



Fisheries
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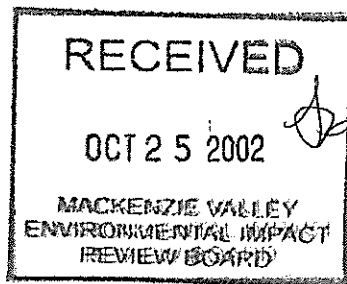
Fish Habitat Management
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Your file Votre référence

Our file Notre référence

October 24, 2002

Louie Azzolini
Environmental Assessment Officer
Mackenzie Valley Environmental Review Board
P.O. Box 938
Yellowknife, NT



Re: Response to the MVEIRB Information Request to DFO #1.1.1

The MVEIRB submitted an information request to DFO on behalf of the North Slave Metis Alliance (NSMA) whereby DFO was asked to respond to a number of questions with respect to DeBeers' No Net Loss Plan (NNL Plan) and fish habitat compensation.

Once again, it is unclear how the question as posed by the MVEIRB and any answer the DFO can provide will assist the MVEIRB in its determination of significant environmental effects of the DeBeers project. However, given that a concern regarding DFO's process has been raised by the NSMA, DFO will endeavor to address that concern here.

In their NNL Plan DeBeers is required to account for all unavoidable impacts to fish habitat and are required to demonstrate how this fish habitat can be compensated for before DFO can consider the issuance of an authorization for the loss of the habitat. Although the NNL Plan is specifically required by DFO to facilitate our review pursuant to the Fisheries Act and our Policy for the Management of Fish Habitat, the NNL Plan is in no way meant as a DFO-only document. Also, DFO has yet to determine the full extent of potential impacts to fish habitat, hence has yet to determine the adequacy of the NNL Plan or if an authorization is required.

The following are responses to the specific questions posed to DFO:

- a) Please explain how the NSMA and other Directly Affected Parties will and/or have had opportunities to contribute to the formulation of the De Beers's NNL plan.*

DeBeers' NNL Plan is currently not a discrete plan but rather part of the EA documents submitted by DeBeers for review by all reviewers. As such the NNL Plan is considered a draft and subject to refinement as concerns are raised by reviewers.

- b) Please report what progress has been made with De Beers regarding the NNL Plan.*

The only progress made so far in NNL planning resulted in DeBeers compiling habitat information and submitting it to all reviewers as part of the EA. DFO has not yet completed its detailed review of the information provided.

c) Should De Beers only submit its Fish Habitat Compensation Plan to DFO?

DFO strongly encourages DeBeers to submit the Fish Habitat Compensation Plan to parties other than DFO. As stated above, the accounting of habitat losses and options for achieving gains to compensate for these losses is an integral part of the EA Report. All comments made or concerns raised will not only have a bearing on the EA process but will also be considered by DFO specific to our mandate, our process of determining the adequacy of information and the ultimate decision of whether an authorization may be issued.

d) How does DFO consider consultations by De Beers with the NSMA regarding fish habitat restoration, remediation, or compensation?

DFO has no guiding policies or legislation on how to consider consultation by proponents with the NSMA or any interested party. However, DFO will consider the concerns raised by all reviewers regarding the proposed approaches to fish habitat restoration, remediation or compensation and how the concerns were reflected in any revisions to the proposed approaches. If concerns raised to DeBeers were not addressed to the satisfaction of the party raising the concern, the reasons for this will be carefully reviewed. DFO looks forward to input from the NSMA on how their concerns specifically, may be appropriately considered.

e) How will fish habitat restoration, remediation, or compensation be conducted in a manner consistent with the aboriginal rights and title of the NSMA?

In relation to any permitting of DeBeers under the Fisheries Act, DFO will endeavour to determine how fish habitat compensation can be conducted in a manner consistent with the aboriginal rights and title of any affected aboriginal group. This can be accomplished through consultation undertaken during the EA phase and the regulatory phase.

In the interim, aboriginal groups can assist the DFO by identifying any specific concerns and how DFO might address these concerns in the context of our decision-making capacity. In addition DFO would welcome comments from any aboriginal group on DeBeers' proposed impacts to fish habitat and the approach to habitat compensation.

If you have any questions concerning these comments, please contact the undersigned at (867) 669-4912, Fax at (867) 669-4940.

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/ml/jd

c.c. Julie Dahl & David Balint, DFO - email