



NORTHWEST TERRITORY MÉTIS NATION

October 9, 2019

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

Attention: Kate Mansfield email: kmansfield@reviewboard.ca

Dear Ms. Mansfield:

Re: Northwest Territory Métis Nation Closing Remarks for Diavik EA1819-01 – Processed Kimberlite in Mine Workings (“PKMW”)

The Northwest Territory Métis Nation (“NWTMN”) is pleased to submit its closing remarks regarding the proposal by Diavik Diamond Mine Inc. to deposit and store processed kimberlite in pits and underground mine workings and its potential adverse impact on the people and the environment.

For further information please contact:

Tim Heron
Interim Measures Agreement Coordinator tim.heron@nwtmetis.ca

Dr. Ronald Yaworsky, Ph.D, P.Eng.
Technical Advisor ron@northraven.ca

Sincerely,

NORTHWEST TERRITORY MÉTIS NATION

A handwritten signature in black ink that reads "Garry Bailey". The signature is written in a cursive, flowing style.

Garry Bailey,
President

Cultural Use of the Area

The mine is located within an area of shared historical and cultural use amongst a number of aboriginal peoples including the NWTMN.

NWTMN Traditional Use Studies and other work has confirmed that the Lac de Gras area has long been used by Indigenous Métis for a wide range of traditional activities including harvesting and travel.

The name *Lac de Gras* is of Métis origin.

The traditional knowledge of the NWTMN of the area that will be impacted by the Project has not been considered by DDMI.

No Participation Agreement with the NWTMN

The proposed project is within the traditional territory of the NWTMN and north of Great Slave Lake which is home to wildlife, fish, migratory birds and plants.

Indigenous Métis of the NWTMN have been harvesting these resources for generations.

The NWTMN is concerned about the potential significant adverse effects of depositing and storing processed kimberlite in mined out pit lake(s) and possibly reconnect pit lake(s) containing processed kimberlite to the greater ecosystem.

Although the proposed project will take place within an area that has traditionally been used by the NWTMN, DDMI has not consulted nor accommodated the NWTMN.

DDMI has not entered into a Participation Agreement with the NWTMN.

Potential Impact on Aboriginal Rights

The proposed project may have adverse effects on the exercise of aboriginal rights through the specific and cumulative impacts that will negatively impact the ability of Indigenous Métis members to harvest caribou.

The NWTMN seek to ensure the proposed project does not compromise the ability of the land to support those who rely upon it.

Caribou

There have been some shifts in relation to caribou harvesting.

There appears to be less caribou over-wintering in the area north of McLeod Bay today than there was in the 1800s and early 1900s.

Furthermore, for a large part of the 1900s, caribou regularly came into the East Arm of Great Slave Lake, often as close to Fort Resolution and the Simpson Islands.

Caribou were also plentiful in and around Gordon Lake and McKay Lake, north of Yellowknife, up until a few years ago.

Today, harvesters have to travel beyond the eastern end of Great Slave Lake to locate the larger caribou herds, including making trips into the barrens where caribou are increasingly tending to over-winter instead of over-wintering below the tree line.

These shifts in the movement of caribou herds are considered by harvesters to be the result of the cumulative impacts of the diamond mines north of Great Slave Lake.

Potential Impact on Aboriginal Rights

Indigenous Métis of the NWTMN have a right to hunt, fish, trap and gather throughout the traditional territory of the NWTMN which includes the Lac de Gras area. As noted above, Indigenous Métis have been harvesting in the NWTMN traditional territory for generations.

The resources that are harvested within the traditional territory of the NWTMN are shared with the entire community.

The proposed project may have adverse affects on the exercise of aboriginal rights through the specific and cumulative impacts of the proposed project that will negatively impact the ability of Indigenous Métis members to harvest caribou.

DDMI has a duty to mitigate the potential negative impacts that the proposed project may have on the NWTMN traditional territory, cultural and traditional use sites and aboriginal rights and title.

The NWTMN seek to ensure the proposed project does not compromise the ability of the land to support those who rely on it.

The NWTMN requests to be provided with funding to conduct on-site environmental monitoring, desk-top technical reviews and traditional knowledge monitoring.

Wildlife

The NWTMN has an aboriginal right to harvest caribou within the area that will be impacted by the Project.

Access to healthy caribou herds is a prime concern for the NWTMN.

DDMI has noted our concerns regarding potential impacts to wildlife and the potential for impacts related to the safety, quality and health of Lac de Gras.

The NWTMN notes that DDMI proposes to establish a hydrological connection between the pit lake(s) and Lac de Gras.

The potential change in water quality in Lac could result in a change in health of wildlife, specifically caribou through the ingestion of drinking water and increased exposure to contaminants.

The NWTMN relies on the caribou that travel within the vicinity of the Project.

Caribou are of particular concern as caribou herds throughout the circumpolar north are experiencing a radical population decline and other development activities including roads have adversely affected caribou.

Mitigation and Accommodation

We echo many of the recommendations and accommodations cited by other Indigenous groups, including our member Fort Resolution Métis Council.

We recommend that DDMI fully engage with the NWTMN to address our concerns and accommodate our interests.

To prevent significant adverse impact on the wildlife, we recommend DDMI create a physical barrier around the pit lake(s) containing processed kimberlite so that the wildlife cannot access the pit lake during infilling and dike breaching.

We also recommend DDMI test any animal carcasses found in the area surrounding the Lac de Gras to determine the cause of death and the health of the animal.

The outcome of the testing should be shared with the Indigenous governments and organizations.

Recommendations

Following closure, Métis traditional harvesters are concerned with the long-term potential impact of any associated changes in hydrology and water quality.

Thus, harvesters favour a scenario that allows Lac de Gras water quality to be safe for aquatic life, fish and fish habitat in as short a period of time as possible.

Harvesters are concerned that putting processed kimberlite into the pits prior to reconnecting to Lac de Gras will prolong the time until Lac de Gras can be safe for aquatic life, fish and fish habitat.

DDMI should negotiate an accommodation agreement with the NWTMN to address the concerns of the NWTMN.

Studies and Monitoring

Métis traditional harvesters are concerned regarding the length of time it will take until Lac de Gras – and the entire watershed – can be safe for aquatic life, fish and fish habitat.

This is a criteria that should be considered, including ensuring that Lac de Gras can, in the future, once again be safe for aquatic life, fish and fish habitat.

DDMI must undertake studies and monitoring to ensure traditional users feel safe hunting, trapping, fishing and gathering in the area.

The NWTMN must be involved in the studies and monitoring.

We recommend water quality and fish and fish habitat should be monitored for at least a 100-year period post closure

Mitigation & Accommodation

NWTMN welcomes DDMI's commitments provided in response to the filed interventions, including:

- Expanded engagement with the NWTMN, including providing updates through annual meetings;
- Providing opportunities for the NWTMN to review and comment on TK-based acceptance criteria for reconnection.

DDMI should consult with NWTMN regarding the need for, and any consideration of revisions to the SOP for deterring wildlife during pit filling.

The MVEIRB should ensure that these commitments are formalized and included as Water License conditions.

While DDMI commits to continued engagement with NWTMN, providing updates and considering NWTMN recommendations, meaningful engagement requires the provision of resources to the NWTMN so as to allow for such engagement.

The NWTMN request for such resources in support of such engagement and related activities has not been addressed by DDMI.

The NWTMN looks forward to engaging DDMI to reach an agreement to address the accommodation of the interests of the NWTMN.