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Our File: 51163 JLH

TELECOPIER COVER SHEET

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: **GLEND A FRATTON
 VERN CHRISTENSEN**

FIRM: **MVEIRB**

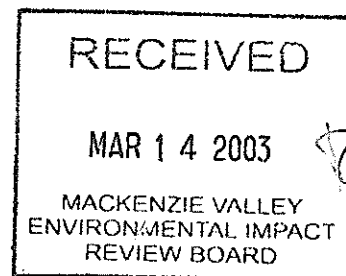
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FROM: **JANET L. HUTCHISON**

DATE: **March 14, 2003**

NUMBER OF PAGES: **4 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
 MCKENZIE VALLEY LAND AND WATER**

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March 14, 2003

Via Fax Only

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

Attention: Vern Christensen and Glenda Fratton

Dear Sir and Madam:

Re: DeBeers Snap Lake Diamond Project - Environmental Assessment

I apologize for not writing to you sooner regarding our client's concerns with the above-noted matter. However, our client required time to make some very difficult decisions regarding its ongoing participation in the EA process.

I am writing to advise that the NSMA has no choice but to adjust its level of participation in these proceedings. My client remains of the view that having technical experts and legal counsel represent them in these proceedings is critical to their ability to assess the impact that the proposed development will have on their Aboriginal rights and title. Indeed, given that this EA process has already overburdened their limited internal resources, it is critical that they have the support of these external resources. However, the limited IRMA funding that was provided to the NSMA has long since run out. The NSMA has devoted funds and internal resources to the EA that have strained their financial and human resources to an extraordinary level.

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The NSMA will continue to express its views and concerns in this EA process to the extent that its limited resources allow. However, their ongoing participation will be on the basis that Canada, the GNWT and DeBeers have a duty to consult with them regarding this proposed development and have breached that duty to consult. The Courts have repeatedly ruled that consultation must be meaningful. Indeed, in the *Miskew* case the Court acknowledged a distinct or separate process might be required to ensure that there was meaningful Aboriginal consultation. The NSMA takes that position that, in order for consultation to be meaningful in an EA of this magnitude, there must be sufficient funding provided to affected Aboriginal Peoples. Without such funding, it is impossible for the NSMA to become fully informed about the project and its potential impacts on their rights.

As a result of inadequate consultation and funding, the NSMA is unable to submit a response to the additional technical information that has been submitted by DeBeers. I wish to be clear that this should in no way be interpreted as the NSMA retracting any of the concerns that have been previously expressed. Indeed, it is my understanding that our client continues to have serious concerns on the issues discussed in the past, including inadequate information on monitoring programs generally, failure to incorporate TK, inadequate assessment of the socio-economic impacts on the North Slave Métis community, inadequate assessment of cumulative impacts on wildlife, inadequate baseline data on wildlife, concerns about the hydrogeology modeling and concerns about the development's impacts on water quality. Many of these issues are critical to the question of whether the project will have a significant adverse impact on the NSMA's rights and interests and, if so, whether such impacts can be appropriately mitigated. It is also our client's position that without this information and without final Impact Benefit Agreements, a Socio-Economic Agreement and an Environmental Agreement, the MVERIB does not have sufficient evidence to conclude that a significant environmental impact will not result from the development and whether such impacts could be adequately mitigated.

I understand that the NSMA will be sending a representative to the Prehearing Conference and to the Public Hearing. I would appreciate it if you would take this letter as their registration of their intention to participate in the Public Hearing in accordance with Rule #68 of the Rules of Procedure. I would appreciate it if you would continue to copy my office with all email and faxes. However, please add Kris Johnson of the NSMA to your communications list and expect future communications to come from Ms. Johnson. She is available through the NSMA office and can be reached by email at kris@nsma.net.

The NSMA is also of the view that the Board has allowed these proceedings to continue despite repeated advice from the Aboriginal groups that Canada, the GNWT and DeBeers have failed to meet their duty to consult with Aboriginal peoples affected by this development. The MVEIRB has also continued to operate without proper regard for the requirements of procedural fairness. Continuing the process in the face of these breaches will render void any decision the MVEIRB may ultimately make.

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I will be away from the office on March 17 and 18th, 2003. However, I anticipate instructions to finalize a letter detailing these fairness and consultation issues upon my return. If you require any additional information upon receipt of that letter, please do not hesitate to contact me in that regard.

Thank you for your attention to this matter.

Yours truly,

CHAMBERLAIN HUTCHISON

PER: JANET L. HUTCHISON

JLH:amt

cc: Client

cc: John Donihee