

DE BEERS CANADA INC.

GAHCHO KUÉ PROJECT

CLOSING ARGUMENT

MACKENZIE VALLEY LAND AND WATER BOARD

July 1, 2014

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I. INTRODUCTION

1. Pursuant to the Amended Work Plan issued by the Mackenzie Valley Land and Water Board (“Board”) on April 14, 2014, this submission constitutes the closing argument of De Beers Canada Inc. (“De Beers”) as it pertains to the Gahcho Kué Project (the “Project”). In particular, De Beers provides this closing argument to support its Type A Water Licence Application MV2005L2-0015 and Land Use Permit Application MV2005C0032.
2. The purpose of this closing argument is to address comments made in the closing arguments filed in this proceeding by the Government of Northwest Territories (Department of Environment and Natural Resources) (“ENR”), Environment Canada, Deninu Kué First Nation (“DKFN”), North Slave Métis Alliance (“NSMA”) and Yellowknives Dene First Nation (collectively, the “Other Parties”). However, De Beers does not intend to respond to every recommendation proposed by each of the Other Parties, given that De Beers already comprehensively responded to many of these recommendations in its responses to technical reports, interventions and comments on the draft water licence and land use permit during the Public Hearing.
3. In particular, De Beers will address the EIR measures established by the MVEIRB and the issues of the proposed water licence term, effluent quality criteria (“EQC”), D2/D3 Lake monitoring, winter pumping, the incinerator, wildlife, mine closure, mine closure security, Ni Hadi Yati (“NHY”) and Management Plan Review Timelines.

II. BACKGROUND

4. The Project has undergone an extensive environmental impact review process, and on July 19, 2013, the Mackenzie Valley Environmental Impact Review Board (“MVEIRB”) released its report of Environmental Impact Review EIR0607-001 (“EIR”) for the Project. The Minister of Aboriginal Affairs and Northern Development Canada approved the EIR on October 22, 2013. De Beers submitted its Post-EIR Application Package (“Application”) to the Board on November 28, 2013.

5. The Project includes the use of land and water and the disposal of waste associated with diamond mining and milling as outlined in the Application. The Project is a joint venture between De Beers and Mountain Province Diamonds, and De Beers will be the operator of the Project.

III. MEASURES FROM THE MVEIRB EIR

6. The MVEIRB Gahcho Kué Panel issued three measures in their Report of Environmental Impact Review and Reasons for Decision on the Gahcho Kué Diamond Mine Project (MVEIRB, July 19, 2013). All three measures were related to wildlife.
7. Measure 1 requires De Beers to (i) minimize impacts to caribou and the extent of the zone of influence; (ii) prepare a caribou protection plan that involves an adaptive management framework; and (iii) demonstrate how the caribou protection plan, Wildlife and Wildlife Habitat Protection Plan (“WWHPP”) and the Wildlife Effects Monitoring Program (“WEMP”) are linked. De Beers has developed a robust approach, involving adaptive management, to minimizing impacts to caribou. This approach is described primarily in the WWHPP. Key protective measures articulated in that plan include surveys for caribou prior to opening of the winter road, ceding right of way to caribou along the road, implementing very slow speed limits and restricting blasting activity when caribou are present. Further detail on caribou protection measures, and minimization of the zone of influence can be found within the WWHPP. De Beers has included a concordance table in both the WWHPP and the WEMP to link those documents and explain how they meet the MVEIRB measures as well as other regulatory requirements.
8. Measure 2 requires De Beers to (i) construct and operate the Winter Access Road in a way that minimizes its adverse effects as a partial barrier to caribou movement and migration; (ii) monitor to determine the presence and behaviour of caribou along the winter access road using means in addition to satellite collar data, such as track counts and visual observations; and (iii) ensure that the caribou protection plan, the wildlife effects monitoring program and the wildlife and wildlife habitat protection plan address the effects on caribou movement and behaviour along the winter access

- road. De Beers describes how it will meet those measures using two key documents. The WWHPP addresses project level effects, whereas the WEMP focuses on contributions to regional effects. Key programs to address Measure 2 include enforcing very slow speed limits on the access road, monitoring of snow berm height and other road characteristics in conjunction with caribou behavior to determine if a barrier effect is present, mitigating effects as needed and contributing to the ENR-led radio-collar program to document longer range movements.
9. Measure 3 focused on cumulative effects and was directed at both ENR and at De Beers. Within that measure, the panel specifically directed De Beers to monitor project-specific effects (e.g., the size of the zone of influence, changes in habitat, effects of the Winter Access Road on caribou movement and behaviour), to report to ENR and to make the results public on how project-specific effects contribute to cumulative effects for the duration of the Project. De Beers is addressing this measure through monitoring and mitigation programs described in the WWHPP and WEMP, as well as by participation in ENR-led initiatives to examine the cumulative effects of developments on wildlife. Key on-site monitoring programs include soil and vegetation monitoring (for the effects of dust), caribou behavioural monitoring along the winter road, contributions to the radio-collaring program led by ENR, participation in the ENR-led zone of influence task team and participation in grizzly and wolverine regional monitoring programs.
 10. Further detail as to how De Beers is meeting the MVEIRB Measures can be found in the recently updated WWHPP and WEMP, submitted to the Board on May 31, 2014.

IV. WATER LICENCE TERM

11. De Beers requested a 20 year water licence term in the Application submitted on November 28, 2013. Some of the Other Parties have suggested the term should be shorter. In particular, ENR has suggested a water licence term of 13 years, while DKFN suggested a term of 5 to 8 years. De Beers remains of the view that a 20 year term is appropriate given the legislative framework, the duration of the operations associated with the Project and the alternative opportunities for Project and water licence review, if needed, prior to mine closure.

12. ENR stated its “primary concern” with the 20 year term “is ensuring that there is adequate opportunity for the public and interested parties to provide input and voice their concerns regarding the performance of a project or in response to proposed changes at a development. To date, the licence renewal and hearing process provide that opportunity”.
13. DKFN noted that although a 20 year term is “consistent with the ... regulations”, it expressed concern that such a term “does not allow for the formal review of potential compliance issues that may arise during the term of the licence.” DKFN further stated that De Beer’s experiences at its Snap Lake diamond project indicates that a higher level of scrutiny is required, which it submitted would be allowed if the water licence term was limited to 5 to 8 years.
14. The *Mackenzie Valley Resource Management Act* (“MVRMA”) was recently amended to allow the Board to issue licences for terms that match the life of a project. Therefore, the Board has the jurisdiction to grant the water licence sought by De Beers for the applied-for 20 year term.
15. In particular, section 60(1.1) of the MVRMA provides that:

The Board has jurisdiction in respect of all uses of waters and deposits of waste on lands outside a federal area in the Mackenzie Valley for which a licence is required under any territorial law and may, in accordance with that law, ... (c) determine the term of a licence.

16. Section 72.03 provides that:

(1) Subject to this section, a board may issue, in accordance with the criteria set out in the regulations made under paragraph 90.3(1)(c), type A licences and type B licences permitting the applicant for the licence ... to use waters or deposit waste, or both, in a federal area in connection with the operation of an appurtenant undertaking and in accordance with the conditions specified in the licence.

(2) A licence issued under subsection (1) may be issued for a term (a) of not more than 25 years, in the case of a type A licence that is in respect of a class of undertakings prescribed by the regulations or a type B licence; or (b) of not more than the anticipated duration of the appurtenant undertaking, in the case of a type A licence other than one described in paragraph (a).

17. The licence term sought by De Beers would correspond with the duration of the construction, operation and active closure phases of the Project, and is therefore permitted under the MVRMA.
18. De Beers disagrees that a shorter licence term is required to enable Board input and the review of compliance issues that may arise within the term of the licence. De Beers understands that the Board has a variety of tools within the licence (e.g., the Aquatic Effects Monitoring Program (“AEMP”), Geochemical Characterization Plan and Closure Plans) to address the level of uncertainty associated with the Project. In addition, through the Engagement Plan (November 28, 2013)¹ and commitments to establish working groups (e.g., the AEMP, Wildlife and Closure working groups), De Beers has ensured that there will be opportunities for parties to participate in Project oversight and to evaluate the Project on a regular and ongoing basis.
19. Furthermore, should compliance issues arise or an amendment to the licence be proposed, which De Beers does not anticipate, the Board has the power to hold a hearing or suspend a licence as required.²
20. De Beers stated the following on NHY in their presentation at the Public Hearing:

Ni Hadi Yati is a forum by which DeBeers and the Aboriginal parties can meet throughout the life of mine to discuss any issues or concerns that are raised, as well as any applications that get put onto the record. It's ... a binding agreement with its own separate dispute resolution clauses and budgets. It's between De Beers and six (6) Aboriginal parties that were a party to the Environmental Impact Review process.³
21. In conclusion, the Board is empowered under the MVRMA to grant the water licence for the requested 20 year term and De Beers has made commitments to ongoing engagement that allow for participation and review of the Project as it continues through construction, operation and closure. Moreover, the Board has a variety of tools (e.g., reviews of monitoring and management plans) to ensure the licence

¹ De Beers, 2013. Gahcho Kué Project Community Engagement Plan and Implementation Update. November 21, 2012 to September 24, 2013. Submitted to the Mackenzie Valley Land and Water Board, Yellowknife, NWT. November 2013

² MVRMA at s 60(2), 72.15.

³ Public Hearing Transcripts, Day 1 at pp 36-37 (ll 25-8).

continues to reflect changing circumstances and the needs of the public. Therefore, De Beers respectfully requests that the Board grant the water licence for the 20 year term sought in the Applications.

V. EFFLUENT QUALITY CRITERIA

22. As per Schedule 5 of Submission Requirements for Mining and Milling Water Licence and Land Use Permit Applications Gahcho Kue Project - Kennady Lake, NT,⁴ De Beers was formally requested to submit an EQC Report with its Type A Water Licence application. This request provided De Beers with the opportunity to complete a comprehensive and detailed screening process to support the recommended EQC required for construction (i.e., dewatering activities) and operational discharge to the receiving environment. While this formal request is relatively new to a Type A water licence application to the Board,⁵ De Beers recognizes that this level of detail would be available for review and comments during the regulatory process and would assist the Board in setting EQC for the Project's water licence. As a consequence, De Beers submitted an initial Draft EQC Report with the Application in November 2013 and a second version⁶ following the adjustment to the mine site water balance and to account for optional operational discharge to Area 8.
23. In the development of the EQC Report, De Beers undertook a comprehensive screening process of the potential water sources that would be discharged to the receiving environment during construction (i.e., dewatering activities) and operation (i.e., planned early operational discharge). Through this EQC development process, water quality parameters were identified that would potentially require regulatory limits. A comprehensive list of parameters, which were carried through baseline modelling and environmental assessment, was considered in this process.

⁴ MVLWB, Submission Requirements for Mining and Milling Water Licence and Land Use Permit Applications Gahcho Kue Project - Kennady Lake, NT. File: MV2005L2-0015/MV2005C0032. Submitted to De Beers Canada Inc. October 22, 2013. Yellowknife, NWT, Canada.

⁵ Note that for the Fortune Nico Project, proposed EQC were only requested as an undertaking from one of the Technical Sessions, and not as part of their water licence application.

⁶ Submitted to the MVLWB registry in April 2014.

24. This list of parameters was refined based on the comparison of predicted concentrations of the parameters in the water management pond (“WMP”; source of discharge) and in the receiving environment (at the edge of the mixing zone in Lake N11 and Area 8) to relevant baseline concentrations and proposed water quality objectives (“WQOs”). The parameters that had concentrations that could exceed baseline or WQOs at the edge of the mixing zone in the receiving water bodies were carried further through the process to develop EQC. The Board’s submission requirements⁷ do not outline specific methods for establishing EQC; however, the approaches used to establish EQC for the Project were consistent with those used for other mines and procedures manuals recommended by other jurisdictions,^{8,9} as appropriate.
25. In ENR’s closing argument regarding EQC, ENR recognized that De Beers was using a lower dilution factor than previously assumed in their interventions. ENR recommended that the Board, when setting EQC for the Mine, “take the approach of minimizing changes to the receiving environment as a means of minimizing environmental impacts to Lake N11, Area 8 and the receiving environment.” The EQC recommended by De Beers represent concentrations that, when maintained at the point of discharge, will be protective of aquatic life in the receiving environment (i.e. Lake N11, Area 8, and downstream). This is consistent with guidance provided by the Board’s Water and Effluent Quality Management Policy, which also states “the Boards will ensure that EQC are set at levels that the proponent can reasonably and consistently achieve”.¹⁰ This is also consistent with Suggestion 1 of the of the Gahcho Kué Review Panel’s Report of Environmental Impact and Reason for Decision Report to support all traditional uses of waters in the receiving environment,

⁷ MVLWB, Submission Requirements for Mining and Milling Water Licence and Land Use Permit Applications Gahcho Kue Project - Kennady Lake, NT. File: MV2005L2-0015/MV2005C0032. Submitted to De Beers Canada Inc. October 22, 2013. Yellowknife, NWT, Canada.

⁸ United States Environmental Protection Agency, 1991. Technical Support Document for Water Quality-Based Toxics Control. EPA 505-2-90-001. Washington, DC, USA.

⁹ Alberta Environmental Protection, 1995. Water Quality Based Effluent Limits Procedures Manual. Edmonton, AB, Canada.

¹⁰ Mackenzie Valley Land and Water Board, 2011. Water and Effluent Quality Management Policy. Yellowknife, NWT, Canada at 11.

which includes drinking the water and harvesting and consuming the fish. This means that throughout all mine phases, De Beers will operate the Project so that the following water quality objectives in Lake N11 or any waters downstream of Kennady Lake are met:

- water quality changes due to Project activities will not substantially alter the suitability of water bodies to support viable aquatic ecosystems; and
- water quality changes due to Project activities will not substantially alter fish health, abundance or diversity or impact the ability of traditional users to harvest or consume fish.

26. In addition, as discussed at the Public Hearing, De Beers used a more conservative assumption in its proposed EQC for Lake N11. In developing and recommending EQC for Lake N11, De Beers considered only the southern basin of Lake N11, when the general approach would be to consider all of Lake N11 in the process. Consequently, Mine discharge could be assimilated to a greater extent within Lake N11, so that EQC could be increased for the parameters that were identified as requiring EQC, and still be protective of aquatic life in the receiving environment.

27. De Beers has undertaken a comprehensive, detailed, and transparent process in the development of EQC for the construction and operation phases of the Project. De Beers is confident that for the planned dewatering and operational discharges to the receiving environment, the proposed EQC¹¹ are appropriate, reasonably and consistently achievable, protective of aquatic life in the receiving environment and consistent with traditional water uses.

VI. LAKE D2/D3 MONITORING

28. Lake D2/D3 represents one of the three lakes that will be raised as a result of the establishment of the controlled area during construction, i.e., the isolation of Areas 2

¹¹ Dewatering in Years -2 and -1 for Lake N11 and Area 8: total suspended solids; operational discharge for Lake N11 in Year 1 to 3: nitrate, total ammonia, total phosphorus, total aluminum, total suspended solids, pH, and total petroleum hydrocarbons; operational discharge for Area 8 in Year 1: total dissolved solids, total ammonia, total suspended solids, pH, and total petroleum hydrocarbons.

through 7 of Kennady Lake. These lakes lie in a watershed upstream of Kennady lake. To establish the controlled area, Dyke F will be placed downstream of Lake D2 to cut off flow from the D watershed to Kennady Lake. As a result of the dyke, the lake level in Lake D2 and subsequently Lake D3 will rise over time, forming a combined lake (Lake D2/D3), which will eventually have a water level that will flow to the adjacent watershed (the N watershed), and into Lake N14. This raised lake therefore lies outside of the controlled area, so monitoring under the AEMP instead of the Surveillance Network Program (“SNP”) is appropriate.

29. SNP monitoring, with the exception of those sites that receive site discharge (i.e., Lake N11 and Area 8), is usually limited to locations within the mine boundary. Detailed monitoring has been scheduled in Lake D2/D3, as per the AEMP Design Plan,¹² and includes hydrology (e.g., continuous water level monitoring), water and sediment quality, lower trophic organisms, and fish tissue chemistry monitoring components.
30. As part of the AEMP, a comprehensive and detailed monitoring program through construction and operation as has been designed in consultation with regulators and stakeholders, which includes the development of a response framework, to address changes in the diversion lakes as a result of operational activities, as necessary. De Beers therefore submits that monitoring of Lake D2/D3 proposed in the AEMP is appropriate.

VII. WINTER PUMPING

31. During the Technical Sessions for the Project water licence Application, De Beers indicated that pumping during dewatering of Kennady Lake may be extended into the winter.¹³ Pumping during the winter was also discussed during the Public Hearings and noted in the NSMA’s closing argument.

¹² De Beers Canada Inc., 2014. Aquatic Effects Monitoring Program Design Plan. Gahcho Kué Mine. Submitted to the Mackenzie Valley Land and Water Board, Yellowknife, NWT. June 2014.

¹³ Technical Session Transcripts, Day 1 at pp 40-42 (ll 12-7).

32. In the Technical Sessions, De Beers stated that under a winter pumping scenario, pumping would be limited and managed so as to avoid higher than normal ice build-up at the outlet of Lake N11 and Area 8, as well as the downstream lakes (i.e., aufeis production at the lake outlets). The generation of excessive aufeis could result in erosion above the bankfull stages of the outlet channels and beyond, especially during spring freshet. In the event that winter pumping is required, lake outlets in the receiving water body and in water bodies for some distance downstream (e.g., downstream to, and including, Lake 410), will be regularly monitored for water level, ice depth, and progressive development of aufeis during pumping. Pumping will be suspended if there is considered to be a risk of erosion in the following spring.
33. In response to Undertaking No. 1 from the Technical Sessions, De Beers outlined a series of tangible thresholds for winter pumping that would be based on observations of aufeis in lake outlet channels, as well as “staging up” lake water levels above those lake outlet channels. These thresholds will be refined for each lake outlet on the Kennady Lake Area 8 and Lake N11 flow paths to Lake 410, on the basis of site-specific conditions and winter flow observations.
34. With respect to aufeis, it is recognized that some aufeis formation may be natural. However, observations of shallow, open water flows over top of channel ice, with water levels exceeding bankfull (e.g., spill into vegetated areas on the channel margins and mid-channel islands) are recommended as a reasonable trigger for suspending pumping operations.
35. With respect to lake water levels, the presence of a lake ice cover would typically reduce lake outflow, compared to open water conditions. However, continued release of pumped water from upstream storage could also continue to increase water levels after suspension of pumping, so the threshold should be set conservatively low. The recommended threshold for suspending pumping operations is a lake water level equal to the 1:10 year flood level, or approximately 0.6 m above the zero-discharge elevation in the case of both the Area 8 outlet and the Lake N11 outlet. This would be measured as a hydrostatic water level, or the elevation of water within an augered hole in the ice cover.

36. In response to feedback during the Technical Sessions, and from the AEMP workshops, De Beers has included monitoring and response thresholds. Continuous water level monitoring of lakes along the dewatering flow path to Kirk Lake under ice-covered and open-water conditions in the AEMP Design Plan will assist in the winter pumping management and allow early responses to water levels trending towards response thresholds. Additionally, the AEMP Design Plan¹⁴ and the Construction Water Management Plan includes action levels for water level changes and ice formation developed from these thresholds. Supplementary to the continuous monitoring in the lakes, site water surface measurements will be conducted at holes augured through the ice cover, and will include ice thickness and elevation of the ice cover relative to the water; also as part of the AEMP, open-water monitoring along the lake dewatering discharge flow paths will include erosion monitoring with a focus on channel bank erosion. Both the Construction Water Management Plan and the AEMP have identified monitoring and contingencies (i.e., stop or reduce pumping) based on clearly stated monitoring thresholds for winter pumping should they be necessary. As a result, De Beers is confident that pumping during the winter months will not impact the downstream aquatic environment.

VIII. INCINERATOR

37. De Beers provided a draft Incinerator Management Plan in May 2013 and again with the Application on November 28, 2013. In their response to Environment Canada's Intervention, De Beers made the commitment to update their Incinerator Management Plan to include stack testing upon commissioning and every three years thereafter.¹⁵
38. The issue of incinerator management was discussed at length in the EIR proceeding, and no conditions were imposed by the MVEIRB in that regard. De Beers submitted an updated Incinerator Management Plan on June 30, 2014. This proposed Incinerator Management Plan is consistent with best management practices and De Beers will adjust the plan as required. De Beers therefore respectfully submits that no further conditions regarding the incinerator should be required by the Board.

¹⁴ Section 8.4.3 Potential Alteration of Physical Habitat.

¹⁵ Public Hearing Transcripts, Day 1 at pp 48-49 (ll 17-4).

IX. WILDLIFE

39. ENR asks, in its closing argument, that the Board include conditions in the land use permit requiring De Beers to place restrictions on the operation of the winter road for the benefit of caribou and to monitor caribou behaviour and movement. These types of requirements are more properly within the jurisdiction of ENR, which has the statutory mandate to conserve “wildlife and its habitat.”¹⁶
40. De Beers agrees with the approach taken by the Board in the draft land use permit with respect to wildlife, and does not believe that further wildlife-protective measures are required or appropriate to be included in the land use permit.
41. Addressing cumulative effects on wildlife will require ongoing cooperation between ENR, De Beers and other stakeholders in the Northwest Territories. De Beers is committed to working with ENR and others to address wildlife issues in a collaborative manner.

X. MINE CLOSURE

42. During the Public Hearings, De Beers made the following statements with respect to closure and closure planning:

ENR, North Slave Metis Alliance, Yellowknives Dene had suggested that we form a working group [Closure Working Group]. And De Beers agrees to participate in that working group. We made that commitment during the technical sessions. We'll carry that through. We also included in our Application, both in the Closure Plan and the Engagement Plan, that we would host a site workshop this summer with 6 representatives from the Aboriginal parties, where we can look at some of those closure landforms and document some of the baseline conditions that exist there today to help and form the closure planning process. We've made that commitment. We'll carry that commitment through this summer.

We also were asked by ENR and Environment Canada to identify and develop methods to reduce the recovery time ... for refilling Kennady Lake. We've agreed to doing investigation, and monitoring, and research on the meromixis within the pits, and to provide periodic updates to the Mackenzie Valley Land and Water Board on any of the outcomes of that research and monitoring.

...the Yellowknives Dene had requested that we submit a reclamation research plan six (6) months following ... the issuance of the water licence. We will do that. We will develop that research plan. We intend to ... develop an Interim

¹⁶ *Northwest Territories Act*, RSC 1985, c N-27 at s 18(1)(m).

Closure Plan along a three (3) year schedule. So in three (3) years we'll develop ... an additional Interim Closure Plan. That will give us enough time to gather ... additional engagement on our Closure Plan, and submit that.¹⁷

43. This is consistent with commitments that De Beers made in its Application and at the Technical Sessions.¹⁸
44. De Beers has committed that the next iteration of the Closure Plan (Interim Closure and Reclamation Plan) will be submitted in 3 years. This will allow adequate time to progress work on this topic as well as incorporate elements of the reclamation research plan that De Beers will submit as defined in the draft water licence (18 months).

XI. MINE CLOSURE SECURITY

45. At pages 2 and 3 of ENR's closing argument, ENR discusses the amount of security that should be held for the Project. In particular, ENR states that additional security should be posted by De Beers beyond that which has been proposed in the Application. ENR states additional security is required in relation to the costs of disposing waste rock, re-vegetating rock piles and mobilization/demobilization.
46. De Beers maintains that the reclamation security estimates submitted as part of the Applications are a reasonable and accurate reflection of the probable costs. The estimates were prepared using the RECLAIM model format. The cost basis for the security estimates was developed in conjunction with ENR and the differences between the ENR and De Beer estimates are related primarily to 'optional items' not included in the proposed closure and reclamations plans submitted to the Board. De Beers has provided a summary of the proposed security estimates by time period using the RECLAIM model format for the construction phase of the project and reformatted the estimates for end of operational years 1, 4, 7, and 11 (end of

¹⁷ Public Hearing Transcripts, Day 1 at pp 52-54 (ll 23-4).

¹⁸ De Beers Canada Inc., 2012. Attachment 9 to De Beers Type A Water Licence Application MV2005L2-0015: "Commitments Table". Gahcho Kué Mine. Submitted to the Mackenzie Valley Land and Water Board, Yellowknife, NWT. November 2013; Technical Session Transcripts, Day 2 at p 138 (ll 1-15).

operations). These security estimates have been compared with the security amounts proposed by ENR¹⁹ in the below table:

Liability Due For:	Construction Phase		Years 1-3	Years 4-6	Years 7-10	Year 11
	Due 2014	Due 2015				
DBC: Total Liability – Water			\$16,131,320	\$31,150,523	\$32,727,073	\$34,636,344
ENR: Total Liability – Water	\$3,613,468	\$3,613,468	\$23,776,270	\$64,489,504	\$66,049,058	\$67,608,611
DBC: Total Liability – Land			\$11,016,900	\$13,816,887	\$13,623,404	\$11,867,271
ENR: Total Liability – Land	\$5,908,196	\$5,908,196	\$13,817,863	\$15,200,798	\$16,031,943	\$16,863,088
DBC: TOTAL LIABILITY			\$27,148,220	\$44,967,410	\$46,350,478	\$46,503,615
ENR: TOTAL LIABILITY	\$9,531,661 ^(a)	\$9,531,662 ^(a)	\$37,594,133	\$79,690,301	\$82,081,001	\$84,471,700
		\$19,043,323 ^(a)				
Difference in Total Liability		\$0	(\$10,445,913) ^(b)	(\$34,722,891) ^(b)	(\$35,730,523) ^(b)	(\$37,968,085) ^(b)

(a) De Beers agrees with ENR’s total liability associated with the Project prior to construction is estimated to be approximate \$19 Million. This is comprised of a water related liability of approximately \$7 Million and a land related liability estimate of approximately \$12 Million. De Beers also agrees with ENR’s statement that this security may be scheduled over the construction period.

(b) De Beers’ security estimate differs from ENR’s estimate in Operation Year 1, 4, 7 and 11 due to differences related primarily to ‘optional items’ (i.e., disposing waste rock, re-vegetating rock piles and mobilization/demobilization). These “optional items” will be addressed in the next iteration of the Closure Plan.

61. De Beers believes the Waste Management Plans submitted for potentially acid generating (“PAG”) mine rock handling are sufficient. For 11 of the 13 years in the mine’s construction and operations phase all PAG material is placed in ‘preferred’ locations that will be under water upon closure as the availability and use of submerged portions of the mine rock piles and the mined out Hearne and 5034 pits is planned. For approximately two years the PAG material will be encapsulated within the mine rock piles. It is noted that encapsulation is the practice at the other diamond mines. The PAG stockpile/rehandling during operation years 2-4 is not part of the Waste Management Plans submitted and thus security should not be included for this item. To stockpile and rehandle PAG material in this window would have negative environmental and economic consequences.

62. Likewise, the cost estimates do not include overburden placement and re-vegetation on the mine rock piles and other site infrastructure areas. This is not the practice at other Northwest Territories mine operations or closure plans. This requirement is not

¹⁹ Intervention of ENR dated April 7, 2014 at 37.

part of the closure plan for the Project and therefore security should not be included for this cost. De Beers will investigate potential rehabilitation and reclamation options during the operational phase of the Project.

63. The Gahcho Kué development plans have extensive progressive reclamation activities including the use of mine-out pits for the placement of fine processed kimberlite and mine rock in the later years of the operations. An updated reclamation security bond estimate will be prepared by the end of the first year of operations as part of the interim closure plan, which will update and incorporate all costs associated with the closure plans submitted at that time. The security bond would be adjusted accordingly as the mining progresses and also as progressive reclamation takes place.

XII. NI HADI YATI

64. In response to DKFN's intervention on NHY, De Beers has offered to finalize the agreement with NHY. However, De Beers is waiting for the Other Parties involved in this initiative to ratify the agreement.
65. The ground-breaking NHY Environmental Monitoring Group, which was proposed by De Beers' First Nations partners, was introduced during the EIR hearings, and De Beers hopes to see the NHY agreement ratified by the Other Parties soon.

XIII. MANAGEMENT PLAN REVIEW TIMELINES

66. De Beers stated in their November 28, 2013 Application as well as during the Technical Sessions and Public Hearing that the company intends to initiate mine construction upon issuance of the land use permit and water licence. A complete suite of monitoring (6) and management (14) plans were submitted with the Application so that the Board and the Other Parties had the opportunity to review and provide comment on those plans during the regulatory process (e.g., Intervener Comments, Technical Sessions, Information Requests, Interventions, and the Public Hearing). De Beers also hosted, independent of the regulatory process, two AEMP

February 10, 2014 and March 19, 2014 workshops. De Beers submitted a commitment list based on the outcomes of the EIR process with the Application.²⁰

67. In addition, De Beers submitted updated commitment lists on February 26, 2014 (Information Request #14) and April 22, 2014 in response to Technical Sessions and Interventions. De Beers will be including conformity tables in each of the updated monitoring and management plans to reflect the commitments made throughout the regulatory process.
68. Finally, De Beers presented updates to the monitoring and management plans in recent spring community visits. Summary notes of those visits will be submitted to the Board as part of the Annual Engagement Update. The updated monitoring and management plans have been or will be submitted to the Board during the week of June 30, 2014. As a result, De Beers is of the view that the Other Parties have had considerable opportunity to provide input on the monitoring and management plans such that they can be implemented upon receipt of the land use permit and water licence without the need for additional regulatory review. This will allow De Beers to commence construction activities immediately upon receipt of the water licence and land use permit.

XIV. CONCLUSION

69. De Beers submits that it has presented the Board with all of the information required to enable it to render a decision on the Applications. In addition, De Beers has made numerous commitments and modifications to the Project in order to address the concerns raised by the Other Parties in this proceeding. In this regard, many of the concerns originally raised by the Other Parties have been resolved, and the rationale for De Beers' views on any of the noteworthy differences that remain have been addressed above.

²⁰ De Beers Canada Inc., 2012. Attachment 9 to De Beers Type A Water Licence Application MV2005L2-0015: "Commitments Table". Gahcho Kué Mine. Submitted to the Mackenzie Valley Land and Water Board, Yellowknife, NWT. November 2013.

70. Therefore, De Beers submits that the Panel should approve De Beers' Type A Water Licence Application MV2005L2-0015 and Land Use Permit Application MV2005C0032 pursuant to the MVRMA. If and when these regulatory authorizations have been issued by the Board, De Beers will be able to commence construction of the Project, allowing the associated economic benefits to the nearby communities and the Northwest Territories to materialize. De Beers looks forward to continuing to work with regulators and Aboriginal groups throughout the life of the Project.