Dear Mr. Cameron,

RE: Completion of DDMI Water Licensing Amendment Process W2015L2-0001

The Wek’èezhìi Land and Water Board (Board) has provided the instruction required in order to respond to the direction provided by the Minister of Environment and Natural Resources GNWT (ENR) for renewed consideration and completion of the TSS amendment to the captioned water licence (Licence). Below I set out the Board’s plan for an efficient review of the evidence currently on the record, and any new evidence which may be provided by DDMI or any other participant in the proceeding.

We have circulated this correspondence to the DDMI Distribution List and attached the short Discussion Paper (Paper) provided to the Board by your counsel last week. This Paper will be posted on our website and go onto the record for this proceeding.

The Paper provides a starting point for a discussion of the TSS limits and sampling requirements which the Minister asked the Board to reconsider. It has been circulated to the Distribution List which includes the parties to this proceeding. Any party which chooses to participate in the Board’s reconsideration process may do so. We ask the parties to notify Board staff by e-mail of such intentions.

In addition, we have provided public notice on the Board’s website advising of the continuation of the Licence proceeding. If any new party notifies the Board of an interest in this matter they will, to the extent possible in the circumstances, be accommodated.

The Minister’s June 24th letter outlined concern about the fairness of the TSS decision included in the Board’s draft licence and Reasons for Decision. The Board intends to take the steps necessary to ensure that its reconsideration of the Licence meets all applicable legal requirements.
The Board will convene a teleconference and face to face meeting in Yellowknife on July 26th (the Meeting) to discuss the concerns expressed about the TSS limits and sampling requirements by DDMI in its May 27th, correspondence (the Letter) to the Minister of ENR. That discussion will not include any review of the fairness concerns expressed by the Minister. The Board prefers to move on and address the technical issues related to TSS and sampling. We will use the Paper to frame the discussion but other parties are welcome to identify TSS-related questions and concerns resulting from the Letter and Paper for discussion during the meeting. The Board will take steps to summarize and minute the Meeting and place that report on the record.

DDMI bears the burden of showing that the TSS limits and sampling proposed in the Licence are problematic and that the alternative set out in the Paper is achievable, protective of the environment and can be managed adaptably. If you have additional evidence or analysis to share we ask that it be provided as soon as possible, in any event by end of business Thursday July 22nd, 2016. Please make arrangements to copy the parties to the proceeding when you submit the new information.

We see the Meeting as an opportunity for interested parties to explore and better understand DDMI’s concerns. Subsequent to the Meeting, the Board will issue a Direction on Procedure setting out the timeline for the filing of any additional evidence by parties, for argument and reply by DDMI. The Board will manage this process and review the evidence and argument on an expedited basis. If warranted, the Board will prepare a revised licence for consideration by the Minister.

We recognize the tight time frames related to the DDMI construction season but in the end any Licence revision resulting from this process must meet the requirements of fairness. We ask that DDMI make every effort to facilitate such an outcome.

If there are any questions about the Board’s plan to complete this proceeding feel free to contact me directly.

Yours truly,

Ryan Fequet
Executive Director

Copied to: Diavik Distribution List
WLWB Legal Counsel
Diavik Legal Counsel