

RECEIVED

By Manager of Licensing at 2:45 pm, Nov 01, 2011



**SCREENING DECISION REPORT
NIRB FILE NO.: 11RN017**

KIA File Nos.: KVRW11F01; KVCA11Q01

July 4, 2011

The Honourable John Duncan
Minister of Aboriginal Affairs and Northern Development
Executive Office
10 Wellington St.
Gatineau, QC K1A 0H4

Via email: duncan.j@parl.gc.ca and minister@inac-ainc.gc.ca

Mr. Joe Kaludjak
Interim President
Kivalliq Inuit Association
Rankin Inlet, NU X0C 0G0

Via email: joekaludjak@kivalliqinuit.ca

Re: Screening Decision for AEM “All-Weather Road” Project Proposal, NIRB File No. 11RN017

Dear Mr. John Duncan and Mr. Joe Kaludjak:

For the reasons set out in detail below, the Nunavut Impact Review Board (NIRB or Board) is recommending that Agnico-Eagle Inc.’s (AEM) “All-Weather Road” project proposal be returned to the proponent for clarification pursuant to **Section 12.4.4(c)** of the Nunavut Land Claims Agreement (NLCA).

LEGAL FRAMEWORK

The primary objectives that govern the functions of the Nunavut Impact Review Board (NIRB or Board) are set out in Section 12.2.5 of the Nunavut Land Claims Agreement (NLCA) as follows:

In carrying out its functions, the primary objectives of NIRB shall be at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area. NIRB shall take into account the well-being of the residents of Canada outside the Nunavut Settlement Area.

Further, Section 12.4.4 of the NLCA states:

Upon receipt of a project proposal, NIRB shall screen the proposal and indicate to the Minister in writing that:

- a) the proposal may be processed without a review under Part 5 or 6; NIRB may recommend specific terms and conditions to be attached to any approval, reflecting the primary objectives set out in Section 12.2.5;*
- b) the proposal requires review under Part 5 or 6; NIRB shall identify particular issues or concerns which should be considered in such a review;*
- c) the proposal is insufficiently developed to permit proper screening, and should be returned to the proponent for clarification; or*
- d) the potential adverse impacts of the proposal are so unacceptable that it should be modified or abandoned.*

PROCEDURAL HISTORY AND BACKGROUND

On February 6, 2011 the NIRB received AEM's All-Weather Road (AWR) project proposal directly from AEM (See Appendix A for a Project Summary). On February 16, 2011 the NIRB received a referral for screening from the Kivalliq Inuit Association (KIA) for a Land Use Licence III application associated with this project proposal. April 1, 2011 the NIRB received a positive conformity determination (Keewatin Regional Land Use Plan) from the Nunavut Planning Commission (NPC) for this file and commenced screening of the project proposal. The NIRB has assigned this project proposal file number 11RN017.

On April 7, 2011 the NIRB distributed this project proposal to community organizations in Arviat, Whale Cove, Rankin Inlet, Chesterfield Inlet, Coral Harbour, Repulse Bay and Baker Lake, as well as to relevant federal and territorial government agencies, and Inuit organizations. The NIRB requested that interested parties review the proposal and provide the Board with any comments or concerns by April 28, 2011 (later extended to May 6, 2011 upon request from the Government of Nunavut) regarding:

- Whether the project proposal is likely to arouse significant public concern; and if so, why;
- Whether the project proposal is likely to cause significant adverse eco-systemic and socio-economic effects; and if so, why;
- Whether the project is of a type where the potential adverse effects are highly predictable and mitigable with known technology, (providing any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On April 13, 2011 the NIRB sought advice and direction from the Nunavut Planning Commission in respect of the conformity determination that was provided to the NIRB on April 1, 2011 as the project appeared to involve the development of a transportation corridor. Specifically, the NIRB requested NPC's comments and advice on the conformity requirements of Section 5.7 of the Keewatin Regional Land Use Plan which states that the NPC and the NIRB

“shall publicly review the proposed corridor to determine whether the proposal adequately meets the requirements of Appendix I and the guidelines of Appendix J [of the Keewatin Regional Land Use Plan]”. On April 21, 2011 the NPC responded to the NIRB and advised the NIRB that they did not view the project proposal as constituting a transportation corridor, and consequently affirmed their original conformity determination.

On or before May 6, 2011 the NIRB received comments from the following interested parties:

- **Kivalliq Inuit Association (KIA)**
- **Government of Nunavut (GN)**
- **Indian and Northern Affairs Canada (INAC)**
- **Fisheries and Oceans Canada (DFO)**
- **Environment Canada (EC)**
- **Rankin Inlet Community Economic Development Officer**

On May 9, 2011, the NIRB provided an opportunity for the Proponent to respond to the concerns raised during the public comment period. The Proponent provided a response to concerns on May 24, 2011. On May 25, 2011 the NIRB requested that interested parties review AEM's Response to Comments and provide the Board with any final comments or concerns by June 6, 2011.

On or before June 6, 2011 the NIRB received comments from the following interested parties:

- **Government of Nunavut (GN)**
- **Indian and Northern Affairs Canada (INAC)**
- **Environment Canada (EC)**

On June 10, 2011 as a result of the comment submissions received, requesting additional information from the Proponent, the NIRB provided a final opportunity for the Proponent to address comments and provide clarification for the Board's consideration by June 20, 2011. Clarification was requested regarding a number of factors, including:

1. Substantively conflicting information as presented in the original proposal and subsequent submissions;
2. The analysis of the need for, and alternatives to, the project;
3. Road design and safety features; and
4. The relationship between road use and the development of the proposed mine

AEM's response to the NIRB was received on June 20, 2011.

PROJECT ACTIVITIES

AEM is currently proposing to develop a 27.4 kilometre (km) all-weather road (AWR) leading north-northwest from Rankin Inlet to the Meliadine Gold property, in order to support fuel delivery for AEM's ongoing underground exploration and bulk sampling project at the Tiriganiaq deposit. Currently permitted activities have been screened previously by the NIRB and include ongoing surface exploration, underground exploration and bulk sampling (NIRB File Nos.: 07EN044, 08EN043 and 10EA018).

Construction of the AWR would take place over the winter season from June 2011 to May 2012. Once constructed, AEM proposes to allow unrestricted public access to the road, and would also construct a spur road to Meliadine Lake to improve access for local residents carrying out recreational activities. Although the bulk sampling program is expected to conclude in 2013, should the proposed mining and milling development¹ be permitted to proceed, the all-weather road would be used throughout operations until 2026; therefore the requested term of authorization for the project is from 2011-2026.

The proposed project activities include:

- Development of a public all-weather access road connecting with an existing municipality road in Rankin Inlet and continuing to the Meliadine Gold property. The all-weather access road would follow an existing ATV trail for much of its length.
- Installation of road crossings over Char River, Meliadine River and 10 ephemeral streams and would include:
 - Replacement of an existing bridge across Char River with a single-span bridge
 - Construction of a single-span bridge across the Meliadine River. An ice bridge may be built to install the bridge girders in the Meliadine River
 - Construction of a single-span bridge across an unnamed ephemeral stream
 - Installation of stacked culverts at nine ephemeral streams
 - Abutments and ancillary facilities
- Development of a spur road off the all-weather road to Meliadine Lake to be used by residents for recreational activities. This section of road would be extended during future mine development to access the Discovery Gold Deposit;
- Development of multiple esker and rock quarries for construction and maintenance;
- Transportation of fuel during construction from either Rankin Inlet or the Meliadine Gold property to trucks and equipment working on road;
- Generation of wastes (combustible and non-combustible);
- Use of vans and/or pickups to transport personnel to work sites;
- Use of helicopters to transport personnel to the Meliadine Gold property;
- Use of existing Meliadine Gold camp facilities including fuel storage, explosive storage, accommodation and incinerator facilities; (commercial accommodations might also be used at Rankin Inlet); and
- After construction, the road would be inspected every 2 weeks during the summer periods for erosion.

All documents and materials submitted in support of the project proposal can be accessed online from the NIRB's ftp site using the following link:

<http://ftp.nirb.ca/01-SCREENINGS/COMPLETED%20SCREENINGS/>

¹ Received by the Board from AEM on May 4, 2011, the NIRB commenced screening AEM's "Meliadine Gold" mining and milling development project proposal on June 8, 2011 following receipt of a positive conformity determination from the Nunavut Planning Commission. Screening of this file is currently ongoing and has been assigned NIRB File No. 11MN034.

COMMENTS AND CONCERNS

Prior to initiating screening of this project proposal, the NIRB received expressions of support for the project from several individuals and organizations, a *summary* of which follows:

Sarliaq Holdings Ltd.

- AEM is a committed company which has, in our opinion, already proven itself; it simply needs to move to next phase which will reduce costs, address some safety and logistical concerns and at the same time provide benefits to our residents all the while conforming to the NIRB requirements. We believe this is an advantageous situation for everyone.

Saviq Inc.

- We at Saviq Inc. fully support this project and our families feel that this road, and its early construction, will not only benefit the project but also the people of Rankin Inlet as a means of access to hunting, fishing and family camping grounds.

Sakku Investments Corp.

- Road access will dramatically assist the development timeline of this project, which is expected to unlock significant business and employment opportunities for our Kivalliq economy. We understand that NIRB will still conduct a thorough environmental assessment of the Meliadine Gold Project. We support this process. However early approval of the road will provide mutual benefits for Agnico-Eagle and the business community of Rankin Inlet.

The Honourable Lorne Kusugak, MLA for Rankin Inlet South and Whale Cove

- As you are no doubt aware, when properly considered access roads can open up areas providing easier access to hunting and fishing for the residents. In this particular case the proposed route would formalize current trails and provide an extended route.

The Honourable Tagak Curley, MLA for Rankin Inlet North

- Please be assured that, in my view, the early construction of the access road for the current exploration program will not compromise the NIRB environmental assessment for the full development review process and plan to be submitted in near future.

Kangiqliniq Hunters and Trappers Organization

- During consultations with Agnico staff, the Board raised concerns with the Meliadine River crossing and the proposed bridge design but to our knowledge these concerns have been addressed with engineering changes. The Board has been assured that it will continue to be consulted as the project progresses therefore it feels comfortable in providing its support for this phase of the project.

The following is a *summary* of the comments and concerns received during the public commenting period for this file. Please note that the complete letters of support and comment submissions have been enclosed in a separate attachment and can also be accessed from the NIRB's online registry: <http://ftp.nirb.ca/01-SCREENINGS/COMPLETED%20SCREENINGS/>

Fisheries and Oceans Canada (DFO):

- If the plans in the DFO Operational Statement titled “Clear Span Bridges” are followed and AEM follows points below, the proposed project may go ahead without a formal approval from DFO

Environment Canada (EC):

- Encourage the NIRB to consider the direct and cumulative regional impacts of the project taking into consideration the incremental increases in the activities currently being carried out as well as other activities that are reasonably foreseeable.
- EC is of the position that reviewing this project separately [from the mine proposal] will make it more difficult to develop a comprehensive understanding of the project’s overall effects. Future review of any related development proposal would need to fully consider the use and operation of the road within the scope of any new assessment
- Project-specific comments related to the need for an Abandonment and Restoration Plan as well recommendations related to quarrying and road construction activities.

Indian and Northern Affairs Canada/Aboriginal Affairs and Northern Development Canada (INAC/AANDC):

Advised that this project proposal is missing a significant amount of important information and identified deficiencies that required additional information, analysis or clarification. Points requiring clarification included:

- Discussion supporting the statement that the winter roads could not support the underground exploration and bulk-sampling
- Further information required regarding the load capacity for bridges and the width of the proposed road
- Clearly identify the purpose and planned use of the emergency airstrip
- Discuss and analyze the potential impacts to permafrost in rock quarries
- Discuss rationale to support the statement that the project will not impact terrain
- Explain or substantiate if the current assessment of metal leaching is adequate and how the use of a primary containment area can be used to estimate future results as there are no field tests available at this time.
- Clarify what the Primary Containment Area and the water bodies that will be used in monitoring the impact of the road
- Provide the monitoring plan for the road
- Describe the nature, duration and planning for water monitoring post-project and explain the appropriateness of the planned approach.
- Indicate what steps have been taken and/or plans made in cooperation with Government of Nunavut (GN) transportation officials to ensure that it undertakes appropriate planning of the road as there is public use of the road.
- Describe or analyze the potential for accidents or malfunctions of, or in relation to use of, the road and provide a thorough analysis of the potential for accidents and malfunctions, including identifying potential consequences and conceptual plans for avoidance of accidents and malfunctions, and response plans should they occur.

- Indicate any open sessions and describe any concerns raised as well as the results, conclusions or follow-up to these sessions.
- Broaden the analysis of cumulative effects to take into account other activities, including exploration activities and activities unrelated to the minerals sector.
- Should identify likely scenarios for operation and maintenance of the road both during and after its period of usefulness and assess those scenarios including the possibility of a need to decommission and reclaim the road should there be no subsequent operator such as the Government of Nunavut, the Hamlet of Rankin Inlet and the Kivalliq Inuit Association.
- Describe and/or provide evidence on how the road, as designed, will eventually be part of the Manitoba-Nunavut road to Chesterfield Inlet.

Government of Nunavut (GN):

Department of Culture, Language, Elders and Youth (CLEY)

- Recommend the NIRB determine the project is insufficiently developed pursuant to NLCA Section 12.4.4(c)
- Recommend that AEM complete an archaeological survey for the emergency airstrip, power lines and areas not covered in the 2010 field season, as well as completing a gap analysis for archaeology considering past, current and future development. It was further recommended that AEM assess its activities their effect on valued economic components as well as valued socio-economic components.

Department of Economic Development and Transportation (ED&T)

- Note that there is significant public support for this project and believes that the project will likely not cause any significant adverse effects as the area is used extensively by residents and the economic benefits to the community appear to be great.
- The road would support year-round economic activity in Rankin Inlet while alleviating the impact of ATV trails on the landscape with a single transportation link to areas of local importance. It is believed that the road between Rankin Inlet and Meliadine Lake is supported by the objectives of approved Government of Nunavut strategies.
- New project owners have looked at the results of the underground exploration and bulk sample and have decided an all-weather road is required for the project and an all-weather road can eliminate the timeline restrictions caused by a winter road, thus allowing the underground exploration and bulk sampling project to be completed sooner and more economically.
- Request clarification on the dates of operation (2011-2026) if the road is only proposed for the bulk sample. If additional project activities are proposed for beyond 2014, the presence and use of the all-weather road will be expected to be included in the environmental review of those additional activities (i.e., increased use, traffic volume, upgrades and timelines).
- Support of the road is largely contingent on the public access it enables between Rankin Inlet and Meliadine Lake and emphasizes that it is the proponent's duty to construct, maintain and operate the road in such a manner that it is safe for the public to travel upon.

Department of Environment (DoE)

- Recommend the NIRB determine the project is insufficiently developed pursuant to NLCA Section 12.4.4(c)
- It is unclear why the current proponent finds it necessary to construct an all-weather, permanent road. The materials submitted in the project proposal imply that the scale of the project maybe far beyond that expressed (i.e., future mine site; power lines; power plants; tank farms; and implying that the road will be a key feature in community infrastructure).
- DoE identified concerns with the minimal information that has been provided:
 - The source point of material for the road and associated topographic features (eskers, moraines) are utilized by wildlife for dens, nests, burrows and insect and predator avoidance and cannot be restored once removed. Construction of the road will damage the vegetation and at least alter local hydrology with can affect habitat quality
 - Aggregate sources are not all within the immediate vicinity of the proposed road and right-of-way, will there be tertiary access roads and what will their impacts be.
 - Project does not provide a clear indication on the intensity of the road by community members as well as how the road will contribute to future developments that have long term systemic impacts.
 - While recognizing there is public support for the road, concerns are also being expressed in reference to the scale of the project and its potential contribution to multiple large scale developments.
 - How was the Iqalugaarjuup Nunanga Territorial Park Master Plan considered in the planning of the road.

Kivalliq Inuit Association (KIA):

- Is in full support of the road as long as a thorough environmental review is completed taking into account all social and economic aspects of the proposed project.
- Would like clarification on the following:
 - Ensure that monitoring and management plans are developed for how ground ice will be dealt with when encountered, for issues related to metal leaching potential of road materials and for dealing with the impacts of snow build-up on the road.
 - Provide some detail on how the road design took into account historical and current snowpack data from the immediate area of the Meliadine Project site.
 - Include descriptions of the experience gained with operating the Meadowbank AWR and how they were incorporated into this project (i.e., design and maintenance of culverts, snow blockages, overflows and washouts at stream crossings).
 - Does the hydraulic analysis for the Meliadine River Bridge include peak high tides and ice bridging downstream of the bridge during the annual freshet?
 - Describe how the road is designed for caribou crossings/caribou friendly.

- Why were predatory animals not included as a valued ecosystem component?
- Complete water quality sampling prior to road construction

Hamlet of Rankin Inlet – Community Economic Development Officer:

- Feels that if the road is referred to a review the Meliadine project will fall behind at least a year and it will only hurt the residents of Rankin Inlet.

The following is a *summary* of the comments and concerns received during the final public comment period for this file:

Environment Canada (EC):

- Is of the opinion that the majority of the mitigation measures outlined by the proponent are sufficient. However, the following response was found to be unsatisfactory:
 - The proponent indicated that it was not possible in all cases to comply with EC's recommendation of a 100 m buffer zone between any quarrying and the normal high water mark of any water body. EC recommends that the Board require the proponent to provide the location of the quarries and the distances from the nearest water bodies in order to evaluate the potential risk to nearby water bodies.

Indian and Northern Affairs Canada (INAC/AANDC):

- Clarification still outstanding for the following information:
 - The request for additional information and analysis of the proponent's needs, the current preferred approach and the available alternatives was answered using limited additional information and no comparison of the impacts of each option.
 - Issues in regards to road design, construction and maintenance standards, traffic management, emergency response, snow clearing and the management of hazards, policing and by-law and other regulatory enforcement on the private road that is proposed to have unrestricted public use.

Government of Nunavut (GN):

Department of Culture, Language, Elders and Youth (CLEY)

- Notes that AEM has not yet submitted the gap analysis that was requested.

Economic Development and Transportation (ED&T)

- Is satisfied with the response by AEM and would like to confirm that the Government of Nunavut is to have no authority or responsibility for AEM's privately built and operated road. ED&T has no concerns at this time after reviewing what was submitted.

Department of Environment (DoE)

- Clarification is still outstanding for the following information:

- Cumulative effects of the road have not been evaluated.
- Reclamation and remediation of the road if the mining project is determined to not be viable.
- DoE is unclear concerning the caribou guideline mentioned in Part 1 of the proponent's response as DoE does not currently have a guideline dedicated specifically to the mitigation of impacts on caribou and caribou habitat.
- The current proposal does not adequately address the issues of traffic noise and dust issues related to the Iqaluqarjuup Nunanga Territorial Park Master Plan and would like to see enhanced noise reduction and dust suppression strategies in advance of project approval.

NIRB ASSESSMENT AND DECISION

After completing a review of the application materials received and taking into account the Proponent's responses to comments, concerns and requests for clarification, it is the NIRB's opinion that this project proposal is insufficiently developed to permit proper screening. The Board has identified a number of outstanding issues with this project proposal, including the following:

- Insufficient and conflicting information presented within and between the original proposal and subsequent submissions
- Insufficient evidence of the need for the project and insufficient consideration given to alternatives to the project
- Insufficient analysis of potential cumulative effects and separation from the mining development proposal
- Insufficient justification provided for proposing unrestricted public access and inadequate proposed measures for ensuring safe use and operation of all road users

The current proposal for the development of an all-weather road from Rankin Inlet to the Meliadine site is not an independent, standalone project proposal, as presented to the NIRB by AEM. The NIRB has previously screened surface exploration activities at the Meliadine site, underground exploration and bulk sampling, and extensions and amendments to the same; at the time the NIRB reviewed these projects, the project proponent (Comaplex Mineral Corp.) indicated that a winter road would be sufficient for carrying out the proposed activities. Although the proponent indicated it may assess the feasibility of an all-weather road to service the project in future, the Board screened the potential impacts of the underground exploration and bulk sampling projects on the basis of a proposed winter road, not an all-weather road.

The Board is also currently screening the mining and milling development proposal for the Meliadine Gold project (NIRB File No. 11MN034). It is AEM's contention that the AWR is required solely for carrying out a continued underground exploration and bulk sampling at the Meliadine Gold property and that potential future use of the AWR during mine development should be considered within a separate assessment of the mining and milling proposal, but the application contains insufficient detail to support the need for and alternatives to this AWR solely on the basis of its link to the underground exploration and bulk sampling projects as

currently understood by the NIRB. Reviewing the project proposal in context, it is the finding of the NIRB that the AWR proposal is inextricably linked to the proposed mining and milling development, and for the AWR project and mining and milling development to be considered separately would run contrary to the holistic approach in accepted impact assessment practice.

While recognizing that there is considerable public support for the development of an AWR from Rankin Inlet to the Meliadine Lake area, this in and of itself is insufficient to discharge the NIRB's responsibility for ensuring a thorough and complete assessment of potential impacts from this AWR project as currently proposed. Details regarding the design, construction and maintenance standards, traffic management, emergency response, snow clearing and the management of hazards remain outstanding. This is a particularly acute concern as the public will be given uncontrolled access to the AWR, but AEM has clarified that since the road is not a public highway, it is not being built nor designed in accordance with operational or maintenance standards that the GN may apply to public highways.

Planning for an all-weather road is a significant undertaking that must be done in such a way as to ensure the most efficient routing and design for present and future uses, as well as adequate design and operating measures to ensure the safety of all users, project personnel and the general public alike. In order to adequately assess the AWR project in its entirety, the NIRB must give due consideration to the public use of the AWR and to the AWR in the context of reasonably foreseeable future developments, including ensuring that proposed mine traffic, potential transmission lines, and spur roads are taken into account. In the Board's view, with many details regarding road design and safety measures still under development and subject to change, and insufficient detail supporting the AWR as necessary solely to service the underground and bulk sampling projects, the current AWR project proposal is insufficiently developed for the NIRB to complete the required assessment of all potential impacts from the AWR project.

RECOMMENDATION TO THE MINISTER

Owing to the nature of the project as currently presented as well as the outstanding information required for proper assessment, it is the opinion of the Board that there is insufficient information with which to make a determination under Nunavut Land Claims Agreement (NLCA) Section 12.4.4 (a, b, or d). After completing a review of all application materials received and taking into account the comments from the public as well as responses provided by AEM, it is the NIRB's determination that this project proposal is insufficiently developed to permit proper screening, and the project proposal should be returned to the proponent for clarification in accordance with **Section 12.4.4(c) of the NLCA**.

The NIRB is also currently screening AEM's mining and milling development proposal, the "Meliadine Gold Project" (NIRB File No. 11MN034), the scope of which includes operation of and extensions to the Meliadine AWR. It is the recommendation of the NIRB that construction of the AWR would more appropriately be considered within the context of the Meliadine Gold mining and milling development project proposal. Should the NIRB determine that the proposed mining and milling development requires review under Part 5 or 6 of Article 12 of the NLCA, consideration of AWR construction as a pre-development activity could be possible, pursuant to NLCA Section 12.10.2.

Validity of Land Claims Agreement

Section 2.12.2

Where there is any inconsistency or conflict between any federal, territorial and local government laws, and the Agreement, the Agreement shall prevail to the extent of the inconsistency or conflict.

Dated July 4, 2011 at Sanikiluaq, NU.



Lucassie Arragutainaq, Chairperson

cc: Honourable Denis Lebel, Government of Canada, Minister of Transport, Infrastructure and Communities
Honourable Lorne Kusugak, Government of Nunavut, Minister of Community and Government Services
Thomas Kabloona, Chairperson, Nunavut Water Board

Enclosed: Appendix A: Letters of Support and Public Comment Submissions