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(BHPB & Diavik)

September 24<sup>th</sup>, 2008

Files: MV2003L2-0013  
MV2001L2-0008

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

Dear Ms. Tyler,

**Re: Sable Pigeon and Beartooth Renewal and Amalgamation**

The Wek'èezhìi Land and Water Board (the Board) met on Monday September 15, 2008 to discuss the process to renew Water Licence MV2001L2-0008 for the Sable, Pigeon and Beartooth development (SPB Licence). The Board also considered the proposal to amalgamate the SPB Licence with Water Licence MV2003L2-0013 (the Main Licence) as suggested by Environment Canada, the Department of Fisheries and Oceans, Indian and Northern Affairs Canada, the Government of the Northwest Territories' department of Environment and Natural Resources and the Independent Environmental Monitoring Agency.

All the materials provided by the company and reviewers on the issue of amalgamation were reviewed by the Board and we have determined that it is in the public interest to initiate a process that will result in an amalgamated Water Licence for the entire Ekati Mine Development. The Board therefore passed a motion to amend water licence MV2003L2-0013, as provided for by section 18(1)(a)(ii) of the NWT Waters Act, to incorporate terms and conditions required to allow for the development of the Sable, Beartooth and Pigeon pits and associated mine components.

During our deliberations we carefully examined the benefits and disadvantages of the amalgamation, along with the Board's jurisdiction to carry out the amalgamation. The Board is aware of the concerns that BHP Billiton has concerning the licence amalgamation process, particularly the concern that an amalgamation may result in the terms and conditions of the Main Licence being opened for review and amendment just a short period after the completion of the renewal process for the Main Licence.

The Board has therefore determined that the amalgamation process will be restricted and will not allow for changes to the scope of the existing Main

Licence or the SPB Licence. Both scopes will instead be combined into two parts within the amalgamated licence. Additionally, the terms and conditions of the Main Licence will only be changed where necessary to incorporate terms and conditions relating to the Sable, Pigeon and Beartooth development. Substantive changes to the existing terms and conditions of the Main Licence, for example the existing effluent quality criteria, will not be considered during this process.

The Board has developed and approved a work plan (attached) that describes the process that will be used for:

- The review of the existing SPB Licence terms and conditions.
- The development of an amalgamated Water Licence for distribution, review and Board approval.

The Board will be hosting technical sessions, issuing a call for interventions and hosting a public hearing. The work plan will also allow for a review of a draft licence prior to Board final review and approval.

In order to allow all parties as long as possible to prepare for the technical sessions and hearings the Board's decision and work plan are being released at this time. The Board's reasons for decision, as required by section 26 of the NWT Waters Act will be released following the Board's October 3<sup>rd</sup>, 2008 meeting.

If you have any questions regarding this letter or the work plan, please do not hesitate to contact Kathleen Racher at (867) 669 9591 or Zabey Nevitt at (867) 669 9590.

Sincerely,



Violet Camsell-Blondin  
Chair, WLWB

Copied: BHPB Distribution List

Attachment: Sable, Pigeon and Beartooth Amalgamation Work Plan