



Mackenzie Valley Land and Water Board
7th Floor - 4922 48th Street
P.O. Box 2130
YELLOWKNIFE NT X1A 2P6
Phone (867) 669-0506
FAX (867) 873-6610

July 17, 2018

File: MV2005L2-0015

Distribution List

Dear Sir/Madam:

**Re: Public Hearing Cancelled – May 2, 2018 Amendment Application
Gahcho Kue Project – Kennady Lake, NT**

The public hearing scheduled for July 25 and 26, 2018 for De Beers Canada Inc.'s May 2, 2018 Amendment Application to Type A Water Licence MV2005L2-0015 for the Gahcho Kue Project has been cancelled as per with paragraph 41(3)(a) of the *Waters Act*, because no written interventions were received, and no parties notified the Mackenzie Valley Land and Water Board (the Board) of their intention to appear before the Board at the public hearing. A revised Work Plan (Version 6) is attached.

Please note that the public hearing for the March 19, 2018 Amendment Applications to Type A Land Use Permit MV2005C0032 and Type A Water Licence MV2005L2-0015, to accommodate changes to the mine plan, is still scheduled to take place on **July 25 and 26, 2018 from 8:30 a.m. to 5:00 p.m., in Yellowknife, Northwest Territories.**

If you have any questions or concerns, please contact Angela Love at (867) 766-7456 or email angela.love@mvlwb.com.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Mavis Cli-Michaud".

Mavis Cli-Michaud
MVLWB, Chair

Attachment: Work Plan V.6



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MVLWB Work Plan for the De Beers Canada Inc. – Gahcho Kue Mine

March 2018 Amendment Applications:

Land Use Permit MV2005C0032
Water Licence MV2005L2-0015

May 2018 Amendment Application:

Water Licence MV2005L2-0015

Purpose of the Work Plan

To outline the processes and timelines to be followed for the:

- 1) March 2018 Land Use Permit (Permit) MV2005C0032 and Water Licence (Licence) MV2005L2-0015 Amendment Applications; and
- 2) May 2018 Licence MV2005L2-0015 Amendment Application.

For the De Beers Canada Inc. (De Beers or Proponent) – Gahcho Kue Mine.

Background

On March 19, 2018 De Beers applied to amend Permit MV2005C0032 and Licence MV2005L2-0015 in order to allow them to make necessary changes to the mine plan as a result of a geotechnical issue within the pits. On March 29, 2018, the Mackenzie Valley Land and Water Board (MVLWB or the Board) deemed the Permit and Licence Amendment Applications complete. On April 12, 2018, the Board invoked paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations to allow for additional time to gather information during the regulatory process.

On May 2, 2018 De Beers submitted a second amendment application for Licence MV2005L2-0015, to increase water use. Specifically, De Beers is requesting to amend Schedule 3, Part D, condition 1b from 27,000 m³ to 35,000 m³. De Beers has stated that this second Licence amendment application (May 2018 Amendment Application) is necessary to ensure the mine has enough water to support the camp during the period when the March 2018 Amendment Applications are under consideration by the Board. On May 2, 2018, the Mackenzie Valley Land and Water Board (MVLWB or the Board) deemed the May 2018 Licence Amendment Application complete.

Guiding Principles

The following principles will guide the Work Plan of the MVLWB throughout these two Amendment processes:

- The processes shall be carried out in a timely manner and shall have regard to the protection of the environment in consideration of the impacts of the proposed undertaking and the importance of conservation to the wellbeing and way of life of the Aboriginal peoples of Canada (Section 35 of the *Constitution Act*, 1982);
- The Board will consider potential changes to either the Permit and/or Licence conditions based on evidence and rationale submitted by the company or any other party;

- The Board may also consider changes it considers appropriate to meet its mandate, applicable policies, and to ensure consistency in decision-making throughout the Mackenzie Valley; and
- The Board will actively continue to ensure compliance with existing Permit and Licence requirements.

Work Plan Objectives

The Work Plan is to achieve the following objectives:

- Compile a broad range of input through the review processes;
- Ensure adequate information is gathered to complete the permitting and licensing amendment processes; and
- Facilitate a thorough, inclusive, and timely permit and licence amendment review processes.

Opportunities for Community Engagement

- The Board required De Beers to engage with communities and Aboriginal organizations regarding the Permit and Licence Amendment Applications prior to its submissions;
- The Board will distribute the Amendment Applications to reviewers – including Aboriginal organizations, governments, and communities – for review using the Land and Water Board Online Review System;
- The Board will include a notification(s) regarding the review process in the newspaper;
- The Board will coordinate a technical session(s) to address specific issues that require more focused review and discussion;
- The Board will hold a public hearing¹ and provide notice to the public of this, in advance, in the newspaper; and
- The Board will hold any other consultation or engagement activity that the Board considers appropriate.

Regulatory Process Timelines

Table 1 below sets out the regulatory process tasks and timelines for both the March and May 2018 Amendment Applications. Subsection 22(2) of the Mackenzie Valley Land Use Regulations requires the MVLWB to make a decision on the land use permit application within a period of 42 days after receipt of the complete application. Regarding the March 2018 Amendment Application, on April 12, 2018, the Board invoked paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations to allow for additional time to gather information in conjunction with the associated Type A Water Licence Amendment Application. Subsection 47(1) of the *Waters Act* requires the MVLWB to make a decision on a water licence application within a period of nine months after the day on which an application is deemed complete and the review process begins. Based on section 28 of the *Federal Interpretation Act*, this is equivalent to 275 calendar days for the March 2018 Amendment Applications and 276 calendar days for the May 2018 Amendment Application. The MVLWB Day Count stops whenever the Board requires the Proponent to provide information for the regulatory process to continue (signified by the red shading in the table below). Once that information has been provided, the MVLWB Day Count resumes (signified by the green shading in the table below). Significant milestones have also been bolded in the table below.

¹ De Beers has suggested that the May 2018 amendment application could be conducted through a written proceeding. If no interventions specific to the May 2018 Amendment Application have been received 10 days prior to the proposed July 25-26 Public Hearing dates, or if all interveners have indicated that they are satisfied with a written proceeding and do not need to appear before the Board, a Mandatory Hearing does not apply.

Table 1: Regulatory process timeline

Item #	Task	Responsible Party	MVLWB Day Count (275 Max)	March Amendment Due Date (Date Completed)	MVLWB Day Count (276 Max)	May Amendment Due Date (Date Completed)
1.	Application Submitted	Proponent		(March 19, 2018)		(April 30, 2018)
2.	Application deemed complete	MVLWB staff	0	(March 29, 2018)	0	(May 2, 2018)
3.	Application sent out for review	MVLWB staff	0	(March 29, 2018)	1	(May 3, 2018)
4.	Draft Work Plan sent for review	MVLWB staff	15	(April 13, 2018)	8	(May 10, 2018)
5.	Comments due on the Draft Work Plan	Reviewers and Proponent	22	(April 20, 2018)	15	(May 17, 2018)
6.	Reviewer comments due on Amendment Application	Reviewers	39	(May 7, 2018)	21	(May 23, 2018)
7.	Board decision on Draft Work Plan	MVLWB	-	(May 10, 2018)	-	-
8.	Proponent responses to Reviewer comments on Amendment Applications	Proponent	40	(May 21, 2018)	22	(May 28, 2018)
9.	Technical session	All Parties	49-50	(May 30-31, 2018)	24-25	(May 30-31, 2018)
10.	Circulate Information Requests from Technical Session	MVLWB staff	51	(June 1, 2018)	26	(June 1, 2018)
11.	Board decision on Preliminary Screening	MVLWB	-	(June 7, 2018)	-	(June 7, 2018)
12.	Pre-Hearing Conference	All Parties	-	(June 11, 2018)	-	(June 11, 2018)
13.	Deadline to respond to Information Requests	All Parties	52	(June 14, 2018)	27	(June 14, 2018)
14.	Deadline for Interventions	Interveners	65	(June 27, 2018)	27	(June 14, 2018)
15.	Proponent response to Interventions	Proponent	66	(July 5, 2018)	28	(June 26, 2018)
16.	Deadline for Intervener Public Hearing presentations	Interveners	67	(July 6, 2018)	-	-
17.	Proponent Public Hearing presentation due	Proponent	74	(July 13, 2018)	-	-
18.	Public Hearing	All Parties	86-87	July 25-26, 2018	-	-
19.	Circulate Public Hearing Undertakings	MVLWB staff	92	July 31, 2018	-	-
20.	Public Hearing Undertakings due	All Parties	93	August 15, 2018	-	-
21.	Circulate Draft Permit/Licence	MVLWB staff	107	August 29, 2018	-	-
22.	Reviewer comments due on Draft Permit/Licence	Reviewers	121	September 12, 2018	-	-

23.	Proponent response to reviewer comments on Draft Permit/Licence	Proponent	122	September 19, 2018	-	-
24.	Deadline for Closing Arguments from Interveners	Interveners	129	September 26, 2018	-	-
25.	Deadline for Closing Arguments from Proponent	Proponent	136	October 3, 2018	-	-
26.	Board decision on Amendment Application	MVLWB	-	Late October to mid-November 2018	49	July 17, 2018
27.	Water Licence sent to the GNWT Minister for review	Board staff	-	Late October to mid-November 2018	-	Mid July, 2018
28.	Final decision from the GNWT Minister	Minister	Up to 90 days	December 2018	Up to 90 days	-

Please note that the Work Plan has been created based on the information available and is subject to change at any time.

Note: As previously indicated, De Beers has suggested the May 2018 Amendment Application could be conducted through a written proceeding. If no interventions specific to the May 2018 Amendment Application have been received 10 days prior to the proposed July 25-26 Public Hearing dates, or if all interveners have indicated that they are satisfied with a written proceeding and do not need to appear before the Board, **items 16-25 in the above timeline will be excluded.** In this circumstance, after the Board considers the May 2018 Amendment Application, the Board may choose to issue information requests prior to sending the Water Licence to the GNWT Minister. Dates will be modified accordingly.