



Independent Environmental Monitoring Agency

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Mr. Joseph Mackenzie
Acting Chair, Wek'eezhii Land and Water Board
#1-4905 48th Street
Yellowknife, NT X1A 3S3

Re: 2017 Closure and Reclamation Progress Report

The Independent Environmental Monitoring Agency (Agency) has reviewed Dominion Diamond's 2017 Closure and Reclamation Progress Report. The Agency is pleased to submit the following comments and recommendations for your consideration.

Traditional Knowledge Information

In its Reasons for Decision related to the 2015 Progress Report, the Wek'eezhii Land and Water Board (WLWB) stated that "*The Board supports DDEC's commitment to report on pertinent Traditional Knowledge offered by community members during reclamation site visits*". Subsequently, in the Agency's comments on the 2016 Closure and Reclamation Progress Report, we noted that any references to Traditional Knowledge offered by community members during 2016 reclamation site visits could not be located and recommended that Dominion Diamond clarify how it had fulfilled its commitment.

Following consideration of Dominion Diamond's response to the Agency's comments, the WLWB reiterated its direction in the June 13, 2017 Reasons for Decision that Dominion Diamond "*share Traditional Knowledge information, as appropriate in the 2017 Progress Report and ICRP Version 3.0*".

The Agency notes the inclusion of Dominion Diamond's 2017 Kugluktuk LLCF Site Visit Report as Appendix A in the 2017 Progress Report. The report includes statements provided by participating Elders which summarize the Traditional Knowledge acquired from residing near saline coasts surrounding Kugluktuk. However, no documentation or summary is provided on how the Traditional Knowledge collected by Kugluktuk Elders was implemented into ongoing reclamation programs at the Ekati mine or how it will be incorporated into future reclamation research.

Further, section 2.4 of the Progress Report introduces the Traditional Knowledge Elders Group (TKEG) which was established to provide Traditional Knowledge into the design and operations, including closure, of the Jay Project. This section identifies topics where specific community input was sought by Dominion Diamond during an on-site visit by the TKEG in September 2017. Appendix B provides the TKEG Interim Closure and Reclamation Plan (ICRP) presentations. While this information is helpful, a summary of discussions, specific Traditional Knowledge provided by the TKEG and an explanation of how the Traditional Knowledge will be incorporated into future reclamation research could not be located.

Recommendation 1: Identify where in the 2017 Progress Report the Agency can locate a summary of discussions held with the Traditional Knowledge Elders Group during its September 2017 on-site visit, and an explanation of how the Traditional Knowledge will be incorporated into future reclamation

research can be located. Alternatively, Dominion Diamond should provide this information in its response.

Recommendation 2: Provide the information described in Recommendation 1 in all subsequent annual Closure and Reclamation Progress Reports.

Closure and Reclamation Research

The Agency has expressed concerns in the past over the closure and reclamation research schedule noting that delays in implementation remain a serious concern. In its recent responses Dominion Diamond stated that, because of the extended mine life resulting from the Jay Project, a complete updated reclamation research schedule will be incorporated into Version 3.0 of the ICRP which is expected to be released for review in July 2018. The Agency agrees with this approach for those reclamation activities that are not expected to begin until nearer the cessation of Ekati mine operations.

In its June 13, 2017 Reasons for Decision, the WLWB agreed with this approach and confirmed that a more complete reclamation research schedule can be included in the next version of the ICRP. However, Dominion Diamond was also directed to include in the 2017 Progress Report reclamation research information on progressive reclamation activities that are scheduled to start sooner. Specifically, the WLWB directed Dominion Diamond to provide:

- i. A list of progressive reclamation activities scheduled within the next five years.*
- ii. For each activity identified in 1.a.i, the supporting reclamation research schedule including the approximate end dates;*
- iii. For each activity identified in 1.a.i, highlight any proposed changes to the research schedule.*

The Agency agrees with the WLWB that this information would assist in ensuring reclamation research associated with progressive reclamation remains on track. While section 4.2 and 5.0 of the Progress Report summarize the reclamation research and progressive reclamation activities and monitoring that were completed in 2017, nowhere in the Progress Report could the Agency locate information specific to progressive reclamation research as requested above.

Recommendation 3: Identify where in the 2017 Progress Report the Agency can locate a list of progressive reclamation activities scheduled within the next five years, the supporting reclamation research schedule, including the approximate start and end dates, and any proposed changes to the research schedule. Alternatively, Dominion Diamond should provide this information in its response.

Reclamation Security

Table 7.1-1 (reproduced below) provides a summary of the Ekati mine reclamation security held by the Government of the Northwest Territories as of December 31, 2017.

Water Licence W2012L2-001	\$263,159,843
Ekati Environmental Agreement	\$19,991,424
Jay Early Works LUP W2016F0007	\$1,480,000
Pigeon LUP W2016D0005	\$427,000
<hr/> Total	<hr/> \$285,058,267

Section 7.2 then states the current WLWB RECLAIM represents an updated total of \$293,797,474, an increase of \$27,117,426 from the \$266,680,048 security held as of December 31, 2015 as presented in the 2016 ICRP Progress Report. Section 7.1 confirms that the GNWT held \$276,958,424 in security as of December 31, 2016. It is not clear to the Agency why the 2015 total (\$266,680,048) was used to

calculate the total and not the 2016 total (\$276,958,424) since all of the changes to security listed in Section 7.2 occurred in 2017. Given this table and information provided in Sections 7.1 and 7.2, it is unclear to the Agency what the current value of Ekati mine reclamation security held by the GNWT is.

Recommendation 4: Clarify the amount of reclamation security held by the GNWT for the Ekati mine as of December 31, 2017 and explain the difference between totals provided in Table 7.1-1 and section 7.2.

Jay Project Land and Water Reclamation Security

In March 2017, the GNWT Department of Environment and Natural Resources indicated that reclamation costs should be split for the Jay Project between land liabilities under Land Use Permits and water liabilities under the Ekati mine Water Licence. At the time Dominion Diamond expressed a preference to continue having all the WLWB reclamation activities covered under the Water Licence and encouraged ENR to work with the Department of Lands on developing a means by which this consolidation of securities can continue.

The Agency agrees with Dominion Diamond that all Ekati mine reclamation liabilities should continue to be covered under a single regulatory instrument. The overall objective of assigning a reclamation security is to support the cost of reclamation and ensure the mine operator, and not the landowner (i.e., government and the public), bears the full cost of any eventual reclamation. Assigning a separate reclamation liability to 'land' and 'water' has proven in the past to be complicated, confusing and, as a result of devolution, unnecessary from an operational perspective. Specific Ekati mine examples where difficulties assigning categorized liabilities can be envisioned include the open pits and lake retaining structures (Jay pit perimeter dyke), waterborne waste facilities (Long Lake Containment Facility and King Pond Settlement Facility) and stream diversions (Panda Diversion Channel and Pigeon Stream Diversion).

Recommendation 5: The Department of Environment and Natural Resources work with the Department of Lands on developing a means by which land and water reclamation security can continue to be held under a single regulatory instrument.

Should you have any questions concerning these comments, the Agency is pleased to discuss these at your convenience.

Sincerely,



Jaida Ohokannoak
Chairperson

Cc: Dominion Diamond– April Hayward
Tłıchq Government – Jessica Hum
Yellowknives Dene First Nation – Alex Power
Łutsel K'e Dene First Nation – Ray Griffith
North Slave Metis Alliance – Nicole Goodman
Kitikmeot Inuit Association – Geoff Clark
Government of the Northwest Territories – Laurie McGregor
Indigenous and Northern Affairs Canada – Michael Roesch