Reference/File Number: W2007L2-0003 (Type “A”)

Licensee: Diavik Diamond Mines Inc. (DDMI)

Subject: Water Licence Amendment

Wek’èezhii Land and Water Board (WLWB)

REASONS FOR DECISION

Issued pursuant to Section 26 of the Northwest Territories Waters Act, R.S.C. 1992, c.39

1.0 Decision

On January 18th, 2013, the Board approved amendments to Diavik Diamond Mine Inc.’s (DDMI) Water Licence, W2007L2-0003 (Water Licence), to reflect the Wek’èezhii Land and Water Board’s (WLWB) previous determination of February 6th, 2012 to reduce the amount of the security deposit to be held under the Water Licence to $120,270,000. In addition, these amendments will facilitate any adjustments to the amount of security that may be required in the future. These Reasons for Decision are in regard to the textual changes to the Water Licence conditions to implement the Board’s previous decision of February 6th, 2012. Details on the Board’s previous decision regarding the reduction of the amount of security required under the Water Licence can be found in the WLWB’s Reasons for Decision dated April 24th, 2012.

2.0 Background and Regulatory History

DDMI currently holds a type A water licence (W2007L2-0003), administered by the WLWB. The Water Licence stipulates specific conditions, under which DDMI must construct, operate and close the Diavik mine. As per Section 17(1) of the Northwest Territories Waters Act the WLWB has required DDMI to furnish and maintain security with the Minister of AANDC as a condition of the Water Licence. Part B,
Item 2a) of the Water Licence currently states that DDMI must maintain a security deposit for closure and reclamation of the mine:

2. The Licencee shall maintain the current security deposit of $116,000,000 and shall post and maintain further security deposits in accordance with this section:

a) on each anniversary of the issuance of this licence, an additional amount according to the following:

   Years 2008 and 2009: $24,355,000 in each of the two years
   Years 2010 to 2013: $3,237,000 in each of the four years
   Year 2014 and 2015: $3,236,000 in each of the two years

   until an amount of $184,130,000 is posted;

On February 6th, 2012, the Wek’eezhii Land and Water Board determined the security deposit to be furnished and maintained by DDMI within the Water Licence for the Diavik mine is $120,270,000, which reflects the current reclamation liability associated with their approved Interim Closure and Reclamation Plan.

The existing text in Part B, Item 2 of Water Licence W2007L2-0003 required updating to reflect this decision and a new Schedule has been included (as Schedule 1) to permit future adjustments to take place without having to amend the condition within the body of the Water Licence. The language in the amended Water Licence reads:

2. The Licencee shall maintain a security deposit of the amount defined in Schedule 1, Item 1 and in accordance with this section:

   a) the security deposit amount required may be amended by the Board based on estimates of current mine reclamation liability in accordance with Part L, Item 2 of this Licence or based on such other information as may be available to the Board

Part B, Item 3 was removed as reference to the requirements for security within the Northwest Territories Waters Act has been moved to the newly created Schedule 1.

The text in Part L, Item 2 was also amended to reflect the newly required annual Closure and Reclamation Plan Progress Report. Additionally, throughout the Water Licence there was a requirement to update several conditions to reflect the addition of Schedule 1.

3.0 Reasons for Decision

The reasons the Board approved the amendments to Diavik’s Type A Water Licence are as follows:

1. The Board is confident that the review process for the proposed amendments to the Water Licence was reasonable and fair.
2. The Board concluded that future amendments by the WLWB to the security held within the Water Licence for the Diavik mine will likely be required as progressive reclamation occurs as the mine approaches the end of operations. The amendments to the Water Licence will allow the process to adjust the amount of security in the future to be as timely and efficient as possible.

4.0 Final Comments

The Board recognizes this water licence amendment is an administrative requirement to ensure the conditions in the licence reflects recent decisions made by the Board and will also provide an efficient mechanism to carry out future adjustments to the security in a timely and efficient manner.

Signed the 18th day of January, 2013 on behalf of the Wek’èezhii Land and Water Board

Mark Cliffe-Phillips
Witness

Violet Camsell-Blondin
Chair, WLWB