



12 February 2003

Mackenzie Valley Environmental Impact Review Board (MVEIRB)  
Box 938, 5102 – 50<sup>th</sup> Avenue  
Yellowknife, NT X1A 2N7

Attention: Glenda Fratton, Environmental Assessment Coordinator

Dear: Glenda

**SUBJECT: Meeting Notes: Migratory Birds Convention Act and Monitoring Plans**

Please accept the attached meeting notes discussing the Migratory Birds Convention Act and monitoring plans for submission to the Public Registry. This meeting was held in response to issues raised by Environment Canada-Canadian Wildlife Service during the MVEIRB Technical Sessions.

Should you have any questions, please feel free to contact the undersigned.

Sincerely,  
**SNAP LAKE DIAMOND PROJECT**

  
for Robin Johnstone  
Senior Environmental Manager



DE BEERS CANADA MINING INC.

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File:

## MINUTES OF MEETING

**TIME:** 2:00 pm

**DATE:** 07 February 2003

**LOCATION:** De Beers Offices, 3<sup>rd</sup> Floor Scotia Center

**SUBJECT:** *Migratory Birds Convention Act* and Monitoring Plans

**ATTENDEES:** Vanessa Charlwood (EC-CWS), John Virgl (Golder), Robin Johnstone (DBCMI), Colleen English (DBCMI)

**DISTRIBUTION:** Attendees plus: Paul Latour (CWS), Kevin LeDrew (DBCMI), Public Registry

ITEM	DESCRIPTION	ACTION
1.0	<p>How does the <i>Migratory Birds Convention Act</i> (the Act) apply in the NWT? How did it influence BHP and Diavik?</p> <p>The Act and its Regulations do apply in the NWT. Specifically, the <i>Migratory Bird Regulations</i>, Section 6(a) (Nest Destruction), states that no one can disturb or destroy a nest without a permit; 'nest' being interpreted as an active nest used for egg laying, incubating or brood-rearing. Permits cannot be granted for destruction of an active nest for industrial activities. The Act also does not state that the nest has to be 'in natural habitat', so nests found on structures are applicable. However, not all migratory birds are covered under the Act.*</p> <p>De Beers stated their commitment to operating under all pertinent legislation, including the <i>Migratory Birds Convention Act</i>.</p> <p>* For a list of birds covered under the Act, see the most recent version of Article I under the <i>Migratory Birds Convention Act</i> (<a href="http://laws.justice.gc.ca/en/M-7.01/text.html">http://laws.justice.gc.ca/en/M-7.01/text.html</a>).</p>	<p>CWS advises the following to show due diligence:</p> <ol style="list-style-type: none"> <li>1) When clearing vegetation where there are nests, time this activity during either the pre- or post-nesting season, or if clearing must be done during nesting season, search the area for nests, mark any active ones and allow a buffer zone around them until the hatchlings have fledged. Return and clear once the nests have been abandoned.</li> <li>2) If migratory birds are found nesting on the mine footprint, mark the nest, alert staff of its location and initiate a buffer zone around it until the hatchlings are fledged.</li> </ol> <p>CWS to provide De Beers with an explanation of how Section 6 was applied to the construction and operation of Ekati and Diavik mines.</p>
2.0	<p><b>Incident Reporting/Operating Procedures</b></p> <p>CWS would like to see a procedure in place and stated in the Wildlife Management Plan for employees to follow should a migratory bird nest be found on site. CWS would also like to see incident reporting in the annual Wildlife Monitoring Report, as per BHP. Should a nest be lost, CWS would be happy to work with De Beers in developing measures to address the loss. However, while there are no deterrent measures to prevent species from nesting that Vanessa is aware of, there is likely some literature on this subject.</p>	<p>De Beers to look at developing an operating procedure for employees who discover an active bird nest.*</p> <p>De Beers also to develop a standard incident reporting procedure (annual or incident-specific).*</p> <p>De Beers to develop mitigation measures and possible methods to deter birds from nesting within the mine footprint.</p> <p>*Procedures would be included in the company's Environmental Management System.</p>

# DE BEERS

A DIAMOND IS FOREVER

ITEM	DESCRIPTION	ACTION
3.0	<p><b>Given the small size of the site, what activities would be of most concern in terms of potential nest destruction?</b></p> <p>Extension of the runway, development/quarrying of the North Pile, construction of two lay-down pads, reconfiguration of the road from the airstrip to camp. These activities would occur during construction phase and could affect approximately 330 hectares (ha) of the 550 ha footprint. Timing of these activities is largely reliant on permitting timelines.</p> <p>CWS asked if clearing of these areas would be possible by mid-May, ie: prior to breeding season. The other options are waiting until after breeding season, or employing more labour intensive techniques during the season searching for nests and using identification/avoidance procedures.</p>	<p>De Beers to re-examine existing construction schedule to determine consistency with breeding season, as buffer zones for these activities may not be feasible in some circumstances, e.g. quarry development.</p>
4.0	<p><b>Migratory Bird Monitoring Program</b></p> <p>Current plans are to monitor to confirm impact predictions and build on data gained elsewhere (eg: BHP data is conclusive on the effects of diamond mining). As monitoring at Ekati provides conclusive results regarding the impact of mining activities on breeding birds, the proposed approach at Snap would be to focus on monitoring the area disturbed rather than duplicating the extensive breeding bird surveys that have been done at BHP. De Beers' impact assessment is based on the assumption that birds would cease to exist within the mine footprint, plus a 500m buffer zone, with no compensation for displacement. The proxy for the number of species and individuals disturbed would be based on the physical amount of vegetation cleared, plus a buffer zone. In comparison, BHP's program focuses on the community/species specific level – this program could have been dropped given the statistical strength of the data, but BHP likes it and has chosen to continue. A similar monitoring approach to that taken at Ekati would be problematic at Snap Lake due to differences in landscape- habitat patch sizes are too small to provide a robust statistical analysis in that other effects would likely override the results. With the concept of moving towards regional cumulative effects monitoring in the Slave Geological Province, the idea would be to rely on the strength of the BHP data to date (which is reasonable considering that the mechanism of disturbance to breeding birds is similar between operations). Proposed monitoring at Snap Lake would therefore focus on:</p> <ol style="list-style-type: none"> <li>1) the amount of land disturbed to ensure this does not exceed EA predictions, and</li> <li>2) to ensure there are no impacts to birds in contravention of the Migratory Bird Act.</li> </ol> <p>This is by no means De Beers' definitive monitoring program, just a proposal for which we would like to give CWS a heads-up to facilitate discussions.</p> <p>CWS appreciates this conversation and would be receptive to further discussions regarding monitoring plans.</p>	<p>De Beers to meet with CWS to discuss possible monitoring programs at a later date (based on development of the monitoring plan).</p>

APPROVED BY:

R. Johnstone

Senior Environmental Manager

07 February 2003