



Mackenzie Valley Environmental Impact Review Board

Our File EA01-004

February 24, 2003

To: De Beers Canada Mining Inc. and
All parties to the De Beers EA proceeding

Dear Sirs / Madams:

Re: Clarification on De Beers EA Proceeding

By way of its letter of February 19th, 2003 the Mackenzie Valley Environmental Impact Review Board (Review Board) revised the De Beers Canada Mining Inc. (De Beers) Environmental Assessment (EA) work plan. This letter provides further detail on the process and procedures associated with the milestones/events outlined in the February 19th letter.

Response to De Beers Technical Documents

De Beers submitted a number of technical documents (e.g., technical memoranda, meeting notes, monitoring results) to the Review Board since the close of the Technical Sessions on December 6th, 2002. These documents are available on the public registry. A full listing of these documents will be provided to the parties to the EA early this week.

Based on the amended work plan, the last day for De Beers to submit additional technical information is February 28th, 2003. On March 14th, the parties to the EA will be required to submit their response to all of the De Beers technical information (released from De Beers since January 24th, 2003). These responses should come in the form of an addendum to each party's technical report already received by the Review Board on February 14th, 2003. The addendum should clearly outline changes, if any, of position on technical issues based on a review of the final De Beers technical information. If a party has no changes on its position, based on its review of this information, we ask that these parties still provide a written statement to the Review Board to this effect.

The addendum should use the report format set out by the Review Board for the technical reports, and should clearly reference the party's original technical report, where necessary. Please attach a revised one-page plain language issues summary to each addendum, which briefly outlines your position on all outstanding technical issues as of March 14th, 2003.

Pre-hearing Conference (PHC)

The Pre-hearing Conference (PHC) is intended to ensure that Review Board staff, the developer and the parties to the De Beers EA proceeding can further collaborate in planning for the public hearings scheduled for the end of April.

The PHC is scheduled for two days, March 26th and 27th, 2003. March 26th is set aside to allow for clarification of the outstanding technical issues that are to go forward to the hearing. The March 26th session will determine which, if any, of the technical issues raised in Information Requests, discussed in the technical sessions and further analyzed since January of this year, warrant allocation of presentation time and the Review Board's attention at the hearing.

The Review Board will prepare a synopsis of outstanding issues and a draft hearing agenda. Both the synopsis and draft hearing agenda will be circulated at least two days in advance of the PHC, and will form a framework for discussion on March 26th. The Review Board will have technical experts available at the PHC to assist in these discussions. Parties intending to participate in the PHC should be mindful of the purpose of the meeting, which is to frame the issues for the hearing. The time set aside for the PHC is not sufficient to engage in detailed debate of technical issues.

The second day of the PHC, March 27th, will be devoted to a discussion of the hearing process, and setting out the day by day timetable (agenda) and procedures of the hearing. Time in the hearing process for presentation of issues will be allocated based on the list of outstanding issues and the number of parties who wish to address each issue in their presentations to the Review Board, thereby setting the hearing agenda.

Following the PHC, the Review Board will meet to finalize and approve the hearing agenda, which will be circulated by March 31st, 2003. Our February 19th letter indicated this date to be March 29th; however, because the 29th falls on a Saturday, the agenda will be circulated on Monday, March 31st, 2003.

No party is bound by the PHC results, but the Review Board will set the hearing agenda on this basis. This means that any party can still raise an issue which may be of concern only to that party, but the Review Board will allocate the majority of the hearing time, based on the results of the PHC, to issues which in its view relate to potentially significant adverse environmental or socio-economic impacts.

For purposes of planning for the PHC and hearing presentations, we remind the parties that the Review Board's role is to make a determination under ss.128(1) of the *Mackenzie Valley Resource Management Act*. This involves a determination of whether any significant adverse environmental impacts may result from the development and the recommendation of appropriate mitigation measures. Parties are encouraged to focus their efforts at identifying and rationalizing their evidence in support of these requirements.

The detailed analysis of engineering designs or of standards and criteria for environmental protection may be better suited for regulatory proceedings.

We anticipate that the PHC will provide an opportunity for further refinement and narrowing of the list of issues which will be addressed in the De Beers EA hearings.

Hearing Presentations

On April 11th and 17th, respectively, the amended work plan requires that De Beers and the parties to the EA submit their hearing presentations to the Review Board. These presentations should be based on the results of the PHC and final hearing agenda, to be circulated by the Review Board on March 31st.

These presentations must list and briefly describe all the issues that De Beers and the parties to the EA intend to raise or address at the hearing. It will be at the Chair's discretion to allow any other issue not outlined in the presentations to be raised at the hearing. Hearing presentations include opening and closing statements.

Receiving the presentations in advance of the hearing will allow the Review Board to fully prepare for the hearing. Once received, the Review Board will circulate the presentations to all parties to the EA.

Public Hearing

The public hearing is scheduled for five days between April 28th and May 2nd. Issues will be heard by discipline topic (e.g., wildlife, water) based on the agenda to be released March 31st.

Following the Chair's opening remarks on Day 1 of the hearing, De Beers may deliver an opening statement on the project. On Day 5 of the hearing, parties to the EA, followed by De Beers (as the last presenter) will be given the opportunity to provide closing statements.

The time between the opening and closing statements, will be devoted to outstanding issues. At the beginning of each topic, De Beers may give a presentation, followed by questions on the presentation by parties to the EA, members of the public and the Review Board. Parties to the EA will then be given an opportunity to give a presentation, which will be followed by questions on the presentation by De Beers, other parties, members of the public, and the Review Board.

The PHC will determine the time to be allocated for presentations and opening/closing statements. Further details on the hearing process will be provided at the PHC.

The order in which parties to the EA will present at the hearing will be based on Rule #68 of the Rules of Procedure. That is, the order of presentations (after De Beers' presentation) for each topic will be determined by the order in which the parties to the EA

register their intention to participate in the hearing. Rule # 68 requires that parties file notice with the Executive Director of their intention to participate in the hearing no later than 25 days prior to the hearing. Given that the hearing will start on April 28th, Thursday April 3rd will be the last day to file such notice with the Review Board.

Close of Public Registry and Report of Environmental Assessment.

The public registry will close on May 23rd, 2003. This will be the final date for De Beers and all parties to the EA to submit any additional information arising from undertakings made at the hearing to the public registry, for consideration by the Review Board.

The Review Board will consider all information on the public registry in determining its recommendations and decisions of the EA. The Report of the EA will be sent to the Minister on June 27th, 2003.

Closing

We trust that this information will be of assistance to you. Should you have any questions, please feel free to contact Glenda Fratton, (867) 766-7052.

Yours truly,

Original signed by

Vern Christensen
Executive Director
MVEIRB