



BYERS ENVIRONMENTAL STUDIES
Winnipeg, Manitoba
Tel/FAX: (204) 453-7807

YDFN Comments & Recommendations on Terms of Reference for De Beers' Snap Lake Diamond Project

August 2, 2001

On behalf of Yellowknives Dene First Nation, I would like to make the following comments/suggestions regarding the draft Terms of Reference (TOR) for the De Beers Snap Lake environmental assessment.

1. Subject: Ambiguity in the Mackenzie Valley Resource Management Act

In response to MVEIRB's recommendations on their mine expansion EA, BHP made the case, correctly, that the Act [subsection 128(1)] provides for the process to move to the licensing stage when no significant impacts are identified by the Board. However that same subsection states more fully that "...where the development is not likely in its opinion to have any significant adverse impact on the environment or to be a cause of significant public concern, determine that an environmental impact review of the proposal need not be conducted;..". It seems to me that this is an ambiguous statement that is not defined in the Act. How is that (**significant public concern**) measured? What level of "significant public concern" is necessary for this rationale to kick in and possibly override the finding of no significant adverse impact as a rationale for approval? Will the board seek direction from the CEAA guidelines ("Responsible Authorities' Guide: Part II, Practitioners' Guide") in formulating their policy on this?

The YDFN would expect to see a ruling of the Board on this matter.

2. Subject: Information Exchange after Public Registry closure.

De Beers should be required to answer questions designed to clarify their previously delivered answers to stakeholder questions, even after the closure of the Public Registry. It would be understood that the stipulation would be that the point of clarification would not entail seeking new information after the closure date. Rather, the point of this provision is to make sure that the proponent had understood the stakeholder's questions and had given clear and complete answers. Clarifications should be allowed to be entered into the public record even after closing date has been reached.

3. Subject: **Assessment of significance of environmental impacts.**

The MVRM Act 117(2) states *“Every environmental assessment and environmental impact review of a proposal for a development shall include a consideration of*

(a) the impact of the development on the environment,...

(b) the significance of any such impact;”

I strongly approve of the change in emphasis in the Snap Lake EA, as detailed in the last paragraph of item #5.1 and again in 5.5 of the TOR. Rather than accepting the proponent's rating of the significance of a potential environmental impact, YDFN would favor being told of the effect and its magnitude at the local and regional level, leaving it up to the stakeholders and the Board to arrive at our own conclusions about its level of significance.

For example, we are told that the metal strontium will, under worst case scenario, be put into Snap Lake at a level 3 times higher than background. But because there are no CCME guidelines for this metal, De Beers minimizes the significance of this impact without telling us what effect, if any, this higher strontium concentration has on aquatic life.

Another example of what I mean in seeing this change in emphasis as being advantageous to aboriginal stakeholders:

If a caribou or 2 or 5 gain access to a tailings pond and drink from it, their possible contamination will be correctly categorized as an insignificant adverse impact on the Bathurst herd. However, if a hunter shoots the affected caribou years later and he and his family eat meat that contains higher heavy metal loads as a result of the animal's earlier action at the tailings pond, then the caribou's access to the pond has become a serious, significant impact for that hunter and family.

So in summation, we should not allow De Beers to dictate whether an impact of its operation should be of concern (i.e. high or low or negligible significance). Rather, the paramount question that should be addressed at all times is: What is the effect of a mining activity and does it leave us with an **acceptable** (to aboriginal groups & regulators) **impact**?

4. Subject: **Acid Rain (TOR #5.6.1)**

One area of potential cumulative effects that the TOR has not requested to include in the EA is the potential for acid rain generation in the region. Water bodies on granitic bedrock (such as in the North Slave Geological Province) are normally very sensitive to acid rain deposition because they lack acid buffering capacity. Acid rain has been implicated in the deterioration of fish habitat and depletion of fish populations in eastern Canadian lakes for at least the last 25 years. The types of air pollutants that generate acid rain in eastern North America (nitrogen oxides and sulfur dioxide) will be produced by the

3. Subject: **Assessment of significance of environmental impacts.**

The MVRM Act 117(2) states *"Every environmental assessment and environmental impact review of a proposal for a development shall include a consideration of*

(a) the impact of the development on the environment,...

(b) the significance of any such impact,"

I strongly approve of the change in emphasis in the Snap Lake EA, as detailed in the last paragraph of item #5.1 and again in 5.5 of the TOR. Rather than accepting the proponent's rating of the significance of a potential environmental impact, YDFN would favor being told of the effect and its magnitude at the local and regional level, leaving it up to the stakeholders and the Board to arrive at our own conclusions about its level of significance.

For example, we are told that the metal strontium will, under worst case scenario, be put into Snap Lake at a level 3 times higher than background. But because there are no CCME guidelines for this metal, De Beers minimizes the significance of this impact without telling us what effect, if any, this higher strontium concentration has on aquatic life.

Another example of what I mean in seeing this change in emphasis as being advantageous to aboriginal stakeholders:

If a caribou or 2 or 5 gain access to a tailings pond and drink from it, their possible contamination will be correctly categorized as an insignificant adverse impact on the Bathurst herd. However, if a hunter shoots the affected caribou years later and he and his family eat meat that contains higher heavy metal loads as a result of the animal's earlier action at the tailings pond, then the caribou's access to the pond has become a serious, significant impact for that hunter and family.

So in summation, we should not allow De Beers to dictate whether an impact of its operation should be of concern (i.e. high or low or negligible significance). Rather, the paramount question that should be addressed at all times is: What is the effect of a mining activity and does it leave us with an acceptable (to aboriginal groups & regulators) impact?

4. Subject: **Acid Rain (TOR #5.6.1)**

One area of potential cumulative effects that the TOR has not requested to include in the EA is the potential for acid rain generation in the region. Water bodies on granitic bedrock (such as in the North Slave Geological Province) are normally very sensitive to acid rain deposition because they lack acid buffering capacity. Acid rain has been implicated in the deterioration of fish habitat and depletion of fish populations in eastern Canadian lakes for at least the last 25 years. The types of air pollutants that generate acid rain in eastern North America (nitrogen oxides and sulfur dioxide) will be produced by the

Snap Lake project. The possibility of Snap Lake, in combination with air pollutants produced by other mines in the North Slave Region, contributing to future acid rain problems should be addressed by De Beers.

5. Subject: Corporate History and Environmental Record (TOR section 4.1.5)

Knowing the proponent's corporate environmental record is important. This positive measure could be brought a step further, though, by making it a requirement of the EA report to include the environmental record of any and all contractors that De Beers uses to construct and operate the mine.

As well, the requirement of stating the company's environmental/worker safety and regulatory compliance record should be spelled out more fully. The guidelines for the BHP EARP, as well as DIAND's conformity review for the Jericho Diamond Project (Draft Conformity Analysis for the Jericho Diamond Project. Part B: Table 2. DIAND, 5 April 2000) should be adopted.

6. Subject: Scale Model

The Terms of Reference state "*De Beers should provide a clear (visual and textual) description of the proposed development site at closure, and after restoration.*" (item #5.10)

A 3-dimensional, scale model of the post-reclamation landscape would help the communities understand what they will be left with after the mine closes and cleans up.

2-dimensional maps of the area are helpful to a point, but are not as effective in conveying the "lay-of-the-land". Before- and after-development models of the affected area would be most effective in presenting to people the concept of how the topography will have changed as a result of the mine.

7. Subject: Translation

Executive Summary of the EA report should be translated into Chipewyan & Dogrib. Funding for this should come from De Beers, not government, since it is De Beers that says they want effective communication with communities.

8. Subject: Traditional Knowledge

The Terms of Reference state (item #5.2.2):

"De Beers shall make all reasonable effort to collect and facilitate the collection of traditional knowledge relative to the proposed development, for integration into the environmental assessment report in collaboration with Aboriginal communities and organizations. De Beers shall describe where and how traditional knowledge was used and the effect that it had on predicting impacts and

Snap Lake project. The possibility of Snap Lake, in combination with air pollutants produced by other mines in the North Slave Region, contributing to future acid rain problems should be addressed by De Beers.

5. Subject: Corporate History and Environmental Record (TOR section 4.1.5)

Knowing the proponent's corporate environmental record is important. This positive measure could be brought a step further, though, by making it a requirement of the EA report to include the environmental record of any and all contractors that De Beers uses to construct and operate the mine.

As well, the requirement of stating the company's environmental/worker safety and regulatory compliance record should be spelled out more fully. The guidelines for the BHP EARP, as well as DIAND's conformity review for the Jericho Diamond Project (Draft Conformity Analysis for the Jericho Diamond Project. Part B: Table 2. DIAND, 5 April 2000) should be adopted.

6. Subject: Scale Model

The Terms of Reference state "*De Beers should provide a clear (visual and textual) description of the proposed development site at closure, and after restoration.*" (item #5.10)

A 3-dimensional, scale model of the post-reclamation landscape would help the communities understand what they will be left with after the mine closes and cleans up.

2-dimensional maps of the area are helpful to a point, but are not as effective in conveying the "lay-of-the-land". Before- and after-development models of the affected area would be most effective in presenting to people the concept of how the topography will have changed as a result of the mine.

7. Subject: Translation

Executive Summary of the EA report should be translated into Chipewyan & Dogrib. Funding for this should come from De Beers, not government, since it is De Beers that says they want effective communication with communities.

8. Subject: Traditional Knowledge

The Terms of Reference state (item #5.2.2):

"De Beers shall make all reasonable effort to collect and facilitate the collection of traditional knowledge relative to the proposed development, for integration into the environmental assessment report in collaboration with Aboriginal communities and organizations. De Beers shall describe where and how traditional knowledge was used and the effect that it had on predicting impacts and