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April 12, 2024

File: W2022L2-0001

Kurtis Trefry
Arctic Canadian Diamond Company
Ltd. 900-606 4 Street SW
Calgary, AB T2P 1T1

Sent by email

Dear Kurtis Trefry,

Re: Ekati Closure and Reclamation Plan Version 3.1

The Wek'èezhì Land and Water Board (Board) met on April 3, 2024 and considered Arctic Canadian Diamond Company Ltd. (Arctic)'s Closure and Reclamation Plan (CRP) Version 3.1 for the Ekati Mine site.

As described in the Board's April 19, 2023 Letter,¹ the level of detail provided in Version 3.1 does not appear to have significantly advanced from previous CRPs. The Board has determined that significant work is required to advance closure planning prior to the submission of Version 4.0. Consistent with the recommendations provided by the Government of Northwest Territories – Environment and Climate Change (GNWT-ECC), Tłı̄chq̄ Government (TG), and Arctic, the Board has not approved the CRP Version 3.1.

Many Parties emphasized that advancement related to closure criteria, reclamation research, engagement, and progressive reclamation should be prioritized. The Board agrees and notes that waiting until the FCRP to propose closure criteria (i.e., as proposed by Arctic) is not acceptable and all criteria should be proposed no later than the CRP Version 4.0. The Board emphasizes that the CRP Progress Report should provide confidence to Parties that closure planning is advancing to meet the submission deadlines. Arctic communicated its intent to prioritize closure planning associated with progressive reclamation. The Board agrees that advancement of closure planning associated with specific component(s) proposed for progressive reclamation is required and may provide an opportunity to apply lessons learned across the

¹ See WLWB Online Registry (www.wlwb.ca) for [Ekati - CRP Version 3.1 - Letter to Arctic - Apr 19 23.pdf](#)

site. However, the Board notes that some aspects of the CRP are integrated or apply site-wide and may limit the ability of the Board to provide certainty regarding progressive reclamation if those elements are not advanced and emphasizes the importance of advancing site-wide closure planning. As detailed in the attached Reasons for Decision, the Board has outlined expectations for the submission of component-specific FCRP(s) associated with the Pigeon Development and set submission timelines for the component-specific CRP(s) and associated Research Report(s) to ensure that this work is advanced. In addition, the Board has clarified expectations for a Pigeon Back-flooding Plan and requires it to be submitted as soon as possible to reduce the risk to open pit water quality.

Without an approved CRP Version 3.1, the Board has not been able to provide certainty regarding the proposed reclamation research plans and the criteria work plan. The Board has identified changes that are required to these plans but has not required an update at this time. The Board wishes Arctic to focus on advancing the closure plan based on the input received to date and engage Parties' where appropriate. Board approval is not the only way the Licensee can obtain additional certainty – engagement and incorporation of feedback can also give the Licensee confidence that its closure planning aligns with Parties' expectations. An Engagement Record is required for all CRP submissions to the Board and should demonstrate how Parties were meaningfully engaged and how the feedback was incorporated into the submission. In addition, the Board has required that a Workshop to consider interim water quality criteria for the Pigeon Development be held prior to submission of the Pigeon FCRP(s).

A RECLAIM estimate was not submitted for consideration with the CRP Version 3.1. The Board has required submission of a proposed a security adjustment supported by a RECLAIM estimate no later than December 31, 2024 to address outstanding decisions associated with the Point Lake WRSA, winter road access costs, and comments received through the public review.

Please review the attached Reasons for Decision and direct questions or concerns regarding this letter to Ryan Fequet via [email](#).

Yours sincerely,



Mason Mantla
Chair, Wek'èezhìi Land and Water Board

BCC'd to: Ekati Distribution List
William Liu – Arctic
Lindsay Seier - Arctic
Jamie Steele – Inspector, GNWT-ECC

Attached: Reasons for Decision



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Reasons Decision

Reference/File Number:	W2022L2-0001 (Type "A" Water Licence)
Licensee:	Arctic Canadian Diamond Company Ltd. (Arctic)
Subject:	Closure and Reclamation Plan Version 3.1

Decision from the Wek'èezhì Land and Water Board Meeting of April 3, 2024

1.0 Decision

At the Wek'èezhì Land and Water Board's (WLWB or the Board) April 3, 2024 meeting, the Board met and considered the Closure and Reclamation Plan, Version 3.1 submitted by Arctic Canadian Diamond Company Ltd. (Arctic).

The Board has made the following decisions:

1. Not approve the CRP Version 3.1;
2. Require CRP Version 4.0 to be submitted no later than April 1, 2026 to include Revisions A and B;
3. Require the Pigeon Open Pit FCRP to be submitted no later than December 31, 2024 to include Revisions A, B, D, and E;
4. Require the Pigeon WRSA FCRP to be submitted no later than April 30, 2025 to include Revisions A, B, C, D, F, and G;
5. Require a workshop be held to consider interim water quality criteria for the Pigeon Development prior to submission of the Pigeon FCRP(s). Request that Arctic and Board staff continue communicating about the details of this workshop;
6. Require all closure criteria to be proposed in Version 4.0. Interim criteria should be consistent with the LWB Guidelines and at minimum be advanced to propose the specific approach to develop numeric criteria;
7. Require status updates on progress of the Criteria Work Plan in the Annual CRP Progress Reports;
8. Require submission of a Reclamation Research Report with the Pigeon FCRP(s). Each FCRP should be accompanied by, or be preceded by, a Research Report that includes relevant research to support the FCRP;

9. Require submission of a Reclamation Research Report with the CRP Version 4.0;
10. Require reporting on the progress of planned progressive reclamation in the Annual CRP Progress Report. This is to include rationale for changes to the schedule included in Table 6.2-1 of CRP Version 3.1.
11. Require submission of a Back flooding Plan for the Pigeon Pit as soon as possible to include:
 - a) The requirements of the WLWB's November 1, 2023 Reasons for Decision;
 - b) The requirements of Water Licence W2022L2-0001 Schedule 3, Condition 1; and
 - c) Proposed adaptive management based on monitoring required by Schedule 3, Condition 1(h) that will ensure that Pigeon Pit Lake cannot be connected to Pigeon Stream until approved by the WLWB;
12. With submission of the next CRP Progress Report which is due no later than December 31, 2024, Arctic is to, propose a security adjustment supported by a RECLAIM estimate which addresses the following:
 - a) Point Lake cover alternatives analysis and the Board's November 6, 2023 Reasons for Decision;
 - b) All February 19, 2020 Decisions related to security; and
 - c) Response to recommendations made in IEMA comments 2, 34, 40, and 41.
13. Require Arctic to propose costs associated with winter road construction in the submission required by Decision #12 above and engage with the GNWT and other Licensees as necessary.

2.0 Background

Part K, Condition 1 of Water Licence W2022L2-0001 requires the Licensee to operate in accordance with the approved Closure and Reclamation Plan (CRP) approved by the Board. Part K, Condition 2 states "The Licensee shall revise the Closure and Reclamation Plan as directed by the Board and submit the revised Plan to the Board for approval".

On February 19, 2020, the WLWB approved Version 3.0 of the CRP.² At that time, the Board determined that a workshop would be the best venue to work through some of the outstanding issues and required a workshop be held on or before November 16, 2020. The Board required that Version 3.1 be submitted within four months of the workshop (i.e., on or before March 16, 2021). Since that time, the Board has granted many extensions to this deadline due to the uncertainties surrounding the COVID-19 pandemic and in attempt to allow the Company time to prepare a quality submission for consideration by Parties. Since the Board considered Version 3.0, two workshops were held and the Board considered proposed revisions to address its February 19, 2020 decision.

On December 23, 2022, Arctic submitted Version 3.1 of the CRP (note: this submission was made under Water Licence W2020L2-0004 but this Licence has since been renewed to W2022L2-0001 in December

² See WLWB Online Registry (www.wlwb.ca) for [W2012L2-0001 - Ekati - ICRP Version 3.0 - Decision Letter and Reasons for Decision - Feb 19 20.pdf](#)

2023). Board staff worked with the Company between December 23, 2022 and August 15, 2023 to ensure the submission conformed with the previous Board Direction.³

On April 19, 2023,⁴ the Board met and sent a letter to the Company stating that “Version 3.1 does not appear to have significantly advanced since Version 2.4 was approved in 2011”. At that time, the Board stated that it “does not anticipate it will be appropriate for the next CRP submission to be the FCRP”. The Board directed Board staff to run a focused review of Version 3.1 to seek feedback on the following:

1. Timing of submission of CRP Version 4.0 and expectations for content in consideration of the anticipated end of operations in 2029;
2. Consideration of how Arctic proposes to address WLWB direction in the next submission (e.g., Appendices E, F, and J);
3. The timing by which a rescheduled workshop would be beneficial (e.g., in consideration of Version 3.1, prior to submission of Version 4.0 etc.); and
4. Whether Version 3.1 can be approved at this time.

Arctic was directed to revise the covering letter to the CRP Version 3.1 to address items 1-4 above. On August 9, 2023, Arctic updated its covering letter.⁵ The CRP Version 3.1 was distributed for public review on September 19, 2023.⁶ The following reviewers submitted comments and recommendations by the deadline of November 29, 2023:

- Environment and Climate Change Canada (ECCC);
- The Independent Environmental Monitoring Agency (IEMA);
- The Government of Northwest Territories – Environment and Climate Change (GNWT-ECC);
- Tłı̨chǫ Government (TG); and
- WLWB staff.

Fisheries and Ocean Canada (DFO) stated that it had reviewed the file and had no comments at this time. Parties’ comments and recommendations, and Arctic’s responses can be viewed on the Online Review System.⁷

3.0 Reasons for Decision

As described in the Board’s preliminary comments outlined in their April 19, 2023 letter, the CRP Version 3.1 did not meet expectations:

³ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Presubmission Information Package - Conformity Correspondence - Oct 26 21.pdf](#)

⁴ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Letter to Arctic - Apr 19 23.pdf](#)

⁵ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Part 1 - Aug 15 23.pdf](#); [Ekati - CRP Version 3.1 - Part 2 - Aug 15 23.pdf](#); and [Ekati - CRP Version 3.1 - Appendices - Aug 15 23.pdf](#)

⁶ See LWB Online Review System for [Closure and Reclamation Plan \(CRP\) Version 3.1](#)

⁷ See LWB Online Review System for [Closure and Reclamation Plan \(CRP\) Version 3.1](#)

...the level of detail provided in Version 3.1 does not appear to have significantly advanced since Version 2.4 was approved in 2011. Also, the level of detail provided does not reflect the Board's expectations for a CRP at this stage of the mine's life. The Board does not anticipate it will be appropriate for the next CRP submission to be the FCRP.⁸

Unfortunately, it appears a significant amount of work is required prior to the submission of Version 4.0. Parties were therefore not asked to complete a thorough review of the CRP Version 3.1. The WLWB sought feedback that would avoid time spent by Parties to review a document with minimal changes but provide the WLWB with the information needed to provide direction to Arctic.

Many of the previous directions provided by the Board were deferred by the Company to be addressed in a future submission. Overall, this made it difficult to provide new direction as the February 19, 2020, July 28, 2022, and November 1, 2023 Decisions have not yet been addressed. This Reasons for Decision aims to provide direction to effectively advance closure planning at this time.

3.1 Consideration of Version 3.1

In the scoped public review, Parties were asked to comment on whether the CRP Version 3.1 could be approved at this time. The Tłı̨ch̨ Government and the GNWT-ECC recommended that CRP Version 3.1 not be approved at this time; describing that a fulsome review of the document had not been completed (TG comment 4; GNWT-ECC comment 10). While acknowledging that Version 3.1 incorporates changes such as the Point Lake Project, the GNWT-ECC stated that it "would strongly agree with the Board's statement in their April 19, 2023 letter to Ekati that 'Version 3.1 does not propose significant advancement to that previously considered'" (GNWT-ECC comment 10). None of the other Parties explicitly stated whether they were opposed or in favour of approval.

In its response to ORS comments, Arctic included a letter that provided its recommendations with respect to the Board's April 19, 2023 letter:

It is Burgundy's recommendation that the Board not move forward with an approval of ICRP Version 3.1 at this time or conduct further public review of the document. This appears to be consistent with some reviewer commentary (i.e., GNWT-ECC-10, TG-5). Burgundy believes that ICRP Version 3.1 has served a purpose in advancing several important closure planning items (i.e., incorporation of approved closure objectives, an approved Point Lake closure plan, and approved security adjustments). Additionally, ICRP Version 3.1 has generated substantive discussion and comment that provides direction for the next iteration of the ICRP. Some reviewers have noted that a Board review process is not warranted until new work has progressed, particularly regarding closure criteria. Burgundy notes that an approved ICRP remains in place through the Board's approval of Version 3.0 and subsequent approval of closure objectives and security adjustments.

⁸ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Letter to Arctic - Apr 19 23.pdf](#)

Burgundy prefers and suggests that it is more appropriate to focus its resources on furthering reclamation planning, criteria development, and research.

The Board agrees that due to the lack of advancement of the CRP, absence of a fulsome review, and recommendation to not approve by the Tłı̨ch̨ Government, GNWT-ECC, and the Proponent, the CRP should not be approved at this time.

➤ **Decision #1: Not approve the CRP Version 3.1.**

3.2 Timing of submission of CRP Version 4.0

The Closure Guidelines state that CRPs are generally revised on approximately a three-year cycle.⁹ The timeline for submission of Version 4.0 has not previously been determined by the Board. In consideration of the CRP Version 3.0, the WLWB considered the request to submit Version 4.0 of the CRP five years following the date of approval of the preceding CRP. In its Reasons for Decision, the Board determined that “Timelines for submission of the interim CRP Version 4.0 will be determined in review of the interim CRP Version 3.1”.¹⁰ At that time, it was not anticipated that Version 3.1 would be submitted three years following the approval of Version 3.0 (i.e., February 19, 2020). The Board recognizes that some of the factors contributing to this delay were beyond the Company’s control (e.g., COVID pandemic, NWT evacuation).

In its covering letter to Version 3.1, Arctic proposed that Version 4.0 be submitted at the end of 2026 and stated it will prioritize advancement of submissions associated with Progressive Reclamation. Parties were asked to comment on the timing of submission of Version 4.0. Both IEMA and the Tłı̨ch̨ Government described that this may differ in consideration of whether the Board approves Version 3.1 (IEMA comment 1; TG comment 2). The GNWT-ECC acknowledged Ekati’s endeavours to move forward on specific Progressive Reclamation for components such as the Pigeon Waste Rock Storage Area (Pigeon WRSA), however, stated that “these component-specific progressive reclamation submissions do not justify further delays in the submission of a significantly advanced CRP” (GNWT-ECC comment 10). The GNWT-ECC recommended that a revised CRP be submitted within 18 months of the Board decision on Version 3.1. In response, Arctic described additional time is needed to produce a document that provides new information warranting a Board review and approval process. Arctic provided an anticipated schedule for 2024-2026 closure planning that outlines key submissions, engagement, and advancement required prior to the submission of CRP Version 4.0. This schedule identifies advancement of modelling, criteria, and closure designs between GNWT-ECC’s recommended submission timeline and Arctic’s proposal. No Parties had the opportunity to comment on this revised closure planning schedule and the associated changes to proposed submission timelines.

⁹ See [LWB Policies and Guidelines](#) for [LWB Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories](#) (2013).

¹⁰ See WLWB Online Registry for [W2012L2-0001 - Ekati - ICRP Version 3.0 - Decision Letter and Reasons for Decision - Feb 19 20.pdf](#)

During the public review of CRP Version 3.1, Board staff asked Arctic to describe the limitations if the CRP Version 4.0 was required at the following timelines: (a) July 2024; (b) January 2025; and (c) January 2026 (WLWB staff comment 10). Arctic did not respond directly to any of the identified timeframes. This makes it difficult for the Board to understand the limitations and to recommend a reasonable alternative timeline. Instead, Arctic referred to its proposed submission date of March 2026 and revised closure planning schedule (response to ECCC comment 1).

Arctic proposed over the next 24 months it would undertake advancement related to closure criteria, reclamation research, and engagement. Arctic identified that it intends to submit component-specific final CRPs (FCRPs) related to progressive reclamation of the Pigeon open pit and WRSA within the next year (response to WLWB staff comment 8) and that this work will provide important information for inclusion into CRP Version 4.0 and may serve as a template for FCRPs and final closure criteria for other mine components (covering letter). Arctic describes that FCRPs will include closure designs and final criteria applicable to that respective component. The Board agrees that advancement of closure planning associated with specific component(s) proposed for progressive reclamation is required and may provide an opportunity to apply lessons learned across the site (discussed further below). However, the Board notes that some aspects of the CRP are integrated or apply site-wide and may limit the ability of the Board to provide certainty regarding progressive reclamation if those elements are not advanced. It is important that Arctic continue to advance site-wide closure planning.

Water Licence W2022L2-0001 includes the following condition related to Progressive Reclamation (Part K, condition 4):

Unless approved through the final Closure and Reclamation Plan, a Component-Specific Closure and Reclamation Plan, or other Board approval, the Licensee shall submit to the Board, for approval, a Component-Specific Closure and Reclamation Plan one year prior to Progressive Reclamation of any specific component of the Project. The Licensee shall not commence progressive reclamation activities prior to Board approval.

This submission timeline is intended to allow sufficient time for public review and Board consideration prior to the anticipated commencement date. Arctic is encouraged to submit these component-specific plans as soon as possible to avoid potential project delays. The expectations for submission related to progressive reclamation are discussed in section 3.4.3 below. This submission will be an opportunity for the Licensee to demonstrate its commitment to advancing closure planning and apply learnings to the rest of the site.

The Tłı̨ch̨ Government stated that as a general principle, it would like to see the important parts of the closure and reclamation plan move forward at a rapid pace (i.e., closure criteria, research plans, designs for progressive reclamation, and engagement). The Tłı̨ch̨ Government stated that “ideally, these pieces of the closure and reclamation plan should be approved BEFORE Arctic submits final designs to the Board” (TG comment 2). As identified in the Board’s April 19, 2023 letter, the Board agreed that the next anticipated CRP submission should not be the Final CRP. The Licence requires that a FCRP be submitted a

minimum of 24 months prior to the end of commercial operations or three years prior to the expiry date of this Licence.” The end of commercial operations is anticipated to be December 2029 (Figure 8-2 of CRP Version 3.1) and Licence W2022L2-001 expires December 17, 2033. This means that based on current information, a FCRP would be required by December 2027. Ideally closure criteria would be approved well in advance of this submission to inform the FCRP submission and designs that are anticipated to arrive in the coming years. The proposed closure planning schedule (response to ECCC comment 1) does not appear to allow for a WLWB decision on criteria to inform closure designs. This is discussed further in section 3.4.1 below.

In its comments, IEMA identified that the Water Licence requires that the Licensee “revise the Closure and Reclamation Plan every three years or as directed by the Board and submit the revised Plan to the Board for approval.” IEMA recommended the submission of Version 4.0 be consistent with this Licence requirement. This standard Licence condition was added as part of the recent Water Licence Renewal.¹¹ The Licence and LWB guidance are clear that an update is required every three years. Unfortunately, the update (Version 3.1) provided was not adequately advanced and significant work and associated time is required to advance closure planning to a submission that can be meaningfully reviewed by Parties. The Board notes that “or as directed by the Board” gives the Board the flexibility to set a timeline it determines to be appropriate.

The Board understands that the significant work needed requires time, resources, and prioritization. In consideration of the WLWB ‘s October 18, 2024 meeting with Ekati Senior Management, the WLWB understands that the current owner plans to make closure planning a priority. Advancing closure planning is an opportunity for the Company to gain additional understanding regarding expectations for closure activities and performance. The Board is thus allowing Arctic the requested time, with the expectation that a quality, significantly advanced submission will be provided by April 1, 2026. If Version 4.0 does not meet WLWB expectations, the Board may consider other options to ensure that closure planning is adequately prioritized.

- ***Decision #2: Require CRP Version 4.0 be submitted no later than April 1, 2026 to include Revisions A and B.***

To ensure that Arctic prioritizes the advancement of the Pigeon FCRP(s), the Board has set maximum submission timelines that reflects Arctic’s proposal.

- ***Decision #3: Require the Pigeon Open Pit FCRP be submitted no later than December 31, 2024 to include Revisions A, B, D, and E.***
- ***Decision #4: Require the Pigeon WRSA FCRP be submitted no later than April 30, 2025 to include Revisions A, B, C, D, F, and G.***

¹¹ See WLWB Online Registry for [Ekati - Licence - Renewal - Recommendation to Minister and Reasons for Decision - Oct 17 23.pdf](#)

The Tłı̨chǫ Government stated that if the Board anticipates it will be a long time before the next version of the closure and reclamation plan is approved, it recommends the Board require Arctic to create an up-to-date version of the CRP that includes the approved closure objectives for conformity by staff (TG comment 6). Since approval of Version 3.0 there have been several changes to the Ekati Mine Plan; because of this, many additional administrative updates would be necessary to make the plan “up-to-date”. It is unclear whether an administrative update is the best use of time and resources. As discussed further below, the Board notes that Arctic has had multiple opportunities to gain feedback on these submissions. Board approval is not the only way the Licensee can obtain additional certainty – engagement and incorporation of feedback can also give the Licensee confidence that its closure planning aligns with Parties’ expectations. The Board has not required an administrative update and instead has directed the Licensee to focus on advancing the closure plan based on the input received to date and engage Parties’ where appropriate.

3.3 Engagement

The LWB Engagement and Consultation Policy (2023) defines engagement as “The communication and outreach activities an applicant undertakes with an affected party prior to and during the operation of a project.” An affected Party is defined as “A party that is affected (or predicted to be affected) by a proposed or existing project, including an Indigenous government, an individual occupying land for traditional purposes, a private landowner, or a lease or interest holder (e.g., for a lodge).” Ekati has an approved Engagement Plan (i.e., Version 5.1) that describes triggers and methods related to engagement.¹² In its comments, IEMA recommended Arctic expand the scope of engagement to include regulatory agencies, the Agency, and other organizations (IEMA comment 47). While the LWBs’ encourage discussion with all Parties, and the Board’s process is accessible to all parties, the engagement that is required to be described in the Engagement Plan and assessed by the Board is focused on Affected Parties. The Board also wishes to clarify that communication with Board staff, while encouraged to navigate the process, is not considered engagement.

In its CRP Version 3.1, Arctic described that a “closure-specific engagement implementation” would be proposed in Version 4.0 at the end of 2026. In response to WLWB staff comment 4, Arctic described an updated approach to this engagement plan:

The Closure-Specific Engagement Execution Plan outlines engagement activities to be completed over specific timeframes (short/immediate, mid-term, and long-term), guided by Burgundy's core values, and aligned with engagement work and relationship building to date, including with IBA holders and Indigenous communities. The purpose of the strategy is to outline the ways and forms in which engagement activities will be guided by closure planning milestones, and, in turn, guide the ways in which closure criteria are satisfied, particularly with respect to ensuring the inclusion of community input and TK.

¹² See WLWB Online Registry for [Ekati - Engagement Plan - Version 5.1 - Oct 5 23.pdf](#)

This will be closely connected but complementary to the Engagement Plan, and will be completed in Q1 2024.

Arctic stated that it will be implementing component-specific engagement related to the development of final closure and reclamation plans through 2024 and 2025. Arctic described that engagement will be ongoing; however substantive progress is anticipated through 2024 and 2025 (response to ECCC comment 1). The Board expects that extensive engagement is required to ensure that closure planning is advancing in consideration of Parties' expectations and this should be documented in all upcoming CRP submissions. The LWB's Closure Guidelines describe an expectation that all CRPs include a Record of Engagement as an appendix. The Board believes this record is integral to understanding how Parties were meaningfully engaged and how the feedback was incorporated into the submission. ***The Board reminds Arctic that an Engagement record¹³ is required for all CRP submissions to the Board.***

A workshop is one type of approach to engagement. As described in the Engagement Guidelines, "the Boards encourage proponents to consider holding workshops whenever they think it would be helpful or if they are dealing with complex issues such as those associated with type A water licence applications. Additionally, the Boards may decide to run and/or facilitate any workshop they deem necessary." The WLWB had planned to host a workshop in early May in consideration of the CRP Version 3.1 to allow Parties an opportunity to discuss the CRP prior to the public review comment deadline. On April 4, 2023, the WLWB cancelled the scheduled closure workshop because a conforming submission had not yet been received. In its April 19, 2023 Letter which defined the scope of the public review, the WLWB asked Parties for feedback on the timing by which a rescheduled workshop would be beneficial (e.g., in consideration of Version 3.1, prior to submission of Version 4.0 etc.).

Arctic proposed closure component-specific workshops be held as a component becomes available for progressive reclamation; stating that it believes this approach will be more effective to the development of closure criteria than a Board facilitated workshop on an overarching CRP (response to WLWB staff comment 12). IEMA stated that it believes that workshops are critical to "meaningful engagement on closure planning" (IEMA comment 1). In consideration of this request for feedback the Tłıchq Government stated:

In general, a workshop involving all parties is helpful when there is significant new content in the CRP, particularly if the new content is complex or controversial. The Board has determined that the plan has not been significantly advanced. Therefore, a workshop on Version 3.1 is probably not warranted. Engagement workshops between Arctic and the TG that are focused on certain topics (for example components of the mine as suggested by Arctic, or wildlife movement, water quality, etc.) may be a useful way for the Tłıchq Government to provide input. We will work directly with Arctic to develop a process and plan for further engagement on the closure and reclamation plan.

¹³ Please see Appendix E of the Engagement Guidelines for Applicants and Holders of Water Licences [and Land Use Permits](#)

GNWT-ECC recommended that a technical session should be held after Ekati provides the interim water quality closure criteria for review, as this would give Ekati and reviewers an opportunity to discuss the rationale behind the closure criteria (GNWT-ECC comment 10). The Board agrees that given the lack of advancement provided in Version 3.1, a workshop to consider the current submission would likely not be useful. The Board agrees with Parties that a workshop prior to the consideration of numeric water quality would increase the efficiency of the public review. Arctic has proposed engagement regarding the Pigeon water quality criteria in the Fall 2024. The Board is of the view that a workshop is required on this topic to ensure that these conversations occur.

- ***Decision #5: Require a workshop be held to consider interim water quality criteria for the Pigeon Development prior to submission of the Pigeon FCRP(s). Request that Arctic and Board staff continue communicating about the details of this workshop.***

3.4 Expectations for Upcoming Submissions

In its April 19, 2023 Letter which defined the scope of the public review, the WLWB requested that Parties provide feedback on how Arctic proposed to address WLWB direction in its next submission. The Letter specifically identified three Appendices which propose how Arctic would advance its closure criteria, research, and the Decommissioning Plans (i.e., Appendices E, F, and J). Overall, Parties seemed in agreement that significant progress was needed regarding advancing research, closure criteria, and engagement (ECCC comment 5; TG comment 2; IEMA comments 1, 6, and 37; GNWT-ECC comment 10).

Many of Arctic's responses to comments during the public review again deferred clarifications and solutions until the 2026 submission of Version 4.0. This makes it very difficult for the Board to provide helpful and reasonable requirements regarding the expectations of Version 4.0. To ensure these comments are carried forward, comments from this public review have been included in Revision A below to be addressed in CRP Version 4 or the applicable component-specific CRP.

- ***Revision A: Include a conformity table outlining how Arctic has addressed the following comments received in review of the CRP Version 3.1 with submission of CRP Version 4.0 or any component-specific CRPs, as applicable: ECCC comments 2-4; GNWT-ECC comments 2-9; IEMA comments 4, 5, 7-14, 16, 18, 22-24, 29, 30, 32, 33, 36, and 48-51; WLWB staff comments 14, 17, 18.***

Because of the scoped review, Parties did not assess the adequacy of the required revisions in Version 3.1. The Board notes that CRP Version 3.1 included 20 pages of conformity tables to address previous Board direction; however, many of the directions to be addressed in Version 3.1 only met conformity by deferring the content to be provided in a later submission (e.g., FCRP). Therefore, these revisions will need to be considered in Version 4.0 or a component-specific CRP, whichever is submitted first.

- ***Revision B: Include a conformity table in Version 4.0 or a component-specific CRP (whichever is submitted first) outlining how Arctic has addressed the requirements that were expected to be incorporated into Version 3.1.***

3.4.1 Closure Criteria

A Criteria Work Plan was required by the Board on February 19, 2020, to provide all Parties with an understanding of what additional work may be required to develop final criteria and to provide Parties confidence that the necessary work to develop closure criteria will be completed within an appropriate timeframe. A revised Criteria Work Plan was proposed in Appendix F of the CRP Version 3.1 to clarify the steps and timeframe by which final closure criteria will be developed. Arctic stated that it is currently implementing the Criteria Work Plan.

In its April 19, 2023 Letter which defined the scope of the public review, the WLWB identified the lack of progress associated with closure criteria:

Based on the conformity table and proposed revisions received to date, it appears many WLWB directions to advance the level of detail are being deferred to be addressed in future submissions. For example, the Board's July 28, 2022 decision required many revisions to the proposed closure criteria and required Arctic to finalize closure criteria for any mine component associated with an area of the mine where mining has ended or will be completed by December 2024. No final closure criteria were proposed in Version 3.1, instead the Criteria Work Plan was updated to reflect a commitment to advance criteria in the next submission. As such, it appears that Version 3.1 does not propose significant advancement to that previously considered by the Board.

The Criteria Work Plan proposes that most final criteria will be proposed in the FCRP or relevant component-specific FCRPs. Many Parties identified that advancement of closure criteria should be prioritized and numerical criteria should be proposed sooner than planned (ECCC comments 5 and 6; TG comment 2; IEMA comment 37; GNWT-ECC comment 10). The Tłıchq Government stated that the Criteria Work Plan should be brought to a level where it can be approved as soon as possible and stated that it would be reasonable to aim to have an approved set of closure criteria (except for a few that may need more research) some time in 2025 (TG comment 2).

In the Criteria Work Plan for SW-10 (water and sediment quality), Arctic describes why it is not proposing numeric criteria at this time:

Establishing closure criteria too far in advance of the closure phase would result in duplication of effort (i.e., updating closure criteria with every re-evaluation of the AEMP), put an unnecessary burden on the proponent, and not yield any added value compared to establishing closure criteria in a more appropriate timeframe (i.e., closer to closure).

The Board cautions that advancing engineered designs without approved closure criteria or direction on proposed criteria has the risk of wasting time and money. In addition, the Board notes that waiting to propose criteria for the first time "closer to closure" has a significant risk of delaying timelines. It is acknowledged that closure criteria proposed prior to an FCRP may be iterative in nature and may be updated as additional evidence is available. Proposing closure criteria earlier allows Parties to comment

on the criteria themselves and also the process by which the Company has used to determine proposed numeric criteria. ***Waiting until the FCRP to propose closure criteria (i.e., that meet the definition as defined in the LWB guidelines) is not acceptable.***

The Board believes that the timeframes proposed to develop criteria (i.e., many in FCRP) does not allow for the Criteria Work Plan to be approved at this time. The Board agrees that the advancement of final closure criteria for Pigeon should be prioritized and offer an opportunity to apply those learnings to the rest of the Ekati site. Given the two-year timeline prior to submission of Version 4.0, the Board has determined that it is reasonable that Arctic can engage upon and provide interim closure criteria for all objectives to be proposed in Version 4.0 in consideration of its learnings from the Pigeon FCRPs.

- ***Decision #6: Require all closure criteria be proposed in Version 4.0. Interim criteria should be consistent with the LWB Guidelines and at minimum be advanced to propose the specific approach to develop numeric criteria.***

In CRP Version 3.1, Arctic commits to providing status updates on progress against the Criteria Work Plan in the Annual Progress Reports. The Board agrees and has captured this as a direction to allow for transparency of closure planning progress.

- ***Decision #7: Provide status updates on progress of the Criteria Work Plan in the Annual CRP Progress Reports***

3.4.2 Reclamation Research

The Closure Guidelines describe that an interim CRP should identify important uncertainties and indicate how each uncertainty will be addressed—whether through specific reclamation research (including Traditional Knowledge research), an engineering study plan, or other means. The Closure Guidelines state:

Reclamation research is undertaken to address uncertainty and answer questions related to environmental risk. Because of the importance of this research in determining appropriate, site-specific closure options, activities, and criteria, it is imperative that reclamation research be completed in a timely manner, prior to mine site closure.

The Board has approved reclamation research plans in the past to give the proponent confidence that the approach to addressing uncertainties is supported by the Board.

In consideration of Version 3.0, the Board did not approve Research Plans related to wildlife (RP1) and WRSAs (RPs 4, 5, and 6). Additional engagement was required to inform the resubmission of research plans, however, this engagement was not completed due to the wildfires and evacuation.¹⁴ This engagement will likely result in an update to RP(s). RP-6 has since been removed as it was specific to the Jay Project.

¹⁴ Response to Decision V of the Boards' July 28, 2022 Reasons for Decision

Only IEMA and Board staff provided specific comments on the content of the proposed Research Plans. The Tłı̨chq̓ Government stated that all Research Plans should be brought to a level where they can be approved as soon as possible, however, it was unclear what specifically it thought was lacking (TG comment 2). Generally, it appears Arctic did not disagree with the recommendations and proposed that they be addressed in later submissions (IEMA comments 42-46; WLWB staff comments 11 and 16). The Board believes these suggestions seem reasonable, most are administrative in nature, and Arctic should not wait for a future submission to implement those suggestions with implications to research (IEMA comment 45).

In response to WLWB staff comment 11, Arctic described that the schedules contained in Appendix E are based on an older iteration of the life-of-mine (LOM) plan and that this content will be addressed as part of the next update of the ICRP. Arctic has described that many Research Plans should be completed prior to the submission of Version 4.0 (response to WLWB staff comment 11), so the Board notes that the timing of this update would be unhelpful. It is important that the reclamation research schedule provides the Board and Parties confidence that the necessary research is completed within an appropriate timeframe to inform closure planning. It is clear that the RPs require updates to address comments and current LOM timelines (IEMA comments 42-46; WLWB staff comments 11 and 16). It is also anticipated that RP-1 will require updates following the directed engagement (Decision V of the Boards' July 28, 2022 Reasons for Decision). It is unclear whether another review of these Research Plans is the best use of time. The Board wants Arctic to focus its time and resources on advancement of near future progressive reclamation and the development of closure criteria, and is therefore not requiring updated Research Plans be required at this time.

Multiple comments received were surrounding research associated with WRSAs and the Waste Rock Risk Assessment Framework (WRAF). Arctic described its plans with respect to progressing the WRAF in response to WLWB staff comment 29:

Burgundy will not prepare a complete side-wide WRAF again. Burgundy will complete thermal and seepage modelling for each waste rock storage area as they become available for closure. This work will be conducted in conjunction with the development of final component-specific criteria and the component-specific FCRPs.

The Board notes that there were several directions in the previous closure decisions with respect to future updates to the WRAF. The Board supports thermal and seepage modelling being completed for each WRSA if it's completed prior to the submission of a component-specific FCRP to inform closure criteria and final designs. The use of thermal and seepage modelling to inform closure criteria and cover designs can be evaluated in review of the Pigeon WRSA FCRP and these learnings applied to other WRSAs. Arctic should ensure that the necessary monitoring to inform this update is being completed for all piles. Revision 39 of the Board's July 28, 2022 Reasons for Decision, required the Licensee to identify which WRSAs will have additional thermistors installed, and to estimate the number and location of thermistors to the extent possible. In response, Arctic stated that thermistors would only be required where freezing is necessary to achieve closure objectives. Decision L of the WLWB's February 19, 2020 Reasons for

Decision states "If Dominion wishes to remove the closure objectives to freeze PAG rock without addressing freezing in a closure activity and/or closure criterion, Dominion must better demonstrate that freezing is not necessary by modelling a thawed scenario for all WRSAs." In its July 2021 Decision on closure objectives, the WLWB stated that WRSAs may rely on permafrost as a method to manage seepage water quality from the WRSA and concluded that that this aspect could be addressed with closure criteria. In Version CRP 3.1, although monitoring associated with WR-1 includes thermal instrumentation monitoring, no objective, criteria, or thermal modelling appear to be provided to address the WLWB direction. In response to WLWB staff comment 27, Arctic described that freezing may not be necessary to achieve closure objectives and proposed that the Pigeon WRSA FCRP will discuss a fully thawed WRSA scenario and the appropriate mitigation measures. **The Board reiterates Decision L of the WLWB's February 19, 2020 Reasons for Decision to be addressed in future CRPs if no freezing-associated closure criteria are proposed.**

In addition, Arctic described that it will not install further thermistors at Misery because the Board has communicated "that there is no requirement to reinvestigate Misery" (response to WLWB staff comment 28). It is unclear where Arctic believes this communication exists. **The Board suggests that Arctic review the February 19, 2020 Reasons for Decision, specifically Revisions 29 and 39 and address as part of Revision B above.**

In addition, IEMA and Board staff asked about Effective Neutralization Potential (ENP) and whether this work would be best captured by a Research Plan (EMAB comment 45; WLWB staff comment 30). Arctic described that:

A final ENP Report is currently being developed for submission in Q1 2024 and the findings of this report and the results of the ENP kinetic testing program will be used to make final recommendations as to the implementation of a calculation-based correction factor for metasediment samples. This factor will correct for analytical bias resulting from the presence of Mg-silicate minerals, which will allow for more accurate interpretation of the NP/AP ratio. However, implementation of this factor will not change the mine waste management protocols for metasedimentary rock during operations. The WROMP conservatively designates all metasedimentary waste rock as PAG, regardless of NP/AP ratio.

If applicable, the results of the ENP Report will be considered and incorporated into final seepage prediction models for the Pigeon WRSA FCRP. Utilization within component specific WRSA modelling for FCRP development will be more valuable than further advancement of the program through an RP.¹⁵

It is unclear with what submission Arctic intends to submit the results of the ENP study. The Board supports the utilization of the ENP program in component-specific WRSA modelling and has determined

¹⁵ Response to WLWB staff comment 30

that consideration and incorporation of these results into the Pigeon WRSA FCRP will be important to understand how Arctic plans to utilize these results site-wide.

- ***Revision C: In submission of the Pigeon WRSA CRP, Arctic is to discuss the consideration and incorporation of the results of the Effective Neutralization Potential kinetic testing program into the proposed Design and proposed closure criteria.***

Water Licence W2022L2-0001 introduces a new requirement related to reclamation research. Part K, Condition 5 requires the Licensee to submit a Reclamation Research Report every three years following the commencement of Reclamation Research, or as directed by the Board. The LWB Standard Water Licence Conditions Template describes that the purpose of the Reclamation Research Report is to inform revisions to the CRP and the timing of submission is intended to align with required updates to the CRP.¹⁶ To allow for research results to be considered with the FCRPs for progressive reclamation, the Board has determined that a Reclamation Research Report should be submitted to support the Pigeon FCRPs. Since Arctic proposes to submit two FCRPs for the pigeon Development, each FCRP should be accompanied by a Research Report to include relevant research or be preceded by it.

- ***Decision #8: Require submission of a Reclamation Research Report(s) with the Pigeon FCRP(s). Each FCRP should be accompanied by, or preceded by, a Research Report that includes relevant research to support the FCRP.***

In addition, given the expectations for significant advancement of both research and incorporation of research into the FCRP Version 4.0, a Reclamation Research Report should be submitted with the CRP Version 4.0.

- ***Decision #9: Require submission of a Reclamation Research Report with the CRP Version 4.0.***

3.4.3 Expectations for Future Submissions Related to Progressive Reclamation

Table 6.2-1 of the CRP Version 3.1 includes the schedule for progressive reclamation of mine components Closing before 2024. IEMA described that this table provides a useful understanding of considerations and plans for progressive reclamation (IEMA comment 35). IEMA suggested the Annual CRP Progress Reports should include clear reporting about progress of progressive reclamation activities, specifically providing comparison with the schedule included in Table 6.2-1, and rationale for delays in implementing specific activities. The Board agrees that this improved reporting will help Parties and the Board understand how progressive reclamation is being prioritized and provide additional transparency regarding progress of closure planning until Version 4.0 is submitted.

¹⁶ See LWB Policies and Guidelines for LWB Standard Water Licence Conditions and Schedules - Version 2.0 ([.word](#)) ([.pdf](#)) (2023).

- **Decision #10: Require reporting on the progress of planned progressive reclamation in the Annual CRP Progress Report. This is to include rationale for changes to the schedule included in Table 6.2-1 of CRP Version 3.1.**

Arctic has proposed that component-specific FCRPs for the Pigeon Open Pit and WRSA will be submitted in advance of the CRP Version 4.0. The Closure Guidelines describe the Boards' expectations for a final closure plan.¹⁷ During the public review, Board staff asked Arctic whether the Pigeon FCRP submissions will meet the requirements of an FCRP as outlined in the LWB Closure Guidelines (WLWB staff comment 8). In response, Arctic did not directly answer the question but stated that final CRPs will include final criteria, closure modelling, and the Pigeon WRSA cover design. The Board believes that the expectations outlined in the guidelines should be explicitly addressed in the submission and Arctic should demonstrate that applicable research and engagement are complete and support the final design.

- **Revision D: All final component-specific CRPs are to include a conformity table that identifies how the submission aligns with the requirements for a final CRP (pp. 24-25 of Closure Guidelines). This is to include all applicable proposed final closure criteria (sitewide and component-specific).**

Pigeon Open Pit

Many of the comments received were with respect to numeric water quality criteria. Arctic has proposed that water quality criteria will be established on a component-specific basis and that the Pigeon FCRPs will be the first opportunity to propose numeric water quality criteria. While it may be appropriate to include component-specific considerations in the development of water quality criteria, the Board anticipates that consistency in the approach by which these criteria are developed is warranted and would allow for lessons learned from the Pigeon Pit FCRP criteria to be applied to Version 4.0. The Board notes that Ekati should consider feedback and direction provided to other Mines regarding closure criteria to understand the time and resources required to finalize closure criteria.¹⁸ The Board emphasizes that the sooner Arctic can propose interim criteria that propose the metric and process for evaluating the applicable closure objective, the better. ECCC, GNWT-ECC, and IEMA all emphasized that closure criteria related to water quality should be advanced earlier than proposed (ECCC comment 5; IEMA comment 37; and GNWT-ECC comment 10).

Arctic proposed to address recommendations with respect to the Pigeon pit in the Pigeon Open Pit FCRP.

¹⁷ [LWB Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories](#) (2013). Pg 24-25

¹⁸ See WLWB Online Registry [Diavik - WL Amendment - Decommissioning - RFD and Recommendation to the Minister - Mar 19 24.pdf](#); [Diavik - CRP - Version 4.1 - Reasons for Decision - Jun 10 21.pdf](#); [Diavik - Closure and Reclamation Plan Version 4.0 - Board Decision Letter and Reasons for Decision - Dec 17 18.pdf](#)

- **Revision E: Arctic is to address the following comments in the Pigeon Open Pit FCRP: ECCC comment 2; IEMA comments 14, 16, 17, 18, 19 and 21; WLWB staff comments 21, 24, 25, and 26.**

In addition to the component-specific FCRP, Part D, Condition 5 of Licence W2022L2-0001 requires Arctic to submit a Back flooding Plan for the Pigeon Pit prior to flooding. There is a relatively high percentage of metasediments in the Pigeon pit wall (i.e., 50% metasediment), which, if exposed to the atmosphere for an extended period, represents a risk to water quality. In its November 1, 2023 Reasons for Decision, the Board supported Arctic initiating back-flooding as soon as possible and determined that the Pigeon Pit does not require approval of a component-specific CRP prior to commencement of flooding.¹⁹ In response to WLWB staff comment 22, Arctic stated “flooding is unlikely to start in 2024 and will likely be delayed to 2025 to align with Water Licence approvals”. It is unclear what delays are necessary to align with the Water Licence. For clarity, the WLWB October 17, 2023 Recommendation to the Minister described that the caveat “or other Board approval” included in Part K, Condition 4 was intended to reflect these unique circumstances as per its November 1, 2023 Reasons for Decision. The Board reiterates the WLWB November 1, 2023 and February 19, 2020 Decisions that the Pigeon Pit does not require approval of a component-specific CRP prior to commencement of flooding and the Company should evaluate all options available to limit the time by which the metasediments will be exposed (e.g., duration of exposure, depth of cover, pit wall washing) in its proposed progressive reclamation (Revision #23 of February 20, 2023 Decision).

In its response to WLWB staff comment 24, Arctic described that Pigeon Pit Lake cannot be connected to the Receiving Environment until approved by the WLWB. The Board has determined that the Back-flooding plan should describe the monitoring and associated adaptive management to ensure that water levels are managed to ensure this. As previously communicated by the WLWB, Arctic is to submit the Back-flooding Plan as soon as possible.²⁰

- **Decision #11: Require submission of a Back flooding Plan for the Pigeon Pit as soon as possible to include:**
 - a) **The requirements of the WLWB’s November 1, 2023 Reasons for Decision;**
 - b) **The requirements of Licence W2022L2-0001 Schedule 3, Condition 1; and**
 - c) **Proposed adaptive management based on monitoring required by Schedule 3, Condition 1(h) that will ensure that Pigeon Pit Lake cannot be connected to Pigeon Stream until approved by the WLWB.**

¹⁹ See WLWB Online Registry for [Ekati - Fox and Pigeon Pit Backflooding Plans - Verison 1.0 - Reasons for Decision - Nov 1 23.pdf](#)

²⁰ See WLWB Online Registry for [Ekati - Fox and Pigeon Pit Backflooding Plans - Verison 1.0 - Reasons for Decision - Nov 1 23.pdf](#); [W2012L2-0001 - Ekati - ICRP Version 3.0 - Decision Letter and Reasons for Decision - Feb 19 20.pdf](#)

The Board's November 1, 2023 Decision also identified that it is unclear whether Arctic has authorization to construct the access road with the proposed route between Upper Exeter Lake and the existing LLCF perimeter road.²¹ Arctic is encouraged to resolve this as soon as possible.

Pigeon WRSA

Several of the comments made with respect to WRSAs could have implications to the advancement of the Pigeon WRSA Design. This includes consideration of landscape aesthetics, and thermal modelling and assumptions. In addition, Arctic committed to address several comments in the Pigeon WRSA FCRP submission (IEMA comment 28; WLWB staff comment 32). However, the Board believes consideration and engagement prior to the Final CRP is necessary.

In its comments on the CRP, IEMA recommended that Arctic develop Closure Criteria that define the expected outcomes for aesthetics and land use so that these can be used to make decisions about what types of reclamation activities are needed to achieve the aesthetic/land use Closure Objectives (IEMA comment 12). In response, Arctic said this will be addressed in Version 4.0, however, it is unclear whether it agrees with the proposed recommendation. As discussed above, applicable closure criteria should be proposed with the Pigeon FCRP(s). More specifically with respect to WRSAs, IEMA recommended that Arctic develop a closure plan that is consistent with current best industry practices for reclamation of waste rock storage facilities, including examining the smoothing and recontouring of slopes (IEMA comment 11). IEMA provided the following context for this recommendation:

Section 5.3.10 states that “the closure and reclamation plan works within the constraints of the permanent changes to the landscape to establish as natural an aesthetics that can reasonably be achieved suitable for cultural uses and wildlife uses, including caribou movement.” While permanent changes to the landscape are inevitable for a mining project the scale of Ekati, the proposed closure plan will not result in “as natural an aesthetics that can reasonably be achieved.”

Most notably, the plan to leave most WRSAs largely in their as-constructed state, with long angle of repose slopes separated by benches, will leave a landscape that is very far from any natural aesthetic. As summarized in Table 5-2, the proposed level of effort for reclamation of WRSAs has diminished since initial assessment and permitting for the mine. Initial plans envisioned sloping of the sides and establishment of vegetation. This progressed to no sloping and no vegetation, but establishment of access ramps on all WRSAs. The current proposal is further reduced to only consider access ramps for select locations. This minimalist approach to reclamation of WRSAs is not consistent with current best practice for mine reclamation and will leave many permanent structures that are in no way consistent with the natural landscape and will remain devoid of vegetation for decades and likely longer.

²¹ See WLWB Online Registry for [Ekati - Fox and Pigeon Pit Backflooding Plans - Version 1.0 - Reasons for Decision - Nov 1 23.pdf](#);

The Board notes that recontouring of slopes is an approved closure activity at the neighbouring Diavik site. Arctic has proposed engagement on WRSA Aesthetics for June 2024. However, it is unclear whether the scope of this engagement is intended to extend beyond wildlife ramps (response to WLWB staff comment 32). The Board has determined that engagement is required on the topics of WRSA smoothing and recontouring to inform submission of the Pigeon FCRP.

- ***Revision F: With submission of the Pigeon WRSA CRP, Arctic is to provide a discussion of engagement and feedback received regarding WRSA smoothing and recontouring and a cost-benefit analysis to support the proposed design if recontouring is not proposed.***

Research to inform uncertainties related to the Pigeon cover are conducted under RP-4. Although RP-4 is not approved, Arctic described that research associated with RP-4 is complete and a memo is currently being finalized (Response to IEMA comment 44). The Board emphasizes that the results of this research, and the seepage and thermal models for the Pigeon WRSA, should be provided as evidence to support the proposed cover design (see Decision #8 above). In addition, several comments and recommendations made in review of Version 3.1 should be addressed in the conformity of the Pigeon WRSA CRP.

- ***Revision G: Include the following with its the Pigeon WRSA FCRP:***
 - a) The results of Research Plan #4;***
 - b) The seepage and thermal model report; and***
 - c) A discussion of how the relevant engagement, research, and modelling was considered and incorporated into the proposed cover design and closure criteria.***

3.5 Security

Water Licence W2022L2-0001 requires \$311,280,383 be posted to reflect the total liability expected for the Ekati Mine site. Arctic did not provide an updated RECLAIM estimate with the CRP Version 3.1 and stated in its covering letter:

On 7 November 2022, GNWT submitted the request for a public review and update of the Ekati Diamond Mine reclamation security based on the current site-wide liability. Arctic Canadian provided all ICRP V3.1 security updates through that process for stakeholder review and Board consideration. Direction on security related items was made in the Board's 21 March 2023 Reasons for Decision. Outstanding items from Decision #3 were addressed in Arctic Canadian's response document submitted to the Board on 5 May 2023. There are no new items in the ICRP v3.1 that were not addressed by Arctic Canadian in the responses to the Board's decisions; therefore, there is no need for the RECLAIM estimate to go back out for review.

However, it is noted that in the Board's most recent consideration of security,²² Arctic was directed to provide all CRP decisions related to security with the CRP Version 3.1, or no later than May 20, 2023. It

²² See WLWB Online Registry for [Ekati - GNWT Request to Adjust Security - Reasons for Decision - Mar 21 23.pdf](#)

also does not appear that Arctic has advanced the issues identified in the Boards' February 19, 2020 Decision (i.e., Decisions P, Q, R, Revision 42) in this submission. The Board reiterates that not all of the February 19, 2020 directives were considered in the approved RECLAIM and are still considered outstanding.²³

In addition, the Board's November 6, 2023 Decision on the Point Lake WRSA Design Plan Version 1.1 and Seepage Prediction Report Version 1.1 required that Arctic submit an updated closure cost estimate and a cover alternatives analysis at a timeline determined by the WLWB through the CRP Version 3.1 review.²⁴ The Board noted that "seepage water quality from WRSAs must be safe for people, terrestrial, and aquatic ecosystems, and while closure water quality criteria have not yet been determined, the Board does not believe Arctic has provided adequate evidence to demonstrate that this closure objective will be achieved". At that time, the Board stated that it believed it is necessary to mitigate the uncertainty related to post-closure water quality in a timely manner. In response to WLWB staff comment 31, Arctic recommended this be provided with its future submission of the final cover design for the Point Lake WRSA that is required under the Water Licence (Part K, condition 12). Waiting until the end of Point Lake operations does not seem consistent with the Board's November 6, 2023 Reasons for Decision to address "uncertainty related to post-closure water quality in a timely manner". The Board has determined that this should be provided no later than December 31, 2024, with submission of the CRP Progress Report.

The Board recognizes that a RECLAIM submission is expected with the anticipated Licence Amendment for Sable Underground. Typically, the Board does not accept concurrent reviews of proposed adjustments to RECLAIM. However, it is anticipated that there will be little to no overlap in these security considerations and the Board does not want to delay consideration of the Point Lake alternatives analysis.

In response to recommendations regarding security made by IEMA (comments 2, 34, 40, and 41), Arctic reiterated that there are no new items in the ICRP V3.1 that were not addressed by Arctic in the responses to the Board's decisions and therefore no need to update to the estimate at this time. Arctic did not provide additional rationale why IEMA's specific recommendations were not applicable beyond the recent security consideration. The Board has determined that the items identified by IEMA can be addressed with the RECLAIM to be submitted with the Point lake alternatives analysis.

As identified by Arctic's response to IEMA, the text in section 10 of CRP Version 3.1 did not necessarily align with the approved RECLAIM (e.g., fuel reserves; IEMA comment 39). This should be revised in future submissions.

²³ See WLWB Online Registry for [W2012L2-0001 - Ekati - ICRP Version 3.0 - Decision Letter and Reasons for Decision - Feb 19 20.pdf](#)

²⁴ See WLWB Online Registry for [Ekati - Point Lake WRSA Design and Seepage Prediction Report - V 1.1 - Reasons for Decision - Nov 6 23.pdf](#)

- **Decision #12: With submission of the next CRP Progress Report which is due no later than December 31, 2024, Arctic is to propose a security adjustment supported by a RECLAIM estimate which addresses the following:**

- d) Point Lake cover alternatives analysis and the Board's November 6, 2023 Reasons for Decision;**
- e) All February 19, 2020 Decisions related to security; and**
- f) Response to recommendations made in IEMA comments 2, 34, 40, and 41.**

3.5.1 Winter Road Access Costs

On March 21, 2023, the WLWB sent an Information Request (IR) to the GNWT requesting expert input with respect to the consideration of winter access costs in the RECLAIM estimate for the Ekati Diamond Mine.²⁵ The GNWT responded on June 16, 2023 and updated its response on October 13, 2023 identifying information it required from the owners and operators of the Joint Venture Tibbitt to Contwoyto Winter Road (i.e., Diavik and DeBeers) to respond to the Board's IR.²⁶ On November 10, 2023, Arctic, DDMI, and DeBeers provided a joint response describing that they believe it would be inappropriate to apply the costs of constructing the current operation ice road to estimate costs of an ice road at closure:

We anticipate that the usage requirements of a winter road for a single mine reclamation project would be over an order of magnitude lower and result in an entirely different winter road construction and operation strategy. Conceptually, applying operational TCWR unit rates to this closure scenario is the equivalent of applying the unit rate cost to build and operate a 4-lane highway for one season as the cost basis to build and operate a single lane gravel road for one week.²⁷

On February 9, 2024, the GNWT updated its Response to IR which presents the options which GNWT considers to be the endpoints (lowest and highest) for estimating the closure liability for winter road construction.²⁸ Consideration for a phased approach is also outlined by the GNWT stating that this "could be flexible to recognize when one or more active mines are no longer part of the JVWR".

The GNWT stated that "The reclamation and closure plans for the individual diamond mines will require a review to determine the number of winter roads required for closure implementation; at minimum, one winter road is required for mobilization and one for demobilization." The Board agrees and believes that this information should be provided by the Company.

²⁵ See WLWB Online Registry for [Ekati - Security - IR to GNWT - Winter Access Costs - Mar 21 23.pdf](#)

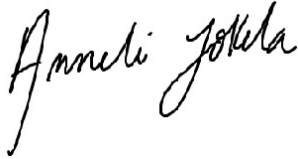
²⁶ See WLWB Online Registry for [Ekati - Security - GNWT IR Response - Winter Access Costs - Jun 16 23.pdf](#); [Ekati - Security - IR to GNWT - Winter Access Costs - Updated Response - Oct 13 23.pdf](#)

²⁷ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Response to IR - Winter Road Access - Nov 10 23.pdf](#)

²⁸ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Updated GNWT Response to IR - Winter Road Access - Feb 9 24.pdf](#)

- **Decision #13: Arctic is to propose costs associated with winter road construction in the submission required by Decision #12 above and engage with the GNWT and other Licensees as necessary.**

Signed the 12th day of April, 2024, on behalf of the Wek'èezhìi Land and Water Board



Witness



Mason Mantla
Chair, Wek'èezhìi Land and Water Board