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March 13, 2019

File: W2012L2-0001

Lukas Novy  
Dominion Diamond Ekati ULC  
900-606 4 Street SW  
Calgary, Alberta T2P 1T1

Dear Mr. Novy,

Re: Commencement of Deposition of Processed Kimberlite in Panda and Koala Pits

At the Wek'èezhìi Land and Water Board's (WLWB or the Board) February 27, 2019 meeting, the Board authorized Dominion to commence deposition of PK into the Panda and Koala pits.

The Board expects that the ongoing review of CRP Version 3.0 will ensure that all parties understand the timelines for future progressive reclamation and the Board can clarify expectations prior to commencing progressive reclamation. Until the Board communicates its decision on the CRP Version 3.0, Dominion must notify the Board immediately of any plans to commence progressive reclamation. The reasons for this decision are attached.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Mackenzie".

Joe Mackenzie  
Chair, Wek'èezhìi Land and Water Board

Copied: Ekati Distribution List



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## Reasons for Decision

<b>Reference/File Number:</b>	W2012L2-0001 (Type "A" Water Licence)
<b>Licensee:</b>	Dominion Diamond Ekati ULC (Dominion)
<b>Subject:</b>	Commencement of deposition of processed kimberlite into the Panda and Koala pits

## Decision from the Wek'èezhìi Land and Water Board Meeting of February 27, 2019

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### 1.0 Decision

At the Wek'èezhìi Land and Water Board's (WLWB or the Board) January 24, 2019 meeting, the Board authorized Dominion to commence deposition of processed kimberlite into the Panda and Koala pits.

### 2.0 Background

In its application for the Jay Development, Dominion proposed to dispose of processed kimberlite into the Panda and Koala pits, and to cover the processed kimberlite with freshwater at closure.<sup>1</sup> When the Board amended the Water Licence to include the Jay Development in 2017, the Board approved disposal of fine processed kimberlite in the Panda and Koala pits.<sup>2</sup> The Board included two conditions in Water Licence W2012L2-001 to address this activity: Part H, Condition 2(c) requiring a revised Wastewater and Processed Kimberlite Management Plan (WPKMP) and Condition 33 requiring a Panda and Koala Deposition Study (Deposition Study). On September 10, 2018, Dominion submitted a revised WPKMP and the Deposition Study.

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<sup>1</sup> See WLWB Online Registry at [www.wlwb.ca](http://www.wlwb.ca) for [Ekati Jay Project - Appendix A - Updated Project Description - Jun 7 16.pdf](#)

<sup>2</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - Water Licence - Amendment - Jay Development - RFD and Recommendation to Minister - May 29 17.pdf](#).

At its January 24, 2019 meeting the Board approved both submissions and concluded that it supports the deposition of processed kimberlite in the Panda and Koala open pits.<sup>3</sup> However, the Board stated the following:

With the approval of the Deposition Study and Version 8.0 of the WPKMP, the Board recognizes that the Panda/Koala underground will need to undergo final closure before processed kimberlite deposition can begin. The Board understands that Dominion has begun closure of the Panda/Koala underground areas and that an inspection process is underway in the absence of approved closure criteria. The Board requires additional time to ensure regulatory requirements for completion of progressive reclamation (e.g., 17 See WLWB Online Registry for W2012L2-0001 - Ekati - WPKMP - Version 8.0 - Panda and Koala Deposition Study - Review Summary and Attachments - Nov 29\_18. 13 required documentation, inspection reports, etc.) are met. The Board advises Dominion that it cannot commence processed kimberlite disposal until the Board has authorized it. The Board requests that Dominion regularly update the Board on the company's expected start date for processed kimberlite deposition.<sup>4</sup>

### **3.0 Reasons for Decision**

Following the Board's January 24, 2019 decision, the Board received two updates from Dominion, most recently identifying March 15, 2019 as the anticipated start date for FPK deposition.<sup>5</sup> Board staff also met with the Inspector to understand the inspection process for the Panda and Koala underground. These two topics are discussed below.

#### **3.1 Closure Status of Panda and Koala Underground**

In its February 12, 2019 e-mail, Dominion provided an update on the closure status of the Panda and Koala Underground:

The Underground reclamation is being reclaimed as per the approved ICRP Ver 2.4. Active reclamation of the Panda/Koala is on-going with internal documentation being kept by Dominion and regular inspections being completed by GNWT Inspectors. After the completion of the underground reclamation activities, Dominion will provide a reclamation completion report as outlined in the 2013 MVLWB/AANDC Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories.<sup>6</sup>

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<sup>3</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - WPKMP Version 8.0 and Panda and Koala Deposition Study - Reasons for Decision - Feb 11 19.pdf](#)

<sup>4</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - WPKMP Version 8.0 and Panda and Koala Deposition Study - Reasons for Decision - Feb 11 19.pdf](#)

<sup>5</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - Panda and Koala PK Deposition - Timeline Update 1 - Feb 12 19](#); [W2012L2-0001 - Ekati - Panda and Koala PK Deposition - Timeline Update 2 - Feb 20 19](#)

<sup>6</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - Panda and Koala PK Deposition - Timeline Update 1 - Feb 12 19](#)

Dominion's most recent update stated that the reclamation work is:

...moving the project along at an aggressive rate so that we don't have heat and ventilate the underground mine workings unnecessarily and looking to finish all activities on February 26<sup>th</sup>, 2019. Note this does not change [our] anticipated start date for PK deposition into the Panda/Koala pits of March 15<sup>th</sup>, 2019 as we need some time to mobilize the necessary pipeline infrastructure after the earlier underground reclamation completion.<sup>7</sup>

### 3.2 Inspector Involvement

In the 2018 CRP Progress Report,<sup>8</sup> Dominion provided an update on the closure of Panda and Koala Underground:

Dominion has engaged in an open dialogue with the Government of the Northwest Territories (GNWT), Department of Lands Inspectors regarding the reclamation process. This dialogue included the development of a plan for underground closure and creating an inventory of items to be removed prior to the deposition of PK and the level of documentation required.

In addition, the December Inspection Report states "the inspector has been working closely with Dominion for the last few months developing procedures and requirements for closure of the underground."<sup>9</sup>

On February 12, 2019, Board staff met with the Inspector, the GNWT-Lands, the GNWT-ENR, and Dominion to discuss regulatory requirements for completion of progressive reclamation (e.g., required documentation, inspection reports, etc.) and to understand the process. The Inspector confirmed<sup>10</sup> the following process:

- The Inspector is receiving daily decommissioning reports from Dominion which describe the reclamation activities to be completed each day;
- The Inspector has increased the inspections of Panda/Koala Underground Mines from a monthly to weekly frequency;
- The inspector will be provided regular updates of the infrastructure removed and that remaining underground through weekly inspections and the daily decommissioning reports;
- The inspector will continue to provide monthly Inspection Reports to the Board (e.g., December 2018 and January 2019 Reports);

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<sup>7</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - Panda and Koala PK Deposition - Timeline Update 2 - Feb 20 19](#)

<sup>8</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - CRP - 2018 Annual Progress Report - Report and Appendices A-C - Jan 2 19.pdf](#)

<sup>9</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - Water Licence Inspection Report - December 18-20 2018 - Jan 14 19.pdf](#)

<sup>10</sup> See WLWB Online Registry for [W2012L2-0001 - Ekati - Panda and Koala PK Deposition - Inspector Correspondence - Feb 21 19](#)

- The Inspector will continue to work with Dominion to ensure the reclamation activities are in accordance with the approved ICRP Version 2.4 and its approved closure objectives for Underground Mines (PDF pg. 493-494); and
- Dominion will provide a Reclamation Completion Report to the Board for approval following closure, in accordance with the Boards' Closure Guidelines.

The Board is satisfied that Dominion is aware of the requirements to submit Reclamation Completion Reports and Performance Assessment Reports related to closure of the Panda/Koala Underground in accordance with the Closure Planning Guidelines. This documentation will be required to demonstrate that closure objectives and criteria have been met prior to the return of security. The onus is on Dominion to ensure proper documentation is taken to create a Reclamation Completion Report and Performance Assessment Report to accompany a request to return the security held for the underground.

The Board notes that in order to flood the underground and deposit processed kimberlite, final closure of the underground mine must be complete. As noted in the Board's August 16, 2017 directive to Diavik Diamond Mines, Inc (DDMI) there is flexibility in whether a final or interim CRP is required for progressive reclamation, and the Board will consider the specifics of each circumstance in deciding on what is required.<sup>11</sup> Ideally, even if progressive reclamation is conducted under an approved interim CRP, closure criteria would be approved before closure and reclamation activities begin. The closure criteria for the Ekati Mine are not approved, therefore the Board is unable to provide certainty on closure expectations. Similarly, progressive reclamation would ideally only be conducted under an interim CRP that has been recently updated. The Board expects that the ongoing review of CRP Version 3.0 will ensure that all parties understand the timelines for future progressive reclamation and the Board can clarify expectations prior to commencing progressive reclamation. Until the Board communicates its decision on the CRP Version 3.0, Dominion must notify the Board immediately of any plans to commence progressive reclamation.

Finally, the Board is confident in the Inspectors ability to work with Dominion to ensure reclamation activities are in accordance with the approved ICRP Version 2.4. For these reasons the Board authorized Dominion to commence deposition of PK into the Panda and Koala pits. This decision is based on the specific circumstances described above and not intended to act as a precedent for future progressive reclamation.

**Signed the 11<sup>th</sup> day of March 2019, on behalf of the Wek'èezhìi Land and Water Board**

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Witness

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Joe Mackenzie  
Chair, Wek'èezhìi Land and Water Board

<sup>11</sup> See WLWB Online Registry for [Diavik - Final Closure and Reclamation Plan - WRSA - Version 1.1 Board Directive and RFD - Aug 23 17.pdf](#)