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June 29, 2021

File: MV2021D0009

William Liu
Regulatory Specialist
De Beers Canada Inc.
Suite 300 – 1601 Airport Road NE
Airport Corporate Centre
CALGARY AB T2E 6Z8

Sent by email

Dear William Liu,

Re: De Beers Canada Inc. – Renewal Issuance Package – Land Use Permit MV2021D0009 – Gahcho Kué Mine, NT

The Mackenzie Valley Land and Water Board (Board) met on June 24, 2021 and considered the renewal Application Package from De Beers Canada Inc. (De Beers) for Land Use Permit MV2005C0032 for the Gahcho Kué Project in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board has approved Land Use Permit (Permit) MV2021D0009 (attached). The Permit has been granted for a term of 5 years, effective June 29, 2021, and expiring June 28, 2026, and is supported by the Board's attached Reasons for Decision. These documents are posted to the Board's Public Registry.¹

Submission Requirements

Please refer to Annex A of the Permit for a complete summary and timetable of submissions required for this Permit. The Board's decisions on submissions that were considered in conjunction with the renewal Application Package are set out below.

¹ See MVLWB Online Registry www.mvlwb.com for [MV2021D0009](#).

Management Plans – Approved

The Board has approved the Waste Management Plan (Version 5.6).²

The Board approved the following Plans under the previous Permit, MV2005C0032, and because revisions are not required at this time, the Board has carried these approvals forward under the renewed Permit.

Condition Number and Title	Title of Plan (Version)	Date Approved
Condition 33, EROSION AND SEDIMENT MANAGEMENT PLAN	Erosion and Sediment Management Plan (V4 MV2005C0032) ³	October 22, 2014
Condition 38, EXPLOSIVES MANAGEMENT PLAN	Explosives Management Plan (V4 MV2005C0032) ⁴	June 7, 2017
Condition 60, SPILL CONTINGENCY PLAN	Spill Contingency Plan (V3.1 MV2005C0032) ⁵	March 3, 2017
Condition 76, INTERIM CLOSURE AND RECLAMATION PLAN	Interim Closure and Reclamation Plan (V4.1 MV2005C0032) ⁶	June 6, 2019
Condition 80, ENGAGEMENT PLAN	Engagement Plan (V2 MV2005C0032) ⁷	March 30, 2015
Condition 81, VEGETATION AND SOILS MONITORING PROGRAM	Vegetation and Soils Monitoring Plan (V3 MV2005C0032) ⁸	September 10, 2014

Inspectors

The Inspectors referred to in the Permit can be contacted at the regional GNWT-Lands offices.⁹

Permit Processes and Additional Information

Sections 5 and 6 of the Board's *Guide to the Land Use Permitting Process*¹⁰ (Guide) contain detailed information on permit enforcement and potential post-issuance processes, such as amendments to

² See MVLWB Online Registry for MV2021D0009 - MV2005L2-0015 - De Beers Gahcho Kue - Waste Management Plan Version 5.6 – June 11_21 ([hyperlink](#)).

³ See MVLWB Online Registry for MV2021D0009 - MV2005L2-0015 - De Beers Gahcho Kue - Erosion and Sediment Mgmt Plan V4 MV2005C0032 - May 6_21 ([hyperlink](#)).

⁴ See MVLWB Online Registry for MV2021D0009 - MV2005L2-0015 - De Beers Gahcho Kue - Explosives Mgmt Plan V4 MV2005C0032 - May 6_21 ([hyperlink](#)).

⁵ See MVLWB Online Registry for MV2021D0009 - MV2005L2-0015 - De Beers Gahcho Kue - Spill Contingency Plan V3.1 MV2005C0032 - May 6_21 ([hyperlink](#)).

⁶ See MVLWB Online Registry for MV2021D0009 - MV2005L2-0015 - De Beers Gahcho Kue - ICRP V4.1 MV2005C0032 - May 6_21 ([hyperlink](#)).

⁷ See MVLWB Online Registry for MV2021D0009 - MV2005L2-0015 - De Beers Gahcho Kue - Engagement Plan V2 - May 6_21 ([hyperlink](#)).

⁸ See MVLWB Online Registry for MV2021D0009 - De Beers Gahcho Kue - Vegetation and Soils Monitoring Plan V3 MV2005C0032 - May 6_21 ([hyperlink](#)).

⁹ See GNWT-Lands Inspection and Enforcement webpage (<https://www.lands.gov.nt.ca/en/services/inspections-and-enforcement>) for regional contact information.

¹⁰ See MVLWB Policies and Guidelines webpage for MVLWB [Guide to the Land Use Permitting Process](#) (2020).

conditions, and assignment to another company. Please be familiar with these sections of the Guide and reach out to Board staff with any questions about Board processes related to the Permit.

Full cooperation of De Beers is anticipated and appreciated. Please contact [Angela Love](#) at (867) 766-7456 with any questions or concerns regarding this letter.

Yours sincerely,



Mavis Cli-Michaud
Chair, Mackenzie Valley Land and Water Board

BCC'd to: De Beers Gahcho Kué ORS Distribution List
Nahum Lee – Inspector, GNWT-Lands
Patti Nightingale, GNWT-Lands

Attached: Land Use Permit MV2021D0009
Reasons for Decision



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PO Box 2130, Yellowknife NT X1A 2P6

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De Beers Canada Inc.
Land Use Permit MV2021D0009

Pursuant to the *Mackenzie Valley Resource Management Act* and Mackenzie Valley Land Use Regulations, the Mackenzie Valley Land and Water Board grants this Land Use Permit to:

De Beers Canada Inc.

(Permittee)

of Suite 300 – 1601 Airport Road NE, Airport Corporate Centre, Calgary AB T2E 6Z8

(Mailing Address)

hereinafter called the Permittee, to proceed with the following land-use operation, subject to the annexed definitions and conditions contained therein:

Location:	Gahcho Kué Project – Kennady Lake, NT
Purpose:	Mining and Associated Activities
Type:	Type A
Effective Date:	June 29, 2021
Expiry Date:	June 28, 2026

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

Mavis Cli-Michaud, Chair
Mackenzie Valley Land and Water Board

A handwritten signature in blue ink, appearing to read "Amanda Gauthier".

Amanda Gauthier, Witness

Conditions Annexed to and Forming Part of Land Use Permit #MV2021D0009

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use operation: Mining and directly associated activities on the De Beers Canada Inc. Gahcho Kué Project (the Project) and includes the following:
 - i. dykes and berms to facilitate the Dewatering of Kennady Lake;
 - ii. Open Pit mining of the Hearne, 5034 and Tuzo kimberlite pipes;
 - iii. milling facilities and infrastructure;
 - iv. ore and low grade ore stockpiles;
 - v. a Fine Processed Kimberlite Containment Facility;
 - vi. a Coarse Processed Kimberlite and Mine Rock Pile;
 - vii. a West Mine Rock Pile;
 - viii. a South Mine Rock Pile;
 - ix. deposition of kimberlite and Waste Rock into the Hearne and 5034 Open Pits;
 - x. quarrying;
 - xi. the existing exploration camp, winter access spur road camp, and a mining camp;
 - xii. fuel, lubricant, and glycol storage facilities and laydown areas;
 - xiii. explosives storage facilities and use of explosives;
 - xiv. a Landfarm;
 - xv. Construction and Operation of the winter access spur road;
 - xvi. site facilities and infrastructure including but not limited to the Water supply facility, Sewage Treatment Plant, pipelines, incinerator, site roads, all-season airstrip and apron, power plant, solar farm, electrical distribution, and material storage and sorting facilities; and
 - xvii. use of equipment, vehicles, and machines.

All Activities will be bounded by the following locations:

63° 25' 12.5" N, 109° 06' 13.7" W and 63° 58' 49.3" N, 110° 17' 59.7" W.

2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial, or Municipal laws.

Part B: Definitions

2. Definitions

Act - the *Mackenzie Valley Resource Management Act*.

Archaeological Impact Assessment - a study of archaeological sites as defined by the Prince of Wales Northern Heritage Centre *Guidelines for Developers for the Protection of Archaeological Sites in the Northwest Territories*.

Board - the Mackenzie Valley Land and Water Board established under Part 4 of the Act.

Coarse Processed Kimberlite and Mine Rock Pile - the constructed facility designed to store mine rock and material that is generally 0.25 mm to 6 mm in diameter, rejected from the process plant after the recoverable diamonds have been extracted.

Construction - any activities undertaken to construct or build any components of, or associated with, the development of the Project, including any Construction activities undertaken during Operations and closure phases of the Project.

Controlled Area - the isolated subwatersheds within Kennady Lake watershed after dewatering and Drawdown, where mining activities will be undertaken and Water associated with mining activities will be managed. Specifically, areas 1 through 7.

Drawdown - the removal of Water from Kennady Lake. This excludes withdrawals from the Water Management Pond.

Drilling Fluids - any liquid mixture of Water, sediment, drilling muds, chemical additives or other Wastes that are pumped down hole while drilling and are specifically related to drilling activity.

Drilling Waste - all materials or chemicals, solid or liquid, associated with drilling, including drill cuttings and Drilling Fluids.

Durable Land - land that is able to withstand repeated use, such as gravel or sand with minimal vegetative cover.

Engagement Plan - a document, developed in accordance with the Board's *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the project.

Engineered Structure - any structure or facility related to Water Use or the deposit of Waste that is normally designed and approved by a Professional Engineer, that are associated with the Construction, Operation, Closure and Reclamation of the Project, including but not limited to, the dykes and berms, Fine Processed Kimberlite Containment Facility, Coarse Processed Kimberlite and Mine Rock Pile, West Mine Rock Pile, South Mine Rock Pile, and the Landfarm.

Environmental Impact Review - means the totality of the Mackenzie Valley Environmental Impact Review Board Public Registry, for Environmental Impact Review 06070-001, as established under the authority of Part 5 of the Act for this Permit application. This includes, without limiting the foregoing, all documents, records, and materials of any kind submitted to the Mackenzie Valley Environmental Impact Review Board Public Registry which are relevant to Land Use Permit Application MV2005C0032 and MV2021D0009 made by De Beers Canada Inc.

Fine Processed Kimberlite Containment Facility - the constructed facility designated to store material that is generally less than 0.25 mm in diameter, rejected from the process plant after the recoverable diamonds have been extracted.

Fuel Storage Container - a container for the storage of petroleum or allied petroleum products with a capacity of less than 230 litres.

Fuel Storage Tank - a closed container for the storage of petroleum or allied petroleum products with a capacity of more than 230 litres.

Greywater - all liquid Wastes from showers, baths, sinks, kitchens, and domestic washing facilities but not including toilet Wastes.

Habitat - the area or type of site where a species or an individual of a species of wildlife naturally occurs or on which it depends, directly or indirectly, to carry out its life processes.

Inspector - an Inspector designated by the Minister under the Act.

Landfarm - the lined, Engineered Structure designed to contain and treat hydrocarbon contaminated materials.

Minister - the Minister of Indian Affairs and Northern Development Canada or the Minister of the Government of the Northwest Territories – Department of Lands, as the case may be.

Open Pit(s) - the Hearne, Tuzo, and 5034 pits created by the extraction of Overburden and Waste Rock to mine the kimberlite ore.

Operations - the activities which occur following the commencement of mining ore for milling in the process plant.

Ordinary High-Water Mark - the usual or average level to which a body of Water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. In flowing Waters (rivers, streams) this refers to the “active channel/bank-full level” which is often the 1:2 year flood flow return level. In inland lakes, wetlands, or marine environments, it refers to those parts of the Watercourse bed and banks that are frequently flooded by Water so as to leave a mark on the land and where the natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation (excepting Water tolerant species). For reservoirs, this refers to normal high operating levels (full supply level).

Overburden - the materials (i.e., lake-bottom sediments and till) that overlie the Waste Rock and kimberlite deposit.

Permittee - the holder of this permit.

Permafrost - ground (soil or rock) that remains at or below 0°C for at least two consecutive years.

Professional Engineer - a person registered with the Northwest Territories and Nunavut Association of Professional Engineers and Geoscientists to practice as a Professional Engineer in the Northwest Territories as per the territorial *Engineering and Geoscience Professions Act*, and whose professional field of specialization is appropriate to address the components of the Project at hand.

Project - the Gahcho Kué diamond mine operation in its entirety as described in Part A, Condition 1 of this Permit.

Reclamation - activities which facilitate the return of areas affected by the Project to viable and, wherever practicable, self-sustaining ecosystems that are compatible with a healthy environment, human activities, and the surrounding environment.

Secondary Containment - containment that prevents liquids that leak from Fuel Storage Tanks or Containers from reaching outside the containment area and includes double-walled Tanks, piping, liners, and impermeable barriers.

Seepage - Water or Waste that drains through or escapes from any structure designed to contain, withhold, divert or retain Water or Waste.

Sewage - all toilet Wastes and Greywater.

Sewage Treatment Plant - the treatment plant that is designed to contain and treat Sewage.

South Mine Rock Pile - the structure designed to contain Waste Rock constructed immediately south of area 6.

Spill Contingency Plan - a document, developed in accordance with Aboriginal Affairs and Northern Development Canada's *Guidelines for Spill Contingency Planning* that describes the set of procedures to be implemented to minimize the effects of a spill.

Spring Break-up - April 25 each year, for the purpose of this operation.

Sump - a man-made pit or natural depression in the earth's surface used for the purpose of depositing Waste that does not contain Toxic material, such as non-toxic Drilling Waste or Sewage, therein.

Toxic Material - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Waste - any garbage, debris, chemical, or Toxic Material to be used, stored, disposed of, or handled on land, and also as defined in section 51 of the Act.

Wastewater - the Water that is generated by Project activities or originates on site and contains Waste and includes but is not limited to runoff, Seepage, or minewater.

Waste Management Plan - a document, developed in accordance with the Board's *Guidelines for Developing a Waste Management Plan*, that describes the methods of Waste management from Waste generation to final disposal.

Waste Rock - all unprocessed rock materials that are produced as a result of the Project. This material has been referred to as "mine rock" during the Environmental Impact Review and in the application and supporting materials documents.

Water(s) - any Waters as defined by section 1 of the *Waters Act*.

Watercourse - a natural body of flowing or standing Water or an area occupied by Water during part of the year, and includes streams, springs, swamps and gulches but does not include groundwater.

Water Management Pond - areas 3 and 5 of Kennady Lake after milling commences, where Wastewater will be collected and stored from various locations and sources within the Controlled Area.

Water Use - a use of Water as defined by section 1 of the *Waters Act*.

West Mine Rock Pile - the structure designed to contain Waste Rock constructed within the catchment of the Water Management Pond in areas 3 and 5.

Part C: Conditions Applying to All Activities (headings correspond to subsection 26(1) of the Mackenzie Valley Land Use Regulations)

26(1)(a) Location and Area

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| 1. | The Permittee shall locate all camps on Durable Land or previously cleared areas. | CAMP LOCATION |
| 2. | The Permittee shall use an existing campsite, as described in the complete application. | USE EXISTING CAMP |
| 3. | The Permittee shall not conduct a quarry operation within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | QUARRY SETBACK |
| 4. | The Permittee shall not construct parallel lines or roads, unless an existing line or road cannot be used. | PARALLEL ROADS |
| 5. | The Permittee shall locate all lines, trails, and right-of-ways to be constructed parallel to any Watercourse a minimum of 100 metres from the Ordinary High-Water Mark, except at crossings. | PARALLEL WATERCOURSE SETBACK |
| 6. | The Permittee shall only conduct this land-use operation on lands designated in the application. | LOCATION OF ACTIVITIES |
| 7. | Prior to the commencement of the land-use operation, the Permittee shall accompany an Inspector during an inspection of the proposed land-use area. | INSPECT LOCATIONS |

26(1)(b) Time

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| 8. | At least 48 hours prior to winter road activities, the Permittee's Field Supervisor shall notify the Board and contact an Inspector at (867) 767-9187 ext. 24187. | NOTIFICATION – CONTACT INSPECTOR |
| 9. | At least 48 hours prior to commencement of this land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector:
a) the name(s) of the person(s) in charge of the field operation;
b) alternates; and
c) all methods for contacting the above person(s). | IDENTIFY AGENT |
| 10. | At least ten days prior to Spring Break-up, the Permittee shall advise an Inspector of:
a) the plan for removal or storage of equipment and materials; and
b) when cleanup and Reclamation of the land used will be completed. | REPORTS BEFORE SEASONAL REMOVAL |
| 11. | At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of:
a) the plan for removal or storage of equipment and materials;
b) when final cleanup and Reclamation of the land used will be completed; and
c) when the Final Plan will be submitted. | REPORTS BEFORE FINAL REMOVAL |

26(1)(c) Type and Size of Equipment

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| 12. | The Permittee shall only use equipment of a similar type, size, and number to that listed in the complete application. | USE APPROVED
EQUIPMENT |
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26(1)(d) Methods and Techniques

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| 13. | Prior to the movement of any vehicle that exerts pressure on the ground in excess of 35 kPa, the Permittee shall scout proposed lines and routes to select the best location for crossing streams and avoiding terrain obstacles. | DETOURS AND
CROSSINGS |
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| 14. | The Permittee shall construct and maintain the overland portion of winter roads with a minimum of 10 cm of packed snow and/or ice at all times during this land-use operation. | WINTER ROADS |
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| 15. | The Permittee shall not erect camps or store material, other than that required for immediate use, on the ice surface of a Watercourse. | STORAGE ON ICE |
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26(1)(e) Type, Location, Capacity, and Operation of All Facilities

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| 16. | The Permittee shall ensure that the land-use area is kept clean at all times. | CLEAN WORK AREA |
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| 17. | The Permittee shall not locate any Sump within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | SUMPS FROM
WATER |
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26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

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| 18. | The Permittee shall install and maintain culverts such that scouring does not occur. | CULVERT SIZE |
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| 19. | The Permittee shall, where Permafrost exists, insulate the ground surface beneath all structures associated with this land-use operation to prevent:
a) any vegetation present from being removed;
b) the melting of Permafrost; and
c) the ground settling and/or eroding. | PERMAFROST
PROTECTION |
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| 20. | The land-use operation shall not cause obstruction to any natural drainage. | NATURAL
DRAINAGE |
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| 21. | The Permittee shall install and maintain suitable erosion control structures as the land-use operation progresses. | PROGRESSIVE
EROSION CONTROL |
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| 22. | The Permittee shall only conduct off-road vehicle travel on snow-covered surfaces. | OFF-ROAD VEHICLE
TRAVEL |
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| 23. | The Permittee shall prepare the site in such a manner as to prevent rutting or gouging of the ground surface. | PREVENTION OF
RUTTING |
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| 24. | The Permittee shall suspend overland travel of equipment or vehicles at the first sign of rutting or gouging. | SUSPEND
OVERLAND TRAVEL |
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25.	The Permittee shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging.	VEHICLE MOVEMENT FREEZE-UP
26.	The Permittee shall only use clean Water and snow in the construction of ice bridges and snowfills.	CONSTRUCT ICE BRIDGES/ SNOWFILLS
27.	Prior to Spring Break-up or completion of the land-use operation, the Permittee shall clean up and either remove or v-notch all ice bridges and snowfills from stream crossings, unless otherwise authorized in writing by an Inspector.	REMOVE ICE BRIDGES/ SNOWFILLS
28.	The Permittee shall not cut any stream bank, unless otherwise authorized in writing by an Inspector.	STREAM BANKS
29.	The Permittee shall minimize approach grades on all Watercourse crossings.	MINIMIZE APPROACH
30.	The Permittee shall use temporary bridges or dry fording when crossing streams.	DRY FORDING
31.	The Permittee shall slope the sides of Waste material piles, excavations, and embankments — except in solid rock — to a minimum ratio of 2:1 vertical, unless otherwise authorized in writing by an Inspector.	EXCAVATION AND EMBANKMENTS
32.	The Permittee shall not excavate land within 100 metres of the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector.	EXCAVATION SETBACK
33.	The Permittee shall comply with the Erosion and Sediment Management Plan , once approved, and shall annually review the plan and make revisions to reflect any changes in Operations, or as directed by the Board. Revisions of the plan shall be submitted to the Board for approval.	EROSION AND SEDIMENT MANAGEMENT PLAN
26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material		
34.	At least seven days prior to the use of any chemicals that were not identified in the complete application, the Safety Data Sheets must be provided to the Board and an Inspector.	CHEMICALS
35.	Prior to the expiry date of this Permit or the end of the land-use Operation whichever comes first, the Permittee shall backfill and restore all Sumps, unless otherwise authorized in writing by an Inspector.	RECLAIM NON-OIL AND GAS SUMPS
36.	The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan.	WASTE CHEMICAL DISPOSAL
37.	The Permittee shall dispose of all Waste petroleum products by removal to an approved disposal facility or by incineration in a device designed for this purpose, as described in the approved Waste Management Plan.	WASTE PETROLEUM DISPOSAL

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| 38. | The Permittee shall comply with the Explosives Management Plan , once approved, and shall annually review the plan and make revisions to reflect any changes in Operations, technology, chemicals, or as directed by the Board. Revisions of the plan shall be submitted to the Board for approval. | EXPLOSIVES
MANAGEMENT
PLAN |
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26(1)(h) Wildlife and Fish Habitat

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| 39. | The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation. | HABITAT DAMAGE |
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26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage

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| 40. | The Permittee shall dispose of all Waste as described in the Waste Management Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | WASTE
MANAGEMENT |
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| 41. | The Permittee shall keep all garbage and debris in a secure container until disposal. | GARBAGE
CONTAINER |
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| 42. | The Permittee shall dispose of all Sewage and Greywater as described in the approved Waste Management Plan. | SEWAGE DISPOSAL
– PLAN |
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26(1)(j) Protection of Historical, Archaeological, and Burial Sites

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| 43. | The Permittee shall not operate any vehicle or equipment within 30 metres of a known or suspected historical or archaeological site or burial ground. | ARCHAEOLOGICAL
BUFFER |
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| 44. | The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site. | SITE DISTURBANCE |
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| 45. | The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered: | SITE DISCOVERY
AND NOTIFICATION |
| | a) immediately suspend Operations on the site; and | |
| | b) notify the Board at (867) 669-0506 or an Inspector at (867) 767-9187 ext. 24192, and the Prince of Wales Northern Heritage Centre at (867) 767-9347 ext. 71251 or ext. 71255. | |

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| 46. | Prior to any new land disturbance, the Permittee shall conduct an Archaeological Impact Assessment of the sites where disturbance is planned and shall submit a summary report to the Board and the Prince of Wales Northern Heritage Centre. | AIA |
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26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value

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26(1)(l) Security Deposit

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| 47. | Pursuant to section 32 of the Mackenzie Valley Land Use Regulations, the Permittee shall post security totaling \$42,346,192 based on the schedule set out below:
a) prior to the commencement of Construction, the Permittee shall post and maintain a total security deposit of \$11,816,392;
b) prior to Year 1 of Operations, the Permittee shall post an additional security deposit in the amount of \$2,001,471 to maintain a total security deposit of \$13,817,863;
c) prior to conducting activities identified in the January 19, 2017 Amendment Application for MV2005C0032, the Permittee shall post an additional security deposit in the amount of \$26,233 to maintain a total security deposit of \$13,844,096;
d) prior to Year 5 of Operations, the Permittee shall post an additional security deposit in the amount of \$24,675,843 to maintain a total security deposit of \$38,519,939;
e) within 90 days following approval of the Amendment #5 Application for MV2005C0032, the Permittee shall post an additional security deposit in the amount of \$524,878 to maintain a total security deposit of \$39,044,817; and
f) prior to Year 11 of Operations, the Permittee shall post an additional security deposit in the amount of \$3,301,375 to maintain a total security deposit of \$42,346,192. | SECURITY DEPOSIT |
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| 48. | All costs to remediate the area under this Permit are the responsibility of the Permittee. | RESPONSIBILITY FOR REMEDIATION COSTS |
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26(1)(m) Fuel Storage

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| 49. | The Permittee shall:
a) examine all Fuel Storage Tanks and Containers for leaks a minimum once per month; and
b) repair all leaks immediately. | REPAIR LEAKS |
| 50. | The Permittee shall place Fuel Storage Containers and or Tanks a minimum of 100 metres from the Ordinary High-Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | FUEL STORAGE SETBACK |
| 51. | The Permittee shall ensure that all fuel caches have adequate Secondary Containment. | FUEL CACHE SECONDARY CONTAINMENT |
| 52. | The Permittee shall set up all refueling points with Secondary Containment. | SECONDARY CONTAINMENT - REFUELING |
| 53. | The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses. | FUEL CONTAINMENT |
| 54. | The Permittee shall locate mobile fuel facilities on land when the facilities are stationary for more than 12 hours. | FUEL ON LAND |

55.	The Permittee shall mark all Fuel Storage Tanks and Containers with the Permittee's name.	MARK CONTAINERS AND TANKS
56.	The Permittee shall mark all stationary fuel caches and fuel storage facilities with flags, posts, or similar devices so that they are at all times plainly visible to local vehicle travel.	MARK FUEL LOCATION
57.	The Permittee shall have a maximum of 59,338,000 litres of fuel stored on the land-use site at any time, unless otherwise approved by the Board.	MAXIMUM FUEL ON SITE
58.	Within ten days of the establishment of any fuel cache, the Permittee shall report the location and quantity of the cache in writing to the Board and an Inspector.	REPORT FUEL LOCATION
59.	The Permittee shall seal all outlets of Fuel Storage Containers and store the containers on their sides with the outlets located at 3 and 9 o'clock, except for containers currently in use.	SEAL OUTLET
60.	The Permittee shall comply to the Spill Contingency Plan , once approved, and shall annually review the plan and make any revisions to reflect any changes Operations, technology, chemicals, or fuels, or as directed by the Board. Revisions of the plan shall be submitted to the Board for approval.	SPILL CONTINGENCY PLAN
61.	Prior to commencement of this land-use operation, the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills.	SPILL RESPONSE
62.	All equipment that may be parked for two hours or more, shall have a hazmat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately.	DRIP TRAYS
63.	The Permittee shall clean up all leaks, spills, and contaminated material immediately.	CLEAN UP SPILLS
64.	<p>During the period of this Permit, if a spill occurs or is foreseeable, the Permittee shall:</p> <p>a) implement the approved Spill Contingency Plan;</p> <p>b) report it immediately using the NU-NT Spill Report Form by one of the following methods:</p> <ul style="list-style-type: none"> • Telephone: (867) 920-8130 • Fax: (867) 873-6924 • E-mail: spills@gov.nt.ca • Online: Spill Reporting and Tracking Database <p>c) within 24 hours, notify the Board and an Inspector; and</p> <p>d) within 30 days of initially reporting the incident, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Any updates to this report shall be provided to the Board and an Inspector in writing as changes occur.</p>	REPORT SPILLS
26(1)(n) Methods and Techniques for Debris and Brush Disposal		
65.	The Permittee shall progressively dispose of all brush and trees; all disposal shall be completed prior to the end of this land-use operation.	BRUSH DISPOSAL/ TIME

66.	The Permittee shall not clear areas larger than identified in the complete application.	MINIMIZE AREA CLEARED
26(1)(o) Restoration of the Lands		
67.	All outstanding liabilities and obligations of the Permittee in relation to work performed or required to be performed under Land Use Permit MV2005C0032 are fully incorporated into and subsumed under this Permit, and the Permittee must therefore complete the restoration and other obligations set out in or incurred under Permit MV2005C0032, as well as such further obligations as may be set out in or incurred under this Permit.	TRANSFER OF LIABILITIES
68.	All areas affected by construction or removal activities shall be stabilized and landscaped to their pre-construction profiles, unless otherwise authorized in writing by an Inspector.	PRE- CONSTRUCTION PROFILES
69.	The Permittee shall dispose of all Overburden as approved by the Board, or as otherwise authorized in writing by an Inspector.	DISPOSAL OF OVERBURDEN
70.	The Permittee shall save the organic soil stripped from the land-use area and shall use the organic soil for reclamation as approved by the Board, or otherwise authorized in writing by an Inspector.	SAVE AND PLACE ORGANIC SOIL
71.	Prior to the end of the land-use operation, the Permittee shall level all stockpiles of granular material located within the land-use area.	LEVEL STOCKPILES
72.	Prior to the end of the land-use operation, the Permittee shall complete all cleanup and restoration of the lands used.	FINAL CLEANUP AND RESTORATION
73.	Prior to the end of the land-use operation, the Permittee shall prepare the site in such a manner as to facilitate natural revegetation.	NATURAL VEGETATION
74.	The Permittee shall carry out progressive Reclamation of disturbed areas as soon as it is practical to do so.	PROGRESSIVE RECLAMATION
75.	Prior to the end of the land-use operation, the Permittee shall restore any trails impacted by the land-use operation by removing fallen trees and any other obstructions from the trails.	TRAILS RESTORATION
76.	The Permittee shall comply with the Interim Closure and Reclamation Plan , as approved by the Board, and submit any revisions upon request of the Board. Revisions of the plan shall be submitted to the Board for approval.	INTERIM CLOSURE AND RECLAMATION PLAN
77.	A minimum of two years prior to the end of commercial Operations, the Permittee shall submit a Final Closure and Reclamation Plan to the Board for approval.	FINAL CLOSURE AND RECLAMATION PLAN
78.	The Permittee shall implement the Final Closure and Reclamation Plan, as approved by the Board, and submit any revisions upon request of the Board. Revisions of the plan shall be submitted to the Board for approval.	FINAL CLOSURE AND RECLAMATION PLAN

26(1)(p) Display of Permits and Permit Numbers

79. The Permittee shall display a copy of this Permit in each campsite established to carry out this land-use operation. **DISPLAY PERMIT**

26(1)(q) Biological and Physical Protection of the Land

80. The Permittee shall comply with the **Engagement Plan**, once approved, and shall annually review the plan and make any necessary revisions to reflect any changes in Operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. **ENGAGEMENT PLAN**
81. The Permittee shall comply with the **Vegetation and Soils Monitoring Program**, once approved, and shall annually review the program, and make any necessary revisions to reflect any changes in Operations or as directed by the Board. Revisions of the program shall be submitted to the Board for approval. **VEGETATION AND SOILS MONITORING PROGRAM**
82. If any plan is not approved by the Board, the Permittee shall revise the plan according to the Board’s direction and re-submit it to the Board for approval. **RESUBMIT PLAN**
83. All revised plans and programs submitted to the Board shall include a brief summary of the changes made to the plans and programs. **SUMMARY OF CHANGES**
84. Beginning March 31, 2015 and no later than every March 31 thereafter, the Permittee shall submit an **Annual Land Use Permit Report** to the Board, which shall contain a table detailing all commitments listed in the Report of Environmental Impact Review that are related to the content of this Permit, with descriptions of how each commitment is being or has been met. **ANNUAL REPORTING**

Annex A: Concordance Table of Items Requiring Submission

Supplemental information to be submitted by Permittee as required through Land Use Permit Conditions.

Disclaimer: If there are any discrepancies between this table and the body of the Permit, the Permit conditions prevail.

Permit Condition(s)	Report, Plan or Program Required	Due Date
33	Erosion and Sediment Management Plan	- Annual review
38	Explosives Management Plan	- Annual review
40	Waste Management Plan	- Annual review
60	Spill Contingency Plan	- Annual review
76	Interim Closure and Reclamation Plan	- As directed by the Board
77	Final Closure and Reclamation Plan	- A minimum of two years prior to the end of commercial Operations for Board approval
80	Engagement Plan	- Annual review
81	Vegetation and Soils Monitoring Program	- Annual review
84	Annual Land Use Permit Report	- March 31, 2015 - Annual on each March 31

Annex B: Revisions to Land Use Permit MV2021D0009

List of changes that have been made to the Land Use Permit since issuance.

Date	Location of change	What has changed



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Reasons for Decision

Issued pursuant to paragraph 40(2)(c) of the Mackenzie Valley Land Use Regulations (MVLUR)

Land Use Permit Renewal Application	
Preliminary Screener	MVLWB
Reference/File Number	MV2021D0009
Company	De Beers Canada Inc.
Project	Gahcho Kué Project – Kennady Lake, NT
Date of Decision	June 24, 2021

These Reasons for Decision set out the Mackenzie Valley Land and Water Board's (the Board or MVLWB) decision on a Renewal Application made by De Beers Canada Inc. (De Beers) to the Board on May 5, 2021, for Land Use Permit (Permit) MV2021D0009.

1.0 Background

On November 24, 2005, De Beers submitted applications to support the development of open pits and diamond mine processing facility at Gahcho Kué. The applications were circulated for review and comment, and subsequently referred to the Mackenzie Valley Environmental Impact Review Board (Review Board) for Environmental Assessment by Environment Canada on December 22, 2005.

On January 4, 2006, the Review Board commenced Environmental Assessment 0506-008. On June 12, 2006, the Review Board ordered Environmental Impact Review 0607-001. On July 19, 2013, the Review Board released their Report of Environmental Impact Review and Reasons for Decision and on October 22, 2013, the Minister of Aboriginal Affairs and Northern Development Canada approved Environmental Impact Review 0607-001 and the MVLWB resumed its regulatory process.

The Board approved and issued Permit MV2005C0032 to De Beers for 5 years on August 11, 2014. On May 1, 2019, the Board approved a 2-year extension to Permit MV2005C0032 with an expiry date of August 10, 2021.

On May 5, 2021, De Beers submitted a renewal application for Permit MV2005C0032 to continue mining activities associated with the Gahcho Kué Project. De Beers did not propose any changes to the scope or conditions the current Permit. De Beers requested that conditions in the renewed Permit be consistent with Permit MV2005C0032.

Following the commencement of the review, Board staff received notification on May 20, 2021, that the code issued to the initial renewal application, MV2021C0009, should be reclassified as a Mining and Milling permit, MV2021D0009, as it was more reflective of the current operation. Board staff reclassified the code from a 'C' (Mining Exploration) to 'D' (Mining).

De Beers has applied for a term of five years, to carry forward from August 11, 2021 (Permit MV2005C0032 expiry date) to August 10, 2026.

2.0 Public Review

On May 17, 2021, review of the Renewal Application commenced. By June 8, 2021, comments and recommendations were received from 5 Parties:

- Tłı̨chǫ Government
- Government of the Northwest Territories – Environment and Natural Resources
- Government of the Northwest Territories – Department of Lands
- Government of the Northwest Territories – Department of Lands – Inspector
- Board staff

De Beers responded by June 11, 2021, and the Renewal Application was presented to the Board for decision on June 24, 2021.

3.0 Adequacy of Management Plans

An updated Waste Management Plan was submitted by De Beers. During the review period, Board staff commented (comment ID-3) that Figures 1 and 2 were missing. De Beers responded by submitting an updated Waste Management Plan with the missing figures.

Other approved management and monitoring plans associated with Permit MV2005C0032 were referenced, with De Beers noting that no changes were required. Below is a list of documents under Permit MV2005C0032:

- Engagement Plan (V2 MV2005C0032)
- Erosion and Sediment Management Plan (V4 MV2005C0032)
- Explosives Management Plan (V4 MV2005C0032)
- Spill Contingency Plan (V3.1 MV2005C0032)
- Vegetation and Soils Monitoring Plan (V3 MV2005C0032)
- Interim Closure and Reclamation Plan (V4.1 MV2005C0032)

The Board has carried these approvals forward under the renewed MV2021D0009 Permit.

Wildlife Plan

During the initial regulatory process in 2014, the Board included a condition regarding the submission of a Wildlife and Wildlife Habitat Protection Plan which was not part of the then Standard Template, as the habitat protection measures, as outlined in the Plan, were within the Boards jurisdiction. Conditions 45 and 46 stated:

Prior to the commencement of the land-use operation, the Permittee shall submit a Wildlife and Wildlife Habitat Protection Plan (WWHPP) to the Board. The Permittee shall not commence this land-use operation until the Habitat protection measures outlined in the Plan have been approved by the Board.

The Permittee shall operate in accordance with the Habitat protection measures in the Wildlife and Wildlife Habitat Protection Plan, once approved, and shall annually review the Plan and make any necessary revisions to reflect any changes in Operations or as directed by the Board. Revisions to the Plan shall be submitted to the Board and any revisions to the Habitat protection measures outlined in the Plan shall be for approval by the Board.

On [September 10, 2014](#), the Board approved the Wildlife and Wildlife Habitat Protection Plan (Version 3) and requested De Beers to resubmit an updated version to address the comments and recommendations submitted. On [October 22, 2014](#), De Beers submitted the Wildlife and Wildlife Habitat Protection Plan (Version 3.1).

On [October 7, 2020](#), the Government of the Northwest Territories sent a letter to De Beers outlining the requirement of a Wildlife Management and Monitoring Plan, as per Section 95(1) of the *Wildlife Act*, for the Gahcho Kué mine. The letter acknowledges that De Beers already had a Wildlife Effects Monitoring Plan in place, as well as a Wildlife and Wildlife Habitat Protection Plan as required by Permit MV2005C0032 and that it would be considered that these two plans would constitute a Wildlife Management and Monitoring Plan for the purpose of the new *Wildlife Act*. The Government of the Northwest Territories also noted that they would provide De Beers with a written notice of approval, conditional approval, or rejection of the Wildlife Management and Monitoring Plan.

De Beers submitted Version 1 of its Wildlife Management and Monitoring Plan on April 26, 2021, under condition 46 of Permit MV2005C0032. This Wildlife Management and Monitoring Plan was previously referred to as the Wildlife and Wildlife Habitat Protection Plan (up to Version 3.1), as per Permit MV2005C0032. On April 30, 2021, the public review commenced for the Wildlife Management and Monitoring Plan.

On May 5, 2021, De Beers submitted their Renewal Application. In the Draft Permit Conditions, created by Board staff, a comment was added to the Wildlife and Wildlife Habitat Protection Plan conditions seeking comment on the removal of the conditions in light of the new requirement for a Wildlife Management and Monitoring Plan under section 95 of the *Wildlife Act*.

The GNWT-Inspector submitted a comment and recommendation that as the conditions, associated with the Wildlife and Wildlife Habitat Protection Plan, require planning under Section 95 of the *Wildlife Act*, that they should be removed from the Permit. In response, De Beers supported a streamlined regulatory process, and the wildlife and wildlife habitat management and monitoring should be managed under GNWT through the *Wildlife Act*.

4.0 Security

De Beers did not request a change in the currently set security.

The GNWT currently holds \$39,044,817 under Permit MV2005C0032 in reclamation security for the Gahcho Kué Project. De Beers' next deposit of security (in the amount of \$3,301,375) is due prior to year 11 of Operations (coincides with the end of Mining of 5034 Pit; Year 10, 2026).

The status of security has not been affected by this Renewal Application.

5.0 Decision

In rendering its decision, the Board is satisfied that:

- notice of the Application was given in accordance with sections 63 and 64 of the MVRMA. The Board is satisfied that a reasonable period of notice was given to communities and First Nations so comments could be provided to the Board;
- the development was screened by the MVLWB on September 17, 2020, pursuant to subsection 124(1) of the MVRMA and has therefore been exempt from screening pursuant to Part 1 of Schedule 1 (Section 2) of the Exemption List Regulations;

- any potential adverse environmental effects are insignificant or mitigable with known technology; and
- there is no likelihood that the proposed development might be a cause of public concern.

After reviewing the evidence and submissions of the Applicant, the written comments and submissions received by the Board and the Staff Report prepared for the Board, the Board, having due regard to the facts, circumstances, the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA and Regulations made thereunder, has determined that Land Use Permit MV2021D0009 be issued subject to the term, scope, definitions, and conditions contained therein. The Board’s determinations and reasons for this decision are set out below.

- The Board is satisfied that appropriate consultation has been conducted and that advice has been sought and considered, in accordance with sections 63 and 64 of the MVRMA.
- The use of land proposed by the Applicant is of a nature contemplated by the MVRMA.
- The operation will likely contribute to the socio-economic well-being and economic development of the region.
- The Board has reviewed the information contained in the June 17, 2021, Staff Report regarding environmental impacts and/or public concerns.
- The scope of the Permit ensures De Beers Canada Inc. is entitled to conduct activities which have been applied for and screened by the Board. In setting the scope, the Board endeavored to provide enough detail to identify and describe the authorized activities without being unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Permit.
- The conditions set forth in the Permit have been imposed to address the Board’s statutory responsibilities and ensure the land-use operation is conducted in a manner which ensures impacts to surrounding lands and waters are minimized.
- The Board has approved the Waste Management Plan, Version 5.6, as it meets the applicable guidelines and sufficiently reflects the scope of the proposed activities.
- The Board had determined that the requirement for a wildlife plan, as a condition of the previous Permit, MV2005C0032, is no longer required. The GNWT has determined that a Wildlife Management and Monitoring Plan in accordance with the subsection 95(1) of the *Wildlife Act* is required, and will provide written notice of approval, conditional approval, or rejection.
- The definitions and conditions in the Permit are from the MVLWB’s *Standard Land Use Permit Conditions Template* (Standard Template) and are not discussed in detail in these reasons unless notable due to recommendations or concerns raised by reviewers. After considering the information gathered through the public review, the Board made the following changes, with rationale, to the conditions:

Condition	Change	Rationale
Definition: Spring Break-up	Definition was previously a condition in Permit MV2005C0032.	<p>Spring Break-up is not intended to mean freshet. Spring Break-up is intended coincide with the closure of ice roads to prevent degradation of lands. The spur road leading to the site would typically be closed before or at the same time as the Joint Venture road.</p> <p>The existing April 25 date is appropriate as the associated Conditions require De Beers to:</p> <ul style="list-style-type: none"> -Notify the Inspector when equipment and materials would be removed and when cleanup would take place so they may conduct an inspection, and

		-Remove or v-notch the ice bridges and snowfills from stream crossing to prevent pollution or the alteration of drainage in streams.
REPORTS BEFORE SEASONAL REMOVAL	Condition has been added from the Standard Land Use Permit Template.	The intent of this condition is to inform an Inspector when equipment and materials would be removed and when cleanup would take place, if necessary, so they may conduct an inspection. As De Beers operates a spur road seasonally, this standard condition is appropriate.
FUEL CONTAINER STANDS	Condition has been removed.	Inspector recommended removal as it was unnecessary.
MAXIMUM FUEL ON SITE	Condition has been added from the Standard Land Use Permit Template.	The intent of this condition is to ensure that the amount of fuel stored is consistent with the amount identified in the application as the liability on site, which is linked to the requirement for a security deposit, depends in part on the maximum amount of fuel on site at any time. In addition, the potential for impacts from spills, including worst-case scenarios, is sensitive to the maximum amount of fuel on site at any time. Using the amounts listed in the RECLAIM model for calculating the maximum amount of fuel to be stored on site is appropriate.

6.0 Conclusion

Land Use Permit MV2021D0009 contains provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA and the Regulations made thereunder, and to provide appropriate safeguards in respect of De Beers Canada Inc. use of the land affected by the Permit.

SIGNATURE

Mackenzie Valley Land and Water Board

Mavis Cli-Michaud, Chair

June 24, 2021

Date