July 16, 2015

Violet Camsell-Blondin, Chair
Wek'eezhii Land and Water Board
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RE: W2015L2-0001 Diavik Type A Water Licence Renewal Application Closing Argument

Madam Chair,

North Slave Métis Alliance ("NSMA") has reviewed the evidences and arguments submitted to the Wek'eezhii Land and Water Board ("WLWB"), and hereby present our closing argument with regard to W2015L2-0001 Diavik Type A Water Licence Renewal Application.

Term of Licence

NSMA supports the term of licence that terminates at the end of commercial operations.

DDMI has argued that, in order to proceed with progressive reclamation activities, DDMI needs certainty in the licence requirements (DDMI's response to EMAB's comments on Draft Water Licence).

NSMA would like to point out that DDMI's arguments have been inconsistent, and does not necessarily support its own request.

As ENR points out in its written intervention (p9);
“there is no approved final closure plan that would provide the information necessary to draft closure terms and conditions.”

Parties would agree (if not, NSMA certainly insists) that the current ICRP v. 3.2 is far from satisfactory. NSMA’s comments on incorporation of TK is but one example where ICRP Vr. 3.2 falls short. I would also like to cite LKDFN Closing argument filed on July 16, to reinforce aboriginal parties’ opinion that TK consultation has been inadequate.

In fact, NSMA, though unimpressed, is not surprised that ICRP v. 3.2 is inadequate; it is a work in progress and NSMA acknowledges that it is being, to some extent, involved in the development of the plan:

"[A] big piece of all that is still finalizing the closure plan, and that (development of closure and reclamation plan) -- that is a collaborative effort." (G. MacDonald, May 28 2015 Public Hearing Transcript P41)

What NSMA would like to point out from above excerpt is that the unusual request for 15-year licence term does not in any way provide DDMI with certainty about the closure requirements. Mr. MacDonald acknowledges this, and adds that;

"[t]he reason we’d -- we’d rather not go that route (8-year licence term) is -- is the inter -- is the introduction of new information as part of the renewal rather than as a part of a continuous process."(G. MacDonald, May 28 2015 Public Hearing Transcript P42)

NSMA struggles to understand why this particular form - licence renewal -- of “new information” can do any harm to the development and implementation of Closure and Reclamation Plan, or practicing progressive reclamation with approvals from aboriginal and other parties.

From NSMA’s perspective, and I would again like to cite LKDFN’s closing argument since it asserts the same point of view, the licence term that ends at the commercial operations will provide resource-crunched aboriginal parties with opportunities otherwise ungranted.

To reiterate:
- Addition of closure criteria in this licence will add no certainty for DDMI;
- Including criteria and requirements in the licence that all parties agree are too uncertain, and will need significant amendment, is against the nature of the licence, which is a regulatory instrument with enforceable criteria;

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Aboriginal parties have expressed that licence renewal process provides them with additional opportunities that they need for assurance.

For this reason, NSMA recommends to WLWB the Water Licence term that does not extend beyond the commercial operations of the Diavik Mine.

AEMP Special Studies

In reference to EMAB's comments on Draft Licence no.3 "AEMP Special Studies", and DDMI's response to it, NSMA would like to simply state that we believe important requirements such as those should be clearly included in the body of the licence.

Draft Licence Part J 10

In reference to EMAB's comments on Draft Licence Part no.4 Part J.10, and DDMI's response to it, NSMA would like to simply request WLWB to ensure that air quality monitoring results are tied to AEMP assessment mechanisms, in whatever forms.

Hydrocarbon Management and Monitoring Plan

NSMA supports the addition of Hydrocarbon Management and Monitoring Plan. Hydrocarbon contamination has become a major problem in the North Inlet. As the Closure and Reclamation phase approaches, it is critical for the NSMA members that this issue addressed properly. As one of the major, ongoing, and persistent pollutants from the Diavik mine, placing hydrocarbon management in the Operational Contingency Plan does not suffice as a "solution".

Rather than treating it as one of an operational contingency, NSMA would like to see a single management plan, with monitoring and response framework all in one place, for the management of hydrocarbons at the Diavik Mine site.

Sincerely,

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