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Monitoring Officer:	Tara Arko, Technical Advisor (incoming MO) and Sophia Granchinho, Technical Advisor (outgoing MO)
Monitoring Period:	October 2010- October 2011; including updates from 2009-2011
Prepared for:	Members of the Nunavut Impact Review Board, October 2011 Board Meeting

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1.0 INTRODUCTION

Following an extensive public review of the Jericho Diamond Mine (Jericho) proposal, in July 2004 the Nunavut Impact Review Board (NIRB or Board) issued Project Certificate No. 002 to Tahera Diamond Corporation (Tahera) for the Jericho project. The Jericho project is situated in the West Kitikmeot region approximately 430 kilometres (km) southwest of Cambridge Bay and 240 km southeast of Kugluktuk.

As described in Project Certificate No. 002, the NIRB is required to develop a monitoring program for the Jericho project in accordance with Section 12.7.1 of the Nunavut Land Claims Agreement (NLCA). As a result, the current Monitoring Report has been prepared for the Board in order to provide an overview of monitoring activities occurring during the 2010-2011 reporting period. The report considers the following:

- An assessment of the successes and failures of the terms and conditions of Tahera's Jericho Project Certificate¹;
- The adequacy of the monitoring program and on the ecosystemic and socio-economic impacts of the diamond mine project under Section 12.7.3(c) of the NLCA; and,
- Project Certificate No. 002 Appendix D, issued to Tahera on October 3, 2006 and which gives direction to both Tahera and the Monitoring Officer for the monitoring of the Jericho Project².

2.0 DEVELOPMENT TIMELINE

The following provides a timeline for the major events occurring with respect to the Jericho project:

2004	July	The NIRB issued Project Certificate No. 002 and Tahera applied for authorizations to commence construction of the mine.
2005		Tahera commenced construction of the mine.
2006	July	Jericho site and diamond mine fully operational.
2008	January	Tahera filed for creditor protection citing insufficient funds to operate the mine; site placed under care and maintenance.
2008	December	Indian and Northern Affairs Canada (INAC; now Aboriginal Affairs and Northern Development Canada) intervened ³ and

¹ Project Certificate No. 002 as originally issued to Tahera in 2004 was reissued to Shear in 2011 after the NIRB received notice from Shear of the successful purchase of Tahera's assets.

² Appendix D to Project Certificate No. 002 was revised in August 2007 as the previous requirements were unclear and led to issues regarding the receipt of information required to monitor the project and to provide meaningful reporting to the Board.

³ Court File No. 08-CL7355, Court Order of Justice Morawetz, dated December 12, 2008 available at:

		assumed control of the site in order to maintain existing environmental protection measures as Tahera could not continue to support the care and maintenance of the Jericho site.
2009	September	INAC completed site closure, contractors ceased occupation of the site, and regular monitoring continued.
2010	August	Shear Minerals Ltd. (renamed Shear Diamonds (Nunavut) Corp.) completed purchase of Tahera's assets including the Jericho Diamond Mine.
2011	August	The NIRB reissued Project Certificate No. 002 to Shear.
2011		The site remains under care and maintenance as Shear Diamonds (Nunavut) Corp. (Shear) evaluates the site mineral resources. Shear is updating its permits for the project as well as bringing the site back into compliance with the intent of resuming mining operations within the next 2 years.

3.0 MONITORING ACTIVITIES

According to Section 12.7.1 of the NLCA, the establishment of a project specific monitoring program may be outlined by the terms and conditions contained in a NIRB Project Certificate, recommendations stemming from a Part 4 NLCA determination, or approvals issued by the Nunavut Water Board (NWB). Monitoring programs may specify responsibilities for the Proponent, NIRB, or Government. The purpose of such a monitoring program is outlined in Section 12.7.2 of the NLCA as follows:

- a) to measure the relevant effects of projects on the ecosystemic and socio-economic environments of the Nunavut Settlement Area;*
- b) to determine whether and to what extent the land or resource use in question is being carried out within the predetermined terms and conditions;*
- c) to provide the information base necessary for agencies to enforce terms and conditions of land or resource use approvals; and*
- d) to assess the accuracy of the predictions contained in the project impact statements.*

3.1. REPORTING REQUIREMENTS

3.1.1. Appendix D to NIRB Project Certificate No. 002

Appendix D of the Project Certificate (issued on October 3, 2006) provides detailed responsibilities and requirements of the Proponent's project-specific monitoring program, of the NIRB's Monitoring Officer, and of the Authorizing Agencies' relevant reporting to the NIRB. As outlined in the Project Certificate Appendix D (see [Appendix I](#)), the

http://www.farberfinancialgroup.com/services/a_farber_partners_inc/corporate_insolvency_restructuring/engagements_current.php?id=36

Proponent is required to submit two types of reports to the NIRB: an annual report and quarterly reports.

3.1.1.1. Annual Report

According to Appendix D of the Jericho Project Certificate, the Proponent is required to submit an annual report to the NIRB by April 30th of each year. This annual report must outline the company's efforts to comply with the Project Certificate terms and conditions, must provide various sets of data and an analysis and discussion of the data and how it relates to the mine's various plans, and must recommend any changes to the plans resulting from the findings.

The last annual report received by the NIRB was Tahera's 2007 Monitoring Report (*Monitoring Program – 2007 Report*) submitted on May 16, 2008. On December 1, 2008 the NIRB's Monitoring Officer requested that Tahera respond to the issues of non-compliance and deficiencies noted by the Monitoring Officer throughout the report⁴. No response from Tahera was received regarding the 2007 annual report and no subsequent annual reports were submitted to the NIRB.

After Shear's acquisition of the Jericho site in 2010, they committed to the preparation of an annual report for submission to the NIRB by June 10, 2011⁵. To date, the NIRB has received a copy of the 2010 Annual Report prepared in accordance with Part B, Section 2 of the Type A Water License for the Jericho project. This report was distributed to the NWB in April 2011 and does not address the information requirements contained in Appendix D of the NIRB Project Certificate No. 002.

3.1.1.2. Quarterly Report

According to Appendix D of NIRB Project Certificate No. 002, the Proponent is required to submit quarterly reports, starting October 31, 2007 (reports due at the end of October, January, April, and July of each year). These reports should at a minimum, document the current and planned infrastructure development at the Jericho Mine site. The last quarterly report submitted by Tahera was submitted to the NIRB on January 24, 2008, with no further reports having been received once Tahera filed for creditor protection. After Shear's acquisition of the property, they committed to preparing a quarterly report for the periods ending December 31, 2010 and March 31, 2011 for submission to the NIRB by June 10, 2011⁵. As of the date of this report, no quarterly reports had been submitted to the NIRB.

⁴ Letter dated November 25, 2008, from Sophia Granchinho, NIRB to Greg Missal, Tahera Re: *Recommendations based on the NIRB's 2007 Annual Monitoring Report for the Jericho Diamond Mine Project.*

⁵ Letter dated June 3, 2011 from Pamela Strand, President of Shear Diamonds to Sophia Granchinho, NIRB Re: *Request to assign the Jericho Diamond Mine Project Certificate (No. 002) to Shear Diamonds (Nunavut) Corp.*

3.1.2. Wildlife Mitigation and Monitoring

3.1.2.1. Wildlife Mitigation and Monitoring Plan

The purpose of the Wildlife Mitigation and Monitoring Plan (WMMP) is to provide the Government of Nunavut – Department of Environment (GN-DOE) and Environment Canada (EC) with the methods which Tahera intends to employ in conducting its wildlife monitoring activities, its intended methods and plans to mitigate potential impacts to wildlife, and to provide environmental staff at the Jericho site with general direction for carrying out wildlife related duties.

On May 15, 2007 Tahera submitted the 4th draft of its WMMP for the Jericho Diamond Project in accordance with Condition 10 of Project Certificate No. 002. After a review of the comments received on the draft as well as the collaborative discussions between Tahera, the GN-DOE and EC, the NIRB Monitoring Officer determined that the WMMP fulfilled the wildlife monitoring and mitigation requirements of the NIRB Project Certificate No. 002 and considered this document to be final.

In its June 3, 2011 submission to NIRB, Shear committed to implementing the measures proposed in the WMMP prepared by Tahera⁵. Shear further specified that during 2011 it would be developing a caribou monitoring program and a revised WMMP. Shear has not indicated a date by which the NIRB can expect the release of these documents for review.

3.1.2.2. Annual Wildlife Mitigation and Monitoring Report

The WMMP requires that Shear compile an annual Wildlife Mitigation and Monitoring Report to deliver observation data, discuss findings, and suggest potential updates to mitigation measures contained within the WMMP to ensure its continued effectiveness.

The last Wildlife Mitigation and Monitoring Report was submitted in April 2008 by Tahera for the 2007 reporting period. In its June 3, 2011 submission to the NIRB, Shear committed to the following⁵:

“During care and maintenance Shear will record wildlife sightings in the field and around the mine site. These sightings will be included in the quarterly report to be submitted to the NIRB.”

As of the date of this report, the NIRB had not received quarterly reports or any wildlife data from Shear.

In addition, the Proponent is required to submit a comprehensive analysis and discussion on the WMMP every 3 years beginning with the first report in 2009. This report was not received from Tahera, and no further reporting relating to the WMMP has been submitted by Shear.

3.1.3. Socio-Economic Monitoring Report

Terms and Conditions 42 through 49 of the NIRB Project Certificate No. 002 outline the Board's requirements for socio-economic monitoring of the Jericho project. Shear has assumed the responsibilities and obligations of Tahera's previous Inuit Impact Benefit Agreement (IIBA) with the Kitikmeot Inuit Association (KIA). However, in Shear's letter to the NIRB⁵, Shear clarified that:

“Currently due to the care and maintenance status of the project the obligations in the IIBA other than those for employment and contracting, are suspended. While the project remains on care and maintenance, there will be limited opportunities for employment...”

Shear has, however, hosted local information sessions in Kugluktuk⁵ and Cambridge Bay⁶ during 2011 to inform community members of the status of the project and anticipated timeframes regarding the company's future labour requirements.

Condition 44 of NIRB Project Certificate No. 002 requires that a socioeconomic monitoring committee (SEMC) be established to monitor certain socioeconomic data in relation to the Jericho project. The SEMC members were to include GN, INAC, KIA, and the NIRB's Monitoring Officer. During the early years of Jericho's development, the NIRB staff attempted to facilitate the creation of this socio-economic monitoring committee but it was the opinion of the Board that being a participant on the committee as well as trying to objectively monitor the committee presented a conflict of interest situation. The Board therefore issued formal correspondence following a decision made during its June 2007 board meeting⁷ that:

- 1) the terms of reference (TOR) of the SEMC are found in Section 12.7.1 through Section 12.7.5 of the NLCA;*
- 2) the TOR will focus on the Jericho project; and*
- 3) the sole role of the NIRB's Monitoring Officer on the Committee is to carry a report to the Board annually on the monitoring information collected by the Committee. The Monitoring Officer will not be attending any meetings or otherwise participating in the Committee's functions.*

In August 2009 the NIRB received the Jericho Diamond Mine 2007 Socio-Economic Monitoring Report from the Kitikmeot SEMC. This report was acknowledged in the Monitoring Officer's project update delivered to the Board at its meeting on October 29, 2009.

⁶ Public Sessions held in Cambridge Bay on February 17, 2011 as listed in the 2010 Annual Report sent to the NWB.

⁷ June 26, 2007 letter from Sophia Granchinho, NIRB, to the members of the Kitikmeot Socio-Economic Monitoring Committee for the Jericho Diamond Project Re: *SEMC, Project Certificate Condition #44 of the Jericho Diamond Project.*

In August 2011, the Regional Director with the Government of Nunavut's department of Economic Development and Transportation distributed an email to their Kitikmeot distribution list indicating their intention to plan a meeting for later this year. To date, no meeting has been confirmed.

3.1.3.1. Inuit Impact and Benefit Agreement

On October 1, 2007 the NIRB received the KIA's report outlining their experience with the implementation of the Jericho/KIA IIBA. The KIA indicated that since the signing of the IIBA the relationship between the KIA and Tahera had been positive. The NIRB has been made aware that the IIBA Implementation Committee has met 2 – 3 times per year.

Since Shear's acquisition of the Jericho project, the NIRB has not been made aware of any changes to the pre-existing IIBA.

3.2. SITE VISIT

The NIRB's previous Monitoring Officer to this file, Sophia Granchinho, conducted the annual site visit August 17-19, 2011 (see [Appendix II](#) for full report). The last site visit had been conducted July 28-29, 2009 while the site was under care and maintenance, just prior to INAC completing site closure, withdrawal of personnel, and only conducting periodic inspections.

While the Jericho site remains in care and maintenance, no mining activities have occurred since 2008. Shear plans to continually evaluate the mineral resources at Jericho while maintaining a minimum staff on site. Overall, the Monitoring Officer found that the Proponent was in compliance with most of the terms and conditions contained within the NIRB Project Certificate No. 002. There were certain conditions where non-compliance was evident, however, and which may require the Board's consideration. A memo containing the Monitoring Officer's recommendations has been included under separate cover for the Board's information.

On September 29, 2011 the 2011 Site Visit Report was distributed to Shear as well as interested parties.

3.3. COMPLIANCE MONITORING BY AUTHORIZING AGENCIES

Shear has stated that its purchase of Tahera's assets included materials pertaining to the Jericho site and its management such as plans, licenses, agreements, and other historical documentation. Shear committed to working under these pre-existing agreements⁸ with the understanding that these would be updated as required for compliance with all licenses and permits and the terms and conditions therein. Appendix D to the Jericho Project Certificate outlines the responsibilities of authorizing agencies in relation to the NIRB's monitoring program and provides a guideline for collaboration on various

⁸ Stated at the NWB Technical Meeting and Pre-Hearing Conference in Cambridge Bay, NU in June 2011.

monitoring tasks and reports. Since the last NIRB monitoring update was delivered to the Board in 2009, the following activities have been carried out by relevant authorizing agencies with respect to the site and in working to update licensing to be reflective of the new ownership.

3.3.1. Aboriginal Affairs and Northern Development Canada

Aboriginal Affairs and Northern Development Canada (AANDC), formerly INAC, is responsible for the issuance of Crown land leases to Tahera for the Jericho Diamond Mine. INAC incorporated relevant terms and conditions from the NIRB Project Certificate No. 002 into the land leases issued for the Jericho site. AANDC is responsible for conducting land use inspections where Crown land leases have been issued, and further, is responsible to conduct compliance inspections with respect to water licence(s) that are issued by the NWB.

After Tahera filed for creditor protection and removed its employees from the site, INAC intervened³ to stabilize the mine site, maintain existing environmental protection measures and ultimately have the site secured to the level required for it to be safely left unmanned, i.e. shut down. After INAC completed the site shut down in September 2009, they visited the site regularly to conduct ongoing monitoring activities. After inquiring with INAC as to the implications of this intervention, the NIRB was informed that as much as INAC had intervened to maintain the site, it was still the responsibility of the Proponent to fulfill the requirements of the Project Certificate. INAC further specified that the courts had granted the Proponent a stay of proceedings which restricted any agency from compelling any action by the Proponent, but as components of the Project Certificate were included in the INAC authorization, some of the ongoing monitoring activities may satisfy requirements of the Project Certificate.

In this vein, the NIRB requested^{9,10} an update from INAC regarding its monitoring activities at the site and any reports resulting from inspections conducted during the intervention. On July 18, 2011 AANDC supplied several inspection reports to the NIRB, including a 2009 Geotechnical Inspection Report, INAC's 2009 Site Visit and Site Assessment Reports, INAC's 2010 Inspection Report and Freshwater Monitoring & Water Management Report, and the AANDC 2011 Water Use Inspection Report.

The issues raised in these reports were as follows:

- elevated levels of ammonia in the water samples;
- dykes and dams not built up to final heights;
- the Southeast dam construction was stalled at the key trench stage;
- the North dam spillway was not yet constructed;

⁹ Letter dated July 7, 2010, from Stephanie Autut, NIRB to Bernie MacIsaac, INAC A/Regional Director General Re: *Request for update on INAC's monitoring activities at the Jericho Diamond Mine.*

¹⁰ Request for an update on INAC's monitoring activities made by the NIRB during the NWB Prehearing Conference and Technical Meeting held in Cambridge Bay on June 20-21, 2011.

- fencing was required around the bulk fuel storage area to prevent caribou from entering the tank farm;
- multiple reports of fuel spills filed during 2006-2007, and 13 fuel spills listed in the 2007 annual report (see [Appendix III](#) of this report);
- extensive evidence of hydrocarbon contamination around fuel storage tank, drums and fill stations, uneven berms, and exposed and perforated liners;
- the lack of secondary containment for hazardous wastes or old fuel, or if secondary containment was constructed, water was sitting in these secondary containment areas with evidence of hydrocarbon contamination; and
- evidence of Fine Processed Kimberlite (FPK) transfer outside of the dam, and although this was noticed in April 2011 by Shear staff, was not brought to the attention of AAND until the June 2011 site inspection.

As AANDC is an intervener in Shear's application for the renewal/amendment of its Jericho water license with the NWB, these concerns are being addressed through the technical process of the water license application review. A summary of the results of these concerns, updated plans and procedures to address these issues, and timelines for addressing these concerns will be discussed at the NWB's final hearing for the renewal of Shear's Type A water license for Jericho, in November 2011.

In its latest inspection report, AANDC noted that Shear appeared to have been making a conscientious effort to recognize and address the various issues onsite¹¹.

3.3.2. Nunavut Water Board

The Type A water license for the Jericho Mine site (NWB 2AM-JER0410) was to expire on December 31, 2010. After Shear finalized the purchase of Tahera's assets in August 2010, it was determined that there was insufficient time to renew the Type A water license, a process which can take up to a year¹², before the current license would expire. Therefore in November and December 2010 Shear applied to the NWB for reassignment of the Jericho water license as well as an emergency amendment/extension¹³ to the current license in order to continue care and maintenance activities at the site, allow Shear to address non-compliance issues, and provide enough time for the renewal process required of a Type A water license.

On November 17, 2010 the NWB requested comments on this reassignment application to which the NIRB responded that discretion for the decision rested with the NWB, but noted that the Proponent had been in noncompliance with the Project Certificate No. 002 and requested that Shear indicate how it intended to meet the requirements of the NIRB's

¹¹ AANDC's June 2011 Water Use Inspection Report provided to the NIRB on July 18, 2011.

¹² NWB website information regarding how long it takes to obtain a water license, accessible by the following link: <http://www.nunavutwaterboard.org/en/faq#f4>

¹³ *Nunavut Waters and Nunavut Surface Rights Tribunal Act, SC 2002, c 10* - Part 3 Transitional Provisions, Consequential and Coordinating Amendments and Coming Into Force - Transitional Provisions: Item 174(ii) and (iii) outlining options for amendments required under an emergency, and allowances for short term renewals not exceeding sixty days total, for approval without a Hearing.

Project Certificate¹⁴. On December 21, 2010 the NWB, with the Minister of AAND's consent, re-issued the previous Jericho water license (NWB 2AM-0410) without a Hearing to Shear Diamonds (Nunavut) Corp. with the new date of expiration being March 1, 2012.

On February 28, 2011 Shear submitted the renewal application for their Type A water license (NWB 2AM-JER0410) to the NWB. Subsequently on March 21, 2011 the NWB distributed correspondence that confirmed that the application was materially complete, requested comments on the submission, and requested a determination from the NIRB regarding whether or not the application for renewal required further screening, reconsideration of the Project Certificate, or a review under Part 5 or 6 of the NLCA.

Also in March 2011, the NIRB received a request from Shear to re-assign the NIRB Project Certificate No. 002 from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp. The NIRB solicited comments from interested parties regarding the requested name change and requested that the Proponent provide an updated mine plan and a copy of the NWB renewal application materials sent to the NWB in February. Shear provided additional correspondence to the NIRB which adequately addressed the information requested; therefore the NIRB re-issued the NIRB Project Certificate No. 002 on August 23, 2011.

The additional submissions made to the NIRB as a result of Shear's request to reassign the NIRB Project Certificate No. 002 provided adequate information to allow the NIRB to make a determination in regards to the NWB's March 21, 2011 request. On September 27, 2011, the NIRB provided written confirmation to the NWB that:

"The NIRB has determined that the project activities as outlined by Shear and relating to the water license renewal and amendment application are within the scope of those considered during the NIRB's previous Review of the Jericho Project (NIRB File No. 00MN059). Provided that Shear operates in accordance with its stated commitments and with all previously issued authorizations, the activities proposed as part of the current application for the renewal of water license 2AM-JER0410 do not require further screening by the Board and remain subject to the terms and conditions of NIRB Project Certificate [No. 002]."

3.3.3. Government of Nunavut, Department of Environment

Pursuant to the *Wildlife Act*, the Government of Nunavut's Department of Environment (GN-DOE) is responsible for the management of wildlife within Nunavut. The GN-DOE and Environment Canada (EC) have jurisdictional authority over most of the resources discussed or addressed in wildlife-related terms and conditions found throughout the

¹⁴ Letter dated November 25, 2010 from Sophia Granchinho, NIRB to Phyllis Beaulieu, NWB Re: Assignment of Water License 2AM-JER0410 from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp.

Jericho Project Certificate (Conditions 9-18). Tahera worked extensively with the GN-DOE to finalize the Wildlife Mitigation and Monitoring Plan (WMMP) which was accepted as a final document on October 19, 2007. No wildlife monitoring has taken place at Jericho since the site went into care and maintenance in 2008.

As part of her 2011 site visit, the NIRB Monitoring Officer noted that maps of caribou migration patterns had been posted around site and that an ongoing wildlife log was being maintained by Jericho site personnel. The NIRB was not made aware of any GN-DOE site inspections having taken place since 2009.

3.3.4. Fisheries and Oceans Canada

Fisheries and Oceans Canada (DFO) is legislated by the *Fisheries Act* and has some authority concerning items addressed in conditions 20, 21 and 24 of the Jericho Project Certificate.

The DFO conducted a compliance monitoring site visit at Jericho in September 2007, shortly before Tahera filed for creditor protection. At the time, DFO was satisfied with the causeway and the eight rock shoals that were constructed in August 2005 and April 2007, respectively; however, it noted that the lower reach of the stream C1 diversion, the connecting channel (Stream 021) between Lakes 02 and 03, and the fourteen rock shoals in various lakes which were a part of the approved plan, had not been constructed. DFO requested that Tahera provide a rationale for the lack of fish data collected in 2006 (2006 Annual Monitoring Report and 2006 Aquatic Effects Monitoring Report) and further, requested that future AEMP reports include fish data collected for each year of the mine development to ensure the protection of the health and integrity of the aquatic environment and the effectiveness of mitigation measures employed. The Jericho site's *Fisheries Act* authorization expired on December 31, 2007. DFO indicated that it would keep the NIRB informed of any activity relating to this authorization.

In July 2011 the DFO contacted the NIRB regarding the applicability of the Project Certificate and the scope of the previous review to updated DFO requirements for an expanded fish sampling program at the site¹⁵. The Monitoring Officer informed DFO that only the Carat Lake system had been specified in the review, and therefore that the Jericho Project Certificate would only pertain to sampling conducted within the Carat Lake water system. As such, any sampling in any other lake systems were not included in the original scope of the screening or review. DFO was reminded that it would be up to their department to refer any application to the NIRB for screening, and further, that pursuant to section 12.9.10 of the NLCA, DFO is required to forward any approvals that are issued. To date the NIRB has received no further indication as to the results of this discussion, and no permits or authorizations have been provided to the NIRB.

¹⁵ Email correspondence dated July 28, 2011 between Sophia Granchinho, NIRB and Robert Bedingfield, DFO Re: *PDFs Fisheries and Oceans Canada*.

3.3.5. Environment Canada

Pursuant to Condition 5 of the NIRB Project Certificate No. 002, the installation of an atmospheric monitoring station was to be funded and installed by Tahera with the purpose of obtaining site-specific meteorological data. This station was to meet the requirements of Environment Canada (EC) air quality experts and was to focus if possible, on dust from roads and blasting, and windblown dust from stockpiles.

As outlined in the 2011 site visit report (see [Appendix II](#)), a meteorological station that had been installed in 2006 failed and had been subsequently sent out for repairs when Shear acquired the site. The repaired unit was returned to the site but its installation was delayed due to bad weather. Other dust fall stations had been installed around the site as outlined in the revised Air Quality Management Plan submitted by Shear in 2011. Shear indicated that samples would be collected three times during the summer months with the first samples, including lichen, to be collected in August.

EC recently provided comments to Shear's 2011 renewal application for the Jericho site Type A water license with the NWB. Shear has indicated that EC will be consulted regarding the future development of several plans as a part of this renewal process.

4.0 FINDINGS

The following outlines the Monitoring Officer's findings for the 2010 – 2011 monitoring period.

Appendix D of the Project Certificate No. 002 requires that Shear submit to the NIRB, both quarterly and annual reports for the Jericho project. As of the date of this report, the NIRB had not received Shear's reporting for the 2010 monitoring year or the quarterly reports required for 2010 and 2011. The NIRB understands that Shear acquired the Project in August 2010 and that the site remains in the care and maintenance phase, however activities have been ongoing at Jericho since Shear's acquisition and these should be included in reporting to the NIRB as required pursuant to Appendix D.

In accordance with Condition 10 of the Jericho Project Certificate and the WMMP, Shear is required to submit Wildlife Mitigation and Monitoring reports to the NIRB on an annual basis. No reports have been submitted to the NIRB since 2008. Furthermore, no wildlife monitoring appears to have been conducted at the Jericho site in 2011, though during the Monitoring Officer's site visit, it was noted that wildlife observations are being recorded via a wildlife observation log kept at site. Shear had previously indicated that a caribou monitoring program and a revised WMMP would be created in 2011 and provided to the NIRB for review. As of the date of this report however, these reports remain outstanding.

In addition to the above findings, the Monitoring Officer noted non-compliance with the following conditions during the 2011 site visit:

Condition 5 – no atmospheric monitoring station had been installed to obtain site-specific meteorological data.

Condition 34 – berm around the waste transfer containment area near the airstrip was not complete; the liner exposed and torn in several locations.

Conditions 31 & 35 – no information provided regarding options for additional divider/barriers or dykes in the PKCA, no revised waste management plan provided to the NIRB's Monitoring Officer.

On several occasions the NIRB has requested that Shear provide a status report of the Jericho mine during the current care and maintenance period, to include an updated mine plan with clarification on how Shear's recently proposed¹⁶ exploration activities would be related to the Jericho Mine and any future mining plans^{17,18}. As of the date of this report, Shear had not provided this information to the NIRB, though it had provided correspondence which indicated how it plans to achieve compliance with the terms and conditions within the NIRB's Project Certificate No. 002¹⁹.

The NIRB has not been kept informed of any changes or amendments to fish monitoring plans or been advised as to whether or not the *Fisheries Act* Authorization has been renewed by DFO.

5.0 CONCLUSIONS

Since its successful acquisition of Tahera's assets, Shear has initiated the following:

- Assess mineral assets of the site and surrounding area, including further exploration drilling in neighbouring areas;
- Update project permitting and site compliance to the terms and conditions therein;
- Conduct Aquatics Effects Monitoring Program including selecting a new reference lake; and
- Work towards transitioning the site successfully from the current state of care and maintenance back into a fully operational mine within the next 2 years.

¹⁶ NIRB screening file number 11EN009, Screening Decision Report issued by the NIRB on May 2, 2011 with a subsequent exemption issued for the continued exploration by the NIRB on May 27, 2011.

¹⁷ Letter dated November 25, 2010, from Sophia Granchinho, NIRB to Phyllis Beaulieu, NWB, Re: *Assignment of Water Licence 2AM-JER0410 from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp.*

¹⁸ Letter dated March 28, 2011, from Ryan Barry, NIRB to Allison Rippen Armstrong, Shear, Re: *Request for Jericho Diamond Mine Project Certificate Name Change and Application for Renewal of Type "A" Water Licence for Shear Diamonds Corp.*

¹⁹ Letter dated June 3, 2011, from Pamela Strand, Shear, to Sophia Granchinho, NIRB, Re: *Request to assign the Jericho Diamond Mine Project Certificate (No. 002) to Shear Diamonds (Nunavut) Corp.*

Currently, Shear has committed to operating under the previously accepted mining and management plans completed by Tahera. From this commitment as well as ongoing discussions with Shear, it appears that all project activities and procedures remain the same as those presented during the NIRB's Review of the Jericho Diamond Project and therefore remain subject to the previously issued Project Certificate [No. 002]. The NIRB staff continues to participate in discussions with Shear and other authorizing agencies as part of the transfer of ownership and re-licensing processes.

As Shear completes its assessment of the mineral resources at Jericho, updates project plans and activities and provides details regarding the pending transition back to active mining, the NIRB has requested that the Board be kept informed of this progress and notes that any future decisions to re-open the Jericho Mine are expected to require reconsideration of the terms and conditions contained within Project Certificate No. 002 in accordance with Section 12.8.2 of the NLCA.

The Monitoring Officer has included a number of recommendations under separate cover for the Board's information and consideration.

Prepared by: Tara Arko
Title: Technical Advisor
Date: September 14, 2011
Signature:



Reviewed by: Sophia Granchinho
Title: Technical Advisor
Date: September 19, 2011
Signature:



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Title: Director, Technical Services
Date: September 28, 2011
Signature:



NIRB File No.: 00MN059

APPENDIX I
NIRB PROJECT CERTIFICATE [NO. 002] APPENDIX D

APPENDIX II

2011 SITE VISIT REPORT

APPENDIX III

SPILLS INSPECTED BY INAC (2006 TO 2007)

Date of occurrence	Spill	Tahera clean-up procedure	Follow up required
December 29 th , 2006	Buffalo Airways DC4 aircraft overshot the runway	Contaminated material moved to a temporary stockpile on a lined bed near the Lube Site to be contained and tested during summer 2007 with a hydrocarbon meter. The excavated area will be filled with clean material in order to maintain the integrity of the permafrost.	Follow-up visit by INAC to ensure activities have taken place
March 4 th , 2007	Release valve accidentally opened	Majority of spill was cleaned-up as soon as possible.	Tahera to modify valve design. Follow-up visit required by INAC to inspect results of clean-up and new valves.
March 6 th , 2007	Tahera employee left the filling station while refuelling a tank	Contaminated snow and dirt was shovelled into empty drums and will be removed in the summer.	Tahera instituted a new policy requiring all employees filling tanks to remain at their posts. INAC to do a follow-up visit.