Begin forwarded message:

From: Tony Pearse <tpearse@gulfislands.com>
Date: July 12, 2006 1:40:05 PM MDT
To: Zabey Nevitt <zabey@wlwb.ca>
Cc: Gord MacDonald <Gord.MacDonald@diavik.com>, Eddie Erasmus <eddieerasmus@tlicho.com>, Don Macdonald <mesl@shaw.ca>
Subject: Diavik Public Hearing

Please find attached letter to Board respecting the Diavik public hearing.

Thank-you for your consideration in this matter.

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July 12, 2006.

BY EMAIL

Zabey Nevitt, Executive Director,
Wek’eezhii Land and Water Board,
Yellowknife, NT X1A 2P6

Dear Mr. Nevitt

Re: Postponement of Diavik Public Hearing

I have been authorized by Tlicho Government to write this letter to the Board concerning the issues raised by the July 6 letters between the Board and Diavik respecting the date for the Board’s hearing on DDMI’s application for a renewal of its water licence.

The Tlicho Government supports Diavik’s request that the hearing be held as presently scheduled, on September 12-14, for the reasons that follow.

As the Tlicho Government has explained, it believes that Diavik is not in compliance with the current terms of its licence - respecting its AEMP, ammonia management work and the closure plan, and it will ask the Board to not renew the licence until Diavik remedies those three problems and proves that it has done so at a public hearing. The Tlicho Government believes that Diavik still has time to remedy those problems before the licence expires in August of 2007, but that the company’s recent work on all three issues shows that it is not likely to do so until the Board rules on these issues after a public hearing. Therefore the hearing should be held as scheduled in September, when there would still be ample time for Diavik to remedy problems in time for the licence to be renewed pursuant to a further (or continued) public hearing, if the Board reaches a conclusion consistent with positions the Tlicho Government intends to take.

Of course, in suggesting that the Board maintain the present hearing dates, we are not asking the Board to accept the Tlicho Government’s reasons for urging this. That is not necessary, since Diavik has requested the same hearing dates for its own reasons.

If the September hearing dates are maintained, we suggest that Diavik be required to submit all its technical information and submissions by July 28. Intervenors could then complete their submissions on all issues by August 18, as currently scheduled.

Thank you for providing these suggestions to the Board for their consideration.

Yours truly,

cc: Eddie Erasmus, Tlicho Lands Protection Department
    Gord Macdonald, Diavik
July 31, 2006

Ms. Violet Camsell-Blondin, Interim Chair
Wek’eezhii Land and Water Board
c/o Mackenzie Valley Land and Water Board
7th Floor – 4910 50th Avenue,
PO Box 2130
Yellowknife, NT X1A 2P6

Dear Ms. Camsell-Blondin,

**Re: Delays in Hearing Water License Renewal Application**

I am writing to acknowledge receipt of your letter dated July 14, 2006 and to convey my disappointment with this further postponement of the Public Hearings for Diavik’s Water License renewal application.

Early in 2005, almost two and a half years before the Diavik water license expiry date of August 2007, Diavik made the decision to initiate the water license renewal process. We made the decision to begin early, in order to have the water license renewal in place by January 2007. This date would coincide with Diavik’s request, from its partners, for investment approval to finance the next planned phase of mining; specifically underground mine development. Underground mining has always been part of Diavik’s mine plan and is included within the scope of the existing water license.

Mackenzie Valley Land and Water Board (MVLWB) staff understood our timing needs, but requested that we delay our application until August 2005, after the completion of the Tlicho Agreement. We were assured that 18 months was ample time to consider the renewal application, particularly since DDMI was not requesting any changes to the terms or conditions of the water license. Diavik respected the MVLWB’s request and filed the water license renewal application August 8, 2005. In the cover letter to this renewal application, we again emphasized our request for a January 2007 decision.

Diavik’s water license renewal application was deemed complete by MVLWB on September 8, 2005. Review comments on the renewal application were submitted to MVLWB November 18, 2005 prior to a pre-hearing conference on technical concerns that was held December 13-14, 2005. Public Hearings were originally scheduled by the MVLWB for February 8-9, 2006. This was then postponed to March 8-9, 2006. In February 2006, the MVLWB determined that the Diavik mining operation was within the Wek’eezhii Land and Water Board’s (WLWB) jurisdiction, and they postponed the public hearings until September 12-14, 2006. Most recently, in July, the WLWB has again postponed the public hearings to November 7-9, 2006.
The primary purpose for the public hearings are to consider the renewal application. Significant planning, preparations and scheduling of experts have already occurred within DDMI and likely other parties. Maintaining the already scheduled September 12-14, 2006 hearing dates would allow this work to continue, facilitate finalizing direction for the ammonia management plan, and enable a renewal decision by January 2007.

We are available at your request to discuss this proposed alternative. We thank the Board for considering this request and look forward to a response.

Regards,

Gord Macdonald
Pearl Liske

From: Patty Ewaschuk [pewaschuk@wlwb.ca]
Sent: Friday, July 07, 2006 7:41 AM
To: MVLWB Permit Email (MVLWB Permit)
Subject: FW: Proposed Alternative to Hearing Delay

For the registry..

From: Macdonald, Gord (DDMI) [mailto:Gordon.MacDonald@diavik.com]
Sent: July 6, 2006 8:17 PM
To: Zabey Nevitt; Patty Ewaschuk
Cc: Peter Lennie-Misgeld
Subject: Proposed Alternative to Hearing Delay

Zabey,

As discussed please find attached a request for consideration by the Board. A paper copy will follow by mail.

Gord

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This message has been scanned for viruses and dangerous content by MailScanner, and is believed to be clean.

7/25/2006
July 6, 2006

Mr Zabey Nevitt, Executive Director
Wek’eezhii Land and Water Board
c/o Mackenzie Valley Land and Water Board
7th Floor – 4910 50th Avenue,
PO Box 2130
Yellowknife, NT X1A 2P6

Re: Proposed Alternative to Delaying September 12-14, 2006 Public Hearings

We understand that at the July 4, 2006 Board meeting it was determined that additional information is required before the Board will provide direction respecting the draft Ammonia Management Plan. We also understand that this may result in another postponement of the public hearings, by about 2 months, resulting in DDMI’s requested renewal completion timeline of January 2007 being unattainable. DDMI’s renewal application was submitted early (August 8, 2005) specifically so that a renewed Water License could accompany our investor approval request for underground mine development.

The purpose of this letter is to request that the Board consider proceeding with the scheduled September 12-14, 2006 public hearings as an alternative to a 2 month delay.

It appears that the main ammonia management issue is the content of the management plan. With the information contained in the Revised Discussion Paper, the Technical Workshop, DDMI’s proposed outline for the Ammonia Management Plan and the additional information being requested by the Board, all parties would have, effectively, the same information from which to provide their views to the Board at the public hearings as they would if a draft Ammonia Management Plan were prepared. In this way the Board could still determine how it wishes to proceed with finalizing the Ammonia Management Plan based on the presentations at the public hearing but then provide these final directions as specific terms and conditions in any renewed Water License.

DDMI recognizes that in its March 14, 2006 letter, the Board identified that a draft Ammonia Management Plan should be submitted as supplemental information for the public hearings so that the Board could hear the views of all parties on the Ammonia Management Plan. We suggest that these same views could be heard, without a draft Plan.

With this proposed approach there would be adequate time for DDMI to prepare the additional information required by the Board and to have this information considered as supplemental information for the renewal application.
The primary purpose for the public hearings are to consider the renewal application. Significant planning, preparations and scheduling of experts have already occurred within DDMI and likely other parties. Maintaining the already scheduled September 12-14, 2006 hearing dates would allow this work to continue, facilitate finalizing direction for the ammonia management plan, and enable a renewal decision by January 2007.

We are available at your request to discuss this proposed alternative. We thank the Board for considering this request and look forward to a response.

Regards,

Gord Macdonald