

**MUSHKEGOWUK COUNCIL COMMENTS
ON VICTOR DIAMOND PROJECT
COMPREHENSIVE STUDY REPORT
FINAL DOCUMENT – JUNE 2005:**

Submitted to the
Canadian Environmental Assessment Agency
July 11, 2005
Attention: Brett Miracle
Email: brett.maracle@ceaa-acee-gc.ca

PART 1: Summary and General Comments

MC takes its direction from its member First Nations, including Attawapiskat First Nation (AttFN). As the Victor Diamond Project (VDP) proposed by DeBeers most substantially affects AttFN and the First Nation has recently overwhelmingly ratified an impacts and benefits agreement with DeBeers by which the First Nation has shown its approval to permit the project to proceed after the environmental assessment is properly completed, Mushkegowuk Council supports the First Nation in their decision.

MC's comments on the CSR are focussed on the following issues:

Part 1. General Comments

Part 2. Diesel Fuel Transportation

Part 3. Access

Part 4. Socioeconomic Impacts and Benefits, and Regional First Nation IBA(s)

Part 5. Follow-up program and Environmental Agreement

We have also included as appendixes CSR reviews completed for us regarding two specific regional issues: Wildlife Concerns and Socio-Economic Impacts

General Conclusion

We are of the position that the Minister of Environment can conclude that the VDP be referred back to the responsible authorities for action under s. 37, if the RAs commit to an Environmental Agreement that contains the following assurances:

1. that there be no diesel fuel transport by barge through James Bay;
2. that the SWAWR not be part of the VDP;
3. that Regional First Nation IBA(s), whether separate ones with each First Nation or one umbrella agreement with the affected MC First Nations -- which DeBeers has also called "participation agreements" dealing with enhancing benefits and limiting negative regional impacts, and regional socioeconomic monitoring, be concluded before construction begins

Specific recommendations

Diesel fuel transport: The responsible authorities must develop a mechanism that has the effect of prohibiting diesel fuel movement by barge through James Bay throughout the life of the project, in order to ensure that the project is not changed from what the Proponent has committed to with respect to this aspect of the project. We think that mechanism is available: it should be incorporated into the Environmental Agreement referred to at p. 8-1 of the Report.

No reopening of SWAWR as a contingency: Similarly, to avoid reopening the possibility of the SWAWR as a contingency, we believe it would be appropriate and avoid a substantial change in the project that has not been properly environmentally assessed, as we said in

October 2004, if DeBeers were to shut the door on a SWAWR as a contingency. The avenue to do that is, again, the Environmental Agreement.

Legal requirements for DeBeers to implement mitigation measures it has committed to in this EA process: With respect to the actions to be taken by the responsible authorities if the Minister refers the VDP back to the responsible authorities to act under s. 37, MC makes the following general comment. Our concern with this EA process is that it not become merely a hurdle to have been jumped and then forgotten. We trust that the Minister and the RAs share that concern. The RAs have set out a significant number of conclusions in the CSR that conclude that certain types of predicted adverse environmental effects are not likely to be significant, but only if the proponent undertakes the measures described in the CSR.

MC submits that the RAs must ensure two key objectives are met, in order that commitments made by DeBeers to implement mitigation measures will in fact be honoured.

For all such mitigation measures that the RAs have jurisdiction to import into their permits, those mitigation measures must be terms and conditions of their permits.

The CSR states that this is something that the RAs will require. The mitigation measures which have been committed to are many and will require in some cases greater specification (an obvious example being the requirement to complete a *Fisheries Act* compensation agreement, the terms of which have not been specified fully in the EA documents).

MC thus requests that it be consulted by the RAs and adequately resourced to participate in those consultations, on the terms of relevant draft permits, to ensure that the commitments to mitigation measures related to regional natural environmental effects as set out in the CSR are carried through. We understand that AttFN is doing the same with respect to many of the permits pertaining to the local project footprint, and is being funded for this by DeBeers; the same treatment should be provided to MC.

For those mitigation measures that cannot be put into permits, the RAs must ensure that the Proponent's commitments to mitigation measures set out in the CSR are legally binding commitments in the environmental agreement.

The distinction between a follow-up program (which contains commitments about monitoring of effects, but does not set out mitigation measures) and an agreement to require implementation of mitigation measures is clearly set out in Chapter 8 of the CSR. This Environment Agreement, which will as the CSR states not only ensure implementation of mitigation measures but also the conduct of a follow-up program, is a key enforcement mechanism that MC wishes to be party to.

Follow-up Program and Environmental Agreement

MC wishes to be involved in the design of parts of the follow-up program established by the responsible authorities for this project, to ensure that regional concerns for the member First Nations are addressed.

MC maintains its positions that socioeconomic environmental effects --- writ larger than what the RAs have said are required to be considered by the Minister of the Environment in terms of the likelihood of the project causing significant adverse environmental effects, over our continued objections -- must be better understood through monitoring and addressed if they develop. The avenue to achieve this exists: Regional First Nation IBA(s).

DeBeers has stated to CEEA on December 21, 2004 that it is committed to certain objectives being achieved through socioeconomic monitoring. In this letter, DeBeers has further stated that the “participation agreement [Regional First Nation IBA(s) as we call them in these comments] to maximize business development, employment and training opportunities... might also include a component for reporting on Victor Project related socio-economic effects on employees within those communities.” “Those communities” as used in DeBeers’ letter to CEEA referred to Fort Albany, Kashechewan and Moose Cree. However, as Taykwa Takamou First Nation is also affected by this project, and the Cree First Nation communities at large can be expected to experience socioeconomic effects of a project of this size, MC is of the view that the scope of socioeconomic effects monitoring must be extended to cover these four Cree communities, and not just the employees.

As with other commitments that DeBeers has made in this EA process, MC urges that the Environmental Agreement be used as the tool to enforce this commitment (broadened as we suggest in this paragraph). Thus, the Environmental Agreement should include the requirement that Regional First Nation IBA(s) be reached that contain both adequate socioeconomic monitoring programs and measures to maximize business, employment and training opportunities. To ensure that these provisions are effective, the Environmental Agreement must provide that the Regional First Nation IBA(s) be reached before construction begins.

PART TWO: Diesel Fuel Transportation

MC voiced its substantial concerns with respect to the transport of diesel fuel in James Bay much earlier in this EA process. The CSR notes at PLS-5 that the project was changed by the comments of MC and others on this critical project design issue, noting that the decision was made “to use transmission line power rather than on-site diesel power and eliminating the need for the transport of large quantities of diesel fuel in James Bay.”

MC supports NO diesel fuel transport through James Bay, given the existence of the winter road. The CSR seems to state that there will be no diesel fuel transport, but there is some ambiguity on this point.

In the project description chapter, Chapter 2, there are two places that state unequivocally that no fuel will be transported by barge.

In part 2.4.7, in describing the power supply for the VDP, the CSR states that

“With reduced fuel demand, ocean-going tankers and **barges will not be required for fuel delivery**, as previously proposed in the CSEA. Further, there will no longer be a need for fuel storage facilities in Attawapiskat, as **all** fuel will be trucked directly to the Victor site from Moosonee.”

In 2.8, also in the project description chapter, the CSR describes the Attawapiskat area facilities and notes the potential for constructing a small barge landing and gravel laydown area in Attawapiskat. This is a potential which DeBeers wishes to leave open to be able to effectively service the project if there are issues with the coastal winter road. Again, clearly, the Project Description chapter says “In such an instance (i.e. if the barge landing and lay down area were constructed), construction materials, **but not fuel**, would be brought into Attawapiskat by barge in the summer....”

The federal and provincial regulators and the First Nations and Mushkegowuk Council rely on the Project Description set out in this CSR to accurately describe the project DeBeers will undertake.

Later on in the CSR, in the evaluation of alterations, in part 3.9 of the CSR, the summary of alternative access and power scenarios is set out, and again, in discussing Alternative 3 (coastal winter road access with transmission line hook-up to Otter Rapids (or Pinard)), the summary of the alternative states on page 3-39 that “a small barge landing area may be still be required with this alternative, for receiving some materials (**but not fuel**) during the project construction phase.”

In a later section of the EA, in part 6 which contains the Environmental Effects Analysis, it appears that the proponent may wish to leave open a crack, not an insignificant one, to allow fuel transport by barge in James Bay. At p. 6-118, in describing the environmental effects of the project in the James Bay Coastal Zone, the CSR provides a different and seemingly inconsistent picture of what the project consists of. It says that the Proponent is proposing to transport “very small amounts (approximately 60,000L/a) to assist with winter road construction, or to dredge the James Bay entrance to the Attawapiskat River.” It then goes on to state that the fuel would be off-loaded from the barge to EnviroTanks using coupled hoses.”

The project must be clearly defined. It was, with respect to this particular matter of fuel transport in the bay, in Chapter 2 of the CSR. But Chapter part 6 clouds the matter.

We rely upon the project description’s accuracy. To permit the project description to be malleable and unclear would mean that the environmental assessment process assesses projects that can be changed in not insubstantial ways after the “EA hurdle” is jumped.

PART THREE: Access

MC in October 2004 provided its comments on access and power alternatives as reevaluated by DeBeers. One of our concerns was that there was not a clear commitment on the part of DeBeers that in future, it would not seek to include the SWAWR as part of the project. We stated our position – which we still maintain – namely that DeBeers Canada cannot be entitled to retain as “contingencies” any alternative means of carrying out the undertaking which have not been assessed in accordance with the Guidelines issued under *CEAA, 1992*.

We have reviewed the project description contained in the CSR, part 2.5, dealing with Winter Roads. We note that the current project description as now envisioned does not contain any reference to developing the SWAWR as a contingency.

We had requested in October 2004 that DeBeers clarify whether they intend, or do not intend, to keep open the option in future of including the SWAWR in this project. That clarity we understand to now be provided in the project description in the CSR. We thus urge that closing the door on the SWAWR as a contingency be made a legally binding commitment through the terms of the Environmental Agreement referred to in Chapter 8 of the CSR.

PART FOUR: Socio-economic Impacts and Benefits, and Regional First Nation IBA(s)

At p. 1-3 in discussing project need and justification, the CSR provides a justification of key relevance to MC First Nations other than Attawapiskat. It states that “the Proponent anticipates that... the VDP will also bring training benefits and business opportunities to these areas (referring to the James Bay area Cree communities, not just Attawapiskat).” Later, at p. 1-12, there is an acknowledgement that the west James Bay communities may also experience negative impacts from development.

But what the CSR does not contain is any concrete commitments by DeBeers setting out any details about how the training benefits and business opportunities to the James Bay area Cree communities will in fact be attained. What there is instead is a commitment to reaching, at some undefined point in the future, agreements with Cree First Nations in the area. That commitment is found at p. 1-12, where the report states that “DeBeers has committed to the development of a formal agreement, or agreements, with Moose Cree, Kashechewan and Fort Albany First Nations to cover how the company and communities will work together,” and that “priority for business, employment and training will also be extended to members of the other main affected communities including... Taykwa Tagamou First Nation.” In the remainder of these comments, we will refer to this agreement or agreements as “Regional First Nation IBA(s)”.

Later in the report, the commitment to maximizing Aboriginal employment and increasing business opportunities in the local and outlying regions is repeated. The CSR contains principles for identifying and structuring contracts, which they state are “subject to modification on finalization of agreements with First Nations” (2.11.1). The principles contained in 2.11.1 lack the degree of precision and detail to make the DeBeers’ generalized commitments to maximizing Aboriginal employment and increasing business opportunities effective. It is only through completion of Regional First Nation IBA(s) that that precision can be achieved.

DeBeers’ commitment to concluding Regional First Nation IBA(s) at some point must be made legally binding. Otherwise, the impacts, particularly the socioeconomic ones of concern and our concerns re effects on our traditional lands and the exercise of our treaty and aboriginal rights, may well not be adequately addressed and the benefits that could flow to First Nations in the region will not be maximized.

We are very concerned that this commitment to Regional First Nation IBAs not becomes a broken promise. Corporate commitments, like political commitments, can be forgotten or be watered down so far as to become meaningless. That is why it is so essential that these agreements be reached, soon, before it is essentially too late for benefits to be attained and the baseline data improved upon so that the more difficult to measure impacts of this project – the socioeconomic ones, including impacts on traditional lifestyles, culture and language – can be effectively monitored.

We thus urge that a term of the Environment Agreement be the requirement that Regional First Nation IBAs be reached before construction begins.

PART FIVE: Follow-up Program

There are certain aspects of the follow-up program outlined in Chapter 8 that relate to potential environmental effects at the regional level: caribou and moose; birds; other wildlife; accidents and malfunctions; traditional pursuits, values and skill; health; heritage resources; and cumulative effects.

MC wishes to participate in the design of those aspects of the follow-up program.

In addition, MC has had concerns throughout the assessment process about the inadequacy of the socioeconomic baseline information produced. We set out, in our October 2004 comments, the inadequacies we saw in the work done to date. Those inadequacies have not yet been corrected. Without adequate baseline information MC does not find itself comforted by the predictions of no adverse socioeconomic effects on other affected Cree communities as set out in part 7.3 of the CSR. Though those predictions may in fact be correct, it is essential that the follow-up program monitor those predictions closely so that if they are wrong, the error is detected soon and corrective measures can be developed.

Also, we remain concerned about the decision by the RAs not to require the prediction of socio-economic effects that they state were not required to be assessed as they fell outside the scope of CEAA's definition of "environmental effects". We had addressed our reasons for why this work should have been done, both from policy and legal perspectives, in our October 2004 comments. We will not repeat them here. The potential socio-economic effects which the RAs determined did not need to be assessed – which are touched upon in Appendix F of the CSR (income effects, in-migration, out-migration, for example) are ones which MC believes must be monitored so that benefits can be enhanced and potential negative effects minimized.

It is thus in our view critical that the Regional First Nation IBA(s), which the Environmental Agreement should require be completed before construction begins, address how to deal with the possibility of wide-ranging socioeconomic effects that the RAs state fall outside the scope of CEAA' definition, but which effects could nonetheless occur. It would be ironic if this project were to result in serious socio-economic adverse environmental effects, but DeBeers were to declare based on the results of a follow-up program that examined only a sliver of the spectrum of broader socio-economic effects, that the project was not causing significant socioeconomic adverse environmental effects as predicted. It will also create unnecessary tensions if potential regional benefits – which the CSR minimizes for example in Schedule F where, in reference to the other James Bay Coastal Cree Communities, the CSR states that "Nor will any indirect and induced economic benefits be substantial" - are not maximized.

Victor Diamond Project: Comprehensive Study Report

REVIEW OF REGIONAL ISSUES RELATED TO WILDLIFE

Completed by the Mushkegowuk Environmental Research Centre

July 11, 2005

Upon review of the VDP Comprehensive Study Report, it appears that the Regulatory Authorities (RAs) have agreed with the Proponent (DeBeers) that significant adverse environmental effects are not likely once the identified mitigation measures are applied. However, the RAs have not performed independent verification of the Proponent's conclusions. In addition, the mitigation measures are loosely defined and leave one to question how the effectiveness of such measures will be monitored.

Noise effects may represent a significant environmental effect and also represents a significant community concern. Although the Proponent states that Traditional Knowledge was used, it was not clear in the noise analysis which was based on MOE thresholds. The Proponent states that noise effects on the COSEWIC recognized woodland caribou and other wildlife will be modest (RAs agreed). The use of Traditional Knowledge in the noise analysis was lacking and may have improved the vague mitigation measures/ monitoring program. The area defined as being subject to potential noise effects appear to be arbitrary and does not consider that wildlife movement patterns may be altered. Such changes have to the potential to not only impact the local distribution (around site as well as winter roads) but also impact the hunting success of traditional hunting camps/ traplines.

Community members have also expressed concerns around water crossings, the Proponent states that Best Management Practices will be applied to protect waterways against sedimentation and erosion. A document detailing such practices was not included in the CSR. Coastal community members have identified that current road modifications associated with the VDP have impacted water flows. Water crossings have been strengthened to support the increased loads associated with the VDP. The crossings have been observed to pose problems in the spring thaw where the water crossings act as a dam and eventually lead to local flooding. Such events not only disturb traditional camps but also represent a potential impact on fisheries resources. The Proponent states that if such flooding is observed than action will be taken. Existing road management demonstrates problems and suggests a high probability of flooding thereby providing an opportunity for a proactive approach. The CSR does not provide details concerning road management such as the Best Management Practices.

Detailed Comments Related to Woodland Caribou

The proponent has invested considerable effort in developing a monitoring program to measure the potential effects of the Victor Diamond Project (VDP) on woodland caribou. Commitment to conduct long-term aerial surveys and telemetry data collection are substantial. The methodology described in the VDP Caribou Survey Methodology document and Comprehensive Study Report should provide a valuable data source for monitoring the effects of mine activity on caribou. Woodland caribou in northeastern Ontario occupy relatively large annual home ranges, up to thousands of square kilometers (Brown et al., 2003), and the proponent estimated that a maximum of 373.4 km² of habitat would be displaced or removed from the land base. It is likely such disturbance will affect the behaviour and/or habitat selection of individual animals, but the impact to the regional caribou population stability is uncertain and deemed of low risk. However, potential increases in hunting and barriers to movement caused by site access could significantly impact caribou movement patterns, access to important habitat, and population stability. Careful monitoring will be required at scales appropriate to the animal's response to various disturbances, and baseline data will be critical in evaluating impacts to caribou. In general, further explanation is needed to clarify how various data sets will be used to determine whether or not project activities have negatively impacted caribou populations. Otherwise, the efforts could represent a considerable cost to the proponent, without clear benefits in proving or disproving the success of mitigation efforts.

6.6.2.1 Moose and Caribou

6.6.2.1.1 Environmental Effects

The proponent states that caribou and wolves consistently use bog and fen habitats that are rich in lichen spp. Neither caribou nor wolves are known to prefer bog habitat and research conducted south of James Bay indicates that bogs and fens are poor in lichen spp. Lichen rich communities are more abundant on the drier sites of the Hudson Bay Lowlands, north of the VDP study site, whereas poorly drained sites in the region are characterized by sedges, cottongrass and sphagnum. Most studies of woodland caribou in the Canadian boreal forest suggest caribou select mature conifer dominated stands where drier site conditions and open stand structure can support lichen growth. The statement that aerial surveys (2001-2003) suggested caribou prefer fen complexes, with the suggestion the forest cover is secondary in importance, needs to be substantiated with appropriate data analysis. Without verification of caribou habitat preferences, the proponent's attempts to limit disturbance to bog and fen habitats may be misplaced and result in inadequate protection of habitats important to caribou.

The proponent states that a total of 28.8 km² of habitat will be disrupted by project-related developments; however it is unclear whether or not ecotonal buffers have been adequately considered. James (1999) found that caribou avoided suitable habitat in the vicinity of disturbed habitat. Also, the assessment does not comment on the potential for expansion of mine development beyond the current study area. Although beyond the scope of this assessment, the current project will facilitate potential expansion in the future and the

cumulative effects of long-term disturbances could lead to a more substantial loss of habitat available to caribou.

6.6.2.1.2 Mitigation

The statement that revegetation efforts will create more diverse and complex habitat than currently exists is disconcerting. The goal should be to restore the area to its previous state. Increasing biodiversity may not be an appropriate restoration goal if the original community was relatively homogeneous. Some species may be adapted to areas of low habitat diversity as a means to reduce competition or risk of predation.

The proponent states that revegetation efforts may create excellent moose habitat. Habitat modification that increases moose and wolves may have negative effects on caribou populations. Regardless, re-vegetation of disturbed areas will be an important mitigation measure. In addition to re-vegetation, the proponent might consider browse reduction and road decommissioning where restoring caribou habitat is a goal.

6.6.2.1.3 Significance

The proponent states that the project-related effects on moose and caribou are not significant. Such a conclusion cannot be substantiated with data at this time. More detailed monitoring of caribou movement patterns, especially between seasonal ranges and important calving areas, need to be determined. Project-related disturbances, such as road activity, could potentially affect caribou movement patterns and inhibit their ability to access important wintering areas or calving areas.

The coastal winter road is recommended by the proponent as the preferred access route in terms of minimizing risk to caribou. The use of coastal areas by caribou for calving should be evaluated. Government data for caribou inhabiting the Hudson Bay lowlands suggest that caribou used inland areas during winter and coastal habitat during the calving and summer period (Magoun et al., submitted for publication). Increased traffic on the existing winter road should be closely monitored in relation to seasonal movements by caribou.

In regard to the proponents proposed use of a lichen-rich esker for aggregate extraction, it is stated that no evidence suggests caribou extensively use the esker for grazing or that lichen is a limited resource for caribou. Such a statement should be substantiated with an evaluation of the abundance of lichen on fen and bog that dominate the region. Lichen is likely limited to the drier upland sites and esker ridges and such areas could represent a limited resource. Wind-swept ridges that are rich in food resources may be more important during severe winters when deep snow inhibits movement of caribou.

6.6.2.1.6 RA Conclusions

The nature of the wolf population data that will be collected should be described in greater detail. Without an understanding of how such data will be used to evaluate the impacts of wolves and project disturbances to caribou, the value of such data is unclear.

8.4.8.1 Methods for Measuring Effects

As a component of the landscape scale effects monitoring the proponent intends to conduct DNA analysis of tissue and faeces. It is unclear how this information will be used to monitor the effects of project disturbances.

Habitat selection analysis will be conducted using the caribou telemetry data and classified Landsat imagery. Although this is an important component of baseline data collection, the anticipated impact to caribou habitat selection patterns will likely be low and/or undetectable using these data sources. Even so, understanding the spatial distribution of important habitat will aid in understanding caribou movement patterns. Increased access and noise disturbance may be more important than habitat displacement and analysis of telemetry data should be tailored to measure effects of those factors. It is recommended that telemetry data also be used to conduct movement pattern analysis that measure dispersal tendencies and distances from disturbances. However, telemetry data may not be the most appropriate means of measuring the response of caribou to noise, due to the coarse resolution of location data in relation to the timing of noise disturbances. Differentiating the effects of noise versus general traffic may require more fine resolution monitoring of individual animals.

References

Brown, G.S., Mallory, F.F. & Rettie, W.J. (2003) Range size and seasonal movement for female woodland caribou in the boreal forest of northeastern Ontario. *Rangifer*, Special Issue 14, 227-233.

James, A.R.C. (1999) Effects of industrial development on the predator-prey relationship between wolves and caribou in northeastern Alberta. Ph.D. thesis, University of Alberta.



Planning, Research and Management Services

7501 Keele Street, Suite 300, Concord, Ontario L4K 1Y2
Telephone: (905) 660-1060 Fax: (905) 660-7812 e-mail: ier@dpra.com

July 7, 2005

Job Mollins Koene
Lands and Resources Director
36 Birch Street South
Timmins, Ontario
P4N 2A5

Dear Job:

Re: Review of Socio-Economic Impact Assessment of De Beers Canada Victor Diamond Project, Environmental Assessment - Comprehensive Study Report- Final Document

Please find attached IER's socio-economic review of De Beers' Environmental Assessment Comprehensive Study Report (CSR) Final Document, dated June 2005. IER has carried out the review of this document for the Mushkegowuk Council, with a focus on the extent to which IER's previous comments on the Comprehensive Study (CS) were addressed in this final document

As with IER's review of the CS in May 2004, our review of the CSR Final Document focused on two questions:

- 1) Have all the Guidelines' requirements for conduct of the comprehensive study been met?
- 2) Was the SEIA methodology and analysis sound?

Have all the Guidelines' requirements for conduct of the comprehensive study been met?

Our review indicates that De Beers is still not in conformity with the requirements in the Guidelines in a number of the sections. In fact, De Beers has decided to change the scope and information requirements prescribed in the Guidelines in conducting the effects assessment for this project.

Were the SEIA methodology and analysis sound?

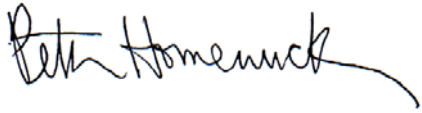
Many elements of De Beers' methodology and analysis were found to be incomplete and inconsistent. The socio-economic analysis was severely impeded by De Beer's decision to interpret the CEA Act in a manner that resulted in most of the specific information on social and economic conditions in the communities being either not collected or not used. The reviewers are in agreement with the affected coastal Cree First Nations who indicated that the socio-economic effects assessment was done with incomplete socio-economic information from communities.

It is our view that the RAs, CEAA, and other relevant Federal Government Agencies (i.e. Environment Canada, Indian Affairs) should ensure the Victor CSR is revised or amended to include responses to all sections in the Guidelines.


IER appreciates having had the opportunity to carry out the review and we would be pleased to discuss the findings with yourself and the Mushkegowuk Council.

If you have any questions or comments please do not hesitate to call me at 905-660-1060 ext. 223.

Sincerely,

A handwritten signature in black ink that reads "Peter Homenuck". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Peter Homenuck
Senior Consultant

A red crosshair graphic consisting of a vertical line and a horizontal line intersecting. The vertical line is on the left side of the page, and the horizontal line is positioned above the main title text.

**Review of the De Beers
Environmental Assessment
Comprehensive Study Report –
Final Document – Victor
Diamond Project**

Conducted for the

MUSHKEGOWUK COUNCIL

Conducted by

IER • Planning, Research and Management Services

Concord, ON

Yellowknife, NWT

Victoria, BC

July 2005

TABLE OF CONTENTS

1.0 INTRODUCTION	1
1.1 PURPOSE OF THE REVIEW.....	1
1.2 ORGANIZATION OF THE REPORT.....	1
2.0 THE REVIEW FOR CONFORMITY WITH GUIDELINES	2
3.0 THE APPROACH TO SOCIO-ECONOMIC EFFECTS ASSESSMENT	19
3.1 INTRODUCTION	19
3.2 APPROACH TO SOCIO-ECONOMIC EFFECTS ASSESSMENT	19
3.2.1 <i>Socio-Economic Effects Assessment in CEAA</i>	19
3.2.2 <i>Socio-Economic Indicators</i>	20
3.2.3 <i>The Guidelines in Federal Environmental Assessment under CEAA</i>	20
3.2.4 <i>Use of Additional Information for the Minister of the Environment</i>	21
4.0 KEY ELEMENTS OF THE METHODOLOGY AND ANALYSIS.....	22
4.1.1 <i>Section 5.0 - Description of the Existing Environment</i>	22
4.12 <i>Section 7.0 – Environmental Effects Analysis – Socio-Economic Environment</i>	23
4.13 <i>Section 8.0 – Follow-up Programs</i>	25
4.14 <i>Section 9.0 – Summary and Conclusions</i>	26
5.0 SUMMARY AND CONCLUSIONS	26

1.0 INTRODUCTION

In May 2004, IER • Planning Research and Management Services (IER) conducted a review of the De Beers Canada Victor Diamond Project Comprehensive Study (CS) prepared pursuant to “Guidelines for the Conduct of a Comprehensive Study and the Preparation of a Draft Comprehensive Study Report” (the Guidelines) Issued for the Victor project by Environment Canada, Natural Resources Canada, Fisheries and Oceans Canada, Indian and Northern Affairs Canada, in collaboration with Health Canada on February 26, 2004.

In June 2005 De Beers issued its Victor Diamond Project Comprehensive Study Report (CSR) Final Document, dated June 2005. On behalf of the Mushkegowuk Council, IER conducted a review of the CSR Final Document.

The IER team reviewed the following documents:

- De Beers Canada, Victor Diamond Project, Environmental Assessment Comprehensive Study Report, Final Document, June 2005 (CSR Final Document)
- Government of Canada, Victor Diamond Project, De Beers Canada Exploration Inc., Guidelines for the Conduct of a Comprehensive Study and the Preparation of a Draft Comprehensive Study Report. February 26, 2004 (The Guidelines)

1.1 Purpose of the Review

As in IER’s review of the Victor Diamond Project Comprehensive Study (CS) in 2004, IER focused on the socio-economic aspects of the CSR Final Document. The purpose of the current review was to determine to what extent De Beers had addressed IER’s earlier comments on the quality and adequacy of the socio-economic information in the CS. IER’s review of the CSR Final Document focused on the same two major key questions examined in the 2004 review of the CS:

- 1) Have all the Guidelines’ requirements for conduct of the comprehensive study been met?
- 2) Were the SEIA methodology and analysis sound?

1.2 Organization of the Report

This report has been organized as follows:

Section 1.0	Introduction
Section 2.0	The Review for Conformity with the Guidelines
Section 3.0	The Approach to Socio-Economic Effects Assessment
Section 4.0	Key Elements of the Methodology and Analysis
Section 5.0	Summary and Conclusions

2.0 THE REVIEW FOR CONFORMITY WITH GUIDELINES

Our review indicates that De Beers has added some information required in the Guidelines into the CSR Final Document, but is still not in conformity with the requirements in a number of the sections in the Guidelines, as described below.

- In Section 5 - Environmental Assessment Method, the CS is not in conformity in full or in part with the Guidelines in three sections:
 - 5.1 Traditional/Community Knowledge
 - 5.2 Spatial and Temporal Boundaries
 - 5.4 Environmental Effects of the Project
- In Section 6 - Description of the Project, the CS did not consider a premature mine closure as was stipulated in the Guidelines.
- In Section 7 - Description of Existing Environment, the CS is not in conformity with the Guidelines in 3 sections:
 - 7.10 Human Health
 - 7.11 Current Use of Land and Resources for Traditional Purposes by Aboriginal People
 - 7.13 Socio-economic Environment
- In Section 8 - Environmental Effects, the CS is not in conformity with the Guidelines in 4 sections:
 - 8.10 Human Health
 - 8.11 Current Use of Land and Resources for Traditional Purposes by Aboriginal People
 - 8.13 Socio-Economic Effects
 - 8.17 Cumulative Environmental Effects

The following table, Table 1: “Victor Diamond Project, Non-Conformity Table” provides a detailed analysis of compliance with the Guidelines in De Beers’ CSR Final Document. The table indicates the IER comments on compliance in the May 2004 CS and assesses the extent to which each of the comments is addressed in the CSR Final Document. The entire Guidelines have not been recorded in the table, only the portions relevant to the socio-economic environment. Key sections are underlined.

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
4.0 PARTICIPATION PLAN			
4.0 Participation Plan	<p>Comprehensive Study As part of the federal authorities’ participation plan, De Beers will develop a participation plan in consultation with federal authorities that will include establishing meetings with the five directly affected First Nations and their councils (Attawapiskat First Nation, Fort Albany First Nation, Kashechewan First Nation, Moose Cree First Nation, the Mocrebec Council of the Cree Nation, the Mushkegowuk Council and the Nishnawbe Aski Nation) and any other community that expresses an interest in having meetings.</p>	<p>The socio-economic impact assessment work for the Comprehensive Study (CS) did not engage the communities of Fort Albany, Kashechewan, Moose Cree, the Mocrebec Council of the Cree Nation, the Mushkegowuk Council and Nishnawbe Aski Nation in any consultations. There are only the most cursory information sessions to Chiefs and Councils; NAN and Mushkegowuk (from 2000 – Fall 2003 had only 2 “consultation” events that included NAN and Mushkegowuk).</p>	<p>While no participation plan was evident in the documentation reviewed, De Beers established meetings and information sessions in Phase 2 and 3 (and documented comments received in Section 4 and Appendices C and D) from the communities in the James Bay lowlands. The documentation would have been strengthened if DeBeers had indicated dates of meetings with each community.</p>
5.0 ENVIRONMENTAL ASSESSMENT METHOD			
5.1 Traditional/Community Knowledge	<p>De Beers shall make all reasonable effort <u>to collect and/or facilitate the collection of traditional/community knowledge relative to the proposed project. All traditional/community knowledge collection methods, data, and interpretations of that data must be collected and carried out in collaboration with and with the concurrence of Aboriginal communities and</u></p>	<p>As part of the Project Study Area, the other west James Bay area communities should have been involved in the development of TEK information for the EA. The traditional Ecological Knowledge focused only on input from Attawapiskat.</p>	<p>The collection of updated TEK information was conducted by the Mushkegowuk Council as part of federal and provincial EAs on transmission facilities. Communities participating in the TEK study included Attawapiskat, Kashechewan, Fort Albany, Moose Factory (Moose Cree First Nation and MoCreebec) and New Post (Tajkwa Tagamou Nation).</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p><u>organizations.</u></p> <p>Within the EA report, De Beers shall describe where and how traditional/community knowledge was used in describing the existing environment, the effect that it had on predicting effects, how it was used to determine the significance of effects, and how it was used to determine mitigation. Where traditional/community knowledge is not available, De Beers shall describe efforts taken to obtain it.</p> <p>De Beers shall fully consider traditional/community knowledge, where appropriate, when predicting and assessing the effects of the project, and shall describe its understanding of the effect of traditional/community knowledge on understanding baseline conditions and on predicting the significance of environmental effects.</p> <p>De Beers shall state how it intends to document traditional/community knowledge during the assessment in relation to traditional/community</p>		<p>However, no indication was provided for how TEK was used to describe the existing environment, its effect on predicting effects, how it was used to determine the significance of effects, and how it was used to determine mitigation and monitoring.</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p><u>knowledge collection and use in project planning, design, management, mitigation, monitoring, and decommissioning.</u></p>		
<p>5.2 Spatial and Temporal Boundaries</p>	<p>The following two definitions shall be used when determining the spatial boundaries for the assessment:</p> <ul style="list-style-type: none"> • Project Study Area: The project study area will consist of the immediate geographical vicinity as determined by the RAs (land and water) that encompasses all physical works and activities proposed by the proponent for the Victor diamond project. This will include the mine site, the community of Attawapiskat (including Potato Island), all roads, the pipeline, facilities in or near Attawapiskat, the airstrip, the activities and roads near or along <u>James Bay and the communities of Kashechewan, Fort Albany and Moose Factory</u>, the shipping lane for diesel fuel in James Bay and Hudson Bay south of Belcher Islands’ south tip around 55o 40’N, and a fuel lightering site in James Bay. 	<p>There is very little information on the communities of Fort Albany, Kashechewan, and Moose Factory which are within the Project study area. For example there is limited secondary source data on the existing environment, and no information from the communities on VECs, TEK and aboriginal culture and traditions. The assessment of environmental effects and their significance is based on incomplete information in the CS.</p>	<p>The review comments from May 2004 still apply. Existing environment information on communities in the project study area is limited to basic demographic information and generalities, such as, “a high proportion of coastal community members still engage in the traditional activities of hunting, fishing, trapping and berry picking.”</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
5.4 Environmental Effects of the Project	The assessment must consider the environmental effects (both beneficial and adverse) of the project. Environmental effects of the project are changes in the biophysical environment caused by the project, <u>as well as effects that flow directly from those changes, including effects on human health, socio-economic conditions, physical and cultural heritage, including effects on things of archaeological, paleontological or architectural significance, and the current use of land and resources for traditional purposes by Aboriginal people.</u>	There was no involvement of project study area communities, other than Attawapiskat, in identifying and evaluating Valued Ecosystems Components (VECs). The assessment of current use of land and resources for traditional purposes lacks information from other communities. No TEK information from west James Bay area communities was used in the effects assessment. The effects assessment was conducted with insufficient information from the other project study area communities.	The review comments from May 2004 still apply. There was no involvement of project study area communities, other than Attawapiskat, in identifying and evaluating Valued Ecosystems Components (VECs). TEK information was provided from west James Bay area communities, but there was no indication of how it was used to determine effects.
5.5 Mitigation Measures	De Beers is to propose the regulatory, contractual or other instrument to be used to ensure mitigation. <u>Traditional/community knowledge may be used to identify mitigation measures, as appropriate.</u>	Traditional knowledge was not used to identify mitigation measures nor was there any involvement from the other Cree communities on mitigation measures.	It was stated in the CSR Final Document that traditional knowledge information and suggestions from James Bay coastal Cree First Nations were used to develop mitigation to minimize disruption of traditional pursuits.
6.0 DESCRIPTION OF THE PROJECT			
6.0 Description of the Project	In addition, De Beers will supply its record of compliance with government regulations, mine safety records (including accidents, spills and other emergencies), and relations with	The CS did not consider premature mine closure.	The review comments from May 2004 still apply.

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	Aboriginal people, as well as its record of honouring <u>commitments on socio-economic matters in the event of a planned or premature mine closure.</u>		
7.0 DESCRIPTION OF EXISTING ENVIRONMENT			
7.0 Description of Existing Environment	... Traditional/community knowledge should be used as much as possible in describing the existing environment.	Only Traditional Knowledge from Attawapiskat is used. There is no traditional knowledge used from the other First Nations communities in the project study area to describe the existing environment.	TEK information was provided from the other west James Bay area communities, but there was no indication of how it was used to describe the existing environment.
7.10 Human Health	<p>De Beers shall provide <u>current information on the health status of the communities in the project study area.</u></p> <p>These data shall be quantitative wherever possible. The description of the health of communities needs to capture all aspects of health, according to the World Health Organization’s definition of health: "<u>a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.</u>"</p> <p>Therefore, this description of health status should include indicators of many determinants of health, including <u>physical, social, cultural and economic aspects.</u> Specifically, it should <u>include</u></p>	<p>There is no information provided on human health, even though ‘Health’ is an identified VEC for all the communities in the project study area.</p> <p>There is no information provided in the CS on family structure, incidence of diseases, mortality (infant mortality, leading causes of mortality), personal health practices sexual health and injuries.</p>	The review comments from May 2004 still apply.

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p><u>data on health services available, family structure, incidence of diseases, mortality (infant mortality, leading causes of mortality), personal health practices (e.g., smoking), sexual health, and injuries.</u></p> <p>The scope and <u>level of detail of the human health baseline information collected for each affected community should be commensurate with the potential likelihood and significance of changes to the community as a result of the project.</u></p>	<p>No human health baseline information is provided for any First Nation within the project study area.</p>	
<p>7.11 Current Use of Land and Resources for Traditional Purposes by Aboriginal People</p>	<p>De Beers shall <u>describe the current use of land and resources for traditional purposes in the regional study area, including but not limited to:</u></p> <ul style="list-style-type: none"> • <u>camping;</u> • <u>travel on traditional routes;</u> • <u>hunting;</u> • <u>fishing;</u> • <u>trapping;</u> • <u>trap line use (active and fallow);</u> • <u>planting;</u> • <u>harvesting;</u> • <u>collecting; and</u> • <u>any other traditional use of the land in</u> 	<p>De Beers did not provide the current use of land and resources for traditional purposes in the regional study area, nor in the project study area except for Attawapiskat.</p>	<p>The review comments from May 2004 still apply. Current use of land and resources is described in general terms only, e.g. “a high proportion of coastal community members still engage in the traditional activities of hunting, fishing, trapping and berry picking.”</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p>and around the project area.</p> <p>Where possible, and in keeping with the provisions of section 5.1, De Beers shall provide <u>quantitative data on the amount of resources harvested and the amount used for country foods</u>. (Where relevant, De Beers should make use of occupancy mapping).</p>	<p>De Beers did not provide quantitative data on the amount of resources harvested and the amount of used for country foods (except for Attawapiskat). Occupancy maps were not provided or used.</p>	
<p>7.13 Socio-economic Environment</p>	<p>De Beers shall describe the <u>existing economic situation in the project study area</u>, consistent with the provisions of section 5.1. This includes but is not limited to:</p> <ul style="list-style-type: none"> • <u>wage employment;</u> • <u>skill level;</u> • <u>local and regional businesses;</u> • <u>training facilities;</u> • <u>subsistence economy;</u> • <u>local government finances;</u> • <u>local and regional community planning;</u> • <u>current and past levels of employment;</u> • <u>current economic development goals and objectives;</u> • <u>past experience with growth, industrial development and environmental problems; and</u> 	<p>De Beers has not provided a description of the existing economic situation in the project study area for all communities except in Attawapiskat. Surveys and data collection should have been completed in describing the existing environment in all the project study area communities.</p> <p>Missing components of the existing economic situation for the west James Bay area communities include:</p> <ul style="list-style-type: none"> ▪ skill level ▪ subsistence economy ▪ local government finances ▪ local and regional community planning ▪ current and past levels of employment ▪ current economic development goals and objectives 	<p>The review comments from May 2004 still apply.</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p><u>• population demographics.</u></p> <p>De Beers shall describe the existing situation with respect to employment, education and training in the project study area and on reserve land that is located outside of the project study area. This includes but is not limited to the facilities and services related to:</p> <ul style="list-style-type: none"> • classroom-based education for all levels (pre-kindergarten to grade 12 or above); • post-secondary education and training; • informal and formal apprentice-based programs; • outdoor education and training, including education related to hunting, fishing and other traditional activities; • distance education and training; and • upgrading and informal literacy/numeracy training. <p>De Beers shall describe the existing social environment in the project study area and on reserve land that is located outside of the project study area. This includes but is not limited to:</p>	<ul style="list-style-type: none"> ▪ past experience with growth, industrial development and environmental problems. <p>Limited information is provided on education and training.</p> <p>This information is not provided in the CS for project study area communities.</p>	

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<ul style="list-style-type: none"> • crime, policing and security; • housing (including information such as overcrowding and homelessness); • language (including information on the percentage of population speaking and/or writing Cree); • recreation (including information on recreational events and activities, both physical and cultural); • drug and alcohol abuse; • suicide rates; and • family violence. <p>De Beers shall describe the existing infrastructure in the project study area and on reserve land that is located outside of the project study area, especially permanent installations as a basis for operations. These include but are not limited to:</p> <ul style="list-style-type: none"> • roads; • air transportation facilities; • sewer and water treatment and distribution systems; • electricity generation and distribution systems; • current uses of the ocean, including for marine traffic or fishing, within the 	<p>Not all of the existing infrastructure is described in the project study area communities and on reserve land.</p>	

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	project study areas of James Bay and Hudson Bay; and <ul style="list-style-type: none"> • waste management and removal systems, and other municipal services, including: <ul style="list-style-type: none"> - recreational facilities. 		
8.0 ENVIRONMENTAL EFFECTS			
8.10 Human Health	De Beers shall <u>assess the potential effects of the project upon the physical, mental, spiritual and cultural health of affected communities, employees and their families.</u> The analysis should include at least the following: <ul style="list-style-type: none"> • a consideration of the health effects of <u>social, cultural and economic changes brought about by the project, including the effects of mine closure. Social and cultural changes include impacts on subsistence lifestyles, traditional activities, family relationships, and language.</u> 	In the CS there is no information from the communities of Fort Albany, Kashechewan, and Moose Factory on the potential physical, mental, spiritual and cultural health effects on employees, their families and communities. In addition, there is no discussion and analysis of how potential effects from the Victor project may impact on subsistence lifestyles, traditional activities, family relationships and language.	The review comments from May 2004 still apply.
8.11 Current Use of Land and Resources for Traditional	De Beers shall <u>assess the potential effects on the current use of land and resources for traditional and cultural purposes as a</u>	The CS does not provide an understanding of the current use of land and resources for traditional and cultural	The review comments from May 2004 still apply.

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
Purposes by Aboriginal People	<p><u>result of the biophysical and socio-economic changes in the environment caused by the project.</u> This will include but is not limited to:</p> <ul style="list-style-type: none"> • <u>hunting;</u> • <u>fishing;</u> • <u>trapping;</u> • <u>ceremonial activities;</u> • <u>medicine gathering;</u> • <u>camping; and</u> • <u>social activities.</u> 	<p>purposes except for the community of Attawapiskat. Thus, the assessment of the effects on traditional pursuits is based on incomplete information for the other communities in the project study area.</p>	
8.13 Socio-Economic Effects	<p>The <u>scope of the assessment for socio-economic variables shall include communities that could reasonably be expected to experience effects because of the project, including but not limited to increased transportation activities or employment and business opportunities.</u></p> <p><i>De Beers shall assess the effects of the proposed project and its closure on the cultural well-being of the affected communities. This will include, for example, anticipated or possible changes on social cohesiveness or language use.</i></p>	<p>De Beers has not provided information and subsequent discussion and analysis on the communities that may be expected to experience effects because of the project. There is no assessment of the potential impact on cultural well-being, social cohesiveness or language.</p>	<p>The review comments from May 2004 still apply.</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p>De Beers shall assess the effect of the <u>proposed project and its closure on the economy, having regard to direct, indirect and induced effects on income and employment</u>. Consideration shall be given to:</p> <ul style="list-style-type: none"> • <u>wage and salary employment by skills category over the life of the proposed project, including estimates of northern participation;</u> • <u>effects on household and family income levels;</u> • <u>effects on short- and long-term populations and demographics;</u> • <u>availability and use of skilled workers in northern Ontario to meet job requirements;</u> • <u>opportunities for local and regional businesses to supply goods and services both directly to the proposed project and to meet the demand created by the expenditures of contractors and new employees;</u> • <u>compatibility with current economic development goals and objectives;</u> • <u>barriers to employment, advancement, and the retention of northern workers,</u> 	<p>The effects listed in the Guidelines were not assessed for the west James Bay area communities.</p>	

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p><u>including the training or retraining necessary for sections of the northern work force, and specifically for Aboriginal people to meet De Beers’ employment standards;</u> <u>opportunities to diversify the northern economic base to produce and supply new goods and services;</u> • <u>effects on the subsistence economy;</u> • <u>federal and provincial revenues and costs;</u> • <u>economic diversification and sustainable economic development;</u> • <u>effects on the national and provincial Gross Domestic Product (GDP);</u> • <u>probability of any effects on employee migration into or out of northern Ontario communities;</u> • <u>local government finances;</u> • <u>inflation and the cost-of-living effects;</u> • <u>effects of increased pressure on existing social, institutional and community services, transportation facilities and services, and infrastructure;</u> • <u>effects on community planning and reserve land use;</u> • <u>decrease in amount of reserve land available for community housing or other</u></p>		

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	<p><u>needs, with consideration for population growth rates and ageing infrastructure;</u></p> <ul style="list-style-type: none"> • <u>effects on specific groups, including the youth and elderly; and</u> • <u>a gender-based analysis of the effects.</u> <p><u>De Beers shall describe the effects on individuals who come to the community for education/training purposes and on those who leave the community for education/training.</u></p>	<p>Educational and training opportunities were not described for the west James Bay area First Nation communities.</p>	
<p>8.17 Cumulative Environmental Effects</p>	<p>For the purposes of this project, <u>the comprehensive study shall include an evaluation of cumulative effects that are likely to result from the proposed project in combination with other projects and activities,</u> and projects with the regulatory process on the day these guidelines are issued.</p> <p><u>De Beers shall evaluate the effects of exploration, including claims blocks with medium to high development potential, whether or not those are owned by De Beers.</u></p>	<p>De Beers did not evaluate the cumulative effects of exploration, including claim blocks on the regional or project study area.</p>	<p>De Beers has indicated that none of the other exploration activities are classed as having either a medium or high potential for development – therefore, they need not be considered.</p> <p>However, there are many exploration activities ongoing – by De Beers and others – and collectively they have impacts. This should be examined.</p>
<p>9.0 FOLLOW-UP PROGRAMS</p>			
	<p>De Beers shall propose follow-up</p>	<p>Most of the items listed in the Guidelines</p>	<p>De Beers has included all points listed in</p>

**Table 1: VICTOR DIAMOND PROJECT
 NON-CONFORMITY TABLE**

Guideline Sections	Specific Guideline	Non-conformity Issue in May 2004 Review of CS	Non-conformity Issue in July 2005 Review of CSR Final Document
	programs to address any of the above circumstances. Each program plan should include a discussion of the proposed: <ul style="list-style-type: none"> • regulatory context for the program; • objective; • general methodology and means; • timing and anticipated length of the program; • roles and responsibilities of parties to be involved in the program; • reporting mechanism; and • mechanism for feedback or remedial action. 	have not been addressed for socio-economic effects in the text in Section 11, and none of them in the Summary Table in the CS.	the Guidelines except “timing and anticipated length of the program”.

3.0 THE APPROACH TO SOCIO-ECONOMIC EFFECTS ASSESSMENT

3.1 Introduction

This section provides a review of the approach to the socio-economic effects assessment in De Beers' Victor Diamond Project CSR Final Document.

A review of the key elements of the methodology and analysis in the CSR Final Document follows in Section 4.0

3.2 Approach to Socio-Economic Effects Assessment

3.2.1 Socio-Economic Effects Assessment in CEAA

In Section 7.0 (Page 7-1) the CSR Final Document states: “Under the Canadian Environmental Assessment Act (CEA Act), the comprehensive study can consider only effects on socio-economic conditions caused by a change in the environment due to the project.” Furthermore, De Beers states (also on Page 7-1): “Socio-economic information not directly related to environmental effects was collected, but it was not used in making decisions on significance under CEAA.”

However, the CEA Act makes reference to environmental effects in Section 2 as follows (underline is by reviewers):

“environmental effect means, in respect of a project,

- (a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(10) of the Species Risk Act,*
- (b) any effect of any change referred to in paragraph (a) on
 - (i) health and socio-economic conditions,*
 - (ii) physical and cultural heritage,*
 - (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or*
 - (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or**
- (c) any change to the project that may be caused by the environment, whether any such change or effect occurs within or outside Canada;”*

De Beers appears to have interpreted the CEA Act to suggest that information on socio-economic conditions not related to environmental effects is of no consequence when making decisions on significance of socio-economic effects in communities.

The reviewers' view is that De Beers' interpretation of the CEA Act unwisely limits the scope of the assessment of socio-economic effects in communities by preventing a full understanding of the social and economic conditions existing in communities that could be affected by a project. In order to understand and assess the potential effects of environmental change on people in communities, we need to understand the social and economic conditions in those communities, including indicators of mental and social well-being, current traditional activities, financial, employment, educational, language cultural activities, travel and other social and economic conditions in communities, as prescribed in the Guidelines.

3.2.2 Socio-Economic Indicators

In the first paragraph on Page 7-1, De Beers states: “*For the purposes of the federal environmental assessment process, socio-economic conditions include effects at the population or community level on:*

- *The quality of life or “way of life”;*
- *The economic, commercial opportunities or employment;*
- *The availability of recreational opportunities or amenities;*
- *Home life or personal security;*
- *Future land uses; and,*
- *The future use or future productions of commercial species or resources.”*

If “quality of life” or “way of life” and “home life” in the community are aspects of the socio-economic conditions in communities, and De Beers is assessing the effect of environmental change on those socio-economic conditions, then information related to quality of life indicators should be a part of that assessment, and hence, part of the determination of significance. The Guidelines also support including community indicators related to social and cultural well-being (see Sections 5.4, 7.10, 7.11, 7.13, 8.10 and 8.13 of the Guidelines).

Community input was used to develop the requirements in the Guidelines for social and economic community information to ensure that the socio-economic effects can be fully assessed. Not using information on socio-economic conditions in decision making first contravenes the requirements in the Guidelines and second, suggests that this information provided by community members and leaders is of no consequence for decisions on approval of the project. The reviewers believe this approach is untenable for socio-economic effects assessment practice and inappropriate because it effectively ignores the work of the First Nation communities in the project study area who in good faith helped develop the Guidelines and sought to contribute information about their communities for the study.

3.2.3 The Guidelines in Federal Environmental Assessment under CEAA

The purpose of the Guidelines for the Conduct of a Comprehensive Study and the Preparation of a Draft Comprehensive Study Report for the Victor Diamond Project is stated on Page 4 of the Guidelines in Appendix A (underline is by reviewers):

“These guidelines provide instructions to De Beers for the conduct of a comprehensive study and for the preparation of a draft Comprehensive Study Report (CSR). They are designed to ensure that the appropriate information is provided to the Government of Canada to allow it to make a determination on the likelihood of the project to cause significant adverse environmental effects.”

The Guidelines determine the scope and the information to be collected for this project. The Guidelines were developed with input from Environment Canada, Natural Resources Canada, Fisheries and Oceans Canada, Indian and northern Affairs Canada, in collaboration with Health Canada. Input from all James Bay coastal First Nations was also used to develop the Guidelines.

Since the issuance of these guidelines on February 24, 2004, De Beers has decided to change the scope of the assessment and amount and type of information to be collected due their narrow interpretation of environmental effects on socio-economic conditions under the CEA Act. This approach is not consistent with the expectations of the Act, the Guidelines and various affected parties. However, De Beers’ approach to change the scope and level and type of information to be

gathered and considered in the effects assessment at least should require a new set of Guidelines for the preparation of the CSR. This new set of Guidelines should also have the full involvement of all affected James Bay coastal Cree First Nations. Without this, the purpose and role of the Guidelines becomes meaningless.

3.2.4 Use of Additional Information for the Minister of the Environment

De Beers indicates that the Minister of the Environment is required to use additional socio-economic information to determine if significant adverse environmental effects can be justifiable. In the CSR Final Document (Page 7-1, Section 7.1.1, last paragraph) it states (underlined text is by the reviewers):

“In the event that the Minister of the Environment determines, under Section 23 of the CEAA, that the project is likely to cause significant adverse environmental effects, he will be required to determine whether or not such effects are justifiable in the circumstances. The information contained in this Appendix will be relevant to the question of justification, should such question arise.”

Section 23 (2) of the CEA Act states:

“Before issuing the environmental assessment decision statement, the Minister shall, if the Minister is of the opinion that additional information is necessary or that there are public concerns that need to be further addressed, request that the federal authorities referred to in paragraph 12.3(a) or the proponent ensure that the necessary information is provided or actions are taken to address those public concerns.”

Prior to Section 23, Section 21.1 (1) of the CEA Act also states:

“The Minister, taking into account the things with regard to which the responsible authority must report under paragraph 21(2)(a) and the recommendation of the responsible authority under paragraph 21(2)(b), shall as the Minister considers appropriate, refer the project to the responsible authority so that it may continue the comprehensive study and ensure that a comprehensive study report is prepared and provided to the Minister and to the Agency; or (b) refer the project to a mediator or review panel in accordance with section 29.”

In neither reference from the CEA Act above does it state, as De Beers claims, that the Minister of the Environment, under Section 23 of the CEAA, will be required to determine whether or not significant adverse environmental effects are justifiable in the circumstances. Further, while the Minister may request additional information of any kind before issuing a decision statement, all available information on socio-economic conditions should be included in the CSR sections on the existing environment and used to make a meaningful determination of the significance of socio-economic effects on communities.

4.0 KEY ELEMENTS OF THE METHODOLOGY AND ANALYSIS

The comments on the methodology and analysis are provided on each relevant section of the CSR Final Report.

4.1.1 Section 5.0 - Description of the Existing Environment

De Beers' methodology in Section 5.0 is not readily traceable and understandable, as indicated by the following examples.

1. Description of the Existing Environment

The introductory paragraph for the existing conditions section for the other James Bay coastal Cree communities (Section 5.5.3 on Page 5-35) discusses not existing conditions, but results of the effects assessment still to be conducted. “Disturbance for the power line construction will be short term” “and “Improved reliability of infrastructure will benefit these communities” and “Economic opportunity will be extended to residents” are examples. This paragraph suggests that de Beers has pre-determined many of the outcomes of the effects analysis in the existing conditions section.

2. Baseline Information

De Beers indicates on Page 5-1 that the purpose of undertaking the baseline studies is to (underline is by reviewers):

- *“Define pre-development environmental conditions and sensitivities;*
- *Define Valued Ecosystem Components (VECs);*
- *Provide information to assist with project planning and engineering;*
- *Provide information needed to complete environmental effects analysis; and,*
- *Provide a benchmark for monitoring.”*

In this quote De Beers recognizes that baseline information is required for the environmental effects analysis. Yet information from the Mushkegowuk Education and Training Service (METS) has not been included in the CSR Final Document in which conclusions are made on the effects to be experienced by the James Bay coastal Cree communities.

3. Valued Ecosystem Components

In Section 5.5.1 (Page 5-28) De Beers defines Valued Ecosystem Components (VECs) “as being components of the socio-economic environment that are significant in terms of people’s quality of life.” The VECs for the James Bay coastal Cree communities (except Attawapiskat) are listed on Page 5-36:

- 1) Local economy;
- 2) Traditional pursuits;
- 3) Aboriginal community;
- 4) Health; and
- 5) Physical infrastructure

VECs are to reflect what is valued or significant in communities. Since the VECs were developed before the revised project descriptions using transmission line power (see Note at the bottom of Table 5-1) were developed, the other James Bay coastal Cree communities were not consulted on the VECs selected for their communities. (These communities had not been consulted on VECs before submission of the CS in 2004)

The VECs above are listed in very general terms (e.g. what is meant by “Aboriginal community”?). The subsequent descriptions in the text (Pages 5-36 and 5-37) are organized under the headings of “Political Organization” and “Socio-economic Status” and appear to bear no relevance to the identified VECs. Instead they appear to present some baseline conditions information for the other James Bay coastal Cree communities.

The socio-economic effects analysis is conducted in Section 7.3. Here the socio-economic effects are analyzed according to the categories of “Traditional Pursuits” and “Health”. We question why there was no analysis of the other VECs for the other coastal Cree communities.

4. Socio-economic Existing Conditions for Other James Bay Coastal Communities

The section describing existing baseline socio-economic conditions for the other James Bay coastal communities (on Pages 5-36 and 5-37) is very brief and taken from published sources only. In many cases demographic information is combined for all the communities. General statements such as “a high proportion of coastal community members still engage in the traditional activities of hunting, fishing, trapping and berry picking” are not helpful for establishing baseline conditions against which effects are to be assessed. To establish existing conditions for these traditional activities, information would be required on how many members, in which communities, for which activities, in which areas within the project study area, and over what time frames.

The METS information that was designed to supplement the information in this section was not available before the CSR Final Document was published. CSR should not have been finalized without this information. Additional socio-economic discussion is provided in Appendix F for other James Bay coastal Cree communities; this discussion is mostly on what is or is not likely to occur, with no specific baseline information provided for these communities.

5. Sensitivities and Constraints

It is not clear what purpose the section on “Sensitivities and Constraints” is to serve in the “Existing Environment” Section 5.0. Some comments on Page 5-40 appear to relate to mitigation, e.g. “Cultural awareness programs and similar efforts will help build an atmosphere of mutual respect, understanding, and trust between the cultures” Others refer to De Beers commitments, e.g. “De Beers is committed to fair and reasonable compensation for any such disruptions”. Heritage resources are described as part of the existing environment, but the specific location and nature of the sites in the project study area is not presented.

4.12 Section 7.0 – Environmental Effects Analysis – Socio-Economic Environment

6. Proponent’s Response to Adequacy of Baseline Data

De Beers indicated in Section 7.1.6 on Page 7-3 that the issue of the adequacy of baseline data is addressed in Section 5.2 and will not be repeated here. Section 5.2 discussed de Beers’ efforts to obtain and expand data being provided by METS, but this data was not available to be used to assess the significance of potential socio-economic effects in the CSR.

Instead of providing additional information in the CSR Final Document, the proponent agreed with Gartner Lee comments (on behalf of ATTFN) that baseline data are critical to the

establishment of a monitoring program and will be included. We agree that baseline data is important for monitoring, but needs also to be used to determine the significance of effects.

In the second bullet in Section 7.1.6 (Page 7-3) de Beers indicated, “*where improved baseline data have become available subsequent to the submission of the CSEA, and have been analyzed for purposes of writing responses to comments, the additional data have generally supported CSEA conclusions on the discussed project effects*”. Since this confirmatory data is not available in the CSR Final Document, we are unable to verify this statement. Also as a methodological procedure, baseline data needs to be available for the effects assessment, not only monitoring purposes.

The third bullet in Section 7.1.6 (Page 7-3) states, “*overall, economic growth, employment and increased incomes are associated worldwide with improvement in the quality of life.*” Statements such as this do not address the fact that specific socio-economic baseline conditions information on communities to be used in the effects assessment of this project is not available in the CSR Final Document, and in fact would suggest that de Beers believes an effect assessment process is not necessary, since outcomes are known worldwide.

7. Assessment of Environmental Effects for the Attawapiskat First Nation

Section 7.2 on Page 7-4 lists the effects being assessed for the ATTFN. This list reflects the list of VECs for ATTFN originally provided on Page 5-29, with the exception of “local economy”. The VEC of “local economy” (surely one of the key values for this community) is not assessed in this effects assessment section.

8. Assessment of Environmental Effects for the Other Affected Cree Communities

Section 7.3 describes the assessment of effects and their significance for the other affected Cree communities. Among the original list of VECs identified for these communities (local economy, traditional pursuits, Aboriginal community, health and physical infrastructure) only the VECs for traditional pursuits and health are assessed.

9. Assessment of Traditional Pursuits – Other Affected Cree Communities

One of the potential effects mentioned by De Beers is that upgrades to the coastal winter road may facilitate access by outsiders to land used for traditional activities by the coastal Cree communities. This in turn “could lead to increased pressures on available resources, particularly in areas close to the coastal road” and “...lead to increased requirements for surveillance of areas close to the coastal road by concerned native hunters and trappers.” (First paragraph, Section 7.3.1.1, Page 7-15). De Beers identified a potential negative effect, but did not indicate measures the proponent would take to mitigate such an impact.

The assessment of effects of widening of the Right of Way for the new transmission line on harvesting activity is described in the CSR Final Document on Page 7-16, at the end of the first paragraph. The CSR states, “*...this would not be expected to meaningfully alter harvesting activity in the area, although this is to be confirmed with the affected First Nations through monitoring.*” The information on specifics of current harvesting should have been available to provide a sound basis for De Beer’s assessment related to the effect on those harvesting activities.

10. Assessment of Health – Other Affected Cree Communities

Section 7.3.2 (second paragraph) discusses the potential, with increased project-related traffic, for more accidents along the winter road. The fact that the winter road goes around rather than through the communities is presented as a mitigation measure. Yet the potential for accidents due to increased project-related traffic remains. Such routing of the road would only prevent accidents within the communities, not through use of the road.

There is also some discussion of the potential negative effects related to health in Appendix F in the “Physical Infrastructure” section for the other James Bay coastal communities. For example, identification of risks due to increased traffic and potential disturbances by outsiders are documented in this Appendix:

- *“There will, however be increased traffic on the James Bay winter road, representing potential increased risks to public health and safety and disturbance.”*
- *“However, additional disturbances could be caused by outsiders attracted by new opportunities to profit from illicit activities within the community, or by worries related to the presence of unwanted visitors in the community.”*

It is difficult to understand why such critical information on potential effects is placed in an Appendix with the stated purpose of not being used to assess significance of effects.

11. Cumulative Effects Assessment

In Section 6.12 and Section 6.6.2.1 De Beers acknowledges the importance of moose and caribou to First Nations (with emphasis on ATTFN). The proponent acknowledges there will be impacts on the environment due to site activities and due to roadworks and use, and proposes to deal with impacts through mitigation and compensation.

But traditional food and pursuits are vital to the lifestyle and culture of all First Nation communities in the region. There is a need to recognize that the various activities (i.e. site work, flights, trucks) related to the mine have cumulative effects on ungulates that have impacts (social and economic) on First nation peoples in all the communities.

Table 6-17 on page 6-146 says that the cumulative effects on ungulates are not significant. But, over 18 years (3 years of construction plus 15 years of operations), plus likely additional exploration, the effects from the socio-economic perspective should be considered moderately significant and appropriate mitigation and compensation measures proposed.

4.13 Section 8.0 – Follow-up Programs

12. Assessment and Monitoring of Socio-Economic Indicators

The reviewers support the development of environmental agreements between Responsible Authorities (RAs), the proponent and First Nations that will:

- Ensure that commitments for mitigation are honoured;

- Provide data and monitor to confirm effects are as predicted;
- Develop contingency measures to deal with unanticipated impacts; and
- Involve First Nations in the monitoring program (e.g. the Services Company and First Nations to monitor traffic accidents along winter roads).

In addition, there should be monitoring of socio-economic effects in communities based on indicators of way of life and quality of life as indicated above in comments in Section 3.2.1 of this review. To this end additional socio-economic data should be developed for ATTFN and the other James Bay coastal First Nations to use in the monitoring program and agreements.

4.14 Section 9.0 – Summary and Conclusions

13. Outstanding Issues

Section 9.4 (Page 9-4) states that the ATTFN indicated that the socio-economic and traditional knowledge data collection was insufficient for their requirements and that additional data collection and monitoring should be provided. Mushkegowuk Council indicated that the socio-economic effects assessment completed for the coastal Cree communities excluding Attawapiskat is not adequate.

De Beers response is that “*much of the socio-economic information requests from Attawapiskat and the MC have no bio-physical links to the project, and therefore lie outside of the scope of the Comprehensive Study*”. The question remains: How can the socio-economic information prescribed in the Guidelines be outside of the scope of the Comprehensive Study?

The reviewers are in full agreement with the views of the affected First Nations on this issue. Insufficient socio-economic data was collected for the effects assessment to be meaningful, for community concerns to be addressed and for conformity with the Guidelines.

5.0 SUMMARY AND CONCLUSIONS

Our summary relates back to the two questions asked in Section 1.1 of this review:

- 1) Have all the Guidelines’ requirements for conduct of the comprehensive study been met?
- 2) Were the SEIA methodology and analysis sound?

Have all the Guidelines’ requirements for conduct of the comprehensive study been met?

Our review indicates that De Beers is still not in conformity with the requirements in the Guidelines in a number of the sections. In fact, De Beers has decided to change the scope and information requirements prescribed in the Guidelines in conducting the effects assessment for this project.

Were the SEIA methodology and analysis sound?

Many elements of De Beers’ methodology and analysis were found to be incomplete and inconsistent. The socio-economic analysis was severely impeded by De Beer’s decision to interpret the CEA Act in a manner that resulted in most of the specific information on social and

economic conditions in the communities being either not collected or not used. The reviewers are in agreement with the affected coastal Cree First Nations who indicated that the socio-economic effects assessment was done with incomplete socio-economic information from communities.

It is our view that the RAs, CEAA, and other relevant Federal Government Agencies (i.e. Environment Canada, Indian Affairs) should ensure the Victor CSR is revised or amended to include responses to all sections in the Guidelines.

T:\Active Projects\P234 De Beers Victor Review\P234 CSR Review Final Report July 7 05.doc