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Mackenzie Valley Land
& Water Board

File _____

APR 03 2014

Application # MN2005L2-0015

Copied To AL/Reg

April 3, 2014

Re: Interventions on the Gahcho Kue Mine Water License (MV200512-0015)

Dear Mr. Hagen,

The Deninu Kue First Nation (DKFN) has reviewed the Preliminary Draft Type A Water License (MV200512-0015) for the Gahcho Kue Mine dated March 10, 2014 and has noted a number of concerns that we trust will be addressed in the final license. General comments are provided in this letter below and specific comments and recommendation are provided in the table that follows this letter. These comments only represent a partial review of the draft water license since details on any of the schedules were not included as part of the draft. The specific conditions for the various management and monitoring plans are to be included in these schedules and we feel it would be more effective to have a clearer understanding of these prior to the public hearings. In addition, building upon lessons learned from other projects, De Beers should have in place Response Plans to address potential issues as they arise such as unexpected increases in total dissolved solids (TDS), nitrogen (ammonia and nitrate) and phosphorous.

General Comments:

Updated Management and Monitoring Plans: In Part G there are several items where revised management plans are to be submitted to the Board after the issuance of the water license, but a specific deadline for this is not provided in the draft license. It seems typically with other water licenses issued by the MVLWB that a 90 day period is provided to the Licensee to re-submit these plans once the water license is issued by the Board. It is reasonable that a 90 day period be consistently applied for this license; however, the license should also stipulate that commencement of construction activities permitted under this license cannot commence until these plans are re-submitted.

Response Framework – The way the draft water license is currently outlined, the Response Framework appears to only be a component of the Aquatic Effects Monitoring Program (AEMP). To address levels of uncertainty and to ensure impacts of the Project on the Receiving Environment are minimized, the Response Framework must be applied to all management and monitoring plans that are required as conditions of the license, as well as the Surveillance

Network Program. Adhering to this requirement will limit unnecessary delays in implementing appropriate management response actions and potentially harming the environment.

Ni Hadi Yati – Ni Hadi Yati is intended to be a forum for Indigenous Parties to increase their technical capacity to assist with the development and implementation of monitoring and management plans for the Project. As many of these plans are conditions of the water license, reference to Ni Hadi Yati is warranted to facilitate full transparency and accountability throughout the regulatory process. That being said, the water license should not be issued until after the Ni Hadi Yati agreement is in place as this remains an outstanding commitment from the Report of the Environmental Impact Review (EIRO607-001).

Cumulative Effects – Cumulative effects is not specifically mentioned in the draft license despite this being a major issue throughout the environmental review process. The specific conditions for the various management and monitoring plans must include provisions for measuring potential cumulative effects and to ensure these are addressed in the Response Framework.

We thank the MVLWB for the opportunity to be part of this review process and we look forward to participating in the public hearing and reviewing the next version of the draft license.

Sincerely,



Chief Louis Balsillie

Encl.

cc. Angela Love, Regulatory Officer MVLWB
Jen Potten, Regulatory Officer MVLWB
Linda Vanden Berg, LVB Strategic Negotiations and Research
Marc d'Entremont, LGL Limited

| Sequential item number | Topic | the page in question | Comment (text from draft WL) | Recommendation |
|-------------------------------|---|-----------------------------|--|---|
| | Part A: Scope and Definitions, Item 1b. | 2 | <i>Compliance with the terms and conditions of this License does not relieve the Licensee from responsibility for compliance with the requirements of all applicable, Federal, Territorial, and Municipal legislation.</i> | We recommend that the following words be added to the end of this requirement: "and the Ni Hadi Yati agreement made between De Beers Canada Inc. and Indigenous Parties." |
| | Section 2. Definitions | 3 | <i>The "Act" is defined as the Northwest Territories Waters Act; however the "Minister" is defined as the Minister of Indian Affairs and Northern Development.</i> | Update the definitions to reflect the recent changes in devolution if these are to be addressed in the license. |
| | Part B: General Conditions. Item 9 | 7 | <i>Meters, devices, or other such methods used for measuring the volumes of water used and the Waste Discharged shall be installed, operated, and maintained by the Licensee to the satisfaction of an Inspector.</i> | We recommend that the following be added to this item: "The calibration and status of the meters and devices used shall be included in the Annual Water License Report." |
| | Part B: General Conditions. Item 11 | 7 | <i>The Licensee shall submit an Annual Water License Report with the Board not later than May 1st of the year following the calendar year reported.</i> | To ensure ample time for review and comment on the results presented in this report, we recommend that the report be submitted by March 31 st of the year following the calendar year reported. This will provide time to comment on the Response Framework. |
| | Part B: General Conditions. Item 11 | 7 | <i>The report shall contain the information set out in Schedule 1, Item 1.</i> | The annual report should include provisions for the Response Framework. |

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|-------------------------------|---|-----------------------------|---|--|
| | Part B: General Conditions. Item 19 | 8 | <i>The Licensee shall implement Measure 3a, as approved by the Minister in the Report of Environmental Impact Review.</i> | <p>First there is no Measure 3a identified in report EIR0607-001. There are Measures 1, 2 and 3, which refer to minimizing impacts to caribou, particularly in regard to the winter access road. Measure 3 addresses the issue of cumulative effects on caribou.</p> <p>We recommend that this item be made more clearer and the actual measure be re-stated under this item in the license.</p> |
| | Part D: Conditions Applying to Water Use, Item 5. | 10 | <i>In once ice-covered season, total Water withdrawal from a single waterbody, outside of the Controlled Area, shall not exceed 10% of the available water volume...</i> | <p>To be clear, should this item read "Area 8" instead of "from a single waterbody outside of the Controlled Area"?</p> <p>If the Licensee is allowed to withdraw water from more than one water body is the threshold calculated as 10% from individual water bodies or 10% from all available water bodies as a whole?</p> |
| | Part E: Conditions Applying to Construction, Items 5 and 6. | 11 | <p><i>Item 5. A minimum of two months prior to the start of Construction of Dyke A...</i></p> <p><i>Item 6. A minimum of six month prior to the start of Construction of...</i></p> | <p>Why is there a discrepancy between two and six months for the various project components?</p> |
| | Part E: Conditions Applying to Construction, Item 10. | 11 | <i>Within 90 days of completion of Construction of the Engineered Structures identified in Part E, items 5, 6, and 7...</i> | <p>We recommend that this provision include that the As-built Report with drawings and specifications be stamped by a Professional Engineer.</p> |

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| | Part G: Conditions Applying to Water and Waste Management, Item 1. | 13 | <i>The Licensee shall manage Water and Waste in with the objective of minimizing the Impacts of the Project on the quantity and quality of Water in the Receiving Environment through the use of appropriate mitigation measures, monitoring, and follow-up actions.</i> | We recommend that this item be re-written as: "The Licensee shall manage Water and Waste in with the objective of minimizing the impacts of the Project on the quantity and quality of Water in the Receiving Environment through the use of appropriate mitigation measures, monitoring, and follow-up actions as outlined in the Water Management Plan and Waste Management Plan." |
| | Part G: Conditions Applying to Water and Waste Management, Item 11. | 13 | <i>During Discharge, ...</i> | The timing of water discharge should be detailed in the Water Management Plan. |
| | Erosion and Sediment Management, Item 14 | 14 | <i>The Licensee shall adhere to the Erosion and Sediment Management Plan submitted on November 28, 2013, until a revised Plan is approved by the Board. The Plan must meet the objectives listed in Part G, Item 1, and satisfy the requirements of Schedule 5, Item X.</i> | The only objectives identified in Part G; Item 1, is to minimize the impacts of the Project on the quantity and quality of Water in the Receiving Environment through the use of appropriate mitigation measures, monitoring, and follow-up actions. As stated previously, the specific mitigation measures, monitoring, and follow-up actions should be detailed in the Plan. |
| | Explosive Management, Item 19 | 14 | <i>The Plan must meet the objectives listed in Part G, Item 1...</i> | As per other Plans, the mitigation measures, monitoring, and follow-up actions should be identified within the Plan. |
| | Geochemical Characterization, Item 22 | 14 | <i>Six months prior to construction, the Licensee shall submit to the Board for approval, a Geochemical Characterization Plan which meets the objectives listed in Part G, Item 1...</i> | As per other Plans, the mitigation measures, monitoring, and follow-up actions should be identified within the Plan. |

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| | Dykes, Item 23 | 14 | <i>The Licensee shall submit to the Board for approval, a Dyke Management Plan which meets the objectives listed in Part G, Item 1...</i> | As per other Plans, the mitigation measures, monitoring, and follow-up actions should be identified within the Plan. |
| | Processed Kimberlite and Mine Rock Management, Item 24 | 15 | <i>...the Licensee shall submit to the Board for approval, a Processed Kimberlite and Mine Rock Management Plan which meets the objectives listed in Part G, Item 1...</i> | As per other Plans, the mitigation measures, monitoring, and follow-up actions should be identified within the Plan. |
| | Processed Kimberlite and Mine Rock Management, Item 27 | 15 | <i>An inspection of South Mine Rock Pile...</i> | This item should stipulate that the inspection is to be conducted by a Professional Engineer. |
| | Processed Kimberlite and Mine Rock Management, Item 30 | 16 | <i>The Licensee shall provide written notification to an Inspector a minimum of two weeks prior to the annual inspections conducted as per Part G, Item 19 and 20.</i> | This item needs to be updated to refer to Part G, Items 28 and 29, not Items 19 and 20. |
| | Processed Kimberlite and Mine Rock Management, Item 31 | 16 | <i>The Licensee shall conduct a Dam Safety Review of the XXX...</i> | A Dam Safety Review should be completed on all dykes regardless of being identified of low consequence or not. |

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| | Processed Kimberlite and Mine Rock Management, Item 32 | 16 | <i>Weekly inspections shall be kept for review upon the request of the Inspector.</i> | This item should stipulate that weekly inspections are to be conducted by a Professional Engineer. |
| | Seepage Surveys, Item 36 | 16 | <i>The Licensee shall conduct bi-annual Seepage surveys during the spring freshet and later summer months...</i> | This item should stipulate that the report for the Seepage surveys be submitted within 90 days of the completion of the surveys. |
| | Effluent Quality Criteria (EQC), Item 43 | 17 | <i>If the EQCs as listed in Part G, Item 33 are exceeded...</i> | The text "Item 33" needs to be updated to the appropriate items. Under the current draft of the license these are items 38, 41 and 42. |
| | Effluent Quality Criteria (EQC), Item 44 | 17 | <i>Water or Water from the Project that enters the Receiving Environment...</i> | An additional item should be added here or this provision should include the requirement for measuring pH levels of any water or waste from the Project entering the Receiving Environment. |
| | Part I: Conditions Applying to Aquatic Effects Monitoring, Item 5 | 19 | <i>The Licensee shall submit an Aquatic Effects Re-evaluation Report for Board Approval by XXXX, 2017 and every XX years thereafter...</i> | We recommend that this report be submitted by March 31, 2017 and every 5 years thereafter. |
| | Part I: Conditions Applying to Aquatic Effects Monitoring, Item 6 | 19 | <i>On or before XX each year...</i> | We recommend that this be on or before March 31 st each year. |



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FACSIMILE TRANSMITTAL SHEET

TO: WILARD HAGEN FROM: CHIEF LOUIS BALSILLIE
COMPANY: _____ DATE: APRIL 3, 2014
FAX NUMBER: 873-6610 TOTAL NO. OF PAGES, INCLUDING COVER: 8
PHONE NUMBER: _____
RE: INTERVENTION

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

ATTENTION: