



REASONS FOR DECISION ON THE ADEQUACY OF THE JAY PROJECT DEVELOPER'S ASSESSMENT REPORT

Jay Project, Dominion Diamond Ekati Corporation – EA1314-01

1. PURPOSE

These reasons outline the Review Board's decision regarding the outstanding information requirements described within the Review Board's *Adequacy Review* that was issued on November 28th, 2014 for Dominion Diamond Ekati Corporation's (Dominion) Jay Project *Developer's Assessment Report*. The Review Board met to consider the adequacy of the *Developer's Assessment Report* on February 12, 2015. After reviewing all the required subsequent additional information submitted by Dominion, the Review Board now believes that the Jay Project *Developer's Assessment Report* provides sufficient information for the Review Board and parties to adequately understand the project and the developer's impact predictions well enough to produce meaningful and relevant information requests. The considerations of the Review Board are based on the requirements of the July 17th, 2014 *Terms of Reference*.

2. BACKGROUND

The Review Board issued its Adequacy Review document for the Jay Project *Developer's Assessment Report* on November 28th, 2014. On December 15th, 2014 Dominion proposed a phased approach to responding to the adequacy review items with a response to all items to be completed by February 2, 2015, with two exceptions. These exceptions are outlined in the December 15th, 2014 correspondence and refer to the requirements of items 6.1 and 8.3 of the Adequacy Review:

Item 6.1

Please provide:

- a) *A qualitative assessment of how the Jay Project expansion of the Ekati mine will impact or change the ability of traditional harvesters to hunt caribou and other wildlife, considering the results of population modeling required by item 8.8.*
- b) *An analysis of the potential effects of the project on traditional land users that includes intangible cultural effects, including any changes to Aboriginal land users' relationship with the land.*

On February 2nd, 2015, Dominion provided the Review Board a response to part a) of this adequacy review item regarding impacts on traditional harvesting of caribou and other wildlife. The same correspondence from Dominion also described a plan on how it would fulfill part b) of this adequacy review requirement. Dominion proposes to host a one-day workshop in Yellowknife during the week of February 23, 2015 to consider how the intangible elements of Aboriginal culture have been affected by



diamond mines and the potential impacts of the Jay project. Dominion will invite community members to the workshop and pay for all logistics. A Report from the workshop will be prepared and submitted to the Review Board prior to the technical sessions scheduled for April 21-23.¹

Item 8.3

Please revise the approach to cumulative effects and apply a linked protein-energy and population [model] and all available Bathurst herd data to integrate environmental trends and responses to mine activities to increase certainty in projected incremental and cumulative effects (Russell model). Dominion should examine how and if enhanced mitigation (including on and off site mitigation and trade-offs) would reduce cumulative effects.

With respect to the caribou modeling requirement, Review Board staff and Dominion agreed to hold a technical meeting with caribou modeling experts to discuss the applicability of the linked energy-protein model to the Jay Project. Board staff hosted this caribou technical meeting on January 19th, 2015. The purpose of the meeting was to determine whether there was sufficient information available on the Bathurst caribou herd to run the Russell model and whether the model was better able to predict the impacts of the Jay Project on caribou compared with the caribou energetics model used by Dominion in its *Developer's Assessment Report*.²

The Review Board considered the findings of this technical meeting, and the requirements of the *Terms of Reference*, at its January 26th, 2015 Board meeting and made a motion to withdraw item 8.3 from the requirements of the Adequacy Review document. In correspondence to Dominion, the Review Board noted that the "Russell model" was not specifically prescribed in the Review Board's Terms of Reference for EA1314-01. The Board further noted that the energy modeling completed by Dominion in its *Developer's Assessment Report* fulfills the basic requirements of the July 17th, 2014 *Terms of Reference*. The Review Board expressed its view that the caribou evidence filed by Dominion to date provides an adequate basis for more in-depth analysis and evaluation of caribou concerns by the parties in later stages of this proceeding.³

Remainder of responses to adequacy review items

Dominion's responses to all of the remaining adequacy review items in the *Adequacy Review* were submitted to the Review Board in a series of reports on December 8th, 2014, December 18th, 2014, January 19th, 2015 and February 2nd, 2015.

¹ [Adequacy Review Responses from Dominion regarding item 6.1 - 02 Feb 2015](#)

² [Caribou Technical Meeting Summary Notes - January 19, 2015](#)

³ [Letter from Review Board to Dominion re: Adequacy Review item 8.3, caribou energetics modeling](#)



3. DISCUSSION – RATIONALE FOR RECOMMENDATION

Dominion has submitted responses to all of the information requirements from the November 28, 2014 *Adequacy Review* in a series of documents with the exception of item 8.3, which the Board subsequently deemed adequate and part b) of item 6.1 that relates to cultural changes to Aboriginal use of the land from the Jay Project and is described in greater detail below.

Dominion submitted responses to all of the other *Developer's Assessment Report Adequacy Review* items in a series of documents on December 8, 2014, December 18, 2014, January 19, 2015 and February 2, 2015. The Review Board and technical advisors analysed each of Dominion's adequacy review response documents to verify that satisfactory responses had been made to all of the items required in the Board's November 28, 2104 Adequacy Review. The Review Board and technical advisors believe that satisfactory responses have been made to all of the adequacy items with the exception of part b) of item 6.1 of the Adequacy Review document.

To satisfy the outstanding requirement described in part b) of item 6.1, Dominion submitted a plan in its February 2nd, 2015 letter to the Review Board to host a workshop to discuss cultural impacts with community members during the week of February 23rd 2015. The purpose of the workshop is to gather information from community members on how the intangible elements of Aboriginal culture have been affected by the diamond mines and the potential impacts of the Jay project. Dominion states that in addition to the issue of cultural change and impacts, the workshop could also be used to inform future traditional knowledge gathering activities and other programs at Ekati, as well as for the Jay Project.

Dominion will organize this workshop for community members in the same way that it hosted the *Developer's Assessment Report* information sessions in Yellowknife in December 2014. Details of the workshop are as follows:

- The workshop will take place in Yellowknife during the week of February 23
- Dominion will send out letters to communities inviting them to nominate 2-3 participants from each community for the workshop in Yellowknife. The participants should be a combination of elders, harvesters and leadership. Dominion will follow up by direct contact to identify appropriate individuals
- Dominion will hire a trained facilitator for the workshop
- All engagement will be recorded for the Jay Project Engagement Record
- All logistics will be arranged by Dominion
- Review Board staff will be invited to attend as observers
- A Report will be provided to workshop participants and communities

Dominion proposes to deliver a summary report of the findings of this workshop to the Review Board prior to the Technical Sessions in April 21-23. The Review Board supported this approach because of the direct participation of communities, and was willing to accept Dominion's commitment to this approach as adequate, provided that deliverables are submitted according the schedule provided.



Technical sessions for the Jay Project are proposed for April 21-23, 2015, in Yellowknife and involve face-to-face meetings with all parties including community members, Aboriginal organizations and government regulators. The summary report is scheduled to be submitted in advance of these face-to-face meetings. The Review Board recommends the summary report be submitted at the same time as the responses to information requests. The timing of the summary report submission is important so that technical session participants can review the information from the workshop prior to the technical sessions.

To date, Dominion has adhered to its adequacy response schedule as described in its December 15, 2014 correspondence. The Review Board agrees with Dominion's approach to the outstanding adequacy review item. With the developer's commitment to the workshop, and with the schedule described above, the Review Board believes that this item is being addressed acceptably.

4. CONCLUSION

Based on Dominion's responses to the November 28, 2014 Adequacy Review document, the Review Board acknowledges that the *Developer's Assessment Report* submitted on November 6, 2014, along with the responses to the *Adequacy Review*, provides sufficient information for the Review Board and parties to adequately understand the project and the developer's impact predictions well enough to produce meaningful and relevant information requests. Considerations of the Review Board were based on the requirements of the *Terms of Reference* of July 17th, 2014.

JoAnne Deneron
Chairperson

13 February 2015