

Environmental Protection Operations Directorate  
Prairie & Northern Region  
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Yellowknife, NT X1A 2P7

ECCC File: 5100 000 012/028  
WLWB File: W2022L2-0001



July 12, 2023

via email at: [rfequet@wlwb.ca](mailto:rfequet@wlwb.ca)

Ryan Fequet  
Executive Director  
Wek'èezhii Land and Water Board  
1-4905 48<sup>th</sup> Street  
Yellowknife, NT X1A 3S3

Dear Ryan Fequet:

**RE: W2015L2-0001 – Arctic Canadian Diamond Company Ltd. – Ekati Diamond Mine – Type A Water License Renewal – June 28, 2023 request for additional information**

I am writing in response to your letter dated June 28, 2023, concerning Ekati Diamond Mine Type A Water License Renewal.

As you know, Environment and Climate Change Canada (ECCC) participated in the public hearing for the Arctic Canadian Diamond Company Ltd. (Arctic) Type A Water License Renewal Application from June 13 to 15, 2023 in Behchokò, NT. On June 16, 2023, the Wek'èezhii Land and Water Board (WLWB) requested additional information from ECCC pursuant to section 22 of the *Mackenzie Valley Resource Management Act* (MVRMA). On June 20, 2023, ECCC provided a response to this request. On June 23, 2023, ECCC provided responses to undertakings 16 to 20, which arose as part of the hearing. On June 28, 2023, the WLWB requested additional clarification to ECCC's responses.

ECCC provides expert information and knowledge to project assessments on subjects within the department's mandate, including climate change, air quality, water quality, biodiversity, environmental preparedness and emergencies. This work includes reviewing proponent characterization of environmental effects and proposed mitigation measures. We provide advice to decision-makers regarding a proponent's characterization of environmental effects, the efficacy of their proposed mitigation activities, and may suggest additional mitigation measures. Any comments received from ECCC in this context does not relieve the proponent of its obligations to respect all applicable federal legislation.



Below is ECCC's response to the information requested by the WLWB:

**1. ECCC to provide its opinion on whether it considers Arctic's proposed licence Part H, Condition 23(e) to be less stringent than the requirements of MDMER, specifically with regards to pH.**

The Metal and Diamond Mining Effluent Regulations (MDMER) establish national baseline effluent concentration limits and environmental effects monitoring requirements for metal and diamond mines in Canada.

Section 4 of the MDMER authorizes prescribed deposits of effluent (as defined under the MDMER) from a final discharge point (FDP) of a metal or diamond mine that is subject to the Regulations. The list of prescribed deleterious substances is set out in section 3 and the maximum authorized concentration for these deleterious substances is set out in Schedule 4. The final discharge point (FDP) is defined as an identifiable discharge point beyond which the operator of the mine no longer exercises control over the quality of the effluent. One of the conditions of the authorization requires that the pH of the effluent at the final discharge point is equal to or greater than 6.0 but is not greater than 9.5.

A pH range of 6 to 9.5 is a more stringent criterion than a pH range of 5 to 9.5 when measured in the same effluent collected at the same sampling point. ECCC is, however, unclear if a comparison can be made between the two regimes as we are not sure if the sampling point(s) under the licence is the same as the sampling point(s) under the MDMER.

**The WLWB specifically wants to know whether ECCC has information in its possession relating to whether pH between 5.0 and 6.0 (that is caused by the natural environment) is equivalent to or less stringent than the requirements of the MDMER.**

As already noted, the compliance point for sampling for the MDMER is at the FDP. The MDMER does not include provisions to vary the allowable pH range depending on background conditions of the receiving environment or environmental effects. The sample should be representative of the effluent, as defined under the MDMER, at the mine and comply with the requirements in the Regulation.

**2. In relation to Undertaking #18 to ECCC:**

**ECCC to provide the Consultation record, specifically for the Consultation with the Tłıchǫ Government, that led to the development of the MDMER.**

The Metal Mining Effluent Regulations (MMER) were amended in 2018 to strengthen effluent quality standards, improve the efficiency of environmental effects monitoring without compromising environmental protection, and make diamond mines subject to the MMER. The amendments also changed the name of the Regulations to the Metal and Diamond Mining Effluent Regulations (MDMER). The MDMER are Regulations of general application across Canada applicable to specified diamond and metal mines. A Regulatory Impact Analysis Statement (RIAS) was included in the Canada Gazette publication of both the proposed and final regulatory amendments to the MMER. The RIAS provides a summary of consultations for

the making of these Regulations, including with indigenous groups. The RIAS also highlights some of the changes to the proposed Regulations following such consultations.

The link to each RIAS is provided below:

CG1 (May 2017): [Canada Gazette – Regulations Amending the Metal Mining Effluent Regulations](#) (see page 1959 or page 67 of the pdf)

CGII (May 2018): [Canada Gazette, Part 2, Volume 152, Number 11: Regulations Amending the Metal Mining Effluent Regulations: SOR/2018-99](#) (see page 1491 or page 283 of the pdf)

With respect to the Tłı̨chǫ Government specifically, a face-to-face meeting was held on March 16, 2017, to discuss the proposed amendments to the MMER. Representatives from other indigenous groups also participated in this meeting as again, the proposed amendments were of general application. The proposed MMER amendments were published on May 13, 2017 in the Canada Gazette, Part I. The Environmental Monitoring Advisory Board (EMAB) and the, Independent Environmental Monitoring Agency (IEMA), which include representatives from the Tłı̨chǫ Government participated in the consultation process following this publication.

If you would like more information, please contact Jennifer Sabourin at [Jennifer.Sabourin@ec.gc.ca](mailto:Jennifer.Sabourin@ec.gc.ca).

Sincerely,

Megan Nichols

Associate Assistant Deputy Minister, Environmental Protection Branch  
Environment and Climate Change Canada

cc: Mary Taylor, Director General, Environmental Protection Operations Directorate  
Andrea McLandress, Regional Director, Prairie and Northern Region  
Jody Small, Acting Manager, Environmental Assessment, Prairie and Northern Region  
Eva Walker, Acting Head, Environmental Assessment North (NT and NU)