

4.0 PUBLIC CONSULTATION

Two main purposes of the *Canadian Environmental Assessment Act* are to promote communication and cooperation between responsible authorities and Aboriginal peoples with respect to environmental assessment and to ensure that there be opportunities for timely and meaningful public participation throughout the environmental assessment process.

At the beginning of the process, the responsible authorities determined that consultation with First Nations, the public and stakeholders would be necessary during the environmental assessment. The responsible authorities also determined that consultation was required before the development of guidelines, so as to be able to use information and concerns collected during consultation in the development of guidelines.

De Beers also undertook consultation with First Nations, the public and stakeholders on the project before and during the environmental assessment process.

Consultation on the project was carried out both prior to and following submission of the CSEA in March 2004. Consultation prior to the CSEA submission is referred to as “pre-consultation” in that it pre-dated the environmental assessment public review period. Consultation during and after the public review period is referred to as “EA consultation”.

Pre-consultation includes the meetings, discussions, and exchange of information that were carried out by the RAs and FAs starting in September 2003, before the Guidelines were drafted, as well as consultation by the Proponent starting in May 2001 with initiation of the Desktop Study.

EA consultation includes public notices, meetings, discussions, information sessions and written documentation related to the comprehensive study.

4.1 Environmental Assessment – Pre-consultation, Guidelines and Public Registry

4.1.1 Federal Government Consultation Preceding Guidelines

On August 3, 2003, NRCan assumed the position of lead RA, and the federal environmental process began. RAs and FAs decided to hold a series of consultations with First Nation communities before beginning work on guidelines for the conduct of the environmental assessment. Letters were sent to Attawapiskat First Nation, Kashechewan First Nation, Fort Albany First Nation, Moose Cree First Nation, Mocrebec Council of the Cree Nation, Webequie First Nation, Weenusk First Nation, Marten Falls First Nation, Nibinamik First Nation, Constance Lake First Nation, and Flying Post First Nation, on August 26, 2003. These letters made the First Nations aware of the environmental assessment and invited them to participate in consultations. Letters were also sent to the mayors of Cochrane, Timmins and Moosonee.

In an effort to understand First Nation concerns and issues with the proposed project, RAs and FAs held public consultations meetings and met with chiefs and their councils in Attawapiskat, Kashechewan and Fort Albany, in October 2003, in Moose Factory in November 2003, and met

with the Mushkegowuk Council in December 2003. Concerns and issues raised during these meetings were taken into consideration during the development of the draft *Guidelines for the Conduct of a Comprehensive Study and the Preparation of a Draft Comprehensive Study Report* (the Guidelines).

4.1.2 Environmental Assessment Guidelines Review

The RAs developed the guidelines in consultation with federal expert departments, provincial government agencies, Aboriginal groups, the public and De Beers Canada. Draft guidelines were issued on December 12, 2003 and were made available for comment during a six-week public review period. This period was extended an additional three weeks at the request of the Attawapiskat First Nation (AttFN), and ended on February 13, 2004.

A table of issues raised during consultations in the October and November 2003 was prepared and translated into Cree. This table indicated the issues that were raised, where they were raised, and how they were addressed in the guidelines. This table was distributed and used by the RAs and FAs in public meetings and meetings with chiefs and councils in the communities of Attawapiskat, Kashechewan, Fort Albany and Moose Factory in January 2004.

NRCan also established a toll free telephone line and a separate e-mail account for the Victor Diamond Project. The telephone line was active during the public consultations on the guidelines but has seen very little use since. The e-mail account continues to be active with requests for information from the public registry.

The final guidelines were issued on February 26, 2004.

Environment Canada hosted a "Diamond Exploration and Mining in Northern Ontario" workshop in Timmins, Ontario on March 24 to 25, 2004. The workshop included participants from the five coastal First Nation communities, the Mushkegowuk Tribal Council, the Nishnawbe Aski Nation, other local First Nations, interested ENGOs and De Beers Canada. Workshop topics focused on the potential effects of diamond mines on the environment, with presentations from most of the federal departments and provincial ministries involved in the Victor Diamond Project, as well as from De Beers. A presentation from the Chief Archie Catholique of the Lutsel k'e Dene Band of the Deh Cho First Nation from the Northwest Territories on his community's experience with diamond exploration and mining was of particular interest to workshop participants.

4.1.3 Public Registry

Subsection 55(1) of the *Canadian Environmental Assessment Act* requires the responsible authorities to maintain a public registry for the environmental assessment. NRCan, as lead RA, established a public registry in Ottawa for the VDP. Satellite public registries were established in Attawapiskat, Moose Factory, and Timmins, where there are two public registries, one at the provincial government offices, and the other at the offices of the Muskegowuk Council. The *Act* requires that the public registry be established for the purposes of facilitating public access to records relating to the Comprehensive Study and is operated in a manner to ensure convenient public access.

The public registry includes all records produced, collected or submitted with respect to the environmental assessment of the project.

The public registry can be accessed through requests to NRCan, while the satellite registries may be accessed in person. In all cases, lists of requests have been kept.

4.1.4 De Beers Pre-consultation with Attawapiskat

Pre-consultations by the Proponent were held with the AttFN throughout planning for development of the VDP. As well, members of the AttFN have also been actively involved in work at the Victor site, comprising up to 50% of the site work force during the advanced exploration program and subsequent winter works programs, and 100% during care and maintenance phases. In addition, members of the AttFN have participated in carrying out environmental baseline studies, and have received training in conducting environmental monitoring programs.

A Memorandum of Understanding (MOU) was signed by De Beers and the AttFN on November 6, 1999 to address earlier advanced exploration activities at the Victor site, and to set out the general expectations of the parties. A steering committee was established at this time within the community to advise the chief and council on project-related matters. A compensation agreement was also developed pursuant to the MOU to cover project-related effects to site area traditional pursuits during the advanced exploration phase.

On October 22, 2002, the MOU was superseded by the Feasibility Partnering Agreement (FPA), which covers expectations and obligations between De Beers and the AttFN until June 30, 2004, or until such time as an Impact Benefit Agreement (IBA – currently under negotiation) has reached an “Agreement in Principle”.

In addition to consultation on advanced exploration activities, formal pre-consultation on the proposed project was initiated in 2001 with the community of Attawapiskat, at the time that De Beers undertook a desktop study of the project. Meetings were held with the community's leadership and the steering committee that was established to discuss project-related issues. An environmental prospectus for the project was tabled in May 2002, for release to the local First Nations and to federal and provincial government agencies. The environmental prospectus provided a description of the VDP, and included a brief summary of likely environmental effects and proposed mitigating measures to reduce, or eliminate, any such effects. The Environmental Prospectus was based on project pre-feasibility studies, and input received from the AttFN during earlier discussions involving both the area and the planned project.

Mine feasibility studies were carried out in 2003 and a Preliminary Draft Environmental Assessment Report was submitted and presented to the community in May 2003. From June to August 2003, eight technical sessions were held between the Proponent and the AttFN, covering the following topics: proposed Attawapiskat facilities and infrastructure; Victor site access roads and airstrip; Victor site development; power options and fuel needs; project construction activities; logistics and transportation; and water management plans and impacts.

Since the fall of 2003, De Beers has operated a community channel broadcast in Attawapiskat. The community channel has communicated project updates and announcements of upcoming community meetings. A project animation was developed that graphically and verbally explains the project site, the depth of the pit, North and South Granny Creek diversions, the processing facilities and the closure plan. This was also broadcast over the television channel in both English and Cree. Videotapes and compact disks containing the project animation were made available as well.

4.1.5 De Beers' Pre-consultation with Other Communities

De Beers' pre-consultation with the coastal James Bay communities of Kashechewan, Fort Albany, and Moose Factory started in September 2003, following the release of the Preliminary Draft Environmental Assessment (May 2003). De Beers met with community leadership and provided public information sessions. De Beers also held consultation and information sessions with municipal leaders in Timmins, Cochrane and Moosonee.

4.2 EA Consultation

The consultations, which were done for the Comprehensive Study Environmental Assessment and the Re-evaluation of Site Access and Power Supply Alternatives, are discussed below.

4.2.1 Government Consultations

De Beers submitted its comprehensive study environmental assessment document (CSEA) in March 2004. This included technical studies and a summary translated in French and Cree. It did not include the traditional ecological knowledge study, which delayed the commencement of the public review period.

On April 15, 2004 the Attawapiskat First Nation agreed to release the non-confidential portions of the traditional ecological knowledge section of the CSEA. This made it possible for the federal authorities to initiate a 60-day public review period on the CSEA. The public review period was to extend until June 15, 2004.

On May 3, 2004 De Beers informed federal and provincial authorities that it was considering changes to the power supply and site access components of the project, in response to concerns of James Bay coastal First Nation communities regarding plans for marine shipment and transfer of diesel fuel in James Bay.

Federal and provincial authorities provided preliminary written comments to De Beers on the CSEA on May 19, 2004. The comments identified a number of issues including a few major deficiencies, especially with respect to the planned method for dewatering the mine pit and a need for additional socio-economic information.

On May 26, 2004 the RAs informed De Beers that the public consultation period would be extended until De Beers had decided on power supply and site access options, and had

submitted complete, written information on any planned project changes. The RAs confirmed that they would set a new deadline for the submission of public comments once they had received new information.

On August 18, 2004 De Beers informed the federal and provincial governments of its revised proposal. Fuel shipping in James Bay and the construction of a fuel pipeline to the mine site had been replaced by the twinning of the coastal power line, and the use of the James Bay coastal winter road for site access was confirmed. After the Re-evaluation of Site Access and Power Supply Alternatives Report was received and placed on the public registry in Ottawa and the four satellite locations (completed September 2), the federal agencies announced that the public review period would extend until October 18, 2004. The public review period was later extended to October 29, 2004 at the request of Attawapiskat.

Federal and provincial authorities met with chiefs and councils in Attawapiskat, Kashechewan, Fort Albany and Moose Factory in October 2004. They also met with the Chief of Mocrebec.

4.2.2 Issues and Concerns Raised During the CSEA Public Review

During the public review period, which extended from April to October 2004, many questions, concerns and comments were received. All questions, concerns and comments were placed on the public registry and provided to De Beers for response.

A table of the issues raised during the public review has been prepared and is attached as Appendix C. This table lists all the questions, concerns and comments received. The following list is a summary of the issues raised during consultations, or received by mail (see Table 4-1)

As well as the specific concerns raised about the VDP (Listed above) all First Nations communities raised the issue of lack of trust in both the government agencies and De Beers. These concerns were raised through examples where past developments (Site 415 of the Mid-Canada Radar Line) and past accidents (Fuel spill in Attawapiskat) have had long-term impacts with an apparent unwillingness to fix the problems. They expressed the concern that the same will happen at the VDP site, in that the First Nations will be left to deal with the problems at the VDP site long after everyone else has left.

Federal and provincial authorities also sent questions, concerns and comments to De Beers. Major issues identified by governments included ground water, hydrology, fish habitat, wildlife, socio-economic issues and geochemistry issues. The table of governmental questions, concerns and comments is found as Appendix D. The following list summarizes the main issues identified by governments (see Table 4-1)

**TABLE 4-1
TOPICS RAISED THROUGH GOVERNMENTAL CONSULTATION WITH FIRST NATION
COMMUNITIES AND THE GENERAL PUBLIC, AND THROUGH GOVERNMENTAL AGENCY
TECHNICAL REVIEW**

Subject	Topics Raised by Communities/Public and by Government	Additional Topics Raised by Communities/Public	Additional Topics Raised by Government	Addressed	
Water	Groundwater quantity and quality			5.3; 6.4; 6.5; 6.6; 6.10; 6.12; 8.5	
	Surface water quality			5.1; 5.2; 5.3; 5.6; 6.4; 6.5; 6.6; 6.8; 6.12; 8.5	
	Ice quality			6.4; 6.10	
	Sediment quality			5.3; 6.4	
	Acid rock drainage				
	Metal and particulate contamination			6.2; 6.4; 6.10; 6.11	
	Water management			5.3; 6.4; 6.5; 6.10	
	Diversion of South Granny Creek			5.3; 6.4	
Socio-economic and cultural issues	Jobs, skills and education	Government functions		5.5; Appendix D	
	Socio-economic impacts	Housing and community infrastructure		5.5; 7.1; Appendix D	
	Impacts to human health	Impact on youth			5.5; 7.2; 7.3
		Study area			5.2
		Consultations and compensation			5.2; 5.5
		Local government finances		4.2; 7.2	
				Outside scope of CSR	
Wildlife	Wildlife and wildlife habitat			5.3; 6.6; 6.7	
	Birds			5.3; 6.6; 6.7; 8.5	
	Aquatic organisms and habitat			5.3; 6.4; 8.4	
	Hunting			5.3; 5.5; 6.2; 6.6; 7.2	
Air	Air quality issues	Burning of fossil fuels		5.3; 6.2; 8.2	
		Effects of incinerator		6.2	
		Kyoto Agreement		6.2	
		Transportation-related emissions		6.2	
Noise	Noise			6.2; 6.6; 7.2; 8.5	
Energy	Alternatives			6.8; 6.11; 7.2	
	Cost/economics			7.2	
Transportation	Construction of an all-weather road			6.4; 6.6	
		Airstrip		5.5	
	Transportation system			5.1; 5.5; 6.2; 6.4; 6.6; 6.9; 6.10; 6.11; 7.2; 7.3	

Subject	Topics Raised by Communities/Public and by Government	Additional Topics Raised by Communities/Public	Additional Topics Raised by Government	Addressed
Physical environment	Muskeg, soils and terrains			5.3; 6.3; 6.4; 6.6; 6.8; 8.4
		Climate and meteorology		5.4; 6.10
	Vegetation			5.3; 6.5; 6.6; 8.4; 8.5
Exploration		Exploration activities		5.5
Traditional Ecological Knowledge	Quality of TEK			Not addressed in CSR, but reviewed in the CSEA process
		Uses of TEK		5; 5.1; 5.2; 5.3; 6.1
	Methodology			Not addressed in CSR, but addressed in the CSEA process
Mining	Processed kimberlite management			6.4; 6.5; 6.6; 6.11
		Water		6.4
	Domestic waste			5.5; 6.4; 6.6
	Dredging			6.4; 6.9
	Roads closure phase			6.4; 6.6; 7.6
			Mine water characteristics, management and disposal	6.4; 6.5; 6.11
Process-related issues	Mitigation measures and accountability			6.11; 7.5; 8.6
	Participation plan			
	Spatial and temporal boundaries			1.10
		Public registry and access to information		4.1
		Funding for review		
		Scope		
			Comprehensive Study Environmental Assessment Report	

De Beers was required to answer all questions, concerns and comments raised in connection with topics in Table 4-1, and in Appendices C and D, in writing. All of the responses were placed on the public registry.

Some issues required additional work. In some cases, there was a series of back and forth questions, responses and replies. Governmental officials and experts also met with De Beers officials and experts on several issues to clarify requirements and deal with specific requests. Technical meetings were held on hydro geological, wildlife, fish, lands, geochemical, and socio-economic issues.

4.2.3 De Beers Public Consultation Program

De Beers utilized a number of tools to communicate with local First Nations, government agencies and stakeholders about the content of the EA, including a computerized project animation, written documentation, a newsletter, a local community television channel in Attawapiskat, technical meetings, workshops, field site visits, and public information sessions.

The animation shows how the Victor kimberlites were formed and illustrates the stages in mine development and closure. The animation has been distributed in VHS and DVD formats and was played during public consultation sessions in all communities and on the local television station in Attawapiskat. It is available in both Cree and English.

Written documentation distributed prior to the CSEA, including the Environmental Prospectus (May 2002) and the Preliminary Draft Environmental Assessment (May 2003), provided Aboriginal groups and government representatives with an opportunity to review project concepts as they developed and provide input during pre-feasibility and feasibility study stages.

In Attawapiskat only, De Beers operated a local television channel, starting in the fall of 2003, to broadcast announcements of public information sessions, project updates and the project animation. De Beers has also maintained an office in Attawapiskat since 2003, staffed by local De Beers' employees who have been available to answer questions in English and Cree and provide project documentation.

Both Attawapiskat leadership and government officials have visited the project site. Numerous workshops, technical meetings and public information sessions have provided further opportunity to reach out to stakeholders and obtain input to project designs.

4.2.4 De Beers Public Consultation Sessions

De Beers carried out public consultation with Aboriginal groups and communities in the James Bay Lowlands, as well as with Aboriginal groups further west and south (Constance Lake First Nation and Marten Falls First Nation), and with the communities of Timmins, Cochrane, Hearst and Kapuskasing. Consultations were carried out in three separate phases as per the following: Phase 1 – March 2004, Phase 2 - May and June 2004, and Phase 3 – September and October 2004. Community consultation with First Nation communities generally consisted of meetings with the community leadership followed by public information sessions. Meetings held in Timmins, Cochrane, Hearst and Kapuskasing typically involved separate meetings with the mayors and councils in addition to general public meetings. De Beers originally proposed two phases of public consultation, but three phases were eventually completed due to project changes during the EA process related to access and power alternatives (Appendix E).

At the request of the RAs, De Beers prepared a plain language summary of the CSEA for use in consultations. This summary was also translated into Cree, and distributed to the communities.

Public information sessions consisted of PowerPoint presentations by De Beers followed by question and answer periods. The project animation was shown in the first session at each

community, as well as to the leaderships of Aboriginal and non-Aboriginal communities. Additional showings of the animation were offered in subsequent sessions at the different communities. Several showings were done in Attawapiskat. The Proponent provided poster materials and key project documentation for review and reference at all public meetings. Minutes of each public information session were recorded and entered into a database. Meeting minutes were used to help evaluate and summarize the feedback and concerns expressed in the public information sessions. A summary of topics raised and their frequencies during De Beers' consultation sessions is provided in Table 4-2. Further details on the three sessions are provided below.

Phase 1

Initial public consultation by De Beers was carried out in the communities of Attawapiskat, Kashechewan, Fort Albany, Moosonee, Timmins and Cochrane in March 2004. Meetings were also held with the Mushkegowuk Council in Moose Factory. The Moose Cree First Nation declined to participate in this first round of consultation, instead choosing to issue a letter to the Proponent stating its concerns, mainly about the prospect of fuel handling in James Bay. The Taykwa Tagamou Nation [New Post] consistently refused to meet with De Beers. Offers were made to non-government organizations (NGOs), Mining Watch Canada, and Northwatch, but these organizations stated that they were not ready to meet.

Feedback during the first round of consultation focussed mainly on concerns over the Proponent's proposal to transport large volumes of fuel required for on-site diesel-fired power generation. The fuel transport plan provided for fuel to be delivered in tankers into James Bay with off-loading onto barges, as well as an associated 110 km buried steel fuel pipeline from Attawapiskat to the Victor mine site. As an alternative, Aboriginal groups and the Town of Moosonee expressed support for an electrical transmission line to provide site power, which would offset a substantial amount of the project fuel requirements.

Phase 2

De Beers carried out a second round of public consultation through the period of mid-May to mid-June 2004. While information on the overall project was presented, the Proponent's objective in this round of consultation was to obtain further feedback on potential alternatives for access and power that were under re-evaluation. De Beers was unable to meet with the community of Attawapiskat during the second round, first due to the threat of a flood in the community that required evacuation, and following that because the community was approaching elections for their leadership and they deemed it better that public consultation not be carried out during that period. The public information session held with the Moose Cree First Nation in Moose Factory was the first general public information session held with this community since release of the CSEA in March 2004.

**TABLE 4-2
FREQUENCY OF TOPICS RAISED THROUGH PROJECT CONSULTATION WITH FIRST NATION AND NON-ABORIGINAL COMMUNITIES**

Concern or Consideration	AttFN On Reserve	AttFN Off Reserve	Kashechewan FN	Albany FN	Moose Cree FN	McCreebec	Constance Lake FN	Mushkegowuk	Mosonee	Cochrane	Timmins	Hearst	Kapuskaing
Aboriginal & Treaty Rights	1			2	1	1							
Air Quality													
Air Quality - general	2												
Dust	1												
Human health	1												
Power plant													
Wildlife	2												
Benefits													
Benefits - general	3	1	8	4	8					1	1	3	
Business opportunities	6	1	4	2	6								
Education	6		2		4		1		2				
Employment opportunities	21	2	7	6	6	2	1	1	3				
Employment wages	1												
Housing	3												
Training	14		6	2	3	1			1				
Revenue sharing				1									
Closure													
Closure - general	21	2	1		2			1					
Cost	1				1								
Site restoration	3		1										
Long-term monitoring	10												
Consultation													
Animation													
Cost	2												
Federal government													
General			1		1	2							
Information to Band members	4		2										
Meaningful consultation	18		6	1									
Physical model													
Project comprehension			1										
Provincial government													
Technical terms													
Translation	1			1									
Employment/Training													
Concerns			1	1			1						
Employment - unions			1			1	2			1			1
General	3		2	3			1						
Monitoring - contractors								1					
Environmental Assessment & Permits													
Consultation								1					
EA process	14		2			1	1				1		
Funding	2							1					
Environmental - Compensation													
Monitoring	1		3										
Fuel Management													
Fuel cost			3		1								
Fuel handling	18				3			1					
Fuel - general			1			2					2		
Fuel - land transportation	10	1	2	1	6	1				1			
Fuel - leak			1						1	1			
Fuel - marine transportation	17		1		4								
Fuel pipeline	43	5	1		2						1		
Fuel storage in Attawapiskat	10					1							
Fuel storage at Victor site	1												
Fuel - tanks									1				
Funding													
Education									1				
Training	1												
Health & Safety													
Health & safety - general	25		2	1	4								
Aircraft	4												
Criminal record	3	1											
Monitoring	1												
Substance abuse	2				1		2						
Truck traffic	8	1	1						2			2	
Impact Benefit Agreement (IBA)													
IBA - funding	12						1			3			
IBA - general	35	2	3	8	4			1					
Relationships with other FN	3		3	1	1			1					
Participation Agreement	1				3	3	1						
Land Use													
Compensation				1			1						
Traditional Territory					1	2	2						

As one of the proposed site access and transmission line routes was from the Hearst/Constance Lake area to the Victor site, the second round of De Beers' public consultation was expanded geographically to include the First Nation communities of Constance Lake, Marten Falls (Ogoki), and Taykwa Tagamou Nation (New Post), the latter consistently refusing to meet with De Beers. The Highway 11 communities of Hearst and Kapuskasing were also included in the second round of consultations. In the case of Marten Falls, the Chief and Council decided to meet with De Beers, but did not recommend any meetings with the community.

Phase 3

De Beers carried out a third round of public consultations with the communities involved in the first and second round, from September to October 2004. The focus of this round was to present the findings of the re-evaluation study completed by the Proponent and to obtain feedback on the proposed site access and power supply alternatives. Once again, the Taykwa Tagamou Nation refused to meet with De Beers. A public meeting with Marten Falls was cancelled because of a death in the community, but a further meeting with chief and council was held which enabled the Proponent to obtain feedback on the project's preferred alternatives.

Generally, the selected project power and access alternatives, to reinforce the existing transmission line along the James Bay coast, and build a transmission line from Attawapiskat to the Victor site, and the proposal to utilize the existing coastal winter road for site access were well received by the coastal communities. The communities of Constance Lake, Hearst and Kapuskasing expressed disappointment stating their preference for project access from the Hearst/Constance Lake area. Several Aboriginal groups expressed concern over what they viewed as inadequate evaluation of socio-economic effects that the project will have on the region and its inhabitants. The Mushkegowuk Council also indicated that it felt that the collection of traditional ecological knowledge (TEK) was both incomplete and flawed.

4.3 Traditional Knowledge

The CSEA EA guidelines specify that De Beers "shall make all reasonable effort to collect and/or facilitate the collection of traditional/community knowledge relative to the proposed project." De Beers recognized the importance of incorporating traditional knowledge into the project, and traditional knowledge was collected in both a formal and informal manner.

4.3.1 Formal TEK Collection by the Victor Project TEK Working Group

Formal collection of traditional knowledge was carried out through a traditional ecological knowledge (TEK) study within areas that are likely to be affected by the project. A Victor project TEK Working Group was established under the joint direction of the AttFN and the Proponent, to carry out collection of TEK. The Proponent and the AttFN Chief and Council signed a confidentiality agreement for the TEK study in August 2003.

Existing information was researched and a total of 65 respondents were interviewed from September 2003 through January 2004, followed by a data verification process exercise, and reporting. The maps and interview materials were then placed on public display in the

community of Attawapiskat for broader community review, with public comments documented and incorporated into the study. The TEK study was focused principally on fisheries and wildlife aspects of the project environment, particularly in regard to traditional pursuits, but it also included consideration of a variety of other information aspects, such as those relating to climate, creek and river flows, and to cultural and heritage resources. This information was referenced in the CSEA where applicable.

As the TEK information is the intellectual property of the AttFN and release requires their expressed consent, references to TEK were initially withdrawn from the CSEA before release in March 2004. The AttFN subsequently provided authorization for the release of this information on April 16, 2004, and excerpts withdrawn from the CSEA were released in a letter from De Beers to the CEA Agency. The TEK study itself was released in an edited form shortly thereafter. The TEK information incorporated into the CSEA covered topics such as fisheries, vegetation, wildlife, surface and groundwater systems, and marine mammals and waterfowl. TEK was used in identifying Valued Ecosystem Components (VECs) in the CSEA. For example, the TEK study identified caribou and moose as critical environmental components, various fisheries aspects such as sturgeon in the Attawapiskat River (including spawning areas), as well as both lake whitefish and cisco as important resources for the community. Significant fishing areas and fish species usage were noted in the TEK study. By designating the entire Attawapiskat River as a VEC, all of the fish species and other forms of life that depend on the river, including wildlife and people, achieve recognition and status within the definition of the VEC.

Information on cultural and heritage resources was used to ensure that project related infrastructure avoided known and highly probable locations of such resources. For example, all the heritage resources identified through TEK and archaeological studies are along the main river corridors, which were also identified through both TEK and scientific methods to be the most significant habitat. Criteria utilized in project design were to not place any project infrastructure within 200m of a watercourse, allowing for exceptions such as a water intake/outfall and winter road crossings where there was no alternative. The identified sites were not near any known heritage sites.

4.3.2 Informal TEK Collection from Attawapiskat

The Proponent has described seeking informal TEK input to the project as well, commencing at the start of environmental baseline studies in 1999. AttFN members involved in field data collection who had knowledge of the Victor site provided valuable information to guide biologists in the collection of baseline data focused mostly on fisheries and wildlife, and on the behaviour of river systems.

The Proponent has also indicated that TEK was also collected informally through numerous meetings and workshops held in the community throughout project conceptualization with community members including Elders. Some of this information was used to make project decisions, and other information was used to guide future studies.

Referrals to TEK data were included in project documentation, such as the Environmental Baseline Study and the CSEA documents. However information gathered through the informal collection of TEK is frequently provided without reference. The Proponent's informal collection of TEK may increase the difficulty for the First Nation to verify whether information cited in project documents as their TEK is being presented correctly. For example, it may be more difficult to confirm that all TEK information shared informally by the community was considered by the Proponent, and if those who shared their community's TEK gave their informed consent to the Proponent to allow them to use this information.

4.3.3 Collection of TEK for the Southwest Alternate Winter Road

De Beers collected TEK in July to August 2004 for the inland winter road alignments under consideration in its re-evaluation of site access and power supply alternatives. The leadership of the communities of Marten Falls, Constance Lake, Fort Albany and Kashechewan were approached by the Proponent to determine their interest in having De Beers complete a TEK study along the inland road route. Attawapiskat was not included in this study as previously collected TEK data include information applicable to the alternative winter road alignments. In the end, TEK from only the Fort Albany and Constance Lake First Nations was included in the study; Marten Falls participated in TEK data collection but later indicated that the information could not be used for any subsequent report since the chief and council did not support any of the alternative winter road alignments from the Hearst/Constance Lake area to the Victor site. Kashechewan's economic development representative, who had previously agreed in writing to meeting dates and the names of proposed Elders to be interviewed, indicated to the Proponent's consultants upon their arrival in the community that the Kashechewan First Nation (KFN) would undertake its own TEK study over two years and that any input into the proposed alternate transportation corridor study requiring KFN TEK knowledge would have to wait until that time.

The TEK study documented a number of beneficial and adverse effects in the eyes of the participants. Some felt that the inland route, especially an all-season versus a winter road, would provide positive opportunities such as supporting economic development initiatives, bring tourists into the area (viewed as a positive effect), and would be beneficial to the younger generation. Some felt that better ground for roads lay inland as well. Conversely, others viewed the road as opening up the country to exploitation as a negative effect. Some felt that the coastal road should be favoured and that it should be upgraded to an all-season road, and some felt that more information was needed in terms of who would control the road, and the potential for spills on the environment. The inland winter road corridor, or southwest alternate winter road, was not selected as the preferred site access alternative.

4.3.4 Collection of TEK for the Coastal Transmission Line

Based on further study, and input from the various project stakeholders, the coastal transmission line alternative, adjacent to the existing line, was selected by the Proponent as the preferred power supply alternative. The existing 115 kV transmission line was constructed in 1998 and a federal environmental assessment was completed in 1997 with some traditional knowledge and land use information collected. De Beers, Five Nations Energy Inc. (FNEI) and

Hydro One are currently undertaking, as co-proponents, a provincial Class EA for Minor Transmission Facilities. To facilitate route selection and to better evaluate environmental effects associated with transmission line construction and operation, the collection of updated TEK was undertaken as part of both federal and provincial EA processes. The TEK studies were carried out by the Mushkegowuk Council under the direction of SNC-Lavalin. Participating communities in the study included Attawapiskat, Kashechewan, Fort Albany, Moose Factory (Moose Cree First Nation and MoCreebec), and New Post (Taykwa Tagamou Nation).

In the communities there was a sense that this consultation was a duplication of the CSEA, and site access and power consultations. New Post (Taykwa Tagamou Nation) elected to withhold their specific TEK information from public release.

4.4 Aboriginal Comments/Concerns

4.4.1 Attawapiskat

Socio-economics

The AttFN indicated that the Proponent had not described the socio-economic environment in accordance with the guidelines, although the AttFN acknowledged that they have not provided this information to the Proponent because they have not felt comfortable with the company or its representatives.

The guidelines include additional indicators which, although not related to biophysical environmental effects, were included because of concerns expressed by the First Nations, and although the RAs have clarified that this information is not required under the *CEA Act* to make a determination on the project, such information would be useful and would respond to First Nations concerns.

The AttFN has stated that “a cohesive, co-ordinated and co-operative socio-economic monitoring program is required” (Gartner Lee, October 2004 in AttFN letter dated October 29, 2004 to the CEA Agency), and has presented a socio-economic assessment and monitoring framework as a starting point for discussion between the AttFN, the Proponent and the federal and provincial governments. The AttFN proposed a legal agreement between these parties regarding the assessment and monitoring of socio-economic indicators, and while approval of the project would not depend on such work being completed, that the legal agreement to carry out this assessment and monitoring program be in place prior to issuance of permits or other federal or provincial regulatory instruments that would allow mine construction to begin.

Traditional Ecological Knowledge

The AttFN claim that the TEK study completed for the project both fails to meet the requirements of the EA guidelines and their own requirements. They believe that more study of TEK is required with respect to monitoring and mitigation of the environmental and socio-economic effects of the project. The AttFN believes the additional TEK is not necessary to make

a decision about the project, but it is needed before permits or other regulatory instruments are issued, so that TEK is incorporated into monitoring and mitigation as outlined in the permits.

Environmental Monitoring

The AttFN believe that an environmental co-management agreement should be established between the AttFN and the federal and provincial governments. Also, that De Beers should be required to provide an environmental performance document that outlines terms and conditions upon which De Beers will operate and includes all commitments made by De Beers. The AttFN have expressed repeated concerns related to water quality, the ability of ice to support winter traffic such as snowmobiles downstream of the well field discharge to the Attawapiskat River, wildlife and traditional use of resources.

4.4.2 Kashechewan

The first rounds of consultation with Kashechewan, by both the federal government and De Beers highlighted a concern over marine shipping of fuel and the use of a fuel pipeline, especially since the communities have gone to a transmission line for power supply to get away from using fuel. There were questions regarding compensation for use of traditional lands and for any spills that may occur. There was also a clear interest in the upgrading of the existing coastal winter road to a permanent road.

During further consultations with the community of Kashechewan, there was a clear preference for upgrading of the existing coastal winter road or a permanent road over an inland winter road, although some individuals expressed support for an inland winter road from the Hearst/Constance Lake area. Preference for the project to consider a transmission line for power was reiterated, as well as issues surrounding compensation.

Consultation with the KFN identified the need for further study of the socio-economic effects of the project. Questions arose regarding training and concerns about the people being ready to take advantage of the business, employment and training opportunities. It was also clear that the community wants to be empowered and involved in development in the region in a significant way. The desire for a permanent road or railway along the coast was reiterated, to provide better access for the communities, which would lower the cost of living and provide increased opportunities for youth. The desire of the community to have an agreement with De Beers was also often presented.

4.4.3 Fort Albany

In the first rounds of consultation, by both the federal government and De Beers, with the Fort Albany First Nation there was concern expressed over the marine shipping of fuel. There were also many questions and comments on exploration and land use by mining companies. There were also concerns that the Fort Albany First Nation had not been included in IBA negotiations as Attawapiskat had, and that they should receive benefits from the project as well. It was felt that one collective agreement should be concluded; that Attawapiskat will receive all the benefits from the project; and that the Proponent was following a divide and conquer approach.

During further consultations concern was again expressed at being excluded from an IBA, as opposed to some other form of agreement, as proposed by the Proponent based on its negotiations with the AttFN, wherein the AttFN maintained that there should only be one IBA – with Attawapiskat. There was indication of support for an inland winter road only if a connecting road was built to the community. There were also concerns expressed about the impacts of the project on traditional ways of life.

There was a sense of wanting to be more involved and prepared through education and training, and a desire to be able to see younger generations benefit. There was also discussion of compensation for the use of traditional lands. It was acknowledged that there were tensions between Fort Albany and Attawapiskat, and there was a feeling that the Fort Albany First Nation was being left out. There was interest in changing the winter road to an all-season road.

4.4.4 Moose Factory (Moose Cree First Nation)

The Moose Cree First Nation (MCFN) issued a letter on March 17, 2004 indicating that they would not meet with the Proponent for the purposes of consultation on the project until a number of conditions were met related to: the provision of resources for review; extension of the public review period; that resources be made available for negotiation of an IBA with De Beers; that fuel handling and transportation within James Bay and Hudson Bay waters be dropped; and that the use of a transmission line be seriously considered to power the project.

De Beers met with the MCFN during the second phase of consultation on the CSEA.

During consultations with both the federal government and De Beers, the MCFN expressed a concern over the limited positive economic effect that the construction of an inland winter road route would have on the coastal communities. There was also a question regarding the effect of increased traffic on the existing coastal winter road, and increased risk of fuel spills on the ONR rail line between Cochrane and Moosonee. There was inquiry into revenue-sharing opportunities. Other comments included the need to respect Treaty rights and that the emergency response centre, being built by MCFN, should play a role in the project.

The MCFN also indicated that all the communities should be treated similarly, and that a participation agreement (proposed for the coastal communities) was not adequate, and that De Beers should negotiate an IBA with the MCFN. It was asked if there is an agreement in place to ensure there is collaboration with the communities in the collection of the socio economic information for EA. It was also stated that the socio-economic assessment was carried out for Attawapiskat in detail and that there is a shortfall for the coastal communities.

Concern was also expressed about the effect of increased income on substance abuse. There were also concerns about training, that economic opportunities be made available to them and that non-Aboriginal owned businesses, especially from Timmins and other areas where people already have mining experience were going to get all the work. There were also many concerns expressed about water quality and the fact that the water flows down the bay from Attawapiskat

towards Moose Factory. Members of the MCFN indicated that they are concerned that pollution may damage or alter their way of life.

The Taykwa Tagamou First Nation declined to participate in project related environmental assessment consultations. Attempts to meet with the Taykwa Tagamou First Nation have been documented by the Proponent and by the government agencies. Some members of the Taykwa Tagamou participated in the open house meetings in Cochrane, where issues related to employment were raised.

4.4.5 MoCreebec

De Beers was not able to meet with the MoCreebec First Nation, but met with the leadership of MoCreebec during the second and third phases of their consultation. The federal and provincial governments also met with the MoCreebec leadership. During these meetings, many questions were directed at ensuring that First Nation jobs be secured, that people be trained, and that cultural sensitivity training be provided. MoCreebec asked about the potential impact of labour unions reducing the availability of jobs for First Nations people. MoCreebec also asked about a participation agreement with De Beers. In terms of winter road access, there was support for the coastal winter road and not for the inland winter road route.

4.4.6 Mushkegowuk Council

The Mushkegowuk Council (MC) has a unique role in the region and the environmental assessment process. As a council of regional chiefs, MC is a decision maker influencing policy and establishing regional strategy. The MC also provides technical support services to the communities and other stakeholders. In the environmental assessment, they submitted interventions while providing technical assistance to the Proponent with TEK and through the Education and Training Services (METS) skills and labour market analysis.

The MC provided several written submissions to the federal government: on April 27, 2004, dealing with perceived deficiencies regarding TEK; on July 23, 2004 dealing with concerns over marine life in relation to fuel transport in James Bay; on July 23, 2004 dealing with socio-economic issues; and on October 29, 2004 dealing with access and power alternatives.

The April 27, 2004 submission regarding a lack of TEK data for communities other than Attawapiskat was subsequently addressed through the collection of TEK by the MC, under the direction of SNC-Lavalin in relation to the proposed twinning of the existing 115 kV transmission line. Concerns about marine life in James Bay in relation to potential fuel spills were viewed by the Proponent as being no longer applicable because of a change in project design, negating the shipment of large quantities of fuel in James Bay. Concerns regarding deficiencies in socio-economic data were addressed in part through the provision of additional socio-economic data.

MC has also indicated that it supports, in principle, the selected site access and power supply alternative, but that it felt that there were deficiencies in the Comprehensive Study documentation regarding the determination of environmental effects and mitigation measures relating to the other alternatives.

4.5 Non-Aboriginal Communities and Moosonee

In the public consultation sessions held by the Proponent with the non-Aboriginal communities of Timmins, Cochrane, Hearst and Kapuskasing, and with Moosonee (primarily Aboriginal), very strong support was expressed for the project. People from these communities saw clear economic advantages in the project going forward, and expressed concerns over project delays. The community leadership sent letters in support of the project to the federal and provincial governments.

In the consideration of alternatives for site access and power, Moosonee leadership and residents expressed clear and very strong support for use of the existing Ontario Northland Railway and coastal winter road, and were opposed to direct project access from the Hearst/Constance lake area to the Victor site. The communities of Hearst and Kapuskasing, on the other hand, strongly supported access from that region directly to the Victor site, as a means of improving their respective economies. Cochrane was supportive of the project, irrespective of the access route, but was most interested in economic benefits that could be obtained by its residents through the use of existing infrastructure linked to the ONR. Timmins was strongly supportive of the project, irrespective of the means of site access.