

NORTH SLAVE METIS ALLIANCE

PO Box 340 Yellowknife, NT X1A 2N3



facsimile transmittal

To: Louis Azzolini Fax: 766-7054

From: Bob Turner Date: June 3/02

Re: IR - Directly Affected Parties Pages: 9 incl. cover.

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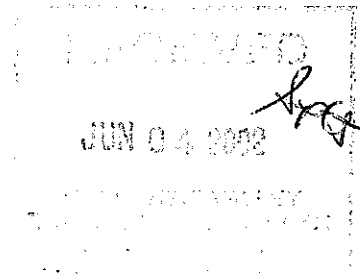
NORTH SLAVE METIS ALLIANCE

PO Box 340 Yellowknife, NT X1A 2N3



Mackenzie Valley Environmental Impact Review Board (MVEIRB)
200 Scotia Centre
P.O. Box 938
Yellowknife, NT
X1A 2N7

June 3, 2002



Re: MVEIRB information request 2.8.4

Dear MVEIRB,

On 25 March 2002, the MVEIRB issued an information request to all Directly Affected Aboriginal Parties regarding post-approval monitoring of the De Beers Snap Lake diamond project. Specifically, the MVEIRB requested comments on: 1) the effectiveness of the IEMA (Monitoring Agency for BHP Billiton Inc. (BHP) and EMAB (Monitoring Board for Diavik Diamond Mines Inc. DDMI)), and 2) the need for a similar arrangement with De Beers. The NSMA has prepared the following information response.

Request 1.

It has been our experience that the EMAB is closer and more accountable to our members than the IEMA. The "independent" design of the IEMA, while laudatory, causes its members to operate in isolation and at an uncoordinated distance from the people most affected by mining and resource development, the aboriginal communities. Closer ties and liaison activities with the Aboriginal Peoples is essential for the monitoring authority to be pro-active to emerging concerns, responsive to the Aboriginal Peoples' research needs, and be a vehicle for the aboriginal articulation of environmental and socio-economic concerns, and address these concerns.

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It has also been our experience that BHPB and DDMI have created inconsistent monitoring protocols, duplicated research at unnecessary costs, and have not coordinated their work to form better monitoring of the regional cumulative effects of both mines.

In particular, the NSMA is concerned that the monitoring of regional and cumulative effects in the North Slave Region is developing in an *ad hoc* manner. Two different monitoring authorities now exist and a third is being considered for the De Beers project. Other mining interests continue to develop in our region and if this *ad hoc* monitoring process continues, will be monitored by yet more decentralized authorities. It is the NSMA position that BHPB and DDMI should be incorporated into one regional monitoring authority to which responsibility for monitoring the effects of the De Beers project and other future projects, if approved, be added. In short, the NSMA submits that all mining in the North Slave Region should be the focus of a joint regional monitoring authority. This authority should have the power to not only monitor the regional effects of mining, but also act as a planning authority to control the pace of development and coordinate aboriginal economic development possibilities and aboriginal community capacity in the areas of training, employment, and business opportunities.

In July 1999, the NSMA proposed a model for a single "North Slave Sustainable Development Authority" in its publication *Can't Live Without Work* (pp: 291-5). A copy of this proposal has been attached and additional copies are available at our website: www.nsma.net. The NSMA informed De Beers that this is a model it expects for the monitoring of the cumulative and regional effects of the Snap Lake project and the other existing mines. The NSMA expects De Beers to consider and respond to this proposal.

The central tenets of our proposal is that it will streamline monitoring protocols, share a pool of expertise, avoid duplication, prevent inconsistency, and place aboriginal people at the centre of decision making regarding the monitoring and planning of development in our region. This authority will also benefit the industries by reducing costs and creating certainty that aboriginal people are fully involved in decision making consistent with their rights and title in the region. The guiding principles and functions of the joint regional monitoring authority are laid out in our 1999 proposal.

Request 2.

The NSMA remains firmly opposed to creating monitoring authorities on a project by project basis. A central monitoring agency must be created for all mining projects in the North Slave Region. Only such a central monitoring agency can effectively monitor and address cumulative and regional impacts. The MVEIRB asks if the NSMA foresees the need "for an environmental agreement to contribute to the De Beers development of post-approvals monitoring process." The NSMA insists that an environmental agreement be negotiated with the NSMA before the MVEIRB considers the project for approval. In order for the NSMA to make an informed decision about whether the anticipated negative effects of the project on the NSMA well-being will in fact be prevented with pro-active monitoring and mitigation where necessary, the NSMA must know the full contents of its environmental agreement with De Beers before the project is considered for approval. A complete outline of the shape, principles, and functions of a monitoring agency must be spelt out in this environmental agreement so that we can consider its effectiveness. In short, the NSMA will be unable to make informed decisions about the project's sustainability until an environmental agreement with a full description of monitoring measures is agreed to. The NSMA submit that the only acceptable monitoring agency will be an amalgamated regional monitoring authority for all existing and future mines – anything less will fail to properly monitor and respond to the cumulative regional effects of the mines and fail to facilitate aboriginal control and input into the sustainable economic development of our region.

Sincerely



for Clem Paul
President

North Slave Metis Alliance - Environmental, Social, Economic & Cultural Concerns

- Agreement to be consistent with federal government commitments to assist Aboriginal communities in building local capacity and meeting self-defined goals.
- Agreement must be designed as a measure to mitigate the adverse socioeconomic effects identified in this report, the CSR and elsewhere, and also as a measure to achieve sustainable development.
- Aboriginal governments must be provided the resources for meaningful involvement in the negotiations and have final consent over the agreement.

The agreement should contain a dispute resolution mechanism that includes the Aboriginal governments and a means for regular review and maximum funding to optimize participation in amendment, if necessary.

8) Socioeconomic and Impacts Benefits Agreements

Many of our concerns, especially those relating to socioeconomic and cultural impacts, could be addressed through the implementation of specific socioeconomic and impacts benefits agreements. Considerable attention should be devoted to identifying training and capacity building needs for the North Slave Metis, and to defining the role of the NSMA in impacts assessment, monitoring and mitigation. It is imperative that these agreements be negotiated and signed off prior to regulatory approval.

9) Development of North Slave Sustainable Development Authority

Increasingly, diamond mining and other resource developments in the North Slave region are beginning to affect Aboriginal (and Treaty) rights, communities, resources, economies and cultures. Almost always, government and industry deal with these projects and their impacts in isolation or *ad hoc* manner. Existing approaches to environmental and socioeconomic assessments are insensitive to the cumulative and longer-term impacts that a succession of resource development projects would have on Aboriginal communities. Moreover, current assessment approaches tend to be *ex ante* (i.e., necessarily occurring prior to a decision before an actual impact is felt). But projects will often have consequences that cannot be measured or even predicted at the time of assessment. These problems, in combination with the degraded economic and social conditions of Aboriginal communities, make them especially vulnerable to long-term and cumulative impacts of resource extraction and development. With the accelerating pace of resource development in the North Slave region, there is a growing urgency to develop an institutional process and mechanism that directly incorporates those most affected by mining and resource development into a process that influences the design, operation and pace of resource development in the North Slave region.

North Slave Metis Alliance - Environmental, Social, Economic & Cultural Concerns

The *North Slave Sustainable Development Authority* (NSSDA) would place those Aboriginal communities and peoples most affected by resource development at the centre of decision-making in regards to environmental and socioeconomic impact assessment, monitoring and management as well as community economic development and local capacity building and training. By providing more effective linkages with Aboriginal communities, the NSSDA would streamline and coordinate environmental and socioeconomic assessments, monitoring and mitigation efforts. In so doing, it would eliminate the need for *ad hoc* structures and processes for each proposed resource development, thus avoiding duplication of effort and promoting cost effectiveness. The NSSDA would undertake needs-based research as determined by the Aboriginal communities for environmental and socioeconomic impact assessment and management. By having the capacity to accommodate future resource developments, address cumulative impacts and contribute to regional planning efforts (re: sustainability, ecological thresholds, environmental and social carrying capacity, etc.), the NSSDA would create certainty for industry, Aboriginal parties and government in environmental assessment and resource development initiatives. We maintain that, as a condition of project approval, industry and government fund the operation of the NSSDA, which will be guided by the following principles:

Guiding Principles

- Pro-active rather than reactive approach to resource development, environmental management and community development.
- Emphasizes capacity-building in contexts of community and resource development and management.
- Recommendations and decisions guided by, and respectful of, traditional Aboriginal values and laws.
- Recommendations and decisions comply with federal and territorial regulations and laws.
- Research addresses specific community needs re: environmental and socioeconomic impacts assessment and management, cumulative impacts, training and capacity building, and economic development.
- Agreements to address unknown and unpredicted effects through appropriate consultation and research with Aboriginal communities.
- Agreements to address mitigation of adverse effects.
- Research components built in that will establish links to best practice research institutions (e.g., Canadian Circumpolar Institute).
- Provides access to information, relevant to assessing, monitoring and mitigating impacts, by all parties to the agreement, subject to protocols for the protection of privacy and intellectual property.

Functions

- Through close ties to, and liaison activities with, affected Aboriginal communities, the NSSDA will develop recommendations for research activities and action plans on environmental and socioeconomic monitoring and mitigation, community capacity building and training, community economic development relating to resource development.
- Serves as a vehicle for Aboriginal communities to articulate and address concerns about the environmental and socioeconomic impacts of resource development.
- Disseminates/communicates information and knowledge to communities about resource development (two-way flow of information).
- Serves as a vehicle to coordinate and develop community environmental/socioeconomic monitoring and management schemes and to carry out monitoring recommendations required by resource developers.
- Serves as a vehicle to coordinate and develop community training and capacity building efforts in the context of resource development.
- Contributes to regional planning processes.
- Incorporates a conflict resolution process.

Membership of NSSDA

- North Slave Metis Alliance
- Dogrib Treaty 11 Council
- Yellowknives Dene First Nation
- Lutsel K'e Dene First Nation
- Kitikmeot Inuit Association
- GNWT
- Federal Government (ex-officio)

Advisory Subcommittees of NSSDA (membership variable, responsive to need)

- Technical Environmental Impact Assessment, Monitoring and Management Committee
- Technical Social, Economic and Cultural Impacts Assessment, Monitoring and Management Committee
- Community Training/Capacity-Building Committee
- Community Economic Development Committee

Funding of NSSDA

- Salaries (30%)
- Secretariat (20%)
- Research and planning (50%)

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Funding Partners and Contributions

- Government (40%)
- Industry (40%)
- Aboriginal (20%) (from land claims and treaty entitlement settlements)

CLOSING COMMENT: "WE'RE ALL HERE TO STAY"

The NSMA fully, and quite reasonably, expects substantial progress to be made on the implementation of these recommendations prior to regulatory review. Failing that government can expect us to stand up for our Aboriginal and Treaty rights as laid out in s.35(1) of the *Canadian Constitution Act*, and recently reaffirmed in numerous Supreme and lower court rulings. The costs, in financial and human terms, of our acquiescence at this important point in our history will ultimately be exorbitant for all. We want to be meaningful participants in resource development. At the same time, we must find ways to live and work together in a sustainable manner. There is no other option. As Chief Justice Lamar stated in his ruling in *Delgamuukw* ([1997]3SCR 1010):

∞ "We're all here to stay" ∞

Sustainable Development Authority

Accountable
Authorities

