



Wildlife, Lands and Environment Department

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Simon Toogood
Mackenzie Valley Environmental Impact Review Board
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Yellowknife, Northwest Territories
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Fax: 867-766-7074

Re: Closing Comments on the Snap Lake Water License Amendment Environmental Assessment

Mr. Toogood,

Thank you for the opportunity to participate in the above mentioned assessment, attached you'll find the closing comments from the Lutsel K'e Dene First Nation.

In general we hope the Board enforces mitigation and treatment measures on the company instead of the alternative of increasing discharge limits into the lake. This is precautionary practice mentality and the proper way to approach protection of the land and water. The way that is proposed - set a limit and fill the lake with effluent up to that limit – is not a suitable approach for this environment, and not one that is supported by the Lutsel K'e Dene First Nation.

LKDFN will take this opportunity to reiterate some of our points from the hearings and comment on some of the developments from the hearings. Again, we thank the Board for this opportunity and hope their recommendations are proactive, precautionary and protective of the receiving environment.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Tollis'.

Mike Tollis
Wildlife, Lands and Environment Manager
Lutsel K'e Dene First Nation

CC:

Chief Felix Lockhart

Stephanie Poole

Alan Ehrlich

LKDFN

Akaitcho IMA

MVEIRB

Summary

The Lutsel K'e Dene First Nation (LKDFN) believes this review came about through inaction and the failure of the company to react in a timely manner to observed changes at the site and to concerns brought forward by various parties to the assessment. This review is focused on the increase of contaminant levels that the receiving environment can withstand, which the company presents as a simply scientific argument. The outcomes of the assessment however should be based on the conclusions of the science but more importantly on the values of the parties.

LKDFN values the science but accurate or not, we do not believe in the resultant conclusions derived from the science by the company, and this is where values differ. Throughout this short review, input from government parties was very useful in understanding the science behind the studies that Golder undertook. However government submissions seemed to overlook reviewing the *company* and the trends throughout their history. It was clear in the public hearing that the aboriginal parties were the ones to look at the company, and the management practices of this company, and try to learn from what has taken place and why we are where we are. This should not come as a surprise as the Dene people take relationships very seriously, and the building of these relationships is key to having open, effective communications about the project, to get it to a point that both parties can accept.

The Board has heard that aboriginal parties are concerned about the engagement practices of the company, that staff of first nations spend more time on issues at Snap Lake than the other mines combined, and that the company has failed to act in a timely manner when water license levels were in danger of being exceeded, and when parties announced concerns about effluent quality. LKDFN works to improve mining operations' performance in terms of environmental sustainability, and any proactive or voluntary steps by the company towards this end is a positive relationship builder, and enhances trust in the company. It was clear from the hearing that the company will not act until threatened with loss of permits, and ultimately, loss of profit. It was clear that we cannot rely on the company to invoke measures to protect the land and water, these measures must be forced upon them, at the expense of loss of the permits for non-compliance.

Overall, we feel the discussions to date leads to the conclusions that (1) we may have some understanding of a threshold limit where we start to see impacts to lake species, (2) it is possible to set lower limits than proposed and achieve them, and (3) that there are mitigation strategies that can be utilized to help lower discharged effluent.

Our values of protection of the long term viability of the lake and its species, and the precautionary principle, shape our conclusion that there is no need to set the effluent discharge at a level where we no longer have any flexibility in the ecosystem. Further that if De Beers has the opportunity to pollute the lake up to a certain point, we can almost be guaranteed that they will be very near to that point, if not over.

Different Conclusions

The proposal has De Beers suggesting that from these few studies conducted over a short period of time, they have achieved a thorough and complete understanding of what level of contamination the lake can withstand without impacts to the creatures in it. Their studies declare the levels proposed to be the limit where changes to the varying species in the lake begin to occur, and though these limits are suggested to not have impact to the species, it does not leave any room for error in the project. We have seen numerous errors in De Beers' science and predictive capabilities to date, so it would greatly ease the minds of the Lutsel K'e Dene if decisions from the Board weren't entirely based on this level of understanding. The work seems accurate enough according to Ecometrix, but the conclusions drawn from the company and from LKDFN are different. On one hand, the Board can review the studies and agree with the company, that 684mg/L TDS is the limit where impacts to creatures start to be noticed, therefore the limit can be set there. Inevitably, De Beers will approach that limit and some species might start to see impacts and we'll understand that Golder's conclusions may not be the same for every member of every species, or that long term exposure to this effluent may carry different results. Or, on the other hand, the Board can review the studies and determine that if 684mg/L TDS is the limit that their science has found to cause impacts, then we should set a limit much lower to avoid uncertainty and the potential negative impacts on the species of the lake.

The major concern is that there is no going back to correct decisions made in this review. If limits are set at what is proposed and over time we see changes in fish species starting to occur, there is no corrective action that can be taken to limit impacts, and there is no prediction of a timeline on when the lake species will return to near baseline conditions. Allowing for pollution of the lake up to this level removes any room for error, where even a spill or "unplanned discharge," which are quite common at Snap Lake, could compromise the ecosystem.

The studies suggest to us, that there is room to build in some safeguards now that there is a base of knowledge for the threshold limits for species. They also suggest that beyond a point where LKDFN members can notice change in the taste of water is where the limits should be set. Though it is vitally important to protect the integrity of the ecosystem, the Dene people view themselves as part of the ecosystem, and if their ability to drink the water is compromised, this is another significant impact.

Predictions

We feel it redundant to reiterate the past failures of the company in terms of predictive accuracy. But we hope that the Board doesn't feel the need to put full faith in their predictions again. Our biggest concern with past predictions is with the extent of the plume downstream. After one quarter of the mine life, the plume is half of the distance that was predicted. Though De Beers is sticking with their original prediction of no more

than 44km downstream, we would greatly appreciate the measure suggested in our presentation, that 44kms downstream be the high action level triggering mitigations to reverse the trend, and beginning to think about environmental remediation activities. This is a prediction that De Beers has always held, and to attach this measure to the decision should be easily agreeable to the company.

Closing

De Beers has shown that they cannot be relied on to invoke mitigation strategies with any effectiveness. They repeatedly and strongly state that adaptive management is at the core of their environmental principles but muddy the waters when discussing when they actually knew about the issues and when any real effort was put into mitigation. Dilution is not a mitigation strategy that De Beers invokes, nor is it a practice of the company, it is the way the natural environment attempts to deal with unnatural stressors placed upon it by contaminators and therefore should not be referenced as an attempt by the company to reduce TDS loading. As we've witnessed, this "practice" is not working and there is a serious need for new mitigation methods.

As stated in our presentation, LKDFN believes the limit should be set at 500mg/L as it protects Dene use of the area, as well as allows for a measure of flexibility in terms of the resilience of the ecosystem.

The Board has an opportunity to require mitigation efforts, as past performance, and an illustrative history of non-compliance is reason enough to disallow business to carry on as usual. The focus of the decision from the Board should be on safety. Protective environmental management is not a matter of setting a pollution limit at the level where changes start to occur, it involves a thorough understanding of the limit and setting discharge levels at a point where we have full confidence that the limit will never be breached.