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August 19, 2020

Your files Votre référence
MV2005L2-0015

Our file Notre référence
03-HCAA-CA6-00057

Mackenzie Valley Land and Water Board
Attention: Angela Love
7th Floor, 4922 48th St.
P.O. Box 2130
Yellowknife, NT X1A 2P6

Dear Angela Love,

Subject: De Beers Gahcho Kue - Amendment Applications - Additional Ore (MV2005L2-0015 and MV2005C0032) – Final Interventions

The Fish and Fish Habitat Protection Program of Fisheries and Oceans Canada (DFO-FFHPP) would like to thank the Mackenzie Valley Land and Water Board (MVLWB) for the opportunity to provide Interventions on De Beers' (the Proponent) Amendment Applications - Additional Ore (MV2005L2-0015 and MV2005C0032).

DFO-FFHPP is submitting the attached Interventions as requested by the MVLWB by August 21, 2020, as per correspondence from MVLWB on June 15, 2020. The purpose of the intervention is to provide DFO's expert advice to the MVLWB regarding the completeness of the provided information and to identify potential impacts to fish and fish habitat associated with the proposed project changes.

DFO-FFHPP has reviewed the provided information in regards to its mandate, specifically the management, protection and conservation of fish and their habitats. DFO-FFHPP's comments are attached and will be submitted to the MVLWB.

If you or any other parties have any questions, please contact Olivia Sroka at 867-445-3782, or by email at Olivia.Sroka@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Yours sincerely,

Thomas Hoggarth
Regional Director, Aquatic Ecosystems
Ontario and Prairies Region
Fisheries and Oceans Canada

03-HCAA-CA6-00057

Copy: Olivia Sroka, DFO
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FISHERIES AND OCEANS CANADA

Interventions

De Beers Gahcho Kue - Amendment Application -
Additional Ore (MV2005L2-0015 and MV2005C0032)

Submitted to: **Mackenzie Valley Land and Water
Board**

August 21, 2020

DFO File No.: 03-HCAA-CA6-00057

MVLWB File No.: MV2005L2-0015 and MV2005C0032

Canada

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Executive Summary

Gahcho Kue (The Project) is a diamond mine owned by De Beers Group of Companies (De Beers or the Proponent) within the North Slave Region of Northwest Territories. The Project is currently in operation and involves the dewatering of Kennady Lake for the mining of 3 separate pits: Hearne, 5034 and Tuzo pits.

The Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO-FFHPP) is responsible on behalf of the department for regulatory review of proposed developments occurring in or near Canadian fisheries waters. The Program has conducted a review of the Water Licence Amendment Application to ensure that works, undertakings and activities are conducted in such a way that the proponents are in compliance with the applicable provisions of the *Fisheries Act*, and whether the information provided was sufficient to make such a determination.

The fish and fish habitat protection and pollution prevention provisions of the *Fisheries Act* (2019), specifically subsections 34.4(1) and 35(1), state that “*No person shall carry on any work, undertaking or activity, other than fishing, that results in the death of fish*” and “*No person shall carry on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.*” However, under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with terms and conditions in relation to a proposed work, undertaking or activity that may result in death of fish or the harmful alteration, disruption or destruction (HADD) of fish habitat.

DFO-FFHPP is providing the following interventions in response to the Mackenzie Valley Land and Water Board’s (MVLWB) draft work plan, which states that Interventions are due to the board on August 21, 2020.

1 Introduction

This submission summarizes Fisheries and Oceans Canada (DFO) – Fish and Fish Protection Program’s (FFHPP) assessment and recommendations concerning the proposed Gahcho Kue Amendment Applications. The purpose of these interventions is to provide expert advice to the Mackenzie Valley Land and Water Board (MVLWB) regarding the completeness of the water licence amendment application and identify potential impacts to fish and fish habitat associated with the project changes.

These interventions focus on information provided in the Gahcho Kue 2020 Additional Ore Amendment Application package. The purpose of the interventions is to provide DFO’s expert advice to the MVLWB regarding the completeness of the provided information and to identify potential impacts to fish and fish habitat associated with the project changes. We summarize DFO’s assessment and provide recommendations concerning the project offsetting plan, water withdrawal and water usage as part of the restoration of Kennady Lake.

2 Mandate, Relevant Legislation and Policy

The *Constitution Act* (1982) provides the Federal Government with exclusive authority for coastal and inland fisheries within Canada’s territorial boundaries. DFO exercises this power through the administration of the *Fisheries Act* and some aspects of the *Species at Risk Act*. Under the *Fisheries Act*, DFO is responsible for the management, protection and conservation of fish (which include marine mammals as defined by the *Fisheries Act*) and fish habitat. The Minister of Fisheries, Oceans and the Canadian Coast Guard is one of the competent ministers under the *Species at Risk Act* (SARA).

In general, DFO’s Fish and Fish Habitat Protection Program (FFHPP) undertakes the review of proposed projects in and around fisheries waters to ensure that works, undertakings and activities are conducted in such a way that the proponents are in compliance with the applicable provisions of the *Fisheries Act*.

The mandate of DFO-FFHPP is to protect all fish and fish habitat. New Fish and Fish Habitat Protection Provisions of the *Fisheries Act* came into force on **August 28th, 2019**. From the provisions, there are two key prohibitions:

- **Subsection 34.4(1)** of the *Fisheries Act* (2019) prohibits the carrying on of any work, undertaking or activity, other than fishing, that results in the death of fish, and

- **Subsection 35(1)** of the *Fisheries Act* (2019) prohibits the carrying on of any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.

The new *Fisheries Act* (2019) includes the following definitions:

- *“fish” includes (a) parts of fish, (b) shellfish, crustaceans, marine animals and any parts of shellfish, crustaceans or marine animals, and (c) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals.*
- *“fish habitat” means water frequented by fish and any other areas on which fish depend directly or indirectly to carry out their life processes, including spawning grounds and nursery, rearing, food supply and migration areas.*
- *“Death of Fish” means any action that results in the end of life of fish. Furthermore, No person shall carry on any work, undertaking or activity, other than fishing, that results in the death of fish.*
 - *“Work” means a physical thing that has been created through labour or the exercise of creative process that has some degree of permanency or lasting quality;*
 - *“Undertaking” means to take upon oneself a task;*
 - *“Activity” means physical task incidental to a work or undertaking as well as physical tasks that may not qualify as works or undertakings.*
- *“Harmful Alteration, Disruption and Destruction of fish habitat” is defined as follows:*
 - *Harmful alteration of fish habitat is any permanent change to fish habitat that reduces its capacity to support one or more life processes of fish but does not permanently eliminate the fish habitat.*
 - *Disruption of fish habitat is any change to fish habitat occurring for a limited period that reduces its capacity to support one or more life processes of fish for a limited period.*
 - *Destruction of fish habitat is any permanent change to fish habitat that completely eliminates its capacity to support one or more life processes of fish.*

Under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act*, the Minister of Fisheries, Oceans and the Canadian Coast Guard (the Minister) may issue an authorization with terms and conditions in relation to a proposed work, undertaking or activity that may result in death of fish or harmful alteration, disruption or destruction of fish habitat. Factors that the Minister must consider prior to recommending to the Governor-in-Council regulations or the Minister exercising powers related to authorizations, permits, orders or Ministerial regulations include:

- (a) the contribution to the productivity of relevant fisheries;
- (b) fisheries management objectives;
- (c) whether there are measures and standards;
- (d) the cumulative effects;
- (e) any fish habitat banks;
- (f) whether any measures and standards to offset the harmful alteration, disruption or destruction of fish habitat give priority to the restoration of degraded fish habitat;
- (g) Indigenous knowledge of the Indigenous peoples of Canada that has been provided to the Minister; and
- (h) any other factor that the Minister considers relevant.

DFO-FFHPP is guided by the “Fish and Fish Habitat Protection Program Policy Statement (2019)”. This Policy provides guidance on undertaking effective measures to offset death of fish and the harmful alteration, disruption or destruction of fish habitat, consistent with the fish and fish habitat protection provisions of Canada’s *Fisheries Act*.

The “Policy for Applying Measures and Standards to Offset Impacts to Fish and Fish Habitat Under the Fisheries Act (2019)” was prepared by DFO to provide an overview of how to apply measures and standards to offset for impacts to fish and fish habitat. Furthermore this policy is intended to support the conservation and protection of fish and fish habitat, including objectives, guiding principles and types of measures; and describes step-by-step procedures for developing an offsetting plan.

The *Species at Risk Act* (SARA) is intended to prevent Canadian indigenous species, subspecies and distinct populations of wildlife from being extirpated or becoming extinct. SARA facilitates the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and manage species of special concern (to prevent them from becoming endangered or threatened). The Minister is the competent minister for listed aquatic species that are fish as defined in the *Fisheries Act* Section (2) and for marine plants as defined in the *Fisheries Act*, Section 47.

Environmental and Climate Change Canada (ECCC) is responsible for the administration and enforcement of the pollution prevention provisions of the *Fisheries Act*, Sections 34 and 36-42 on behalf of DFO.

For more information, see: <http://www.dfo-mpo.gc.ca/pnw-ppe/pol/index-eng.html>

3 Interventions

3.1 Project Offsetting

Review Comment Number	3.1 Project Offsetting
Subject/Topic	Offsetting habitat losses
References	<ul style="list-style-type: none"> • 2020 De Beers Gahcho Kue – Amendment Applications, Attachment 2: Environmental Screening Report - Fish Habitat Section 2.4 pg 16 • 2020 De Beers Gahcho Kue – Amendment Applications, Attachment 2: Environmental Screening Report - Pumping at Closure Section 2.2 pg 7-8 • De Beers Proponent Responses to Fisheries and Oceans Canada, May 22, 2020, Mackenzie Valley Land and Water Board Online Review System, Response to Comment 2 and 3.
Summary	<p>De Beers has an existing <i>Fisheries Act</i> Authorization for the Gahcho Kue project which authorized the serious harm to fish resulting from the dewatering of Kennady Lake and construction of dykes, which included the permanent alteration and destruction of habitat within the dewatered areas of Kennady Lake. As part of the existing <i>Fisheries Act</i> authorization, DFO-FFHPP notes that Condition 4.1 requires that <i>“Fish Habitat shall be re-established in Kennady Lake at mine closure through the re-filling of Kennady Lake and breaching of dykes, allowing fish to migrate back to the lake and utilize fish habitat that was de-watered but not physically altered during mine operation”</i>. As per the Authorization, Areas 2 to 7 (totalling 670 ha) were included in the permanent alteration and destruction of habitat in Kennady Lake.</p> <p>In the 2020 Additional Ore Amendment Application, De Beers states: <i>“Due to the expansion of the dykes at the Fine PKC Facility, the CPKMRP, and the footprint of the 5034 and Tuzo pits, there will be a small reduction in the area of Kennady Lake that will be re-established as fish habitat at closure.”</i></p> <p>De Beers also proposes a mine life extension of an additional 2 years. De Beers states: <i>“Due to the larger sizes of the Tuzo pit under the 2020 mine plan amendment, it is currently expected to take approximately 21 years to refill the lake to the original water levels using natural runoff and supplemental flows. The additional time is based on using the same mitigation for pumping rates as per the EIS to minimize the potential for adverse effects to flows/water levels and fish and fish habitat in Lake N11 and downstream.”</i></p>
Importance of issue to the impact assessment process	It is important to fully understand the amount of impacts to fish and fish habitat to ensure impacts are effectively offset.

<p>Detailed Review Comment</p> <ol style="list-style-type: none"> 1. Gap/Issue 2. Disagreement with conclusion 3. Reasons for disagreement with conclusion 	<p>DFO-FFHPP notes that De Beers is currently composing an offsetting plan required as part of their <i>Fisheries Act</i> Authorization to offset both permanent and temporary habitat losses of Kennady Lake due to Gahcho Kue mining operations. The 2020 mine plan amendment has decreased the surface area of Kennady Lake and prolonged the time in which Kennady Lake will be refilled and restored back to its natural condition. DFO-FFHPP notes that these changes may require additional offsetting. De Beers has acknowledged the implications of their mine plan changes and has committed to continuing discussions with DFO-FFHPP to create an offsetting plan which demonstrates that the gains will effectively counterbalance the losses predicted to occur as a result of these activities.</p> <p>DFO-FFHPP notes that expansion of the dykes and footprint of the pits is anticipated to decrease the surface area of Kennady Lake at closure, which subsequently reduces the area available as fish habitat at closure. These changes will impact condition 4.1 of the existing <i>Fisheries Act</i> Authorization and will require updated calculations of additional harmful alterations, disruptions or destruction of fish habitat caused by the decreased lake area available at closure. As such, these activities will require additional offsetting.</p> <p>In comparison to the 2018 Updated Project Description (De Beers, 2018b), DFO-FFHPP notes that the mine life extension constitutes an additional 2 years of time in which the natural productivity of Kennady Lake will be lost due to further postponement of the active refill of Kennady Lake. DFO-FFHPP notes that DeBeers should consider time-lag (the time between when an impact occurs and when an impact is offset) in their offsetting calculations to ensure that productivity losses are appropriately and effectively offset.</p>
<p>Recommendation/Request</p>	<p>Recommendation 3.1.1: DFO recommends that DeBeers continue to work with DFO-FFHPP to review updates to the offsetting plan to determine if additional losses are adequately accounted for and offset, which may subsequently require DeBeers to apply for an amendment to their <i>Fisheries Act</i> Authorization.</p>

3.2 Water Withdrawal

<p>Review Comment Number</p>	<p>3.2 Water Withdrawal</p>
<p>Subject/Topic</p>	<p>Water withdrawal from N11 for Downstream Flow Mitigation</p>
<p>References</p>	<ul style="list-style-type: none"> • 2020 De Beers Gahcho Kue – Amendment Applications, Attachment 1: Updated Project Description - Changes from 2018 Project Description Section 1.2 pg 16

	<ul style="list-style-type: none"> • De Beers Proponent Responses to Fisheries and Oceans Canada, May 22, 2020, Mackenzie Valley Land and Water Board Online Review System, Response to Comment 4 • De Beers. 2019. Gahcho Kué Mine Aquatic Effects Monitoring Program – Fish Habitat and Community – Response Action: Flow Augmentation Assessment.
<p>Summary</p>	<p>De Beers has proposed an increase in water withdrawal allowance from Lake N11 from 1.555 Mm³/year to 2.0 Mm³/year. De Beers states: <i>"In order to further enhance Area 8 downstream flow mitigation and meet the requirements of Fisheries Act Authorization for Area 8 outlet flow, De Beers proposes to increase the maximum volume of water withdrawn from Lake N11 to 2.0 Mm³ per year for Area 8 downstream flow mitigation."</i> (Updated Project Description - Changes from 2018 Project Description Section 1.2 pg 16, 2020)</p> <p>In the existing Water Licence issued by the MVLWB, De Beers has approval to withdraw 1.555Mm³ from Lake N11. Upon initial review of the 2020 mine plan amendment, DFO-FFHPP was unclear of the quantification of the additional water withdrawal being proposed. As explained by DeBeers, the need for increased water withdrawal comes from conflicting requirements between the DFO <i>Fisheries Act</i> Authorization and the MVLWB Water Licence.</p> <p>The Downstream Flow Mitigation Plan is required as part of the DFO <i>Fisheries Act</i> Authorization to ensure sufficient flows are maintained in Area 8 to allow for continual habitat use by Arctic Grayling. De Beers explained (Proponent Responses, May 2020): <i>"In 2019, the Mine site experienced an extended no-rain period in July. Due to the low flow conditions and corresponding evaporation in Area 8, pumping from Lake N11 had to be maintained at slightly higher than 0.1 m³/s. Had the drought extended into August, De Beers would have been in non-compliance of the Fisheries Act Authorization (by not maintaining the minimum monthly daily discharge requirement at the outlet of Area 8), or with the Water Licence (by pumping at a higher rate to achieve the minimum flow requirement at the outlet of Area 8 and therefore exceeding the annual withdrawal volume). As it eventuated, heavy rain occurred in late July and August, resulting in compliance being achieved for the Fisheries Act Authorization and the Water Licence."</i></p> <p>In 2018, DFO-FFHPP recommended De Beers conduct an assessment to ensure efficiency of the downstream flow mitigation and the adequacy of the flow augmentation. A flow augmentation assessment (De Beers 2019) was completed and the assessment recommended pumping targets that would achieve minimum target Area 8 outflows in the month of June, as outlined in the Fisheries Act Authorization (#03-HCAA-CA6-00057.1) and provide the flows required for free passage of Arctic Grayling between Area 8 and Lake 410. The required volume to meet the recommended</p>

	targets ranged from 1.556 Mm ³ during below average hydrological conditions and 1.834 Mm ³ during above average hydrological conditions.
Importance of issue to the impact assessment process	It is important to understand potential additional negative impacts associated with increased water withdrawal and ensure adequate mitigations are being applied or that additional losses to fish and fish habitat will be accounted for.
Detailed Review Comment 1. Gap/Issue 2. Disagreement with conclusion 3. Reasons for disagreement with conclusion	<p>DFO-FFHPP notes that the need for an increase in water withdrawal limits is to ensure De Beers remains in compliance with the various regulatory requirements and to accommodate operational flexibility. DFO-FFHPP has reviewed and approved the changes to the Downstream Flow Mitigation Plan, therefore the request for an increase in water withdrawal from Lake N11 remains in line with these conditions.</p> <p>DFO-FFHPP acknowledges the need to increase the water withdrawal limit from 1.555 Mm³ to 2.0 Mm³, however notes that an increase in the withdrawal limits has the potential to impact shoreline habitats in the withdrawal waterbodies. DFO-FFHPP notes that, in <i>DFO Protocol for Winter Water Withdrawal from Ice-covered Waterbodies in the Northwest Territories and Nunavut</i> (2010), the typical guideline is “total water withdrawal from a single waterbody is not to exceed 10% of the available water volume calculated”. DFO-FFHPP notes that DeBeers should effectively demonstrate that the requested operational flexibility will fall within DFO’s guidelines.</p>
Recommendation/Request	<p>Recommendation 3.2.1: DFO-FFHPP is currently satisfied with De Beers justification of the need for increase in water withdrawal from N11 for the purpose of Area 8 downstream flow mitigation. DFO-FFHPP considers this concern raised as part of the technical session is currently resolved.</p> <p>Recommendation 3.2.2: DFO-FFHPP recommends De Beers confirm that the additional water withdrawal for operational flexibility will remain within <i>DFO Protocol for Winter Water Withdrawal from Ice-covered Waterbodies in the Northwest Territories and Nunavut</i> (2010).</p>

3.3 Water Usage – Restoration of Kennady Lake

Review Comment Number	3.3 Water Usage – Restoration of Kennady Lake
Subject/Topic	Water diversion from Lake N11 for the restoration of Kennady Lake
References	<ul style="list-style-type: none"> 2020 De Beers Gahcho Kue – Amendment Applications, Attachment 1: Updated Project Description - Restoration of Kennady Lake Section 9.7.2 pg 94 De Beers Proponent Responses to Fisheries and Oceans Canada, May 22, 2020, Mackenzie Valley Land and Water Board Online Review System, Response to Comment 5

	<ul style="list-style-type: none"> • MVEIRB (Mackenzie Valley Environmental Impact Review Board). 2006. Report of Environmental Assessment and Reasons for Decision for the proposed De Beers Gahcho Kué diamond mine at Kennady Lake, NT • De Beers Gahcho Kue – Interim Closure and Reclamation Plan V4.1, March 2019
<p>Summary</p>	<p>In the 2020 Amendment Application package, De Beers states: <i>"The total annual diversion from Lake N11 will be in the order of 3.7 million cubic metres per year (Mm³/y), which represents no more than 20% of the normal annual flow to Lake N11. The 20% cut-off will be used to ensure that sufficient water remains in Lake N11 to support downstream aquatic systems in the N watershed. The value of 3.7 Mm³/y represents the difference between the flow to Lake N11 under median/normal flow conditions, and that which occurs under one-in-five-year dry conditions."</i></p> <p>In response to DFO-FFHPP's request for clarification of the total annual diversion from Lake N11, De Beers stated: <i>"In the EIS (Section 9.7.4.1.3, De Beers 2011), the supplemental water to be pumped from Lake N11 to Kennady Lake will occur during the early high-water season. Pumping will typically begin in June and end in July, although it may extend into August. In wet years, flow forecasts based on snowpack conditions and seasonal precipitation trends, will be used to estimate annual water yields from Lake N11. Planned pumping rates will be set accordingly to ensure that the total annual outflow from Lake N11 does not drop below the one-in-five-year dry condition. During the pumping season, pumping rates will be adjusted as required to meet this objective. In years where the Lake N11 outflow is forecast to naturally fall below the one-in-five-year dry condition, no pumping will occur. The total annual diversion from Lake N11 to supplement the refilling of Kennady Lake will be approximately 3.7 million cubic metres per year (Mm³/y), which represents about 20% of the normal annual flow to Lake N11. This 20% threshold ensures that sufficient water remains in Lake N11 to support downstream aquatic systems in the N watershed. The value of 3.7 Mm³/y represents the difference between the flow reporting to Lake N11 under median/normal flow conditions, and that which occurs under one-in-five-year dry conditions. Based on a six-week pumping period between June and July, the average daily pumping rate will be 88,100 m³/d. It is anticipated that more water will be withdrawn during wetter years (i.e., up to a maximum of 175,200 m³/d). In drier years, less water will be withdrawn. At no time will the diversion result in an outflow from Lake N11 below that which occurs under a one-in-five-year dry condition."</i></p> <p>Based on this information, the potential effects to fish and fish habitat resulting from the reduced flows and water levels in Lake N11 and downstream lakes were assessed as part of the EIS (Sections 9.12.4.2.1 and 9.12.4.2.2; De Beers 2011). During closure, while supplemental water is pumped from Lake N11 to refill Kennady Lake, flow and water level changes Lake N11 and downstream lakes during the June/July withdrawal period were considered small compared to baseline. As a result, De Beers</p>

	concluded the effects to fish and fish habitat, that is fish habitat availability, fish habitat suitability, and changes to fish migrations, and lower trophic communities in the N watershed were negligible.
Importance of issue to the impact assessment process	It is important to understand potential negative impacts associated with water withdrawal and ensure adequate pumping rates and volumes are considered to guarantee the natural aquatic environment within Lake N11 is not jeopardized.
Detailed Review Comment <ol style="list-style-type: none"> 1. Gap/Issue 2. Disagreement with conclusion 3. Reasons for disagreement with conclusion 	<p>DFO-FFHPP notes that De Beers has determined impacts to fish and fish habitats within N11 from water withdrawals during the closure phase to be negligible. However, DFO-FFHPP’s main concern regarding the annual diversions of water from Lake N11 surround ensuring that the appropriate amount of water is being withdrawn to supplement the refill of Kennady Lake and maintain downstream flows to Area 8, while still supporting the natural aquatic environment that exists within Lake N11 without affecting littoral habitats and the existing fish populations. As such, further detail regarding N11 water balance and supplemental flows are required.</p> <p>DFO-FFHPP additionally notes De Beers has stated that the threshold for pumping has been determined at a one-in-five dry year condition. It is unclear to DFO-FFHPP how this threshold was determined, and clarification will be sought during further engagement on the Gaucho Kue Closure and Reclamation Plan.</p>
Recommendation/Request	Recommendation 3.3.1: DFO-FFHPP notes that the annual diversions from Lake N11 for the restoration of Kennady Lake are unrelated to the changes proposed for the 2020 mine plan amendment, and is currently satisfied with De Beers response. De Beers has noted that water balance information and detail regarding supplemental flows will be provided during further discussions of the Gaucho Kue Closure and Reclamation Plan. DFO-FFHPP recommends that DeBeers continue to engage with DFO on the Gaucho Kue Closure and Reclamation Plan to ensure that any potential impacts to fish and fish habitat are effectively avoided, mitigated, and offset.

4 Summary of Recommendations

1. Project Offsetting		
1	Ref. 3.1.1	DFO recommends that DeBeers continue to work with DFO-FFHPP to review updates to the offsetting plan to determine if additional losses are adequately accounted for and offset, which may subsequently require DeBeers to apply for an amendment to their <i>Fisheries Act</i> Authorization.
2. Water Withdrawal		
2	Ref 3.2.1	DFO-FFHPP is currently satisfied with De Beers justification of the need for increase in water withdrawal from N11 for the purpose of Area 8 downstream

		flow mitigation. DFO-FFHPP considers this concern raised as part of the technical session is currently resolved.
	Ref 3.2.2	DFO-FFHPP recommends De Beers confirm that the additional water withdrawal for operational flexibility will remain within <i>DFO Protocol for Winter Water Withdrawal from Ice-covered Waterbodies in the Northwest Territories and Nunavut</i> (2010).
3. Water Usage		
3	Ref 3.3.1	DFO-FFHPP notes that the annual diversions from Lake N11 for the restoration of Kennady Lake are unrelated to the changes proposed for the 2020 mine plan amendment, and is currently satisfied with De Beers response. De Beers has noted that water balance information and detail regarding supplemental flows will be provided during further discussions of the Gahcho Kue Closure and Reclamation Plan. DFO-FFHPP recommends that DeBeers continue to engage with DFO on the Gahcho Kue Closure and Reclamation Plan to ensure that any potential impacts to fish and fish habitat are effectively avoided, mitigated, and offset.