



Independent Environmental Monitoring Agency

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July 8, 2016

Kate Witherly
Manager—Environmental Impact Assessment
Conservation, Assessment and Monitoring
Environment and Natural Resources
Government of the Northwest Territories
P.O. Box 1320
Yellowknife NT
X1A 2L9

Dear Ms. Witherly,

Re: 2015 Environmental Agreement and Water Licence Annual Report and Summary Report

The Agency has had an opportunity to review Dominion Diamond Ekati Corp.'s (DDEC) 2015 Annual Environmental Report and the plain language summary. While reviewing these documents, we were also mindful of the full Wildlife Effects Monitoring Program (WEMP), Aquatic Effects Monitoring Program (AEMP) monitoring reports, and other reports from 2015.

The Agency notes that for the last few years we have made the same comment regarding receiving a company response to our previous year's comments prior to the current version of the annual report being released, and that comments from the previous year be included in the current version as an Appendix. DDEC did respond to all reviewer comments however they were not incorporated into the current version of the Report. The Agency encourages the Government of the Northwest Territories (GNWT) to require DDEC to include the comments made on the previous year's report and its responses (detailing where in the current report the concern was addressed), as an appendix. This should improve the timeliness of responses and allow for continual improvement in the reporting of environmental performance at Ekati.

The Agency is of the view that the 2015 Annual Environmental Report is satisfactory and that the information provided is adequate, including the description of remedial actions taken or proposed in respect of impact or compliance problems. There is one exception. It is our strong opinion that section 7.1.1 of Appendix G does not fairly represent the

Agency's participation in review of the Environmental Agreement financial security and needs to be corrected in the current report.

The Agency makes the following general observations with a view to improving future Annual Reports. We would request that DDEC review and respond to these comments before it submits its 2016 Annual Report and include this as an appendix as recommended above.

2015 Environmental Agreement and Water Licence Annual Environmental Report

- General Comment: Studies and research programs are described in various locations throughout the Report (i.e. Old Camp Reclamation Phase III ESA (page 27), WRSA and Processed Kimberlite Containment Area Research (page 43)) but the results are not provided. In the future, summaries of results should be provided where studies and research programs are identified as having been completed.
- General Comment on Traditional Knowledge (TK) and Engagement: The Agency is pleased that the company engaged with Elders on designing and building of the Jay and Sable waste rock piles through the Tłı̄cho What'aa Eskers TK Project and with youth on the reclamation research seed collection program. While this work is encouraging, DDEC needs to document the implementation, successes, and lessons learned from TK programs and workshops and how TK is incorporated into environmental management at the Ekati Mine. DDEC should document the implementation, successes, and lessons learned from TK studies and how it is incorporated into environmental management at Ekati Mine.
- Page 10 - Figure 2 – 2015 Ekati Diamond Mine Solid Waste Summary: Solid waste is generally thought to include any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded materials including solid, liquid and semi-solid material resulting from industrial, commercial, mining, agricultural and community operations. It is unclear what constitutes 'solid waste' in the context of Figure 2. Does the Figure include camp and other waste deposited into the landfill and if so, where in Figure 2 is this volume reflected? Future iterations of Figure 2 need to clarify what wastes are represented by the graph.
- Page 14, DDEC erroneously states that "the Federal Government is no longer a co-signatory to the Environmental Agreement". The Agency pointed this out last year and is disappointed that it was not changed. DDEC's September 24, 2015 response to reviewer comments acknowledged the mistake but it remains uncorrected.
- Page 21 - Table 4 - Waste Discharged to Containment Facility: Note #1 notes the inclusion of the water portion of the Process Plant discharge in mine water discharged to the LLCF and King Pond. The same reference does not apply to mine water discharged to Beartooth Pit. The Table appears to indicate a significant

portion of Process Plant discharge was diverted to Beartooth Pit beginning in September 2015 (LLCF volumes decrease while Beartooth volumes increase). Should Note #1 refer to mine water discharged to Beartooth Pit along with LLCF and King Pond?

- Page 24 - Table 7 - Sewage Effluent: According to Table 7, the volume of sewage sludge sent to Panda Waste Rock Pile in January, August, October and November was exactly the same (113.56 m³) each month. While it is possible that the monthly volumes sent for disposal could be identical, please confirm this is indeed the case, if not update accordingly.
- Page 25, Section 3.2 states “Pumping Summaries have been submitted to the Board.” Similar statements appear in a number of other places in the Annual Report. It would be much more helpful if DDEC could properly reference the submissions (including the dates) to allow interested parties to review the supporting documentation. This comment was also made last year and acknowledged in DDEC’s September 24, 2015 response to reviewer comments, yet the promised changes have not been made.
- Page 38 Section 4.1 – Compliance Reports: DDEC responses to inspections conducted in February and April, 2015 which resulted in ‘unacceptable’ ratings are noted on page 39. However, responses to inspections conducted in September and November, 2015 which resulted in similar ‘unacceptable’ ratings have not been noted. DDEC responses to all inspections that result in ‘unacceptable’ ratings should be included in future Annual Reports.
- Page 40 to end of Report- Table Reference Numbers: Reference numbers to Tables on pages 40, 41, 46, 47, 48 and 55 are inconsistent with the List of Tables (page 5) and the accompanying text.
- Page 42, DDEC reports on the 2015 inspections carried out but does not provide dates or links to the WLWB postings for these reports, as noted in previous years comments. We commend DDEC for providing a short summary of its responses to some of the issues raised during the inspections of the landfill. It would be helpful to disclose what methods DDEC has implemented to help avoid reoccurrences. This comment was also made last year and acknowledged in DDEC’s September 24, 2015 response to reviewer comments, yet the promised changes have not been made.
- Page 48 - Stationary Emission Sources: DDEC states that more used oil was recycled for heat generation in used oil burners and fuel consumption for power generation and heating was decreased in 2015 from previous years. Specific quantities and volumes should accompany qualitative statements such as these.
- Page 49 – Wildlife, including caribou and bears - The main text includes abbreviated summaries of what was conducted during camera based caribou monitoring and the wolverine DNA program in 2015. Data from neither of these

studies were presented in the 2015 WEMP nor in the annual report, so it is unclear why they are highlighted here, unless it is to point out that data reporting is pending. DDEC should clarify why summaries of these studies are reported here when they were not presented in the 2015 WEMP or annual report.

- Section 4.6 – Summary of Operational Activities for the Next Reporting Year, page 58: The summary of ore and waste movement forecast makes reference to both ‘ore’ and ‘kimberlite’. Is there a difference between the terms? If there is no difference, consistent terminology should be used in future reports.

Appendix G – Closure and Reclamation Progress Report

- Section 7.1.1 Environmental Agreement Security suggests that DDEC and GNWT fully engaged IEMA during review of the Environmental Agreement financial security (i.e. the security review process included: "consultation and feedback provided by the Agency; correspondence between GNWT, DDEC and the Agency; and outcomes of meetings between GNWT, DDEC and the Agency"). While the Agency took an active role during the early discussions, it was informed by the GNWT on March 11, 2015 that the Government's position would no longer be shared with the Agency. As a result, IEMA's ability to participate in the process was ended and the review continued with no further opportunity for the Agency to provide meaningful input. In the end, the GNWT and DDEC jointly agreed on a security deposit of \$19,991,424, an overall reduction of \$22,683,746. In its last submission dated January 2015, the Agency proposed a deposit of \$47,437,275. It is our strong opinion that section 7.1.1 of Appendix G does not fairly represent the Agency's participation in review of the Environmental Agreement financial security and needs to be corrected in the current report.

Appendix H – 2015 Wildlife Effects Monitoring Program Summary

- Habitat loss and alteration - The report provides the area of direct habitat loss in 2015. It would provide the reader with a better overall picture within this summary to state the current total amount of direct habitat loss caused by the project footprint since 1997 (3,400 ha with the addition of the 105.8 ha added in 2015), as well as the length of road (currently 87 km).
- Caribou – Number of Caribou in the Ekati Diamond Study Area - The document states that observers estimated 264 caribou within the study area. The main WEMP report provides the same number in Table 5.3-1, but provides 305 caribou in the text (pg 5-13) and 306 in Table 5.3-3. These numbers should be clarified, but in any case do point to **the** lowest number observed (not just “among the lowest recorded”) since records began in 2006. Thus the next statement “Overall, caribou abundance and timing of migrations through the Ekati Diamond Mine study area

have been consistent over the previous 16 years” is not accurate and should be corrected. DDEC should clarify and correct the text in these sections.

2015 Environmental Agreement and Water Licence Annual Environmental Report Summary

We also reviewed the plain language version of the Annual Report. We found this to be a helpful and well organized document. The photos and graphics are well done and the definitions in the text boxes are helpful. The plain language version is an accurate summary of the full report. We offer several comments DDEC should consider:

- We noted that DDEC has erroneously stated “the Canadian government is no longer involved in the Ekati Diamond Mine’s Environmental Agreement.” We are not aware of any changes to the Environmental Agreement as noted above.
- Page 9 - Figure 2 – 2015 Waste Management at the Ekati Mine: Similar to Figure 2 in the technical Annual Report, this figure graphically summarizes the quantity and location of waste deposited (processed kimberlite, coarse ore rejects, waste rock and sewage sludge) at the Ekati Mine in 2015. Similar to the technical Annual Report, the figure does not appear to include camp and other waste deposited into the landfill. Future iterations of the Summary Report should include this waste stream.
- Page 28 – Caribou – Numbers of Caribou in the Ekati Mine Study Area: The report states that 264 caribou were incidentally observed. The comment above on the number of caribou counted during incidental monitoring should also be addressed in the plain language summary report.
- Page 28 – Seasonal use in 2015: The plain language summary states “Information from the collared data in 2015 indicated that core use areas for female Bathurst caribou did not overlap with the Ekati Diamond Mine during any period. However, the summer and fall ranges overlapped with the mine in 2015.” Although we believe this is referring to core (50%) versus 95% ranges, these two statements appear to contradict one another. DDEC should clarify this statement.
- Page 29 – Wolf monitoring: The summary states “Over the last 122 years, the number of wolves observed around the mine site has remained consistent.” An extra “2” appears to have been added. DDEC should clarify or correct this statement.

We look forward to DDEC’s timely response to our comments and their inclusion as an Appendix to the 2016 Annual Report. We would be pleased to discuss these comments with DDEC and others to ensure improved public reporting and environmental management at Ekati.

Sincerely,

A handwritten signature in blue ink, reading "Jaida Ohokannoak", enclosed in a thin black rectangular border.

Jaida Ohokannoak
Chairperson

cc. Society Members

Meghan Schnurr, Wek'eezhi Land and Water Board

Mark D'Aguiar, DFO

Lorretta Ransom, Environment Canada