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October 4, 2019

By Email

Mark Cliffe-Phillips
Executive Director
Mackenzie Valley Environmental Impact Review Board
Box 938
#200 Scotia Centre, 5102-50th Avenue
Yellowknife, NT X1A 2N7

RE: Depositing Processed Kimberlite in Pits and Underground EA1819-01

Dear Mark Cliffe-Phillips,

The Yellowknives Dene First Nation (YKDFN) thank the Mackenzie Valley Environmental Impact Review Board for the opportunity to participate in the process of this Environmental Assessment.

We hereby submit our closing arguments in the matter and hope it will be well received

YKDFN sincerely thank the Mackenzie Valley Environmental Impact Review Board for its facilitation.

A handwritten signature in blue ink that reads 'M.A. Thomas'.

Machel A. Thomas
Regulatory Research Officer
Yellowknife Dene First Nation
Department of Land and Environment

cc.: Catherine Fairbairn, MVEIRB (By email)
Kate Mansfield, MVEIRB (By email)



CLOSING ARGUMENTS

The Mackenzie Valley Environmental Impact Review Board
EA1819-01 Processed Kimberlite in Pits and Underground Environmental
Assessment

OCTOBER 4, 2019
YELLOWKNIVES DENE FIRST NATION

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Introduction

The Yellowknives Dene First Nation (YKDFN) hereby present our closing arguments in the Environmental Assessment of DDMI's Depositing Processed Kimberlite in Pits and Underground EA1819-01.

YKDFN continues to have concerns about the uncertainty surrounding the predictions of water quality modeling and thus by extension, the level to which significant adverse effects can be predicted and quantified for each identified Value Component (VC).

We believe the level of cultural and/or traditional knowledge incorporated by DDMI is not sufficient and thus DDMI's conclusion of no adverse significant effect on cultural use is not robustly informed

Our arguments are presented under the headings:

1. Water Quality
2. Cultural/Traditional Use
3. Fish and Fish Habitat
4. Wildlife

Water quality

YKDFN maintain that water quality is the most significant Valued Component (VC) as it has major influence on all the other VCs as identified in the initial scoping of the project. Consequently, it is of paramount importance to ensure the integrity of the water is maintained. Failing such, there will be widespread adverse effect on fish, other aquatic life, wildlife and cultural use.

As stated in YKDFN's intervention submitted to the MVEIRB, the modelling results as presented in the DDMI Summary Impact Statement are viewed only as preliminary and are not a reliable basis for a decision for PK deposition. The further explanation of this modelling throughout the public and community proceedings did not provide further certainty.

Additionally, we are not convinced that:

1. The meromixis will be maintained over the long term thus limiting mixing
2. Wall fracture will not occur and potentially compromise meromixis
3. unforeseeable catastrophic events such as earthquakes could not have some effect on what is proposed as the proponent did state that there were faultlines running through the pits proposed as receptors for PK.

Culturally Acceptable Water Quality Criteria

The recommendations of this section pertain to water quality criteria in general and water quality criteria for reconnection Lac de Gras.

During the public hearings DDMI stated that they would develop culturally acceptable criteria for reconnection and monitoring starting with its advisory TK panel and then provide for review and update by to EMAB. However, no outline was provided for clarity. This is particularly important considering the DDMI's emphasis on use of the its TK panel which we maintained is just advisory and should be used only for onsite undertakings without far-reaching cultural and environmental impacts.

Recommendation 1:

The YKDFN recommends water modeling be updated keeping in line with what the proponent said they would undertake and what we had recommended in our intervention. It is important that favorable results be forthcoming before any amendment to the water license be approved as potential adverse effects cannot be reliably judged or determined at this time. Further, following

the updated modelling there be an independent third-party review of the results and that a report of this review be submitted to the Wek'zeehii Land and Water Board.

Recommendation 2

If the reports show water quality modeling results show that Aquatic Effects Monitoring Program (AEMP) benchmarks in pit lake cannot be met, DDMI will not be allowed to deposit any processed kimberlite into the pit(s).

Recommendation 3

To prevent significant adverse impact on water quality fish and aquatic life and cultural use of the area, YKDFN recommend that the board propose DDMI develop a process to outline how indigenous engagement and the use of traditional knowledge to define culturally acceptable criteria for water quality (Qualitative Risk Assessment) and reconnection of the pit lake to the wider Lac de Gras for inclusion into its Aquatic Effects Monitoring Program (AEMP). This should also detail aspects of a Perpetual Care Plan and monitoring.

Recommendation 4

Notwithstanding the requirements of CCME guidelines for water quality and protection of aquatic life. YKDFN maintain our recommendation from our intervention that in order to ensure good water quality to support wildlife, fish and aquatic live, continued cultural use, the water quality must be as close as possible to the baseline water quality at the genesis of mine or at least the quality of the section of Lac de Gras outside the current footprint of operation of the Diavik mine.

Cultural/Traditional Use

Cultural impact

DDMI in the opinion of YKDFN did not take into due consideration the perception of YKDFN members beyond that of those who might have been a part of the its Advisory Traditional Knowledge Panel (TK Panel). Consequently, we believe DDMI's assess of "...overall impacts on cultural use are predicted to be not significant" to be insufficiently informed.

Recommendation 1

DDMI should not be allowed to place PK into mine and underground until it has demonstrated due consideration for the concerns of the indigenous through meaningful engagement and taken

measure to allay fears and smoothen adverse perception through the develop for culturally acceptable criteria to define significance.

Fish and Fish Habitat

Recommendation 1

For the protection of fish, fish habitat and aquatic life if AEMP benchmarks are not being met, YKDFN recommend the deposited pit(s) remain isolated and not reconnected to the rest of Lac de Gras. This option will lead to the requirement of fish habitat offsets to be identified by indigenous organizations

Wildlife

Throughout the duration of the public hearings and community meetings the significance of the Lac de Gras area has been highlighted. Particularly so in relation to the water quality as a potential adverse effect on wildlife.

Recommendation 1

DDMI will erect physical barriers as defenses against intrusion around any pit in which PK is deposited to minimize wildlife potential interaction of wildlife. DDMI will also frequently monitor pits to ensure that no wildlife come intact with the pit. This will be realized as an update to the Wildlife monitoring program before deposition commences.