

January 06, 2020

Grand Chief George Mackenzie
Tłı̨chǫ Government
P.O. BOX 412
BEHCHOKŦ NT X0E 0Y0

BY EMAIL

Dear Grand Chief Mackenzie:

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

In its January 6th, 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%2081%29.pdf](http://reviewboard.ca/upload/project%20document/EA1819-01%20Diavik%20Report%20of%20Environmental%20Assessment%20FINAL%20%2081%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 Tłı̨chǫ Government's established Treaty 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 Tłı̨chǫ Government'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 established Treaty rights?
2. If so, please specify in a response letter the nature of any and all outstanding concerns regarding potential adverse impacts, and which established Treaty 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,

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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 Tłıchǫ Government (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 Tłıchǫ Government regarding any unaddressed potential adverse impacts of the Project on the Tłıchǫ Government's established Treaty 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 Tłıchǫ Government 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 Tłıchǫ Government during this consultation process. The Department will share all Project-related correspondence from the Tłıchǫ Government 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 7th, 2020 to:

Ms. Katie Rozestraten, Project Assessment Analyst, at
Katie.Rozestraten@gov.nt.ca.

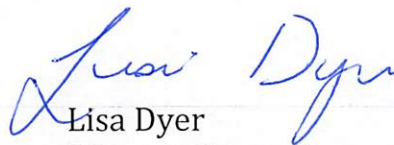
If you have questions about the process outlined above, please contact Ms. Rozestraten at (867) 767-9180 ext. 24022.

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
Environment and Natural Resources

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. Laura Duncan
Tłı̨chł Executive Officer
Tłı̨chł Government

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.