



P.O. Box 32, Wekweètì, NT X0E 1W0
Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife NT X1A 3S3
Tel: 867-765-4592 Fax: 867-765-4593
www.wlwb.ca

August 19, 2020

File: W2015L2-0001

Laura Duncan, Tłı̄chq Executive Officer
Tłı̄chq Government
PO Box 412, 127 Donda Tili
Behchokq, NT X0E 0Y0

Gord Macdonald
Diavik Diamond Mines (2012) Inc.
PO Box 2498 , Suite 300, 5201-50th Avenue
Yellowknife, NT X1A 2P8

Sent by e-mail

Dear Laura Duncan and Gord Macdonald,

Re: Diavik Water Licence Amendment – Ongoing Negotiation with DDMI - Notice of Major Project Application wholly or partly in Mq̄whi Gogha Dè Nı̄ı̄tlèè – Diavik, Lac de Gras, NT

The Wek'èezhii Land and Water Board (WLWB or the Board) acknowledges receipt of the letter sent on behalf of the Tłı̄chq Government (TG) and Diavik Diamond Mines (2012) Inc. (DDMI) related to DDMI's Water Licence Amendment Application for Licence W2015L2-0001.¹ The letter was received in response to the WLWB's July 8, 2020 letter, which requested that the TG and DDMI submit a final response to the Board addressing whether an agreement had been reached or not with respect to s.23.4 of the Tłı̄chq Agreement.² The TG and DDMI state that "... an agreement has not—at this time—been concluded". The TG and DDMI requested that the Board "not make a decision on the Water Licence Amendment, nor transmit any decision on the Water Licence Amendment to Minister Thompson of the Ministry of Environment and Natural Resources, Government of the Northwest Territories, at this time".³ The letter also states that the TG and DDMI "suggest that the Board may—if necessary—wish to consider sending an Information Request to both DDMI and Tłı̄chq Government seeking information as to the status of negotiations and whether an agreement has been concluded".

¹ [Diavik - WL Amendment Application - A21 Underground - TG and DDMI response letter to WLWB - Aug 6 20](#)

² [Diavik - WL Amendment Application - A21 Underground - WLWB Letter to the TG and DDMI - July 8 20](#)

³ [Diavik - WL Amendment Application - A21 Underground - TG and DDMI response letter to WLWB - Aug 6 20](#)

As described in the July 8, 2020 letter from the Board, the Policy Direction to MVLWB on s.23.4 of the Tłıchǫ Agreement (Policy Direction) sets out new Board responsibilities regarding Chapter 23 of the Tłıchǫ Land Claims and Self-Government Agreement.⁴ The Board has an obligation to convey any evidence provided by the proponent and the TG about the outcomes of negotiations; however, the Policy Direction does not require an agreement to be reached before the Board can make a decision on an amended licence. Neither does it require that the Board ensure that negotiations are concluded – only that the evidence available to the Board is forwarded to the GNWT-ENR Minister.

The WLWB acknowledges that both the TG and DDMI have requested additional time to conduct these negotiations; however, Section 47 of the *Waters Act* sets a maximum time of nine months for the Board to decide on a Type A Water Licence Amendment Application. The Policy Direction does not override these legislated timelines. Section 50 of the *Waters Act* would allow for a pause in the timeline via an Information Request (or IR); however, the purpose of an IR is to provide “required information or studies” requested by the Board when such information is needed to inform the Board’s decision on the Licence. Board staff have reviewed the record and there is no additional information that the Board requires prior to a Board licensing decision. The proceeding was thorough, and it is nearing completion, with the next step in the process being consideration of the Water Licence Amendment Application. At this point in the proceeding, the Board has no reason to issue an IR.

The Board was planning to make a decision on the Water Licence Amendment Application at the August meeting; however, the Board can wait until its currently scheduled September meeting. This would allow for additional time for the TG and DDMI to continue negotiations within the Board’s legislated nine month timeline. Final responses can now be submitted to the Board on or before **5pm MST on September 16, 2020**. The TG and DDMI are thus each requested to submit a final response to the Board addressing the following:

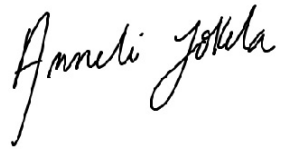
1. Whether an agreement has been reached; and
2. If no agreement has been reached, provide information about the negotiation process sufficient to indicate whether the process was conducted in good faith.

Alternatively, evidence may be provided to demonstrate that the TG and DDMI have agreed that negotiation of an agreement is not required. In any event, the licensing decision will be made at the Board’s September meeting.

If you have any questions or concerns regarding this letter, please contact me at (867) 765-4588 or email ajokela@wlwb.ca.

⁴ [Diavik - WL Amendment Application - A21 Underground - WLWB Letter to the TG and DDMI - July 8, 20](#)

Sincerely,

A handwritten signature in black ink that reads "Anneli Jokela". The signature is written in a cursive, flowing style.

Anneli Jokela

Acting Executive Director, Wek'èezhii Land and Water Board

Copied to: Zabey Nevitt, Senior Advisor, Sustainability & Resource Management
Diavik Distribution List

From: [Anneli Jokela](mailto:Anneli.Jokela)
To: lauraduncan@tlicho.com; Gord.Macdonald@riotinto.com
Cc: adelaide@nsma.net; admin@dkfn.ca; adrian.paradis; aguile@wrrb.ca; [Anneli Jokela](mailto:Anneli.Jokela); [AlecSandra Macdonald](mailto:AlecSandra.Macdonald); [Angela Love](mailto:Angela.Love); angie.mclellan@dfo-mpo.gc.ca; annie.larriee@ddcorp.ca; [Angela Plautz](mailto:Angela.Plautz); [Benjamin Teed@gov.nt.ca](mailto:Benjamin.Teed@gov.nt.ca); [Bill Pain](mailto:Bill.Pain); byerses@mymts.net; cfairbairn@reviewboard.ca; [Charlene Coe@gov.nt.ca](mailto:Charlene.Coe@gov.nt.ca); cheryl.larocque@gov.nt.ca; chief.lkdfn@gmail.com; claudine.lee@ddcorp.ca; colleen.english@riotinto.com; [Dane Mason@gov.nt.ca](mailto:Dane.Mason@gov.nt.ca); daniel.coombs@dfo-mpo.gc.ca; david.parbery@woodplc.com; david.patterson@riotinto.com; David.Wells@riotinto.com; [Dinah Elliott@gov.nt.ca](mailto:Dinah.Elliott@gov.nt.ca); dirlands@kitia.ca; doreenwashie@tlicho.com; ec.ea.nwt.ec@canada.ca; emab1@northwestel.net; emab2@northwestel.net; Environmental.health@gov.nt.ca; [Evan Walz@gov.nt.ca](mailto:Evan.Walz@gov.nt.ca); fisheriesprotection@dfo-mpo.gc.ca; frmcenvironment@northwestel.net; general@nsma.net; georgemackenzie@tlicho.com; [Gila Somers@gov.nt.ca](mailto:Gila.Somers@gov.nt.ca); ginger.gibson@thefirelightgroup.com; [Glen Mackay@gov.nt.ca](mailto:Glen.Mackay@gov.nt.ca); gnwt_ea@gov.nt.ca; gracemackenzie@tlicho.com; [Heather Beck@gov.nt.ca](mailto:Heather.Beck@gov.nt.ca); heritage@nsma.net; ima@dkfn.ca; info@forwardmining.ca; [Jamie Steele@gov.nt.ca](mailto:Jamie.Steele@gov.nt.ca); jblack@ykdeno.com; jdonihee@willmsshier.com; jess.hurtubise@nsma.net; joe.heron@gov.nt.ca; jolinehuskey@tlicho.com; [Jessica Pacunayen](mailto:Jessica.Pacunayen); jpellissey@wrrb.ca; [Jen Potten](mailto:Jen.Potten); k.Johnson@gov.nt.ca; katie.rozestraten@gov.nt.ca; [Kassandra DeFrancis](mailto:Kassandra.DeFrancis); kim.pawley@canada.ca; Kofi.Boa-Antwi@riotinto.com; kyla.gray@riotinto.com; landoffice@behchoko.ca; lands.clerk@nwtmetis.ca; lands@denenation.com; lands@nsma.net; [Laurie McGregor](mailto:Laurie.McGregor); [LeeAnn Malley](mailto:LeeAnn.Malley); lkdfnlands@gmail.com; lkdfnregulatory@gmail.com; lmeinert@wrrb.ca; longinusekwe@tlicho.com; loretta.ransom@gov.nt.ca; [Lorraine Seale](mailto:Lorraine.Seale); [Lynn Boettger](mailto:Lynn.Boettger); [Malcolm Robb@gov.nt.ca](mailto:Malcolm.Robb@gov.nt.ca); [Marie.Christine Belair@gov.nt.ca](mailto:Marie.Christine.Belair@gov.nt.ca); [Mark Cliffe-Phillips](mailto:Mark.Cliffe-Phillips); [Melissa Pink](mailto:Melissa.Pink); [Menzie McEachern@gov.nt.ca](mailto:Menzie.McEachern@gov.nt.ca); [Meaghan MacIntyre-Newell](mailto:Meaghan.MacIntyre-Newell); [Meaghan Schnurr](mailto:Meaghan.Schnurr); mthomas@ykdeno.com; naomi.smethurst@gov.nt.ca; nathen.richea@gov.nt.ca; neil.hutchinson@environmentalsciences.ca; patrick.clancy@gov.nt.ca; patricksimon777@yahoo.ca; [Peter Fast@gov.nt.ca](mailto:Peter.Fast@gov.nt.ca); [Patty Ewaschuk](mailto:Patty.Ewaschuk); preliminaryscreening@reviewboard.ca; [Rhiana Bams](mailto:Rhiana.Bams); [Ryan Fequet](mailto:Ryan.Fequet); [Rick Walbourne](mailto:Rick.Walbourne); [Roberta Judas](mailto:Roberta.Judas); [Robert Jenkins@gov.nt.ca](mailto:Robert.Jenkins@gov.nt.ca); russell.wykes@canada.ca; scott.stewart; screeningofficer@eastarm.com; sean.sinclair@riotinto.com; seanrichardson@tlicho.com; Shalyn; [Stephen Bourn@riotinto.com](mailto:Stephen.Bourn@riotinto.com); stu.niven@gov.nt.ca; [Tara Marchiori@riotinto.com](mailto:Tara.Marchiori@riotinto.com); Tatiana.Leclerc-Beaulieu@dfo-mpo.gc.ca; tim.heron@nwtmetis.ca; tom.bradbury@gov.nt.ca; Tracy.Covey@gov.nt.ca; tyannasteinwand@tlicho.com; violetcarnsellblondin@tlicho.com; Winter.Haley@riotinto.com; wlbw06@gmail.com; zabeynevitt@tlicho.com
Subject: Diavik - W2015L2-0001 – WL Amendment Application - A21 Underground - WLWB Letter to the TG and DDMI
Date: August 19, 2020 4:56:53 PM
Attachments: [Diavik - WL Amendment Application - A21 Undeground - WLWB Letter to the TG and DDMI - Aug 19 20.pdf](#)

Good Afternoon Laura and Gord,

Please see the attached letter regarding Diavik Diamond Mines (2012) Inc.'s (DDMI) Water Licence Amendment Application for Underground Mining of the A21 Kimberlite Pipe at the Diavik Diamond Mine and the Policy Direction regarding Chapter 23 of the Tłı̄chǫ Land Claims and Self-Government Agreement. The Tłı̄chǫ Government and DDMI are requested to each provide final responses on or before **5pm MST on September 16, 2020**.

Masi,

Anneli Jokela, PhD (she/her/hers)

Acting Executive Director

Wek'èezhii Land and Water Board

#1-4905 48th St. | Yellowknife, NT | X1A 3S3

ph 867.765.4588 | fax 867.765.4593

✉ ajokela@wlbw.ca | www.wlbw.ca



All correspondence to the Board, including emails, letters, faxes and attachments are public documents and may be posted to the public registry.