

**DRAFT Conditions Annexed to and Forming Part
Of Land Use Permit # MV2005C0032**

*Prepared by Board Staff
May 23, 2014*

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use operation: Mining and directly associated activities on the De Beers Canada Inc. Gahcho Kue Diamond Mine Project and includes the following:
 - i. dykes and berms to facilitate the dewatering of Kennady Lake;
 - ii. open pit mining of the Hearne, 5034 and Tuzo kimberlite pipes;
 - iii. milling facilities and infrastructure;
 - iv. ore and low grade ore stockpiles;
 - v. a Fine Processed Kimberlite Containment Facility;
 - vi. a Coarse Processed Kimberlite Containment Facility;
 - vii. a West Mine Rock Pile;
 - viii. a South Mine Rock Pile;
 - ix. deposition of kimberlite and waste rock into the Hearne and 5034 open pits;
 - x. quarrying;
 - xi. the existing exploration camp, winter access spur road camp, and a mining camp;
 - xii. fuel, lubricant, and glycol storage facilities and laydown areas;
 - xiii. explosives storage facilities and use of explosives;
 - xiv. a Landfarm;
 - xv. construction and operation of the winter access spur road;
 - xvi. site facilities and infrastructure including but not limited to the Water supply facility, Sewage treatment plant, pipelines, incinerator, site roads, all-season airstrip and apron, power plant, electrical distribution, and material storage and sorting facilities; and
 - xvii. use of equipment, vehicles and machines.

All Activities will be bounded by the following locations:

63° 25' 12.5" N, 109° 06' 13.7" W and 63° 58' 49.3" N, 110° 17' 59.7" W.

2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial, or Municipal laws.

Part B: Definitions

2. Definitions

Act - the *Mackenzie Valley Resource Management Act*.

Board - the Mackenzie Valley Land and Water Board established under Part 4 of the Act.

Borehole - a hole that is made in the surface of the ground by drilling or boring.

Construction - means any activities undertaken to construct or build any components of, or associated with, the development of the Project, including any Construction activities undertaken during operations and closure phases of the project.

Dogleg – the clearing of a line, trail, or right-of-way that is curved sufficiently so that no part of the clearing beyond the curve is visible when approached from either direction.

Drilling Fluids - any liquid mixture of water, sediment, drilling muds, chemical additives or other wastes that are pumped down hole while drilling and are specifically related to drilling activity.

Drilling Waste - all materials or chemicals, solid or liquid, associated with drilling, including drill cuttings and Drilling Fluids.

Durable Land - land that is able to withstand repeated use, such as gravel or sand with minimal vegetative cover.

Environmental Impact Review - means the totality of the Mackenzie Valley Environmental Impact Review Board Public Registry, for Environmental Impact Review 06070-001, as established under the authority of Part 5 of the Act for this Permit application. This includes, without limiting the foregoing, all documents, records, and materials of any kind submitted to the Mackenzie Valley Environmental Impact Review Board Public Registry which are relevant to Land Use Permit Application MV2005C0032 made by De Beers Canada Inc.

Flowing Artesian Well - a well in which water:

- a) Naturally rises above the ground surface or the top of any casing; and
- b) Flows naturally, either intermittently or continuously.

Fuel Storage Container - a container for the storage of *petroleum* or *allied petroleum products* with a capacity of less than 230 litres.

Fuel Storage Tank - a closed container for the storage of *petroleum* or *allied petroleum products* with a capacity of more than 230 litres.

Greywater - all liquid wastes from showers, baths, sinks, kitchens, and domestic washing facilities but not including toilet wastes.

Habitat - the area or type of site where a species or an individual of a species of wildlife naturally occurs or on which it depends, directly or indirectly, to carry out its life processes.

Inspector - an Inspector designated by the Minister under the *Mackenzie Valley Resource Management Act*.

Minister - the Minister of Indian Affairs and Northern Development.

Operations - means the activities which occur following the commencement of mining ore for milling in the process plant.

Ordinary High Water Mark - the usual or average level to which a body of water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. In flowing waters (rivers, streams) this refers to the “active channel/bank-full level” which is often the 1:2 year flood flow return level. In inland lakes, wetlands, or marine environments, it refers to those parts of the Watercourse bed and banks that are frequently flooded by water so as to leave a mark on the land and where the natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation (excepting water tolerant species). For reservoirs, this refers to normal high operating levels (full supply level).

Permafrost - ground (soil or rock) that remains at or below 0°C for at least two consecutive years.

Project - means the Gahcho Kue application in its entirety as described in the Report of Environmental Impact Review 0607-001, dated October 22, 2013 and in the Updated Project Description and supporting materials submitted on November 28, 2013.

Secondary Containment - containment that prevents liquids that leak from Fuel Storage Tanks or containers from reaching outside the containment area and includes double-walled Tanks, piping, liners, and impermeable barriers.

Sewage - all toilet wastes and Greywater.

Sewage Disposal Facilities - Sump(s) and/or Sewage collection tank(s) and/or storage containers designed to hold Sewage.

Spill Contingency Plan - a document, developed in accordance with Aboriginal Affairs and Northern Development Canada’s *Guidelines for Spill Contingency Planning* (April 2007), that describes the set of procedures to be implemented to minimize the effects of a spill.

Sump - a man-made pit or natural depression in the earth’s surface used for the purpose of depositing waste that does not contain Toxic Material, such as non-toxic Drilling Waste or Sewage, therein.

Toxic - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Waste - any garbage, debris, chemical, or Toxic Material to be used, stored, disposed of, or handled on land, and also as defined in section 51 of the Act.

Waste Management Plan (WMP) - a document, developed in accordance with the Board’s *Guidelines for Developing a Waste Management Plan*, that describes the methods of waste management from waste generation to final disposal.

Watercourse - a natural body of flowing or standing water or an area occupied by water during part of the year, and includes streams, springs, swamps and gulches but does not include groundwater.

Part C: Conditions Applying to All Activities (headings correspond to subsection 26(1) of the *Mackenzie Valley Land Use Regulations*)

	26(1)(a) Location and Area	
1.	The Permittee shall locate all camps on Durable Land or previously cleared areas.	Camp Location
2.	The Permittee shall use an existing campsite, as described in the complete application.	Existing Camp
3.	The Permittee shall not conduct a quarry operation within 100 metres of the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	Quarry Setback
4.	The Permittee shall not construct parallel lines or roads, unless an existing line or road cannot be used.	Parallel Roads
5.	The Permittee shall locate all lines, trails, and right-of-ways to be constructed parallel to any Watercourse a minimum of 100 metres from the Ordinary High Water Mark, except at crossings.	Parallel Watercourse
6.	The Permittee shall not conduct this land-use operation on any lands not designated in the complete application.	Location of Activities
7.	Prior to the commencement of the land-use operation, the Permittee shall accompany an Inspector during an inspection of the proposed land use area.	Inspect Locations
	26(1)(b) Time	
8.	At least 48 hours prior to the commencement of this land-use operation, the Permittee's Field Supervisor shall contact an Inspector at (867) 765-6651.	Contact Inspector
9.	At least 48 hours prior to commencement of this land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector: (a) the name(s) of the person(s) in charge of the field operation; (b) alternates; and (c) all methods for contacting the above person(s).	Identify Agent
10.	At least ten (10) days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of: (a) the plan for removal or storage of equipment and materials; and (b) when final cleanup and reclamation of the land used will be completed.	Reports Before Removal
11.	The Board, for the purpose of this operation, designates April 25th, as spring break-up.	Spring Break – up
	26(1)(c) Type and Size of Equipment	
12.	The Permittee shall not use any equipment except of a similar type, size, and number to that listed in the complete application.	Only Approved Equipment

	26(1)(d) Methods and Techniques	
13.	Prior to the movement of any vehicle that exerts pressure on the ground in excess of 35 kPa, the Permittee shall scout proposed lines and routes to select the best location for crossing streams and avoiding terrain obstacles.	Detours and Crossings
14.	The Permittee shall construct and maintain the overland portion of winter roads with a minimum of 10 cm of packed snow and/or ice at all times during this land-use operation.	Winter Roads
15.	The Permittee shall not erect camps or store material, other than that required for immediate use, on the ice surface of a Watercourse.	Storage on Ice
	26(1)(e) Type, Location, Capacity, and Operation of All Facilities	
16.	The Permittee shall ensure that the land use area is kept clean at all times.	Clean Work Area
17.	The Permittee shall not locate any Sump within 100 metres of the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	Sumps From Water
	26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land	
18.	The Permittee shall install and maintain culverts such that scouring does not occur.	Culvert Size
19.	The Permittee shall insulate the ground surface beneath all structures associated with this land-use operation to prevent: (a) any vegetation present from being removed; (b) the melting of Permafrost; and (c) the ground settling and/or eroding.	Permafrost Protection
20.	The land-use operation shall not cause obstruction to any natural drainage outside of those areas that will be modified as part of the Project.	Natural Drainage
21.	The Permittee shall minimize erosion by installing erosion control structures as the land-use operation progresses.	Progressive Erosion Control
22.	The Permittee shall not conduct off-road vehicle travel in areas without snow-covered surfaces.	Off-road Vehicle Travel
23.	The Permittee shall prepare the site in such a manner as to prevent rutting of the ground surface.	Prevention of Rutting
24.	The Permittee shall suspend overland travel of equipment or vehicles at the first sign of rutting.	Suspend Overland Travel
25.	The Permittee shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging.	Vehicle Movement Freeze-up
26.	The Permittee shall not use any material other than clean water and snow in the construction of ice bridges.	Ice Bridge Materials

27.	The Permittee shall not use any materials other than clean snow and water in the construction of snow fills.	Snowfill Materials
28.	Prior to spring break-up or completion of the land-use operation, the Permittee shall clean up and either remove or v-notch all snowfills from stream crossings, unless otherwise authorized in writing by an Inspector.	Remove or V-Notch Snowfills
29.	Prior to spring break-up or completion of the land-use operation, the Permittee shall clean up and v-notch all ice bridges, unless otherwise authorized in writing by an Inspector.	V-notch Ice Bridges
30.	The Permittee shall not cut any stream bank, unless otherwise authorized in writing by an Inspector.	Stream Banks
31.	The Permittee shall minimize approach grades on all Watercourse crossings.	Minimize Approach
32.	The Permittee shall not ford wet streams.	No Fording of Streams
33.	The Permittee shall slope the sides of waste material piles, excavations, and embankments — except in solid rock — to a minimum ratio of 2:1 vertical, unless otherwise authorized in writing by an Inspector.	Excavation and Embankments
34.	The Permittee shall not excavate land within 100 metres of the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	Excavate Near Watercourse
35.	Prior to the commencement of the land-use operation, the Permittee shall submit a revised Erosion and Sediment Management Plan, for approval by the Board. The Permittee shall not commence this land-use operation until this Plan has been approved by the Board. The Permittee shall annually review the Plan and make revisions to reflect any changes in operations, or as directed by the Board. Revisions of the Plan shall be submitted to the Board for approval.	Erosion and Sediment Management Plan
	26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material	
36.	At least seven (7) days prior to the use of any chemicals that were not identified in the complete application, the MSDS sheets must be provided to an Inspector and the Board.	Chemicals
37.	When drilling within 100 metres of the Ordinary High Water Mark of any Watercourse, and when drilling on ice, the Permittee shall contain all drill water and waste in a closed circuit system for reuse, off-site disposal, or deposit into a land-based Sump or natural depression.	Drilling Near Water or On Ice
38.	The Permittee may deposit Drilling Waste that does not contain Toxic Material in a Sump or natural depression. Any Sumps or natural depressions used to deposit Drilling Waste must be located at least 100 metres from the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	Drilling Waste
39.	The Permittee shall remove all Drilling Waste containing Toxic Material to an approved disposal facility.	Drilling Waste Disposal
40.	The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses.	Drilling Waste Containment

41.	Prior to the expiry date of this Permit or the end of operations, whichever comes first, the Permittee shall backfill and restore all Sumps, unless otherwise authorized in writing by an Inspector.	Backfill Sumps
42.	The Permittee shall maintain a record of all spills. For all reportable spills, in accordance with the GNWT Spill Contingency Planning and Reporting Regulations, the Permittee shall: <ul style="list-style-type: none"> (a) implement the Spill Contingency Plan; (b) report the incident immediately via the 24-hour Spill Report Line (867) 920-8130 in accordance with the instructions contained in the Spill Report form NWT 1752/0593 or subsequent editions; (c) report each spill and unauthorized discharge to the Board and an Inspector within 24 hours; and (d) submit a detailed report on each spill and unauthorized discharge, including details of root causes, response actions, and any changes to procedures to prevent similar occurrences in the future, to the Board, within thirty (30) days. 	Report Spills
43.	The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan.	Waste Chemical Disposal
44.	The Permittee shall dispose of all waste petroleum products by removal to an approved disposal facility or by incineration in a device designed for this purpose, as described in the approved Waste Management Plan.	Waste Petroleum Disposal
45.	Prior to the commencement of the land-use operation, the Permittee shall submit a revised Explosives Management Plan, for approval by the Board. The Permittee shall not commence this land-use operation until this Plan has been approved by the Board. The Permittee shall annually review the Plan and make revisions to reflect any changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions of the Plan shall be submitted to the Board for approval.	Explosives Management Plan
	26(1)(h) Wildlife and Fish Habitat	
46.	The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation.	Habitat Damage
47.	Prior to the commencement of the land-use operation, the Permittee shall submit a revised Wildlife Habitat Protection Plan to the Board. The Permittee shall not commence this land-use operation until this Plan has been approved by the Board. The habitat protection measures outlined in the plan shall be for approval by the Board.	Revised Wildlife Habitat Protection Plan
48.	The Permittee shall operate in accordance with the approved habitat protection measures in the Wildlife Habitat Protection Plan and shall annually review the plan and make any necessary revisions to reflect any changes in operations or as directed by the Board. Revisions to the Plan shall be submitted to the Board and any revisions to the habitat protection measures outlined in the Plan shall be for approval by the Board.	Wildlife Habitat Protection Plan
	26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage	

49.	Prior to the commence of this land-use operation, the Permittee shall submit a revised Waste Management Plan to the Board for approval, in accordance with the Mackenzie Valley Land and Water Board's March 2011, or subsequent editions, <i>Guidelines for the Development of a Waste Management Plan</i> . The Permittee shall not commence this land-use operation until the Board has approved the Plan. The Permittee shall annually review the Plan and make revisions to reflect any changes, or as directed by the Board. Revisions of the Plan shall be submitted to the Board for approval.	Waste Management Plan
50.	The Permittee shall keep all garbage and debris in a secure container until disposal.	Garbage Container
51.	The Permittee shall dispose of all garbage, waste, and debris as described in the approved Waste Management Plan, unless otherwise authorized in writing by an Inspector.	Remove Garbage
52.	The Permittee shall dispose of all Sewage and Greywater as described in the approved Waste Management Plan.	Sewage Disposal
	26(1)(j) Protection of Historical, Archaeological, and Burial Sites	
53.	The Permittee shall not operate any vehicle or equipment within 30 metres of a known or suspected historical or archaeological site or burial ground.	Archaeological Buffer
54.	The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site.	Site Disturbance
55.	The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered: (a) immediately suspend operations on the site; and (b) notify the Board at (867) 669-0506 or an Inspector at (867) 765-6651, and the Prince of Wales Northern Heritage Centre at (867) 920-6182 or 873-7688.	Site Discovery and Notification
56.	Prior to any new land disturbance of areas that have not been subject to Archaeological Impact Assessment, the Permittee shall conduct an Archaeological Impact Assessment of the areas where disturbance is planned and shall submit a summary report to the Board and the Prince of Wales Northern Heritage Centre.	AIA
	26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value	
	<i>Intentionally left blank.</i>	
	26(1)(l) Security Deposit	
57.	Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of \$XXXX.	Security Deposit
58.	All costs to remediate the area under this Permit are the responsibility of the Permittee.	Responsibility for Remediation Costs
	26(1)(m) Fuel Storage	
59.	The Permittee shall: (a) examine all Fuel Storage Tanks and containers for leaks a minimum once per day; and	Check for Leaks

	(b) repair all leaks immediately.	
60.	The Permittee shall not place any Fuel Storage Containers or Tanks within 100 metres of the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	Fuel Near Water
61.	The Permittee shall ensure that all fuel caches have adequate Secondary Containment.	Fuel Cache Secondary Containment
62.	The Permittee shall set up all refueling points with Secondary Containment.	Secondary Containment - Refueling
63.	The Permittee shall only use stands approved by an Inspector for supporting Fuel Storage Containers that are in use.	Fuel Container Stands
64.	The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses.	Fuel Containment
65.	The Permittee shall locate mobile fuel facilities on land when the facilities are stationary for more than 12 hours.	Fuel on Land
66.	The Permittee shall mark all Fuel Storage Containers and Tanks with the Permittee's name.	Mark Containers
67.	The Permittee shall mark all stationary fuel caches and fuel storage facilities with flags, posts, or similar devices so that they are at all times plainly visible to local vehicle travel.	Mark Fuel Location
68.	Within ten (10) days of the establishment of any fuel cache, the Permittee shall report the location and quantity of the cache in writing to an Inspector and the Board.	Report Fuel Location
69.	The Permittee shall seal all outlets of Fuel Storage Containers and store the containers on their sides with the outlets located at 3 and 9 o'clock, except for containers currently in use.	Seal Outlet
70.	Prior to the commence of this land-use operation, the Permittee shall submit a revised Spill Contingency Plan to the Board for approval, in accordance with Indian and Northern Affairs Canada's 2007, or subsequent editions, <i>Guidelines for Spill Contingency Planning</i> . The Permittee shall not commence this land-use operation until the Board has approved the Plan. The Permittee shall annually review the Plan and make any revisions to reflect any changes operations, technology, chemicals, or fuels, or as directed by the Board. Revisions of the Plan shall be submitted to the Board for approval.	Spill Contingency Plan
71.	Prior to commencement of operations, the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills.	Spill Response
72.	All equipment that may be parked for two hours or more, shall have a haz-mat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately.	Drip Trays
73.	The Permittee shall clean up all leaks, spills, and contaminated material.	Clean Up Spills

	26(1)(n) Methods and Techniques for Debris and Brush Disposal	
74.	The Permittee shall progressively dispose of all brush and trees and shall complete all brush disposal; all disposal shall be completed prior to the expiry date of this Permit.	Brush Disposal/ Time
75.	The Permittee shall not clear areas larger than identified in the complete application.	Minimize Area Cleared
	26(1)(o) Restoration of the Lands	
76.	All areas affected by construction or removal activities shall be stabilized and landscaped to their pre-construction profiles, unless otherwise authorized in writing by an Inspector.	Pre-construction Profiles
77.	The Permittee shall dispose of all overburden as instructed by an Inspector.	Disposal of Overburden
78.	The Permittee shall store overburden and use it to recontour the site after operations are complete, unless otherwise authorized in writing by an Inspector.	Save and Place Organic Soil
79.	The Permittee shall level all stockpiles of granular material located within the land use area prior to the expiry date of this Permit.	No Stockpiles
80.	Prior to the expiry date of this Permit, the Permittee shall complete all cleanup and restoration of the lands used.	Final Cleanup and Restoration
81.	Prior to the expiry date of this Permit, the Permittee shall prepare the site in such a manner as to facilitate natural revegetation.	Natural Vegetation
82.	The Permittee shall carry out progressive reclamation of disturbed areas as soon as it is practical to do so.	Progressive Reclamation
83.	The Permittee shall restore any trails impacted by the land-use operation by removing fallen trees and any other obstructions from the trails.	Trails Restoration
84.	The Permittee shall submit an Interim Closure and Reclamation Plan to the Board for approval, in accordance with the Mackenzie Valley Land and Water Board and Aboriginal Affairs and Northern Development's November 2013, or subsequent editions, <i>Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories</i> .	Interim Closure and Reclamation Plan
85.	The Permittee shall implement the Interim Closure and Reclamation Plan, as approved by the Board, and submit any revisions upon request of the Board.	Revised Interim Closure and Reclamation Plan
86.	A minimum of two (2) years prior to the end of commercial Operations, the Permittee shall submit a Final Closure and Reclamation Plan to the Board for approval.	Final Closure and Reclamation Plan
87.	The Permittee shall implement the Final Closure and Reclamation Plan, as approved by the Board, and submit any revisions upon request of the Board.	Revised Final Closure and Reclamation Plan
	26(1)(p) Display of Permits and Permit Numbers	

88.	The Permittee shall display a copy of this Permit in each campsite established to carry out this land-use operation.	Display Permit
	26(1)(q) Biological and Physical Protection of the Land	
89.	The Permittee shall submit a revised Engagement Plan to the Board for approval, in accordance with the Mackenzie Valley Land and Water Board's June 2013, or subsequent editions, <i>Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences</i> .	Revised Engagement Plan
90.	The Permittee shall annually review the Engagement Plan and make any necessary revisions to reflect any changes in operations or as directed by the Board. Revisions to the Plan shall be submitted to the Board for approval.	Engagement Plan
91.	Prior to the commencement of this land-use operation, the Permittee shall submit a revised Vegetation and Soils Monitoring Program to the Board for approval. The Permittee shall not commence this land-use operation until the Board has approved the Plan.	Revised Vegetation and Soils Monitoring Program
92.	The Permittee shall annually review the Vegetation and Soils Monitoring Program, and make any necessary revisions to reflect any changes in operations or as directed by the Board. The revised Program shall be submitted to the Board for approval at the following times: a) At least sixty (60) days prior to any proposed changes to the requirements in the approved Program; b) And upon the request of the Board.	Vegetation and Soils Monitoring Program
93.	All revised Plans and Programs submitted to the Board shall include a brief summary of the changes made to the plan.	Summary of Changes
94.	Beginning DATE, and no later than every DATE thereafter, the Permittee shall submit an Annual Report to the Board, which shall contain a table detailing all commitments listed in the Report of Environmental Impact Review that are related to the content of this Permit, with descriptions of how each commitment is being or has been met.	Annual Reporting
95.	The Permittee shall not move any equipment when one or more caribou are within five hundred (500) metres.	Caribou Disturbance