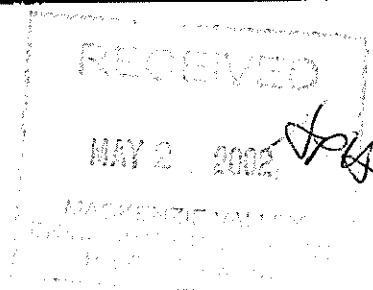


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Our File: 51163 JLH

**TELECOPIER COVER SHEET**

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: LUCIANO AZZOLINI

FIRM: MVEIRB

TELECOPIER NUMBER: (867) 920-4761

FROM: JANET L. HUTCHISON

DATE: May 27, 2002

NUMBER OF PAGES: INCLUDING COVER PAGE  
 (If you do not receive all pages, please call 423 3661 as soon as possible)

**RE: DEBEERS SNAP LAKE DIAMOND PROJECT ENVIRONMENTAL ASSESSMENT**

\*\*\*\*\*

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Our File: 51163 JLH

May 27, 2002

**SENT BY FAX ONLY**

Mackenzie Valley Environment Impact Review Board  
Box 938  
Yellowknife, NWT X1A 2N7

**ATTENTION: LUCIANO AZZOLINI,  
Environmental Assessment Officer**

Dear Sir:

**Re: De Beers Snap Lake Diamond Project**

I am writing in relation to your correspondence regarding the May 27, 2002 deadline for Round 2 IR's. I understand that your current intention is to issue IR's from the Board based on your interpretation of the NSMA's submission dated April 13, 2002. I have several concerns regarding the current process and the content of the IR's you forwarded on May 24, 2002.

Our comments on the proposed IR's, sent out on May 24, 2002, are being provided on the following basis. My client remains very concerned regarding the apparent reclassification of their April 13, 2002 non-conformity submission to an IR submission. We will be forwarding a letter later in the week addressing that issue in more detail. Nothing in this letter or any discussions about IR's based upon my client's April 13, 2002 submission constitutes a waiver of my client's rights to contest any reclassification that has occurred.

Our first comment on the proposed IR's relates to the source. You have listed the Board as the source of the IR's. Other directly affected parties who raised concerns were listed as the source for the information requests subsequently issued. Presumably, the party credited with the IR would have more input than another party regarding whether the IR has been responded to in a satisfactory

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manner. By not crediting these concerns to the NSMA, I am concerned that the Board has further limited my client's future input on whether DeBeers has satisfied the concerns raised in their April 13, 2002 submission. Accordingly, while my client remains of the view that these initial concerns should have been treated as non-conformities, if the Board insists on reclassifying the NSMA's concerns to IR's, the NSMA should be listed as the source.

Our preliminary concern with your proposed IR's is the extremely short timelines given to NSMA to comment. We expect this to be a factor in considering any future requests by NSMA to issue further IR's. In relation to the text of the IR's, we take the position that as NSMA's April 13, 2002 submission is the basis for the IR's the phrasing of these proposed IR's must be acceptable to NSMA. It is our understanding that other party's IR's have been issued using the verbatim wording provided by the party. We can see no reason for treating NSMA differently from other directly affected parties in this regard. The NSMA does have some concerns about the phrasing and content of the proposed IR's. Accordingly, we have attached supplementary wording for your proposed preambles and requests. The supplementary wording should be added to the IR's before they are issued to DeBeers.

Finally, I wish to draw your attention to the NSMA's concerns about some aspects of the current process. As I understand it, DeBeers has not yet responded to the deficiency statement. Despite this, the process has progressed to Round 3 IR's. It is NSMA's position that responses to the deficiency statement and to Round 1 and 2 IR's are required to make Round 3 IR's meaningful and effective. Indeed, as defined by the TOR, all IR's are to be "very specific and focused requests". This can only occur if the EA contains the required information and a response to the deficiency statement has been received. Further, for Round Three IR's to be focused and specific, the parties should have responses to Round One and Two IR's. The original workplan contemplated responses from DeBeers on very short timelines after Round One and Two and before Round Three. We are not aware of any reason for extending these timelines for DeBeers. Further, continuing this stage of the process without any responses from DeBeers is not consistent with the purpose of the Environmental Assessment Process. We are extremely concerned that the process has advanced to this stage without any responses from DeBeers. I would appreciate hearing from you with regard to the reasons for extending DeBeer's time to respond and for continuing the process in the absence of

responses from DeBeers. I would expect copies of any relevant Board minutes where the Board address those matters would accompany your response.

Under the circumstances, NSMA is making a formal request for the Board to revise its workplan immediately. Specifically, the timelines for items 12-22 must be revised. As well, the workplan should now include provision for further rounds of IR's from the directly affected parties, to occur a reasonable time after DeBeers responds to Rounds One-Three. Given all the circumstances, a liberal approach to acceptance of future IR's and generous timelines to review and comment on the considerable volumes of information that can be expected to be generated by the deficiency statement and over 140 pages of IR's would be appropriate. Specifically, the NSMA requests that the revised workplan establish:

- 1.) A deadline for DeBeer's response to the deficiency statement.
- 2.) A deadline for DeBeer's responses to Round One IR's.
- 3.) A deadline for DeBeer's responses to Round Two IR's.
- 4.) A deadline for DeBeer's responses to Round Three IR's.
- 5.) A minimum of 30 days for NSMA to comment on the adequacy of DeBeer's response to the deficiency statement.
- 6.) A minimum of 90 days for NSMA to respond to the answers to Round One, Two and Three IR's and submit additional IR's.

Should you have any questions or require further information on the issues raised in this letter, please do not hesitate to contact me directly.

Yours truly,

**CHAMBERLAIN HUTCHISON**

**PER: JANET L. HUTCHISON**

JLH/vla

cc: client

cc: J.Donahee

Source: North Slave Metis Alliance  
 Reference: Terms of Reference 2.2.1 Public Consultation  
 De Beers shall describe its public consultation policies, objectives, Programs and activities undertaken and committed to regarding:  
 I. methods used to identify, inform and solicit input from potentially interested parties  
 II. those who provided comments and input  
 III. outcomes of consultation including any additional information provided by those consulted;  
 IV. concerns identified;  
 V. differences in views between those consulted;  
 VI. agreements or commitment to agreements with interested participants and/or communities;  
 VII. issues tracking; and  
 VIII. verifiable, documentation of how consultation affected impact prediction and mitigation, and affected the design of the proposed development.

ToR Line: 33-44

To: De Beers Canada Mining Inc.

Supplementary: The NSMA publication, *Can't Live Without Work* explains  
 Preamble NSMA concerns regarding diamond mining and contains 80 specific recommendations about how these concerns can be addressed. A copy of *Can't Live Without Work* is posted at our website ([www.nsma.net](http://www.nsma.net)) and these concerns are outlined from pages 83 to 295. The NSMA gave De Beers a copy of *Can't Live Without Work* as the expression of our concerns and the means to address these concerns. 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. The NSMA is of the view that De Beers did not address our concerns.

Request: In addition to the request for information made by the MVEIRB, please provide details on the following items:

- a) Describe how the NSMA concerns and recommendations in *Can't Live Without Work* affected your impact prediction and mitigation, and affected your design of the proposed development.
- b) If De Beers did not feel it was necessary or responsible for addressing specific concerns in *Can't Live Without Work*, please identify which concerns and why.
- c) If there are differences in views held between the NSMA as per other Aboriginal communities, will the potential impacts on

Aboriginal communities differ between communities? If so, will mitigation measures differ between the impacted communities?

source: North Slave Metis Alliance  
Reference: Terms of Reference 2.2.2 Traditional Knowledge  
Relevant part of the Terms of Reference

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.

ToR Line: 45-55

To: De Beers Canada Mining Inc.

Supplementary: De Beers has not facilitated the collection of NSMA traditional  
Preamble knowledge for integration into the EA. The NSMA is committed to providing De Beers with traditional knowledge relative to the proposed development.

Request: The NSMA has no requests for information to make in addition to the requests made by the MVEIRB.

source: North Slave Metis Alliance  
Reference: Terms of Reference 2.5.1 Alternatives to Carrying out the Project  
Include a description of the main development/production/technical alternatives, in particular, those associated with the following:  
VI. mine production rates

ToR Line: 187-189 and 195

To: De Beers Canada Mining Inc.

Supplementary: De Beers only considered a mine production rate of 3,000  
Preamble tonnes per day (tpd). De Beers states that, "no alternatives were considered." 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. De Beers' proposal to close the mine in 2026 coincides with Diavik's schedule to end production in 2023. The NSMA is concerned that if De Beers closes at

approximately the same time as Diavik, the potential for a significant cumulative impact is heightened.

Request: In addition to the request for information made by the MVEIRB, please:

- a) model other mine production rates with consideration to economic and financial factors.
- b) explain the cumulative effects of closing your mine near to the same time as the scheduled Diavik closure.
- c) explain what circumstance might lead to an increased mine production rate. What consultation process will occur if De Beers wants to increase mine production rate?
- d) If more kimberlite resources are located at the site, has the alternative of a longer mine life been examined?
- e) Will an increased rate of mine production cause an increase in waste rock generated as well as waste water and other impacts associated with mine production? Have these impacts been modeled?
- f) explain how the proposed increase in mine production rate, if further resources are found, contributes to sustainable development?

source: North Slave Metis Alliance

Reference: 2.65 Aquatic Habitat

Relevant part of the Terms of Reference

The impacts on aquatic organisms and their habitat should be considered taking into account predicted water quality and quantity impacts and their associated effects on fish, fish habitat, and local drainage patterns. The analysis of development impacts should include:

- I. productive capacity of aquatic systems during construction, operations, closure and post-closure;
- 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);
- VI. impacts of underground blasting on fish and fish habitat on local aquatic systems; and
- VII. impacts on all lakes and associated food webs and water use potential that may be impacted by changes in water chemistry (nutrients, bacteria, major ions, metals) due to runoff or discharges from the development.

ToR Line: 395-408

To: De Beers Mining Inc.

Supplementary Preamble The NSMA has expressed concern about the sampling of fish using spin-casting and fly fishing technologies. The EAR does not explain the fate of fish in Inland Lake 3 and Inland Lake 5 that will be impacted by the project footprint.

Request: In addition to the request for information made by the MVEIRB, please:

- Describe what will happen to the fish in IL 3 and IL 5.
- Explain why it was decided to sample fish using spin-casting and fly fishing technologies. Was De Beers aware of Aboriginal concerns regarding this method of capturing fish?
- Is fish mortality or injury a possible effect of catching and releasing fish caught by spin-casting and fly fishing? Is De Beers aware of any scientific literature on the effects (i.e. survival rate, mortality, injury) of catching and releasing fish by these methods in arctic lakes or other similar environments?

source: North Slave Metis Alliance

Reference: 2.65 Aquatic Habitat

Relevant part of the Terms of Reference

The impacts on aquatic organisms and their habitat should be considered taking into account predicted water quality and quantity impacts and their associated effects on fish, fish habitat, and local drainage patterns. The analysis of development impacts should include:

- productive capacity of aquatic systems during construction, operations, closure and post-closure;
- impact on all lakes that may experience changes to fisheries resources including, but not limited to Snap Lake and streams associated with these lakes;
- habitat loss or alteration;
- rare and/or sensitive fish species and habitat;
- mortality (includes fishing);
- impacts of underground blasting on fish and fish habitat on local aquatic systems; and
- impacts on all lakes and associated food webs and water use potential that may be impacted by changes in water chemistry (nutrients, bacteria, major ions, metals) due to runoff or discharges from the development.

ToR Line: 395-408

To: De Beers Canada Mining Inc.

Supplementary Preamble De Beers has not provided 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. De Beers states that it will provide this overview and details in a Fish Compensation Plan to be submitted to DFO. The DFO does not have a monopoly on habitat compensation, restoration, or remediation in the North Slave Region. Any impact on fish habit is an impact on the resources, land, and title claimed by the NSMA. The NSMA expects to have its aboriginal rights and title given foremost priority in regards to restoration, remediation, or compensation of impacted fish habitat.

Request: In addition to the information requested by the MVEIRB, please provide the following information:

- a) Why does De Beers state that it will only submit its Fish Habitat Compensation Plan to DFO?
- b) How has De Beers consulted the NSMA regarding fish habitat restoration, remediation, or compensation? If De Beers has not consulted the NSMA on this subject, why not?
- c) How will fish habitat restoration, remediation, or compensation be conducted in a manner consistent with the aboriginal rights and title of the NSMA?

source: North Slave Metis Alliance  
 Reference: 2.7.1 Culture and Heritage Resources  
Relevant part of the Terms of Reference

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.

ToR Line: 438-441

To: De Beers Mining Inc.

Supplementary Preamble: There is no baseline information on the cultural, social, and economic well-being of the NSMA. The anticipated or possible changes on social cohesiveness or language use of the NSMA has not been assessed.

Request: In addition to the information requested by the MVEIRB, please provide the following information:

- a) Describe De Beers' assessment of the cumulative impacts of mining on the cultural, social, and economic well-being of the NSMA, including social cohesion and language use?

- b) Describe De Beers' assessment of the potential impacts of the project on the cultural well-being of the NSMA?
- c) Describe De Beers' assessment of the potential impacts of the project on the social cohesion of the NSMA?
- d) Describe De Beers' assessment of the potential impacts of the project on the language use of the NSMA?
- e) Describe De Beers' assessment of the potential impacts of the project on the subsistence land use of the NSMA?
- f) How does the housing shortage in Yellowknife, identified by the CHMC and reported by De Beers impact on NSMA cultural, social, and economic well-being?

source: North Slave Metis Alliance

Reference: 2.7.3 Economy

Relevant part of the Terms of Reference

The impact of the proposed development on the economy, having regard to direct, indirect and induced impacts on income and employment. Consideration shall be given to:

VII. availability and use of skilled workers in the NWT to meet job requirements;

IX. barriers to employment, advancement, and retention of northern workers, including the training or retraining necessary for sections of the northern workforce to meet De Beers employment standards (i.e. former Con or Giant employees);

ToR Line: 456-458, and 465-467

To: De Beers Canada Mining Inc.

Supplementary  
Preamble

De Beers has not undertaken a "capacity" survey in the NSMA community to determine how many NSMA persons qualify for employment and what types of training and education is immediately required to make other members eligible for employment. Potential employment levels in the NSMA community, educational gaps, and pre-employment training programs have not been identified.

Request: In addition to the information requested by the MVEIRB, please provide the following information:

- a) Will De Beers conduct a capacity survey in the NSMA community to identify the education and skill levels in the community. If so, will De Beers use this data to predict how many members qualify for employment and how many others are interested but lack the required education or training? Will De Beers use this data in collaboration with the NSMA to determine what types of pre-employment training and education are

necessary to develop to make the further members eligible for employment? Based on this data, what are the potential economic benefits to the community in terms of employment and skills development?

b) Explain why this survey has not been conducted in the NSMA community.

Source: North Slave Metis Alliance

Reference: 2.11 Follow-up Programs  
Relevant part of the Terms of Reference

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).

ToR Line: 573-577

To: De Beers Canada Mining Inc.

Supplementary  
Preamble:

As a follow-up program, De Beers states that it will develop "Mine Management Advisory Committee" with aboriginal representation. 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 (*Can't Live Without Work* pp. 291-295).

Request: In addition to the information requested by the MVEIRB, please provide the following information:

- a) Explain if the NSMA's proposal for an integrated monitoring authority was considered. If yes, why was it not utilized in part or whole? If no, why was the NSMA proposal not considered?
- b) What is De Beer's rationale for a non-integrated "Mine Management Advisory Committee"?

source: North Slave Metis Alliance

Reference: 2.5.4 Impact Description and Predicted Outcomes after Mitigation  
Relevant part of the Terms of Reference

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.

ToR: 250-254

To: De Beers Canada Mining Inc.

Supplementary  
Preamble

The NSMA does not possess sufficient information about mitigation and impact benefit measures to make informed decisions about whether the negative effects of the mine will in fact be mitigated and made into positive results.

Request: In addition to the information requested by the MVEIRB, please provide the following information:

- a) on 11 May 2000, the NSMA informed De Beers that, "The Company should get active on impact benefit agreements". Why has De Beers not been active?
- b) how will De Beers provide sufficient information to the NSMA about mitigation and impact benefit measures so that the NSMA can make an informed decision about whether the negative effects of the mine will in fact be mitigated and made into positive results, before the project goes for approval?

source: North Slave Metis Alliance

Reference: 2.5.3 Spatial and Temporal Boundaries  
Relevant part of the Terms of Reference  
De Beers shall explain the rationale for its selection of 'spatial boundaries' (i.e., project related, local and regional scope) and 'temporal boundaries'.

ToR Line: 234-236

To: De Beers Canada Mining Inc.

Preamble: 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.

Request: In addition to the information requested by the MVEIRB,

please provide the following information:

- a) A rationale for the selection of a 31 km radius RSA.
- b) A rationale for why the RSA does not touch on the RSA studied by Diavik.