

P.O. Box 18 Cambridge Bay, NU X0B 0C0 Telephone: (867) 983-2458 Fax: (867) 983-2701

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Cambridge Bay Ikaluktutiak ∆⁵b.⊃⁵⊃ʻ∩⊲⁵•

> Kugluktuk 5d5_56056

Bathurst Inlet Kingaok ⁵P™U⊳°

Bay Chimo Umingmaktok ▷Ր∿L७ఏ%

Gjoa Haven Okhoktok ▷⁵⁵~⁵°⊃̀ऽ⁵

> Taloyoak Cンペイペ%

Kugaaruk dU⁵√⁵ January 29, 2020

Ms. Kate Hearn
Assistant Deputy Minister
Planning and Coordination
Department of Lands
Government of the Northwest Territories
Yellowknife, NT

Ms. Lisa Dyer
Director-General
Northern Projects Management Office
Canadian Northern Economic Development Agency
Government of Canada
Yellowknife, NT

ATTENTION: Katie Rozestraten Project Assessment Analyst

Re: Aboriginal Consultation -- Report of Environmental Assessment EA1819-01 on Diavik Diamond Mines Inc. Proposal to Deposit Processed Kimberlite in Mine Pits

The Kitikmeot Inuit Association ("KIA") is in receipt of your January 6, 2020 letter on the captioned subject in which you seek the KIA's position on the impact of the residual effects of this development' on KIA and Inuit rights under the *Nunavut Agreement*. Your request is framed by three questions. KIA has responded more generally below. We do not think that the Crown's section 35 consultation obligations can be limited by a predetermined set of questions such as those contained in your letter.

Because of resourcing/capacity problems and the nature of this development, KIA did not actively participate in this Environmental Assessment ("EA"). We have now reviewed the Mackenzie Valley Environmental Impact Review Board's ("MVEIRB") Report of Environmental Assessment and Reasons for Decision ("REA") and we provide our comments below.

The KIA participated in the original comprehensive study and water licensing processes for the Diavik Diamond Mine ("Diavik") in 1999. KIA is a party to the Diavik *Environmental Agreement* between the governments of Canada and NWT and other Indigenous Governments and Organizations. We are also party to a

^{1.} Our reference to the "development" is to the proposal for placing processed kimberlite into mined out pits at Diavik as considered by the MVEIRB in EA1819-01.



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Participation Agreement with Diavik. KIA, Inuit and Inuit firms have been involved with this project since its inception.

The Diavik mine is located on Lac de Gras which is in the traditional land use area of Kitikmeot Inuit. The *Nunavut Agreement* reflects this history in Article 40 and guarantees Inuit harvesting rights in the Diavik mine area under s.40.3.2.

In addition, the Coppermine River which flows northward from the outlet of Lac de Gras to the Coronation Gulf traverses Inuit Owned Lands where KIA as the Designated Inuit Organization exercises water rights under Article 20 of the *Nunavut Agreement*. The mouth of Coppermine River is located in the Kitikmeot community of Kugluktuk. Kugluktuk Inuit have a history of concern about projects which may affect the Coppermine River. KIA's record of concern about Diavik and other mining effects on Lac de Gras and the Coppermine River is clear. These concerns have been one of the reasons for Inuit involvement in reviews of all diamond mine projects with potential transboundary effects.

KIA's primary concerns with this development, wildlife – most particularly Bathurst caribou, water, and cumulative and cultural impacts on Inuit rights have remained unchanged since the initial proposals for the Diavik project in 1999.

Based on our review, KIA generally supports the Measures proposed by the MVEIRB in its REA. However, we note a lack of clarity in the way that the REA treats the potential for involvement of KIA and thus Kitikmeot Inuit interests in the mitigation efforts required by the Measures.

Measure 5 - for example requires additional effective engagement with "potentially affected Indigenous communities" which is expressly indicated to include the KIA and Inuit communities – primarily Kugluktuk. Such engagement and consultation will benefit Inuit and could ensure that Inuit rights are respected in future decisions related to the development.

Measure 2 - however, refers in its title to "Indigenous groups" but then goes on to require only that Diavik work directly with "Indigenous intervenors" which is defined in a way that would exclude KIA from participation in the development of water quality objectives which are to address "people, aquatic life, wildlife and cultural use" of the Diavik area on Lac de Gras. These are all matters where Inuit must be, or at least have the opportunity to be, involved since these water quality objectives will protect matters which are the subject of Inuit rights.

In order to ensure that Inuit rights and interests are properly reflected in the mitigation and future management of this development KIA requests that this issue be addressed by Ministers with authority to accept the REA and authorize this development. Measure 2 should be clarified to indicate that KIA is among the



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Indigenous groups to be involved in the development of water quality objectives for the development.

KIA notes the conclusion drawn by MVEIRB about wildlife impacts. We also note and echo the significant concerns raised by Indigenous interveners in this EA about the status of the Bathurst Caribou herd. Kitikmeot Inuit have been involved in the development of the Bathurst Caribou Range Plan. Wildlife management authorities in both territories have, or are taking steps to eliminate Indigenous harvesting of this herd.

KIA urges Ministers to insist on great caution in the implementation of this development so as to ensure that no effects, including no additional cumulative effects, on Bathurst caribou result.

KIA appreciates the opportunity to comment on the REA and commends the MVEIRB for a clear and thoughtful assessment of the impacts of this proposed development.

Yours truly,

Stanley Anablak

President

Kitikmeot Inuit Association

cc. Aluki Kotierk President - NTI