



## Tłıchǫ Government

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February 7, 2020

Katie Rozestraten  
Project Assessment Analyst  
Government of the Northwest Territories  
Department of Lands

Via email: [Katie.Rozestraten@gov.nt.ca](mailto:Katie.Rozestraten@gov.nt.ca)

Dear Ms. Rozestraten:

**Re: Aboriginal consultation on the Report of Environmental Assessment for Diavik Diamond Mine Inc.'s kimberlite deposit proposal [EA1819-01]**

On January 6, 2020, the Mackenzie Valley Environmental Impact Review Board (the “Review Board”) issued the above-referenced *Report of Environmental Assessment and Reasons for Decision* (“REA”) for Diavik Diamond Mine Inc.’s (“DDMI”) kimberlite disposal proposal (the “Project”). In a letter of the same date, the Government of Canada (“Canada”) and Government of the Northwest Territories (“GNWT”) asked Tłıchǫ Government for feedback regarding the REA, and requested that any feedback be directed to your attention.

Accordingly, I am writing on behalf of oh Government to provide our responses to the REA and to provide some initial perspectives on Tłıchǫ interests that should inform the regulatory approval and oversight process for the Project going forward. We look forward to working with Canada and GNWT as the regulatory review of the Project proceeds to the water licensing phase before the Wek’eezhii Land and Water Board (“WLWB”).

### **Key Findings of the REA**

To begin, Tłıchǫ Government wishes to commend the Review Board for its work in conducting the environmental assessment (“EA”) of this project. Tłıchǫ Government particularly commends the Review Board for its careful consideration of Indigenous perspectives when conducting the EA and designing measures to prevent adverse impacts—including adverse impacts on culture and traditional land use—resulting from the Project. Throughout the entire EA process, the Review Board demonstrated a real sensitivity to the potential adverse impacts of the Project on Indigenous communities and land users. The Review Board was clearly mindful of Tłıchǫ Government’s concerns and the comments shared by our people and our elders during the EA hearing process, and took account of those comments and concerns as it developed the REA and the measures included therein.

DDMI's proposed Project—to store processed kimberlite (“PK”) from the Diavik mine in pits that will ultimately be filled with water and connected to the aquatic ecosystem of Lac de Gras—is a project that, at this time, continues to cause concern to Tłıchǫ Government, our people and our elders. Many uncertainties about the potential risks of the Project remain. In its decision, the Review Board recognized that DDMI's “proposal to deposit processed kimberlite in pit(s) and underground (the Project) is likely to cause significant adverse impacts on the environment. The Project, without additional mitigation, is likely to cause a significant adverse impact on the cultural use of Lac de Gras. In addition, DDMI has not done enough to demonstrated that adverse impacts to water quality will not occur.”

All parties to the EA, including DDMI, acknowledged significant deficiencies in DDMI's existing water models, such as the use of theoretical assumptions instead of current data. The Review Board found that DDMI's preliminary modeling is inadequate to demonstrate that the Project is not likely to cause significant impacts on water quality. All parties and the Review Board agreed that further modelling is required to demonstrate that DDMI can effectively manage water quality in the pits to achieve protection guidelines.

Accordingly, the Review Board determined that a “suite” of measures is required to prevent the Project from causing significant adverse impacts. The recommended measures include requirements for both better scientific modelling and further engagement with Indigenous communities before DDMI places any PK into the pits. Among other things, DDMI is required to “work collaboratively with Indigenous groups to develop criteria for determining water in the pit lake(s) is acceptable for cultural use.” Tłıchǫ Government strongly supports the imposition of these measures.

### **Tłıchǫ Interests and Issues as the Regulatory Process Proceeds**

Tłıchǫ Government recognizes that the REA is not the end of the regulatory process, but rather is the beginning. The review, oversight and management of the Project's potential adverse environmental and cultural impacts now shifts to the WLWB and the water licensing process. As the Project proceeds through that regulatory process, Tłıchǫ Government is committed to working closely with DDMI, the WLWB, and other governments to ensure the measures set out in the REA are effectively and timely implemented and that our people's concerns are resolved.

Effective implementation of the measures prescribed by the REA will be necessary to ensure that Tłıchǫ citizens and elders are confident that the Project will not degrade the water quality in Lac de Gras and will not adversely affect the health and way of life of Tłıchǫ people. The purpose of the measures recommended by the Review Board is to overcome the current information deficits and ensure that the Project's potential impacts are fully understood and addressed before “permanent and irreversible” steps are taken. The timing of the measures is thus essential to their effectiveness and, by extension, to the effectiveness of the EA in achieving its statutory and consultation mandates.

The Review Board has—quite correctly—left it to the discretion and expertise of the WLWB to determine when and how the measures should be implemented, whether before a water license is issued, as conditions attached to a water license, or otherwise. Tłchq Government is confident that the WLWB will develop a process and approach that effectively implements the REA measures; Tłchq Government looks forward to working with the WLWB to develop the workplan that will guide the water licensing process.

It remains imperative, however, that DDMI and all stakeholders recognize that the significant deficiencies in information provided during the EA stage are a real and continuing concern for our people. Effective strategies to resolve those information deficits and to engage with Tłchq communities, elders and land users will be required if DDMI is to get to a point where it could be permitted to proceed with the activities it has proposed.

### **Conclusion**

In the absence of adequate scientific modelling, the uncertainty surrounding the Project remains a significant concern for Tłchq Government and our citizens, as it was for the Review Board. However, that uncertainty—and Tłchq concerns—may be substantially alleviated through the water licensing process, once DDMI provides updated modelling data and completes necessary consultations with Indigenous groups in fulfillment of the terms of the measures included in the REA. Tłchq Government looks forward to working closely with the WLWB to develop the process and timing for the work prescribed by the measures in order to ensure all of the existing information deficits are resolved prior to any PK being placed in the pits. Tłchq Government again thanks the Review Board for its work and looks forward to continuing on to the next stage of the Regulatory Review of the Project

In Tłchq unity,

A handwritten signature in black ink, appearing to read "Jammy" followed by a stylized flourish.

Director  
Department of Culture and Lands Protection  
Tłchq Government