



**Main Floor Lahm Ridge Tower  
4501 Franklin Avenue  
P.O. Box 95  
Yellowknife, NT X1A 2N1  
Phone: 867-765-0961 FAX: 867-765-0963**

Mr. David Livingstone  
Director, Renewable Resources and Environment  
Indian and Northern Affairs Canada  
PO Box 1500  
Yellowknife, NT X1A 2R3

September 15th, 2006

**RE: Review of the 2005 De Beers Environmental Agreement Annual Report**

Dear Mr. Livingstone,

The Attached report is a follow up to our September 8, 2006 letter to INAC regarding review of the De Beers 2005 Environmental Agreement Annual Report. This report is intended as a guide to assist INAC in providing recommendations to De Beers on the Environmental Agreement Annual Report.

We hope this review will prove helpful to INAC in making its Ministerial Recommendation, and also De Beers in its future endeavour to produce Annual Reports as required by the Environmental Agreement.

Sincerely

David R. White  
Executive Director





# **A REVIEW OF THE DE BEERS 2005 ENVIRONMENTAL AGREEMENT ANNUAL REPORT**

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**SNAP LAKE PROJECT – JUNE 2006**

Prepared by

SNAP LAKE ENVIRONMENTAL MONITORING AGENCY  
(SLEMA)

September 8, 2006

*John Chaulk  
Environmental Analyst  
SLEMA*



## Executive Summary

The following report is a review of the De Beers Canada Mining Inc. (DBCMI) 2005 Environmental Agreement Annual Report (*The Report*) by the Snap Lake Environmental Agency (SLEMA). This review is part of SLEMAs' mandate and required contribution outlined in the Environmental Agreement. This review presents SLEMAs' evaluation of *The Report* as it compares to **Article X, Section 10.1, Paragraph (c)** of the Environmental Agreement. **Article X, Section 10.1, Paragraph (c)** is the section of the Environmental Agreement listing reporting requirements and responsibilities for DBCMI of each annual report relating to the Snap Lake Project. *The Report* that was submitted to Indian and Northern Affairs Canada (INAC) by De Beers was deemed to be unsatisfactory by SLEMA in meeting requirements of Article X in the Environmental Agreement. Absence of comprehensive summaries, omissions and the incomplete information and data are cited as reasons.

The review includes recommendations, as well as suggestions in attempts to provide guidance for improvement of the 2005 Annual Report. Examples of missing and omitted information are provided in order to demonstrate the availability of information that should have been included in the report.

It is recommended that DBCMI refer to Article X, Section 10.1, Paragraph (c) of the Environmental Agreement as well as the *Diavik Diamond Mine Inc. - 2005 Annual Environmental Agreement Report* for additional information and guidance.



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# Introduction

The May 2004 Environmental Agreement signed by De Beers Canada Mining Inc. (DBCMI) with the Dogrib Treaty 11 Council, Lutsel K'E Dene Band, Yellowknives Dene First Nation and the North Slave Métis Alliance required DBCMI to submit an Annual Environmental Agreement report as one of its many commitments under the agreement. On July 20, 2006 DBCMI submitted the first of such reports for review to the Department of Indian and Northern Affairs Canada (INAC). INAC in turn forwarded a copy of the Annual Report to The Snap Lake Environmental Monitoring Agency (SLEMA) for review July 21, 2006.

It is within SLEMAs' mandate to review and comment on the information contained in the annual report to ensure it meets the requirements set forth in the EA. In short our (SLEMA) role is one of support, review, monitor, assist (work with), comment, recommend, facilitate, report, and provide to the various parties named in the agreement. SLEMA's mandate is outlined in *italic text* below: (Taken from **Article IV, section 4.2** of the EA):

## **ARTICLE IV ENVIRONMENTAL MONITORING AGENCY**

### *4.2 MANDATE OF THE MONITORING AGENCY*

*The Monitoring Agency shall perform its functions consistently with the purposes and guiding principles in this Agreement. The mandate of the Monitoring Agency shall be, in respect of the Project, to:*

- (a) **support** the Aboriginal Parties' efforts to protect the environmental interests on which they rely;
- (b) **support** collaborative and information-based liaison amongst all the Parties;
- (c) **support** DBCMI, Canada, and GNWT in their respective efforts to protect the environment;
- (d) **review** and **monitor** the environmental performance of the Project using western science and traditional knowledge;
- (e) **work with** DBCMI to mitigate environmental impacts of the Project thereby mitigating the potential for socio-economic effects;
- (f) *serve as a public watchdog of the regulatory process and the implementation of this Agreement;*
- (g) *make **recommendations** to any body having regulatory or management responsibility for a matter, for the achievement of the purposes and guiding principles in this Agreement;*
- (h) **facilitate** programs to provide information to and consult with the members of the Aboriginal Parties;
- (i) **report** to the Parties and the public on the Monitoring Agency's activities and the achievement of its mandate; and
- (j) **provide** an accessible and public repository of environmental data, studies and reports relevant to the Monitoring Agency's mandate.

This review of the inaugural annual report submitted by DBCMI, is part of SLEMAs' continued contribution to the Snap Lake project. It reflects our continued efforts fulfilling the mandate by reviewing and providing comments to assist DBCMI with their efforts meeting commitments made under the EA. The review will focus mainly on **Article X – Annual Reports** section of the EA document. Article X of the EA serves as benchmark or minimum expectation for the Annual Report layout, its content and level of effort expected. It therefore provides bases for this review and will be considered SLEMAs' position and expectations for future EA Annual Report to be measured against.

DBCMI should consider the Annual Report as an opportunity to highlight advancements and achievements of the Snap Lake project and demonstrate how they meet and/or exceed environmental commitments and performance. It should be a stand alone document that summarizes *all environmental programs* and serves as tool to communicate successes, progress, effectiveness and *address any concerns* raised by the *affected parties and the public* as a whole. The annual report should be a “**comprehensive summary**” of environmental performance for the project, including the Environmental Management System (EMS), *environmental monitoring plans & programs, monitoring data, compliance reports, mitigative measures, and adaptive management*. It is intended to be a *rolling summary and analysis of environmental effects data* and include *verification of performance, actions taken to address effects, as well as verification of environmental assessment predictions*. Article X of the EA presented in the following section in detail, outline the requirement of the EA Annual Report:

## The Annual Report

The *italic* text below is the detailed section from the EA regarding Annual Reports. It outlines the Annual Report requirement for the Snap Lake project. It provides a list of information that is required and outlines DBCMI's reporting responsibilities and effort expected for the Snap Lake Project Environmental Agreement Annual Report. (Taken from Article X, section 10.1 of the EA)

### **ARTICLE X ANNUAL REPORTS**

#### **10.1 ANNUAL REPORT**

- (a) *DBCMI shall prepare and submit an annual report (the "Annual Report") to the Parties and the **Monitoring Agency** for each calendar year during the term of this Agreement.*
- (b) *Each Annual Report shall include the results of **Environmental Monitoring Programs**, and a **rolling summary and analysis of environmental effects data** over the life of the Project to illustrate any trends. The **actual performance of the Project** shall be compared to the results **predicted in the environmental assessment** and the MVEIRB Report and an evaluation provided as to how **DBCMI'S Adaptive Management** has performed to the date of each Annual Report.*
- (c) *Each Annual Report shall include, but not be limited to, the following:*
  - (i) *a **comprehensive summary of all supporting information, data and results from the Environmental Monitoring Programs** and all studies and research;*

- (ii) *a **comprehensive summary of all compliance reports** required by the **Regulatory Instruments**;*
  - (iii) *a **comprehensive summary of operational activities** during the preceding year;*
  - (iv) *actions taken or planned to address effects or compliance problems which are set out in the Annual Report;*
  - (v) *a **comprehensive summary of operational activities** for the next year;*
  - (vi) ***lists and abstracts of all Environmental Plans and Programs**;*
  - (vii) ***verification of accuracy of environmental assessments**;*
  - (viii) *determination of **effectiveness of mitigative measures**;*
  - (ix) *a **comprehensive summary of all Adaptive Management measures** taken;*
  - (x) *a **comprehensive summary of public concerns and responses to public concerns**;*
  - (xi) *a **comprehensive summary of the new technologies** investigated;*
  - (xii) *the Minister's comments, including any Minister's Report, on the previous Annual Report; and*
  - (xiii) *a plain English executive summary and translations into Dogrib and Chipewyan using appropriate media.*
- (d) *In order to prepare each Annual Report and with a view to both ensuring that an opportunity is provided for early disclosure and discussion of problems and that each Annual Report meets with the requirements of this Agreement, DBCMI shall Consult with the Minister, the Monitoring Agency, and the GNWT as DBCMI compiles the information and data to be included in such Annual Report.*
- (e) *Within forty-five (45) days of the receipt of the Annual Report, any Party or the Monitoring Agency may advise the Minister whether such Annual Report is satisfactory or unsatisfactory.*
- (f) *Within ninety (90) days of the receipt by the Minister of the Annual Report, the Minister shall advise DBCMI whether such Annual Report is satisfactory or whether the Minister has determined that such Annual Report is deficient. In the event that the Minister has determined the Annual Report to be deficient, the Minister shall provide DBCMI and the Monitoring Agency with a Minister's Report.*
- (g) *In relation to matters substantially within the jurisdiction of the GNWT, the Minister shall provide DBCMI with a Minister's Report pursuant to Article 0(f), but in any event no later than sixty (60) days from when the Minister receives advice from the GNWT that the Annual Report is unsatisfactory and the GNWT's advice shall be included in the Minister's Report.*
- (h) *Within sixty (60) days of the receipt by DBCMI of a Minister's Report, DBCMI shall reply to the Minister's Report and provide the Minister and the Monitoring Agency, and, if the Minister's Report is provided pursuant to Article 0(g), the GNWT, with a revised Annual Report or an addendum which addresses satisfactorily the deficiencies described in the Minister's Report.*
- (i) *The Minister may provide DBCMI with an extension of time where DBCMI is bona fide delayed in completing an Annual Report or providing a reply to a Minister's Report.*

Before proceeding it is difficult for SLEMA not to highlight and draw attention to the Diavik Diamond Project Environmental Agreement that came effective March 8<sup>th</sup> 2000. **Article XII** of this particular agreement outlines Diaviks' responsibilities for Environmental Agreement Annual Reports relating to the Diavik Diamond Project. **Article X** presented above is De Beers' responsibility for its Environmental Agreement Annual Report relating to the Snap Lake project. When comparing the two (2) sections of each agreement it is obvious the requirements and expectations for both reports are similar. This is a result of the identical language used in paragraph (c) of both agreements. Due to the similarity of the two agreements for the annual report section, we cannot simply ignore the Diavik report. As a result, attached is a copy of the Diavik report in an Appendix of this review for the purpose of providing additional supporting information of why the DBCMI report submitted is considered **unsatisfactory**.

We are limiting ourselves to making a few general observations of the Diavik report and avoiding a review of "*Diavik VS De Beers*" reports. It is clearly understood that both projects are independent of one another and therefore the Snap Lake report will be assessed independently. Yet as previously stated the similarities between the two environmental agreements cannot be ignored. SLEMA therefore suggests that DBCMI could learn from the Diavik report regarding what information should be included. The report is attached for informational purposes. Below are a few generalized observations regarding the Diavik Diamond Mines Inc, 2005 Annual Environmental Agreement Report June 2006;

- The Report provides an eight (8) page Executive Summary section that provides background information on the project. The summary included parties of the agreement, location of the project (including a map), description of the general environment, the mine activities, explanations of adaptive management, etc.
- The eight (8) page summary is translated into the respective three (3) languages, as required by their agreement.
- The Table of Contents clearly indicate the major headings of the report and indicate the sections of the Environmental Agreement each heading corresponds.
- The introduction provides a good explanation of the report its requirement, the company profile, background information, regional environment, and activities throughout the year and appears to address most aspects in paragraph (c).
- The remaining of the document as indicated address most items found in paragraph (c) in the EA; Environmental Plans and Programs (item vi); Summary of Submissions (item i); Summary of 2005 operations (item iii, v); Public concerns (item x); Advanced Technology (item xi); Rolling Effects Summary (item i, vi,viii,ix); Summary of Compliance (item ii, iv); Environmental Monitoring (item i); Adaptive Environmental Management (item ix).



- Each section provides a good understanding clearly indicating the objective, the requirement and the key findings for each. Appearing to be a comprehensive summary for each section.
- The report may stand alone allowing the reader to gauge the overall environmental performance of the project and it provides enough information and data to get an understanding of the activities and scope of environmental monitoring, performance, effects and overall environmental management at the site.

## **Paragraph (a)**

*“(a) DBCMI shall prepare and submit an annual report (the "Annual Report") to the Parties and the Monitoring Agency for each calendar year during the term of this Agreement.”*

The 2005 EA report was received by INAC on July 20, 2006. It was not until INAC contacted SLEMA that the existence of the report was known. It is written in the EA that the report is to be submitted “*to the parties and the Monitoring Agency*” for each year. SLEMA recognizes that it has been out of sync with past programs, and thus has affected its timely response into these programs. However, this should not affect the circulation of the Annual Report to include SLEMA as required by the EA.

SLEMA is and will continuously work to improve the manor in which it operates, to allow timely and effective participation in ongoing programs. We (SELMA) will strive to operate in the capacity intended under the EA and will continue to focus on improving communication between De Beers and the parties. In relation to the report, we submit that prior to July 20, 2006 the existence of the 2005 Environmental Agreement Annual Report was unknown or the due date for the report was reached. Furthermore we were unaware of ongoing consultations between the parties as required under **Article X paragraph (d)** of the EA. We understand that while these consultations were suppose to include the monitoring agency, it may not have been possible due to discontinuity in staffing at the Agency. We recognize that if the monitoring agency had been involved with the ongoing consultations between the minister, **the monitoring agency**, GNWT and DBCMI for the purpose of information to include in the Annual Report it would have been aware of the Annual Report existence and timing of release.

At present time it is still unclear the outcome of any consultations that have taken place between the named parties, or if the report received was intended to fulfill all the requirements outlined in Article X of the EA. In addition a further review of Article(s) VII, section 7.4 paragraph (a) and Article X paragraph (d) state in both sections the monitoring agency is to be involved with consultations for developing formats and time frames for the delivery of other reports and data. In consideration of these sections SLEMA makes the following recommends to address issues of concern raised as a result of the release and timing of this Annual Report:

SLEMA RECOMMENDS that....

1. Environmental Agreements Annual Reports are to be submitted to all parties named in the EA (including SLEMA) parallel to one another allowing equal opportunity for review and comment. Pursuant Article X, paragraph (a) of EA.
  - A transmittal letter should accompany the Annual Report explaining the requirement of the report (i.e. please find enclosed the 2005 Environmental Agreement Annual Report in fulfillment of Article X section (c) of EA).
  - The transmittal letter should clearly indicate the parties to which the report has been circulated. (named parties indicated in the EA)
  - The letter should also include a reminder statement that review and comments are to be forwarded to the minister (INAC) within forty-five (45) days of receipt of report. Pursuant Article X – Paragraph (e).
2. The establishment of an Environmental Agreement Annual Report **due date** for each calendar year suitable to each of the parties.
  - By establishing a due date for the annual report, it will allow the parties sufficient time and resources to comment on the report because they know when the report is to be released.
  - It will eliminate the surprise.
  - Data for each consecutive report will be based on equal yearly data.
3. Consultation with the parties as per EA should be employed prior to the release of the Report. Pursuant Article(s) VII, section 7.4 paragraph (a) and Article X paragraph (d).
  - Improve communication between parties

## **Paragraph (b)**

*“ (b) Each Annual Report shall include the results of Environmental Monitoring Programs, and a rolling summary and analysis of environmental effects data over the life of the Project to illustrate any trends. The actual performance of the Project shall be compared to the results predicted in the environmental assessment and the MVEIRB Report and an evaluation provided as to how DBCMI'S Adaptive Management has performed to the date of each Annual Report.”*

The annual report provided very little results or details regarding ongoing environmental monitoring programs. 2005 was the first full year of data collection for the project, and it is understood that trends are difficult to establish. However, a more comprehensive review of the key results verses the predicted results, of the Environmental Assessment report could have been made and included in this report. The Snap Lake project has upward of twenty five (25) monitoring plans and programs in its EMS (see page 12 for list), yet presented in this EA report were only six (6) topics, with

little actual data or supporting information from the 2005 monitoring programs included. In order to satisfy Article X paragraph (b) there needs to be a more comprehensive summary section put forth in the current submission. This section is to summarize and highlight all monitoring programs with an analysis of key effects data, complete with comparisons to the environmental assessment data. Any trends from this information should be noted. Also included in this section should be a rolling summary, analysis of effects data over the life of the project and performance of adaptive management measures. All of these aspects have been either omitted or require additional input in order to be considered complete and comprehensive. It is recommended that the summary section be derived from the main body of the report. Article X paragraph (c) of the EA outlines the content that is required and should be used as a guideline for the development of the Report. We recommend that DBCMI review this section carefully to allow for a better understanding of the report expectations.

Furthermore this is the inaugural Annual Report submitted by DBCMI. We should point out that the EA came into effect May 31, 2004 and since this time there has been a lot of activity and developments from May 2004 to May 2006 with the development of plans, programs, consultations, etc., for the Snap Lake project. In light of the fact there has not been any reporting for the period 2004 to 2005, SLEMA submits that all plans, programs, reports, monitoring, and information available from the effective date May 2004 to May 2006 should be included in this report in order for the report to represent a “comprehensive review” and provide a true “rolling summary of activities”.

## **Paragraph (c)**

*(c) Each Annual Report shall include, but not be limited to, the following:*

- (i) a comprehensive summary of all supporting information, data and results from the Environmental Monitoring Programs and all studies and research;*
- (ii) a comprehensive summary of all compliance reports required by the Regulatory Instruments;*
- (iii) a comprehensive summary of operational activities during the preceding year;*
- (iv) actions taken or planned to address effects or compliance problems which are set out in the Annual Report;*
- (v) a comprehensive summary of operational activities for the next year;*
- (vi) lists and abstracts of all Environmental Plans and Programs;*
- (vii) verification of accuracy of environmental assessments;*
- (viii) determination of effectiveness of mitigative measures;*
- (ix) a comprehensive summary of all Adaptive Management measures taken;*
- (x) a comprehensive summary of public concerns and responses to public concerns;*
- (xi) a comprehensive summary of the new technologies investigated;*

- (xii) the Minister's comments, including any Minister's Report, on the previous Annual Report; and
- (xiii) a plain English executive summary and translations into Dogrib and Chipewyan using appropriate media.

Each of the above items when combined, clearly demonstrate the expectation and effort for the EA Annual Report. This section provides guidance for the creation of the report and upon reviewing the report each item should be clearly indicated and addressed to a satisfactory degree. Summarised below are SLEMAs' comments for each of the thirteen (13) items with explanations of why the section is complete or incomplete in the Annual Report. **Complete** - indicates the item is fulfillment in the report **Incomplete** – indicates the item is not fulfilled in the report and requires reassessment and additional information. In addition we attempted to provide sections for information that is expected to be included as guidance.

**Item (i) – Incomplete**, The report did not contain a **comprehensive summary of all** supporting information, data and results nor did it contain **all studies and research** for the 2005 season. While some data is presented in the report for the six (6) topics it is considered to be incomplete. The 2005 season was the first full season for data collection and establishment of monitoring programs. It is believed that there is much more data available and thus more information should have been included in the report.

- **Air Quality:** DBCMI produced an “*Air Quality Monitoring Program – September 2005*” and “*Air Quality and Emissions Management Plan – February 2006*” It is understood that the Emissions Management Plan written in 2006 is currently under review by GNWT and Environment Canada and is currently due to be finalized in August 2006. However, no mention of development of these plans is found in the Annual Report. For this reason it is difficult to determine if the *Emissions Plan* was included in the report or if any data compiled from the respective plans has found its way into this annual report, due largely to the incomplete information. Additional complications are noted regarding what data has been included in the report. Questions are raised as to its completeness of the 2005 season, for the following two (2) reasons; 1) The EA Annual Report is dated June 2006 and yet the report does not outline the timing interval for air quality monitoring data. (The question: Is monitoring from May 2005 to May 2006 for the Air Quality Program or is it based on the calendar year January 2005 to December 2005?). This information should be clarified and included in future report to allow rolling data to be included on equal interval. 2) Information may be more easily determined if supporting reports have been produced, Section 4 of the *Air Quality Monitoring Program* and Section 5 of the *Air Quality and Emissions Management Plan*, confirm that annual reports have and will be produced March 31 of each year. However, the reader cannot determine this from the information presented. As previously stated it is believed that the Annual Report should be able to stand alone and provide a comprehensive view of the Environmental performance of the project. Review of the language used in Article X paragraph (c), items (i – xiii) supports this idea (i.e. comprehensive summary of all information, data and results, etc.). It is determined that in order to be a stand alone document much more information is required. Furthermore, as

of this date SLEMA has not received any annual reports regarding Air Quality or Air Emissions other than plans noted above. At present we are unable to ascertain the interval of data collection or the validity of results and due to the lack of information provided in this section we feel it does not provide a **Comprehensive Summary** as required for item (i).

The EA became effective May 31, 2004 and Article VII, Section 7.2 outlined the requirements of the Air Quality and Air Emissions programs. The absence of an Air Quality and Air Emission Annual Report to date, (due March 31 of each year) raises questions whether or not the monitoring data is in fact available for this Annual Report. The report does in fact provide a comparison of 2004 and 2005 greenhouse gas emissions as well as comparisons of dust and weather conditions, suggesting that the data is in fact available. The section is incomplete and lacks a more comprehensive approach. In addition the following data was missing from the report; Total Suspended Particulate (TSP), PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub>, fuel usage, evaluation against the original Environmental Assessment Report, and effectiveness of the abatement programs employed. In order to provide a **comprehensive summary** additional information and review is required to complete this section.

- **Aquatics Monitoring:** The Aquatics monitoring program was well established by 2005 with a lot of activity ongoing at the project site with data collection spanning more than two years. The Annual Report however lacks information suggesting that this section is not a true reflection of the scope of activities nor does it represent a **comprehensive** view of monitoring activities for 2005. For the purposes of the Environmental Agreement report a more **comprehensive summary** is required in order to fulfill the agreement requirements.

The Aquatic Effect Monitoring Program consisted of five (5) sub topics as well as one special project. It is difficult to determine from the information provided any results or establish and/or measure environmental performance of the project. It is understood that it may be early to establish trends however the summary section of the *2005 AEMP Report* for the Water Licence does in fact contain data and outline trends. This information should have been included in the EA annual report, such as water quality ice-free and ice coved variations noted. In addition the extent of dissolved salts increase and any findings of the juvenile fish survey should have been included. The report makes mention of Plankton and Benthic Invertebrates but the information that is provided on these sub topics does not constitute **comprehensive summaries**. Therefore it is believed that additional information and analysis of this section is required in order to complete this section.

- **Archaeology Monitoring:** While this section of the EA annual report contains information on what was done in 2005. DBCMI should consider including additional background information highlighting the plans, programs and procedures that have been developed for the protection and documentation of

archaeological sites and include these abstracts in the report. This would provide a more comprehensive understanding of how this issue is addressed.

- **Hydrology Monitoring:** Water management at the site has been ongoing for a number of years. The development of a Water Management Plan in 2005 outlined many aspects and provides monitoring information that was not presented in this report. The Water Licence has a requirement to provide water balance data yet none of this information is presented in this report. With all the information that is collected on a daily, monthly and yearly bases for the purposes of water management it is evident that this section is clearly not a comprehensive summary of all information and it requires reworking.
- **Vegetation Monitoring:** SLEMA cannot determine with certainty if this section is complete and does in fact provide a comprehensive summary of the activities for vegetation monitoring at the site. We are aware that there is a *Vegetation Monitoring Plan* developed and is currently being updated. However, to date we have not had the opportunity to review the plan or any data that has been produced other than what has been presented in this Annual Report. We will continue to work with DBCMI to obtain and review the most up to date data available. The delay of the background information does re-enforce previous recommendations for consultation, and the establishing a due date for the release of the Annual Report, to allow evaluation using appropriate data and information.

Despite the absence of supporting reports and data for the vegetation monitoring, it's our position that this section does not represent a comprehensive summary of the Vegetation Monitoring. The following reasons are cited for this statement 1) no mention of the *Vegetation Monitoring Plan* can be found in this section or anywhere in the report. 2) The purpose and/or requirement for vegetation monitoring is not highlighted 3) The abstract from the monitoring plan was not included. & 4) There is no comparison to the environmental assessment. It is concluded that a review of this section is required in order to complete this section.

- **Wildlife Seen:** Similarly to the vegetation section above, the wildlife section cannot be verified for accuracy or completeness due to the delay in the 2005 Wildlife Report (expected in fall of 2006 for release by DBCMI). Wildlife issues and concerns are covered in many aspects of the EMS. Training, standard operating procedures (SOP's), plans & programs all include wildlife protection and information and this should be conveyed in the report in order to provide a more comprehensive understanding. This includes an explanation of the monitoring programs goals and abstracts and background. While this section appears to include more data regarding wildlife it is believed that more information is required in order for this section to be considered a comprehensive summary. More explanation and comparison for baseline information as well as the original environmental assessment predictions would also be well served in this section.

In summary for this 2005 Environmental Agreement Annual Report to meet the requirement fulfilling item (i), re-working of the report is needed. The report has to include more data, results, abstracts of environmental management plans, programs and a “summary of all supporting information of all studies and research”. It is felt that the information is indeed available and that additional thought and effort is required to determine the relevance of the information in order to fulfill this requirement.

**Item (ii) – *Incomplete***, The Annual Report did not contain a **comprehensive summary of all compliance reports** required by regulatory instruments nor does it explain any regulatory responsibilities. The “Compliance Reports” section included in the annual report consists of four (4) bullets. These bullets provided little information regarding the true regulatory landscape of the project. Reading this section it appears that DBCMI has very little or no regulatory responsibilities or obligations for the Snap Lake project. SLEMA recognizes that this is **not** a true representation of the regulatory landscape. It is our opinion that DBCMI would be much better served by highlighting all the regulatory instruments and demonstrate to the reader actions and responses they take to meet these requirements each and everyday. Reading this section “as is” the reader is most likely to develop a sense of “What are they hiding?” due to the inherent lack of information provided. However, by employing a more transparent and open approach this scepticism would be averted. By presenting a (who, what, where, when, why & how) list of reports required for each regulatory instrument and following up with the submission dates, results and actions, etc. will provide a comprehensive understanding of the regulatory landscape. It will also provide incite on the EMS, through environmental performance and adaptive management and would aid in fulfill of item (ii).

- Who does the report get submitted for review (name the parties reviewing the report) Who is the responsible authority
- What are the regulatory responsibilities for each party? (INAC, MVLWB, DBCMI, etc.) what are the specific instruments?
- Where indicated the programs that provided the data and information
- When are reports due and submitted
- Why, provide background on the regulatory instrument.
- How the issue was addressed

This section is considered to be incomplete also because not all the regulatory instruments were included. In 2005 DBCMI Snap Lake Project was operating with a Land Use Permit, Land Lease(s) (Mackenzie Valley Land and Water Board), Type A Water Licence (MVLWB), Fisheries Authorization (DFO). Yet no mention was given to the Fisheries Authorization or the land lease(s) or the respective reporting required, inspections, results of inspection and responses, etc. It is believed that this section should

also include the Environmental Agreement and highlight the requirements for this commitment. While it is understood that the EA is not a regulatory instrument, DBCMI has committed to fulfilling the EA and as a result is required to comply with the agreement therefore it should be included. The report alludes to inspections by Indian and Northern Affairs Canada (INAC) but does not indicate the purpose they serve (i.e. what regulatory instrument they represent, etc.). While it does indicate the inspection reports are available on the Public Registry, and this is appropriate to indicate for detailed reports. However, it is believed that in order for this document to stand alone a summary of issues raised in the inspections and DBCMI response should be included. This will allow for clear demonstration of the commitment to compliance and the performance.

In summary, in order for the 2005 Environmental Agreement Annual Report to fulfill item (ii) of the Agreement completion of this section on compliance reports is required. Additional information is needed and it must include **all compliance reports** that are required by the regulatory instruments. It is recommended that this section outline the regulatory instrument, regulatory authority, reporting required for the instrument, scheduling of reporting (i.e. frequency of monitoring), inspection reports and DBCMI responses.

**Item (iii) & (v) – *Incomplete***, The Annual Report does not provided sufficient detailed information for fulfill the requirements under operational activities, items (iii & v). While the information presented is a highlight of the major construction activities this section should provide more detail on operational activities such as installations of monitoring stations, sampling activities, planned changes, etc. One such example of missing activities that should have been included are the upgrades to the Sewage Treatment Plant that were done in 2005. Therefore we suggest that additional consideration be given to these sections. It is believed these sections should in fact include more **operational activities**.

**Item (iv) – *Incomplete*, Planned actions to address effects or compliance problems**, has not been addressed in the annual report. In its present format the report does not provide enough information or demonstrate that effects or compliance problems do or do not exist. The incomplete compliance section does contribute to this problem (see item (ii) above). As a result it is reasonable to assume that if problems are not presented then actions to address them cannot be presented. Either way in order to fulfill this item (iv) the report has to clearly demonstrate and address 1) effects or compliance problems exist and the planned actions to address the problems or 2) effects or compliance problems do not exist or have not occurred, it cannot be simply omitted. It stands to reason that before one can plan actions against an effect or compliance problem it has to establish that an effect or problem does exist. If DBCMI position is intended to imply there are no effects or compliance problems, then the onus is on them to demonstrate and prove that no action is required because no effect is present. Keeping in mind this report should stand alone and provided a comprehensive snap-shot of the project relating to environmental performance. In order to achieve this more comprehensive information is required.



**Item (vi) – *Incomplete***, The Annual Report did not contain a **list and abstracts of all the environmental plans and programs** as required to fulfill this section. Therefore this item is deemed incomplete. While the report does present six (6) topics namely Air Quality, Aquatics Monitoring, Archaeology Monitoring, Hydrology Monitoring, Vegetation Monitoring, and Wildlife Seen, it does not introduce or present the plans that were developed for these topics or does it outline the scope for monitoring, reporting requirements, etc. It is difficult for anyone to understand the extensiveness of monitoring activities, due to this missing information.

As previously reported this is the first EA annual report written and it has been recommended that any and all information (including plans and programs) for the two (2) year period since the EA came into effect (May 31, 2004 to May 31, 2006) should be included. In later years, the plans and programs effective during the current year only need be included. (e.g. construction and design reports that have been approved in the previous year may be omitted, unless revisions, requirement for reporting and or the construction spans over several years). This could also be reflected in the operational activities sections, items (iii & v) above. Listed below are the plans and programs that are to be included in the Annual Report. In addition abstracts as well as the reporting requirement, and status of submission (i.e. submitted to MVLWB status approved/pending/under review, etc.) should be included in this section to provide a more comprehensive understanding and provide much needed background.

➤ List of Plans and Programs(as of May 31, 2006)

1. Adaptive Management Plan
2. Air Quality and Emissions Management Plan
3. Air Quality and Emissions Monitoring Plan
4. Aquatic Effects Monitoring Plan
5. Best Management Practices Plan for Ammonia Source Control
6. Closure and Reclamation Plan
7. Compensation Design Plan and TSS Monitoring Plan for the Water Intake and Minewater Outlet
8. Construction and Monitoring Plan for S27
9. Domestic Waste and Sewage Management Plan
10. Emergency Response Plan
11. Fish Catch Summary for Stream 27 Monitoring
12. Fish Habitat Compensation Monitoring Plan for Northwest Peninsula

13. Fish Health Monitoring Plan
  14. Groundwater Quantity and Quality Monitoring Program
  15. Hazardous Materials Management Plan
  16. Hydrology Monitoring Plan
  17. Ore Storage, Waste Rock and Processes Kimberlite Management Plan
  18. Plan for the Management and Permanent Disposal of PK
  19. Reclamation Research Plan
  20. Sampling Plan for TDS, Calcium and Chloride
  21. Spill Contingency Plan
  22. Vegetation Monitoring Plan
  23. Water Intake Monitoring Program
  24. Water Management Plan
  25. Wildlife Management Plan (Wildlife Safety Plan)
  26. Wildlife Monitoring Plan
- List of Reports (as of May 31, 2006)
1. 2004 Air Quality and Emissions Annual Report
  2. 2004 Aquatic Effects Monitoring Program Report
  3. 2004 Archaeological Annual Report
  4. 2004 Hydrology Monitoring Annual Report
  5. 2004 Vegetation Monitoring Annual Report
  6. 2004 Wildlife Monitoring Annual Report
  7. 2005 Aquatic Effects Monitoring Plan Report
  8. 2005 Archaeological Annual Report
  9. 2005 Environmental Agreement Annual Report
- Other (as of May 31, 2006)

1. AN Storage Sump Detailed Design
2. Detailed Design Report for Site Capture Program for the North Pile Starter Cell
3. Nuclear Gage Procedure Manual
4. Terms of Reference for Criteria for Success

**Item (vii) *Incomplete*** – The Annual report in general terms is an incomplete report with many of the items in paragraph (c) deemed to be incomplete and requiring more information. This includes item vii **verifying accuracy of the Environmental Assessment**. We submit that verification of the accuracy of the Environmental Assessment is not possible with the present report and therefore have been requesting many sections of the report be re-worked and upgraded. Verification of the Environmental Assessment should be possible and once additional information is provided in the report it will be possible to fulfill this item. A good example of predicted Vs actual results that should have been included in this Annual Report, have been presented in the 2005 Type A Water Licence Annual Report. Mine water inflows in 2005 were higher than predicted values (summary section 28: Hydro geological Modelling (part B item 5s)). However, the hydrology monitoring section of the EA annual report does not make any reference to this issue. This is true for other sections and topics as well. There are many other areas that may be verified against the environmental assessment predictions and presented here if additional information is provided in the report.

**Items (viii, & ix) *Incomplete*** – Both of these items have not been addressed satisfactorily in the Annual Report. In order to determine the effectiveness of mitigative measures the report must first establish that effects are measured and then list the mitigation measure(s) taken to reduce the effect. This is to include all supporting data and information that we have demonstrated is inherently missing with many items deemed to be incomplete in the report. However, if the opposite is true and there are no measured effects, then the onus is to provided all information allowing the reader to establish that no effects are present (refer to comments in Item (iv) above).

The report does not make mention of any adaptive management measures taken in 2005. Yet changes in the monitoring programs, revisions and updates, training and orientation, etc. are all aspects of adaptive management. One example of adaptive management is regarding to the *Domestic Sewage and Waste Management Plan*. There was an instance in 2005 where the Oil and Grease measurement was over compliance. It resulted in DBCMI finding alternative methodologies for analysis, additional training for kitchen staff and updating procedures to change the interval for cleaning grease traps. None of this was conveyed in the report and it demonstrates many aspects of adaptive management and how it performs. This is merely one simplified example for Adaptive Management in 2005 and we are confident that a project of this magnitude has more

significant examples to include in an Annual Report. In order to complete this section a **comprehensive summary of all adaptive management measures taken** are required.

**Item (x) *Incomplete*** - The Annual Report did not provide a section addressing or including public concerns or responses to concerns. Throughout 2004 to 2006 there was a lot of consultation among the interested parties of the Snap Lake Project regarding environmental issues. This included comments and revisions of the Environmental Monitoring plans and programs and yet they were not presented in this report. The Public Registry provides information on the Snap Lake Working Group meetings and within these meetings public concerns were raised on specific issues. One example is the reference lake selection and the consultations that took place to select Northeast Lake. None of the information regarding this issue, the selection process, or concerns from the various parties was presented in the annual report. DBCMI should consider summarizing the information from this source as well as other sources in order to fulfill Item (x).

As previously indicated, this report is the inaugural report submitted as a requirement of the Environmental Agreement. The EA has been in effect since May 2004 and therefore it has been suggested that the EA Annual Report should include all information from May 2004 to May 2006. Therefore SLEMA submits that there should be many sources to draw from in order to document public concerns.

**Item (xi) *Incomplete*** – This item has not been sufficiently addressed in the report. There is a requirement to include a **comprehensive summary** and provide better explanations of the new technologies investigated for the report period. Among the new technologies investigated during the reporting period included but is not limited to the non-lethal Juvenile Fish Survey. The Aquatics Effects Monitoring section in the report does provide one line about this technology, “*In 2005 we did evaluate techniques for monitoring younger fish without harming them.*”, it should be obvious this does not constitute a comprehensive summary. There was no provision and explanation on reasons for the investigation, goals, significance or findings, etc. Therefore, SLEMA suggest that considerable re-thinking of this section is required and needs to be included to fulfill item (xi).

**Item (xii) *Incomplete*** – It is understood that this is the first EA Annual Report submitted by DBCMI and for this reason there are no **Ministers comments** available on the previous years report to be incorporate in this year. It reasonable to assume there are no comments available because no report was available for comment. This may suggest the reason why DBCMI did not include a Ministers comments section. However, closer review of item (xii) indicates that previous years report comments are not the only comments to be included. ***Item (xii) “the Minister’s comments, including any Minister’s Report, on the previous Annual Report.”*** SLEMA is suggesting that this is interpreted to account for any and all comments provided to DBCMI from the Minister in addition to the previous years Minister Report on the EA Annual Report (when available in subsequent years). Therefore, for this current Annual Report to be complete A “Ministers Comments” section is required and should include all comments from the Minister in order to fulfill the requirement for item (xii).

We would like once again point out this is the first year for the EA Annual Report and suggest that this should include comments over the past two years. If there are no comments from the minister for the past two years then the section should clearly indicate and state “The Minister has not Provided Comments for the Period May 2004 – May 2006”. If comments are available a summary of these comments need to be compiled and included. All future comments from the Minister will be included in this section.

**Item (xiii) completed** – It is our opinion that the report received may fulfill the requirement of plain language executive summary and is therefore considered acceptable for this purpose. However, our extensive review of this report indicates that the report is still incomplete lacking data, comparisons, verification and comprehensiveness. For this reason it is recommended that this section be re-worked to be more in line with the new more comprehensive report once completed.

## **Paragraph (d)**

*(d) In order to prepare each Annual Report and with a view to both ensuring that an opportunity is provided for early disclosure and discussion of problems and that each Annual Report meets with the requirements of this Agreement, DBCMI shall Consult with the Minister, the Monitoring Agency, and the GNWT as DBCMI compiles the information and data to be included in such Annual Report*

As previously mentioned in the above Paragraph (a) recommendation section, we recommended that consultations be employed in future years to avoid the confusion and improve communication between all parties named. This will greatly improve the quality of the report and ensure future reports meet the requirements of the EA and avoid lengthy review process. Through consultations DBCMI and the parties will be able to determine the information availability and agree on what is to be included. This will avoid issues that were raised specifically for Air Quality and Wildlife sections above. The issue this year regarding the delay experienced in the release of the Air Quality and Wildlife monitoring reports. While the monitoring reports have been delayed in the release of the reports, it appears that some of the data has been incorporated into this EA Annual Report. This is generally not a recommended practice, it is therefore preferable to have the monitoring reports released in advance of the EA Annual Report. This will allow for verification of the accuracy and completeness of information. The present situation does not allow this verification as a result the report should be considered incomplete until such verification is possible.

## **Paragraph(s) (e), (f), (g), (h) & (i)**

The paragraphs indicated refer to timing and outline requirements from the respective parties regarding review of the report. As indicated in our review of Paragraph (a) the timing of the report was somewhat of a surprise to SLEMA and we have included recommendations address the issue. Through the improved consultations and circulation of the report to all named parties, the timing and review of the report will proceed easily. The current report being reviewed however, there are some question to whether or not the report was intended to fulfill all of Article X in the EA or simply one aspect of this

section. The time line is in question due to confusion during the circulation. No clear communication was received from DBCMI indicating an official submission date. It is believed that implementation of the recommendations in Paragraph (a) above (page 6) will address these concerns.

## **Conclusion**

SLEMAs' review of the 2005 Environmental Agreement Annual Report – Snap Lake Project June 2006 submitted by De Beers Canada Mining Inc. is that the report is **unsatisfactory** and does **not** fulfill the requirement of the Environmental Agreement outlined in Article X of the Agreement. The report is believed to be incomplete because it does not present the *comprehensive summaries* required, *provide the supporting information, data and results, all compliance reports of regulatory instruments or a comprehensive review of operational activities*. The report did not contain a completed *list of abstracts of all environmental plans and programs*. Also missing from the report were *adaptive management measures taken, summaries of public concerns, addresses to these concerns and verification of accuracy of the environmental assessment*. In addition the report did **not** include a *comprehensive summary of new technologies investigated*.

It is recommended that DBCMI review **Article X** of the Environmental Agreement and utilize paragraph (c) as a guideline for information to include in the report. DCBMI should also refer to the *Diavik Diamond Mine Inc. 2005 Annual Environmental Agreement Report* for additional information and guidance due to the close relationship between the Diavik and Be Beers Environmental Agreement report responsibilities

# **APPENDIX**



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