

Review Comment Table

Board:	WLWB
Review Item:	Ekati - Pigeon and Sable Haul Road Land Use Permit - Renewal (W2016F0006)
File(s):	W2016F0006
Proponent:	Dominion Diamond Ekati Corporation
Document(s):	Pigeon and Sable Haul Road - Land Use Permit Application (1 MB) Pigeon and Sable Haul Road - Application Complete - Letter (0.5 MB) Pigeon and Sable Haul Road - Draft Land Use Permit (0.5 MB) Pigeon and Sable Haul Road - GIS data (0.6 MB)
Item For Review Distributed On:	June 8 at 16:39 Distribution List
Reviewer Comments Due By:	June 29, 2016
Proponent Responses Due By:	July 6, 2016
Item Description:	<p>Dominion Diamond Ekati Corporation (DDEC or Ekati) submitted a land use permit application for renewal of the Pigeon and Sable Haul Road Land Use Permit W2008F0009 on May 30th, 2016. The activities applied for within this application include:</p> <ul style="list-style-type: none"> • construction of a haul road to Sable Pit area; • construction of caribou crossings; • construction/installation stream crossings; • development of a spur road to Falcon Lake for road dewatering purposes; and • installation of a communications (repeater) tower which consists of a mobile trailer unit to be placed just off the road near the Pigeon culvert. <p>DDEC has referenced its Waste Management, Spill Contingency, and Engagement Plans within the application, which have been approved under the Ekati Water licence W2012L2-0001.</p>

Contact Information:	<p>A draft Land Use Permit has been included with this item for review. All standard land use permit conditions have been updated to reflect the current MVLWB's Standard Land Use Permit Conditions Template (highlighted in green). Older conditions that have been removed from the standard conditions list have been removed from this land use permit. Non-standard conditions specific to this land use operation have been maintained, as is applicable. The purpose of this draft Land Use Permit is to allow parties to comment on Board staff's suggested conditions. These draft materials are not intended to limit in any way the scope of parties' comments. The Board is not bound by the contents of the draft Permit and will make its decision at the close of the proceeding on the basis of all the evidence and arguments filed by all parties.</p> <p>For renewal applications to be exempt from preliminary screening, the development must not have been modified and must have previously undergone the screening/assessment process as required by Part 5 of the MVRMA. WLWB staff believe all activities in this application are exempt from preliminary screening as the listed activities are the same as those screened in 2001.</p> <p>Reviewers are encouraged to ask questions and provide comments and recommendations on the content of the Land Use Permit applications and the Draft Land Use Permit conditions prior to the reviewer comment deadline.</p>
Contact Information:	<p>Elissa Berrill 867-765-4581 Roberta Judas 867-713-2500</p>

Comment Summary

GNWT - ENR: Central Email GNWT				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
1	General File	Comment (doc) No Comment Letter Recommendation		
GNWT - Lands: Marty Sanderson				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
2	GNWT Lands Comments	Comment The Sable Haul Road development is not within the surface leases held by DDEC for the Ekati site. If DDEC develops permanent structures on or along the Sable Haul road, the	July 6: Acknowledged. Thank you for your comments.	

		Department of Lands will require a land tenure application from DDEC. Recommendation The activities as part of this operation can be covered under the Land Use Permit. Land tenure is not required at this time.		
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GNWT - Lands: Pat Knutson

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
1	W2016F0006 LUPA comments	Comment (doc) Lands and Mining have reviewed the LUPA. Recommendation Please see the attached letter for specific comments.	July 6: (doc) DDEC acknowledges that there are no concerns from the GNWT.	

Independent Environmental Monitoring Agency: Marc Casas

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
3	General File	Comment (doc) Agency letter regarding Pigeon Haul Road LUP Recommendation		
2	Caribou Crossing Plan	Comment The Caribou Crossing Plan should include input from other interested parties in addition to Aboriginal Organizations and Governments. Condition 19 of the draft LUP states that: <i>Prior to construction of caribou crossings, the Permittee shall submit a plan showing the location and design of caribou crossings which incorporates input from Aboriginal organizations to the Board. The Permittee shall ensure caribou crossings are constructed in accordance with the Plan. While the Agency recognizes the importance of discussing and receiving input from</i>	July 6: As written, Condition 19 does not preclude any parties from providing input on the Plan, but rather places emphasis on the importance of collaboration with Aboriginal organisations in selecting the location and design of caribou crossings. DDEC has in place a Caribou and Roads Engagement Program where community members, (Elders and land users) review caribou crossings on-site on the current roads. Over the years, Elders and land users selected the location of crossings along the Misery, Lynx and Sable roads. Annual follow up monitoring and site visits did not identify any additional sections of the road that were frequently used by caribou that did not already have crossings and six years of camera monitoring results at the Ekati mine support the value of Traditional	

		<p>Aboriginal Organizations and Governments, we feel that other groups including the Agency and GNWT should also be solicited for input regarding the Caribou Crossing Plan.</p> <p>Recommendation The condition be reworded to include other parties in addition to Aboriginal Organizations and Governments.</p>	<p>Knowledge about the movement of caribou in helping direct the placement of caribou crossings. DDEC is of the opinion that the inclusion of additional parties in Condition 19 is unnecessary and may serve to undermine established working relationships that have proven effective.</p>	
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North Slave Metis Alliance: Shin Shiga

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
1	General comments re: caribou mitigations and TK Elders Group	<p>Comment (Submitted after Due Date) The recent Report of Environmental Assessment respecting the Proponent's proposed Jay Project included establishment of Traditional Knowledge Elders Group (Measure 6.5). The Measure was in recognition of the significant adverse impacts on Bathurst Caribou, and of need for improvement in how TK was incorporated by the Proponent. The Measure set out minimum requirement for the TK Elders Group to provide advises respecting the Jay Project. However, NSMA is of the view that the TK Elders Group is an excellent vehicle to provide TK input into all aspects of Ekati Mine, and not limited only to the Jay Project.</p> <p>Recommendation NSMA recommends that the TK Elders Group should be consulted respecting the road and caribou crossing designs of Sable Haul Road.</p>	<p>July 6: The design of the Sable Haul road and its associated crossings was completed based on engagement with elders and land users. Input was provided on the locations of the crossings and their initial design, with the understanding that there will be further review at site and discussion on improvements that might be required as part of the Caribou and Roads Engagement Program. DDEC believes that it is important to complete the process with TK experts provided by each of the IBA groups. The Traditional Knowledge Elders Group formed from the Jay Environmental Assessment Measures will be used to advise on where TK can be incorporated into Jay Project and the operations. TK shared for the Jay project will be applied as applicable across the site.</p>	

WLWB: Roberta Judas

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
1	DRAFT LUP - Condition #19 - Caribou Crossings Plan	<p>Comment On February 16, 2016, DDEC submitted caribou crossing information for the Pigeon and Sable Haul Road to the WLWB. This included explanation of chosen crossing design elements, input received from aboriginal communities, and design drawings. DDEC also provided a map indicating potential locations for caribou crossings on Pg. 4 of the Plan. The condition included in the Draft Land Use Permit requires submission of locations and design elements of the caribou crossings.</p> <p>Recommendation Has DDEC selected the final locations for the Caribou Crossings along the Sable Haul Road? If so, provide a map indicating where they will be located with supporting rationale. If not, when does DDEC anticipate this information will be available?</p>	<p>July 6: DDEC submitted information on the caribou crossing for the Sable Haul road on Feb 16, 2016. This included the engagement and locations of caribou crossing. Information on caribou crossings can be found at http://www.mvlwb.ca/Boards/WLWB/Registry/2008/W2008F0009/W2008F0009%20-%20Ekati%20-%20Sable%20Haul%20Road%20-%20Caribou%20Crossings%20-%20Feb%2016_16.pdf</p>	



June 29, 2016

Roberta Judas
Wek'eezhii Land and Water Board (WLWB)
PO Box 32
WEKWEETI, NT X0E 1W0

Dear Ms. Judas:

Land Use Permit Application: W2016F0006

Type of Operation: Dominion Diamonds Ekati Corp. (DDEC)
Location: Haul Road - Pigeon and Sable
Ekati Mine, NT

The Government of the Northwest Territories (GNWT) reviewed Land Use Permit Application W2016F0006 and recommends that the permit be granted.

Our Inspector Marty Sanderson, has reviewed the LUPA and has no comments to provide.

Comments received from Territorial Lands Administration and the Mining Recorder's Office indicate no concerns regarding this LUPA as DDEC currently holds leases and all mineral rights for the prescribed area.

Thank you for the opportunity to comment on this application. Should you have any questions or concerns regarding our comments, please contact our Inspector, Marty Sanderson, at (867) 767-9187 ext. 24186.

Sincerely,

Scott Stewart
Regional Superintendent
North Slave Region

c. North Slave Region (Yellowknife), Department of Lands, GNWT

pk



INDEPENDENT ENVIRONMENTAL MONITORING AGENCY

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June 28, 2016

Violet Camsell-Blondin
Chair, Wek'eezhii Land and Water Board
#1-4905 48th St, Yellowknife, NT
X1A 3S3

Dear Ms. Camsell-Blondin,

Re: Pigeon Haul Road Land Use Permit (LUP) Renewal

The Independent Environmental Monitoring Agency (Agency) has reviewed the Pigeon Pit Haul Road Renewal Application and draft LUP and provides the follow comment for your consideration.

Caribou Crossing Plan

The Caribou Crossing Plan should include input from other interested parties in addition to Aboriginal Organizations and Governments. Condition 19 of the draft LUP states that:

Prior to construction of caribou crossings, the Permittee shall submit a plan showing the location and design of caribou crossings which incorporates input from Aboriginal organizations to the Board. The Permittee shall ensure caribou crossings are constructed in accordance with the Plan.

While the Agency recognizes the importance of discussing and receiving input from Aboriginal Organizations and Governments, we feel that other groups including the Agency and GNWT should also be solicited for input regarding the Caribou Crossing Plan.

Recommendation: The condition be reworded to include other parties in addition to Aboriginal Organizations and Governments.

Should you have any questions concerning these comments, the Agency would be pleased to discuss these at your convenience.

Sincerely,

A handwritten signature in blue ink, reading "Jaida Ohokannoak", with a long horizontal flourish extending to the right.

Jaida Ohokannoak
Chairperson

Cc: DDEC – April Hayward
Tlcho Government - Sjoerd van der Wielen
Yellowknife Dene First Nation – Alex Power
Lutsel K'e Dene First Nation – Lauren King
North Slave Metis Alliance – Shin Shiga
Kitikmeot Inuit Association – Jared Ottenhof
Government of the Northwest Territories – Laurie McGregor
Indigenous and Northern Affairs Canada – Jennifer O'Neil

From: [Boettger, Lynn](#)
To: [Elissa Berrill](#)
Cc: [Roberta Judas](#); [Sarah Elsasser](#); [Meghan Schnurr](#); [Spencer, Nicole](#); [O'Keefe, Harry](#); [Hayward, April](#)
Subject: RE: Pigeon and Sable Road - Response to Reviewer comments re: Caribou Crossing locations
Date: July-08-16 8:55:57 AM

Hi Elissa –

My apologies for not getting back to you yesterday and I know you are waiting on this but it's maybe not such a straightforward answer!

The caribou crossing locations along the Pigeon and Sable Haul Road were identified by community members and this is what is presented in the February 16, 2016 documentation. We can confirm that the caribou crossings will be constructed/are being constructed as per the details on the design and in the indicated locations as presented in the February 16, 2016 documentation (http://www.mvlwb.ca/Boards/WLWB/Registry/2008/W2008F0009/W2008F0009%20-%20Ekati%20-%20Sable%20Haul%20Road%20-%20Caribou%20Crossings%20-%20Feb%2016_16.pdf) .

However, throughout the inspection of the Sable Haul Road route that occurred in August of 2015, community members consistently stated that crossings need to be built during the construction of Sable Haul Road and indicated that they could not be confident making final recommendations on the exact location (i.e., to the meter) or properties (i.e., slope and width) of a crossing until the road was constructed. Dominion Diamond committed to bringing community members back to site to inspect the constructed crossings to ensure adequate crossing width, that the slope of crossing allows for safe movement of caribou, and that the surface of crossing is adequately smooth for caribou, and more generally that what was said the year before (2015) has been implemented. Crossings will be improved as recommended at this time. So, there is the chance that some of the details surrounding these crossings may change and that may include the location. In terms of the availability of this information, all we can say is that it will be available after community members visit site and inspect these caribou crossings (tentatively we are thinking this visit will occur in September but it's not been planned as of yet).

I know you are trying to relate this back to condition 19 in the draft LUP. In looking at it, saying "prior to construction" doesn't really work considering the approach that is being taken here and which was the strong preference of community members. In a sense, condition 19 has already been met and the remaining consultation will result in completion of the caribou crossings plan. Perhaps something more along the lines of once everything has been finalized and built we then need to submit that information to the Board.

Thanks for asking for the clarification. I hope this is helpful!

Have a good weekend,
Lynn

Lynn Boettger, BES, EP

Team Leader - Environmental Permitting
Environment and Communities



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From: Elissa Berrill [mailto:eberrill@wlwb.ca]

Sent: Thursday, July 07, 2016 12:25 PM

To: Boettger, Lynn <Lynn.Boettger@ekati.ddcorp.ca>

Cc: Roberta Judas <rjudas@wlwb.ca>; Sarah Elsasser <selsasser@wlwb.ca>; Meghan Schnurr <mschnurr@wlwb.ca>; Spencer, Nicole <Nicole.Spencer@Ekati.DDCORP.CA>

Subject: Pigeon and Sable Road - Response to Reviewer comments re: Caribou Crossing locations

Hi Lynn,

In review of DDEC's responses on the Pigeon and Sable Haul Road, Board staff would like to clarify DDEC's response to Board staff's question regarding final locations for the caribou crossings along the Pigeon and Sable Haul Road (WLWB Staff comment #1).

Board staff acknowledged in the comment provided on the ORS that DDEC has submitted details on the design and locations of caribou crossings on February 16, 2016. In this document, DDEC included a map which outlines *potential* locations for caribou crossings along the Pigeon and Sable Haul Road (indicated with blue circles and defined in the legend). Board staff's comment on the ORS was meant to confirm whether the locations for the crossings have now been finalized.

Could DDEC please confirm whether final locations for caribou crossings have now been determined? If they have changed from the figure provided on February 16, 2016, please provide an updated map. If locations have not been finalized, please indicate when DDEC believes this

information will be available, if possible.

Thank you,

Elissa Berrill, M.Sc.

Regulatory Specialist

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