

SLAVE MÉTIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



March 4, 2022

Dr. James Hodson
Manager, Environmental Assessment and Habitat
Government of Northwest Territories
(867) 767-9237, extension 53227
James_Hodson@gov.nt.ca

Dear Dr. James Hodson,

RE: Aboriginal Consultation: Decision About Whether to Approve the Wildlife Management and Monitoring Plan for the Diavik Diamond Mine.

The North Slave Métis Alliance (“NSMA”) represents s.35 Aboriginal-rights bearing Indigenous Métis people of the Great Slave Lake area. NSMA is the only Indigenous group in the Northwest Territories that has received judicial recognition of its members’ common law Aboriginal rights as Métis. NSMA’s very *raison d’être* is to advocate for the rights of the Métis of the Great Slave Lake area. NSMA members are a distinct constituency of the contemporary Métis collective of the Great Slave Lake area, a constituency which aspires to exercise and protect its Métis practices and customs on traditional Métis lands to the north of Great Slave Lake. The historical record is clear that the community of Métis of the Great Slave Lake area hunted and trapped over a wide-ranging area in the NWT. NSMA members continue to exercise their collectively held, unextinguished Aboriginal rights as Métis people to the north and the south, east and west of Great Slave Lake, including in the area around Diavik Diamond Mine.

The NSMA Environment Team has reviewed the November 5 2021 version of the “TIER 3 WILDLIFE MANAGEMENT AND MONITORING PLAN FOR THE DIAVIK DIAMOND MINE” available online at https://www.enr.gov.nt.ca/sites/enr/files/resources/envi-1257-1121_r0_ddmi_cvr_letter_and_tier_3_wmmp.pdf. The NSMA continues to maintain respectful and ongoing relationships with Diavik and the GNWT on a variety of initiatives. The NSMA would like to commend Diavik and the GNWT for their work in maintaining our relationships. We appreciate being consulted as part of this review.

Overall, we find that the WMMP is comprehensive and well written. However, we feel that there are still some important details that relate to NSMA member’s s.35 Aboriginal rights that require consideration and clarification by Diavik and the GNWT before final approval (on the following pages). We are happy to discuss or provide more information as needed.

Sincerely,

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Issue 1: methods for evaluating the potential effects of dust contaminants on caribou health.

NSMA members have a right to harvest caribou and other wildlife within their traditional territory (which includes the lands and waters surrounding Diavik). The right to harvest caribou has been upheld by the courts and is protected under s.35 of the Constitution Act of 1982. Industrial contamination has the potential to harm the NSMA member right to harvest caribou if it harms caribou health, or reduces meat quality for human consumption.

Page 4-5 of the document states that metal concentrations from dust are measured using soil and lichen around the mine. These methods have concluded that the potential for health effects to caribou were negligible. However, we feel these conclusions are problematic because dust levels in soil and on lichen are a proxy and do not represent what caribou actually consume. This means NSMA members may not have access to the most reliable information about potential impacts of contamination on their right to harvest caribou.

Recommendation 1: The NSMA maintains the position that Diavik should be required to study contaminant levels in caribou fecal pellets alongside contaminant levels in soil and on lichen. If Diavik does not want to implement this recommendation, the NSMA requests supporting information (e.g., if fecal studies have already been conducted and those studies also confirmed negligible effects to caribou health).

Issue 2: ownership and storage of data relating to s.35 wildlife harvesting rights and the s.35 right to be consulted on wildlife management decisions.

NSMA members have a right to harvest caribou and other wildlife within their traditional territory (which includes the lands and waters surrounding Diavik). The NSMA also has a right to be consulted and involved in wildlife management decisions within its traditional territory. The ability to access and review sources of data about wildlife (reports, scientific data) is incidental to both these rights, and relates closely to the principal of Free, Prior and Informed Consent recognised by UNDRIP.

We recognize that Diavik submits annual WMMP reports, and is also in regular communication with the NSMA, various NWT and Government of Canada agencies. We support these reporting measures; however, we also recognize that Diavik and its consultants may inevitably be biased towards reporting results and conclusions using wording that favours Diavik. An example of this is seen on paragraph 1 of page 5-7 of the WMMP which speaks about the decline of the Bathurst caribou herd. One sentence of the WMMP reads “Both traditional and scientific knowledge indicate that caribou herd size cycles relatively regularly with climate patterns (GNWT-ENR 2005, 2006).” This gives the impression that the crash of the Bathurst herd is just a natural climate linked phenomenon, and the paragraph fails to clarify the potential role of mining related impacts relative to climate linked fluctuations. Ultimately, the NSMA feels that there must be an ability to independently verify wildlife monitoring data.

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The NSMA thinks a copy of Diavik monitoring data (especially data on caribou) should be submitted to a secure central repository that is independent from Diavik. This would ensure that any and all wildlife data is preserved so it does not become lost over time. This could also facilitate verification of Diavik's conclusions by independent experts from Indigenous Governments, the GNWT, EMAB, or independent scientists should the need ever arise. This will improve the NSMA's ability to make informed decisions relating to our inherent s.35 rights to harvest wildlife and to contribute to wildlife management decisions. It is our understanding that other Indigenous Governments in the NWT have been making similar calls for data from developers (especially about caribou) to be stored in a central location that can be subject to verification. It is also our understanding that the NWT maintains databases for academic wildlife research data. Similarly, the DFO has confirmed to us that they now require records of all data collected during fish-outs from mines to be submitted to them, and we can access this data through information requests and data sharing agreements.

Recommendation 2: The NSMA maintains the position that Diavik should submit ecological monitoring raw data to a secure central repository that is independent of Diavik (especially for caribou). If such a system is already in place, wording clarifying the ownership and storage of data, and the process for accessing such data should be inserted in 7 of the WMMP.