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

Land Use Permit Application	
Preliminary Screener	Wek'èezhii Land and Water Board
Reference/File Number:	W2017C0005
Applicant:	Margaret Lake Diamonds Inc.
Project:	Diagras Project - Mineral Exploration

Decision from the Wek'èezhì Land and Water Board Meeting of December 13, 2017

1.0 Decision

On December 13, 2017, the Wek'èezhì Land and Water Board (the Board) met to consider the Land Use Permit (LUP) Application W2017C0005 by Margaret Lake Diamonds Inc. (Margaret Lake Diamonds) for the purpose of mineral exploration; operation and maintaining a temporary camp; establishment of fuel storage; and use of vehicle and equipment in the Hardy Lake Area, NT. With respect to this application, notice was given in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA). There was no public hearing held in association with this application. At this time, the Board is satisfied that:

- the Project has been screened pursuant to section 124(1) of the MVRMA;
- any potential adverse environmental effects are insignificant or mitigatable with known technology; and
- the Project is not likely to be a source of public concern.

After reviewing the submission by the Applicant, the written comments received by the Board, and the Preliminary Screening, the Board, having due regard to the facts and 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 to:

- ***Issue Land Use Permit W2017C0005 subject to the terms and conditions contained therein.***

In addition, the Board has decided to:

- Approve Version 1.0 of the Waste Management Plan and requires Version 1.1, with minor corrections as noted by Deninu K'ue First Nation (DKFN) in their review comment 5, to be submitted to the Board prior to commencement of activities;

- Approve Version 1.0 of the Spill Contingency Plan and require Version 1.1, with changes as noted by Government of Northwest Territories Department of Lands (comment 1) and Government of Northwest Territories Department of Environment and Natural Resources (comment 9), to be submitted to the Board prior to commencement of activities;
- Approve Version 1.0 of the Engagement Plan and require an updated Engagement Plan (Version 2.0) with an updated Engagement Record be submitted prior to the commencement of activities, which reflects, at minimum, the details of a face-to-face meeting with DKFN, and further discussions with DKFN and North Slave Metis Alliance (NSMA) regarding wildlife concerns;
- Approve Version 1.0 the Closure and Reclamation Plan;
- Request that Margaret Lake Diamonds also work with parties such as the GNWT-ENR and Environment and Climate Change Canada (ECCC) regarding wildlife management and monitoring requirements and mitigation techniques,
- Request that Margaret Lake Diamonds Inc. work with the Fisheries and Oceans Canada (DFO) to gather information on the water intake activity and include their guidance into the operation;
- Request that Margaret Lake Diamonds Inc. register as a generator of hazardous waste with the GNWT;
- Determine the security amount for Land Use Permit W2017C0005 to be \$66,876.56; and
- Request that Margaret Lake Diamonds Inc. submit the Geographic Information Systems (GIS) data for the project should it be acquired in the future.

2.0 Background

On October 23, 2017,¹ Margaret Lake Diamonds submitted a Land Use Permit Application to the Board to conduct mineral exploration in the Hardy Lake area, NT - approximately 35 kilometers northeast of the Diavik Diamond Mine and 35 kilometers east of the Ekati Diamond Mine. The purpose of the mineral exploration is to conduct prospecting, mapping, till sampling, ground and airborne geophysics, diamond core drilling and reverse circulation drilling, as well as to operate and maintain a temporary exploration camp. The project is a joint venture between Margaret Lake Diamonds Inc. and Arctic Star Exploration Corporation. Along with its application, Margaret Lake Diamonds submitted an Engagement Plan, Spill Contingency Plan, Waste Management Plan, and a Closure and Reclamation Plan.

The application was deemed complete and was distributed to the 'Wek'èezhii East' distribution list on November 2, 2017 for public review. Reviewers were requested to submit comments and recommendations on the complete application and to assist with the completion of the Preliminary Screening. A draft Land Use Permit was prepared by Board staff using the *MVLWB Standard Land Use Permit Conditions Template*; the draft Land Use Permit was included in the Item for Review. Also provided in the Item for Review was additional information requested regarding water usage and evidence to support the Applicant's claim to dispose of solid waste into the Yellowknife Solid Waste Facility.^{2,3}

¹ See WLWB (www.wlwb.ca) Online Registry for [W2017C0005 – Margaret Lake Diamonds – LUP Application – Oct 23 17](#)

² See WLWB Online Registry for [W2017C0005 - Margaret Lake Diamonds - LUP Application - Additional Information Re Water Usage - Oct 29 17](#)

Comments were received by the review deadline of November 23, 2017, from Deninu K'ue First Nation (DKFN), Environment and Climate Change Canada (ECCC), Fisheries and Oceans Canada (DFO), the Government of Northwest Territories Department of Education Culture and Employment (GNWT-ECE), the GNWT Department of Environment and Natural Resources (GNWT-ENR), the GNWT Department of Lands (GNWT-Lands), the GNWT-Lands Inspector, and North Slave Metis Alliance (NSMA). Proponent responses were received by the deadline of November 30, 2017.⁴

3.0 Reasons for Decision

Comments were received on various topics including: waste management, spill contingency planning, water usage, engagement, protection of archaeological resources, and wildlife management. Potential impacts and their proposed mitigations have been documented in the Preliminary Screening Form and Land Use Permit, as described in more detail below.

3.1 Preliminary Screening

A Preliminary Screening was conducted on December 13, 2017.⁵ The Board confirmed that the scope of activities for Margaret Lake Diamonds Inc. are standard for this type of application and believed the development is not likely to have a significant adverse impact on the environment or be a cause for public concern.

3.2 Land Use Permit

No concerns that could not be mitigated by terms or conditions of the Land Use Permit were raised to indicate that the Board should not issue Permit W2017C0005.

➤ ***The Board has decided to issue Land Use Permit W2017C0005 for a period of 5 years.***

3.2.1 Scope

The Land Use Permit W2017C0005 will allow the Permittee to conduct the following land use operation:

- a. operation and maintenance of a camp;
- b. prospecting, mapping, till sampling, ground and airborne geophysics, diamond core and reverse circulation drilling; and
- c. establishment of a petroleum fuel storage facilities; and
- d. use of vehicles and equipment.

With the exception of the “use of vehicles and equipment”, the above list was reflected in the scope of the draft Permit that was distributed for public review. The Board added the “use of vehicles and equipment” following the GNWT-Lands Inspector’s recommendation in the public review.

3.2.2 Conditions

Together with the item for review, a draft Land Use Permit with standard conditions from the *MVLWB Standard Land Use Permit Conditions Template*, was distributed for public review.

³ See WLWB Online Registry for [W2017C0005 - Margaret Lake Diamonds - LUP Application - Additional Information Re Approval to Dispose at YK SWF - Oct 31 17](#)

⁴ See WLWB Online Registry for [W2017C0005 – Margaret Lake Diamonds – LUP Application – Review Summary and Attachments – Nov 30 17](#)

⁵ See WLWB Online Registry for [W2017C0005 – Margaret Lake Diamonds – Preliminary Screening – Dec 13 17](#)

The GNWT-Lands Inspectors (GNWT-Lands Clint Ambrose comment 1; GNWT-Lands Pat Knutson comment 1) provided comments, pertaining to the standard conditions to the draft Land Use Permit distributed with the Item for Review, requesting that some of the conditions be removed completely and/or replaced with more appropriate conditions, and proposed additional conditions be included Land Use Permit. The Board agreed with the GNWT-Lands recommendations.

In an attachment provided with their review comments, the GNWT-ECE (GNWT-ECE comment 1) has also requested the inclusion of two conditions. The details for the inclusion of these two conditions are discussed in Section 3.4.3 below.

3.3 Management Plans

3.3.1 Waste Management Plan

Many of the waste management concerns raised in the public review have been addressed in the Waste Management Plan (GNWT comment 3, 4, 29-33) or in other correspondence (GNWT-ENR comment 1).

In their comments, DKFN noted that (DKFN comment 5) that the word ‘should’ be removed to ensure that the proponent adheres to the actions outlined in the proposed Waste Management Plan. Margaret Lake Diamonds agreed to adjust the wording to reduce room for interpretation and the Board believes these changes be reflected in Version 1.1 of the Waste Management Plan.

- ***the Board has approved Version 1.0 of the Waste Management Plan, and requires Version 1.1, with minor corrections as noted by DKFN (DKFN comment 5), be submitted to the Board prior to commencement of activities.***

3.3.2 Spill Contingency Plan

GNWT-ENR (GNWT-ENR comment 9) recommended that “all reasonable efforts must be made to notify any parties affected or potentially affected by the spill.” GNWT-ENR’s recommendation to notify any parties affected or potentially affected by the spill is helpful and is not already included in the proposed Version 1.0 of the Spill Contingency Plan. This information should be included in Version 1.1 of the Spill Contingency Plan.

In addition, GNWT-Lands (GNWT-Lands comment 1) noted that references to GNWT Department of Lands (rather than AANDC) needed to be updated. The proponent agreed to the changes and this information should be updated in Version 1.1 of the Spill Contingency Plan.

- ***the Board has approved Version 1.0 of the Spill Contingency Plan, and requires Version 1.1, with changes as noted by GNWT-Lands (GNWT-Lands Joseph Heron comment 1) and GNWT-ENR (GNWT-ENR comment 9), be submitted to the Board prior to commencement of activities.***

3.3.3 Engagement Plan

In their review comments, the DKFN (DKFN comment 1) stated that:

Pre-application engagement is critical to understanding the scope of the work and potential impacts to natural resources, as well as the infringement of Aboriginal rights. To date, communication between Margaret Lake Diamonds Inc. (MLD) and the DKFN has been through phone calls and emails. The latest communication from the MLD is that it

is finalizing its workplan for 2018 and will set up meetings with Aboriginal groups in the New Year.

The recommendation from DKFN was that “the land use permit not be issued until the DKFN Chief, Council and community have had a face-to-face meeting (engagement) with MLD”.

A review of the Engagement Record⁶ provided with the Application notes that a letter with a project description and indication of the company’s intent to apply for a Land Use Permit was sent to the Akaitcho IMA Implementation Office on August 18, 2017 and a follow-up call made on October 6, 2017. According to the Engagement Record, the response received to the phone call was that the letter would be forwarded to LKDFN, YKDFN, and DKFN.

The Engagement Record further notes that, on October 13, 2017, Rosy Bjornsen of DKFN indicated that the letter was briefly reviewed, and that DKFN “inquired as to what formal engagement plan the company has and was informed that it would be part of the formal LUP application documents and could be reviewed then. She also described the products and services applicable to exploration companies that were available from the community”. It is not clear to the Board why DKFN did not request a face-to-face meeting during pre-submission engagement.

The Board notes that the Boards’ *Engagement Guidelines*⁷ outline the possible engagement approaches based on the type of Board authorization. Regarding a new land use permit application, the Guidelines (Appendix B) note that a “meeting with designated individual of the affected party (e.g. telephone conversation, face-to-face)” is “required by the Board if a reasonable request has been made by the affected party and reasonable opportunity to meet is provided by the applicant”. In the case of DKFN, the Engagement Record notes that the applicant engaged in advance of the application but it wasn’t until the public review of the Application that DKFN requested a face-to-face meeting. Specifically, in the review comment provided on the application, DKFN noted that “pre-application engagement is critical to understanding the scope of the work and potential impacts to natural resources, as well as the infringement of Aboriginal rights”, and requested that the Board not issue the Land Use Permit.

The Boards’ engagement requirements provide parties with the opportunity to discuss potential concerns in advance of the application and during the life of the project. In the case of DKFN’s recommendation to not issue the Permit, the Board is of the opinion that further engagement between the company and DKFN is possible and can provide parties’ with the opportunity to address concerns related to the activities prior to the activities occurring. The Board requires that the parties’ further engage and that this update be reflected in an updated Engagement Plan and Engagement Record.

No other comments or concerns were raised with regards to the Engagement Plan.

- ***The Board has approved Version 1.0 of the Engagement Plan***
- ***The Board requires an updated Engagement Plan (Version 2.0) and an updated Engagement Record be submitted prior to the commencement of activities, which reflects, at minimum, the details of a face-to-face meeting with DKFN***

⁶ See WLWB Online Registry for [W2017C0005 – Margaret Lake Diamonds – Engagement Record – Version 1.0 – Oct 23 17](#)

⁷ See WLWB website under *Policy and Guidelines* for [MVLWB Engagement Guidelines for Applicants and holders of Water Licences and Land Use Permits \(2013\)](#)

3.3.4 Closure and Reclamation Plan

A Closure and Reclamation Plan was submitted with the Application and distributed for review. No comments were received about the Plan.

- ***the Board considers Version 1.0 of the Closure and Reclamation Plan approved***

3.4 Other Reviewer Comments

3.4.1 Generator of Hazardous Waste

The GNWT-ENR recommended that the Proponent demonstrate in the Waste Management Plan, or to the Board, that the receiving communities' Solid and Liquid Waste Disposal Facility holds a Water Licence that authorizes the disposal of any industrial waste streams originating from outside municipal boundaries (GNWT-ENR comment 1). The Board notes that this documentation was requested following receipt of the Application and was included in the Item for Review.

Comments were received regarding the requirement for the Applicant to register with the GNWT as a hazardous waste generator and it was recommended that the Board include a condition in the Permit that ensures any Proponent that utilizes, generates, transports, or deposits hazardous waste, register with ENR (GNWT-ENR comments 5 and 6). As stated by the GNWT (comment 5), it is a GNWT requirement that "all proponents that generate hazardous wastes must be registered as a generator of hazardous waste in the [Northwest Territories]", therefore, the Board is of the opinion that the responsibility of enforcing this requirement lies with the GNWT. The Board does, however, remind the Applicant of their obligation to register as a generator of hazardous waste with the GNWT.

- ***The Board requests that Margaret Lake Diamonds Inc. register as a generator of hazardous waste with the GNWT***

3.4.2 Water Usage

DFO submitted a comment regarding water usage (DFO comment 1), stating that the *Fisheries Act* requires projects to "avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada." DFO noted that "due to the limited information available on the water intake activity, regulatory review is required" and recommended that: "Additional information is required on the proposed water taking. This project has been sent to the Fisheries Protection Program Regulatory Review unit in Winnipeg for site specific review". In its response, the Applicant stated that it is "happy to provide additional information" and noted that "although there is no specific Recommendation, the company believes the question may pertain to water intake for camp and drill purposes. The Proponent will take measures to ensure that the intake hoses for both camp and drill water have appropriate screening and protection so as to prevent the incidental intake of fish".

The Board notes that DFO did not provide evidence that would indicate the potential for adverse impacts or cause the Board to believe that the Land Use Permit should not be issued. The Board requests that Margaret Lake Diamonds Inc. work with DFO to gather information on the water intake activity and incorporate their guidance into the operation.

- ***The Board requests that Margaret Lake Diamonds Inc. work with the Fisheries and Oceans Canada to gather information on the water intake activity and include their guidance into the operation.***

3.4.3 Protection of Historical, Archaeological, and Burial Sites

The GNWT-ECE (GNWT-ECE comment 1) noted that the project may place recorded and unrecorded archaeological sites at risk of impact and recommended that, in addition to the conditions outlined under Section 26(1)(j) of the draft land use permit, the following two standard conditions be required:

- At least 30 days prior to any new land disturbance, including new areas of borrow source extraction and new access routes, the Permittee shall conduct an Archaeological Overview to identify areas of high and low potential for archaeological and burial sites and shall submit a summary report to the Board and the Prince of Wales Northern Heritage Centre; and
- Prior to disturbance in areas of high potential for archaeological or burial sites identified in the Archaeological Overview, 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.

The Applicant responded that:

The claim area was previously investigated for archaeological content in 2003 via a field survey commissioned by the Prince of Wales Northern Heritage Center (PWNHC). This activity is documented in Survey Report; Thomson, C. "Archaeological Survey of Hardy Lake, NWT", Permit # 2003-928 where "...the team focused on areas of intensive exploration activity and eskers..." (<http://www.pwnhc.ca/cultural-places/archaeology-program/fieldwork-reports/2003-archaeological-reports/#tab-id-3>). Archaeological site locations have been provided to the company by the PWNHC. All activities will fall well beyond the minimum distance required from such identified sites. As an Archaeological Overview as well as follow up field investigations has already been conducted under the authority of the PWNHC, the Proponent feels that the requirement for an identical survey is redundant. The Proponent recommends that the Board accept the previous findings of the PWNHC and that all LUP activities conform to these findings.

In follow-up discussion with GNWT-ECE,⁸ it was explained that the study referred to by the proponent was a preliminary survey (and not an AIA) to assess the potential for archaeological sites in the area. Only select areas of the larger project area were surveyed. As noted by GNWT-ECE, because of the study, the author recommended that "given the density of sites and potential site areas identified during the recent field investigation, an archaeological assessment should be conducted in any area of project activity with potential for disturbance of archaeological resources prior to ground disturbance".

GNWT-ECE also noted that:

The proponent may wish to conduct an AIA without a prior AOA. We would encourage that an AOA study is completed, however, as this study greatly assists in first identifying areas of high vs low archaeological potential and is a relatively inexpensive desktop study. Completing an AOA prior to an AIA is generally a much more cost-efficient option

⁸ See WLWB Online Registry for [W2017C0005 – Margaret Lake Diamonds – LUP Application – GNWT-ECE Recommendations – Guidelines for Developers – Dec 4, 17](#)

for larger project areas, as it first narrows the scope of required fieldwork. The proponent does not necessarily then need to complete an AIA unless they are proposing ground disturbing activities in areas of high archaeological potential identified by the AOA.

Because of the potential for archaeological resources in the project area, the Board, therefore, decided that the conditions for Archaeological Overview and AIA – High Potential, as recommended by GNWT-EC, and consistent with the *MVLWB Standard Land Use Permit Conditions Template*, be included in Land Use Permit W2017C0005.

3.4.4 Wildlife Management

Several comments and recommendations were received with regards to wildlife management (DKFN comment 2 and 4; ECCC comment 1 and 2; GNWT-ENR comments 14-28; and NSMA comment 1). In their responses, the Proponent agreed to most of the recommendations and committed to working with the parties regarding the concerns.

GNWT-ENR (GNWT-ENR comment 23) noted that the proponents' application does not provide adequate information regarding wildlife and wildlife habitat mitigation measures and recommended that the proponent provide detailed information regarding how it intends to mitigate impact to wildlife and wildlife habitat, with particular attention to pre-listed Species at Risk, barren-ground caribou and grizzly bear (GNWT-ENR comments 14-28). ECCC also provided comments regarding potential impacts to migratory birds and Species at Risk (ECCC comment 1 and 2).

In their review comments, NSMA and DKFN notes that this project occurs within the migratory range of the Bathurst caribou herd (NSMA comment 1 and DKFN comment 2) and recommended that the Board require a Wildlife Management and Monitoring Plan (WMMP) to be submitted, and that this plan be available for comment to reviewers prior to issuance of the LUP. The NSMA further noted that "Margaret Lake Diamonds has indicated to us their willingness and intent to submit such a plan if and when it is required by the Board". In its response, the Proponent noted that it agreed in pre-engagement with the NSMA that it would comply with all requirements of the WLWB as well as all conditions of the LUP".

A condition requiring the proponent to "take all reasonable measures to prevent damage to wildlife and fish habitat" has been included in the Permit. The Board notes, however, that the responsibility to require a WMMP falls to the GNWT under section 95 of the *Wildlife Act*. In regards to this Application, no comments were received from the GNWT regarding a requirement for a WMMP.

The Board does note that further engagement allows parties' concerns with regards to wildlife to be addressed directly. The Board requests that Margaret Lake Diamonds work directly with parties such as GNWT-ENR, ECCC, DKFN, and NSMA regarding wildlife management and monitoring concerns and mitigations techniques. The Board requires an updated Engagement Plan and Engagement Record to, at minimum, reflect further discussions with DKFN and NSMA regarding wildlife concerns prior to the commencement of activities.

- ***The Board requests that Margaret Lake Diamonds work with parties such as GNWT-ENR, DKFN, and NSMA regarding wildlife management and monitoring requirements and mitigation techniques, and requires the updated Engagement Plan, Version 2.0, and updated***

Engagement Record as required above, to reflect, at minimum, further engagement with DKFN and NSMA regarding wildlife concerns prior to the commencement of activities.

3.5 Security

Margaret Lake Diamonds submitted a draft Security Estimate (for \$65,226.56) with its Application and it was included in the public review. The GNWT-Inspector response to the estimate was that the amount proposed by the Applicant appeared satisfactory. The Board notes, however, that not all equipment had been included in the submitted security estimate (i.e. helicopter and incinerator) and therefore these have been added. Pursuant to section 32 of the MVLUR, the Board has determined that a security of \$66,876.56 be held for Margaret Lake Diamonds Inc. for Land Use Permit W2017C0005.

- ***The Board requires Margaret Lake Diamonds Inc. to submit the amount of \$66,876.56 as required by Condition #37 of Land Use Permit W2017C0005.***

3.6 GIS Data

In their comments, the GNWT-ENR stated that keeping track of the disturbance footprint of development activities is an important component of tracking and informing the management of cumulative effects on wildlife and wildlife habitat (GNWT-ENR comment 24). GNWT-ENR recommended that the proponent submit the “bounding coordinates or geospatial data for the proposed project footprint and for the completed project footprint.” As noted in the proponent response, the bounding coordinates and detailed maps may be found in the application. The Board requires that, if, in the future, the company is to acquire GIS data for the project, that this be submitted to the WLWB for the public registry. GIS Submission Guidelines are available on the Board’s website.⁹

- ***The Board requests that Margaret Lake Diamonds Inc. submit the GIS data for the project should this be acquired in the future.***

Signed the 13 Day of December, 2017, on behalf of the Wek’èezhìi Land and Water Board



Witness



Violet Camsell-Blondin
Chair, Wek’èezhìi Land and Water Board

⁹ See WLWB website under *Policy and Guidelines* for [MVLWB Guideline for Geographic Information Systems \(GIS\) Submission \(2016\)](#)