



**DE BEERS**  
CANADA  
GAHCHO KUÉ PROJECT

December 11, 2007

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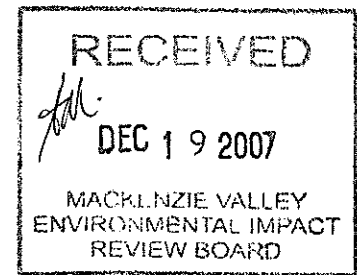
**Sent By [Facsimile/Electronic Mail]**

Mackenzie Valley Environmental Impact Review Board  
Suite 200, Scotia Centre, 5102-50 Avenue  
Box 938, Yellowknife, NT  
X1A 2N7

**Attention: Mr. Alan Ehrlich**  
**Senior Environmental Assessment Officer**

Dear Mr. Ehrlich:

**Re: Gahcho Kué Diamond Mine Project – EIR0607-001**  
**De Beers Canada Mining Inc. (“De Beers”)**  
**Clarification on Environmental Impact Statement Terms of Reference**



De Beers has reviewed the Final Terms of Reference for the Gahcho Kué Diamond Mine Project (the “Project”) Environmental Impact Statement dated October 5, 2007 (the “Final TOR”). In section 1.1 of the Final TOR, the developer is encouraged to contact the Panel’s office and request clarification of the Final TOR in writing, if necessary. De Beers is appreciative of this opportunity and wishes to seek clarification on the items described below.

### **Section 3.1.2 Development Description**

- ***Rationale for the need of the development*** – De Beers would like confirmation that the discussion under this heading is intended to comply with section 117(2)(e) of the *Mackenzie Valley Resource Management Act*, S.C. 1998, c. 25 (“MVRMA”) and secondly, that this discussion includes a consideration of available alternatives to the development.

In respect of the discussion expected concerning “how the proposed development meets the needs of potentially affected communities and the NWT in general,” De Beers intends to address this request in the context of the socio-economic impact statement and not in the rationale. Please confirm this is acceptable.



- *Alternative means for carrying out the development* – De Beers seeks confirmation that this discussion is intended to comply with section 117(3)(b) of the MVRMA and further, that “the detailed analysis of alternatives to individual development components or activities” is intended to satisfy the requirement under section 117(3)(b) to discuss “alternative means, if any, of carrying out the development that are technically and economically feasible.”

Finally, De Beers notes that section 117(3)(a) of the MVRMA also requires a discussion of the “purpose of the development,” and wishes to advise the Panel that De Beers will be including a discussion of this issue in the EIS.

### **Section 3.2.2 Significance Determination**

Section 3.2.2 contains a significance determination criterion entitled “Direction” with an explanatory note providing as follows:

The main focus of the impact review is to assess whether the development is likely to cause significant adverse impacts on the environment or be cause for public concern.

Section 117 of the MVRMA provides that every environmental impact review “shall” consider the significance of impacts, but does not include a consideration of public concern in this context. The issue of public concern is considered under s. 125 of the MVRMA, which relates to preliminary screenings and not panel reviews. Further, the Mackenzie Valley land claim agreements do not include “public concern” as a consideration in an environmental review.

The use of the words “or be cause for public concern” is beyond the scope of the legislated mandate of the Panel for an environmental impact review in section 117. Those words imply that the Panel could recommend against approval of the proposed development in the absence of likely significant adverse environmental impacts. In De Beers’ view, such a recommendation would not comply with the MVRMA and would be contrary to the principles of fairness enshrined in the legislation and the Mackenzie Valley land claim agreements. De Beers does believe public concerns are important, and those concerns will be identified as part of its public consultation process and described in the EIS under that section. Please confirm this is acceptable.

### **Section 3.2.7 Follow-Up Programs**

Section 3.2.7 states that the EIS must include a description of any follow-up programs, contingency plans, or adaptive management programs the developer proposes to use for the purpose of recognizing and managing unpredicted problems. The Final TOR also states that “the EIS must explain how the developer proposes to verify impact predictions.”

For the EIS, De Beers plans to describe the various anticipated follow-up programs and general approach to monitoring that will be finalized during the permitting process and used by government, regulators, communities, and De Beers if the Project is approved. Details on selected measurement variables, the number and location of samples, and the frequency and duration of sampling events can only be determined after the EIS is submitted through consultation with government specialists and regulators during the permitting process for a development and after recommendations in the Panel Report are considered. De Beers would appreciate confirmation from the Panel that its proposed process is appropriate.

#### **Section 4.1.7 Long Term Social, Cultural and Economic Effect**

This section requires a comprehensive analysis of the development's long term social, cultural and economic effects. The geographic scope for this Key Lines of Inquiry ("KLOI") includes (but is not limited to) all communities in the Tlicho and Akaitcho regions and the Northwest Territories overall.

De Beers can provide the analysis of the effects under this KLOI for all communities in the Tlicho and Akaitcho regions and the NWT; however, a community-by-community analysis is not considered appropriate by De Beers; the primary reason is that the small population in many of the communities raises questions of confidentiality and sample size to the point where the analysis would provide no useful information to the Panel. Accordingly, De Beers requests confirmation that grouping communities in order to convey meaningful information to the Panel is appropriate.


#### **Submission of EIS**

De Beers notes that, as stated in the cover letter for the Final TOR dated October 5, 2007, the Panel anticipates receiving the EIS before the end of January 2008. Now that De Beers has had an opportunity to review the Final TOR and the format being requested of the EIS, we can advise the Panel that it will not be possible to complete the EIS by that date. De Beers anticipates that the EIS will be filed in June, 2008.

#### **Conclusion**

De Beers asks that the Panel provide confirmation of the above at its earliest convenience in order that it may move forward with preparation of the EIS. Should you require any further information, please contact the undersigned at (867) 766-7322.

Yours truly,



Ed Huebett  
Manager, Environmental Affairs  
NWT Projects