

CANADIAN ARCTIC RESOURCES COMMITTEE**NORTHERN OFFICE**

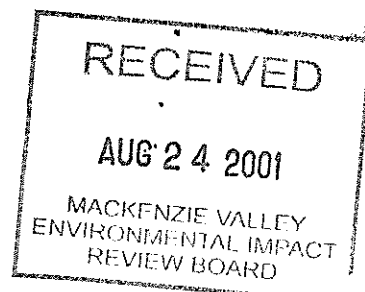
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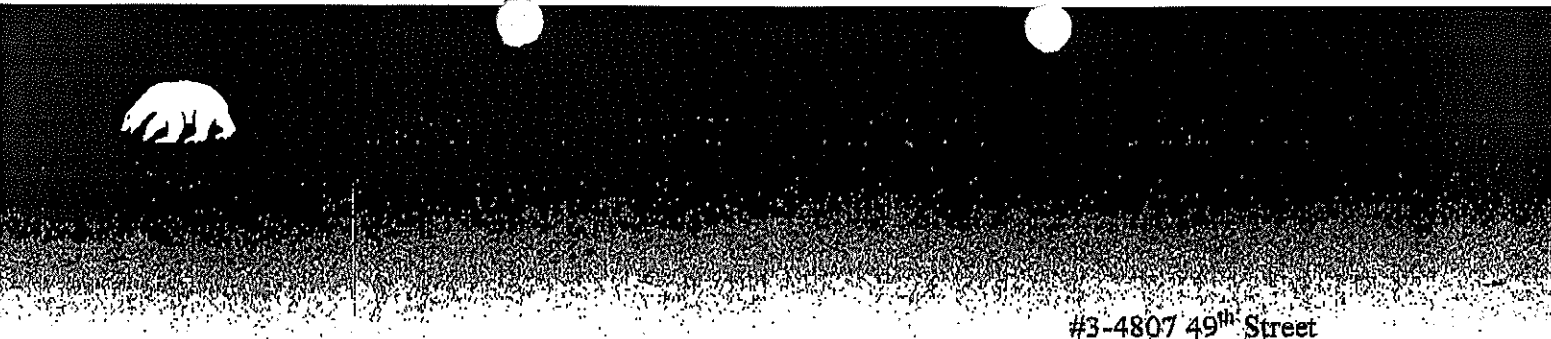
**FAX COVER SHEET****TO:**Gordon Lemire 920-4761**FROM:** Kevin O'Reilly, Director of Research, CARC**DATE:**Aug 24/01**PAGES:**5

(including cover)

MESSAGE:

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August 23, 2001

Gordon Lennie
Chairperson
Mackenzie Valley Environmental Impact Review Board
Box 938
Yellowknife NT X1A 2N7

Re: De Beers Snap Lake Diamond Project Environmental Assessment

Dear Mr. Lennie

I acknowledge receipt of a letter dated August 16, 2001 from your Environmental Assessment Officer, Louie Azzolini.

I note from this letter that it appears to be the intention of the Board to apply the draft *Rules of Procedure for Environmental Assessment and Environmental Impact Review Proceedings* to this environmental assessment. While CARC supports certainty and clarity in any regulatory process, the draft *Rules* have not undergone any formal public consultations as required under s. 30(2) of the *Mackenzie Valley Resource Management Act*.

In our letter dated July 30, 2001 to you, CARC objected to the use of the draft *Rules* as they "would appear to create at least four classes of participants" and "this represents a significant departure from the practice in most environmental assessments or regulatory processes in the NWT." I further stated that CARC does not believe it is necessary or desirable to create these distinctions amongst participants. I also noted that "several key steps outlined in the procedures for environmental assessment have already passed making it difficult to see how the entire package can now be applied."

CARC continues to object to the application of the draft *Rules* for this environmental assessment until the proper consultation process is completed and our concerns are addressed.

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In any event, CARC offers the following in an attempt to provide further substantiation of our request in our July 30, 2001 letter for a ruling on the necessity of conducting formal scoping meetings or hearings for this environmental assessment.

Statement of Relevant Facts

The De Beers Snap Lake Diamonds Project is a 'greenfield' development, that is a proposed new mine in a previously undisturbed area. It has the potential to become the fifth operating mine (after Ekati, Lupin, Diavik, and Jericho) in the Slave Geological Province and the range of the Bathurst caribou herd. The proposed development is in a new watershed (the Aylmer Lake system) previously undisturbed by industrial activities.

The project is to be located in an area of unextinguished Aboriginal title. There are no land use plans for this area nor are there any legal provisions for such processes in this region. There are no protected areas in the Slave Geological Province other than the East Arm land withdrawal. It is not clear if there will be an environmental agreement for this project, socio-economic agreements, or impact and benefit agreements.

A cumulative effects assessment and management framework for the NWT and an action plan for the Slave Geological Province were terms and conditions for the approval of the Diavik Comprehensive Study Report by the federal Minister of the Environment in November 1999. This framework and action plan was supposed to be implemented by April 1, 2001 and it is nowhere near completion or implementation.

The Lutsel K'e Wildlife, Lands and Environment Committee in an e-mail dated August 15, 2001 stated that "public meetings with the Chief and Council, WLEC [Wildlife, Lands and Environment Committee], technical expertise and the public are an essential component of our procedures for scoping community issues with regards to the ToR [Terms of Reference]."

Decision Being Sought

CARC requests that the Board hold formal scoping meetings or hearings for this environmental assessment to directly gather public input into concerns with the project and its potential effects to formulate appropriate terms of reference for the developer.

Rationale

It is our understanding that your staff are not permitted to attend or participate in any discussion of the draft terms of reference for this environmental assessment. Given the quasi-judicial responsibilities of your Board, we understand this approach.

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CARC does not believe that it is appropriate that public participation in scoping the Snap Lake project should be based solely on written submissions. Northern communities rely on personal relationships and communications, often where English is not the preferred language.

Sound environmental assessment requires time and effort in defining the scope of the project (s. 117 of the *MVRMA*). This step must involve the public and this may take several forms depending on the potential for adverse environmental effects and public concern. CARC does not foresee the need to conduct public meetings or hearings for scoping of every development that requires an environmental assessment pursuant to s. 125 and 126 of the *MVRMA*. Given that it is not possible to take a development in the Mackenzie Valley straight to an environmental impact review, your Board is stuck with conducting an environmental assessment of all major projects unless the *Canadian Environmental Assessment Act* applies or there are transboundary effects.

Your Board needs to determine which developments require some public scoping processes beyond written interventions, as early as possible in the environmental assessment process. This must necessarily involve a determination on a case-by-case basis but guidelines may also be helpful. These guidelines could include factors such as public concern, potential for significant environmental effects, whether the project is in a new watershed, whether there is active resource harvesting in the potentially affected area, whether there are rare or endangered species in the area, where there is high uncertainty about the potential effects of a project or there is uncertainty in the regulatory context for a development.

For smaller projects, scoping can be conducted through written interventions but for larger projects public meetings and/or hearings are a better avenue for ensuring public input. Time and effort invested up-front in the process should reduce the possibilities of delays and additional information requirements later on.

Under the *EARP Guidelines Order* and the *Canadian Environmental Assessment Act*, it is our view that there would have been a strong possibility that the De Beers Snap Lake project would have been subjected to a panel review. Public scoping sessions would have been required under this legislation if the Snap Lake project went to a panel review. This suggests the need for the Board to approach this environmental assessment cautiously to ensure adequate public involvement.

Recently, BHP stated that they are encountering difficulties in hiring and retaining Northerners and Aboriginal people for their Ekati mine. Once Diavik is in full production and should other projects get underway (e.g. Tahera's Jericho project, a Mackenzie Valley Pipeline and others) the promised benefits from projects such as De Beers Snap Lake development will be subject to increasing uncertainty. Northerners are beginning to question the need for further development, the scale and pace of resource development, and how benefits can better be retained.

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Given the magnitude of this project, its location, its potential effects, uncertainty in the legal and regulatory context and public interest in this development, we feel it would be more appropriate for the Board to hold public scoping meetings consistent with s. 114(c) and 115 of the *MVRMA*. This should in no way affect the need for rigorous technical review of this development that will likely require public hearings at a later date in the environmental assessment.

Sincerely,



Kevin O'Reilly
Research Director

cc. Hon. Robert Nault, Minister of Indian Affairs and Northern Development
Hon. Ethel Blondin-Andrew, MP Western Arctic
Hon. Joe Handley, Minister of Resources, Wildlife and Economic Development
Chief Archie Catholique, Lustel K'e First Nation
Chiefs Rick Edjericon and Peter Liske, Yellowknives Dene First Nation
Clem Paul, President, North Slave Metis Alliance
Robin Johnstone, Senior Environmental Manager, De Beers