



September 26, 2018

Shelagh Montgomery
Executive Director
Mackenzie Valley Land and Water Board
7th Floor – 4910 50th Avenue
P.O. Box 2130
Yellowknife, NT
X1A 2P6

Dear Ms. Montgomery,

**Re: DeBeers - Gahcho Kue
Water Licence Amendment Application – MV2005L2-0015
March 2018 Amendment
GNWT Closing Arguments**

The Mackenzie Valley Land and Water Board (Board) requested written closing arguments from parties regarding the De Beers Canada Incorporated (De Beers) March 2018 Amendment Application prior to the closure of the public record. The Government of the Northwest Territories (GNWT) provides this submission in response to the Board's request.

The GNWT has been involved in the regulatory process to date, including attending the technical sessions held on May 30-31, 2018, and the public hearing held on July 25, 2018 in Yellowknife. Additionally, a formal technical intervention outlining the GNWT's recommendations was submitted to the Board on June 27, 2018. Finally, comments were provided to the Board on a draft Water Licence on September 12, 2018.

The GNWT would like to take this opportunity to clarify and amend two of our previous recommendations related to SNP Locations and periods of discharge. All previous positions and recommendations from the GNWT remain unchanged.

SNP Locations

Within our intervention the GNWT made the recommendation:

GNWT recommends the following re-wording of condition Part G, Item 29 of the Water Licence proposed by De Beers:

“The Licensee shall provide water sampling results to an Inspector from the SNP stations ~~currently active within the~~ closest to the intake location in the Water Management Pond or Area 7 to determine the ability for the water to meet Effluent Quality Criteria during discharge to N11 or Area 8 no later than five (5) days prior to any planned Discharge to the Receiving Environment. Discharge shall not commence until authorized in writing by an Inspector.”

As stated in our September 12, 2018 comments on the draft WL, the GNWT believed there may have been some confusion regarding De Beers’ interpretation of the recommendation and clarification was requested during the public hearing. De Beers confirmed that they were requesting that multiple stations in the Water Management Pond be used to inform the Inspector on his decision to allow discharge into Lake N11.

The GNWT would like to take this opportunity to provide an updated recommendation which should provide additional clarity as it was GNWT’s intent to recommend that the single station nearest the water intake in any water storage area be sampled prior to discharge.

The recommendation noted above, regarding the SNP, should be replaced with the following recommendation:

GNWT recommends the following re-wording of condition Part G, Item 29 of the Water Licence:

“The Licensee shall provide water sampling results to the Inspector from the SNP Station closest to the intake location in the Water Management Pond to determine the ability of the water to meet Effluent Quality during discharge to Lake N11 and the SNP Station closest to the intake location in Area 7 to determine the ability for the water to meet Effluent Quality Criteria during discharge to Area 8. These results shall be provided no later than five (5) days prior to any planned Discharge to the Receiving Environment. Discharge shall not commence until authorized in writing by the Inspector.”

Year 4 versus Year 5 Discharge

Within the amendment application, De Beers has proposed to discharge into Year 4 which may result in slight exceedances of phosphorus and copper in the receiving water. Within our intervention, as well as our comments on the draft Water Licence, the GNWT has noted that discharge into Year 4 would be permissible and our intervention provides additional rationale on why this could be accommodated. Regarding discharge beyond Year 4, the EQC Evaluation illustrated that several additional SSWQOs would be exceeded during the under-ice period and as such the GNWT's position is that discharge beyond Year 4 cannot be approved at this time.

The GNWT provided comments regarding Year 4 discharge in our comments on the draft Water Licence, and provides the following additional clarification regarding the seasonality of the effluent discharge. Currently, Year 4 would include the period from September 25, 2019 to September 24, 2020. However, the open water season extends beyond September 24, 2020, thus discharge should continue until freeze up without triggering an additional 12 month discharge period (i.e. Year 5). It is our position that discharge beyond September 24, 2020 would be complete the end of the open water season in 2020. As a result, the GNWT would like to offer the following amendment to the final recommendation under Section 2.1.14 of our intervention:

Previous Recommendation:

Given that multiple parameters are predicted to be above EQC and SSWQO, GNWT recommends that approval of Year 5 discharge not be granted at this time.

Amended Recommendation:

Given that the SSWQO for multiple parameters are predicted to be exceeded as a result of Year 5 discharge, the GNWT recommends that discharge not be approved beyond Year 4 at this time. However, the GNWT notes that "Year 4 discharge" should include the open water season (i.e. discharge could be permitted until winter 2020). This would include discharging beyond the September 24th anniversary date until freeze-up.

Closing

The GNWT appreciates the opportunity to provide closing arguments for this Water Licencing process. If you have any questions or require any additional information regarding this submission, feel free to contact Mr. Rick Walbourne at (867) 765-6775 ext. 53113 or [Rick Walbourne@gov.nt.ca](mailto:Rick.Walbourne@gov.nt.ca) or the undersigned at [Patrick Clancy@gov.nt.ca](mailto:Patrick.Clancy@gov.nt.ca).

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Clancy', written in a cursive style.

Patrick Clancy
Environmental Regulatory Analyst
Environmental Assessment and Monitoring Section
Conservation, Assessment and Monitoring Division
Department of Environment and Natural Resources
Government of the Northwest Territories