

Mackenzie Valley Environmental Impact Review Board

22 June 2000

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RE: Conformity Decision on the Environmental Assessment Report (EAR) for the BHP Diamonds Inc. (BHP) Beartooth, Pigeon and Sable Kimberlite Pipes

Members of the Review Board convened on June 13, 14 and 22 to consider the question of conformity of the BHP's EA Report with its terms of reference. The Review Board concluded that there were several non-conforming items, and therefore, the conformity phase will remain open until they are satisfied that conformity has been met. This determination, however, does not preclude work with respect to the technical analysis.

The Review Board considered the non-conforming items in the attached table and has provided the following views.

1. The Review Board agrees with government reviewers, the Independent Environmental Monitoring Agency (IEMA) and its staff that BHP did not provide information about the temporary shut down of facilities, migratory birds, kimberlite composition and toxicity, use of the development for future exploration activities, Sable Lake vegetation classification, and IEMA's comments regarding s.4.2.2 and temporal boundaries.
2. The Review Board agrees with BHP that its EA Report does address Recreation Use (Human Use) and is therefore in conformity.
3. Regarding the Ursula quarry, BHP shall identify their proposed quarry and provide the information requested. Without this information, including alternatives, the Review Board cannot provide the direction BHP seeks in its letter dated June 12, 2000
4. With respect to the Leslie kimberlite pipe, the Review Board wants to clear up a few matters before making a ruling. To that end, the Review Board has forwarded your June 12 letter to Environment Canada (EC) and the Department of Indian Affairs and Northern

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Development (DIAND). They shall provide their comments or further input on the matter of the Leslie kimberlite pipe to the Review Board, and by copy, to BHP by 28 June at 5:00 p.m. BHP shall respond to EC's and DIAND's comments, and provide a clear legally binding response regarding its plans for the development of the Leslie kimberlite pipe by 3 July at 5:00 p.m.

5. Finally, if the Leslie kimberlite pipe is not included in the Environmental Assessment, BHP would be expected to assess the impact of the reduced mine life on the economy, as requested in the Terms of Reference line numbers 483-486.

The Review Board intends to rule on outstanding conformity issues by July 13, 2000. If you have any questions regarding this letter please contact Heidi Klein, our Executive Director at 873-9029 or Louie Azzolini our Environmental Assessment Officer assigned to your development.

Sincerely,

Gordon Lennie
Chair and Chief Executive Officer

attach:

c: Greg Cook, DIAND - by hand
Anne Wilson, EC - by hand

Table of Non-Conformity

ToR Text		Comments		Review Board View
Line No.	ToR Text	Comments	Review Board View	Review Board View
138-139	I. Existing equipment, infrastructure, and facilities to be used for processing, disposal, storage and transportation	Chapter 1, 2.2.1, 2.2.2 Project Description	DIAND: Does not include all currently approved operations under the Land Lease, i.e. the Leslie pipe.	Review Board would like to provide an opportunity for BHP, Environment Canada, and the Department of Indian Affairs and Northern Development (DIAND) to clarify or add anything to the public record before deciding on the matter.
140	II. Solid waste management and containment areas	2.2.3	DIAND: Leslie pipe not included.	Review Board would like to provide an opportunity for BHP, Environment Canada, and the Department of Indian Affairs and Northern Development (DIAND) to clarify or add anything to the public record before deciding on the matter.
147-151	Describe the proposed Ekati™ Diamond Mine extension development sequence, in the context of the entire mining operation including traffic on existing haul roads and transportation corridors, current and anticipated exploration activities that will utilize the proposed development infrastructure, and exploration plans as they relate to the proposed development.	2.2.6	DIAND: Leslie pipe not included.	Review Board would like to provide an opportunity for BHP, Environment Canada, and the Department of Indian Affairs and Northern Development (DIAND) to clarify or add anything to the public record before deciding on the matter.
151-152	Also, include a clear rationale for the proposed development sequence in terms of economic risk and uncertainty.	2.2.6	DIAND: as Leslie pipe not included.	Review Board would like to provide an opportunity for BHP, Environment Canada, and the Department of Indian Affairs and Northern Development (DIAND) to clarify or add anything to the public record before deciding on the matter.

ToR		ToR Text		Comments		Review Board View	
Line No.							
166		V. the tailings (processed kimberlite) containment areas, waste rock (country rock), ore stockpile and overburden storage sites, open pits, sewage facilities and underground workings in the event of a temporary shutdown	2.2.3, 4.10.2		DIAND: Does not address how the new development can/will be used in the future exploration activities, if undertaken. DIAND: need to clarify implications of temporary shutdown for each facility.		Non-Conforming
176		II. re-establishing plant communities and a productive landscape	5.5.2		DIAND: No indication this guideline is provided for the potential quarry location.		Non-Conforming
227-228		Alternative kimberlite pit development sequencing, and mitigation measures considered, shall be reported and reasons provided for their rejection.	2.2.6, 2.3.3		DIAND: Leslie pipe not included; alternative sequences considered should be addressed.		Non-Conforming
230-232		BHP shall provide sufficient information on the existing environment, as it pertains to the proposed development, including the existing	Chapter 3		EC: Indicates Sable lake vegetation classification missing		Non-Conforming

ToR		Comments		Review Board View	
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259-262	mining operation, where appropriate, to give a brief but clear picture of the existing environment and its use. In assessing the impact of the proposed development, the developer shall consider, describe and evaluate the environmental impacts of the proposed development for all phases of the proposed development including construction, operation, care and maintenance, closure and post-closure.	4.2.2, 4.9.5	EC: Not addressed in relation to migratory birds. IEMA: The Table in the EAR identifies s.4.2.2 and 4.9.5 as providing the required information but s.4.2.2. Contains no mention of temporal boundaries. S. 4.9.5 pertains only for those VECs for which a cumulative effects assessment was done.	Non-Conforming Non-Conforming	
274-276	BHP shall describe planned mitigation measures and consequences (environmental impacts) of potential failure. The residual impacts should be described at least in terms of the following parameters.	4.3, 4.4, 4.5, 4.6, 4.7, 4.10	DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
277	I. magnitude	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
278	II. geographic extent	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	DIAND: No information on the impacts related to the closure of the	Non-Conforming	

ToR		Comments		Review Board View	
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279	III. timing	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	esker granular quarry. DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
280	IV. duration	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
281	V. frequency	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
282	VI. irreversibility of impacts	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
283	VII. ecological resilience; and	4.2.2, 4.3, 4.4, 4.5, 4.6, 4.7	DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
284	VIII. probability of occurrence and confidence level.		DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
286	Distinguish between ecological parameters and social / cultural parameters.		DIAND: No information on the impacts related to the closure of the esker granular quarry.	Non-Conforming	
287	3.1.6 Environmental Optimization				
303	VI. recreational and tourism land uses	3.8.8, 4.9.6.2	DIAND: Does not include recreational use by the public.	Conforming	
304	VII. snowmobile trails	3.8.7	DIAND: Does not include use by other than Aboriginal people (i.e., recreational).	Conforming	
348-	VI. rock types, including	2.2.3.3	EC: No information on kimberlite	Non-Conforming	

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349	the chemistry of pipes and stability of kimberlite by-products	composition and toxicity for new pipes.			
477	III. hunting, trapping, and outfitting, recreational, commercial and sport fishing	3.8.8, 4.7.9, 4.9.6.2	DIAND: Lacks impacts to recreational activities to the area by the public.		Conforming
483-486	Any changes from the context of the 1995 EIA, or the BHP Socio-Economic Agreement shall be reported including the effects of changes to the pace and scale of the development should be assessed.	4.7	Review Board: If the mine, and duration of mine life change from the 1995 EIA report the change. That is, the socio-economic impact of the change		Non-Conforming
549-552	For the purposes of this development, the environmental assessment shall include an evaluation of cumulative effects that are likely to result from the proposed development in combination with other developments; and developments within the regulatory process on the day these Terms of Reference are issued.	4.9	DIAND: Leslie pipe not included.		Review Board would like to provide an opportunity for BHP, Environment Canada, and the Department of Indian Affairs and Northern Development (DIAND) to clarify or add anything to the public record before deciding on the matter.
554-555	BHP shall include, as a minimum, the existing BHP	4.9.6	DIAND: Leslie pipe not included.		Review Board would like to provide an opportunity for BHP, Environment Canada, and

ToR Line No.	ToR Text	Comments	Review Board View
	Ekati™ Diamond Mine, Diavik Diamond project, and the Echo Bay Mines Ltd. Winter Road and Lupin mine.		the Department of Indian Affairs and Northern Development (DIAND) to clarify or add anything to the public record before deciding on the matter.

Source: MVEIRB Staff.