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November 19, 2020

File: W2015L2-0001

Kofi Boa-Antwi
Superintendent, Environment
Diavik Diamond Mines (2012) Inc.
P.O. Box 2498, 300-5201, 50th Avenue
Yellowknife, NT X1A 2P8

Sent via email

Dear Kofi Boa-Antwi,

RE: Modification – Processed Kimberlite Containment Facility Spillway

In the Wek'èezhì Land and Water Board's (WLWB or the Board) October 26, 2020 letter to DDMI,¹ the Board informed DDMI that the Board would not be reviewing DDMI's notification of a Modification to the Processed Kimberlite Containment (PKC) Facility² under Part G of the Water Licence (W2015L2-0001).³ The Board also noted that, in the time available, the Board was unable to consider whether additional steps are necessary to address the unapproved Modification. The Board stated that it would consider this matter at a future Board meeting and inform DDMI if additional steps are necessary. The Board considered the matter at its November 19, 2020 Board meeting.

Although the Board will not be reviewing the Modification for approval under Part G of the Water Licence, the Board will review the design as due diligence and to determine whether any additional Board requirements are necessary (e.g., management actions, monitoring, reporting, etc.). The Board will not be deciding whether to approve the spillway Modification, since Construction has already been completed.

The Board understands that the risks due to a potential storm event and snowmelt will be at their highest during freshet of 2021. After that, DDMI will again modify the spillway as part of the Phase 7 PKC Facility dam raise.⁴ As noted in DDMI's response to reviewer comments on PKC Facility Plan Version 5, DDMI will use its Trigger Action Response Plan (TARP) leading up to and during freshet 2021 to closely manage pond elevation and processed kimberlite deposition. As required in the Board's August 21, 2020 Reasons for Decision on PKC Facility Plan Version 5,⁵ DDMI must notify the Board and the Inspector if any triggers in the TARP are activated and describe the trigger, identify what actions will be taken, and state when they

¹ See WLWB Online Registry (wlwb.ca) for [Diavik - Modification - PKC - Spillway - Letter to DDMI - Oct 26 20.pdf](#).

² See WLWB Online Registry for [Diavik - Modification - PKC - Spillway - Oct 7 20.pdf](#).

³ See WLWB Online Registry for [Diavik - WL Amendment - A21 Underground - Updated Licence - Oct 15 20.pdf](#).

⁴ See WLWB Online Registry for [Diavik - PKC Facility Plan - Version 5.0 - Review Summary and Attachments - Jul 29 20.pdf](#).

⁵ See WLWB Online Registry for [Diavik - PKC Facility Plan - Version 5.0 - Reasons for Decision - Aug 21 20.pdf](#).

will be implemented. Board staff asked during the review of the PKC Facility Plan Version 5 whether DDMI would be submitting the TARP to the Board. DDMI responded that “changes to the TARP including the resulting mitigation plans are dynamic and may evolve rapidly based on current conditions” and stated its opinion that the TARP should remain internal. At the time, the Board did not require submission of the TARP. Given that DDMI has modified the spillway without Board approval and given the important role the TARP plays in mitigating potential problems during freshet 2021, the Board has decided to require DDMI to submit the TARP as part of the PKC Facility Plan under Part H, Condition 4. Given the importance of the TARP, the updated PKC Facility Plan will undergo a public review, after which time the Board will evaluate the TARP and consider whether it will be for approval, in whole or in part.

A more efficient way to increase the Board’s confidence in the unapproved design would be for DDMI to submit a letter from the Diavik Geotechnical Review Board (DGRB) indicating the DGRB’s acceptance of the modified design. The Board understands that DDMI has indicated to staff that although the DGRB was engaged in the design process, the DGRB did not review the final version of the spillway Modification design.⁶ Nonetheless, the Board would like to present this as an alternative to a review of the TARP. If DDMI submits a letter from the DGRB indicating the DGRB’s acceptance of the spillway design, then DDMI would not have to submit the TARP and a public review would not be necessary. For clarity, in either case, the requirements in the Board’s August 21, 2020 letter will remain in place.

In summary, by December 31, 2020, DDMI must submit either the TARP (as part of the PKC Facility Plan) or a letter from the DGRB indicating its acceptance of the modified spillway design.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J Mackenzie', with a small flourish at the end.

Joseph Mackenzie
Chair, Wek’èezhii Land and Water Board

Copied to: Diavik Distribution List

⁶ See WLWB Online Registry for [Diavik - Modification - PKC - Spillway - DDMI letter to WLWB - Nov 10 20.pdf](#).