

DeBeers EA file

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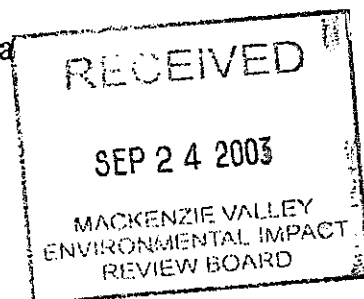


# Canadian Arctic Resources Committee

A voice for citizens on the Canadian North for more than 25 years.

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## Fax Cover Sheet

To: see below

Date: Sept. 24/03

Pages: 5

### Message:

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# Canadian Arctic Resources Committee

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September 24, 2003

Honourable Robert Nault  
Minister of Indian Affairs and Northern Development  
Ottawa ON K1A 0H4

Honourable Robert Thibeault  
Minister of Fisheries and Oceans  
Ottawa ON K1A 0A6

Honourable Herb Dhaliwal  
Minister of Natural Resources  
Ottawa ON K1A 0A6

Honourable David Anderson  
Minister of the Environment  
Ottawa ON K1A 0H3

Honourable Jim Antoine  
Minister of Resources, Wildlife and Economic Development  
Government of the NWT  
Box 1320  
Yellowknife NT X1A 2L9

## Re: Report of Environmental Assessment on the De Beers Snap Lake Project

Dear Ministers

We understand that you will be receiving shortly recommendations from your staff on a proposed course of action pursuant to s. 130 of the *Mackenzie Valley Resource Management Act* (MVRMA) following the submission of the report of an environmental assessment on the De Beers Snap Lake project.

We were pleased to see that many of the recommendations made by CARC during the course of the Snap Lake environmental assessment were adopted by the Mackenzie Valley Environmental Impact Review Board. While several of the recommendations and suggestions from the Board may be fairly characterized as "policy" rather than as regulatory measures, we are of the view that the MVRMA allows the Board broad discretion in determining "measures as it considers necessary to prevent the significant adverse impact" (s. 128(b)(ii)). This view is supported by s. 111 of the MVRMA, that gives the Board the duty to include social, cultural and heritage resource impacts in its assessment of impacts and mitigative measures. It is immaterial whether such mitigative measures should be implemented by government or the developer and whether the measures may represent long-term funding commitments.

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In particular, we strongly support the Board's recommendations and suggestions related to strengthening issues related to cumulative effects and the requirement for participant funding for future environmental assessments. The Board has recommended that the Government of Canada allocate long-term ("no less than ten years"), stable funding for the implementation of the Cumulative Effects Assessment and Management Framework. We note a similar multi-year commitment was recently made by the Department of Indian Affairs and Northern Development and the Government of the NWT to fund the Aboriginal Pipeline Group for a period of six years.

We are also very concerned about a recently published report quoting De Beers Canada Mining Inc. President, Richard Molyneux, stating that he did not have the authority to commit to the sale of Snap Lake rough diamonds in the Northwest Territories (see the attached article "No Deal on Diamonds", Yellowknife, September 19, 2003). This revelation raises important questions about the binding nature of the numerous commitments made by De Beers and recorded in the environmental assessment report.

The issue of the sale of rough diamonds from Snap Lake to businesses in the NWT was raised several times during the course of the environmental assessment. On at least two separate occasions, months apart, commitments were made by company representatives to allow for such marketing. De Beers Canada Mining Inc., President, Richard Molyneux made this commitment at a technical session on December 6, 2002 under questioning from CARC. This commitment was further confirmed through a December 9, 2003 news release by the company. A similar commitment was made by De Beers Canada Mining Inc., Vice-President NWT Projects, John McConnell at the environmental assessment public hearings on May 2, 2003 as a result of a question from the Board Chairperson. It is inconceivable that the company, or its parent in London and South Africa, was not aware of this commitment and its implications.

We note that the Mackenzie Valley Environmental Impact Review Board compiled an extensive list of De Beers' commitments throughout the environmental assessment (see Appendix D of the Board's report). The commitment to supply rough diamonds is included in Appendix D.

The fact that the company is prepared to treat one of the Schedule D commitments as non-binding throws into question De Beers' view of the significance of all of those listed commitments. The Board clearly relied upon these commitments in reaching its decision, below:

"The Board has concluded, pursuant to subparagraph 128(1)(b)(ii) of the MVRMA that with the implementation of the measures recommended in the Report of EA and the commitments made by De Beers during the course of the EA (see Appendix D), the proposed development will not likely have a significant adverse environmental impact and should proceed to the regulatory phase of approvals." [emphasis added]

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We respectfully submit that the Board's finding cannot continue to stand when the facts upon which it relied have changed so materially, in respect of social impacts at least.

May we suggest that a prudent and appropriate course might be to refer the matter back to the MVRMA under the provisions of s. 130(1)(b)(i):

130. (1) After considering the report of an environmental assessment, the federal Minister and the responsible ministers to whom the report was distributed may agree...

(b) where a recommendation is made under subparagraph 128(1)(b)(ii) or paragraph 128(1)(d),

(i) to adopt the recommendation or refer it back to the Review Board for further consideration

to permit the Board to reassess its conclusion in the light of the retraction of De Beers' commitment, or to seek corporate reassurance that the company considers itself bound by the commitments listed in Appendix D of the Environmental Assessment Report.

Alternatively, the Ministers might agree to approve the project subject to the condition that all of the commitments in Appendix D be honoured, thereby preserving the integrity of the Board's original decision and leaving it to De Beers to decide in what manner it wishes to proceed.

We look forward to your reply to this letter and the concerns we have raised.

Sincerely,



Kevin O'Reilly  
Research Director

cc. Gordon Wray, Chair of the De Beers Snap Lake Environmental Assessment,  
Mackenzie Valley Environmental Impact Review Board  
Chief Archie Catholique, Lutsel K'e Dene First Nation  
Chiefs Darrell Beaulieu and Peter Liske, Yellowknives Dene First Nation  
Grand Chief Joe Rabesca, Dogrib Treaty 11 Council  
North Douglas, President, North Slave Métis Alliance  
Hon. Stephen Kakfwi, Premier, NWT  
Hon. Ethel Blondin-Andrew, MP Western Arctic  
Richard Molyneux, President, De Beers Canada Mining Inc.

No deal on diamonds, De Beers Canada president says he can't change company policy

**Stephan Burnett , Northern News Services**

Yellowknife (Sep 19/03) - The president of De Beers Canada has no authority to cut a deal with the Government of the Northwest Territories on the supply of rough diamonds from the Snap Lake Project, he said Wednesday.

Richard Molyneux, president of De Beers Canada, was in Yellowknife last week to speak with Premier Stephen Kakfwi and continue ongoing negotiations concerning the development of the Snap Lake project.

Despite recent public comments to the contrary, last Dec. 6 Molyneux told the Mackenzie Valley Environmental Impact Review Board that he would supply quantities of diamonds to stakeholders.

"What I said is, yes, we would include the supply of Snap Lake production directly to stakeholders, including aboriginal groups," said Molyneux.

But since that time, Molyneux has admitted he does not have the authority to strike such a deal.

"I can't solve it. This is an issue that is core to our business practices, which have been set in collaboration in mandates from our principals," the De Beers president said Wednesday.

Speculation has it Molyneux may have had his commitment curtailed by executives at the De Beers Diamond Trading Company, based out of London, England, said Martin Irving, director, diamond projects with Resources Wildlife and Economic Development.

"If he's doesn't have the authority to make the commitment, then what is he doing making the statement?" Irving queried.

De Beers has a defined corporate culture with a defined marketing policy, Molyneux explained.

Reconciling De Beers corporate and marketing policy with the policies of the GNWT has become the crux of socio-economic negotiations, which have been ongoing for well over a year now, Premier Stephen Kakfwi said last week.

De Beers has run into trouble before as a result of what Irving calls "monopolistic practices." Sherman Anti-Trust Act

"It has to do with the (United States) Sherman Anti-Trust Act," said Irving.

"In the late '40s and early '50s there were a series of court cases to do with De Beers' monopolistic practises. De Beers was convicted on at least one count in absentia," said Irving.

"Even to this day, De Beers executives will not travel in the United States for fear of being indicted," said Irving. Premier Stephen Kakfwi and RWED Minister Jim Antoine have met with power brokers in London, said Irving.

Those power brokers include Nicky Oppenheimer, chairman for De Beers Diamond Trading Company, Gary Ralfic, De Beers DTC general manager, and De Beers DTC sales and marketing manager Gareth Penny.

"It's clear and it's been in our policy statement that's been in existence since 1998, so it's not new. If they do not make a supply of rough diamonds available, the Government of the Northwest Territories will not approve the project," said Irving.

But the territorial government is asking for the "cream off the top" from the Snap Lake Project for their diamond-polishing industry, Molyneux argued.

"It's not whether it's a niche market, it's the cream off the top. It impacts in the sense, if we do this here, we're under obligation to do it elsewhere," said Molyneux.

Both Molyneux and Linda Dorrington, manager of public and corporate affairs with De Beers Canada, are unhappy with the manner in which the project has been reported in the media.

They characterized the supply of rough diamonds as a small sticking point in what has become a \$1-billion investment by De Beers in the North.

"There is significant direct input through employment and that's really what the diamond industry is all about," said Molyneux.

Minister of Indian Affairs  
and Northern Development

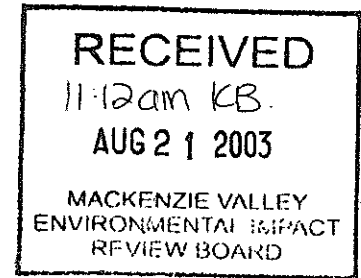


Ministre des Affaires  
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P.R.

AUG 15 2003



Mr. Gordon Wray  
Chair  
Mackenzie Valley Environmental  
Impact Review Board  
PO Box 938  
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Dear Mr. Wray:

On behalf of the Responsible Ministers, with jurisdiction related to this development, I would like to thank you for providing us with a copy of the Report of Environmental Assessment and Reasons for Decision on the DeBeers Canada Mining Inc., Snap Lake Diamond Project, dated July 24, 2003.

Pursuant to section 130 of the *Mackenzie Valley Resource Management Act*, the report is being reviewed by the Responsible Ministers.

Yours sincerely,

Robert D. Nault, PC, MP

c.c.: The Honourable David Anderson, PC, MP  
The Honourable Herb Dhaliwal, PC, MP  
The Honourable Robert G. Thibault, PC, MP  
The Honourable Jim Antoine, MLA