

Mackenzie Valley Environmental Impact
Review Board Box 938, 5102-50th Avenue,
Yellowknife, NT X1A 2N7

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Subject: Review Board Single Point of Entry and Distribution of Information
Submitted by Interveners and Directly Affected Parties and Recent
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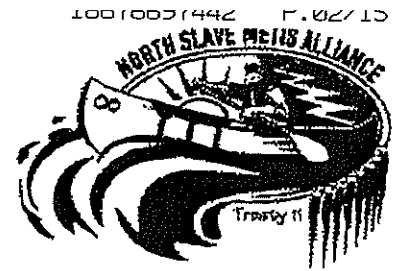
We hope this change in procedure is acceptable to those participating in the EA. If there are any concerns regarding the change, please call me at 867-766-7053.

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NORTH SLAVE METIS ALLIANCE

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Mackenzie Valley Environmental Impact Review Board (MVEIRB)
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April 13, 2002

Re: The North Slave Metis Alliance's report on De Beers' conformity with the Terms of Reference (ToR).

Dear MVEIRB:

The NSMA represents a community of Metis in the NWT and section 2 of the *Mackenzie Valley Resource Management Act* (MVRMA) recognizes the Metis of the North Slave Region to be a "first nation". In addition to the duties to consult first nations set out in the MVRMA, Canada, the GNWT and De Beers owe the NSMA a duty to consult on matters that may affect our aboriginal title or rights in the North Slave Region. The BC Court of Appeal has recently and clearly ruled that in addition to the Crown, resource companies, such as De Beers, have a direct duty to consult with first nations (*Haida Nation v. British Columbia (Minister of Forests)* (2002) B.C.J. No. 378 (BCCA)).

The proposed Snap Lake Diamond project is occurring within the territory traditionally used and occupied by the NSMA. We have claimed aboriginal title and aboriginal rights over the region. In section 5.2.2.2 of its EAR (Existing Treaty and Land Claims), De Beers recognizes that the NSMA asserts an interest over the North Slave Region. The NSMA claims set out in *Clem Paul vs. Her Majesty The Queen in Right of Canada, The Government of Canada as represented by the Attorney-General of Canada, The Minister of Indian and Northern Affairs Canada, the Government of the Northwest Territories, and the Dogrib First Nation as represented by The Dogrib Treaty 11 Council* have been highly publicized. A ruling on the aboriginal rights of NSMA under section 35 of Constitution has yet to be reached. The *Haida* case and another recent BC court ruling in the *Taku River Tlingit First Nation v. Tulsequah Chief Mine Project* (2002) B.C.J. No. 155 (BCCA), however, reject the idea that aboriginal people can only claim a duty to consult exists after a court has rendered a decision on the existence of their section 35 constitutional rights. Because the governments of Canada and the GNWT possess sufficient evidence of our claims and the *prima facie* case established regarding NSMA aboriginal rights and title in the *Clem Paul* case, they owe the NSMA a duty to consult

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regarding matters that might affect our aboriginal title or rights in the North Slave Region.

Based on the *Taku* and *Haida* decisions, De Beers cannot treat the NSMA any different from the Dogrib Treaty 11 Council or other first nations in terms of consultation. De Beers, the MVEIRB, Canada, and the GNWT should also be aware of the case law established in *Halfway River First Nation v. British Columbia* (1999) B.C.J No. 1880 (BCCA). This court ruled that the content of the duty to consult involves a positive obligation "to ensure that their representations are seriously considered and, wherever possible, demonstrably integrated into the proposed plan of action." (p. 30). The NSMA has also outlined the Crown's obligations to ensure that we receive sufficient environmental impact information to make informed decisions in our publication *Can't Live Without Work* (July 1999: 64-71). However, due to the recent case law cited above, it is also our position that De Beers has a direct duty to consult with us.

The North Slave Metis Alliance (NSMA) has reviewed the De Beers' Environmental Assessment Report (EAR) for its conformity with the MVEIRB's terms of reference (ToR) as well as De Beers' duty to consult governed by the cited case law. The NSMA has identified several non-conformities with the ToR and failures to properly consult with us. We expect De Beers will take steps to immediately rectify these non-conformities. Where possible, the NSMA has identified how it can help De Beers meet these requirements.

ToR section 2.2.1

Section 114(c) of the *Mackenzie Valley Resource Management Act* (MVRMA) requires, "that the concerns of aboriginal people and the general public are taken into account". As stated, case law has further outlined industry's duty to provide aboriginal communities with sufficient information to make informed decisions. Section 2.2.1 of the ToR describes the purpose and contents of consultation. Among other things, De Beers is required to describe:

2.2.1

- IV. concerns identified
- V. differences in views between those consulted
- VIII. verifiable, documentation of how consultation affected impact prediction and mitigation, and affected the design of the proposed development.

In a meeting between the NSMA and De Beers, the NSMA gave De Beers a copy of its publication, *Can't Live Without Work* and stated that the document was the expression of our concerns.

Can't Live Without Work is a comprehensive survey of the concerns of NSMA members regarding the Diavik proposal and outlined specific factors that make the NSMA uniquely vulnerable to negative impacts from diamond mining. For example, the

report explains how the government's destruction of the historic Metis settlements in Yellowknife has forced the community to face specific social, economic, and cultural hardships without the advantages of a physical land base or bounded community (p.50). The report was intended to be the foundation of public, government, and industry knowledge of NSMA history, rights to consultation, and our concerns with diamond mining. The report includes 80 specific recommendations on how the NSMA's concerns for a sustainable future can be addressed (pp. 83-295). When the NSMA gave a copy of *Can't Live Without Work* to De Beers it should have formed the foundation of De Beers' identification of NSMA concerns and the means to address these concerns.

In its EAR, De Beers states that "comparable case study reviews (BHP, Diavik, Cameco/Comega)" are relevant sources of data on community concerns (i.e. see De Beers EAR section 5.1.3.1). De Beers cites *Can't Live Without Work* in its references to section 5, "socio-economics", but, nowhere in its social-economic assessment does De Beers consider and assess the concerns expressed therein by the NSMA.

Reviewing and assessing "concerns" is a first step in any environmental assessment. This failure is serious. Each aboriginal community has a unique ability to tolerate or adjust to industrial development. While the NSMA may share some of the same concerns as other aboriginal people, the NSMA's concerns and ability to adapt to environmental changes are unique and must be considered.

To meet this conformity requirement, the NSMA expects De Beers to add the following to its EAR:

1. The NSMA concerns outlined in *Can't Live Without Work*.
2. An analysis of the differences in views held by the NSMA *as per* the other aboriginal communities
3. An explanation of how NSMA concerns shaped De Beers project design and "affected impact prediction and mitigation".

ToR Section 2.2.2

Section 2.2.2 of the ToR requires De Beers to collect traditional knowledge from the aboriginal communities and integrate this knowledge into their EAR.

Section 2.2.2

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 determining mitigation. Where traditional knowledge is not available, or not provided to De Beers in a timely manner despite appropriate diligence, De Beers shall describe efforts taken to obtain it. Traditional Knowledge is given full and equal consideration to that of western science.

DeBeers shall present both the scientific and traditional perspectives on predicted impacts wherever both types of information are available, and should refrain from weighing the relative merits of predictions.

In section 4.3.2.2 of its EAR, De Beers reports:

The specific use of traditional knowledge for the Snap Lake Diamond Project was discussed with the North Slave Métis Alliance in the spring and summer of 2001. During these preliminary discussions, the North Slave Métis Alliance noted that they would like to focus their efforts on contributing traditional knowledge to environmental monitoring, rather than the up-front contribution of traditional knowledge during project design and environmental assessment. Specifically, interest was expressed in developing a decision-making mechanism that allows for direct input of traditional knowledge into the development and implementation of environmental monitoring. They expressed the concern that monitoring needs and priorities identified by holders of traditional knowledge are filtered out of environmental monitoring programs because the final decision-making tends to emphasize science.

As a result, De Beers did not pursue the collection of traditional knowledge from the North Slave Métis Alliance for use during the project design and EA. Recognizing the concerns expressed, it is De Beers' intent to develop environmental monitoring programs that incorporate the priorities of both traditional knowledge and science. De Beers recognizes that, while monitoring interests may converge in many areas, some differences in priorities are inevitable and that the development of a decision-making mechanism is an essential first step to identify the needs of a program that monitors for environmental effects of the project. De Beers will work towards this goal in parallel with the EA and permitting processes.

The NSMA did not take the position that the use of NSMA traditional knowledge could be entirely deferred to the monitoring stage. In table IV.1.1 (appendix IV.1) De Beers lists the "items" discussed at its five meetings with the NSMA. In no case is the "item" of traditional knowledge mentioned. In particular, De Beers states above that,

"The specific use of traditional knowledge for the Snap Lake Diamond Project was discussed with the North Slave Métis Alliance in the spring and summer of 2001." However, De Beers provides no evidence that a meeting occurred with the NSMA in the summer of 2001, a time when it alleges that some of this discussion occurred with the NSMA.

De Beers has not conformed with section 2.2.2 of the ToR requiring De Beers to collect traditional knowledge from the NSMA and integrate this knowledge into their EAR. As well, De Beers has not provided verifiable documentation that the NSMA agreed to omit a TK contribution to its EAR. Ensuring the collection of aboriginal TK is one of the central objectives of the ToR.

The traditional knowledge of NSMA members is not restricted to knowledge of the physical environment. For centuries, during the subarctic fur trade, the NSMA developed extensive knowledge about how to operate businesses in this physical and social environment. Part of our unique cultural knowledge involves knowledge of how to facilitate productive and positive working relationships between aboriginal peoples and non-aboriginal businesses. Therefore, part of the Metis' unique heritage and long experience with the North Slave ecology involves knowledge of how to manage business relationship in this environment. This traditional knowledge was not solicited.

In its EAR, De Beers investigated the historic meteorology of the region. De Beers selected climate stations with long term data on air temperature (section 9.3-3) and also makes an effort to analyze long term historical data on wind direction and ice conditions. The data from the Yellowknife airport dates back to 1942 and the longest source of data on air temperature is from the Fort Simpson airport dating to 1922. The careful recording of air temperature, wind direction, and ice conditions was important to management of the fur trade and formed part of our business relationship with the Hudson's Bay Company at Fort Rae. The NSMA possesses the Fort Rae HBC records on air temperature, wind direction, and ice conditions collected between 1892 and 1925. De Beers could use this unique source of historical environmental data to extend its historical meteorological data, but did not solicit this data from the NSMA.

The NSMA is committed to providing De Beers with traditional knowledge for integration into its EAR. The NSMA proposes that De Beers meet with the NSMA to determine a plan whereby De Beers can meet this conformity requirement.

ToR Section 2.5.1

Section 2.5.1 of the ToR require De Beers to describe alternatives to carrying out its development and subsection VI requires De Beers to describe alternatives to "mine production rates."

Section 2.5.1

VI. mine production rates

In section 1.2.2 of its EAR, De Beers defines the mine production rate to be 3,000 tonnes per day (tpd). This will amount to a mine operation period of 22 years between 2005 and 2026. No rationale for this tpd is offered. In the same section of its EAR, De Beers states that, "no alternatives were considered." Therefore, De Beers has not met the ToR requirement to describe alternative mine production rates.

In section 3.1.3 of its EAR, De Beers states that it "may consider an increased production rate" if further kimberlite resources are located at the site.

EA legislation was developed in Canada as a means to ensure sustainable development. De Beers' proposal to close the mine in 2026 coincides with Diavik's schedule to end production in 2023. The NSMA is concerned that diamond mining will result in the classic "boom and bust" scenario that has historically crippled sustainable development in the arctic. If De Beers closes at approximately the same time as Diavik, the potential for a significant cumulative impact is heightened.

For its part, De Beers claims to "understand the serious effects the closure of a mine can have on a community (section 1.2.2)."

The determination of tpd is fundamental to determining the sustainability of non-renewable resource use. The NSMA expects De Beers to describe its rationale for a production rate of 3,000 tonnes per day and its proposal to increase production rates if further resources are located. The NSMA also expects De Beers to describe and consider the cumulative impact of closing its mine at the same time as Diavik. The NSMA expects to discuss with De Beers alternative mine production rates that can create better certainty for a sustainable economic future.

ToR Section 2.5.3

Section 2.5.3 of the ToR requires:

Section 2.5.3

De Beers shall explain the rationale for its selection of 'spatial boundaries' (i.e. project related, local and regional scope) and 'temporal boundaries'.

De Beers provides no rationale for its selection of a 31 km radius for its regional study area (RSA) regarding resource uses. The NSMA believes the RSA should be larger and touch on the RSA studied by Diavik to avoid large gaps in the study of impacts on resource uses.

The NSMA expects De Beers to provide a rationale for its selection of a 31 km radius RSA.

ToR Section 2.6.5

Section 2.6.5 of the ToR describes components required in De Beers assessment of impacts on aquatic organisms and their habitat. The analysis should include:

Section 2.6.5

- II. impact on all lakes that may experience changes to fisheries resources, including, but not limited to Snap Lake and streams associated with these lakes;
- III. habitat loss or alteration;
- IV. rare and/or sensitive fish species and habitat;
- V. mortality (includes fishing);

In section 9.5.2.2. of its EAR, De Beers recognizes that fish have “intrinsic values”, but De Beers did not investigate Metis values, ethics, or morals regarding the capture of fish. In section 9.5.1.2.4 of its EAR, De Beers describes its fisheries sampling methods that included the capture of fish by spin-casting and fly fishing technologies. The NSMA was not consulted about this sampling technique. The Metis consider the capture of fish by angling technologies to be unethical and offensive to our values regarding the respect for fish. We also have concerns about fish health and mortality related to angling. Had De Beers consulted with us regarding its fisheries research, this concern would have been identified. Two issues arise: 1) the NSMA was not consulted about fisheries sampling techniques, and if we were, we would have objected to the use of angling technologies; 2) the NSMA has the experience and capacity to conduct fish sampling with our traditional technologies but De Beers did not identify any opportunity to assist with sampling. As a result, De Beers flawed consultation caused a missed opportunity to work with Metis fishers to sample the fisheries in a manner consistent with our values and has consequently offended our aboriginal values.

In its EAR, De Beers states the mine footprint will impact the inland lakes (IL 1-9) and stream S31. Some of these impacts have already been permitted by the GNWT. The NSMA should have been consulted about these impacts. The GNWT cannot unilaterally make decisions regarding impacts on the resources, land, and title claimed by the NSMA.

Subsection IV of section 2.6.5 requires De Beers to describe “rare and/or sensitive fish species”. De Beers has identified fish is IL3 and IL5. De Beers has not determined whether these fish, potentially landlocked for a long time, are genetically distinct from those in Snap Lake. The NSMA expects to know if a loss of genetic diversity will be caused by the destruction of IL3 and IL5.

The fate of the fish in IL3 and IL5 has not been described. The NSMA expects to participate in an ethical discussion regarding the fate of these fish.

Section 2.6.5 of the ToR also requires:

Section 2.6.5

The environmental assessment report should include an overview of how the DFO, 1986 principle of No Net Loss will be achieved during the construction, operation, care and maintenance and closure stages of the proposed development.

As well, section 2.12 explains:

2.12 Compensation

De Beers should provide key elements of its policy on individual compensation and on compensation agreements, contracts or other forms of compensation they have or will negotiate within the confines of confidentiality.

De Beers states, "Details of the mitigation plans, structure designs, and structure removal plans will be provided in a Fish Habitat Compensation Plan to be submitted to DFO." This answer is wholly unsatisfactory. First, De Beers must describe publicly in its EAR how it will meet the DFO's NNL plan. More significantly, the DFO does not have a monopoly on habitat compensation, restoration, or remediation in the North Slave Region. Any impact on habit, and clearly some fish habit will be impacted, is an impact on the resources, land, and title claimed by the NSMA. The NSMA expects to be consulted in regards to the restoration, remediation, or compensation of impacted fish habitat.

Section 2.7.1 and Section 4.1.5

Section 115 of the MVRMA states that an EA shall be conducted with regard to "b) the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley". Further, the *Haida* decision cited above confirms that consultation extends to both the cultural and economic interests of the affected aboriginal communities. De Beers has defined the NSMA as an impacted community.

Section 2.7.1 of the ToR require:

2.7.1 Cultural and Heritage Resources

Describe potential impacts of the proposed development on cultural and heritage

resources. Potential impacts on the cultural well being of the impacted communities should include, for example, anticipated or possible changes on social cohesiveness or language use.

Section 4.1.5 of the ToR require De Beers to provide a:

Section 4.1.5

- Description of the existing environment biophysical and socio-economic environment,

In section 5 of its EAR, "Socio-Economic Impact Assessment", De Beers has constructed "profiles of the primary communities". These profiles are done in detail for every affected aboriginal community except the NSMA. Each profile provides some "background" on the aboriginal community, then provides charts on population, employment, education, traditional activities, housing, household income, crime rates, and language use with textual analysis. The analysis also includes the community's access to social services and a review of some of the community's input and concerns. Each community profile is about five pages in length. For the NSMA, the profile consists of a mere two paragraphs covering ½ a page, describing whom the NSMA represents with a comment on NSMA business relationships. The NSMA profile contains no discussion of NSMA housing conditions, education, traditional activities, etc. Based on the *Taku* and *Haida* decisions cited above, De Beers cannot treat the NSMA any different from the Dogrib Treaty 11 Council or other first nations in terms of consultation and impact assessment.

The specific cultural, social, and economic well-being of the NSMA community has not been assessed and its place in the existing socio-economic environment has not been described. The anticipated or possible changes on the NSMA's social cohesiveness or language use have not been assessed.

DIAND, the GNWT, Diavik, and BHP have provided the NSMA with funds to develop social, cultural, and economic data to facilitate assessments of diamond mining impacts on NSMA well-being. The NSMA has completed the collection of this data. To help De Beers address this non-conformity, the NSMA will submit to De Beers a set of data on the housing conditions, education, employment, traditional activities, and other indicators of well-being by 31 May 2002. The NSMA expects De Beers will use this data to predict the potential project impacts on the social, cultural, and economic well-being of the NSMA.

Section 2.7.1

Section 2.7.1 of the ToR requires De Beers to assess the impacts of their proposed project on the heritage resources of aboriginal people.

Section 2.7.1

Describe potential impacts of the proposed development on cultural and heritage resource.

De Beers hired professional archeologists to conduct the studies, particularly at the mine site and land areas crossed by the winter road. Many artifacts were located, including six that date the historic period

The NSMA wanted to be involved in these studies. Table IV.1-1 lists the "items" discussed in meetings with aboriginal people. On 12 May 2000, the NSMA reported that they, "want to be part of the archeological assessment of the area." De Beer's response to the NSMA concern is, "to date representatives from various communities have been involved in the archeological work". The answer elides the fact that the NSMA were not directly involved in the assessment of archeological sites and resources.

The omission of the NSMA from archeological fieldwork is serious. De Beers claims that the effect of the mine on aboriginal heritage resources has been positive whereby the development instigated the need for research that has contributed to increased information on heritage resources in the region (EAR 6-49). This impact has not been positive for the NSMA. Not only has an opportunity not been used to develop knowledge of Metis heritage, but potential Metis heritage information for the region has been marginalized. As well, the effect of precluding NSMA participation has been to allow other aboriginal communities to assist with the interpretation of heritage resources that may be Metis in origin.

The NSMA expects De Beers to meet with the NSMA and develop a strategy to assess Metis heritage resources in the region to meet this conformity requirement.

Section 2.7.3 and Section 4.1.5

Section 2.7.3 requires De Beers to give consideration to the following:

Section 2.7.3

- vii. availability and use of skilled workers in the NWT to meet job requirements.
- ix "training or retraining necessary for sections of the northern workforce to meet De Beers employment standards (i.e. former Con or Giant employees).

De Beers appears to be in the process of developing this economic data. In section 3.9.1.3 of its EAR, De Beers states that, "job descriptions and a capacity survey of the primary communities are now being completed." The purpose of the survey is to identify the education and skill levels in the aboriginal communities to determine how many people qualify for employment and what types of training and education is immediately required to make others eligible for employment.

The NSMA has no knowledge of this survey. A survey of this type, however, was identified by the NSMA as a means to address some of our concerns. In Table IV.1-1 (appendix (IV.1)), De Beers lists the "items" raised by the NSMA in meetings with De Beers. On 27 February 2001, the NSMA raised the item, "Will De Beers carry out a survey to identify who would be interested in working in underground mining and then train them." At the same meeting, the NSMA raised the issue of education and training for youth. On 23 March 2001, the NSMA raised the item, "NSMA wants to see more Northern apprenticeships, as a way to develop capacity among the NSMA members and to develop trade skills (i.e. welding)." Clearly, as part of our meetings with De Beers, the NSMA requested a capacity survey to identify potential employment levels in the community, specific jobs, educational gaps, and identify the necessary training programs.

De Beers has not assessed the "proportion" of the NSMA community eligible for employment or the gaps in member education and training that need to be addressed to make members eligible for employment. This data is critical to assessing the economic well-being of the NSMA and identifying appropriate mitigation measures (i.e. pre-employment training and education).

De Beers must complete its "capacity survey" and its analysis to meet this conformity requirement.

ToR Section 2.11

Section 2.11 of the ToR explains:

Section 2.11 Follow-up Programs

Describe reporting (feedback) procedures including any proposed monitoring programs. The intent is to ensure that remedial actions are taken if the results of a monitoring program deviate from any established operational standards on environmental performance, or predictions on environmental impacts. De Beers shall describe the approach, objectives and proposed methodologies that will be used in any proposed monitoring program(s).

In *Can't Live Without Work*, the NSMA expressed its concern that the monitoring of all the diamond mining projects in the North Slave Region is occurring in isolation or an *ad hoc* manner. The NSMA expressed its interest that all diamond mines be integrated and coordinated into one monitoring authority with aboriginal people at the centre of decision-making (pp. 291-295).

In section 3.9.1 of its EAR, De Beers states that it will develop a "Mine Management Advisory Committee" with aboriginal representation. This proposed monitoring authority is quite contrary to the concerns expressed by the NSMA. It does not address the need to integrate all mines into one monitoring authority to coordinate monitoring, mitigation, research, and regional planning and does not place aboriginal communities at the centre of decision-making.

The NSMA expects De Beers to provide a rationale for its "Mine Management Advisory Committee" and explain why it has ignored the NSMA recommendation for an integrated monitoring authority.

In section 5.3.6 of its EAR, De Beers describes its socio-economic monitoring program. The company states, "De Beers will monitor socio-economic indicators that pertain to the areas of socio-economic effects discussed earlier in this section [5]....". However, as discussed elsewhere, De Beers has not collected any socio-economic indicators of NSMA social and economic well-being. For monitoring to be effective and gauge whether the effects of the mine are positive or negative in direction over time, these NSMA indicators must be completed to meet both De Beers monitoring methodology and the requirements of the ToR (cited above).

ToR Section 4.1.5

Section 117(d) of the MVRMA lists the "factors to be considered" by the MVEIRB in its decision regarding approval. One factor to be considered is

(d) where the development is likely to have a significant adverse impact on the environment, the imposition of mitigation or remedial measures.

Section 2.5.4 of the ToR requires

2.5.4 Impact Description and Predicted Outcomes after Mitigation

Describe the direct and indirect impacts resulting from the proposed development, after mitigation. Describe the impacts so that people reading the report can easily understand how De Beers figured out what the impacts would be, how sure De Beers is of its conclusions, and what those impacts mean for future generations in the Mackenzie Valley. Do not provide any conclusions regarding the significance of the impacts.

.....

De Beers has concluded that the project will have a potentially negative effect on aboriginal communities, including the NSMA. De Beers claims that the negative effects can be offset through impact benefit agreements. De Beers, however, is uncertain about its conclusions. In table 5.1-4, De Beers expresses "uncertainty" about the effectiveness

of mitigation because partnerships for programs between De Beers, DIAND, the GNWT and aboriginal communities have not been defined in terms of their "extent and nature". In section 5.3.3.1 of its EAR, De Beers states, "the magnitude and nature of impacts will differ from community to community. This will depend on such factors as the proportion of the community population hired by the mining project; the existing local social support services; the levels of education, past work experience among the community members; and individuals' values and abilities to adapt to change." As well, De Beers states, "Communities' capacity to respond to this potential for creating social and economic sustainability will be determined by a set of enabling conditions, internal and external to the community itself (EAR section 5.3.3.6.3)."

The NSMA takes the position that all mitigation measures such as an "impact benefit agreement" or "cooperation agreement" must be worked out before the project receives approval. Clearly, De Beers has concluded that the project will have a negative impacts on the NSMA. In order to fully assess and understand these impacts, the NSMA requires sufficient information on how these impacts will be mitigated. At this point in time, the NSMA possesses insufficient information and certainty that:

- an adequate proportion of its members possess the training required to work for De Beers,
- that the existing skills and education of its community will be assessed and training/education gaps will be identified,
- that specific education and training programs will be tailored to meet specific NSMA needs,
- that the NSMA will be involved in environmental monitoring with an appropriate level of participation,
- that contracts of specific interest will flow to the NSMA so that the NSMA can develop capacity in key areas identified by our community,
- that revenues will be shared with the NSMA.

Section 4.1.5 of the ToR explains:

Section 4.1.5

To properly execute its duties under the MVRMA, the Review Board should have the following information on the proposed development:

- Results and summary of issues from public and community consultation, including any concerns and mitigation;

The NSMA has expressed the concern to De Beers that a mitigation agreement be worked out in advance of project approval. In table IV.1.1 (appendix IV.1) regarding a meeting between De Beers and the NSMA on 11 May 2000, De Beers reports the NSMA desire that, "The Company should get active on impact benefit agreements". The De

Beers' comment in the next column of the table is "acknowledged." This NSMA concern regarding mitigation measures was expressed two year ago, but De Beers has taken no action.

The NSMA holds that it until it possesses a specific impact agreement with De Beers, we do not possess sufficient information to make informed decisions about whether the negative effects of the mine will in fact be mitigated and made into positive results. We require this information now so that we can properly assess the environmental impacts on our community.

The NSMA expects De Beers to address these non-conformities before the next stage of the EA process commences. Without this fundamental information, the NSMA will be unable to effectively participate in the next stages of the process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clem Paul', with a long horizontal line extending from the end of the signature.

Clem Paul
President
North Slave Metis Alliance