

Our file: EA1819-01

## Second Pre-hearing Conference for DDMI's Depositing Processed Kimberlite in Pits and Underground (EA1819-01)

Mackenzie Valley Environmental Impact Review Board Room  
200 Scotia Centre  
5102-50th Avenue  
Yellowknife, NT X1A 2N7

August 9, 2019 10am-11:30am

The following meeting minutes reflect the discussions had by participants of the EA1819-01 Pre-hearing Conference meeting.

### ***Attendees:***

**GNWT Lands:** Katie Rozestraten, Melissa Pink

**GNWT Environment and Natural Resources (ENR):** Bill Payne, Loretta Ransom

**GNWT Health and Social Services:** Morgan Moffitt

**GNWT Justice:** Rohan Brown

**CANNOR-NPMO:** Adrian Paradis, Ben Roy

**Environmental Monitoring Advisory Board (EMAB):** John McCullum, Janyne Matthiessen

**Tłı̨chǫ Government (TG):** Violet Camsell-Blondin, Ginger Gibson (on the phone)

**Diavik Diamond Mines Inc. (DDMI):** Kofi Boa-Amtwi, Myra Berrub, (Gord MacDonald, Sean Sinclair on the phone)

**Fort Resolution Metis Council:** Katy Dimmer (on the phone)

**Lutsel K'e Dene First Nation:** Lauren King (on the phone)

**Department of Fisheries and Oceans:** Tatiana Leclerc (on the phone)

**Review Board:** Mark Cliffe-Phillips, Alan Ehrlich, Catherine Fairbairn, Amanda Annand, Kate Mansfield (John Donihee, legal counsel, on the phone)



## ***Introductions***

### ***Review of the agenda***

#### ***Review Board Staff updates***

- Akaitcho IMA Implementation Office has withdrawn their intervenor status.
- DDMI's supplemental IR's came late so groups didn't have a chance to respond in interventions. The Review Board is allowing groups to update hearing presentations to consider this information.
- Diavik can then respond to this at the hearing. The response to supplemental IR#5 is coming today.
- It is unusual in an EA to have these kinds of IR responses. But allowing this as it's helpful to have things answered prior to the hearing.
- Parties asked if they can provide evidence during undertakings to in response to this IR and if additional time will be given?
  - Review Board: it won't change the timeframe, should be able to happen in the timeframe following the hearing.
  - Parties can submit evidence in relation to what they heard at the hearing or to an IR
  - Review Board Legal: Point is that new information from supplemental IR can be tested between now and the end of the hearing. So in the post hearing or undertaking period, if that questioning is not sufficient for the intervenor to respond, then intervenors can advise the board that they want to submit additional evidence in response to this IR. And DDMI will have a chance to respond prior to final argument date.
- Question as to when request needs to be made?
  - Deadline is the end of the final day of the hearings.

#### ***Draft Hearing agenda***

The final hearing agenda will be posted next week, subject to change. Breaks will be at the discretion of the Chair.

#### ***Day 1 in Behchokò***

- DDMI: during the public comments period, questions are directed to Diavik or the Board?
  - Review Board: could be to either Diavik, the Board, or another party. Questions are at the discretion of the Chair.
- Review Board advised that any government agencies that have authority over specific aspects of the environment send people who can speak to that jurisdiction.
- Request from TG to get back to Review Board on 2pm start time.

#### ***Day 2 in Dettah***

- TG confirmed that they can bring their elders to listen to the people speaking in Dettah.



### **Day 3: Yellowknife, first day of technical hearings**

- Board will try to provide lunch on the first day. To be confirmed on final hearing agenda.
- TG recommended that TG makes presentation on Thursday Sept. 5. Review Board will consider this request.
- GNWT requested confirmation of question period for the supplemental IR's.
  - Review Board confirmed that no additional time will be set aside for this, and that intervenors need to prioritize their questioning in the time allotted.
- TG and EMAB requested time slots for their consultants based on their constraints. Review Board will follow up.
- EMAB commented on the difficulty of keeping track to the IR responses over time. Suggested there are some lessons that could be learned here.
- GNWT asked why this hearing isn't organized by topic like past hearings. Adds the challenge of experts needing to be present for the whole hearing.
  - Review Board responded that was due to the narrow scope of the assessment and the holistic approach to how intervenors approached the issues. So breaking it down to discrete chunks (water, caribou, people), wouldn't speak to how things are understood and would make the hearing longer.
- Discussion around timing of presentation and question periods for intervenors. Parties expressed concern that the timing was too compressed. TG expressed that since their presentation covers both TK and the scientific perspective, they need more time. Review Board asked parties to get back to them by next week (and will be following up with a Notice) to confirm how long each intervener will need and will try to accommodate this in the schedule.
- DDMI clarified whether they could receive questions during the questioning of the interveners' presentations. Review Board clarified that the questions should be about the interventions, but Diavik could be asked to clarify or respond to something.
- Discussion around whether questions can come from people on the phone. Review Board confirmed that people on the phone can ask questions (for example, technical experts who are calling in), but intervenors must have a person in the room to field their questions. And questions are at the discretion of the Chair. Diavik pointed out that this is unclear in the Notice of Proceeding posted by the Review Board.
- Discussion with TG as to balance of time between TG leadership and community members speaking. TG will follow up with the Board.
- TG stressed the importance of government agencies coming to the community meetings so that the elders and leadership feel heard.
- Comment on leaving time for translation in the presentation time estimates.
- Discussion around question period and time allotments. Intervenors are encouraged to get back to the Board next week on which parties they will likely have questions for and the time they think they will need. Each party will have a chance to ask questions after each presentation at the hearing.
- Board confirmed that the timeframe for ending the day is flexible and at the discretion of the Chair.



#### **Day 4 (final day)**

- DDMI will not make a second presentation. Second day is just for interventions.
- Review Board will provide lunch on second day, given time constraints. This will be conveyed in final agenda.
- There will be a review of the undertakings, so if people have questions about the last supplemental info requests, those can happen then.
- No time allotted for public comments on Friday, but this may change based on what happens on Thursday.
- Board will send out a notice for parties to respond to, but needs to know the number of people who will be coming, how long they think they need and who they would like to question
- Federal representatives are encouraged to attend community hearings
- Technical witnesses need to be available in person or on the phone to respond to questioning and CV's need to be submitted for them
- Formatting for presentation, reminder to not present new evidence in hearing presentation with the exception of the response to DDMI's supplemental information requests
- Please focus on key issues and recommendations rather than on mandates.
- Parties need to manage the time of the people that are speaking on their behalf.
- Review of upcoming dates and deadlines. Record will close August 22 once DDMI's response to interventions are received.
- Review Board confirmed that there will just be closing remarks at the end of the hearings, actual closing arguments will be submitted in writing at a later date.
- TG asked the Review Board to respond to their request that a technical expert in clays be retained for the hearing. Review Board will follow-up.
- DDMI clarified that they can respond to interveners' comments on their supplemental information request or any other issue as long as a meeting report summarizing that conversation is submitted before the record closes on August 22.
- Review Board notified parties that YKDFN's intervention referenced two TK reports which were not attached with the intervention. Both are already located on the public record. The Review Board is allowing them to submit them now, but if parties have concerns to come forward.
- Discussion as to whether TG could submit additional reports that came out of their withdrawal from the CSR process. Review Board reminded TG that information submitted needs to be relevant to the intervention. TG will follow up with their technical expert to see if this is necessary.

MEETING END – 11:30am