

Environmental Protection Operations Directorate  
Prairie & Northern Region  
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P.O. Box 2310  
Yellowknife, NT X1A 2P7

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



June 20, 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 – Response to Information Request**

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 on June 13 – 15, 2023 in Behchokò, NT. Per Section 22 of the *Mackenzie Valley Resource Management Act* (MVRMA) part, the Wek'èezhii Land and Water Board (WLWB) requested additional information from ECCC as part of the public hearing process.

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.**

Under Section 4(1)(b) of the *Metal and Diamond Mining Effluent Regulations* (MDMER), the owner or operator of a mine is authorized to deposit, or to permit the deposit of, a non-acutely lethal effluent containing any deleterious substance that is prescribed in section 3 in any water or place referred to in subsection 36(3) of the *Fisheries Act* if the concentrations of those



deleterious substances do not exceed the prescribed maximums and the pH of the effluent is equal to or greater than 6.0 but is not greater than 9.5.

The proposed term in the Ekati Type A Water License states, “Any Wastewater or Waste from the Project that enters the Receiving Environment shall have a pH between 6.0 and 9.0, or between 5.0 and 9.0 where demonstrated to the satisfaction of the Inspector that pH below 6.0 is caused by the natural environment”.

Section 27(5) of the *Waters Act* is as follows:

*(5) If the Board issues a licence in respect of waters that do not form part of a water quality management area designated under the Canada Water Act, and to which any regulations made under subsection 36(5) of the Fisheries Act (Canada) apply, the Board may not include in the licence conditions relating to the deposit of waste in those waters that are less stringent than the provisions of those regulations.*

According to s.27(5) of the *Waters Act*, the Board is responsible to determine if the proposed condition is equivalent or more stringent than the requirements of MDMER.

The MDMER requirements apply regardless of the terms included in the water license. It is within the Board’s jurisdiction to set limits within the license that are equivalent or more stringent than the MDMER requirements.

If you would like more information, please contact Jennifer Sabourin at Jennifer.Sabourin@ec.gc.ca.

Sincerely,



Andrea McLandress  
Regional Director, EPOD-PNR

cc: Jody Small, Acting Manager, Environmental Assessment, Prairie and Northern Region  
Melissa Pinto, Acting Head, Environmental Assessment North (NT and NU)  
Jennifer Sabourin, Acting Senior Environmental Assessment Officer