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Mark Cliffe-Philips
Executive Director,
Wek'èezhii Land and Water Board
Box 32
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26 November, 2011

Re: W2007L2-0003 WLWB Request for Information – Security Estimates

Aboriginal Affairs and Northern Development Canada (AANDC) provided responses to a Wek'èezhii Land and Water Board (WLWB) information request pertaining to the security deposit estimates for Water License W2007L2-0003 in a letter dated November 25, 2011.

Diavik Diamond Mines Inc. (DDMI) was also provided a copy of the AANDC letter. In reading the AANDC letter DDMI identified areas where the information provided by AANDC appears to be either incomplete or interpreted incorrectly.

The purpose of the WLWB information request was to assist the Board in resolving differences between the DDMI and AANDC estimates. DDMI would like to provide what is in our opinion very relevant information and clarification for the Board to consider in association with the information contained in the AANDC letter.

Waste Rock Classification Method

In response to the WLWB request for AANDC to explain why they believe a quarry is necessary now when they did not believe it was necessary in 2007 (WLWB#3), AANDC provide as evidence the fact that the waste rock segregation method was changed in 2009.

AANDC are correct that the Waste Rock Management Plan (Version 4.2) that was approved by the WLWB includes two methods for classifying waste rock: 1) sulphur assay and 2) visual geology. The Waste Rock Management Plan in place in 2007 included the use of the sulphur assay method.

DDMI has WLWB approval to use either classification method. However, DDMI has not changed its classification method and continues to use the assay method and not the visual geology method. An exception is during brief periods when there have been issues with assay testing equipment failures or manpower availability that prohibited use of the assay method. In these instances visual geology methods were used temporarily. This was the case in 2007 and most recently.

To be clear, the method of waste rock classification (i.e. sulphur assay with visual geology during equipment failures) implement by DDMI operations has not changed since 2007. In fact the assay method has been implemented consistently by mine operations since the Waste Rock Management Plan was first approved by the Mackenzie Valley Land and Water Board on June 14, 2001.

DDMI request that the Board include the additional information provided above when considering the evidence provided by AANDC.

Waste Rock from A21

In response to the WLWB request for AANDC to explain why they believe a quarry is necessary now when they did not believe it was necessary in 2007 (WLWB#3), AANDC provide as evidence claims that DDMI itself has identified a short fall in Type I rock.

AANDC state that it was “DDMI’s own identification of such a shortfall within Version 3.0 of its closure plan” that initially raised AANDC’s concerns. AANDC quote from ICRP Version 3.0:

*“Closure plans for the waste rock pile have changed since the ICRP was approved in 2001. In 2001 the plan included a till cover to reduce infiltration, covered by a layer of low sulphur waste rock. Both materials were to be **hauled directly** from a planned A21 open pit. The A21 open pit is no longer within the current mine plan, resulting in a change to the waste rock closure plans in this ICRP.”* (emphasis added by DDMI)

AANDC go further to interpret from the DDMI statement that:

“It is clear within this statement that DDMI proposes departures within its cover design of the NCRP due to a lack of Type I material from the A21 development. It is clear that the A21 development is not within the current mine plan. It is not clear why DDMI proposed and rationalized the need to modify its cover designs based solely on the absence of Type I rock from the A21 development, if sufficient material (of appropriate geochemistry and size) was readily available and recoverable either within the NCRP or from other areas throughout the mine site.”

AANDC have incorrectly interpreted the DDMI statement from ICRP Version 3. The difference between using Type I rock and till from A21 and Type I rock and till from the NCRP is the ability to **direct haul** material from A21.

The cost to use material direct hauled from A21 is only the incremental cost to haul the material the additional distance necessary to placed it as cover on the NCRP instead of dumped it in the South Country Rock Pile. That is to say the A21 material is already loaded into trucks and driven most of the distance, the only change is where the trucks are to dump the material.

The cost to re-mine material from the NCRP includes all aspects of loading and hauling. The costs to re-mine material (Type I rock and till) from the NCRP are significantly greater than if the material (Type I rock and till) is direct hauled during the mining of A21.

It was the difference in the cost of using re-mined NCRP versus direct hauled A21 material that was the basis for the proposed change to the cover design. It was not a short fall of material from the NCRP. There is more than sufficient volumes of Type I available in the NCRP and elsewhere on the island for closure.

It is unfortunate that AANDC was “not clear” on DDMI’s rationale. The information provided above was explained fully in ICRP Version 3.1 as directed by the WLWB (May 19, 2010) and in ICRP Version 3.2.

The AANDC letter of November 25, 2011, AANDC states that they were not clear on significant aspects related to the use of materials from A21. AANDC have made incorrect assumptions about the availability of Type I material as a result. DDMI requests that the Board consider the DDMI clarifications provided above when reviewing the evidence provided by AANDC.

This is the first time AANDC has brought forward the two explanations discussed above as a basis for their security deposit estimates and so we believe it is appropriate that DDMI at least have the opportunity to ensure the information is correct and complete.

There are other areas in the AANDC November 25, 2011 letter that DDMI does not agree with, however we would classify these as responses or rebuttals and have therefore refrained from including them here. If requested we would be pleased to provide these or any other clarifications that the Board may require to make an informed decision.

Thank you for considering these requests.

Regards,

A handwritten signature in black ink, appearing to read 'G. Macdonald', with a horizontal line underneath.

Gord Macdonald

Sharon

From: Ryan Fequet [rfequet@wlwb.ca]
Sent: Saturday, November 26, 2011 10:42 AM
To: 'Brett Wheler'; 'Bruce Hanna'; 'Charlene Coe'; 'Chris Heron'; 'Colleen English'; 'Doug Crossley'; 'Environment Canada'; 'Erika Nyssonen'; 'Gavin More'; 'Geoff Clarke'; 'GNWT'; 'Gord Macdonald'; 'Iris Catholique'; 'Jason Brennan'; 'John Donihee'; 'Joline Huskey'; 'Julian Kanigan'; 'Karin Clark'; 'Kathleen Racher'; 'Kerri Garner'; 'Lisa Lowman'; 'Luigi Torretti'; 'Malcolm Robb'; 'Mark Cliffe-Phillips'; 'Mark Fenwick'; 'Nathen Richea'; 'Neil Hutchinson'; 'Patty Ewaschuk'; 'Ray Griffith'; 'Registry'; 'Rosy Bjornson'; 'Ryan Fequet'; 'Sarah Elsasser'; 'Sarah-Lacey McMillan'; 'Scott Stewart'; 'Sheryl Grieve'; 'Sonya Almond'; 'Stanley Anablak'; 'Stephen Bourn'; 'Stephen Ellis'; 'Tim Byers'; 'Todd Slack'; 'Tom Unka'; 'Tony Pearse'; 'Tracey Covey'; 'Velma Sterenberg'; 'YKDFN'
Subject: W2007L2-0003 - Diavik - Security Review - AANDC & DDMI Documents
Attachments: W2007L2-0003 - Diavik - Security Review - DDMI Submission in Response to WLWB Information Request - Nov 25_11.PDF; W2007L2-0003 - Diavik - Security Review - AANDC Submission in Response to WLWB Information Request - Nov 25_11.PDF; W2007L2-0003 - Diavik - Security Review - DDMI Clarification in Response AANDC Submission - Nov 26_11.pdf

Morning All,

Please find attached the following documents regarding the review of the security liability at the Diavik site that was formally initiated by the Wek'èezhii Land and Water Board on October 13, 2011:

1. Diavik's November 25, 2011 submission in response to the WLWB information request sent on November 15, 2011;
2. AANDC's November 25, 2011 submission in response to the WLWB information request sent on November 15, 2011;
3. Diavik's November 26, 2011 submission of clarification in response to AANDC's November 25, 2011 submission.

These documents will be posted on our online registry shortly and if you have any questions please feel free to contact WLWB, AANDC or Diavik staff.

Cheers,

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