



Independent Environmental Monitoring Agency

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January 21, 2014

Honourable Bernard Valcourt
Minister of Aboriginal Affairs and Northern Development
Ottawa ON K1A 0H4

Honourable J. Michael Miltenberger
Minister of Environment and Natural Resources
Government of the Northwest Territories
P.O. Box 1320
Yellowknife NT X1A 2L9

Dear Ministers

As the environmental public watchdog for the Ekati diamond mine, the Independent Environmental Monitoring Agency is concerned about the significant gap between what is currently held as financial security for the proper closure and reclamation at Ekati (approximately \$127 million as irrevocable letters of credit) and the current reclamation liability (at least \$263 million as set by the Wek'eezhii Land and Water Board in July 2013, plus additional amounts required under the Environmental Agreement). This large shortfall puts the public and environment at risk. While we understand that a proposal of some sort has been made by the Company recently, progress on resolving this situation appears to be unreasonably slow.

We have noted in our last two Annual Reports our inability to provide assurance to our Society members and the general public that there is sufficient financial security to properly close the Ekati Mine.

The growing gap is also inconsistent with the federal government's 2002 NWT Mine Site Reclamation Policy with its stated principles of "polluter pays" and that "adequate security should be provided to ensure the cost of reclamation, including shutdown, closure and post-closure, is born by the operator of the mine rather than the Crown". We take particular note of the following provision in that Policy:

The total financial security for final reclamation required at any time during the life of the mine should be equal to the total outstanding reclamation liability for land and water combined (calculated at the beginning of the work year, to be sufficient to cover the highest liability over that time period).

We also note the discussion in the Policy on the form of security:

Financial security for mine site reclamation for new mines must be readily convertible to cash. Such security must have the following basic criteria:

- Subject to applicable legislation and due process, it must provide the Crown with immediate, unconditional, unencumbered access to the full amount of the security.
- It must retain its full value throughout the life of the mine and, if applicable, beyond.
- It must remain beyond the control of the mining company, or its creditors in the event of insolvency. The Minister may consider new or innovative forms of security, such as reclamation trusts, provided they meet the above criteria.

Independent of the pending devolution of land and water administration to the GNWT (including financial security for mining operations), there is a strong public interest in protecting the public purse and the environment.

We have no reason to believe that financial security would be needed in the immediate future. However, we wish to be able to reassure our Society members and the general public that there is adequate financial security to properly close the mine on a continuing basis through the mine life.

We request that the financial security gap for the proper closure of the Ekati diamond mine be addressed by your two governments and look forward to your reply.

Sincerely,



Bill Ross
Chairperson

cc. IEMA Society Members
Bob Overvold, Dominion Diamond Ekati Corporation
Brett Wheler, A/Executive Director, Wek'eezhii Land and Water Board