



September 18, 2020

Mr. Richard Storrie  
President and Chief Operating Officer  
Diavik Diamond Mines (2012) Inc.  
PO BOX 2498  
SUITE 300, 500750TH AVENUE  
YELLOWKNIFE NT X1A 2P8  
E-mail: [Richard.storrie@riotinto.com](mailto:Richard.storrie@riotinto.com)

Dear Mr. Storrie:

***Wildlife Act* Section 95(1) Determination of the Requirement for a Wildlife Management and Monitoring Plan for the Diavik Diamond Mine Project**

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The Minister of Environment and Natural Resources (ENR) of the Government of the Northwest Territories (GNWT) requires that Diavik Diamond Mines Inc. (DDMI) submit an updated Wildlife Management and Monitoring Plan (WMMP) to ENR for approval under section 95 of the *Wildlife Act* for the Diavik Diamond Mine project. ENR will be requiring submission of WMMPs for approval by the Minister under section 95 of the *Wildlife Act* for all of the NWT diamond mines that currently do not have Minister-approved WMMPs, to provide a consistent approach to enforcing 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 Diavik 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;*

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- (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.”*

This determination largely reflects the potential impacts of the project 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 knowledge<sup>1</sup>. A [range plan](#) for the Bathurst barren-ground caribou herd was finalized in August 2019. The Diavik Mine site occurs 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.

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

- Winter access road construction and operation - potential for sensory disturbance to caribou 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.
- Decommissioning and dismantling all mine infrastructure and dikes during mine closure - potential for sensory disturbance to big game species and serious harm to wildlife (e.g. destruction of nests).

ENR acknowledges that DDMI has an existing Wildlife Monitoring Program that was originally drafted in 2002, and updated in 2013. The Wildlife Monitoring Program was required under Article VII of the Environmental Agreement for the mine. On February 12, 2020, the Environmental Monitoring Advisory Board (EMAB) requested that DDMI prepare and submit an up-to-date Wildlife Monitoring

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

Program description. On February 21, 2020 DDMI committed to submitting an updated WMMP by June 2020 that would align with the GNWT's WMMP guidelines. In advance of this submission, EMAB provided a number of recommendations to DDMI regarding updates to the wildlife monitoring programs on June 26, 2020.

ENR acknowledges that DDMI submitted an updated WMMP to EMAB on July 25, 2020. Several changes to the WMMP from the 2013 Wildlife Monitoring Program description reflect the findings of DDMI's 2019 Wildlife Monitoring Report. In particular, DDMI has proposed to remove aerial surveys of barren-ground caribou to monitor the zone of influence (ZOI) of the mine from the WMMP based on Golder Associates' (Golder) most recent analysis of aerial survey data which concluded that there was no ZOI influence. ENR commissioned an expert review of Golder's analysis and conclusions, and submitted the findings of this review with ENR's comments on the 2019 Wildlife Monitoring Report to EMAB and DDMI on August 26, 2020. This expert review concluded that Golder's analytical approach was flawed and was incapable of actually testing for a ZOI. As such, ENR is of the view that further discussion about the methods and data analyses used to test for ZOI is warranted before deciding whether to rule out inclusion of aerial surveys in the WMMP. ENR has also provided further comments on the July 2020 version of the WMMP in Attachment 1 to this letter.

ENR acknowledges the difficult circumstances currently posed by restrictions related to the COVID-19 pandemic which may be impacting normal operations at the mines. We also acknowledge the need to reconvene the Technical Task Group (TTG) to finalize the guidance document for caribou ZOI monitoring at the mines. ENR intends to hold a meeting of the TTG in fall 2020. In addition to discussion of ZOI monitoring for caribou, this meeting will also include discussion about the future of DNA-based grizzly bear and wolverine monitoring programs.

Recognizing the above circumstances, ENR requires that DDMI submit a **Tier 3** WMMP for approval **by April 01, 2021**. This should also allow sufficient time for DDMI to consider any further comments and recommendations from EMAB on the WMMP, as well as the outcomes of the next TTG meeting and finalization of the ZOI guidance document in the version of the WMMP submitted to ENR for approval.

In accordance with subsection 95(2) of the *Wildlife Act*, the WMMP submitted for approval must 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.*

The updated WMMP should be consistent with current version (July 2019) of the ENR's WMMP Process and Content Guidelines available at [www.enr.gov.nt.ca/en/services/wildlife-management-and-monitoring-plans](http://www.enr.gov.nt.ca/en/services/wildlife-management-and-monitoring-plans).

The content requirements and different tiers of WMMPs are described in Section 5 and Appendix 2 of the guidelines.

Upon receipt of the WMMP, ENR will initiate a 30 calendar day public comment period, as per ENR's WMMP Process and Content Guidelines. Based on ENR's review and the comments received from other parties, ENR will notify DDMI of required revisions to the WMMP, if any, before its approval. Following any subsequent revisions to the WMMP, if required, ENR will provide DDMI with a written notice of approval, conditional approval or rejection of the WMMP within 30 calendar days. The notification will also be posted to the MVLWB public registry.

Sincerely,



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

Attachment

- c. Dr. Brett Elkin  
A/Assistant Deputy Minister, Operations  
Environment and Natural Resources

Mr. Nathan Richea  
A/Assistant Deputy Minister, Environment and Climate Change  
Environment and Natural Resources

Ms. Karin Clark  
A/Director, Wildlife and Fish  
Environment and Natural Resource

Grand Chief George Mackenzie  
Tłı̨chǫ Government

Chief Daryl Boucher-Marlowe and Band Council  
Łutsel K'e Dene First Nation

Chief Edward Sangris  
Dettah, Yellowknives Dene First Nation

Chief Ernest Betsina  
Ndilo, Yellowknives Dene First Nation

Mr. Stanley Anablak  
President  
Kitikmeot Inuit Association

Mr. Bruno Croft  
Superintendent, North Slave Region  
Environment and Natural Resources

Ms. Anneli Jokela  
A/Executive Director  
Wek'èezhì Land and Water Board

Ms. Shelagh Montgomery  
Executive Director  
Mackenzie Valley Land and Water Board

Mr. Jimmy Noble Jr.  
Deputy Minister  
Department of Environment, Government of Nunavut

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

Ms. Georgina Williston  
Head, Environmental Assessment North  
Environment and Climate Change Canada

Mr. Glen Guthrie  
Director, Wildlife Lands and Environment  
Łutsel K'e Dene First Nation

Mr. Geoff Clark  
Director, Lands, Environment & Resources  
Kitikmeot Inuit Association

Mr. Paul Emingak  
Executive Director  
Kitikmeot Inuit Association

Ms. Violet Camsell-Blondin  
Manager, Lands Regulation  
Tłıchq Government

Ms. Laura Duncan  
Tłıchq Executive Officer  
Tłıchq Government

Ms. Grace Mackenzie  
Mines Liaison Officer  
Tłıchq Government

Mr. William (Bill) Enge  
President  
North Slave Métis Alliance

Ms. Jess Hurtubise  
Regulatory Analyst  
North Slave Métis Alliance

Ms. Sarah Gillis  
Director, Department of Environment  
Yellowknives Dene First Nation

Mr. Daniel Coombs  
Fisheries Protection Biologist  
Fisheries and Oceans Canada

Mr. Charlie Catholique  
Chair  
Environmental Monitoring Advisory Board

Mr. John McCullum  
Executive Director  
Environmental Monitoring Advisory Board

Ms. Janyne Matthiessen  
Environmental Specialist  
Environmental Monitoring Advisory Board

Mr. Sean Sinclair  
Principal Advisor  
Environmental and Closure Readiness  
Diavik Diamond Mines Inc.

Mr. Kofi Boa-Antwi  
Superintendent, Environment  
Diavik Diamond Mines (2012) Inc.