



March 31, 2022

Mr. William Liu
Regulatory Specialist, De Beers Canada Inc.
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CALGARY AB T2E 4Y9
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Dear Mr. Liu:

Approval of the Wildlife Management and Monitoring Plan for DeBeers Canada Inc.'s Gahcho Kué Mine

In a letter dated October 7, 2020, the Department of Environment and Natural Resources (ENR) informed De Beers Canada Inc. (De Beers) that they were required under Section 95 of the *Wildlife Act* to submit a Wildlife Management and Monitoring Plan (WMMP) for the operations phase of the Gahcho Kué Mine for approval by the Minister of ENR. DeBeers' submitted a WMMP on April 26, 2021 and a public review of the document occurred through the Mackenzie Valley Land and Water Board Online Review System.

Through that public review process, two parties provided comments – the Government of Northwest Territories, and Environment and Climate Change Canada. DeBeers provided a response to the review comments on June 25, 2021, and incorporated feedback into a final version submitted to ENR for approval on January 4, 2022.

ENR has reviewed the final WMMP in light of the comments submitted on the publicly reviewed version, De Beers' responses to reviewer comments and recommendations, previous annual reports, and relevant correspondence.

This letter is to notify DeBeers that I have approved the Gahcho Kué Mine WMMP with six conditions outlined in the attached Reasons for Decision. DeBeers is required to submit for public posting a finalized WMMP to ENR within 90 days that incorporates the conditions issued in this letter.

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Please contact Dr. James Hodson, Wildlife Biologist, at (867) 767-9237, extension 53227 or james_hodson@gov.nt.ca if you have any questions.

Sincerely,



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

Attachment

c. Honourable Caroline Cochrane
Premier

Grand Chief Jackson Lafferty
Tłıchǫ Government

Chief Darryl Marlowe and Council
Łutsel K'e Dene First Nation

Chief Edward Sangris and Council
Yellowknives Dene First Nation (Dettah)

Chief Fred Sangris and Band Council
Yellowknives Dene First Nation (Ndıłǫ)

Chief Louis Balsillie and Band Council
Denínu Kúé First Nation

President Garry Bailey
Northwest Territories Métis Nation

Vice-President Marc Whitford
North Slave Métis Alliance

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Honourable Shane Thompson
Minister, Environment and Natural Resources

Shaleen Woodward
Principal Secretary

Martin Goldney
Secretary to Cabinet/Deputy Minister
Executive and Indigenous Affairs

Shawn McCann
Deputy Secretary, Indigenous and Intergovernmental Affairs
Executive and Indigenous Affairs

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

Julian Kanigan
A/Assistant Deputy Minister, Environmental and Climate Change
Environment and Natural Resources

Heather Sayine-Crawford
Director, Wildlife and Fish
Environment and Natural Resource

Bruno Croft
Superintendent, North Slave Region
Environment and Natural Resources

Laura Duncan
Tłchq Executive Officer
Tłchq Government

Lena Black
Chief Executive Officer
Yellowknives Dene First Nation

Lucy Sanderson
Acting Senior Administrative Officer
Łutsel K'e Dene First Nation

Carol Ann Chaplin
Senior Administrative Officer
Denínu Kúé First Nation

Ursula Vogt
Executive Director
Northwest Territory Métis Nation

Debra Young
Administrative Assistant
North Slave Métis Alliance

Mark Cliffe-Phillips
Executive Director
Mackenzie Valley Review Board

Shelagh Montgomery
Executive Director
Mackenzie Valley Land and Water Board

Matt Spence
Regional Director General
Crown-Indigenous Relations and Northern Affairs Canada

Tom Unka
Chair
Ni Hadi Xa

Sarah McLean
De Beers Canada Inc.

Reasons for Decision - Approval of the Gahcho Kué Mine WMMP

The Minister of Environment and Natural Resources (ENR) has approved the Gahcho Kué Mine Wildlife Management and Monitoring Plan (WMMP) Version 1.1, submitted January 4, 2022, with six conditions.

Requirement for a WMMP

Under subsection 95(1) of the *Wildlife Act*, a developer may be required to prepare a WMMP for approval by the Minister of ENR, and to adhere to the approved plan if the Minister is satisfied that the proposed development 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 on habitat.*

The WMMP Guidelines describe the factors that were considered by the Minister in determining whether a WMMP would be required for the Gahcho Kué Mine. On October 7, 2020, a letter was sent to DeBeers providing the determination that a WMMP was required for this development.

Opportunity for Public Review

Public review of the April 26, 2021 version of the Gahcho Kué WMMP submitted to ENR by De Beers occurred from April 30 to June 1, 2021 through the Mackenzie Valley Land and Water Board (MVLWB) Online Review System. Through that process comments were submitted by Government of Northwest Territories (GNWT) and ECCC (submitted after the due date). DeBeers provided a response to the review comments on June 25, 2021 and incorporated feedback into a final version submitted to ENR for approval January 4, 2022.

Prior to this public review, interested and affected parties have had the opportunity to review the mitigation and monitoring approaches employed by DeBeers to mitigate impacts on wildlife and wildlife habitat. In particular, the annual reporting and review processes outlined in the previous Wildlife and Wildlife Habitat Protection Plan and Wildlife Effects Monitoring Plan for the Gahcho Kué Mine has provided opportunities to raise concerns and make recommendations on wildlife matters since the inception of the mine.

ENR's Review

ENR staff have reviewed and commented on the WMMP not only to provide advice on aspects of the WMMP but also to take the views of other parties into consideration when determining the extent to which the WMMP meets the legislated requirements of section 95 of the *Wildlife Act*. ENR staff provided comments to DeBeers on both the April 2021 and January 2022 versions of the Gahcho Kué Mine WMMP.

ENR has reviewed the WMMP from several perspectives. For the purpose of approval, ENR has primarily focused on the content of the WMMP as it relates to the requirements of the *Wildlife Act*. Section 95(2) of the *Wildlife Act* requires that a WMMP 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.*

ENR has also considered the extent to which it addresses:

- Comments made during the public review process
- Comments made in recent in annual reporting and review cycles;
- Measures from the Report of Environmental Assessment for the project.

Furthermore, in approving the WMMP, the Minister of ENR also considers Section 35 consultation obligations. ENR relies on MVLWB regulatory processes and the process outlined in the WMMP Guidelines to help fulfill the Crown's duty to consult and has taken these processes into account in assessing the adequacy of consultation and accommodation for the approval of the WMMP. Indigenous governments and Indigenous organizations were notified of the opportunity to review and comment on the Gahcho Kué Mine WMMP in the notification sent to the distribution list maintained by the MVLWB. ENR notes that no review comments on the Gahcho Kué WMMP were provided by Indigenous governments or Indigenous organizations. ENR now considers this consultation completed.

Rationale

ENR is satisfied that the Gahcho Kué WMMP meets the necessary content outlined in subsection 95(2) of the *Wildlife Act*. While the requirements in the *Wildlife Act* are relatively high-level, the WMMP Guidelines provide further guidance as to what ENR is looking for when assessing whether a WMMP meets the requirements. ENR is confident that the WMMP is comprehensive in identifying the potential impacts of this project on wildlife and wildlife habitat values that were identified throughout the various review processes and that the mitigation measures to be implemented to minimize the impacts of the mine on wildlife and wildlife habitat to the extent practicable are sufficiently described. Similarly, the WMMP contains a suite of monitoring actions to assess whether mitigative measures are effective.

Specific comments on particular issues are as follows.

Adaptive Management Framework for Caribou Protection

In ENR's comments on the April 2021 version of the WMMP, ENR required that DeBeers expand Table 5-2 to identify a broader range of mitigation strategies for reducing sensory disturbance and potential barrier effects to caribou based on triggers related to the proximity and number

of caribou detected near-site, and also to provide additional information regarding how approaching caribou are detected and monitored. ENR acknowledges that DeBeers has expanded Table 5-2 to include rows to address sensory disturbances and for management of snow berm height to reduce barrier effects. Understanding that traffic along the winter access road can contribute to a barrier effect, and that on Page 35, DeBeers states that “if caribou are crossing mine roads, traffic will stop and wait for them to cross (i.e., caribou have the right-of-way)”, further details are required regarding how many caribou need to be present to trigger this mitigation, how long trucks would wait, and how it would be decided that they can proceed. Furthermore, ENR notes that while the WMMP has procedures for monitoring and reporting public use of the winter road, DeBeers does not appear to be monitoring or reporting on traffic levels of its own traffic.

Condition #1: *DeBeers is required to revise Table 5 to add specific triggers for traffic stoppage along the winter road if caribou are near the road attempting to cross the road and clarify how pre-blast monitoring is conducted.*

Condition #2: *DeBeers is required to revise the WMMP to stipulate that in reporting on public use of the winter road, total traffic levels, including mine-related traffic will also be provided.*

Zone of Influence:

ENR notes DeBeers’ intention to follow methods consistent with the advice provided in the most recent version of the ZOI guidance at the time of analysis. ENR requires DeBeers to demonstrate that their proposed analysis methods will provide a statistical means to estimate and test significance of a ZOI in advance of producing its reports. ENR notes that one approach to achieve this is by using segmented regression as outlined in the peer-reviewed methods contained in Boulanger et al 2021.

Condition #3: *If De Beers is to deviate from the most recent version of the ZOI guidance, De Beers will submit their proposed methods to ENR, allowing for a 30 day review period. De Beers is to then consider and incorporate the feedback prior to submission of any comprehensive WMMP reports. DeBeers will revise the WMMP to include this requirement.*

Barriers to Movement:

Concerns about barriers to caribou movement near industrial development have been consistently raised in environmental assessments of developments in barren-ground caribou ranges and in range planning processes. To meet the legislated requirement for WMMPs to contain “*process(es) for monitoring impacts and assessing whether mitigative measures are effective*”, ENR had recommended in its comments on the April 2021 version of the WMMP that, in its next annual report, De Beers should provide a map of the areas where caribou most frequently cross the road and provide analysis regarding the relationship of caribou crossings to snow berm heights. DeBeers responded that caribou crossing events have not been collected through the WMMP previously. Furthermore, DeBeers indicated that the single annual aerial reconnaissance flights they conduct have not detected sufficient numbers of caribou in most

years to trigger behavioural monitoring. While that may be, ENR notes that those surveys would only detect caribou at a single point in time and would not reflect movements or crossing behaviours throughout the winter road season. De Beers provides extensive data in their Annual Reports regarding snow berm heights, which may say something about the effectiveness of snow berm management itself; however, given that the objective of snow berm management is to reduce barriers to caribou, ENR maintains that De Beers should provide an analysis of mitigation effectiveness. In Section 5.1.2.3, DeBeers states that “it may not be possible to maintain snow berms below this height at all times and all places along the winter access road. In that situation, De Beers will place breaks in the snow berms in key areas frequented by caribou.” It is not clear how De Beers is determining where the key areas frequented by caribou are. ENR requires DeBeers to demonstrate how it will examine where and how caribou are using the road to implement this mitigation and to determine whether snow berm height management is effective. One potential approach would be to conduct snow track surveys in conjunction with the berm height measurements. As berm heights are measured every two kms on the winter access road, searching for caribou tracks for a pre-determined distance on either side of that measurement would be a simple way to incorporate those data. Additionally, incidental observations of caribou tracks that cross the road outside of the systematically recorded berm height locations could also be noted, and snow berm heights at those crossings measured.

Condition #4: *De Beers will provide, within 90 days, a description of a method for monitoring caribou crossing locations along the winter access road and using this information to assess the effectiveness of snow berm height management.*

Aggressive Wildlife Procedures:

ENR notes that the procedures described in OP-006 are not sufficiently clear that if there is no immediate threat to human safety, responders should begin with discharging the least intrusive methods of deterrence available, and progressively increase the stimulus if the animal does not respond.

Condition #5: *De Beers will revise OP-078 to a) to clarify that if there is no immediate threat to human safety, responders should start with the least intrusive deterrent available, and b) specify actions for potentially aggressive non-bear species.*

Rabies Reporting:

Currently Section 5.3.7 of OP 006 states that if observed wildlife are suspected of rabies, they should report to the Canada Food Inspection Agency (CFIA). CFIA has deferred its oversight of rabies to provincial/territorial authorities and this SOP needs to be updated as indicated in the following requirement.

Condition #6: *De Beers will update this section to identify that if an animal is suspected of rabies, the ENR wildlife veterinarian (WildlifeVeterinarian@gov.nt.ca) should be contacted for advice on*

how to proceed, not the Canadian Food Inspection Agency. If someone has been bitten, the Office of the Chief Public Health Officer should be contacted and immediate medical attention sought. If a carcass is found and suspected of rabies the head should be preserved, and arrangements for shipping the carcass off site with ENR.

Decision

Subject to Conditions 1-6 listed above, the Minister of ENR approves the WMMP for the Gahcho Kué Mine. De Beers is required to submit for public posting a finalized WMMP to ENR within 90 days that incorporates conditions issued in this letter. All other conditions shall be completed within the timelines specified in these Reasons for Decision.