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September 4, 2020

Wek'èezhì Land and Water Board
#1-4905 48th Street
Yellowknife, NT | X1A 3S3
Attention: kdefrancis@wlwb.ca

Re: Diavik Diamond Mines (2012) Inc. – W2015L2-0001: Draft Work Plan for the Water Licence Amendment Application

The Deninu Kue First Nation (DKFN) was an active participant in the environmental review process for the Diavik Diamond Mines Inc. (DDMI) – Depositing Processed Kimberlite into Mine Workings project and remains concerned with the decision of the Mackenzie Valley Review Board (MVRB) given the level of uncertainty with predicted effects. In making its decision the MVRB did not require the measures it imposed to be implemented prior to the issuance of an amended water licence. However, we acknowledge that DDMI is taking certain steps to address the measures identified in the Report of the Environmental Assessment, which would partially address this uncertainty, and that some of these steps will occur prior to the issuance of an amended water license.

The DKFN intends to remain an active participant in the amendment license application process and is providing the following comments to the Wek'èezhì Land and Water Board on the Draft Work Plan for the Water Licence Amendment Application W2015L2-0001.

- The Post-EA package, being prepared by DDMI, will be submitted on October 15, 2020 and parties will have until November 3, 2020 to submit Interventions. This only leave 14 business days to review the Post-EA information and prepare an Intervention. Without knowing the level of detail that will be in the Post-EA package, it is difficult to say if all concerns and issues will be addressed.
- DDMI is revising its pre-deposit water quality model and this will be reviewed by an independent panel of experts prior to the issuance of the amended water license. The draft work plan does not capture these important steps, which formed the basis of Measures 1, 2 and 3 in the Report of the Environmental Assessment.
- There are no provisions for a Technical Session and parties are encouraged to work directly with Diavik on an issues or concerns. We recommend a Technical Session be added to the work plan and that the independent panel report on the outcomes of its review of the pre-deposit water quality model at this session. This is a key step to ensure that all parties understand the model results and how this information can be used to inform future decisions.

It is also not clear in the draft work plan, the information request submitted to DDMI on June 5, 2020 from the WLWB or DDMI's update on July 24, 2020 how Measures 2, 5 and 6 are being addressed, particularly as these related to the conduct of additional and more effective engagement and addressing the impacts to cultural use and well-being. The DKFN wishes its exercise its constitutional rights to be consulted fully, provided for in law with respect to the amended license. We look forward to a consultation and engagement process that fully respects Aboriginal and Treaty rights and includes:

- Putting forward to DKFN, project components that are not finalized;
- Seeking DKFN's opinion on these components;
- Informing DKFN of all the relevant information upon which decisions are based;
- Giving DKFN sufficient time to research, consider and respond to the information;
- Listening with open mind to what DKFN has to say;
- Being prepared to alter the original proposal to eliminate or minimize impacts upon Aboriginal or Treaty rights; and
- Providing feedback both during the consultation process and after the decision process.

In closing, DKFN has an obligation to its band membership to ensure that "As long as the sun shines, rivers flow and grass grows" based on our Treaty with the crown, future generations should be also be able to practice their inherent right to hunt, fish, trap and gather in co-existence in our traditional territory. Where there is impact and loss, then we must be given the opportunity for reasonable informed consent, consultation and accommodation benefits. This duty is vested with the crown in their fiduciary obligation to DKFN based on our Treaty and should be addressed within this process. In its current form, we are concerned the draft work plan will not meet its objectives, which are to *compile a broad range of input* through the review process; *ensure adequate information is gathered* to complete the water licence amendment process; and, *facilitate a thorough, inclusive, and timely water licence amendment process* (emphasis added).

Sincerely,



Chief Louis Balsille

cc. Richard Simon, DKFN Resource Management Coordinator (ima@dkfn.ca)
Dr. Marc d'Entremont, DKFN Technical Advisor (mdentremont@lgl.com)