



December 20, 2012

VIA EMAIL

Chuck Hubert
Senior Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
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Dear Mr. Hubert,

**RE: Government of the Northwest Territories Final Comments for
EIR0607-001 Gahcho Kue Diamond Mine Project,
De Beers Canada Incorporated**

Please find attached the Government of the Northwest Territories Final Comment Report for the De Beers Canada Incorporated Gahcho Kue Diamond Mine Project Environmental Impact Review.

Sincerely

A handwritten signature in blue ink that reads "Gavin More".

Gavin More
Manager
Environmental Assessment and Monitoring
Environment and Natural Resources

Attachment

Government of the Northwest Territories

Gahcho Kue Project Environmental Impact Review

Final Comments

December 2012



Table of Contents

Table of Contents	i
1. Introduction	1
2. Wildlife Monitoring Programs and Mitigation Plans	1
3. Cumulative Effects on Caribou and Other Wildlife	2
3.1. DBCI Commitments toward Cumulative Effects Programming	3
4. Environmental Monitoring	4
5. Socio-Economics	6
6. Conclusion	7

1. Introduction

The Government of the Northwest Territories (GNWT) actively participated throughout the De Beers Canada Incorporated (DBCI) Gahcho Kue Project (Project) Environmental Impact Review (EIR). The GNWT submitted Information Requests (IR) and Responses (IRR), and a Technical Report, and presented at the Public Hearing. GNWT and DBCI officials met to discuss issues related to the Project and to develop mitigation and remedial measures. Summaries of these discussions and agreed-upon commitments are on the Mackenzie Valley Environmental Impact Review Board (MVEIRB) public registry.

This submission represents the final GNWT comment report for the Project EIR (EIR0607-001).

2. Wildlife Monitoring Programs and Mitigation Plans

The GNWT stated throughout the EIR process that a Wildlife and Wildlife Habitat Protection Plan (WWHPP) and a Wildlife Effects Monitoring Program (WEMP) are needed to minimize and/or mitigate any potential impacts of the Project on wildlife and wildlife habitat. The GNWT views a WWHPP as necessary to protect personnel, wildlife and wildlife habitat within the Project Development Area.

The GNWT views a WEMP as the main mechanism for testing the predictions made in the Project Environmental Impact Statement (EIS). As such, the WEMP should target multiple species; be developed collaboratively with partners; use standardized protocols; and emphasize regional monitoring and adaptive management (that is, revising programs as new information is obtained). Regional monitoring will provide better information about population size and/or trend for wildlife in the Slave Geological Province, which will be used by the GNWT and its co-management partners to make management decisions related to harvest and development. Population size and/or trends provide one of the main indicators of how a population is doing, which is used to assess if a given mitigation or management strategy is effective at achieving population objectives. If a strategy is not effective, then it will need to be revised as per adaptive management.

DBCI have proposed a WWHPP and WEMP that meets some GNWT expectations. However, additional work is still needed to refine both documents. The WWHPP needs to be expanded upon and include standing operating procedures for dealing with potential wildlife issues. In terms of the WEMP, the specific monitoring protocols for carnivores need to be refined and the barren-ground caribou program, particularly as it relates to cumulative effects assessment for the Bathurst herd, needs further development.

DBCI has committed to work with the GNWT and other parties to further refine and develop the draft WEMP and draft WWHPP originally submitted. The mechanism to ensure this collaboration with the GNWT is a wildlife memorandum of understanding (MOU). The MOU, currently in final review between the GNWT and DBCI, outlines the steps needed to develop a mutually agreed upon WWHPP and WEMP in collaboration with other partners. It also outlines a process for continual review and revision of the WEMP and WWHPP throughout the life of the Project. This MOU is discussed further in section 4 below.

GNWT guidance to DBCI on the WEMP and WWHPP follows the general definitions for these documents provided previously (sections 4.1.1 and 4.12, GNWT Technical Report). The monitoring protocols and best practices developed through the WEMPs and WWHPPs of projects will contribute to a consistent set of proven best practices, as well as standard terms and conditions, for the protection and monitoring of wildlife and wildlife habitat in the Northwest Territories (NWT). The results of project monitoring will contribute to regional monitoring and cumulative effect programs.

3. Cumulative Effects on Caribou and Other Wildlife

Understanding how the Project contributes to the cumulative effects of development and natural factors on wildlife and wildlife habitat in the Slave Geological Province is a main concern for the GNWT. Concern over cumulative effects, particularly on the Bathurst caribou range, has also been raised by a number of other parties throughout the EIR. Cumulative effects are also a concern for grizzly bears and wolverines, which are species at risk.

For the Bathurst herd specifically, a cumulative effects program is necessary to determine how multiple developments, in combination with natural factors such as fire, and human factors including roads and harvest, will impact Bathurst caribou and their habitat. There are a number of existing developments in the historical range of the Bathurst herd with more projects proposed on the Bathurst calving grounds in Nunavut, including a mine and transportation project. The GNWT 2011-2015 Barren-ground Caribou Management Strategy (CMS) is a document that provides guidance for the management, continued recovery and long term sustainability of NWT herds. The CMS includes a strategy and work plan for assessing cumulative impacts for NWT barren-ground caribou herds. This cumulative effects strategy complements other strategies in the CMS, including the GNWT monitoring program used to understand herd size and trend. The cumulative effects program for the Bathurst herd is particularly important because the herd is stable at 35,000 animals but still low in numbers (based on the 2012 GNWT survey). There has also been no change in the number of breeding

females in the herd since 2009 and calf recruitment has been low during the last two years. The GNWT expects herd recovery to be slow and that continued management actions will be needed to conserve the herd.

The GNWT has been working to address concerns over cumulative effects on the Bathurst herd, as demonstrated in the reports on a 2008 cumulative effects workshop on the Bathurst herd and a cumulative effects modeling project submitted to the Panel in fulfillment of Public Hearing Undertaking #3. In addition, the GNWT and the Cumulative Impact Monitoring Program of Aboriginal Affairs and Northern Development Canada (AANDC-CIMP) are working together to develop an approach to cumulative effects specific to the Bathurst herd. The GNWT, AANDC and Environment Canada have initiated a review of the types of tools that can be used to assess, monitor and manage cumulative effects on caribou across the NWT.

The GNWT continues to work with its wildlife co-management partners, jurisdictional agencies including the Government of Nunavut and Aboriginal governments, and other groups to develop short term harvest management actions for the herd. It also continues to work with these groups to develop an overall process for the long-term management of the herd throughout its historic range, which includes Nunavut and Saskatchewan. Part of the long term management of the herd could include addressing cumulative effects as part of a multi-partner process. These processes will consider both traditional and scientific knowledge.

The GNWT is taking a lead role in coordinating collaborative cumulative effects programs for multiple species, including the Bathurst herd, but cannot do this alone. Developing and implementing a cumulative effects program is a shared responsibility among governments, co-management partners, land users and others who use wildlife. The GNWT expects to have a cumulative effects biologist on staff in early 2013. This individual will be responsible for providing expert advice to the GNWT on cumulative effects programming across the NWT.

Cumulative effects programming for carnivores and caribou will be discussed at GNWT-led workshops in early 2013. DBCI has committed to participating in these workshops. Deliverables from this workshop will result in a better understanding of which human and natural factors should be included in carnivore and caribou cumulative effects programs and which factors are a priority to assess, monitor and mitigate, given limitations on funding and capacity.

3.1. DBCI Commitments toward Cumulative Effects Programming

Elements of a cumulative effects program include assessing, monitoring and mitigating the cumulative effects of natural and human factors on wildlife and wildlife habitat. Based on

information and dialogue presented during the EIR and during one-on-one discussions between the GNWT and DBCI, it has been determined DBCI support for a cumulative effects program for the Bathurst herd needs to include:

- Providing support to current GNWT regional monitoring program for the Bathurst herd.
- Identifying the potential zone of influence around the Project, including the access road (i.e. do caribou avoid the project, and if so, by what distance).
- Working with the GNWT and its partners to understand how wolf predation affects herd size and trend (DBCI contributed to the GNWT wolf predation study in 2012 and has committed to do so again in 2013).
- Working with the GNWT and its partners to develop a road access management plan to minimize impacts from the access road.
- Working with the GNWT to develop and operate check stations along the Project winter access road, as well as developing programs emphasizing respect for caribou and hunter excellence.

These are not all the elements of a cumulative effects program for the Bathurst herd. Rather, this list represents how DBCI would need to be involved in a joint cumulative effects program. Other elements of the program would include monitoring fire and habitat condition, harvest and other cumulative effect factors.

The GNWT also asked DBCI to contribute to regional scale monitoring programs for grizzly bears, wolverines and raptors. DBCI has subsequently committed to a joint grizzly bear DNA hair-snagging study, a wolverine DNA hair-snagging study and a North American Peregrine Falcon Survey to be conducted every five years. The GNWT has advocated for these programs in past workshops because they provide for standardized regional monitoring data and can be used to assess, monitor and mitigate cumulative effects on these species.

4. Environmental Monitoring

The Mackenzie Valley Land and Water Board (MVLWB), governments and industry have made progress toward establishing best practices for managing environmental effects in the North. The GNWT believes the primary authority to ensure environmental monitoring and reporting for the Project is the MVLWB through its Land Use Permit and Water Licence authorization systems. For some matters, such as species at risk, regional scale monitoring by co-management authorities is also required. The GNWT believes any additional communication on environmental monitoring for the Project is best achieved through agreement between affected communities and DBCI as stated in GNWT Response to Tlicho Government IR 3. The

conceptual Ni Hadi Yati monitoring initiative (“Initiative”), as currently presented, is an example of such an agreement and should fulfill the important goal of increased communication between affected Aboriginal groups and DBCI.

The GNWT supports the conceptual Initiative agreed upon by the Lutsel’Ke Dene First Nation, Yellowknives Dene First Nation, Deninu Kue First Nation, Tlicho Government and DBCI (the “Initiative Parties”), and possibly also by the NWT Métis and North Slave Metis Alliance. The Initiative aims to “...ensure that Aboriginal parties have the capacity to participate in the holistic environmental stewardship of the Gahcho Kue Project,” (p.117, Public Hearing Transcript, December 5, 2012) and provide Initiative Parties with any required technical expertise to enable their meaningful participation in Project monitoring and management (p.118-119, Public Hearing Transcript, December 5, 2012).

The Initiative Parties’ presentation at the Public Hearing proposed a two-tier or two-level system. The first and highest level, the Party Level, is where party concerns are addressed through the designing of work plans for the proactive review and continual adaptation of Project monitoring and management efforts. The second level of the Initiative is for technical experts called upon for advice at the request of Initiative Parties. This level is established to address Aboriginal group capacity issues for reviewing technical aspects of the Project. DBCI has committed to pay the costs associated with obtaining any such experts if they cannot be drawn from existing agencies, such as government. As with other monitoring bodies, the GNWT will participate upon request and provide technical advice on air and wildlife on an as-needed and as-available basis.

The GNWT is currently developing a wildlife MOU with DBCI. The MOU is intended to ensure a process for adapting Project wildlife plans and programs will continue beyond the EIR. The MOU, as drafted, defines a process for continual collaboration, review and development between the GNWT and DBCI of Project wildlife monitoring and management efforts. GNWT review and recommendations and DBCI responses are to be made public. The draft MOU further outlines how the cumulative effects program will be jointly developed.

The GNWT will also work with DBCI to develop an agreement on air. The purpose of the agreement is to ensure DBCI’s air quality commitments are captured and upheld. The agreement will strive to address the primary components of air quality management and protection, including emissions management, air quality monitoring, and mitigation and adaptive management strategies. Among some aspects of an agreement, the GNWT expects to identify key elements, requirements and content of the Air Quality Emissions Monitoring and Management Plan, roles and responsibilities of any involved parties, mechanisms for reporting

and information sharing, and dispute resolution measures. Development of an agreement will begin once MVEIRB issues its EIR report, and it is expected an agreement would be finalized prior to the Project regulatory phase.

Information from the wildlife MOU and air agreement will be provided, by request, to the technical advisory level of the Initiative to support Initiative-Party-level decision making. The GNWT will also continue to provide expert advice on incineration, waste management and wildlife habitat management to the MVLWB during any permitting reviews.

5. Socio-Economics

Diamond mining is the largest sector within the NWT economy. It contributed 24 per cent of NWT gross domestic product in 2011. It is estimated the gross domestic product in the NWT will increase by an additional \$3.2 billion during the operating phase of the Project.

The GNWT recognizes the significant economic opportunities presented by the Project must be balanced with effective, project-specific socio-economic management which includes testable mitigation measures, comprehensive monitoring programs, transparent reporting and evaluation analysis as well as responsive adaptive management measures. The GNWT views a Socio-Economic Agreement (SEA) as the most effective tool to manage socio-economic impacts.

The GNWT believes Project-related socio-economic concerns will be substantively addressed through several means including:

- Commitments made by DBCI during the EIR process, including commitments made in one-on-one meetings with the GNWT.
- Impact and Benefit Agreements negotiated between DBCI and Aboriginal communities.
- Ongoing and responsive GNWT socio-economic programs and services.
- Implementation of a SEA between DBCI and the GNWT.

As stated by the GNWT during the Technical Session (May 24, 2012), in the Technical Report (October 25, 2012) and during the Public Hearing (December 7, 2012), the GNWT recommends the Panel include the requirement for a socio-economic follow-up program in its Report of EIR pursuant to section 117(3)(c) and 134(2) of the *Mackenzie Valley Resource Management Act* (MVRMA):

“De Beers Canada Incorporated and the Government of the Northwest Territories shall negotiate and sign a follow-up program in the form of a Socio-Economic Agreement.”

The GNWT views these sections of the MVRMA to be consistent with a requirement for a follow-up program. The GNWT has followed this approach for major resource developments since the Comprehensive Study for the Diavik Diamond Mine, which concluded a follow-up program was required to evaluate the effectiveness of mitigation measures and to determine if measures would need to be modified or adapted over the course of the Project. The GNWT recommends the same approach for the Project to formalize the benefits of a SEA to northern residents and businesses for the life of the Project. The GNWT believes it is crucial a SEA be included as a condition for Project approval to ensure the conditions of the SEA are implemented and remain in effect over the life of the Project. At the Public Hearing, the GNWT informed parties to the Project EIR that SEA discussions between the GNWT and DBCI would commence soon and the GNWT's intentions to discuss the contents of a SEA with impacted communities before the signing of a SEA.

6. Conclusion

Overall, as the Project relates to wildlife and air matters, the GNWT agrees with the commitments made throughout the EIR process for the Project. The GNWT believes the Project can be undertaken in a way that does not pose a significant adverse impact to the environment provided the commitments made by DBCI during EIR are carried out. The GNWT expects the wildlife MOU, being finalized between the GNWT and DBCI, will serve to solidify DBCI commitment to support GNWT regional monitoring and cumulative effect programs for wildlife, including Bathurst barren-ground caribou; and serve to define a process for the continual collaboration, review and development of the WEMP and WWHPP throughout the life of the Project. The GNWT expects that an air agreement, developed between the GNWT and DCBI after MVEIRB EIR decision, will strive to ensure the air quality regulatory implementation gap that exists does not result in adverse impacts to the environment.

Overall, as the Project relates to socio-economic matters, the GNWT believes Project-related socio-economic concerns will be substantively addressed through several means including a SEA. The GNWT recommends to MVEIRB that a formal follow-up program, in the form of a SEA between the GNWT and DBCI, be a condition of Project approval. A SEA would provide for monitoring and reporting of socio-economic concerns and allow for testing of socio-economic predictions made by DBCI during Project EIR. A SEA allows for assessing the success of mitigation and public reporting and for further discussions. This agreement would remain in place for the life of the Project.