

Mushkegowuk Council Comments
on
Draft Guidelines for the Conduct of a Comprehensive Study and the
Preparation of a Draft Comprehensive Study Report: Victor Diamond
Project

Mushkegowuk Council is the regional organization that represents the interests of seven Cree First Nations in the James Bay Basin of North-Eastern Ontario. Besides Attawapiskat First Nation, it includes three other remote communities on the shores of James Bay: Moose Cree, Fort Albany and Kashechewan First Nations. It also includes three road accessible communities: Taykwa Tagamou (New Post), Chapleau Cree and Missanabie Cree First Nations.

Mushkegowuk Council sees the Victor Project as a critically important project, first of all for Attawapiskat First Nation and its aspirations, and secondly as a precedent-setting project that will affect future resource development in the Mushkegowuk region.

We recognize that this project will have many positive impacts but we are also concerned that the environmental assessment be completed in a way that truly protects the natural, cultural and economic environments that we all share. To that end we view the environmental assessment process as a mechanism to predict and consider a wide range of impacts.

Not only is this project the first diamond mine for all of Ontario, it is also the first mine of any sort that will be developed in the Muskeg of the James Bay Lowlands, and as such is of particular concern to the Mushkego residents of that land.

Because of the unique nature of this project we fully support Attawapiskat First Nation's request for an extension to the deadline for comments on the Draft Guidelines.

We are providing comments of a general nature and following that we are addressing specific points where we feel there are deficiencies of the document:

Resources for Effective Participation

It is vitally important that the First Nations of Mushkegowuk be given the resources necessary to fully participate in the Environmental Assessment. We need to not only participate in the process and consultations led by De Beers and the Responsible Authorities, we also need to be able to support our participation with independent expert advice and community discussions. At the present time, Mushkegowuk Council and its member First Nations do not have the technical capacity for an effective independent review to allow effective participation in this process. These resources are a critical part of this being a meaningful and informed consultation process.

Also, to allow for our effective participation, we need easy and timely access to all information and documentation (both paper and electronic) that affects and shapes the environmental assessment process. We strongly recommend the use of an effective, up-to-date and comprehensive public registry available through the internet.

Mine Closure

This project will have a tremendous and permanent impact on Attawapiskat First Nation and the other First Nations of Mushkegowuk. The Draft Guidelines provide some good direction for identifying those impacts, but puts little or no emphasis on the impacts of closure in 10-12 years. The Comprehensive Study must examine how the closure of the mine will impact the social, cultural and economic stability of the First Nations and how these impacts could be mitigated by planning ahead for that time.

Alternative Means of Carrying out Project Components

The draft Guidelines do not provide enough direction to DeBeers to examine and document alternative means of carrying out aspects of the project that could have the greatest impacts on Attawapiskat First Nation. These include the building of an all weather road between the mine and Attawapiskat First Nation, to allow crucial infrastructure to be built in Attawapiskat, including housing and an expanded airport, as well as the use of diesel generation. The Mushkegowuk Chiefs have made it clear that they support the upgrading of the existing hydro transmission lines (owned by the First Nations) as opposed to the highly risky transportation of bulk diesel in James Bay. These alternatives must be fully explored and examined and the direction De Beers chooses must be substantiated.

Impacts on James Bay

Throughout the draft guidelines, there is not enough direction given to provide background studies and impact analyses on the entire James Bay ecosystem, including wildlife, from the potential accidental release of the vast quantities of fuel being transported and transferred. This must include the use of James Bay by all the First Nations that depend on it for harvesting and other cultural practices.

Appendix A is referred to throughout the document but was not available to us, leading to some difficulty in providing a complete review.

1.2 Purpose of the Guidelines

It needs to be made clear that these guidelines should be considered a minimal direction for the conduct of the Environmental Assessment. It should be understood that there is an expectation that De Beers will provide a complete and thorough examination of all impacts, regardless of whether the specifics are contained in the Guidelines.

3.0 Participation Plan

The document states that “DeBeers will develop a participation plan”. This participation plan is important to ensure that the public have a clear and strong voice in the environmental assessment process. Participation, however, is not consultation, which is a unique right of the First Nations involved. We recommend that the Federal Authorities, with the participation of De Beers, prepare a Consultation Plan in addition to the Participation Plan. Such consultation is vital to the interests of the First Nations, Mushkegowuk Council and Nishnawbe Aski Nation. We need adequate time to review these plans before the Guidelines are approved and they should form an appendix to the final guidelines.

An integral aspect of the Participation Plan should be the posting of all documents and materials on the CEAA web-site.

The participation and consultation plans must include:

- A clear process to inform all stakeholders about the project and the environmental assessment process
- Clear and accurate documentation of all issues, concerns, and responses raised and how they are responded to
- An emphasis on the gathering and use of traditional knowledge and its integration into the Environmental Assessment

When the draft Guidelines refer to “five directly affected First Nations, the six other First Nations and to the three communities”, it is not clear on who is being referred to. This plan also must include the requirement to provide all local First Nations; Mushkegowuk Council, as the regional First Nations organization; and Nishnawbe Aski Nation, with full copies of all documents (including supporting documents) and inclusion of Mushkegowuk in the meeting schedule.

The Draft states that “De Beers will not be required to send out all the supporting documents to these other participants”. Who are these other participants? It is our perspective that De Beers should be required to supply complete sets of documents if requested by any party, in order to provide the broadest possible review of this project.

The “List of deficiencies” for the Comprehensive Study prepared, by the Federal Government should be circulated to the same parties as receive copies of the Comprehensive Study (including Mushkegowuk Council).

De Beers should also be instructed to submit copies of the Comprehensive Study Report to the First Nations, including Mushkegowuk Council, at the same time as submitted to the Responsible Authority.

4.2 The CSR

The draft states that De Beers is required to translate the final draft CSR into French but may be “requested” to translate only a summary into Cree. It is unacceptable that De Beers is not

required to translate the full document into Cree, as the predominant language of those people most closely affected by the project.

5.2 Spatial and Temporal Boundaries

The descriptions of the Regional Study Area and Cumulative Effects Study Area need clarification. It is unclear as to what will be included. The Cumulative Effects Study Area needs to include the combined area of all valued ecosystem components, as opposed to the area of each individual component in order to achieve a full understanding of impacts on a regional level. Whatever Spatial boundaries are used, there needs to be a clear justification and explanation of their rationale.

As noted above, it must be made clear that all analyses needs to include the entire James Bay ecosystem, the wildlife it supports, and the use of James Bay by all the First Nations that depend on it. This is necessary to provide adequate consideration for any accidental release of bulk fuel during transportation and handling.

The Draft Guidelines should include an analysis of impacts on potential staging areas in Timmins, Cochrane and/or Moosonee.

5.4 Environmental Effects of the Project

Although “environmental effects of malfunctions or accidents” are mentioned in this section, there is no discussion of the requirements for analysis of what is included in terms of scope, spatial boundaries, likelihood of occurrence, prevention and mitigation measures. This discussion warrants a separate section in the document, especially because of the unusual quantity of fuel that needs to be handled, the volumes of water being affected, and the inexperience of building a mine in Muskeg conditions

5.5 Mitigation Measures and 5.6 Significance of Environmental Effects

These sections do not address malfunctions or accidents as a consideration. This is a major deficiency.

5.6 Significance of Environmental Effects

The list of criteria for residual effects should include the cultural/social context and the economic context in addition to the ecological context. These criteria will be important in assessing the long-term impacts of the project on the local First Nations and the quality of life for their members.

7.0 Description of Existing Environment

Although the physical, cultural and socio-economic environments are included in sub-sections, First Nation governance needs to be recognized as part of the existing environment, including local First Nations, Regional (Mushkegowuk Council) and Treaty Organizations. Also there must be a thorough discussion of First Nation, Aboriginal and Treaty rights, values and interests.

7.11 Infrastructure

This section should include information on airport facilities, in addition to the roads and other infrastructure.

7.12 Current Use of Land and Resources for Traditional Purposes...

This section of the Draft Guidelines must also explicitly include the entire context of Aboriginal harvesting on James Bay, by all First Nations. This harvesting and the traditional lifestyles it supports will be directly threatened by any accidental release of the fuel being transported and handled in James Bay and the Attawapiskat river.

8.1 Air

The criteria for analysis in this section needs to include the likely aerial distribution patterns and directions for any of the emissions listed. This is information will be important to understand any potential effects on both humans and the ecosystem.

An analysis must also be given to the impact of power generation by diesel fuel on the ability of Canada to achieve its Kyoto Protocol on climate change commitments.

8.2 Surface and Ground Water and Sediment Quality

This section should also include an analysis of accidental or unplanned discharges into water, especially diesel fuel and not just regular “project activities”.

8.6 Wildlife and Wildlife Habitat

It is not clear from the Draft Guidelines what area is referred to as the “eco-region” in relation to the spatial boundaries 5.2. We support the concept of ecological boundaries for the evaluation of impacts, but the approach must be clearly articulated.

This section needs to include the effect of increased noise patterns on wildlife by all project activities, including transportation. Similar wording should be used as exists in section 8.10 on Human Health: “should assess the different effects of daytime and nighttime noise, and should examine continuous noise and intermittent noise, including blasting”.

8.11 Current Use of Land and Resources...

This section deserves to be developed beyond one sentence. It needs to be treated in a serious manner with clear guidelines for the issues to be discussed. It should address not only direct impacts on harvesting near the site, but also the socio-economic shift in the First Nations resulting from cyclical working hours (outside of the community) on traditional land-use patterns by families.

8.13 Socio-Economic Effects

Although this section requires assessment of the project on the cultural and economic well-being of affected communities, it also needs to require the same analysis of the eventual closure of this project on the communities that have adapted to its existence, and become dependent on it, as the primary employer.

8.17 Cumulative Impacts

Where the Draft Guidelines require De Beers “evaluate the effects of exploration...”, it should be made clear that both past and current exploration activities be considered within the entire region. This is important to know the cumulative impact, especially on wildlife, of building a mine in a region that has already experienced an extensive amount of disruption due to exploration.

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