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Tel: 867-669-9592 Fax: 867-669-9593  
(BHPB & Diavik)

March 20<sup>th</sup>, 2009

File: W2008D0007  
W2008D0008  
W2008F0009  
W2008L2-0001

Ms. Laura Tyler  
BHP Billiton Diamonds Inc.  
#1102, 4920-52<sup>nd</sup> Street  
Yellowknife, NT X1A 3T1

Dear Ms. Tyler:

**Re: Sable, Pigeon, Beartooth Renewal Application**

The Wek'èezhii Land and Water Board is in receipt of BHP Billiton's (BHPB) letter of March 10, 2009 in which you reiterate BHPB's objection to the admissibility of the evidence which will result from undertaking # 2 given by Indian and Northern Affairs Canada on March 5<sup>th</sup>, 2009 at the Board 's hearing into the captioned application in Behchoko. The Board has considered your objection and made a decision in this regard.

The Board strives to ensure that its proceedings are fair and conducted according to the principles of natural justice. At the same time, the Board acts in the public interest and it has a duty to ensure that all of the information necessary to make thorough and appropriate decision is on the record in this proceeding. This clearly requires a balancing of interests.

The Board can, and will when it deems it appropriate, request additional information of the proponent or any party to ensure our decisions are based on the best available information. If such information is considered new evidence, the Board develops processes that are procedurally fair and efficient to ensure all parties have the opportunity to review and comment on the evidence.

In this case, the Board has reviewed the record and decided that it can proceed to a decision with the evidence it has already received. It is therefore not necessary for INAC to complete the undertaking requested by the Board Staff for this proceeding. The Board appreciates INAC's offer of assistance, but on balance, the Board does not consider the additional information about the effects of nitrate to be necessary at this time.

If you have any questions, please feel free to contact Zabey Nevitt at [zabey@wlb.ca](mailto:zabey@wlb.ca) or by phone at 867-669-9590.

Sincerely,

A handwritten signature in black ink, appearing to read "V. C. Blondin". The signature is written in a cursive style with a long horizontal stroke at the beginning.

Violet Camsell-Blondin  
Chair

cc BHPB Distribution List