



September 18, 2020

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Dear Ms. Prather:

**Wildlife Act Section 95(1) Determination of the Requirement for a Wildlife Management and Monitoring Plan for De Beers Canada Inc. Snap Lake Mine**

The Minister of Environment and Natural Resources (ENR) of the Government of the Northwest Territories (GNWT) has considered the potential impacts to wildlife and wildlife habitat associated with the Closure and Post-Closure phase of De Beers Canada Inc.'s (De Beers) Snap Lake Mine, as presented in the Final Closure and Reclamation Plan submitted to the Mackenzie Valley Land and Water Board in March 2019.

The Minister of ENR has determined that, in accordance with the *Wildlife Act* and for the purposes of requiring a Wildlife Management and Monitoring Plan (WMMP), activities outlined for the Closure and Post-Closure phase of the Snap Lake Mine are likely to satisfy criteria (a) and (c) of subsection 95(1) of the *Wildlife Act* which states:

*"A developer or other person or body may be required, in accordance with the regulations, to prepare a wildlife management and monitoring plan for approval by the Minister, and to adhere to the approved plan, if the Minister is satisfied that a development, proposed development, or other activity is likely to*

- (a) result in a significant disturbance to big game or other prescribed wildlife;*
- (b) substantially alter, damage or destroy habitat;*
- (c) pose a threat of serious harm to wildlife or habitat; or*
- (d) significantly contribute to cumulative impacts on a large number of big game or other prescribed wildlife, or on habitat."*

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Activities that will occur during the Closure and Post-Closure phases of the project that have the potential to satisfy the above noted criteria under subsection 95(1) of the *Wildlife Act* include:

- Removal and demolition of buildings and structures – potential for serious harm to nesting birds
- Quarrying, grading, capping, demolition/removal of buildings and structures, use of heavy equipment – potential to create significant sensory disturbance to big game or other prescribed wildlife
- Storage and disposal of wastes, including wildlife attractants – potential for serious harm to wildlife attracted to waste storage facilities

Although it is acknowledged that closure and reclamation of the Snap Lake Mine site will ultimately have a positive impact on wildlife habitat, as per section 3.4 of ENR's [WMMP Process and Content Guidelines](#), the determination of the requirement for a WMMP focused on the potential impacts of activities that will be carried out during closure and reclamation. This determination largely reflects the potential impacts of the project on the Bathurst barren-ground caribou herd, whose population has declined by 98% since the 1980s, and the Threatened status of barren-ground caribou in the NWT. A [range plan](#) for the Bathurst barren-ground caribou herd was finalized in August 2019. The Snap Lake Mine site occurs within range assessment area 2 (which is at a Cautionary status for levels of human land-caused disturbance). The mine site also falls within the centre of habitation for the herd and is within the rut core seasonal range. The Bathurst Caribou Range Plan recommends the implementation of mobile caribou conservation measures for projects occurring within the herd's center of habitation to reduce sensory disturbance of caribou.

The requirement for a WMMP under section 95(1) of the *Wildlife Act* also complements the requirements under section 6.2, and 6.3(a)(ix), (f) and (g) of the Environmental Agreement for the Snap Lake Mine to have Environmental Management Plans, including a wildlife plan for the Closure phase of the project. As per section 7.2 of the Environmental Agreement, Environmental Monitoring Programs, including a wildlife monitoring program, are required to support the process of adaptive management. As a wildlife management plan is stipulated for closure at Snap Lake Mine, the WMMP will both meet this need outlined in the Environmental Agreement, and align De Beers with current legislation. In addition to meeting the Environmental Agreement, section 13.3 of the Wildlife General Regulations also provides ENR with a mechanism to ensure compliance with the WMMP once approved by the Minister.

The WMMP will need to explicitly demonstrate how the proposed wildlife mitigation and monitoring programs address potential impacts from carrying out the specific closure and reclamation activities outlined in the Final Closure and Reclamation Plan, as well as how the monitoring programs will contribute to verifying that closure objectives related to wildlife and wildlife habitat have been met. Section 1.3.2 of the March 2019 Final Closure and Reclamation Plan states that the purpose of the Wildlife Effects Monitoring Program during this phase is “to check that Mine areas are physically stable and safe for use [by] caribou and other wildlife.” The following wildlife-related closure objectives were also noted in the Final Closure and Reclamation Plan:

- SW1 – Dust levels safe for people, vegetation, aquatic life and wildlife
- SW3 – Surface runoff and seepage water quality that is safe for people, vegetation, aquatic life, and wildlife.
- SW4 – Mine areas are physically stable and safe for use by people and wildlife.
- SW6 – Safe passage and use for Caribou and other wildlife.
- NP2 – Physically stable PK containment area to limit risk of failure that would affect safety of people or wildlife.

The February 2019 Wildlife Effects Monitoring Program (WEMP) submitted to the MVLWB for the Closure and Post-Closure phases of the Snap Lake Mine does not make any reference to the above-noted closure objectives.

The WEMP Section 2.1.1 – Objectives – states that “As disturbed areas are reclaimed, wildlife use of these areas will be monitored through systematic site visits to record signs of wildlife activity (e.g. nests, tracks, and scat). Records of incidental wildlife observations will also be used to monitor wildlife use of revegetated and reclaimed areas.” The proposed WEMP relies on systematic site visits (once per week – Section 2.2.3.2, page 2-4) and incidental observations of wildlife during times when staff are present on site, but the frequency and duration of periods where staff are present on site throughout the closure/post-closure phase is unclear. In addition to the programs proposed in the WEMP, ENR encourages De Beers to consider the use of automated wildlife detection devices such as trail cameras to monitor wildlife use of the site at strategic locations (e.g. where safe wildlife passage is an objective) during periods when the mine site is unoccupied.

Section 3 – Sensory Disturbance to Wildlife – of the WEMP (page 3-1) states that:

“Activities during Closure will be focused on decommissioning and rehabilitating the mine footprint. These activities are expected to have a positive impact on wildlife and wildlife habitat. Because sensory disturbance is predicted to remain low during Closure and Post-Closure as compared to Operations, further monitoring of wildlife for signs of sensory disturbance is not warranted and will be discontinued.”

De Beers will continue to monitor and record all sightings of caribou at the mine, to record and report all incidents. Should activity levels at site increase substantively enough to exceed operational disturbance concurrently with an increase in caribou numbers to sufficient to warrant additional monitoring, De Beers will work together with ENR – North Slave Region to facilitate that work as required. If behavioural monitoring is required, De Beers would align the methodology with the methods used by the other mining companies.”

ENR questions the statement that sensory disturbance to wildlife will be low during the Closure phase given that activities will include demolition of buildings and structures, as well as quarrying, grading, and capping of different areas, all of which require the use of heavy equipment, and does not agree with De Beers' proposal to suspend monitoring for sensory disturbance. ENR would also appreciate clarification on how De Beers will determine whether activity levels during closure exceed disturbance levels during operations (monitoring of noise levels?), and what number of caribou would be required to trigger additional monitoring.

Given that the Closure phase is expected to last 8 years, and the Post-Closure phase an additional 10 years, there is a possibility that the population of the Bathurst caribou herd could recover (or show signs of recovery) within that period, and that the number of caribou that might interact with the site could increase again. De Beers should work with ENR to implement mobile caribou conservation measures (MCCMs) for Bathurst caribou as part of the WMMP. ENR is currently working on draft operational guidelines for how the implementation of MCCMs might proceed in the NWT, which could assist De Beers in the design of such a program. For further information regarding MCCMs, see Section 3.2.3 of the [Bathurst Caribou Range Plan](#).

ENR notes that there are also other big game species such as moose, muskox, and grizzly bears that may be impacted by sensory disturbance associated with closure activities. Although the WEMP contains standard mitigation measures such as giving wildlife right-of-way on roads and zero tolerance toward harassment of wildlife, there are no mitigation measures proposed to temporarily suspend activities if wildlife are at imminent risk of injury or mortality. Furthermore, although the WEMP mentions avoidance of destruction of active bird nests, there is no description of systematic surveys that will be used to document nesting activity prior to demolition of various buildings or structures. ENR also notes that under the *Wildlife General Regulations*, unoccupied raptor nests may not be intentionally destroyed or removed unless authorized by a General Wildlife Permit. ENR recommends that more details on these aspects be included in the WMMP.

ENR acknowledges the difficult circumstances currently posed by restrictions related to the COVID-19 pandemic which may be impacting normal operations at the mines. We also acknowledge the need to reconvene the Technical Task Group (TTG) to finalize the guidance document for caribou zone of influence (ZOI) monitoring at the mines. GNWT-ENR intends to hold a meeting of the TTG in fall 2020. In addition to discussion of ZOI monitoring for caribou, this meeting will also include discussion about the future of DNA-based grizzly bear and wolverine monitoring programs.

Recognizing the above circumstances, ENR requires that De Beers submit a **Tier 2 WMMP for approval by April 01, 2021**. This should also allow sufficient time for the outcomes of the next TTG meeting and finalization of the ZOI guidance document to be considered in the development of the WMMP. In accordance with subsection 95(2) of the *Wildlife Act*, the WMMP submitted for approval must include:

- (a) *a description of potential disturbance to big game and other wildlife included in the regulations, potential harm to wildlife and potential impacts on habitat;*
- (b) *a description of measures to be implemented for the mitigation of potential impacts;*
- (c) *the process for monitoring impacts and assessing whether mitigative measures are effective; and*
- (d) *other requirements that are outlined in the regulations.*

The updated WMMP should be consistent with current version (July 2019) of the ENR's WMMP Process and Content Guidelines available at [www.enr.gov.nt.ca/en/services/wildlife-management-and-monitoring-plans](http://www.enr.gov.nt.ca/en/services/wildlife-management-and-monitoring-plans)

The content requirements and different tiers of WMMPs are described in Section 5 and Appendix 2 of the guidelines.

Upon receipt of the WMMP, ENR will initiate a 30 calendar day public comment period, as per ENR's WMMP Process and Content Guidelines. Based on ENR's review and the comments received from other parties, ENR will notify De Beers of required revisions to the WMMP, if any, before its approval. Following any subsequent revisions to the WMMP, if required, ENR will provide De Beers with a written notice of approval, conditional approval or rejection of the WMMP within 30 calendar days. The notification will also be posted to the MVLWB public registry and the Snap Lake Environmental Monitoring Agency website.

Sincerely,



Erin Kelly, Ph.D.  
Deputy Minister  
Environment and Natural Resources

c. Dr. Brett Elkin  
A/Assistant Deputy Minister, Operations  
Environment and Natural Resources

Mr. Nathan Richea  
A/Assistant Deputy Minister, Environment and Climate Change  
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