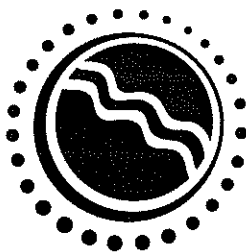


FAKED
Sept 10/02



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

Date: Tuesday, September 10, 2002
From: Luciano Azzolini, Environmental Assessment Officer
Pages: 9 including these the cover pages
File: EA01-004 De Beers Snap Lake Diamond Project
Subject: Notes of the De Beres EA Meeting on September 5, 2002

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Bob Turner, NSMA	669-7442
Rachel Crapeau, YDFN, Dettah and N'dilo	873-5969
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Cecil Lafferty, Fort Resolution Metis Council	(867) 394-3322
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Jolene Koyina, Dogrib Treaty 11 Council	766-3441
Steve Conway, Dogrib Rae First Nation	(867) 392-6150 -
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Yellowknife Metis Local #66	873-4097 -
Garth Walbridge, Rae-Edzo Metis Nation Local #64	920-7389 -
J. Michael Thoms	(604) 414-0267 -
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Lana Paulson, Gameti First Nation	(867) 997-3411
Jennifer Keith, Dechi Laot'i First Nation	(867) 713-2030
Chris Paci Dene Nation	920-2254 -
City Clerk, City of Yellowknife	920-5649

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Tom Matus, Charter Community of Wha Ti	(867) 573-3018
<i>Jane McMullen, GNWT</i>	873-0114 and 873-0293 -
Mark Dahl, Environment Canada	873-8185
Julie Dahl, Marc Lange DFO	669-4940
John Ramsey, NRCAN	(613) 995-5719
Bob Wooley Executive Director, MVLWB	873-6610
Tamara Hamilton, INAC	669-2701
Kevin O'Reilly, CARC	920-2685
Alexandra Borowiecka, Ecology North	920-2986
Bill Carpenter, WWF TM , Canada	920-4999
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Yellowknife Chamber of Commerce	920-4640
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Murray Swyripa Diavik TM Diamond Mines Ltd.	669-9058
Derek Chubb Ekati TM BHP Mines Diamond Mine Inc.	669-9293
NWT Chamber of Mines	920-2145
NWT Chamber of Commerce	873-4174
<i>Pape & Salter Barristers and Solicitors</i>	(604) 681-3050 --
<i>Chamberlain Hutchison</i>	(780) 426-1293

Please find attached draft notes of the September 5, 2002 gathering of interested parties to the De Beers Environmental Assessment. They are not minutes but rather a summation of key concerns, suggestions and questions. I hope the format is helpful. Please email or fax Ms. Susan Hunt <shunt@mveirb.nt.ca> any suggested amendments. If there is anything we can do at future meetings to improve our service please let me know.

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**Participants Meeting – Draft Notes
De Beers Snap Lake Environmental Assessment
MVEIRB Boardroom, September 5, 2002**

In attendance:

Louie Azzolini, EAO, MVEIRB	Stephen Mathyk, MVLWB
Joe Acorn, EAO, MVEIRB	Fraser Fairman, DIAND
Mike Vaydik, NWT & Nunavut Chamber of Mines	Roy Ellis, Ellis Consulting Services
Janet Hutchison, North Slave Metis Alliance	Sue Enge, YK Metis Local #66
Colleen English, De Beers	Buddy Williams, DIAND
Robin Johnstone, De Beers	Florence Catholique, Lutsel K'e Dene First Nation
Chris Paci, Dene Nation	Glenda Fratten, Gartner Lee Ltd. (via phone)
Dave Balint, Department of Fisheries & Oceans	Tim Byers, Yellowknives Dene First Nation (via phone)
Mark Dahl, Environment Canada	Scott Klausen, Natural Resources Canada (via phone)
Kevin O'Reilly, Canadian Arctic Resources Committee	Susan Hunt, MVEIRB, Minute taker
Mike Preston, World Wildlife Fund	
Jason McNeil, GNWT-RWED	

Louie Azzolini began the meeting at 9:20 am with a discussion of steps completed in the EA to date. It was also noted that the Board was provided with all letters, concerns and proposals for the amended work plan.

Steps Completed

- May 21, 2001: project referred to EA. Draft ToR and Workplan prepared.
- EA began Sept. 2001
- De Beers submitted their EA Feb. 2, 2002
- Conformity Consultation period. Once closed, outstanding issues can only be placed on Public Registry
- IR cycles Round 1, 2, and 3(a)
- De Beers IR responses submitted April 10, 2002 and July 29, 2002
- Last cycle of IR's completed

Stages to Complete

- IR cycle for Round 3(b) is closed: De Beers' responses for round 3(a) and 3(b) are due October 13, 2002.
- Pre-meeting conference (PMC) tentatively scheduled for period November 3 – 10, 2002.
- Nov. 24 – 1st week of Dec. set aside for technical meetings – location and venue to be determined based on need, and Board's decision.
- Feb. 14/03 – technical reports to be submitted by Directly Affected parties, Interveners, and GNWT
- March/03 – Public Hearing/Conference
- April 20, 2003 – Public Registry closes
- Review Board decision to follow

Questions/Concerns and Responses – General Discussion

Q: Once the Public Registry closes after the Public Hearing, what is the Review Board process? If information is submitted on the last day of the Public Registry, other parties will not be able to see these documents? ('Natural justice' issue)

Re: The Review Board can choose to forward additional information to the developer and proponents, and ask the developer if they require additional time to respond. Also, the Minister can place information on the Public Registry after the closure date.

Q: Re IR's submitted before Oct. 13th; when will the Review Board rule on which of these IR's they accept?

Re: At the next Board meeting in October, 2002.

Q: Re Technical Sessions – is there a due date for providing answers that cannot be done so during the actual session?

Re: Louie Azzolini will discuss with legal counsel.

C: Re the pre-meeting conference: to determine unresolved issues and solutions require time. The outcome of this conference may determine that more than 5 days is required for the Public Hearings: more time is needed for experts to make presentations.

Q: Request to extend the time between the pre-meeting conference and the Public Hearings.

Re: The workplan has been amended twice. The Board wants these windows of time adhered to.

Questions/concerns from Chamberlain Hutchison (see subsequent pages for additional questions from C&H):

Q: Concern expressed re the 'sliding timelines' which don't appear to be sliding but in fact, set dates (i.e. 5 days for Public Hearings). ***Janet Hutchison needs to know definite dates for both pre-meeting conference and Public Hearings.***

Re: Again, periods of time are 'windows'. For example, when all IR's are in, next period starts regardless of tentative dates.

Q: There are two sub-rounds of IR's outstanding. There is a lot of information coming in and not much time to adequately respond. Has the Board considered this?

Re: This is a period for convergence and filtering. Issues can be addressed fully during the technical sessions.

Q: Regarding a possible site visit by the Board – as there is equal access to all Review Board processes, will the public be able to attend this visit?

Re: This visit is completely independent but the public will be notified of dates. Louie Azzolini to check with legal counsel re proponents, parties and public attending site at their own cost. *Robin Johnstone of De Beers informs that the site is currently manned by two staff on site. It is questionable as to whether the airstrip could handle visits at this time. Further, there are health and safety concerns.*

Questions/concerns from CARC (see subsequent pages for additional questions from CARC):

Q: In relation to the pre-meeting conference and the Public Registry closing, when is Public Hearing held?

Re: In March, 2003.

Q: Does Review Board begin making its decision in Oct./Nov. '02?

Re: No, not until April, 2003, after the Public Registry closes.

Q: The Public Hearing is an opportunity for the public to speak to the merits of the project. Will 5 days be adequate time to do so?

Re: The timeframe is just a window. Actually days required will depend on the outcome of the pre-meeting conference, and on the Board's decision. The agenda for the Public Hearing will be set by the Review Board *after* the pre-meeting conference.

Pre-meeting Conference Walk-through

** Pre-meeting conference is used interchangeably with pre-hearing conference at this point in the discussion.*

Louie Azzolini explains that the Review Board has never been through a pre-meeting conference, and as such, there are processes and challenges to be worked out. Legal counsel for the Board, the Board's consultants and the EAO's will lay out the legal requirements for this meeting and forward to all participants shortly. (*It was noted that no one at the meeting had experience with a pre-meeting conference.*)

Q: Why is the pre-meeting conference being planned already?

Re: To have time to receive legal input, look at all issues and to lay the ground work for an effective meeting.

Q: Request for clarification as to how the Board makes their decision. Does the Board gather information, make it available to legal counsel and then make recommendations to the Board?

Re: The Board receives all information, receives advice from staff and legal counsel, and then makes their own decision based only on information on the Public record.

Q: Public Hearings should be held in the communities; and if this is the case, will not fit in with timelines set out in the workplan. The timeline doesn't seem to be serving anyone other than the Board.

Re: Only the Board can respond to this.

Questions/Concerns from CARC:

Q: The value of a pre-meeting conference *prior to* Technical Sessions is for people to lay out expectations and spell out time frames for presentations, etc. The final public hearing is the time to assess the merits of the EA. The final hearing has to have a flexible time allocation.

Re: Again, the pre-meeting is a time to filter issues and prioritize top 1-5 issues only.

Q: Directly Affected parties and Interveners need time to present and question each other. This should be done without the presence of the Review Board. The pre-meeting participants are the ones who should dictate the time frame for the Public Hearing, not the Board.

Q: Regarding the final Public Hearing, is the Board open to holding a *generalized* session to facilitate questions from the public (And community level) as well as a *technical* session with stricter standards and procedures to field technical expertise?

Re: The pre-meeting conference is the time to communicate the format wanted for the Public Hearing. Gordon Wray, Alternate Chair, MVEIRB, advises that the public will have a chance to speak but not to deal with IR issues that should have been dealt with during the technical sessions.

Q: Noting the BHP Panel, whom held hearings in most communities affected by the project, they did hold both general and technical sessions over a 6 week period.

Re: Staff will anticipate your problems and present all of your concerns to the Board prior to the Public Hearings: at the next Board meeting in October.

Q: During the Diavik Comprehensive Study, all information presented at sessions was placed on the Public Registry. Summary notes of sessions were kept as draft for all participants.

Questions/concerns from Chamberlain Hutchison:

- C: Regarding the 'Pre-conference Guide' document, people should submit time frame needed for issues in advance of the pre-meeting (i.e. # hours or days per issue). One day may not be adequate.
- C: Process issues really need to be ironed out.
- Q: Regarding Technical Sessions, will the Board receive meeting notes? Will parties be able to see the 'synthesized' notes that are going to be presented to the Board?
- Re: Joe Acorn asks Janet Hutchison for her suggestions as to how she would like to see this done. Janet agrees to do so.**
- Q: Regarding sect. 22 of Act, will experts sit in with Board when they make their decision as to what they will rule on?
- Re: No.**
- C: Requests a distinction be made between what the *Board* does and meets with, and what/whom *staff* meets with.
- Q: When the Board (as decision maker) is getting advice from experts, parties are not made aware of this – can staff let parties know what information from independent sources is going before the Board, and give the parties a chance to comment on this information prior to the Board reviewing it?
- Re: All information from independent sources is placed on the Public Registry upon receipt. This information is available at all times. However, the onus is on participants to access this information.**

Louie Azzolini clarifies the following procedure:

IR's are reviewed and it is determined if they pertain to scope, relevance, or requests for clarification. Staff notes their concerns as well and then IR's are presented to the Board for ruling. The Board reviews all IR's point by point and provides staff with recommendations and a decision.

Joe Acorn adds:

We look at IR's and determine if they are making a statement or asking a question, and to see if the IR has been previously answered by another IR.

General questions/concerns:

- Q: How are IR's answered? Are the answers placed on public record? It is more efficient and effective for communities if reply back from Board re an IR reiterates any *previous* answers.

Re: If IR has been answered already, staff may provide Board with a copy of the answer.

Q: Can participants be informed of how/what will be presented to the Board?

Re: Please put this request in writing. All requests for procedural rulings go directly to the Board.

Q: Technical Sessions are a chance to bring up unresolved issues. Will the Board be present for Technical Sessions?

Re: No.

C: What is being done to address layman's issues in this EA? It is important that the proceedings be communicated at the community level in ordinary language. Funding is required for aboriginal organizations to set-up information strategies for delivery at the community level: Municipal Councils need to know about a project *before* the public hearing stage.

Next Steps

- October 13, 2002 – response to IR's Round 3(b)
- Pre-hearing meeting in early November 2002
- November 24 – December 7, 2002 – Technical Sessions
- Conformity Decision remains outstanding
- Focus should now be on Technical Sessions to make them as productive as possible – review IR's and prioritize top issues only

Q: Request to call meeting a *pre-meeting conference* rather than a pre-hearing conference. (Noted throughout summary notes.) Another suggestion was the term 'pre-technical session conference'.

Q: Can technical sessions be held on site?

Re: No, says Robin Johnstone of De Beers. The proponent tries to balance the need to address technical reviewers and laymen, making information accessible through public sessions.

Q: Regarding 'significance' and the difference of opinion re significance findings: who makes the final determination of significance (i.e. De Beers letter to the Board re INAC's request for ruling on IR submissions)?

Re: The Review Board is the only one that makes 'findings of significance'. All others make statements of importance.

Closing comments:

- this was a positive process for clarification. The Board should consider this approach to resolve problems before the final hearing.
- Fraser Fairman of DIAND requests a copy of the 'Next Steps' agenda. Also requests record of IR decisions made by the Board, and copy of these summary notes.
- Rather than re-addressing concerns from the EA process and IR's, need to concentrate now on key issues only.