

January 06, 2020

BY EMAIL

President Garry Bailey  
Northwest Territory Métis Nation  
P.O. BOX 720  
FORT SMITH NT X0E 0P0

President Allan Heron  
Fort Smith Métis Council  
P.O. BOX 1107  
FORT SMITH NT X0E 0P0

President Lloyd Cardinal  
Fort Resolution Métis Council  
P.O. BOX 137  
FORT RESOLUTION NT X0E 0M0

President Trevor Beck  
Hay River Métis Government Council  
10 INDUSTRIAL DRIVE  
HAY RIVER NT X0E 0R6

Dear President Bailey, President Heron, President Cardinal, and President Beck:

**Aboriginal consultation on the Report of Environmental Assessment  
for Diavik Diamond Mines Inc.'s kimberlite deposit proposal [EA1819-01]**

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In its January 6<sup>th</sup>, 2020 *Report of Environmental Assessment and Reasons for Decision* (REA), the Mackenzie Valley Environmental Impact Review Board (Review Board) recommended that Diavik Diamond Mines Inc.'s (DDMI) proposal to store processed kimberlite in pits and underground (the Project) be approved, subject to the implementation of the mitigative measures and DDMI's commitments as listed in the REA. The REA is available at this link:

[http://reviewboard.ca/upload/project\\_document/EA1819-01%20Diavik%20Report%20of%20Environmental%20Assessment FINAL%20%281%29.pdf](http://reviewboard.ca/upload/project_document/EA1819-01%20Diavik%20Report%20of%20Environmental%20Assessment%20FINAL%20%281%29.pdf)

The Government of the Northwest Territories (GNWT) and the Government of Canada (Canada) are seeking to consider any unaddressed potential adverse impacts of the Project on the Northwest Territory Métis Nation's (NWTMN) asserted Aboriginal rights that may not have been addressed by the Review Board's recommended measures and DDMI's commitments as written in the REA. The GNWT and Canada are not seeking to revisit the environmental assessment (EA). Rather, both governments are seeking the NWTMN's response to the following questions:

1. Are there any specific activities or components of the Project, which, after considering the recommended measures, DDMI's commitments, and other content in the REA, you may identify as still having the potential to adversely affect your asserted Aboriginal rights?

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2. If so, please specify in a response letter the nature of any and all outstanding concerns regarding potential adverse impacts, and which asserted Aboriginal rights you see as being potentially affected including any concerns you raised at any point previously in the EA that remain outstanding in your view; and,
3. Please specify what additional steps you would recommend to address the potential adverse impact.

### **Background**

The Review Board's EA process provides for the consideration of expressed concerns relating to a project. Under section 35 of the *Constitution Act, 1982* and with respect to the EA of this Project, the GNWT and Canada have joint Aboriginal consultation responsibilities. The GNWT and Canada are continuing to work collaboratively in assessing the Project and consider the EA to be the most effective means for all Indigenous governments and organizations to identify concerns with the Project. As identified in the March 15, 2019 letter to the NWTMN (MVEIRB PR#28), the Responsible Ministers (RMs) from both governments with jurisdiction related to the Project rely on the EA to assist in fulfilling the duty to consult and, where appropriate, accommodate with respect to potential adverse impacts of the Project on asserted or established Aboriginal and/or Treaty rights.

As the EA coordinator for the GNWT, the Department of Lands (the Department) is collaborating with the federal Crown consultation coordinator, the Canadian Northern Economic Development Agency's Northern Projects Management Office (NPMO) for this Project. The Department and NPMO are consulting the NWTMN regarding any unaddressed potential adverse impacts of the Project on the NWTMN's asserted Aboriginal rights that may not have been addressed by the Review Board's recommended measures and DDMI's commitments as written in the REA.

We note that the NWTMN participated as a party in the Review Board's EA. The Review Board conducted a thorough and inclusive EA, with opportunities in the EA to:

- participate in scoping of issues for the EA;
- make information requests;
- apply for intervener status;
- provide interventions and other submissions;
- present and ask questions at the September 3-6, 2019 public hearings; and,
- provide closing arguments in October 2019.

**Decision**

The GNWT Minister of Lands will sign the final decision letter responding to the Review Board's recommendation and REA on behalf of all RMs under section 130 of the *Mackenzie Valley Resource Management Act*. The Department will act as the single point of contact for the NWTMN during this consultation process. The Department will share all Project-related correspondence from the NWTMN with the appropriate GNWT and federal departments. The GNWT and Canada will respond to correspondence jointly or separately, as appropriate.

It is important to note that to date no ministerial decisions have been made regarding the Review Board's recommendation in the REA. Your input is important for informing the ministers' decisions relating to the Project.

**Deadline**

Please provide your written comments electronically by Friday, February 7<sup>th</sup>, 2020 to:  
Ms. Katie Rozestraten, Project Assessment Analyst, at  
[Katie.Rozestraten@gov.nt.ca](mailto:Katie.Rozestraten@gov.nt.ca).

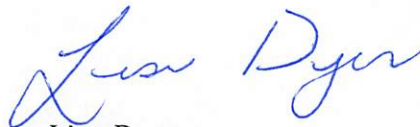
If you have questions about the process outlined above, please contact Ms. Rozestraten at (867) 767-9180 ext. 24022.

Thank you for your timely attention to this matter.

Sincerely,



Kate Hearn  
Assistant Deputy Minister  
Planning and Coordination  
Lands



Lisa Dyer  
Director General  
Northern Projects Management Office  
Canadian Northern Economic  
Development Agency

c. Ms. Shaleen Woodward  
Principal Secretary

Mr. Martin Goldney  
Secretary to Cabinet/Deputy Minister  
Executive and Indigenous Affairs

Ms. Sylvia Haener  
Deputy Minister  
Lands

Dr. Erin Kelly  
A/Deputy Minister  
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Ms. Shawn McCann  
A/Deputy Secretary  
Indigenous and Intergovernmental Affairs  
Executive and Indigenous Affairs

Mr. Mark Hopkins  
Director General  
Crown Indigenous Relations and Northern Affairs Canada

Mr. David Nanang  
Regional Director General  
Central and Arctic Region, Fisheries and Oceans Canada

Ms. Ursula Vogt  
Executive Director  
Northwest Territory Métis Nation

Ms. JoAnne Deneron  
Chairperson  
Mackenzie Valley Environmental Impact Review Board

Mr. Joseph Mackenzie  
Chairperson  
Wek'èezhì Land and Water Board

**Mr. Charlie Catholique**  
**Chairperson**  
**Environmental Monitoring Advisory Board**

**Mr. Sean Sinclair**  
**Principal Advisor**  
**Environment and Closure Readiness**  
**Diavik Diamond Mines Inc.**