <u>increase</u> in concentrations <b>AND</b> above 50% of the applicable air quality standard
2nd Action Level	1) Concentrations between 80% and 90% of the applicable air quality standard  <b>-OR-</b>  2) 10% - 20% year to year <u>increase</u> in concentrations <b>AND</b> above 50% of the applicable air quality standard
3rd Action Level	1) Concentrations above 90% of the applicable air quality standard  <b>-OR-</b>  2) More than 20% <u>increase</u> year to year in concentrations <b>AND</b> above 50% of the applicable air quality standard

% = percent.

## 2.9 Concluding Remarks

### 2.9.1 Measure 13

Canada and GNWT shall establish a permanent participant funding program for MVEIRB's environmental assessments. The program shall be implemented within two years of the Report of EA.

### 2.9.2 Response to Measure 13

This recommendation is not directed to Dominion Diamond; as such, a response is not provided as part of this document.

### 3 REFERENCES

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