



Environment Environnement
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Our file: 4702 025

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Via Email at exec@nwb.nunavut.ca

Dear Mr. diPizzo

RE: Tahera Diamond Corporation, Jericho Diamond Project – Borrow Management Plan

Thank-you for the opportunity to provide input to the Nunavut Water Board (NWB) regarding the Borrow Management Plan (herein referred to as "the Plan") developed by Tahera Diamond Corp. for the Jericho Diamond Project. This plan is required under Part D, Item 4 of the water license NWB1JER0104. This submission is being provided as requested by the NWB in their letters dated March 23, 2005 and April 12, 2005, indicating that a written hearing will be held on this plan.

1.0 Introduction

The mandate of Environment Canada (EC) is defined by the *Department of the Environment Act*. This *Act* provides the Department with a general responsibility for environmental management and protection in terms of the need to foster harmony between society and the environment for the economic, social, and cultural benefit of present and future generations of Canadians. The Department shares this responsibility with the provinces and territories. Environment Canada is also responsible for providing specialist or expert information and knowledge for the preservation and enhancement of environmental quality.

The operation of the Jericho Diamond Mine is subject to the following statutes administered by Environment Canada: Section 36(3) of the *Fisheries Act*, the *Canadian Environmental Protection Act (CEPA 1999)*, the *Migratory Birds Convention Act*, and the *Species at Risk Act*.

Environment Canada's review of the Borrow Management Plan is based primarily on its mandated responsibility for the administration and enforcement Section 36(3) of the *Fisheries Act*. The *Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the Fisheries Act* states that compliance with the federal *Fisheries Act* is mandatory. Subsection 36(3) of the *Fisheries Act* specifies that unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish, or in any place under any conditions where the deleterious substance, or any other deleterious substance that results from the deposit of the deleterious substance, may enter any such water. Proponents should note that only a federal regulation under the *Fisheries Act* or another Act of Parliament can authorize a discharge of a deleterious substance; no federal



permit, provincial, territorial or municipal regulatory permit or approval allows for exemption from these provisions of the *Fisheries Act*.

2.0 Specific Comments

Environment Canada provides the following comments for the Nunavut Water Board (NWB) for consideration in the review of this document. The comments are organized by page number and section number for ease of comparison.

Page 5, Section 3.1:

- This section makes reference to the presence of natural drainage areas in Borrow Area D which collect snow during the winter months and drain over the west edge of the esker during the spring melt, which according to Figure 2-1, flows into Interlake Area. These areas are stated to be dry for the remainder of the summer. The Plan indicates that a 10 m buffer will be kept around these drainage pathways when this area is exploited. Environment Canada recommends that in addition to the buffer area, this area not be exploited during spring melt to ensure that sedimentation of any waterbodies does not occur. If these areas are exploited when water is flowing, EC recommends that measures be taken to prevent the deposit of sediment into the waterbody, such as the use of silt curtains or other similar preventative measures.

Page 5, Section 3.3:

- This section indicates that if melt water from massive ice encounters becomes evident during quarrying operations, the melt water will be sampled to determine water quality. However, EC recommends that the melt water only needs to be tested if there is a possibility that it will enter surface drainages. If the melt water will enter surface drainages, EC recommends that it be analyzed for Total Suspended Solids and metals, as well as major ions.

Page 6, Section 3.5:

- This section indicates that a 10 m buffer will be established around any nests discovered during surveys of the vegetated areas of Borrow Area D. The procedure provided by Tahera Diamond Corp. is that the area will be flagged and avoided by removal activities until the nests are vacated. However, the Wildlife Mitigation and Monitoring Plan submitted under the same water license (dated April 2005) indicates that if nests are found, a nest management plan will be developed that will include the feasibility of an avoidance option. The Wildlife Mitigation and Monitoring Plan does not establish 10 m as the buffer zone, or even indicate a specific buffer area distance. Environment Canada recommends that once developed, the nest management plan be submitted for review, and that it include details on and a rationale for the size of the proposed buffer zone. Tahera Diamond Corp. shall ensure that the Borrow Management Plan is consistent with the Wildlife Mitigation and Monitoring Plan regarding treatment of nests on site. The proponent should also be aware compliance with the *Migratory Bird Convention Act* is mandatory and that Paragraph 6(a) of the *Migratory Bird Convention Act Regulations* state that no one shall disturb or destroy the nests or eggs of migratory birds.

Section 7, Section 5.1:

- The Plan indicates that ponding of water and water erosion will be routinely monitored by the environmental coordinator on site. The proponent should also include monitoring for total suspended solids in the monitoring plan if quarrying encroaches on any water bodies. The monitoring plan should also clearly identify how frequently the “routine monitoring” will be conducted.



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- The proponent shall ensure that the environmental monitoring of the potential for disturbance of ground nesting birds is consistent with the monitoring outlined in the Wildlife Mitigation and Monitoring Plan.

Page 7, Section 5.2:

- The Plan indicates that if dust generation becomes problematic at the quarry sites, the use of a dust suppressant will be investigated. The proponent should be advised that road salts have recently been listed by the *Canadian Environmental Protection Act* as a CEPA toxic, and as such, EC encourages the proponent to investigate alternate dust suppressants.

Section 3.0 Summary

Environment Canada would like to thank the NWB for the opportunity to participate in the review of the various documents required under the water license for the Jericho Diamond Project. If there are any significant changes in the proposed plan, EC should be notified, as further review may be necessary. Please do not hesitate to contact Colette Spagnuolo with any questions or comments with regards to the foregoing at (867) 975-4639 or by email at colette.spagnuolo@ec.gc.ca.

Yours truly,

Original signed by

C.A. (Chuck) Brumwell
Manager, Northern Division

cc: (Stephen Harbicht, Head, Assessment and Monitoring, Environment Canada, Yellowknife)
(Colette Spagnuolo, Environmental Assessment / Contaminated Sites Specialist, Environment Canada, Iqaluit)
(Phyllis Beaulieu, Manager of Licensing, Nunavut Water Board, Gjoa Haven, NU)