

BHP Diamonds Inc.

November 30, 1999

Gordon Lennie
Chairman
Mackenzie Valley Environmental Impact Review Board
Box 938
Yellowknife, NT X1A 2N7

Re: Response to Draft Terms of Reference (November 8, 1999)

Dear Mr. Lennie:

BHP Diamonds Inc. (BHP) has reviewed the Draft Terms of Reference (ToR) provided to us on November 8, 1999. The attached comments are intended to assist the Mackenzie Valley Environmental Impact Review Board (Review Board) in finalizing the ToR. BHP would ask that this letter and the attached comments go before the Review Board at their next sitting.

Should the Review Board disagree with significant elements of our comments, we would request an opportunity to be heard before the Review Board to explain our position.

We suggest that the guiding principles for setting the ToR in the case of this incremental change to the EKATI™ Diamond Mine should:

1. recognize that this is not a "greenfields" proposal, but rather a fully permitted mining operation which, in the last few years, completed an exhaustive environmental assessment and review pursuant to the EARP Guidelines Order in Council;
2. apply Section 127 of the MVRMA where applicable and give it due consideration;
3. understand that a virtually identical scenario – three new pipes developed within 30 km of the processing plant but outside the Koala watershed – was considered by the previous EARP Panel in the context of cumulative effects. Please see Section 6.2 in the Report of the Environmental Assessment Panel, NWT Diamonds Project, June 1996, page 67. Also see Section 3.10.2, pages 3.29 to 3.33 of Volume I and Section 5.4, pages 5.4 to 5.7 of Volume IV of the NWT Diamonds Project EIS;
4. recognize that the scope of the review should not include existing operations that fall under existing regulatory instruments; and

5. focus the current review on those matters which could have potential significant impacts and have not already been considered in the previous environmental assessment.

The proposed ToR do not appear to follow these guiding principles. The ToR cover issues which were dealt with in the previous environmental assessment, issues which fall under other regulatory authorities, and a level of detail more appropriate for an entirely new development proposal.

It should be noted that the additional resources to be provided by the Sable, Pigeon and Beartooth Pipes add only three years to EKATI™'s mine life. Our current estimate of the time required to complete the environmental assessment before your Board and complete the regulatory permitting that must follow is in excess of two years.

BHP appreciates the opportunity to provide these comments on the draft ToR. If there are any questions or concerns about our responses to the ToR, please do not hesitate to contact Tina Markovic at (867) 669-6142.

Sincerely,

BHP DIAMONDS INC.



Scott Williams
Environment and Resource Planning Manager

cc: Jim Excell, Vice President Operations, BHP Diamonds Inc
Graham Nicholls, Vice President External Affairs, BHP Diamonds Inc.
David Livingstone, Director Renewable Resources & Environment, DIAND
David Searle, Counsel, Davis and Company
KT Johnson, Counsel, BHP Minerals
Tina Markovic, Senior Resource Planning Coordinator, BHP Diamonds Inc.
John Witteman, Environment Manager, BHP Diamonds Inc.
Chris Hanks, Senior Environmental Specialist, BHP Diamonds Inc.



BHP Diamonds Inc.

Comments

Definitions and Acronyms Used:

1. EIS = BHP's 1995 Environmental Impact Statement
2. MVEIRB = Mackenzie Valley Environmental Impact Review Board
3. Project Description report = Project Description – Proposed Development of Sable, Pigeon, and Beartooth Kimberlite Pipes (Revision 3) submitted to Mackenzie Valley Environmental Impact Review Board on November 5, 1999.
4. Review Board = Mackenzie Valley Environmental Impact Review Board
5. ToR = Draft Terms of Reference issued on November 8, 1999 by Review Board

Section 1 – Introduction

Line 39: ToR states “final determination of significance shall be made by the Mackenzie Valley Environmental Impact Review Board.”

BHP would like to know in advance the criteria and determination method on how the Review Board will make its assessment of significant. May we have a definition of significant?

Line 44: ToR states “organizations and *proposed pick-up communities*”.

The EARP panel in 1995 established the list of communities with whom BHP should consult. The Project Description (page 3-1) provided these communities, they are – Yellowknife, N'dilo, Dettah, Rae/Edzo, Wha Ti, Rae Lakes, Snare Lakes, Lutsel K'e, and Kugluktuk. Incremental changes to the mine activities within the claim block do not extend the project beyond the scope of activities originally reviewed by EARP.

BHP recommends that this wording be amended to be consistent with the previous EARP Panel review and to reflect those parties with whom we have been actively consulting over the past 6 years.

Section 2 – Scope of Development

BHP has reviewed the comments provided on scope of development and would like the Review Board to consider the Project Description report as the Scope of Development. We will, however, provide additional information on the proposed esker quarry site. The additional information may come either as an addendum or as a section in the forthcoming Environmental Assessment document. Additionally, to ensure the Environmental Assessment report meets the requirements of Section 5.4 of the ToR — clear and succinct language — we will provide a separate report on the technical, engineering aspects of the water retention structures and waste material management. This report would be in support of the Environmental Assessment report.

Line 92: ToR states “Pigeon and Sable underground mining”.

The mine plan provided in BHP’s Project Description report makes no reference to underground mining at either of these locations. Underground mining is not a component of the scope of development; therefore **BHP recommends that this be removed from the ToR.**

Line 93: ToR states “Ramps”.

Ramps are merely access roads built into pits and waste rock storage piles that are engineered structures. What is the issue with ramps, or what are the specific concerns with ramps related to our Project Description report?

Line 94: ToR states “Above ground and below ground mining support infrastructure”.

Again, BHP is not proposing to employ underground mining at either Sable, Pigeon, or Beartooth, therefore **BHP recommends removing this item from the ToR.**

Section 2.6.1 Development Sequence

In the Project Description report, Section 4.7.1, BHP provides summary production schedules showing the quantities of ore and waste to be removed annually. Likewise Figure 4.7-1 provides the EKATI™ Diamond Mine Life of Mine development and mining sequence.

BHP requests clarification from the Review Board on the reason to isolate uses for exploration as this is very conjectural. Because of the uncertainty of exploration activities, the fact that they have a separate permitting system, and will be done outside of the proposed developments BHP recommends that the reference to exploration in the ToR be removed.

Section 3– Environmental Assessment

Line 177: ToR states “The Review Board shall make the final determination of significance”.

BHP is requesting clarification from the Review Board to define what the Board means by “significance”.

3.1.2 Description of the Existing Environment & 3.3.2 Economy

BHP’s EIS both described and assessed extensively the socio-economic and cultural environment and effects in Volume II, Section 4 and Volume IV, Section IV, respectively. As described in the Project Description report, pages 1-7 and 2-3, the addition of the Sable, Pigeon, and Beartooth pipes does not change employment levels, revenues, procurement expenditures, or other socio-economic components. There is no element or component of the proposed development description that would suggest a change in the socio-economic environment. The EIS provided a comprehensive summary of the baseline status of communities and government, albeit the circumstances of the NWT have changed recently with division.

The addition of these resources ensures a steady-state mining operation. Simply, the three new pipes are a substitution of the uneconomic Leslie pipe, as described in the Project Description report. The three pipes extend the mine life from 15 years to 18 years.

In essence, the changes to the physical environment (i.e. roads, pits, and waste rock storage piles, etc) do not result in changes to the socio-economic environment. As a result the socio-economic effects described in the EIS remain unchanged. Additionally, the EIS described the scenario of a potential shortened mine life, in Volume 1, Section 3.10.1.1. The EARP Panel considered this potential scenario and by nature of their review, considered the effects of a shortened mine life.

The Project Description, page 2-2, included a quote from the EARP Panel’s report that made reference to socio-economic effects. For your convenience, the quote is provided below.

“The Panel concludes that the cumulative environmental effects of additional development by BHP on the Lac de Gras claims block are unlikely to be significant. It has reached this conclusion for several reasons. First, mining of additional pipes would extend the life of the mine and would not result in development of additional processing capacity. Secondly, tailings would be deposited in mined-out pits and no expansion of the Long Lake tailings impoundment or creation of a new impoundment would be required. Thirdly, if additional pits were developed, the Proponent and government would have some years of experience in managing the effects of the Project. Nevertheless, continued monitoring and

adaptive management would be required, especially if the new pits were located in previously undeveloped watersheds. Finally, the Panel agrees with the Proponent's conclusion that the cumulative socio-economic effects entailed by extending the life of the mine are likely to be positive since extension of the life of the mine would provide economic stability. However, continued socio-economic monitoring would still be required to determine actual effects and to ensure that any negative or cultural effects are identified and mitigated." (Page 67, of EARP June 1996 Report).

Resulting from the Panel's assessment of the EKATI™ Diamond Mine, a Socio-Economic Agreement between BHP and GNWT was established. The GNWT has been monitoring the key indicators identified in the Socio-economic agreement, and have publicly stated that it is too early to make any determination of any actual effect resulting from the EKATI™ Diamond Mine.

Given that this proposed project does not change any socio-economic variable in the continued operational success of EKATI™ and that the socio-economic environment and effects have been previously assessed, BHP seriously questions the need to re-assess these components. Having said that, BHP is willing to furnish the Review Board with statistics regarding our actual operational performance with respect to socio-economic issues, such as employment targets, training, etc. We expect these levels would continue with the proposed scope of development currently before you. We trust this approach will meet your needs to assess the proposed development of Sable, Pigeon, and Beartooth.

3.3.1 Human Health

The EIS described and assessed mine development impacts on human health in Volume 1, Section 2.11.8.

In addition, BHP supports comprehensive OH&S programs and policies at EKATI™ Diamond Mine. BHP has a comprehensive Health and Safety Program that addresses the health and safety concerns of all employees at the EKATI™ Mine Site including an Employee's Assistance Program.

The Health and Safety Program establishes Standards and Procedures that have been developed to provide employees with the operating procedures that relate to health, safety and the environment.

BHP questions the need to assess human health as the operations are currently regulated by responsible agencies and we have our comprehensive OH&S programs. We don't propose to go any further than this.

3.3.9 Cultural Resources

Reference is made to sites of paleontological significance. These are not sites of cultural or heritage significance. **BHP recommends that reference to sites of paleontological significance be removed from the ToR.**

3.4 Impacts of the Environment on the Proposed Development

The potential effects of climate change (global warming) on permafrost, soils, engineered structures, *etc.* was reviewed in BHP's EIS Volume II Section 2.0 and the detailed design reports for the major structures currently in existence at the EKATI™ Diamond Mine. This information will be referenced as appropriate in the discussion to be included in the EA Report for the expansion program.

3.4.1 Cumulative Impact

The cumulative impact assessment should be limited to assessing cumulative effects of the project on the physical and biological environment and effects on human use thereof. Section 117(2)(a) of the MVRMA does not extend cumulative impacts assessment to the social, economic, and cultural environment.

Section 4 – Additional Direction for the Environmental Assessment

BHP has looked at Section 4 and recognizes that the items in this section are background information and we can make comment on these items. We will provide a separate background document to the Review Board to address these items.

4.1 Executive Summary

On an administrative note, BHP believes that Section 4.1 the Executive Summary should be more appropriately placed at the beginning of the ToR, say in Section 1.

4.2 Developer Identification

EIS Volume 1, Section 1.5, provides a description of BHP and our joint venture partners – DiaMet, Stu Blusson, and Chuck Fipke. Additionally, in BHP's Operating Environmental Management Plan, Section 1.4 Organization and Responsibility, there is an organization chart and names of persons responsible for managing the proposed development and for environmental management. The OEMP is updated annually to reflect changes, thus if there are changes in management personnel then it will be updated in the OEMP.

BHP requests the Review Board to review these documents. Should additional clarification specific to this proposed project be required, BHP would be pleased to provide a response.