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May 18, 2023

W2020L2-0004, W2021X0004, W2021D0005,
and W2017D0004

Kurtis Trefry
Arctic Canadian Diamond Company Ltd.
900-606 4 Street SW
Calgary, AB T2P 1T1

Dear Kurtis Trefry,

Re: Request for Changes to Authorizations to Reflect Security Decision

The Wek'èezhìi Land and Water Board (WLWB) met on May 18, 2020 and approved Arctic Canadian Diamond Company Ltd. (Arctic)'s request to amend Land Use Permits W2021X0004, W2021D0005, and W2017D0004, and update Schedule 2 of Licence W2020L2-0004,¹ to reflect the Board's March 21, 2023 decision on security.²

Sincerely,

A handwritten signature in black ink, appearing to read "Mason Mantla".

Mason Mantla
Chair, Wek'èezhìi Land and Water Board

Copied: Ekati Distribution List

¹ See WLWB Online Registry at www.wlwb.ca for [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23.pdf](#) and [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - RECLAIM - Apr 20 23.zip](#); [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23](#); [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23](#); [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23](#)

² See WLWB Online Registry for [Ekati - GNWT Request to Adjust Security - Reasons for Decision - Mar 21 23.pdf](#)



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Reasons for Decision

Reference/File Number:	W2020L2-0004, W2021X0004, W2021D0005, and W2017D0004
Licensee:	Arctic Canadian Diamond Company Ltd. (Arctic)
Subject:	Request for Changes to Authorizations to Reflect Security Decision

Decision from the Wek'èezhì Land and Water Board Meeting of May 18, 2023

1.0 Decision

At the Wek'èezhì Land and Water Board's (WLWB's or the Board's) May 18, 2023 meeting, the Board made the following decisions:

1. The amendment applications for Land Use Permits W2021X0004, W2021D0005, and W2017D0004 are exempt from Preliminary Screening, as per the *Exemption List Regulations of the Mackenzie Valley Resource Management Act (MVRMA)*, Part 1, Schedule 1, section 2.
2. Approve the Amendment Request and issued Land Use Permit W2021X0004 with the revised Condition #45: "Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of \$57,677."
3. Approve the Amendment Request and issued Land Use Permit W2021D0005 with the revised Condition #48: "Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of CDN \$2,294,667."
4. Approve the Amendment Request and issued Land Use Permit W2017D0004 with the revised Condition #27: "Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of \$1,453,799."

5. Update Schedule 2, Condition 1 with the following revised condition to align with the Board's March 21, 2023 Decision:

1. In accordance with subsection 35(1) of the Act and Part C of this Licence, the Licensee shall post and maintain:

- a) a security deposit of CDN \$289,475,441; and
- b) additional security deposits on the following schedule:
 - i. In advance of overburden/waste rock placement for Point Lake, the Licensee shall post and maintain an additional \$13,560,748; and
 - ii. In advance of 40% pit mined by volume for Point Lake, the Licensee shall post and maintain an additional \$13,560,748.

2.0 Background

On November 7, 2022, GNWT-ENR submitted a Request (the Request) for a site-wide security update for Arctic Canadian Diamond Company Ltd. (Arctic)'s Ekati Diamond Mine (the Ekati Mine). In consideration of this Request, the WLWB set security and required Arctic to submit a RECLAIM estimate to reflect the security adjustments as changes to its submitted RECLAIM for conformity by Board staff within 30 days of this decision.³ The Board communicated this should be accompanied by the necessary requests to update the Water Licence and amend relevant Permits.

The security adjustment required by the WLWB's March 21, 2023 Decision included an update of costs based on inflation and therefore affected security associated with the entire Ekati site. Many authorizations exist for the Ekati site. The developments that were licenced after the Northwest Territories Devolution Agreement came into effect (i.e., when the GNWT began holding the security deposit for the Ekati Mine instead of Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)) have land-related security held under the respective land use permits (i.e., W2021X0004, W2021D0005, and W2017D0004). All other security is held under Water Licence W2020L2-0004.

In accordance with subsection 26(2) of the *Mackenzie Valley Land Use Regulations*, land use permits can only be amended upon receipt of a written request from the permittee. The Board's March 21, 2023 Reasons for Decision stated that Schedule 2 would be updated with the Land Use Permit amendment process.

On April 20, 2023, Arctic submitted a revised RECLAIM and request to amend Land Use Permits W2021X0004, W2021D0005, and W2017D0004, and update Schedule 2 of Licence W2020L2-0004,⁴ to

³ See WLWB Online Registry for [Ekati - GNWT Request to Adjust Security - Reasons for Decision - Mar 21 23.pdf](#)

⁴ See WLWB Online Registry for [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23.pdf](#) and [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - RECLAIM - Apr 20 23.zip](#); [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23](#); [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23](#); [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Apr 20 23](#)

reflect the Board's March 21, 2023 decisions on security. In its April 20, 2023 submission, Arctic described the administrative nature of its requests:

Formal amendments requests are being submitted as an administrative requirement so as to fulfill the WLWB's decisions and directives and to complete the amendment process for a security adjustment within the following noted documents;

and

The GNWT request for security review and all associated documents went through a public review process on the Board Online Review System. All parties were given the opportunity to review associated documents and provide comments.

On April 21, 2020, the Ekati Distribution List was informed that a public review via the Online Review System (ORS) of the amendment requests to Land Use Permits W2021X0004, W2021D0005, and W2017D0004, and the update to Schedule 2 of Licence W2020L2-0004 had not been initiated at that time and requested that any questions or requests from Parties to initiate a review through the ORS be provided by May 2, 2023 at 5:00pm MST.⁵ No responses were received by Board staff.

3.0 Reasons for Decision

3.1 Amendment to Land Use Permits W2021X0004, W2021D0005, and W2017D0004

As required by Decision 2 of the Board's March 21, 2023 Reasons for Decision, Arctic has submitted a closure cost estimate and proposed amendments to Land Use Permits W2021X0004, W2021D0005, and W2017D0004 to reflect the Board's decision to adjust security required for the Ekati Diamond Mine.

3.1.1 Exemption to Preliminary Screening

In accordance with the *Preliminary Screening Requirement Regulations*, the Board must conduct a preliminary screening of the Amendment Requests. However, Schedule 1 (Section 2), Part 1, paragraph 2(b) of the *MVRMA Exemption List Regulations* states that an application can be exempt from preliminary screening if:

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A development, or a part thereof, for which renewal of a permit, licence or authorization is requested that (a) has not been modified; and (b) has fulfilled the requirements of the environmental assessment process established by the *Mackenzie Valley Resource Management Act*, the *Canadian Environmental Assessment Act* or the *Environmental Assessment Review Process Guidelines Order*.

In its submission, Arctic indicated it is exempt from preliminary screening because the amendments requested are not modifying the development activities which have previously undergone a preliminary screening or environmental assessment stating:

⁵ See WLWB Online Registry for [Ekati - Proposed Changes to Authorizations to Reflect Security Decision - Notification to Parties - May 2, 23](#)

This formal amendment request is being submitted as an administrative requirement so as to fulfill the WLWB's decisions and directives to complete the amendment process for a security adjustment. Arctic Canadian is of the view that this administrative requirement should be exempt from the preliminary screening process as there are no other changes proposed and all requirements have previously been met.

No comments on the preliminary screening were received by Board staff.

The Board agrees that the proposed amendments to Land Use Permits W2021X0004, W2021D0005, and W2017D0004 are exempt from Preliminary Screening.

- ***Decision #1: The amendment applications for Land Use Permits W2021X0004, W2021D0005, and W2017D0004 are exempt from Preliminary Screening, as per the Exemption List Regulations of the MVRMA, Part 1, Schedule 1, section 2.***

3.1.2 Amendment to Condition 45 of Land Use Permit W2021X0004 (Point Lake Early Works)

The Point Lake Early Works Permit authorizes Early Works for the initial construction phase of the Point Lake Project. The estimated closure cost associated with these activities was updated in the March 21, 2023 Decision. The proposed condition aligns with the Board's March 21, 2023 Decision.

- ***Decision #2: The Board has approved the Amendment Request and issued Land Use Permit W2021X0004 with the revised Condition #45: "Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of \$57,677."***

3.1.3 Amendment to Condition 48 of Land Use Permit W2021D0005 (Point Lake Development)

The Point Lake Development Permit was issued on March 13, 2022. The Scope of Permit W2021D0005 includes: the aspects of the Jay Project that had already been constructed (e.g., the Jay Road, now called the Lac du Sauvage Road), and all relevant conditions from the former Jay Permit W2013D0007 which were considered applicable to current and future operations at the nearby Point Lake Development..⁶ On August 25, 2022, final clearance of the Jay Permit (W2013D0007) was granted.⁷ The Board did not receive a request to adjust security associated with the removal of the Jay Project until the April 20, 2023 Request.

The WLWB's March 21, 2023 decision required a remaining \$463,593 of the former Jay Permit (W2013D0007) security be held for the constructed infrastructure for the Jay Project. The WLWB's March 21, 2023 decision did not specify the authorization that this amount be held under. In its April 20, 2023 letter, Arctic proposed that this be held under Land Use Permit W2021D0005, stating that this reflected a meeting held with GNWT and Board staff prior to submission. Arctic proposed that Condition 48 be

⁶ See WLWB Online Registry for [Ekati - Point Lake Project - RFD and Recommendation to Minister - Apr 08 22.pdf](#)

⁷ See WLWB Online Registry for [Ekati Jay Development - Land Use Permit - Letter of Clearance - Aug 25 22.pdf](#)

amended to reflect the land-related security associated with the Point Lake Development and the Jay Project as described in the WLWB's March 21, 2023 Decision.

The Board is of the opinion that the proposed condition and associated security aligns with the Board's March 21, 2023 Decision and the scope of Land Use Permit W2021D0005.

- ***Decision #3: The Board has approved the Amendment Request and issued Land Use Permit W2021D0005 with the revised Condition #48: "Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of CDN \$2,294,667."***

3.1.4 Amendment to Condition 27 of Land Use Permit W2017D0004 (Misery Development)

Land Use Permit W2017D0004 was first issued July 12, 2018 for the Misery Development. The estimated closure cost associated with the Misery Underground Development was updated in the March 21, 2023 Decision. The proposed condition aligns with the Board's March 21, 2023 Decision.

- ***Decision #4: The Board has approved the Amendment Request and issued Land Use Permit W2017D0004 with the revised Condition #27: "Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of CDN \$1,453,799."***

3.2 Update to Schedule 2 of Water Licence W2020L2-0004

Decision 2 of the Board's March 21, 2023 decision required Arctic to submit an update to Schedule 2 to reflect Decision 1. With the request to amend the Land Use Permits, Arctic has explicitly requested that Schedule 2 also be updated at this time and proposed a schedule to reflect the March 21, 2023 decision. The proposed schedule reflects the applicable decisions on security and therefore the Board believes it to be appropriate.

- ***Decision #4: The Board has updated Schedule 2 to align with the Board's March 21, 2023:***
 - 1. In accordance with subsection 35(1) of the Act and Part C of this Licence, the Licensee shall post and maintain:***
 - a) a security deposit of CDN \$289,475,441; and***
 - b) additional security deposits on the following schedule:***
 - i. In advance of overburden/waste rock placement for Point Lake, the Licensee shall post and maintain an additional \$13,560,748; and***
 - ii. In advance of 40% pit mined by volume for Point Lake, the Licensee shall post and maintain an additional \$13,560,748.***

Signed the 18th day of May 2023, on behalf of the Wek'èzhii Land and Water Board



Witness



Mason Mantla
Chair, Wek'èzhii Land and Water Board