



Ms. Sheila Chernys
Head of Health, Safety, Security, Environment and Communities.
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June 23, 2021

Dear Ms. Chernys:

Wildlife Act Section 95 Determination regarding the Requirement for a Wildlife Management and Monitoring Plan for the Ekati Diamond Mine

The Minister of Environment and Natural Resources (the Minister) of the Government of the Northwest Territories (GNWT) has determined that Arctic Canadian Diamond Company Ltd. (Arctic) requires an approved Wildlife Management and Monitoring Plan (WMMP) under section 95 (1) of the *Wildlife Act* for the Ekati Diamond Mine. This determination is to ensure that all the existing diamond mines in the Northwest Territories have section 95, Minister-approved WMMPs as part of ENR's approach to consistently apply and enforce wildlife management and monitoring measures related to the mines.

The Minister of ENR has determined that, in accordance with the *Wildlife Act* and for the purposes of requiring a WMMP, activities outlined for the operations and closure phases of the Ekati Mine are likely to satisfy criteria (a), (b), (c) and (d) 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."*

.../2

Activities that will occur during the Operations phase of the project that have the potential to satisfy the above noted criteria under subsections 95(1) of the *Wildlife Act* include:

- Operation of winter roads and all-season roads - potential for sensory disturbance to caribou, barriers to movement and serious harm to wildlife through animal-vehicle collisions.
- Storage and disposal of wastes, including wildlife attractants – potential for serious harm to wildlife attracted to waste storage facilities and resulting human-wildlife interactions.
- Blasting, hauling, use of heavy equipment – potential to create significant sensory disturbance to big game.

This determination largely reflects the contribution of the Ekati mine to the cumulative effects of development 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. Habitat changes due to climate change, industrial development, and wildfires, as well as predation pressures are identified as threats contributing cumulatively to impacts on barren-ground caribou according to both science and traditional knowledge¹. The Jay Project environmental assessment considered the significance of cumulative effects in detail and applied a number of measures to reduce the impact of the Jay Project on caribou which were captured in the Wildlife Effects Monitoring Plan, the Caribou Road Mitigation Plan and the Caribou Compensatory Mitigation Plan for the Jay Project. Since then, an ENR-led [range plan](#) for the Bathurst barren-ground caribou herd was finalized in August 2019 identifying the Ekati Diamond Mine as occurring 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 summer and late summer core seasonal ranges.

In making this determination, the Minister is satisfied that Arctic's Wildlife Effects Monitoring Plan (WEMP) for the Jay Project, which was [conditionally approved](#) June 01 2017 as part of Measure 6-1 from the Jay Project environmental assessment under the *Mackenzie Valley Resource Management Act*, meets the content requirements under Section 95(2) of the *Wildlife Act* when applied to the whole Ekati site, which ENR understands is how it is being applied by Arctic.

.../3

¹ Conference of Management Authorities. 2020. Recovery Strategy for Barren-ground Caribou (*Rangifer tarandus groenlandicus*) in the Northwest Territories. Conference of Management Authorities, Yellowknife, NWT.

As such, the Minister accepts that WEMP as fulfilling the requirement for a WMMP for the whole Ekati Diamond Mine under section 95(3) of the Wildlife Act which states:

“If a developer or other person or body that is required to prepare a wildlife management and monitoring plan has, for a body under other legislation, prepared a plan that deals to the Minister’s satisfaction with part or all of the matters referred to in subsection (2), the Minister may accept that plan, or part of it, in place of part or all of the requirements under subsection (2)”

Acceptance of the existing WEMP is provided with the understanding that it has already undergone extensive public review in its development and that an adaptively modified version of it will receive further public review when Arctic applies to renew their water licence, which expires October 18, 2023. At that time, ENR expects that a revised Tier 3 WMMP will be provided with Arctic’s water licence renewal application, and that it will address wildlife-related requirements arising from regulatory processes for other projects at the Ekati mine, and recommendations arising from reviews of its annual wildlife reports for 2020 to 2022. ENR also expects that Arctic will convene discussions in 2021 with the Independent Environmental Monitoring Agency (IEMA) and ENR to discuss outstanding concerns regarding evaluation of mitigation effectiveness to inform future annual reports and the WMMP that will be submitted for public review with the water licence renewal.

The updated WMMP submitted at that time should be consistent with the most current version of ENR’s WMMP Process and Content Guidelines available at www.enr.gov.nt.ca/en/services/wildlife-management-and-monitoring-plans.

Please contact Ms. Andrea Patenaude, Wildlife Biologist at 867-767-9237 ext. 53228 or Andrea.Patenaude@gov.nt.ca if you have any questions.

Sincerely,



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

c. Distribution list

Distribution list

Honourable Premier Caroline Cochrane
Government of the Northwest Territories

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Ms. Sarah Gillis, Director, Department of Environment
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Marc Casas, Executive Director
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