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February 14, 2003

Ms. Janet Hutchison
Chamberlain Hutchison
Barristers and Solicitors
Suite 1310
10025 - 102 A Avenue
Edmonton, Alberta
T5J 2Z2

Dear Ms. Hutchison:

BY FAX

RE: DeBeers Snap Lake Environmental Assessment Process

Staff of the Mackenzie Valley Environmental Impact Review Board (Review Board) have made me aware of several concerns you have raised with respect to the DeBeers Snap Lake Environmental Assessment (EA) process. These concerns are outlined in an e-mail of February 13th, 2002 sent to the attention of Ms. Glenda Frattton, the Environmental Assessment Coordinator responsible for this file. I respond below to the concerns you have expressed.

I note that you have indicated your intention to correspond with the Board to set out your position in more detail and encourage you to do so. The Review Board will respond to your concerns. We exchanged correspondence in October about your views of the DeBeers EA process. Since you chose to circulate your February 13th e-mail to all parties in the EA, this letter will also be copied to all parties.

The North Slave Metis Alliance (NSMA) is free to take what ever view it likes about the process. I consider it unfortunate, however, that you have chosen to address your concerns via e-mail to the parties before giving any kind of formal notice to the Review Board. As you may be aware, the Review Board is a part time co-management institution which meets only periodically. The Board is unlikely to ever be in a position to respond "today" to questions raised by a party to an EA when issues of a legal nature are involved.

I note as well that you have cited a "lack of consultation" as well as fairness concerns among the issues you raised with Ms. Frattton. The Review Board views the obligation to consult, in the sense that such actions are intended to address the possible effects of

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project approval on the exercise of aboriginal rights, as being the responsibility of government. The Review Board issued IRs addressing this issue to government parties in this EA and their responses are on the record. In this regard the Review Board's position is consistent with *Quebec (Attorney General) v. Canada (National Energy Board)*, [1994] 1 S.C.R. 159. You may wish to raise the question of consultation more directly with government.

The Review Board is bound by the rules of fairness. If you have concerns with respect to the EA process in that regard, we will be pleased to consider them.

As for the specific issues raised in your e-mail:

1) The Ruling on Staff reports:

Your September 16th letter asked a generic question. That question was supported by reference to specific documents. The Review Board has made a decision about the specific documents you referenced. I expect instruction for the correspondence outlining the decision to go out today or Monday.

2) Clarification of Pre-Hearing Conference Procedure:

The Review Board has discussed the procedure for the Pre-Hearing Conference (PHC). I understand that Ms. Fratton has been keeping the parties apprised of preparations for this conference. Review Board staff and counsel are meeting Monday February 17th to plan for the PHC and hearings. You will hear further from us on this concern after that meeting.

3) Requests to Revise the Work Plan:

By way of response to your e-mail of January 23rd to Mr. Azzolini, our Rules of Procedure require that Requests be forwarded to the Executive Director in writing. Consequently, the Review Board has not made a decision on your Requests. Please address these Requests to Mr. Christensen at your earliest convenience.

I trust that this response will assist you in framing your correspondence to the Review Board.

Yours truly,



John Donihee
Board Counsel

cc. parties to the Snap Lake EA