

23 May 2023

Mason Mantla  
Chair  
Wek'èzhìi Land and Water Board  
#1, 4905 – 48th Street  
Yellowknife, NT  
X1A 3S3

RE: W2022L2-0001 - Ekati - Licence Renewal Application – Intervention Responses

Dear Mr. Mantla:

As part of the Type A Water Licence Renewal Application (W2022L2-0001) for the Ekati Diamond Mine, Interventions have been provided as a means of interested parties detailing concerns and recommendations to the WLWB for consideration. These interventions consider documents provided throughout the renewal process including documents provided throughout the renewal process and subsequent Information Request responses. There were several interventions provided by Parties on May 11, 2023 . Arctic Canadian is pleased to provide responses to those Interventions within this submission.

Arctic Canadian trusts the information provided is clear and informative. If you have any questions or concerns, please contact the undersigned at 403-650-1310 or Kurtis.Trefry@arcticcanadian.ca or Harry O'Keefe, Superintendent – Environment Operations, at 867-445-3185 or Harry.O'Keefe@arcticcanadian.ca.

Sincerely,



Kurtis Trefry M.SEM, P.Ag

Team Leader – Environmental Management and Reporting

**EKATI DIAMOND MINE WATER LICENCE 2022L2-0001 RENEWAL  
SUMMARY OF ARCTIC CANADIAN RESPONSES TO INTERVENTIONS**

IDENTIFIER	INTERVENOR RECOMMENDATION	ARCTIC CANADIAN SUMMARY RESPONSE
DFO-1 Water Frequented by Fish	For the water withdrawal from Upper Exeter Lake to be protective of fish and fish habitat within Upper Exeter Lake and the Upper Exeter Outflow, DFO recommends that any withdrawal be less than 10% of the instantaneous flow and 30% of the mean annual discharge of the source lake. DFO also recommends the implementation of a monitoring program to ensure any effects to the Upper Exeter Outflow are immediately identified and, if necessary, mitigation measures can be swiftly enacted. Line graphs illustrating the effects of water withdrawal rates from Upper Exeter Lake considering three climate scenarios. Rescan, 2009	Arctic Canadian is of the view that the topic of water withdrawal rates from source lakes should not be a topic for discussion through the Water Licence Renewal process. Arctic considers that the appropriate location to discuss these items would be in the back-flooding plans or dewatering plans as are required to be approved within the Licence before any pumping could commence.  Arctic has initiated discussions with DFO and GNWT on the topic of source lake water withdrawal lakes and intends to continue engagement prior to the Public Hearing.
DKFN-1 Water Use	Information Request #1 from the technical session provided for Arctic Canadian and the GNWT to work together to provide water uses and volumes that can be included in the license, which address Arctic Canadian's request for flexibility with back flooding activities and align with the legislation regarding annual uses and associated fees. The GNWT and Arctic Canadian met to discuss how water use fees and associated volumes can be included in the license. Arctic Canadian provided a detailed response in this regard. We defer to the GNWT Department of Environment and Climate Change (ECC) on this item and have no specific recommendation.	Arctic Canadian acknowledges the comments from DKFN relating to water use fees and associated volumes to be included in the Licence.  Arctic Canadian and GNWT staff have discussed the proposed new water uses and the payment of associated water use fees, resulting in the following agreed approach: <ol style="list-style-type: none"> <li>1. The total authorized water use is stated in the Licence;</li> <li>2. Annually at least 30 days prior to each anniversary date of the Licence, Arctic Canadian will inform GNWT of the planned water use for the upcoming year accompanied by the associated water use fee;</li> <li>3. In the event that the planned annual water use is not fully utilized during the year, the portion of the paid water use fee representing the unused water will carry forward to subsequent years;</li> <li>4. At least 30 days prior to exceeding the planned annual water use during that year, Arctic Canadian will inform GNWT of the additional water use accompanied by the associated water use fee; and</li> <li>5. Cumulative annual water use cannot exceed the total volume authorized in the Licence.</li> </ol>
DKFN-2	Information Request #6 from the technical session called for Arctic Canadian to provide an updated Conceptual WRSA Seepage Evaluation Framework and a corresponding updated draft requirements to be included in the Schedule	Arctic Canadian would like to direct the DKFN to the Aquatic Response Framework as the most accurate example of how the Final Seepage Evaluation Framework will be structured. The choice to replicate this

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<p>Waste Rock Storage Area Seepage</p>	<p>for the Waste Rock and Ore Management Plan (WROMP). The proposed schedule requirements should address, but not be limited to the following (i) early warning Action Levels for Terrestrial Quality Objectives (TQOs) and Effluent Quality Criteria (EQC), and (ii) list of seeps that would be captured by the scenarios proposed in the Seepage Evaluation Framework.</p> <p>In its response, Arctic Canadian did not complete an update to the Conceptual WRSA Seepage Response Framework but, instead, provided a draft schedule to be included in the license that defines the purpose and requirements of the WRSA Seepage Response Framework. Arctic Canadian did provide clarification that it made in response to concerns raised that would be carried into the first version of the framework.</p> <p>Considering Arctic Canadian's response to this information request we offer the following recommendations:</p> <ul style="list-style-type: none"> <li>• The proposed schedule includes clear linkages to TQOs and EQCs that are expressed in the license. For example, the EQCs outlined in Condition 15 of the license.</li> <li>• Arctic Canadian outline how it intends to identify and adopt TQOs that are protective of use, which should account for the inclusion of Traditional Knowledge.</li> </ul>	<p>document was made because not only is the structure familiar to reviewers, but so is the process for developing, operational application, reviewing and updating the Aquatic Response Framework. A document that we believe is an effective tool for proactively responding to and evaluating changes in the Aquatic Receiving Environment. It is Arctic's goal to develop a complimentary tool to evaluate WRSA Seepage to ensure that it is protective of both Human and Wildlife Use.</p> <p>Much like the Aquatic Response Framework, we believe it is entirely unnecessary for the TQOs to be contained within the body of the Water License, this can create unnecessary rigidity on the steps required to update the Framework. Arctic Canadian believe that inclusion of the TQO's in the Framework is both appropriate and in line with the Land and Water Board's Waste and Wastewater Management Policy (2023). Furthermore, this approach would preclude the need to have established and agreed upon TQO's in time for approval and issuance of the Licence.</p> <p>Arctic would like to direct DKFN to Schedule 6 Condition 2 u) ii which states that "numeric seepage quality objectives" (TQO's) are required as part of the Framework.</p> <p>Following additional discussions with Board Staff, Arctic Canadian believes that the current wording in the Water Licence is clear about where and to what each of the EQC's outlined in Part H Condition 15 apply. As stated in Condition 15, all water or waste from the project, which includes seepage as described in the Land and Water Board's Waste and Wastewater Management Policy (2023).</p> <p>For these reasons we believe that DKFN's concern regarding the express linkage between the Seepage Framework and TQO's or EQC's already exist in the WL.</p> <p>The process for the development of TQO's will follow the exact same approach as was used for the development of the benchmarks in the Aquatic Response Framework. Reviews of literature, regulations, standards and guidelines will be completed to identify appropriate, protective and achievable numerical criteria against which to screen WRSA seepage water quality. While the numeric values may not specifically consider TK in their development, they need to be protective of both human and wildlife use, which includes traditional uses of the land.</p>

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		<p>The development of tiered action levels for TQO will be presented as part of the WRSA Seepage Response Framework V 1.0, at which time reviewers will have the opportunity to comment on the proposed objectives and action levels.</p>
<p>DKFN-3 Waste Rock Storage Area Seepage</p>	<p>In response to Information Request #9(a)(ii) Arctic Canadian recommended an amendment to Part H Condition I5(e) of the water license to be: e) 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. In proposing this amendment, Arctic Canadian has suggested that natural tundra soil can be slightly acidic, which would cause surface runoff to have a lower pH. An outstanding question remains as to how Arctic Canadian will demonstrate to the satisfaction of the Inspector that a lower pH value is caused by the natural environment. We therefore recommend:</p> <ul style="list-style-type: none"> <li>• Arctic Canadian have a monitoring plan for measuring pH levels in the natural environment (i.e., one or more reference locations that are not influenced by the presence of the mine) that are used to validate the pH measurements collected on the mine site.</li> </ul>	<p>Arctic Canadian does not agree that a monitoring plan is required to demonstrate that tundra soils and surface runoff has a lower pH, this is a well understood and demonstrated fact, which is demonstrated by the fact that the first 25 years of operation at Ekati, the Water Licence allowed for a pH range of 5-9, representative of natural pH variability. They reason this condition is under discussion is a question raised by ECCC Board staff as to whether the Water Licence should be changed to adhere to the allowable range in pH stated in the MDMER, which does not consider the naturally lower pH of the area around the mine and rather requires a standard pH range of 6-9 regardless of the ecosystem in which the Ekati Diamond Mine exists.</p> <p>Arctic Canadian recommends that the existing Condition be retained with the burden of proof on Arctic Canadian to satisfactorily demonstrate to the Inspector that the cause of any pH below 6 is the result of mixing with either surface runoff or interactions with the soils in the area. Conceptually, this could be demonstrated by measuring pH values upstream (closer to the source of the wastewater) of the sample location. Should the pH increase in proximity as you move closer to the source, the conclusion would be that the decrease in pH would be caused by the Natural Environment. Should Arctic Canadian not be able to demonstrate this conclusively enough to satisfy the Inspector, we would be required to report being out of compliance to both the Inspector and the Board.</p>
<p>DKFN-4 Aquatic Effects Monitoring</p>	<p>The DKFN has always maintained the importance of water (and the aquatic environment) for many different uses, including for travel routes (trails and water routes), drinking, swimming, fishing, supporting harvesting (hunting and trapping), making medicine, cooking, cabins and camping, teaching and intergenerational knowledge transmission. The DKFN have an important relationship with water, not only because of their reliance on Great Slave Lake, the Slave River and the Slave River Delta, but also because according to DKFN members, everything centers around respect and care for water. In previous hearings, the DKFN has advocated for high quality monitoring of water in different states and seasons; highlighting the importance of Traditional Knowledge monitoring conducted alongside scientific monitoring.</p>	<p>Arctic Canadian appreciates the valuable information and perspective provided as context to the balanced approach taken when considering their response to this proposed change. We agree with DKFN that a 6 year review makes sense, given the more regular (3 year) review of the Aquatic Response Framework and the bi-annual deadline to report any action level exceedances and submit updated response plans if required.</p>

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	<p>At this point in the life of the Ekati Mine, we see there being low risk to the efficacy of the monitoring program should the submission frequency of the AEMP Design Plan be extended to six years. Although, recent changes have been noted in the health of Lac de Gras that warrant continued oversight of aquatic responses to these changes. During the summer of 2021, traditional knowledge and scientific knowledge were brought together as part of the Diavik Diamond Mine AEMP Traditional Knowledge (TK) Study/ Camp. Observations were made for the TK component using the different senses and significant changes were observed by Indigenous participants. The water was noted as darker in colour and no participants were comfortable tasting cold (un-boiled) water from the lake as they had done previously. Perceptions of the quality of water were also affected by observations made in the fish health studies. Many participants did not complete the fish palatability and texture studies because they were not comfortable tasting the fish. Elders and youth were concerned about the noticeable increase in number of fish with parasites, as well as changes in fish shape (disproportionately large heads and small/thin bodies), stomach contents (decrease in diversity and quantity of small fish), and shoreline habitat (increase in algae). At the time, the TK Study did not infer the direct cause of these changes. We do know that industrial activity (e.g., diamond mines) has been present in the Lac de Gras area for over 20 years and there are global environmental processes (e.g., climate change) that are impacting our environment. It is likely that the noticeable changes in Lac de Gras are cumulative in nature and may have taken a longer time period to manifest themselves. It is challenging to fully characterize cumulative effects and project-specific contributions to cumulative effects when site-specific thresholds may not be exceeded, but small incremental changes accumulative over time to cause a noticeable change. Regardless, parties must work together at the local level to limit contributions. This goal aligns with the guiding principles identified by the Land and Water Boards of the Mackenzie Valley:</p> <ul style="list-style-type: none"> <li>• Sustainable Development: Meeting the needs of the present without compromising the ability of future generations to meet their own needs, taking both the projected effects of climate change and projected cumulative effects into account.</li> <li>• Multiple Uses and Values: Decisions should address multiple, diverse, and sequential uses of land and water - many of which depend at the same time on the same watercourse or resources - and consider the cumulative effects of multiple uses and waste deposits.</li> </ul> <p>These principles provide guidance to the WLWB to ensure it regulates, to the</p>	

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	<p>fullest extent possible, potential impacts to Lac de Gras. Therefore, we offer the following recommendation:</p> <ul style="list-style-type: none"> <li>• In addition to reviewing the Aquatic Response Framework on a three-year period, this review should be inclusive of any Aquatic Response Plans and any actual responses that were implemented to ensure the effectiveness of the overall AEMP.</li> </ul>	
<p>DKFN-5 Underwater Remote Mining</p>	<p>Arctic Canadian has provided little information about this additional road activity and the impacts it may have on barren-ground caribou. While the Caribou Road Mitigation Plan will continue to be implemented, the magnitude of the additional road traffic resulting from the URM trial must be adequately assessed. Given the status of barren-ground caribou in the area, effective mitigation and monitoring is critical to ensure impacts and effects on individual caribou are not realized. We therefore recommend:</p> <ul style="list-style-type: none"> <li>• Arctic Canadian commit to further engagement on the potential impacts to caribou from the increase in road traffic and update the CRMP appropriately to address these impacts.</li> </ul>	<p>While the trial creates a minor amount of additional ore, this does not actually represent additional traffic. Ekati has a fixed amount of long hauling equipment that it can use to move ore from all the mines. While this does mean more ore will be moved from Misery to Ekati, it will not represent more vehicles on the road on any given shift or day. Rather it will mean that ore from the trial may delay the movement of Misery ore or vice versa. Since there is no change in traffic levels or intensity, Arctic does not believe that any changes to the plan should be required at this time. However, it is important to note that Arctic Canadian has committed to complete a two-phase analysis of telemetry data to determine the scale and which the mine may be changing caribou behavior, investigate potential drives of that change. The results of that work will be used to inform a review of the CRMP.</p>
<p>ECCC-1 Metal and Diamond Mining Effluent Regulations - pH</p>	<p><i>ECCC is advising the Proponent that a mine that is subject to the Metal and Diamond Mining Effluent Regulations (MDMER) must comply with the effluent concentration limits of the regulations until it becomes a recognized closed mine (RCM), including the requirement for effluent pH to be between 6.0 and 9.5, inclusively, as stated in paragraph 4(1)(b) of those regulations.</i></p> <p><i>Under the MDMER, owners and operators of mines must deposit all mine effluent containing deleterious substances through a Final Discharge Point, and monitor and report on effluent quality according to the requirements of the regulation. It is the Proponent's responsibility to ensure that their project is designed and operated in a way that is compliant with all applicable legislation, including the MDMER.</i></p> <p>Not applicable – for information only.</p>	<p>Acknowledged.</p>
<p>ECCC-2 Waste Rock Storage Area (WRSA) Seepage Response Framework</p>	<p>ECCC recommends the Proponent provide an updated schedule for the WRSA Seepage Response Framework, which includes:</p> <ol style="list-style-type: none"> <li>1. Summary of clarifications to be included in the updated Framework;</li> <li>2. Proposed approach for determining setback distances from water bodies for sampling;</li> <li>3. Discussion of realistic potential actions that may be implemented prior to seeps entering the receiving waters in the event of Action level exceedances;</li> </ol>	<p>1) Acknowledged</p> <p>2) Under the Framework, all seepage will continue to be sampled at the closest sampleable location where it daylights from the pile. This is the point at which it will be compared to TQO's. Additionally, each seep will be sampled prior to entering a receiving waters or prior to it being lost to ground and compared to EQC.</p>

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	<p>4. Proposed lines of evidence to conclude that seeps are not entering receiving waters; and</p> <p>5. Identification of which seeps enter receiving waters vs. those that are only subject to the proposed terrestrial criteria.</p>	<p>3/4) Should Arctic choose to demonstrate that seepage does not enter receiving waters there are numerous ways in which this could occur. Exploration of the depth of the water table combined and water sampling might be one approach. The use of “finger printing” to investigate downstream water quality for indication of seepage inflow. The permeability and/or conductivity of the area might be used to assess the infiltration rates or hydrological conductivity to understand the time it would take to reach proximal waterbodies. Given that the burden of proof is on the company, there is no value in a hypothetical discussion about how we might be able to prove WRSA seepage does not enter receiving waters. The only certainty is that there is not likely to be a single standard approach. Each seep of potential concern is likely going to require some level of site specific considerations such as the geography of the area, surface material type, flow rate, duration of flow and the parameter(s) of concern.</p> <p>5) Each seepage location will need to be sampled and screened annually as part of the Response Framework; at this time it is not possible nor is it worthwhile to even conceptually consider which seepage points would be managed under scenario 1 (not entering receiving waters). Primarily because the seepage would have to contain a parameter at some concerning concentration or exceeding an EQC, which would require a response plan to be submitted to the Board for review and approval. At this time all interested parties would have an opportunity for review and comment on the seep specific information and the actions proposed by the company, which could include demonstration that this seepage does not encounter receiving waters. Additionally, there appears to be some assumption that Arctic Canadian is entirely aware which seepage locations will be flowing in the future. This is a flawed assumption, seepage flow is very ephemeral in nature and as such it is impossible to accurately predict where, when and for how long a seepage location may sustain flow. Recognizing the fact that some locations may not flow and new seepage locations may appear in any given year. the entire perimeter of each WRSA is required to be walked during both the spring and fall seepage survey.</p>
<p>ECCC-3 Surveillance Network Program (SNP) Station 1616-55</p>	<p>ECCC recommends the Proponent include baseline monitoring at SNP 1616-55 related to the URM Trial, and to provide rationale on how the proposed baseline is of sufficient duration to characterize any changes to overall water quality throughout the trial.</p>	<p>For internal tracking of operational data, Arctic Canadian collects samples Lynx Pit in both the open-water and under-ice seasons, which can be used to inform the concentration of constituents in the mine water currently contained in Lynx pit.</p>

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		<p>While we do understand ECCC’s concerns related to changes in water quality over time, baseline water quality in Lynx Lake is not relevant to our ability to track that change related to the URM trial. It is important to remember that Lynx is an approved mine water management facility and as such the baseline information available for Lynx Lake is not at all relevant to or reflective of current water quality.</p> <p>To describe water quality changes at completion of the trial, the only requirement would be collection of samples in Lynx Open Pit prior to commencement of the trial, which Arctic Canadian has proposed for early in the year of the trial. Additionally, Arctic Canadian has collected samples from Lynx Open Pit for internal use in recent years, typically once under ice and once during open water.</p> <p>Arctic has committed to reporting on changes in water quality resulting from the trial, in the first annual report following the completion of water sampling for the remote underwater mining trial. No additional sampling is required to meet this commitment.</p>
<p>GNWT-ECC-1 Standard Water Licence Definitions</p>	<p>GNWT-ECC recommends that the definitions for Average Concentration, Maximum Average Concentration, Construction, Minister, and Settling Ponds be revised to be in line with Standard Water Licence Definitions.</p>	<p><u>Average Concentration:</u> (i) “Average Concentration” is a standard definition; however we prefer the existing definition expressed as “Maximum Average Concentration” as this more accurately reflects the use of the phrase in the Licence. (ii) The two definitions are not identical, however GNWT-ECC is incorrect in stating that that the existing definition does not reference “four consecutive samples”. The distinction between the two definitions is the reference in the existing definition that the four consecutive results that comprise the average are samples “submitted to the Board in accordance with the sampling and analysis requirements specified in the "Surveillance Network Program". This phrase is important as it ensures the average is technically meaningful and consistently calculated. For example, Arctic Canadian may collect occasional extra samples beyond the requirements of the SNP for its own purposes. Such extra samples would not provide a technically meaningful average as the sampling frequency across the samples would be disjointed. This is the reason for Arctic Canadian’s recommended retention of the existing definition.</p> <p><u>Construction:</u> There is an existing definition for “Construction” that has not caused concern throughout operations at the Ekati Diamond Mine to Arctic Canadian’s knowledge. Arctic Canadian objects to the similar standard definition for “Construction” because it expands the scope of the definition to include “upgrade and replace”. This definition could</p>



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		<p>lead to unnecessary trivial permitting processes related to a “Construction” Plan under Part F of the Licence. Upgrade or replacement work is more appropriately addressed under Part G (Modifications) of the Licence. Part G provides for reasonable consideration of permitting needs based on the scope and potential impacts of modifications to water management facilities. The Licence provides an existing definition for “Modification” that would address upgrades and replacement.</p> <p><u>Minister:</u> Arctic Canadian does not object to the standard definition for “Minister” at the Board’s discretion; however finds the existing definition clearer.</p> <p><u>Settling Ponds:</u> Arctic Canadian would continue to object to the removal of “excepting sumps” from the definition. Sumps, as per the existing definition in the Licence, are essential operational tools that provide the flexibility necessary to effectively manage minewater within existing collection areas such as open pits. “Sumps” do not require and should not be treated as “Settling Ponds” under the Licence. In light of the GNWT-ECC recommendation, Arctic Canadian finds that the reference in the existing definition to “Collection Ponds” is superfluous to the Licence and not used in mine operations (i.e., a “Collection Pond” is, in practice, either a “Sump” or a “Settling Pond”, and this may be a source of confusion). Additionally, there is no rationale to remove the existing exception for settling ponds that overflow into an open pit, as there is no environmental risk in this case. Therefore, to accommodate this recommendation as well as recommendation GNWT-ECC-2, Arctic Canadian proposes to:</p> <ul style="list-style-type: none"> <li>(i) replace the existing definition of “Collection and Settling Ponds” with the following modified standard definition for “Settling Pond” (modification underlined): <i>any above or below-grade natural or human-made depression designated for separating solids from Water or Wastewater, <u>excepting Sumps and Settling Ponds for which all Seepage or overflow would flow into an open pit.</u></i></li> <li>(ii) replace the phrase “Collection and Settling Ponds” with “Settling Ponds” throughout the Licence including Condition H.10 and Schedule 1(o).</li> </ul>
GNWT-ECC-2 Site-Specific Definitions	GNWT-ECC recommends that the definition of “Collection and Settling Ponds” or “Settling Ponds” include sumps and that the definition be revised to ensure it clearly includes all aspects of runoff and seepage collection at the Ekati Mine	Arctic Canadian believes that its response to Recommendation GNWT-ECC-1 also addresses this recommendation.

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GNWT-ECC-3 Missing Definitions	GNWT-ECC recommends that the Standard Definition for “Engineer of Record” be used in the Water Licence.	<p>Arctic Canadian’s objection to the standard definition for “Engineer of Record” is that the standard definition requires that the EOR must be the engineer who designed the dam. This is not consistent with the CDA Guidelines to Arctic Canadian’s understanding and would, in fact, be extremely problematic for long-lived structures where the design engineer has retired from professional practice, which is the case for Dams at the Ekati Diamond Mine. In light of the recommendation and because the phrase will be used in the Licence going forward, Arctic Canadian proposes the following definition for “Engineer of Record”, modified from the standard definition (modification underlined or struck through):</p> <p style="text-align: center;"><i>a qualified Professional Engineer who is responsible for performance of <u>a Dam</u>.</i></p> <p>Please also see Arctic Canadian’s response to Recommendation IEMA-8.</p>
GNWT-ECC-4 Water Volumes	GNWT-ECC recommends that the Board ensure there is a time limit (e.g., m3/year) on the use of water outlined in proposed Part D, Condition 4 in the draft Water Licence.	<p>Arctic Canadian is of the view that the appropriate location for annual limits to water usage would be through approved back-flooding or dewatering plans as these documents are a requirement of the Licence and are where the final pumping volumes and rates will be approved by the board.</p> <p>Arctic has engaged with the GNWT-ECC, who reached out to legal council regarding the requirement to have conditions in the water licence to set a limit on water use over a given period of time. Based on those discussions, Part 7 of Schedule C in the application form and s. 5(1) of the <i>Water Regulations</i> require every applicant for a new, renewed or amended water licence to specify in liters per second, liters per day or cubic meters per year what volume of water over a given period of time will be used or at least provide an estimate.</p> <p>Arctic Canadian will work with GNWT to ensure that the approach taken within the Water Licence Renewal is compliance with required regulations.</p>
GNWT-ECC-5 Water Volumes	GNWT-ECC recommends that the Board ensure Arctic proposes water use limits for Part D, Condition 4 with appropriate rationale to show that instantaneous flow at outflow locations will not decrease by more than 10%.	Arctic Canadian is of the view that concerns specifically related to annual water withdrawal rates or volumes from source lakes should be more appropriately part of the review of dewatering, back-flooding, and drawdown plans, rather than as a reason for approved use during the Water Licence Renewal process. Arctic considers this to be appropriate because, should the WL be approved with the current annual volumes,

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		<p>the back-flooding plans or dewatering plans require public review and Approval before any water use activities could commence.</p> <p>Arctic has initiated discussions with DFO and GNWT on the topic of source lake water withdrawal lakes and intends to continue engagement prior to the Public Hearing.</p>
<p>GNWT-ECC-6 Water Volumes</p>	<p>GNWT-ECC recommends that the Board ensure Arctic confirms that the volumes in the draft Water Licence and Application Form are accurate, and free of errors.</p>	<p>The referenced volume 11,921,257 m<sup>3</sup> for Upper Exeter Lake was developed utilizing a much smaller surface area (2.4 km<sup>2</sup>) than that detailed in the Arctic Response to DFO comment #4 from the Pigeon and Fox Flooding Plans Review. Figure 2.1-16 from the <a href="#">2014 AEMP Part 2 - Data Report</a> displays the area utilized for the calculation. The actual area of Upper Exeter Lake is 13.2 km<sup>2</sup> based off of a 1:50,000 NTS tile in GlobalMapper. Arctic Canadian will ensure that the Water Licence and application Form are accurate, and free of errors.</p>
<p>GNWT-ECC-7 Back-Flooding Plan Approval</p>	<p>GNWT-ECC recommends that the Board not approve the Back-flooding plans for Fox Pit and Pigeon Pit until the Water Licence renewal has been approved by the Minister.</p>	<p>Arctic Canadian has engaged with the GNWT on the topic of back-flooding plans and understand that the concern is administrative in nature and not related to the content of the flooding plans. Arctic will engage with the GNWT and WLWB to determine an appropriate approval process for the flooding plans that allows the company to move forward with the purchase of required infrastructure for back-flooding without risking project schedules and advancement of proposed progressive reclamation projects. Arctic Canadian requires a high degree of confidence in the timing and likely fundamental conditions of approval before it can reasonably be expected to invest funds and resources in equipment purchase in 2023 (i.e., to maintain the possibility of initiating progressive reclamation of the Pigeon and Fox Open Pits in 2024).</p> <p>Following initial engagement, feedback received from GNWT, Arctic Canadian believes a possible solution may be to approve Back-flooding plans or portions of the plans except for annual volumes. As with other Board Decisions, the Company could be required to resubmit the plans for conformity check or public review dependent on the extent of revisions required.</p> <p>It is our understanding that this approach may alleviate administrative, legislative and process concerns for both the WLWB and the GNWT. Additionally, this would not delay Arctic Canadian's ability to purchase any required equipment in 2023.</p>

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<p>GNWT-ECC-8 Conceptual Seepage Evaluation Framework</p>	<p>GNWT-ECC recommends that the Board require additional detail on the development and implementation of the Seepage Evaluation Framework from Arctic prior to potentially approving the addition of a new schedule in the Water Licence.</p>	<p>From review of GNWT's rationale submitted to support this intervention it is not clear specifically what information is missing that would be useful for the Board to approve a Schedule for the WRSA Seepage Response Framework.</p> <p>Additionally, GNWT's supporting rational for their intervention did not fairly represent the entirety of the conversation that occurred at the technical sessions in the following ways:</p> <ol style="list-style-type: none"> <li>1) It was clear from both the Board Staff presentation of the new Board's Waste and Wastewater Management Policy (2023) that criteria to regulate waste do not need to be contained with the body of the Water Licence. They can in fact be included in management plans and other similar documents.</li> <li>2) Arctic does agree the seepage meets the definition of waste or wastewater, which are defined in the new guidelines, and as such must meet EQC prior to entering receiving waters..</li> <li>3) Arctic stated that it would be assumed that all seeps enter receiving waters unless Arctic Canadian demonstrated otherwise. Meaning there is no need to discuss which seeps don't encounter receiving waters, unless Arctic Canadian chooses to propose a specific seep be considered different than the standard assumption.</li> <li>4) Arctic Canadian also confirmed that each seep would be screened against both TQO's and the appropriate EQC's as defined in the Water Licence. As such, ECC appears to be asserting that there should be 2 different EQC's that regulate the release of seepage defined in the WL. Which will only create significant confusion and enforceability issues because they will not be the same value as one is intended to be protective of aquatic life and the others are intended to be protective of terrestrial use. Arctic believes that the framework as proposed is not only more logical and enforceable following approval of the framework, it is also entirely in line with Board Policy and as such should be approved for inclusion in the Water Licence.</li> <li>5) ECC continues to assert that this framework is an alternate way to regulate discharge, despite Arctic Canadian's clear statement that it is an additional way to regulate seepage that accounts for a potential risk not currently being considered. This is supported by the fact that both EQC and TQO will be used to screen seepage at the appropriate location for each of the</li> </ol>

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		<p>criteria (i.e. where it daylights from the WRSA and prior to entering receiving waters for the EQC's). This framework is intended to be an improvement in process and be complementary to both the EQC's and the Aquatic Response Framework.</p> <p>6) While ECC is correct that Arctic Canadian said TQO's would act 'like' EQC's, Arctic Canadian's complete statement was that they would act much more similarly to Benchmarks for protective of terrestrial environment use. The TQOs are in no way intended to be protective of receiving waters, the Water Licence already contains EQC's which were developed for that purpose.</p> <p>7) Arctic stated clearly that it had engaged with the Inspector and that a set of numerical criteria as proposed in the schedule would be clear and enforceable. The TQO would operate similarly to the Benchmarks used in the aquatic response framework and the tiered action levels would require additional reporting and investigation in a similar way action level exceedances are reported on twice a year as part of AEMP water quality monitoring. So contrary to ECC's assertion the implementation of a seepage response framework is far more likely to result in fewer instances of concerns going overlooked or potential environmental risks not being investigated.</p> <p>Arctic agrees that additional clarifying details will need to be added to the Seepage response framework, we do not agree that this in any way indicates that the board should not approve the Water Licence Condition and Schedule requiring it. The information required by GNWT belongs in the framework not as specific requirements of the schedule. Using the ARF schedule as an example of how the Seepage Response Framework could be capture in the Licence, the schedule should be simple, clear and describe the minimum requirements of the Framework. The Boards review process is designed to ensure the framework is designed appropriately. In the Reasons for Decisions the Board has the authority to direct the company to make changes, include additional information and/or amend the schedule of the Water Licence should it be required.</p>
<p>GNWT-ECC-9 Conceptual Seepage Evaluation Framework</p>	<p>GNWT-ECC recommends that if the Board approves the addition of a new schedule in the Water Licence for the Seepage Evaluation Framework, the following requirements (at minimum) be included: a. Demonstrate that a given seep does not or will not enter receiving waters (in the event of proposed scenario 1).</p>	<p>Both response plan and Response Framework are defined terms in the Water Licence. Arctic Canadian has drafted the schedule with consideration of these definitions.</p>

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	<p>b. Reporting on the implementation of the Seepage Evaluation Framework. This could be included as part of the annual seepage report.</p>	<p><i>“Response Framework” is a systematic approach to responding when the results of a monitoring program indicate that an Action Level has been reached.</i></p> <p><i>“Response Plan” is a part of the Response Framework that describes the specific actions to be taken by the Licensee in response to reaching or exceeding an Action Level.</i></p> <p>Give these definitions Arctic would assert that recommendation b) is intrinsically part of the response framework and that the required reporting is covered by Part J Condition 9:</p> <p><i>“If any Action Level defined in the approved Response Framework is exceeded, the Licensee shall:</i></p> <p><i>a) Notify the Board within 60 days of when the exceedance is detected; and</i></p> <p><i>b) Within 90 days of when the exceedance is detected, submit a Response Plan that satisfies the requirements of Schedule 8, Condition 4 to the Board for approval. “</i></p> <p>Considering the definitions above and given the fact that reporting requirements are already incorporated into the Licence, Arctic would further assert that recommendation a) is more appropriate as a potential action to be considered as part of a response plan. As discussed in the technical sessions, the standard assumption is that seepage does enter receiving waters and that where that occurs is the point of compliance. In other words, seepage should be compared to EQC’s prior to it entering receiving waters and the burden of proof is on the company to demonstrate that any individual seep should be managed as described in scenario 1.</p>
<p>GNWT-ECC-10 Enforcement of Terrestrial Quality Objectives</p>	<p>GNWT-ECC recommends that the waste discharged as seepage from WRSAs at the Ekati Diamond Mine be regulated with numeric EQC as a specific condition(s) within the body of the Water Licence.</p>	<p>Arctic Canadian has not stated and is not requesting, either as part of the Renewal or through the Seepage Response Framework that seepage not be compared to EQC. Additionally, we are not suggesting that TQO replace EQC’s as a tool to allow for the discharge to receiving waters. We are however suggesting that there is a gap between where seepage may enter receiving waters and that TQO’s would be protective of terrestrial environment and its use in those instances. As stated during the technical sessions, all seepage will be compared to EQC’s as described in the water licence and TQO’s that will be described in the Response.</p>
<p>GNWT-ECC-11 Metal and Diamond Mining</p>	<p>GNWT-ECC recommends that the pH for all surface runoff and seepage be revised in the Water Licence to be compliant with MDMER (pH between 6.0 and 9.0).</p>	<p>Arctic Canadian’s proposed wording is consistent with the requirements of MDMER. Arctic is not asking that it be allowed to discharge or release any mine water with a pH less than 6. We are however requesting that</p>

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<p>Effluent Regulations (MDMER)</p>		<p>the Water Licence recognize the demonstrated fact that both tundra soils and natural waters can have pH below 6 and that interaction of mine water with them could cause pH to drop below 6. Failure for the Water Licence to recognize accepted facts of the environmental setting in which the mine operates is not reasonable, without allowing an avenue through which the company can demonstrate that low pH values are the result of interactions with the receiving environment rather than the waste or waste water itself. Arctic Canadian is strongly insisting that the wording be retained and that the Board issue a Water Licence that appropriate reflects the environment in which the mine exists. If this wording were not included, the company could be out of compliance with the Water Licence because of the receiving environment itself and the inspector would have no choice but to require to company to address natural environmental conditions. This is an entirely unacceptable outcome for the company that could be extremely detrimental to our ability to continue operating.</p>
<p>GNWT-ECC-12 Aquatic Effects Re-Evaluation Report Frequency</p>	<p>GNWT-ECC recommends that the Board maintain the current wording of Part J, Conditions 4 and 5 requiring Arctic to submit an AEMP Design Plan and Aquatic Effects Re-Evaluation Report “Every three years, or as directed by the Board”.</p>	<p>Arctic Canadian has provided clear reasons why 6-years is a reasonable scheduled interval for the AEMP Re-evaluation and Updated Design Plan at this stage of the life of the Ekati Diamond Mine, including the proposed 3-year schedule for review of the Aquatic Response Framework. Arctic Canadian is pleased that DKFN has provided a thoughtful balanced recommendation that supports this approach. However, Arctic Canadian finds no compelling argument or evidence to support ECC’s objection to this approach.</p> <p>The Point Lake Project does not warrant frequent re-evaluate and revision of the AEMP as all of the mine water, including seepage, will be collected and discharged from the King Pond Settling Facility for which adequate AEMP monitoring is already in place from King Pond into Lac du Sauvage. The Receiving Environment downstream of KPSF has been monitored for more than 20 years and is well understood. The AEMP can be relied on to detect changes associated with commencement of mining at Point Lake. Conversely the monitoring programs extensive data set would be particularly sensitive to any potential changes that are unique to mining Point Lake.</p> <p>Should any special studies or investigations be required based on the results of the AEMP, they would be proposed and approved as part of an ARF Response Plan. The results of which may if appropriate inform the requirement to change the AEMP Design Plan. Considering that AEMP</p>

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		<p>results are reported annually, and the company is required to report action level exceedances (and submit updated response plans if appropriate) twice per year, reviewers have 3 opportunities to recommend changes to the AEMP Design Plan based on the results of monitoring. This means that annually the Board has three opportunities to Direct Arctic Canadian to update the Design Plan should they deem it appropriate. Additionally, an interested party could request the Board consider a change to the AEMP Design Plan at any time.</p> <p>As discussed during the technical session, the extended schedule would not make sense to implement until after the completion of the next large-bodied fish monitoring program. This would mean that at minimum the re-evaluation would not be required until every component of the AEMP had been completed at least once, which is required to complete a comprehensive review of the entire design plan,</p> <p>Arctic Canadian continues to assert that the current review schedule creates significant and increasingly redundant work for both the company and reviewers. This is particularly true when you consider the fact that reviews will have 3 opportunities (required by the WL) to recommend changes to the Design Plan, they can request a review independent of WL schedules or conditions and the Board can at any time direct the company to complete a re-evaluation of the AEMP.</p> <p>Conversely the GNWT suggest that the company can simply request the Board direct the company to submit the Re-evaluation at a later date. This suggestion disregards the fact that it takes nearly a year to complete the re-evaluation report and so the company would be put in a position that they would be required to submit the request prior to distribution of two Annual reports from the previously approved design plan. This is the only way that the company could ensure that approval would be received prior to needing to initiate development of the re-evaluation. A process which, at this time in the Mine life, produces significantly lower return on effort for both reviewers and the company. This is demonstrated by that fact that the overall outcome of the past two re-evaluations were reduction in monitoring requirements.</p>
IEMA-1 Expiry Date of Licence	The term of the Water Licence should be 7 years with an expiry date of 18 October 2030.	Arctic Canadian acknowledges IEMA's recognition of the concept of a "buffer" time beyond the current mine schedule (i.e., proposed 2030 versus scheduled 2029). However, an expiry of October 2030 is not an adequate operational buffer from the point of view of:



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		<p>(i) Potential extended mining due to accessing additional kimberlite, which has occurred on numerous occasions in the past due, in part, to conservatism required for published reserve estimates; and</p> <p>(ii) Potential unplanned operational delays or temporary shut downs.</p> <p>Additionally, Arctic Canadian continues to believe that there are no meaningful changes required to the Licence for the active reclamation stage of work immediately following mine operations. TG has not provided a rationale for why this would be necessary and Arctic Canadian does not find this a valid rationale for assigning a shorter term to the Licence. Arctic Canadian highlights its previous comments that a new or amended Licence is more appropriate to target for the post-closure monitoring stage of work.</p> <p>Arctic Canadian continues to recommend a 10-year term as providing the necessary operating flexibility to avoid an unnecessary early shut down and/or time-consuming short-term Amendment. This also enables Arctic Canadian to provide an integrated and efficient transition into active reclamation on the basis of an approved FCRP without disruption for a Licence Amendment that could delay commencement of reclamation work, increase costs for Arctic Canadian, and interrupt employment for operating employees.</p> <p>Please also see Arctic Canadian’s response to Recommendation TG-4.</p>
<p>IEMA-2 Part A: Scope and Definitions</p>	<p>The definition of ‘Closure and Reclamation Plan’ should be expanded to include “a document, developed in accordance with this Licence and the MVLWB/AANDC Guidelines for the Closure and Reclamation of Advanced Exploration and Mine Sites in the Northwest Territories, that clearly describes the Closure and Reclamation for the Project”.</p>	<p>Arctic Canadian notes that IEMA is recommending Option A of the Board’s standard definitions whereas Arctic Canadian proposed Option B for the Licence. Arctic Canadian notes that the extra wording in Option A referencing the closure guidelines is not necessary here as the requirement to adhere to those Guidelines appears in individual conditions in the Licence (e.g., Condition K.2). However, Arctic Canadian has no objection to the use of Option A at the Board’s discretion.</p>
<p>IEMA-3 Part A: Scope and Definitions</p>	<p>The definition of ‘Discharge’ should be expanded to include “a direct or indirect deposit or release of any Water, Wastewater or Waste to Receiving Waters”.</p>	<p>Arctic Canadian notes that the definition for “Discharge” is taken as written in the Board’s recent (2023) <i>Waste and Wastewater Management Policy</i> and is not based on the Board’s standard definitions. This is an important clarification to IEMA’s rationale because the Policy is more recent and provides primary direction for waste management. The importance of integrating the new Policy into waste management at the Ekati Diamond Mine was emphasized by Board staff at the Technical Session. For these reasons, Arctic Canadian recommends adopting the definition directly as written in the Policy.</p>

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IEMA-4 Part D: Conditions Applying to Water Use	Authorization to use water from Upper Exeter Lake to augment Process Plant water supply should not be authorized at this time. If Arctic Canadian wishes to pursue this, it should provide a water supply options analysis that describes the options considered and the criteria used for selection. This should be supported by appropriate evidence to support evaluation of options, for example, water quality data and constraints, cost analysis, pit stability analysis, etc.	The authorization to utilize Upper Exeter Lake water as contingency use for the process plant is an operational necessity that could potentially jeopardize operations at Ekati. Arctic Canadian has recently experienced a shortfall of reclaim water for the process plant from the LLCF. To mitigate the risk of an unplanned shut down due to a future water shortage, water withdrawal from Upper Exeter Lake may also be required on a contingency basis for the purpose of augmenting water supply in the LLCF to support process plant operations. The proposed changes mitigate a significant operational risk in an efficient manner.
IEMA-5 Part F: Conditions Applying to Construction	The scope of Condition F.10 should be expanded to require the identification of soil, rock, and ground ice conditions prior to the construction of any new containment structures and diversion channels.	Condition F.10 was written in the past for reasons specific to the referenced Developments. Arctic Canadian recommends that the Condition remain as written as there is no reasons to expand its scope beyond the initial reasons for its inclusion. Additionally, the work specified is a geotechnical ground investigation that would be conducted by the design engineer where necessary regardless of this Condition. However, this condition requires an individual report submission that, without a specific reason, represents an unnecessary overlap with the Design and Construction Plan required under Condition Part F.8.
IEMA-6 Part F: Conditions Applying to Construction	Condition F.21 through F.23 of the Water Licence should include standard conditions requiring the establishment of a Tailings Review Panel.	Arctic Canadian has consulted subject matter experts with Tetra Tech relating Tailing Review Panels. There is currently no requirement to establish a Tailings Review Panel under CDA Guidelines nor is one explicitly required within the Northwest Territories.  In Ekati's case, tailings are separated from the Receiving Environment by polishing ponds (Cells D and E) or directly deposited into the Panda/Koala/Beartooth Pits. The risk of tailings release to the environment is considered low. This could change if tailings management practices changed.
IEMA-7 Part F: Conditions Applying to Construction	The proposed Schedule 5, Condition 3 should be revised to provide only a list of Dams. The structures listed as Containment Structures should be moved to the Dam list, and Dike D should also be added to the list. Condition F.2 can be revised to remove the suggested reference to Containment Structure.	Arctic Canadian will adhere to the CDA (2019) definition of dams, which would include the intermediate dikes of the LLCF that contain solids. All containment structures, including Dike D, can be added to the dams list provided in Schedule 5, Condition 3.
IEMA-8 Part F: Conditions Applying to Construction	Condition F.18 of the Water Licence should be revised to state: "The Licensee shall retain an Engineer of Record for Dams. The Licensee shall submit the name of the Engineer of Record and acknowledgement by the Engineer of Record that they have agreed to accept the responsibility."	New Condition F.18 is included into the draft Water Licence as it appears in the Board's standard conditions. IEMA's proposed additional wording is an unnecessary additional submission as the engineer's seal on relevant reports indicates the accountable individual and that the individual has accepted that accountability.

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IEMA-9 Part H: Conditions Applying to Waste Disposal	Condition H.3 is redundant and should be removed from the Water Licence.	Arctic Canadian acknowledges the rationale and agrees with the recommendation that Condition H.3 should be removed.
IEMA-10 Part H: Conditions Applying to Waste Disposal	A definition should be provided for the term 'Waste Disposal Facilities' in Part A.2, or the term should be replaced in Condition H.10 using an alternative, defined term.	New Condition H.10 is taken from the Board's standard conditions and introduces the phrase "Waste Disposal Facilities" into the Licence. It was an oversight on Arctic Canadian's part that the Board's standard definition for "Waste Disposal Facilities" was not also included into the draft Licence. Arctic Canadian recommends that the standard definition be included into the Licence as follows: <i>the area(s) and structures designated for the disposal of Waste.</i>
IEMA-11 Part H: Conditions Applying to Waste Disposal	Condition H.17 of the Water Licence should be revised to include a requirement for submission of any updates to OMS Manuals as part of the Annual Geotechnical Inspection Report for the year in which an update is completed. The Condition should also require that each annual Geotechnical Inspection Report specifically address the need for updates to the OMS Manual.	The annual inspections completed at the Ekati Diamond Mine are consistent with "Engineering Inspections" referenced in Section 3.6.2 of the 2007 Dam Safety Guidelines (2013 Edition). The annual inspections are completed by a professional engineer, and the annual performance monitored against design parameters including water elevations, impoundment time, and ground temperatures. OMS procedures are typically intended for the tailings pond operators and are not required to be addressed as part of the annual inspection. Review of OMS manuals is typically completed as part of an annual dam safety review and is not specifically required for the annual geotechnical inspection.
IEMA-12 Part H: Conditions Applying to Waste Disposal	Condition H.13(a)(iii) should be revised to require any seepage from collection and settling ponds associated with the Point Lake and Lynx Developments meet the effluent quality specified in Condition H.23(b), and not H.23(a).	Arctic Canadian acknowledges the rationale and agrees with the recommendation that seepage from settling ponds associated with the Point Lake and Lynx Developments meet the effluent quality specified in Condition H.23(b), and not H.23(a).
IEMA-13 Part H: Conditions Applying to Waste Disposal	Condition H.13(b) should establish a required minimum frequency of inspections for collection and settling ponds. The Agency suggests that a frequency of once per month is reasonable and provides acceptable oversight for risks presented by consolidate any low-risk facilities. Facilities with higher risks can be inspected more frequently as directed by the engineer.	The term regular is not new and does not represent a proposed change to the Licence, it is intentionally and necessarily vague, in order to appropriately reflect the fact that frequency of inspections can vary significantly based not only on the design of the individual facility, but also numerous factors such as the level of activity. Annual inspection of Collection and Settling Ponds are completed annually in July by a Professional Engineer. An implementation plan to respond to any recommendations made by the Professional Engineer is included within the Geotechnical Inspection Report each year. This is one source of information that is used to establish what is to be considered an appropriate timeframe for regular inspections. For example, Ground temperature monitoring for all water control structures pertaining to Collection and Settling Ponds at Ekati is maintained at four times per year. Settlement surveys are completed once annually, if recommended by the Professional Engineer. Water elevations in certain facilities are

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		monitored monthly as required by SNP protocol during the open water season. Therefore, regularly as detailed within the Licence is necessarily variable and is adjusted depending on specific recommendations from a Professional Engineer and or the site specific consideration of each facility.
IEMA-14 Part K: Conditions Applying to Closure and Reclamation	Condition K.2 should require submission of an updated Interim Closure and Reclamation Plan every three years following the previous approval, or as directed by the WLWB - consistent with LWB Standard Water Licence Conditions Template Version 2.1 Condition I.2.	Arctic Canadian clarifies that, while there was a substantive length of time between Board approvals of ICRP 2.4 and ICRP 3.0, there were several important closure planning updates approved during that time through the Annual Progress Reports such that one of the objectives for ICRP 3.0 was simply to consolidate those individual updates. Arctic Canadian believes that this is an important and helpful role for the Annual Progress Reports because it provides a mechanism to address updates in a timely manner without the time and cost required for a full amendment of the ICRP when that may not be necessary. Arctic Canadian recommends that the Annual Progress Report continue to be used for this purpose. Arctic Canadian is optimistic that mine operations will be extended beyond 2029. However, 2029 remains the scheduled end of operations currently. In that context and given that an FCRP is required in 2027 and ICRP V.3.1 is currently under review, it is not realistic or desirable that the Licence institute an arbitrary 3-year schedule for ICRP submissions. While this approach may be appropriate for some new projects, the need and timing for further ICRP submissions at this stage of the Ekati Diamond Mine should be determined directly by the Board. Arctic Canadian recommends that the existing Condition K.2 be retained such that the timing of future ICRP submissions is determined directly by the Board.
IEMA-15 Part K: Conditions Applying to Closure and Reclamation	Condition K.4 should continue to be incorporated in the Water Licence.	Arctic Canadian acknowledges the rationale and agrees with the recommendation that Condition K.4 should be retained in the Licence.
IEMA-16 Schedule 1. Part B: General Conditions	The scope of Schedule 1, Condition 1(d) should be expanded to include the Beartooth and Panda/Koala processed kimberlite containment areas.	Arctic Canadian acknowledges the rationale and agrees with the recommendation that the Beartooth and Panda/Koala processed kimberlite containment areas should be added to Schedule 1 Condition 1(d).

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<p>IEMA-17  Schedule 6. Part H: Conditions Applying to Waste Disposal and Discharge</p>	<p>The scope of Schedule 6, Conditions 1(d) through 1(i) should include the Beartooth and Panda/Koala processed kimberlite containment areas, where appropriate.</p>	<p>Arctic Canadian recommends the following regarding Schedule 6 Conditions 1(d) through (i):  (d): the Beartooth and Panda/Koala PKCA's should be added.  (e): two of the four items specified are not relevant for the open pit PKCA's (ground temperature and water Discharge) such that the Beartooth and Panda/Koala PKCA's should not be added; the remaining two items (water quality and PK elevation) are appropriate for the Beartooth and Panda/Koala PKCA's.  (f): the Beartooth and Panda/Koala PKCA's should be added.  (g): the Beartooth and Panda/Koala PKCA's should be added.  (h): this condition does not apply to PKCA's (i.e., the LLCF is not included)  (i): this condition does not apply to PKCA's (i.e., the LLCF is not included)</p>
<p>IEMA-18  Schedule 6. Part H: Conditions Applying to Waste Disposal and Discharge</p>	<p>Schedule 8, Condition 2(u) should include a requirement for the Seepage Response Framework to describe the range of response actions that could be taken upon exceedance of each Action Level.</p>	<p>Arctic Canadian believes there is no value in an entirely hypothetically description of what actions might be taken in response to WRSA seepage exceeding a yet to be determined action level. The only certainty is that there is not likely to be a single standard approach or action taken. Each seep of potential concern is likely going to require some level of site-specific considerations such as the geography of the area, surface material type, flow rate, duration of flow and the parameter(s) of concern.</p> <p>Both response plan and Response Framework are defined terms in the Water Licence. Arctic Canadian has drafted the schedule with consideration of these definitions.</p> <p><i>“Response Framework” is a systematic approach to responding when the results of a monitoring program indicate that an Action Level has been reached.”</i></p> <p><i>“Response Plan” is a part of the Response Framework that describes the specific actions to be taken by the Licensee in response to reaching or exceeding an Action Level.”</i></p> <p>Additionally, reporting is required by Part J Condition 9:  <i>“If any Action Level defined in the approved Response Framework is exceeded, the Licensee shall:</i></p> <p><i>a) Notify the Board within 60 days of when the exceedance is detected; and</i></p> <p><i>b) Within 90 days of when the exceedance is detected, submit a Response Plan that satisfies the requirements of Schedule 8, Condition 4 to the Board for approval. “</i></p>

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		<p>Considering the definitions above and given the fact that reporting requirements are already incorporated into the Licence, Arctic believe that this recommendation is already by definition a requirement of a response plan.</p>
<p>IEMA-19 Part A – Surveillance Network Program Description and Sampling Requirements</p>	<p>SNP Station 1616-13 should remain an active sampling station.</p>	<p>Both SNP station 1616-13 and Aquatic Effects Monitoring Program (AEMP) station Lower PDC (ERM 2021) monitor water quality in the Lower PDC prior to entering Kodiak Lake. The SNP specifies monthly sampling during periods of flow (i.e., the open-water season), while the 2020 to 2022 AEMP Design Plan (ERM 2021) specifies monthly sampling from June to September, which is also representative of the open-water season or period of flow for streams at the Ekati Diamond Mine site. Both the SNP and AEMP Design Plan (ERM 2021) require the collection of total suspended solids (TSS), major ions, physical variables, total metals, and nutrients. The similarities in sampling location, required sampling frequency, and variables analyzed support the fact that station 1616-13 is redundant. As previously stated, the AEMP station Lower PDC is the more appropriate place to continue monitoring water quality in the Panda Diversion Channel. Station 1616-13 should be changed to “permanently inactive” as monitoring it provides no benefit.</p>
<p>IEMA-20 Part A – Surveillance Network Program Description and Sampling Requirements</p>	<p>The requirement at SNP 1616-30a for chronic toxicity testing a maximum of 4 weeks prior to discharge should be retained.</p>	<p>Acute and chronic toxicity testing is currently required at both of these stations once each year during open-water and once each year under-ice. At station 1616-30a acute and chronic toxicity testing is also required up to four weeks prior to Discharge. The rationale for this station is linked to approval of Discharge and monitoring of Discharge water. Arctic Canadian recommends that the requirement for toxicity testing at both of these stations be changed to “once each year during open water and once each year under-ice, when Discharging”, thereby still collecting toxicity samples twice per year in years in which Discharge occurs, but removing the requirement for toxicity testing if Discharge does not occur.</p> <p>IEMA has not provided supporting evidence detailing how any useful information is gleaned from acute or toxicity testing in non-discharge years, when the rationale for the station is solely linked to approval of Discharge and monitoring of Discharge water.</p>
<p>IEMA-21 Annex B: Part B – SNP, Flow and</p>	<p>SNP Condition B.11 should be expanded to include the Lynx, Fox and Point Lake open pits amongst the listed pits.</p>	<p>SNP Condition B.11 is redundant to SNP Condition B.7 and Arctic Canadian recommends that Condition B.11 be removed as it is</p>

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Volume Measurement Requirements		incomplete and the source of confusion. Condition B.7 provides a better stated requirement.
IEMA-22 Annex B: Part C – SNP, Other Monitoring Requirements	Collection of Ekati mine evaporation data should continue at the Ekati mine to support calculation of water balances during current mining operations and into post-closure. Arctic Canadian should extend their collection of evaporation data throughout the open water season to better reflect annual variability in evaporation.	<p>IEMA’s rationale for this recommendation does not appear to consider the information provided as part of the application, which clearly states that the annual variability in evaporation results in changes to the water balance that are less than the predictive accuracy of the model. In other words evaporation and transpiration are insignificant drivers of hydrology in the monitored region, particularly when compared to the magnitude and variability of all the other inputs.</p> <p>The historical record of evaporation shows that there is no apparent trend in total annual evaporation as measured by the Polar Lake micrometeorological station. In addition, the inter-annual variability shows a less than +/-10% expected range in total annual evaporation.</p> <p>The sensitivity of the water balance models to evaporation were evaluated based on an expected inter-annual variability of 10%. This range of annual evaporation values resulted in changes in the water balance that were less than the expected limits in the model accuracy. Therefore, the absence of a long-term trend in evaporation rates and the low sensitivity of the water balance models to evaporation suggest that discontinuing annual monitoring of evaporation rate will not impact the calibration and operation of the LLCF and Koala Watershed water balance and water quality models.</p> <p>Polar Lake station precipitation data are redundant to the Koala station data, are only available seasonally, and are not used in the Ekati Diamond Mine water balance modelling. Accordingly, discontinuing Polar Lake precipitation monitoring will not impact the calibration and operation of the LLCF and Koala Watershed water balance and water quality models.</p> <p>The Polar Lake meteorological station is no longer necessary. Condition 1 of Part C, Annex B of Water Licence W2020L2-0004, should be removed. Conditions 2 and 3 of Part C, Annex B are related requirements that should also be removed.</p>
TG-1 TG recommendations	We recommend that all seepage be regulated by the Board, with seepage quality requirements based on whether or how likely seepage is to enter a water body.	Arctic Canadian appreciates the approach proposed by TG and view it as a reasonable risk based approach to environment management.

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for managing and regulating seepage		
TG-2 TG recommendations for managing and regulating seepage	The seepage evaluation framework should include early warnings to reduce the likelihood that seepage will exceed terrestrial and aquatic life thresholds.	<p>Arctic can confirm that all seepage will be screened against both TQO's and the Framework will include action levels and response plans. The intent is that the functioning similarly to the ARF but for managing risks to the Terrestrial Environment.</p> <p>Seepage will continue to be screened against EQC's prior to entering Receiving Waters, management actions related to seepage approaching EQC limits will be managed through the development of a response plan specific to the seepage location and the constituent of concern. Due to the nature of EQC's and their development and us in the permit, the level at which a response plan should be required will more than likely be a topic of future discussion during review of the first version of the Seepage Response Framework.</p>
TG-3 Water Use	We recommend that the Board have some oversight of Arctic's efforts to minimize operational uses of freshwater. For example, Arctic could submit water use minimization plans in the Drawdown Plan. This could include an evaluation of the logistical, engineering, economic, and other factors related to potential sources of reclaimed water.	<p>Arctic Canadian is in agreeance that the appropriate location to establish limitations to freshwater use would be through an approved Drawdown Plan, as is required by the Licence. Arctic Canadian does not intend to utilize freshwater water sources for process plant operation unless absolutely necessary.</p> <p>Rather than the submission of an additional plan (minimization plan) for an activity that Arctic Canadian has already committed to avoid to the greatest extent possible, as suggested by the Tlicho, Arctic believes that it is reasonable to report on the freshwater use from Exeter as part of the month SNP report and as part of the Water Licence and Environmental Agreement Annual Report. Arctic Canadian will ensure that the volume of water and the location it was deposited are separated so reviewers will get the opportunity to review and comment on the freshwater use in a timely manner and at the end of the year as a whole number. Artic believes this gives the reviewers ample opportunity to recommend that the Board direct the company to submit additional information if they deem it appropriate.</p> <p>The authorization to utilize Upper Exeter Lake water as contingency use for the process plant is an operational necessity that could potentially jeopardize operations at Ekati. Arctic Canadian has recently experienced a shortfall of reclaim water for the process plant from the LLCF. To mitigate the risk of an unplanned shut down due to a future water shortage, water withdrawal from Upper Exeter Lake may also be</p>



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		<p>required on a contingency basis for the purpose of augmenting water supply in the LLCF to support process plant operations. The proposed changes mitigate a significant operational risk in an efficient manner.</p>
<p>TG-4 Water Licence Term</p>	<p>We recommend a licence term of seven or eight years.</p>	<p>Arctic Canadian acknowledges TG’s recognition of the concept of a “buffer” time beyond the current mine schedule. However, a 7-year term (i.e., expiry in October 2030) is not an adequate operational buffer from the point of view of:</p> <ul style="list-style-type: none"> <li>(i) Potential extended mining due to accessing additional kimberlite, which has occurred on numerous occasions in the past due, in part, to conservatism required for published reserve estimates; and</li> <li>(ii) Potential unplanned operational delays or temporary shut downs.</li> </ul> <p>An 8-year term is conceptually preferable for Arctic Canadian than a 7-year term, however Arctic Canadian continues to recommend a 10-year term.</p> <p>Additionally, Arctic Canadian continues to believe that there are no meaningful changes required to the Licence for the active reclamation stage of work immediately following mine operations. TG has not provided a rationale for why this would be necessary and Arctic Canadian does not find this a valid rationale for assigning a shorter term to the Licence. Arctic Canadian highlights its previous comments that a new or amended Licence is more appropriate to target for the post-closure monitoring stage of work.</p> <p>Arctic Canadian notes that the referenced previous Licence Amendment that was for the sole purpose of extending the term with no changes was a special and unique situation that occurred during the CCAA legal process and the covid pandemic such that Arctic Canadian would not expect that Amendment process and outcome to repeat in future. Arctic Canadian continues to recommend a 10-year term as providing the necessary operating flexibility to avoid an unnecessary early shut down and/or time-consuming short-term Amendment. This also enables Arctic Canadian to provide an integrated and efficient transition into active reclamation on the basis of an approved FCRP without disruption for a Licence Amendment that could delay commencement of reclamation work, increase costs for Arctic Canadian, and interrupt employment for operating employees.</p>

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TG-5 Dams	Arctic should engage Tłı̄chǰ Government related to Dike D and the Old Camp dam.	Please also see Arctic Canadian’s response to Recommendation IEMA-1. Arctic Canadian can commit to engaging the Tlı̄cho Government on the status of Dyke D and the former Old Camp Dam when providing an evaluation of environmental and cultural consequences. The annual geotechnical inspection is currently scheduled for July with a commitment to provide updated dam classifications with the 2023 Annual Geotechnical Inspection Report.
TG-6 Dams	We recommend that the Board obtain additional information to determine whether an independent review panel is needed for the Long Lake Containment Facility.	Arctic Canadian has consulted subject matter experts with Tetra Tech relating Tailing Review Panels. There is currently no requirement to establish a Tailings Review Panel under CDA Guidelines nor is one explicitly required within the Northwest Territories.  In Ekati’s case, tailings are separated from the Receiving Environment by polishing ponds (Cells D and E) or directly deposited into the Panda/Koala/Beartooth Pits. The risk of tailings release to the environment is considered low. This could change if tailings management practices changed.
TG-7 Underground Remote Mining	Arctic should be required to monitor Lynx pit water for petroleum hydrocarbons.	Arctic Canadian does not object to adding monitoring of petroleum hydrocarbons for the URM water monitoring program. Arctic Canadian recommends that this be specified as “TPH” and “BTEX” per footnotes 5 and 6 to Part A of the SNP.
TG-8 Licence Conditions for Closure and Reclamation	The Tłı̄chǰ Government recommends the Board include the standard licence conditions requiring a component-specific closure plan for progressive reclamation and a Reclamation Research Report. We will provide additional input on licence conditions in our review of the draft licence.	<u>Re Component-Specific Closure Plan</u> : Arctic Canadian acknowledges the reference provided to Board Guidelines. However, Arctic Canadian’s primary concern remains that the language of the Licence does not impede a rational reduction in reclamation security on the basis of incremental work completed; specifically, that the requirement for a “Component-Specific Closure Plan” does not prevent a reduction in security until an entire “component” of the mine site has been reclaimed. Arctic Canadian’s concern is partly drive by a lack of definition or confidence in what may in the Board’s view, constitute a “component”. Arctic Canadian finds that a “Task-specific”: approach would be clearer and increase confidence. The recently submitted Pigeon Back-flooding Plan is an example of what Arctic Canadian views as an approved progressive reclamation task that should be eligible for a rational reduction in security on an annual basis as work is completed. Confidence in the process for incremental reduction in security is an essential requirement for Arctic Canadian’s plans for progressive reclamation.

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		<p>Arctic Canadian has included the Board’s standard definition for "Component-Specific Closure and Reclamation Plan (Component-Specific CRP)" in the draft Licence. Arctic Canadian suggests that the Board’s standard condition I.4 Option 1 could be included into the Licence modified as follows (modifications underlined or stuck-through):</p> <p><i>Prior to Progressive Reclamation of any specific component of the Project <u>or other progressive reclamation tasks</u>, and until a final Closure and Reclamation Plan is approved, the Licensee shall submit to the Board, for approval, a Component-Specific Closure and Reclamation Plan <u>or a task-specific plan</u>. The Licensee shall not commence activities described in the Plan prior to Board approval.</i></p> <p>Arctic Canadian notes re standard condition that the specification of submission one-year prior to is indicative that the Board’s intent is that a Component-Specific Plan is a major undertaking requiring extensive review and this supports Arctic Canadian’s concern stated above. The one-year prior to requirement is not necessary because the Condition specifically prohibits commencement of work until the plan is approved. Additionally, a one-year submission timeframe would be overly long in many instances (i.e., Pigeon back-flooding plan) and could hamper Arctic Canadian’s ability to opportunistically conduct progressive reclamation.</p> <p><u>Re Reclamation Research Report</u>: Arctic Canadian continues to recommend against a stand-alone submission because the Annual Reclamation Progress Report provides a better vehicle to link regular updates on reclamation research to work underway the site and implications for the CRP. Arctic Canadian has proposed to document current practice in this regard through additional wording to existing Condition K.4 that reclamation research updates be include in the Annual Progress Reports.</p>
<p>YKDFN-2.1 Cumulative Impacts</p>	<p>Cumulative impacts monitoring, sampling, and concentration limits included in the license are set in a manner that are not irrespective of each other because the receiving environment is the same.</p>	<p>Cumulative effects for the activities under taken under the Water Licence have been evaluated as part of the various Project authorizations conducted under Part 5 of the MVRMA. Effluent Quality Criteria, aquatic benchmarks, and other environmental criteria are established through the Water Licence within the context of those evaluations at levels that are protective of the uses of the receiving waters.</p> <p>Arctic Canadian believes that all the criteria in the Water License are appropriate for the receiving environment they are intended to protect.</p>

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		Additionally, the Aquatic Response Framework outlines how results from the AEMP will be screened and what actions will be taken at specific level of change.
YKDFN-2.2 Cumulative Impacts	Metal, ion, other contaminants of concern included in licenses and permits (including and not limited to action response levels) should be set at the most conservative levels. We do not know what the impacts are, we are going to find out what the impacts will be.	Effluent Quality Criteria are calculated and approved based on Board Policy and Guidelines, which includes protection of the Receiving Environment. Additionally, AEMP benchmarks are set a concentration at or below which no effects are expected.
YKDFN-2.3 Cumulative Impacts	Changes to the water license should provide ACDC and the YKDFN certainty that Elders from all communities will feel and truly be safe to drink the water and eat fish from Lac de Gras. Fish and water consumption should be safe for prolonged sustenance harvesting and water reliance.	Arctic Canadian understands the concerns of the YKDFN, we believe that the Water Licence is appropriate to ensure the environment is protected. Arctic Canadian continues to work will all parties to ensure that appropriate closure criteria are established that incorporate Traditional Knowledge and are protective of use following the closure of the mine.
YKDFN-3.1 Land Use	The YKDFN support progressive and post-closure reclamation activities that allow site runoff to enter the receiving environment if the proponent can provide evidence to support runoff does not contain additional ions, metals, nutrients, and other contaminants.	Arctic Canadian appreciates the support provided by YKDFN and can confirm that engagement will continue on closure and reclamation to ensure that criteria will be established that are protective of the environment.
YKDFN-3.3 Land Use	Water with measured concentrations of contaminants as defined in the GNWT's Environmental Protection Act, ions, metals, and nutrients above natural conditions should not be permitted to enter Lac de Gras.	<p>Arctic Canadian does not discharge any Wastewater directly to Lac de Gras, however we do acknowledge that the watersheds downstream of our containment facilities do eventually flow into Lac de Gras. Arctic Canadian believes the AEMP and the associated Aquatic Response Framework are appropriate and effective tools to accurately monitor for and understand the potential for effects related to changes in the Receiving Environment.</p> <p>Arctic Canadian would also like to direct the YKDF to the Authorized Discharge of Contaminants sections of the Environmental Protecting Act which describes the process by which discharge of waters above natural conditions is permitted under that Act.</p> <p>It is important to note that the Environmental Protection Act does not specifically list any lake to which discharge cannot occur.</p>
YKDFN-3.3 Land Use	Cumulative effects must be minimalized. Cumulative effects should be minimalized based on reconnection with Lac de Gras, traditional use will set the baseline.	Cumulative effects for the activities undertaken under the Water Licence have been evaluated as part of the various Project authorizations conducted under Part 5 of the MVRMA. Effluent Quality Criteria, aquatic benchmarks, and other environmental criteria are established through the Water Licence within the context of those evaluations at levels that are protective of the uses of the receiving waters. Waste management plans are approved through the Water Licence that authorize how potentially harmful wastes must be managed. Monitoring programs

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		<p>under the Water Licence are focused on the environmental criteria, management plans, and other Conditions of the Licence that are specific to the Ekati Diamond Mine.</p>
<p>YKDFN-3.4 Land Use</p>	<p>Monitoring, sampling, and responses to exceedances should be a process that is designed and conducted in a strategic manner that allows the site to safe for cultural use post closure. Negligible effects must be confirmed by the PA groups and their Elders.</p>	<p>All sampling and monitoring programs are completed in accordance with the conditions of our Licenses and Permits. The results are regularly submitted to the board for review and approval. In particular the Aquatic Response Framework and the Proposed Seepage Response Framework are designed to respond to results observed as part of monitoring programs. These response plans are required to discuss the potential for ecological effects and possible mitigation actions that could be implemented if required.</p> <p>Closure concerns are addressed through development and review of the ICRP or component specific closure plans.</p>