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April 4, 2016

**Re: Comments on the Report of the Environmental Assessment on the Jay Project
(EA1314-01)**

The Deninu Kue First Nation (DKFN) is pleased to provide the following comments on the Report of the Environmental Assessment and Reasons for Decision (Report of the EA) on the Jay Project. The Jay Project as being proposed by Dominion Diamond Ekati Corporation (Dominion Diamond) is within the current and traditional socio-economic use areas of the DKFN and the lands around the Jay Project area have been used by our people since time immemorial for hunting, fishing, trapping and gathering. The DKFN is supportive of this and other projects in our traditional territory as we recognize the potential benefits to our community and the Northwest Territories, but we continue to be optimistic that our rights, treaty, traditions and way of life continue to be paramount in any recommendations and final decisions made.

The DKFN remains concerned about the significance of the effects potentially caused by the Jay Project and the extent of the measure put forth by the Review Board to minimize these effects. We provide specific comments below on these measures.

Impacts to Water and Fish

Measures 4-1, 4-1a and 4-2b

These measures are included in the Report of the EA to prevent significant cultural impacts after closure from changes in water quality, and are therefore connected in their enactment. The setting of closure objectives and criteria (Measure 4-1) must also take into consideration the water quality objectives used throughout the life of the project. By establishing achievable water quality objectives that are protective of aquatic life and traditional uses, meeting closure objectives will become realistic.

The site water management plan (Measure 4-2a) to be developed to avoid significant impacts to traditional uses, must take into consideration measurable and perceived impacts. While standard practices exist for monitoring the measurable components of water quality, monitoring perceived impacts is more challenging. To do so Dominion Diamond must work closely with the DKFN and other Aboriginal groups to fully understand the perceived impacts and share information throughout the life of the mine.

The development and implementation of contingencies to ensure pit lake water quality is compatible with traditional use after closure by establishing stable meromictic conditions (Measure 4-2b) must be clearly linked with the list of contingencies required under the site water management plan (Measure 4-2a). The current wording of Measure 4-2b is not strong enough to ensure contingencies will be developed in a timely manner. Throughout the environmental assessment review process, Dominion Diamond has argued that based on the empirical evidence

and modelling predictions that meromictic conditions in the pit lakes will be maintained. The DKFN therefore anticipate Dominion Diamond to operate on the assumption that items 1 and 2 of Measured 4-2b will be achieved. The wording of Measure 4-2b can be interpreted that contingencies would be developed and implemented only after meromictic conditions are not realized during the closure phases of the project; whereas, in Measure 4-1a, contingencies must be identified in the site water management plan prior to the commencement of dike construction.

We want to ensure that the contingencies are identified in a timely manner, and we also recognize that the specific details of these contingencies may change over the life of the project. We also want to ensure that Commitment 100 (Misery pit water quality management strategies) are planned and implemented in a timely manner and that this commitment is also applied to the Jay pit.

Finally, the measures and suggestions put forth by the Review Board do not address the issue of the formation of internal waves or “seiching”, particularly for the Jay pit. Seiching along chemical or temperature layers can lead to the break-up of the separating layer and can cause water to penetrate typically stable layers in the water column. Contingencies must take seiching into consideration. To ensure this and other potential properties of meromictic lakes are addressed we recommend that an independent expert be used to analyze the meromixes and the contingencies proposed by Dominion Diamond.

Measure 5-1 Protection of the Narrows

We remained concerned that water level changes between the Lac du Sauvage and Lac de Grass during project construction, operation and closure may impact the movement of fish species between the two water bodies and the continuation of traditional use of the area. We are pleased that Measure 5-1 is included in the Report of the EA; however, the monitoring activities

and triggers for management responses associated with this measure must be developed and implemented in collaboration with the DKFN and other Aboriginal groups to ensure traditional use of the area remains unaffected.

We are also concerned with the statements made in Commitment 14 that are related to the water levels at the Narrows. Dominion Diamond has committed to working with Transport Canada for the proposed dike and dewatering activities within Lac du Sauvage as these relate to the determination of navigability of Lac du Sauvage and the applicability of Sections 21 to 23 of the Navigation Protection Act (NPA). This commitment also states that if Transport Canada determines that Sections 21 to 23 are applicable, Dominion Diamond will submit an application for Proclamation of exemption under Section 24 of the NPA. Section 21 and 22 refer to the prohibition of depositing substances that would interfere with the navigation of any water. Section 23 states that “no person shall dewater any navigable water.” An exemption from sections 21 to 23 may only be granted if the exemption would be in the public interest. It is clear from the concerns expressed during the environmental assessment review process that any contravention of section 21 to 23, whether exempted by order or not, is not in the public interest. We therefore recommend that Dominion Diamond not pursue the dialogue with Transport Canada and commit to working with the DKFN and other Aboriginal groups on addressing Measure 5-1.

Impacts to Caribou

Despite Dominion Diamond’s view that the proposed Jay Project will have no significant adverse impacts to the Bathurst Caribou Herd, the Mackenzie Valley Review Board (Review Board) determined that the proposed Jay Project is likely to cause significant adverse project-specific and cumulative impacts to the Bathurst Caribou Herd. Section 6.1 of The Report of

Environmental Assessment and Reasons for Decision summarizes the Review Board's primary reasons for coming to this conclusion, which are:

1. The Jay Project is proposed across an important caribou mitigation corridor at a time when the herd is in a precarious and "extremely worrisome" state.
2. Existing cumulative impacts on the herd are already significant and additional stresses on the herd at this point matter.
3. From a project-specific perspective, the Jay Project, in isolation, will create physical barriers to caribou movement and additional sensory disturbance (such as lights, smells noise and dust) along an important migration corridor.
4. No plan exists to manage the Bathurst Caribou Herd or its range.
5. Caribou harvest restrictions are in place, and any activities that inhibit the ability of the Bathurst herd to recover, such as the cumulative effects of the Jay Project and other human activities on the herd's range, affects the well-being, health and culture of Aboriginal communities. This is a cause of serious public concern (p. 81).

A more detailed summary of the Review Board's findings on Caribou project-specific and cumulative impacts is outlined in section 6.4 of The Report of Environmental Assessment and Reasons for Decision. The DKFN firmly agrees with the Review Board's determination of the potential impacts to caribou. However, based on traditional knowledge and other knowledge systems to demonstrate either the uncertainty or insufficiency of the proposed mitigation measures to protect the Caribou, DKFN disagrees with the notion that by implementing the measures, the significant impacts the herds will suffer are negated. Further details of our concerns are highlighted under the individual measures below

Measure 6-1: Road mitigation from caribou impacts

Measure 6-1 is meant to mitigate significant incremental and cumulative adverse impacts to Caribou from the proposed Jay road through the use of traffic control measures; real-time Caribou satellite collar data to trigger Jay road management actions; and construction of Caribou crossing features along at least 70% of the length of the proposed Jay road. In addition, a Caribou Road Mitigation Plan that outlines various Jay road management practices and research is to be undertaken (MVEIRB, 2016, p. 235).

This mitigation measure will not adequately mitigate impacts on the Caribou, particularly where the proposed Jay road intersects an important esker along the Caribou's migration route. During the public hearings, the esker was identified as an important area for Caribou from traditional knowledge, which was also supported by scientific studies that demonstrate the importance of eskers as Caribou habitat and migration corridors that span across the landscape and connect Caribou with their entire home range. It is not certain that impacts associated with the Jay road crossing the esker can be mitigated, and, therefore, any mitigation measures will be experimental and may not mitigate the disruption along the Caribou migration route.

Relying on real-time Caribou collar satellite information will not be a sufficient indicator for detecting if Caribou are in the vicinity of the proposed Jay Project. Currently, only 50 or approximately 0.3% of the Bathurst Caribou Herd are collared. The collar data provides the location of a very small percentage of the current Bathurst Caribou Herd population, and is, therefore, not an adequate detection device. Furthermore, the efficiency with which the data from collared Caribou is attained and communicated needs to be improved. There is typically a certain level of error associated with satellite information on collared animals that needs to be validated and/or corrected before the data can be used. Recognizing and understanding the limitations with the satellite collar data will need to be incorporated into any decision making tool and the extent

of these limitations may result in reliance of Caribou collar satellite information being ineffective.

Measure 6-1 also attempts to address road dust, which is noted as the single largest source of fugitive dust or particulate matter emissions from the proposed Jay Project (MVEIRB, 2016, p. 122). This issue is to be addressed through the Caribou Road Mitigation Plan, in combination with the Air Quality and Emissions Monitoring and Management Plan (AQEMMP). The Review Board states that the Caribou Road Mitigation Plan will include a “...dust management best practices document with adaptive management triggers for additional dust suppression and link to the AQEMMP” (MVEIRB, 2016, p. 128). Research has shown that water is not effective enough to significantly reduce fugitive dust from roads and it is uncertain whether chemical dust suppressants are an effective or safe dust suppressant to water (Myers-Smith et al., 2006; US EPA, 2008).

To address the uncertainty or ineffectiveness associated with Measure 6-1, DKFN and the other Aboriginal groups recommend the deployment of remote cameras and wildlife monitoring, conducted by traditional land users, to detect the presence of Caribou before they are affected by the proposed Jay Project and the rest of the Ekati mine. This data and information can be used in conjunction with the satellite collar data to validate its effectiveness.. To mitigate the effects of dust on Caribou, DKFN and the other Aboriginal groups recommends that chemical dust suppressants be tested and proven to be effective at the existing Ekati mine, on the Misery Road and other roads around site, before the Jay Project is developed. Traditional Knowledge must be incorporated into the evaluation of the effectiveness of chemical dust suppressants on the lichen and Caribou, before chemical suppressants are approved for widespread use at the Jay Project and the rest of the Ekati mine.

Measure 6-2(a): Caribou offset and mitigation plan

Although not defined by the Review Board, DKFN and the other Aboriginal groups understand Caribou offsets to be measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse effects on Caribou arising from the proposed Jay Project, and the rest of the Ekati mine site, after appropriate prevention and mitigation measures have been exhausted. The Review Board states that the goal of the Caribou Offset and Mitigation Plan is, at a minimum, no net addition of impacts to the Bathurst Caribou Herd (p. 130). This is expected to be achieved through enhanced road and dust mitigation strategies; a Dominion Diamond-funded zone of influence dust study; identifying and applying mitigation measures to the rest of the Ekati mine site; accelerated progressive reclamation of Long Lake Containment Facility; and incorporation of egress ramps on waste rock storage areas (MVEIRB, 2016, p. 131).

The Caribou Offset and Mitigation Plan outlined by the Review Board in Measure 6-2 is largely addressed by other mitigation measures and/or plans. This approach is referred as additionality, or whether offset gains are outcomes that would have happened anyways (ICMM IUCN, 2012). For example, Measure 6-1 already requires enhanced road and dust adaptive management plans and/or actions to mitigate impacts to Caribou. While Measure 6-2 does require additional research into dust mitigation strategies, it is unclear how this research will result in a no net addition of impacts to the Bathurst Caribou Herd. In another example, the Review Board specifically states that the reclamation of the Long Lake Containment Facility should be substantially accelerated beyond the Interim Closure and Reclamation Plan and that egress ramps should be incorporate waste rock storage. As stated by the Review Board, aspects of Measure 6-2 are already included in the Interim Closure and Reclamation Plan, and could (and should) be effectively addressed through further refinement and review of the current Interim

Reclamation and Closure Plan. Furthermore, the Long Lake Containment Facility is a relatively small portion of the proposed Jay Project, and an even smaller portion of the entire Ekati mine. From our perspective, this is not an equivalent offset to the proposed Jay Project project-site, zone of influence, or cumulative impacts.

Furthermore, during the hearings in Yellowknife, Dominion Diamondf stated that, “no offset mitigation is likely to yield changes that can be confidently and powerfully measured as different from natural variation and energetic survival and productivity (PR, 644).” When questioned about the statement from Peter Unger, representing LKDFN, Golder Associates Dr. Jim Rettie elaborated:

“The effects of the project are anticipated to be a change in productivity of 0.3 percent, and a change in available habitat of 0.1 percent...When you have a population whose rate of productivity can change quite drastically, as well as its -- as well as the population abundance can change quite -- quite drastically, trying to detect something at a fraction of 1 percent and definitively be able to tie it to a cause and effect relationship with an offsetting activity is not practical. (PR, 644).”

Dominion Diamond’s expert consultant believed that attempts at offsetting impacts to Caribou at the level of their disturbance is not practical, yet in Measure 6-2b, the Review Board puts the onus on the GNWT to supervise measuring and quantifying the offsetting program. Our concern is twofold: (1) that the GNWT is not capable of properly quantifying the offsetting program, and (2) we question whether the offsets suggested to date are actually offsets in the strictest sense, as we do not believe the impacts associated with altering Caribou migration routes, and reducing the reproductive capacity of the Bathurst Caribou are impacts that can be adequately offset.

DKFN believes that the Caribou Offset and Mitigation Plan will not reduce residual impacts, and will not serve to improve the situation that the DKFN and other Aboriginal groups will face if the Caribou herds continue to decline. At best, this is a directive to do more research and improve our understanding of fugitive dust, which is reasonable, but from our perspective, the experimental Caribou Offset and Mitigation Plan should be tested at the existing Ekati mine to determine if the Caribou offset and mitigation measures are capable of reducing impacts from the mine on the Bathurst Caribou Herd. Should this prove to be effective, then the Jay Project would not need to be used as a testing ground for offsetting measures, where if they failed or were inadequate, there would be significant adverse impacts to the Bathurst Caribou Herd. If the proposed mitigation was adequately tracked and measured by the GNWT as proposed, and the GNWT was able to prove that the mitigations were effective, then the offset measures could be applied to new, large scale disturbance. We recommend that specific consultation on the implementation of these measure at the existing Ekati site be conducted and that Aboriginal traditional knowledge be used to enhance the mitigation efforts.

Measure 6-2(b): Research to design and implement successful offsetting projects

Measure 6-2 (b) calls on the GNWT to research potential methods of evaluating and measuring the effectiveness of offsetting options described in the Caribou Offset and Mitigation Plan in measure 6-2(a). Though the DKFN agrees with the need to research this option before testing it, we are unsupportive of this research occurring at the Jay Project. To our knowledge, this is the first attempt at a “Caribou Offset and Mitigation Plan” in the North. As mentioned above, DKFN is concerned that attempting to detect the effectiveness of offsets is impractical, and though it doesn’t mean GNWT should not attempt it, it does not inspire confidence in the GNWT’s ability to prove offsets to be effective.

As a suggested alternative, the GNWT should conduct a study on the scope and effectiveness of Caribou offsetting measures, including those that have been developed for other Caribou ranges in the Arctic and sub-Arctic, in order to first determine whether offset measures are an effective approach for reducing mine impacts on the Bathurst Caribou Herd. Without undertaking this research, it is uncertain if the Caribou Offset and Mitigation Plan will be at all effective at offsetting and mitigating impacts on Caribou, let alone resulting in no net impacts to caribou. With this knowledge we will be able to determine if offsets are even an option. Until this research is undertaken, we are not confident that the Caribou Offset and Mitigation Plan will result in no net additional impacts to the Bathurst Caribou Herd.

Measure 6-3: Air quality emissions monitoring and management plan

Measure 6-3 requires Dominion Diamond to finalize and implement the AQEMMP by the start of the proposed Jay Project. In the draft document referred to in this measure (PR, 424), Dominion Diamond states that it plans on implementing the AQEMMP “at the commencement of the project.” The measure goes on to outline the requirements of the AQEMMP; however, every single point outlined in the measure is already developed in Dominion Diamond’s draft AQEMMP. As such, this measure merely requires Dominion Diamond to implement the draft AQEMMP that they already intended to implement. Applying dust suppressant, managing vehicle speed, implementing a dustfall monitoring program, sampling lichen tissues, planning responses by trigger and action levels, allowing opportunity for public input, annual reporting of monitoring results, and submitting the plan for public review are all aspects of Dominion Diamond’s initial draft AQEMMP.

Regardless of the redundant nature of this measure, DKFN believes that fugitive dust is an unfortunate inevitability of operating a mine in the Barrenlands, and no management plan is

going to be able to effectively suppress dust from the Ekati mine site to a point where it is not causing an impact. Undertaking a study on the effects of dust on lichen tissue may be valuable and important to aiding our understanding of the severity of the impacts on the main food source of the Caribou, but since lichen is very susceptible to the effects of dust, should the testing determine any sequestration of dust by the lichen, then Caribou habitat will already be significantly altered. This is an impact that we fear cannot be reversed, resulting in significant impacts to Caribou and Caribou habitat, even with this mitigation measure.

This project presents the opportunity to understand impacts and mitigations of dust better, and though the DKFN agrees that this understanding will lead to better management of human impacts, we disagree that it should be tested at a new disturbance when the existing disturbance is suitable for experimentation. Again, the alternative of applying the newly developed AQEMMP at the existing Ekati development would enhance the collective understanding of dust impacts and aid in the evaluation of the effectiveness of the AQEMMP as a Caribou protection measure. As it is a requirement of the AQEMMP to consult with the parties, DKFN and the other Aboriginal groups expect that there will be opportunities to contribute to this plan as it becomes finalized.

Measure 6-4: Dustfall standards

Measure 6-4 requires GNWT to develop “an interim dustfall objective” that Dominion Diamond will use “to inform its actions to reduce impacts to caribou and caribou habitat from dustfall.” The Review Board states that the interim objective will “reduce dust-related sensory disturbances to caribou to the greatest extent practicable” (MVEIRB, 2016, p. 238).

DKFN agrees with the Review Board that the GNWT should establish an interim dustfall objective for all types of dustfall that may impact Caribou and their habitat. However, the

measure does not describe: (1) the process of setting an interim dustfall objective, (2) how it will be monitored and enforced, and (3) a date as to when the GNWT should establish a dustfall standard. Typically, objectives are not legally binding, and DKFN fears that if Dominion Diamod exceeds the interim dustfall objective, that the GNWT will have no recourse to enforce compliance with the objective. Without specific methods of enforcement, it is difficult to see how the measure could “mitigate impacts to habitat effectiveness from deposition of fine particulate dust on lichens and other caribou forage so that they are no longer significant.”

DKFN and the other Aboriginal groups recommend that GNWT consult with its members over the creation of the objective, and incorporate traditional knowledge into the process. Without knowing what the interim dustfall objective will be, we fears that the dustfall objective may not be adequate enough to mitigate significant adverse impacts to Caribou. The interim dustfall objective, and ultimately standard, must be based on research undertaken at the existing Ekati mine site, and once an acceptable standard has been established then the Jay Project should be approved and the dustfall standard should be applied to the project site and zone of influence, as well as other mines across the Northwest Territories. This interim dustfall objective, and ultimately the dustfall standard, must also be based on the goal that Caribou are be able to consume the potentially impacted lichen without sustaining any negative health effects. Measure 6-4 must also established a timeline for GNWT to set dustfall standards for all industrial developments in the Northwest Territories. These standards must be stringent, measurable, and enforceable. Dustfall standards exist elsewhere (i.e. British Columbia, Newfoundland, Alberta, and Ontario) and should be referenced, but we expect the highest possible standards be applied based on the susceptibility of lichen to dust impacts, and the value lichen holds for the Caribou populations.

Measure 6-5: Traditional knowledge based caribou monitoring and mitigation

Measure 6-5 is comprised of two main components: (1) a collaborative research project incorporating traditional knowledge (TK) into the study of the causes of the zone of influence for Caribou, and (2) is the creation of a Dominion Diamond-funded TK Elders group that will advise on construction, operation, and monitoring the Jay Project road, esker crossing and waste rock management area egress ramps, as well as recommend a contingency plan for the esker crossing.

DKFN is concerned that a research program into the causes of the zone of influence for Caribou will not be collaborative if its scope and contents are fully prescribed by the Review Board, and designed and delivered by Dominion Diamond. If TK is going to be adequately incorporated into the collaborative research study then TK holders should be included in all phases of the research process, including design, data collection, data analysis, and reporting.

In addition, the scope of the TK Elders Group is currently too narrow. The TK Elders Group will address issues that Indigenous communities have frequently expressed concern about, such as a road crossing an esker. However, TK contains more than the expression of concerns about the environment and mine. TK should be incorporated into other facets of the mine's design, construction, operation, and closure; these efforts should be viewed as common practice, and not as mitigation measures. The collaborative research project should also be extended from the identification of causes to the zone of influence to monitoring, management responses, and impacts on Caribou health. Inclusion of TK holders in the collaborative research project from the design phase to dissemination will ensure that the research project addresses Dominion Diamond and Aboriginal groups concerns regarding the zone of influence or other research topics.

We are also concerned that the TK Elders Group may not be an independent group if it is funded by Dominion Diamond. Similar to the independent dike review panel, the TK Elders

Group should have a degree of autonomy from Dominion Diamond. A clear and comprehensive process should be established to ensure that the TK Elders Group's recommendations are given full consideration by Dominion Diamond and that Dominion Diamond provides a rationale as to why it has or has not chosen to implement the TK Elders Group recommendations. This will help to create a process that aligns with the emerging trend in TK/Science integration, which is toward Indigenous-led projects.

Measure 6-6: Timely completion of caribou management plan

Measure 6-6 calls for the timely completion of a Bathurst Caribou Management Plan, with the Review Board noting that the lack of a management plan for the herd during a period of very low numbers and a declining population is both “unacceptable” and “alarming.” The Review Board states that the GNWT’s current effort at producing a plan is “not a timely response to an emergency situation,” and calls for an interim recovery and management plan “to manage cumulative impacts of development and other human activities that are otherwise likely to combine with the cumulative effects of the Jay Project to worsen the situation.” Measure 6-6 states that within a year of the acceptance of the Report of the EA, GNWT will research causes behind the herd’s population decline, complete and implement an interim management plan, as well as interim recovery strategy towards a sustainable Aboriginal harvest. As with so many other measures in the Report of the EA, the Review Board looks to the existence of a future plan to accomplish much of the mitigation work required to reduce the significance of the proposed Jay Project’s adverse impacts on caribou. In addition, management plans are not legally binding documents; they do not hold the force of laws, regulations, or other legal tools, and there are no repercussions if they are not followed.

The dire situation facing the Bathurst Caribou population has been recognized for years with little action. The GNWT and other parties have been working on a Bathurst Caribou

Management Plan as well as a Bathurst Caribou Range Plan for close to two years now with an estimated completion date in 2019 (MVEIRB, 2016, p. 136). During the hearings in September 2015, the GNWT said that that Bathurst Caribou Herd Range Plan is not expected to be completed for another three years. DKFN is concerned that this is far too late, and we applaud the Review Board for inserting this measure that puts a time frame on the development of this plan; however, we still believe this plan, or at least the main point of limiting anthropogenic disturbances beyond Indigenous hunting, should be addressed as soon as possible. If there is no hunting allowed in the mobile zone, then there should be no other impediments to the Caribou in that zone also. The Jay Project is located within the mobile no hunting zone and DKFN takes the position that any disturbance in the mobile zone should be suspended until the Bathurst Caribou Herd has recovered to a sustainable harvest level.

DKFN and the other Aboriginal group recommend that a Bathurst Caribou Management Plan be developed by 2017 and that the management plan address all disturbances, including but not limited to mines, climate change, hunting, predation, and disease. In the interim, the GNWT should define a maximum level of disturbance in the Bathurst Caribou Herd's range. This level of acceptable disturbance should be based on sustainable Aboriginal harvest level, in which case, this threshold has already been met or possibly exceeded as harvesting restrictions are currently in place. Affected Aboriginal communities must fully and equally participate in the creation of the management plan(s) and setting acceptable levels of disturbance in the Bathurst Caribou Herd's home range.

Cultural aspects and traditional knowledge

Measure 7-1: Traditional knowledge management framework

In Section 7, the Review Board determined that “[the Jay Project] is likely to affect Aboriginal groups and cause significant adverse cumulative impacts to their well-being and

traditional way of life.” The Review Board noted that among the adverse effects are continued loss of Aboriginal language, continued loss of connection to the land, potential loss of traditional knowledge and memory about the region, and an adverse effect on valued cultural components resulting from the development of the Jay Project (p. 149). The Review Board has acknowledged that any of these are significant effects occurring in communities “already dealing simultaneously with a collapse of the Bathurst caribou herd,” with which they are “inseparably linked.”

Addressing the intimate Caribou-culture interlinkage, the Review Board recognizes that mining has already adversely affected Aboriginal land use and the exercise of Aboriginal and Treaty rights in the Project Area even before the specific and cumulative effects of the Project are added. However, it argued that the Bathurst Herd will not decline further as a result of the Project, and Caribou will thus not be a pathway through which the Project affects Aboriginal people: “the suite of Dominion’s mitigations and commitments, combined with the measures identified in this REA, will serve to mitigate impacts from the Jay Project to this culturally important species.” However, as stated above, we believe that the measures for Caribou are unproven, and not yet capable of reducing the significance effects to Caribou and Aboriginal communities to within acceptable levels.

Two measures are proposed to protect “the environment, traditionally used areas, and Aboriginal way of life,” a TK framework (7-1) and an on-the-land culture camp (7-2). The Review Board also suggests that TK protocols from the Aboriginal communities will help facilitate the TK Framework. DKFN believes that these measures will fall drastically short of addressing, in a meaningful way, any of the effects and impacts that the Review Board has recognized Aboriginal communities are experiencing. The proposed focus of the framework on mitigating the “cultural impacts” of the Project would restrict the utility of the framework to

issues within the cultural sphere, ignoring the other areas where TK should be integrated into Project design, operations, monitoring, closure, and post-closure. In addition, this measure should be synthesized with Measure 6-5 (TK-based caribou monitoring and mitigation) for a more robust, holistic approach to engaging communities through their TK in science and planning.

As stated above regarding the zone of influence for the Caribou research program, Aboriginal groups observe that the TK Management Framework will not be collaborative if its scope and contents are fully prescribed by the Review Board, and designed and delivered by Dominion Diamond. For the framework to achieve any measure of success as a TK venture, TK holders must be included in all phases of the research process, including design, data collection, data analysis, and reporting. Funding should be provided to Aboriginal groups to develop the TK Protocol as suggested by the Review Board, which could function as a high-level framework for informed consent, data sharing, and Intellectual Property matters.

Measure 7.2 On-the-land cultural camp

Individual Aboriginal groups will have different views, perspectives and expectations on what a cultural camp should entail. It should be acknowledged that the timing and use of the cultural camp may vary by individual Aboriginal group. To oversee the implementation of this measure, we recommend that a Culture Camp Board, comprised of representatives from the participant Aboriginal groups be struck and that Dominion Diamond financially support this Board.

Maximizing benefits and minimizing impacts to communities

Measure 8-1: Minimize negative socio-economic impacts of the Project on communities

Measure 8-1 tasks the GNWT with identifying priority social issues at the individual, family, and community levels, assess the effectiveness of existing GNWT programs to address the issues, and implement program improvements where needed. The GNWT is required to submit an annual progress report to each affected community.

In addition to addresses the negative impacts resulting from the proposed Jay Project, the GNWT should also meet with the affected communities annually to discuss:

1. Priority social benefits at the individual, family and community levels;
2. The effectiveness of GNWT programs to enhance these social benefits; and
3. Enhance or implement new programs to maximize benefits resulting from the proposed Jay Project.

The effectiveness of GNWT programs should be evaluated based on feedback from people, families, or communities accessing these programs, and adequate funding should be set aside based on the current and future utilization of the programs.

Measure 8-2: Supporting increased employment opportunities for women

Measure 8-2 attempts to mitigate significant adverse socio-economic impacts to women by requiring Dominion Diamond to work with the GNWT, the Status of Women Council in NWT, and the Native Women's Association of the NWT to update Dominion Diamond's strategy for the training, recruitment, and employment of women in traditional and non-traditional occupations. Dominion Diamond is required to report on employment and retention of women and the effectiveness of its revised policy. In support of Measure 8-2 we also recommend:

- Including the retention of women in the update of Dominion Diamond's strategy or policies pertaining to the training, recruitment, employment, and retention of women.
- Dominion Diamond work with the GNWT, the Status of Women Council in NWT, and the Native Women's Association of the NWT to investigate policies or strategies to enhance women's participation in management level positions. Although this may be implicitly implied by "non-traditional occupations," it should be made more clear.
- That on-site daycare be provided for children under school age from infant to five years of age for mine employees.

In closing, we remain committed to working with the Review Board, Dominion Diamond and the GNWT on the successful resolution of concerns. Should you require any clarification on the information presented in our closing argument please contact our technical advisor, Dr. Marc d'Entremont, at mdentremont@lgl.com or 250-656-0127.

Sincerely,



Chief Louis Balsillie

cc. Rosy Bjornson, DKFN Resource Management Coordinator
Marc d'Entremont, LGL Limited (DKFN Technical Advisor)

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