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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

Board-initiated Amendment to Security

February 26, 2024

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RE: Notice of the Nunavut Water Board's intention under s. 43(1)(b)(iii) of the NWNSRTA¹, to initiate Amendments to Type “A” Water Licence No: 2AM-DOH1335, Part C (Reclamation Security), issued to Agnico Eagle Mines Limited for the Hope Bay Project

Dear Parties:

The Nunavut Water Board (NWB or Board) is providing this Notice of Intention as required under s. 43.1(1) of the NWNSRTA to advise parties and the public that under s. 43(1)(b)(iii) of the NWNSRTA, the Board has determined that it is in the public interest for the Board to trigger on its own initiative specific amendments to terms and conditions in Type “A” Water Licence No: 2AM-DOH1335 (the Licence). The Board-initiated amendments are limited to amendments to the reclamation security addressed in Part C of the Licence, and reflect updated submissions provided by Agnico Eagle Mines Limited (Agnico Eagle or Licensee) on April 29, 2023 and May 24, 2023.

By way of background, the updated submissions were provided by the Licensee under Part J, Item 2 of the Licence, which requires the Licensee to submit an updated Interim Closure and Reclamation Plan, every 5 years from the date of issuance of the amended Licence, which was in December 2018:

The Licensee shall submit to the Board for approval in writing, every five (5) years following approval of the Amended Licence, an updated Interim Closure and Reclamation Plan, prepared in accordance with “Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories, issued by the Mackenzie Valley Land and Water Board (MVLWB) and Aboriginal Affairs and Northern Development Canada (AANDC) in 2013 (MVLWB/AANDC 2013) and consistent with the INAC “Mine Site Reclamation Policy for Nunavut, 2002”, including an updated reclamation cost estimate of the total mine closure restoration liability referred to in PART C, Item 5.”

¹ Nunavut Waters and Nunavut Surface Rights Tribunal Act, S.C. 2002, c. 10 (referenced as the Act or NWNSRTA).

In addition, on February 18, 2022, Agnico Eagle announced its decision “to place the Doris Mill into Care and Maintenance and suspend production of the Hope Bay Project”. On March 30, 2022, Agnico Eagle provided the Board with a formal written notice of Care and Maintenance for the Doris-Madrid operations as required under Part J, Item 4 of the Licence.

According to Part J, Item 6 of the Licence, “*The Licensee shall, should the Project remain, or be in Care and Maintenance, submit an updated estimate of total mine closure restoration liability, within twelve (12) months of entering Care and Maintenance and every three (3) years thereafter.*”

Accordingly, as required by both Part J, Item 2 and Part J, Item 6 of the Licence, on April 29, 2023, Agnico Eagle provided the NWB with a submission which included an Updated Closure Security Estimate for the Hope Bay Doris-Madrid Project. This submission included the following documents:

- Updated Closure Security Estimate – Nunavut Water Board Letter Document for Client Use (dated: April 28, 2023)
- Reclaim Security Update – Current conditions
- Reclaim Security Update – Life of Mine (LOM)

The NWB distributed these documents for review on May 1, 2023 and requested parties to submit their comments, concerns or information requests by June 1, 2023.

An additional submission was received from Agnico Eagle on May 24, 2023. This submission included the following documents:

- Basis of Estimate – Revision 1 (dated: May 19, 2023)
- Reclaim Security Update – Current conditions (Revision 1)
- Reclaim Security Update – Life of Mine (LOM) (Revision 1)
- Doris-Madrid Interim Closure and Reclamation Plan Comparison (dated: May 19, 2023)

The NWB distributed these documents on May 24, 2023, and extended the deadline for parties’ review of the documents to June 22, 2023.

Crown-Indigenous Relations and Northern Affairs Canada (CIRNA) requested an extension on June 29, 2023, and submitted their information requests on August 18, 2023. CIRNA, in their submission, included CIRNA’s independent estimate of the costs associated with the clean up of the project as it currently exists and, the Life of Mine (LOM) estimate, which is the cost calculated based on all planned mining activities having already been undertaken.

There were differences in the estimates provided by Agnico Eagle (in collaboration with Nunami Stantec and the KIA) and CIRNA. Agnico Eagle, in their September 11, 2023 submission, requested to review the detailed estimates developed by CIRNA in order to understand these

differences. CIRNA submitted their detailed estimates on September 17, 2023. The NWB encouraged parties to have discussions and advise the NWB once a resolution was reached.

On November 15, 2023, Agnico Eagle responded to the NWB stating that they had discussions with CIRNA and had agreed the total security amount to be held under the Licence should be increased to \$72,907,727 (seventy-two million, nine hundred and seven thousand, seven hundred and twenty-seven). On December 12, 2023, CIRNA provided their submission confirming that “*AEM and CIRNAC have come to the agreement that the security held should be \$72,907,727.*”

On December 12, 2023, the NWB requested by email that the KIA advise the Board whether or not it agrees with the proposed increase to the security amount. On February 6, 2024, the KIA sent an email correspondence stating that “*KIA had participated in the update of the security amount and is aware of the agreement between AEM and CIRNAC.*”

Copies of the comments received from Intervening parties, submissions from the Licensee, and all documents associated with the future potential Amendment have been placed in the Board’s Public Registry and made available through the NWB’s FTP site using the following link:

<ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-DOH1335%20AEM/3%20TECH/C%20SECURITY/2023>

On February 23, 2024, the Board’s duly appointed three-person decision-making panel for the Licence (Doris-Madrid or P7 Panel) met by teleconference to consider whether it was in the public interest to initiate amendments to Part C of the Licence. By way of Motion No: 2023-15-P7-03 the P7 Panel decided that it is in the public interest for the Board to initiate these amendments. Further, by Motion No: 2023-15-P7-04 the P7 Panel delegated to the staff the authority to conduct a teleconference Technical Meeting with interested parties to discuss the amendments.

NWB Notice of the Board’s intention to initiate amendments to Part C (reclamation security) of the Licence

As outlined above, and in accordance with s. 43.1(1) of the *NWNSRTA*,² by way of this correspondence, the Board gives notice of its intention to consider, on its own initiative, specific amendments to terms and conditions in Part C of Type “A” Water Licence No: 2AM-DOH1335 related to updated reclamation security held under the Licence.

The Board also provides the following procedural guidance for the **next steps** in the Board’s consideration of the Board-initiated Amendment:

² Section 43.1 (1) of the *NWNSRTA* states the following:

The Board shall give notice of its intention to consider, on its own initiative, the amendment of a condition of a licence under subparagraph 43(1)(b)(ii) or (iii)...by publishing a notice on its Internet site, in the public registry, in the Canada Gazette or in a newspaper or other periodical that, in its opinion, has a large circulation in Nunavut.

- The Board invites the Licensee and interested persons to submit any further submissions or presentation materials for the upcoming teleconference Technical Meeting (TM) to the Board no later than **March 15, 2024** (3:00 p.m., MST)
- The Board proposes that the Board staff will hold a Technical Meeting (TM) by teleconference sometime in the week of **April 8, 2024** (tentatively proposed for Tuesday, April 09, 2024).
- This Notice of the Board-initiated Amendment will also be forwarded to the council of each municipality in the area(s) most affected and Notice of the Amendment shall be published in a newspaper of general circulation in the area(s) affected or, if there is no such newspaper, in such other manner as the Board considers appropriate.
- In the week before the Technical Meeting, the NWB will issue correspondence that will confirm the date, format, Agenda and other relevant details for the TM.

It should be noted that as this Amendment may be characterized as: “an amendment to a type A licence that does not affect the use, flow or quality of waters or alter the term of the licence” the Board determined that, as provided for under s. 9 of the *Nunavut Waters Regulations*, SOR/2013-69, no public hearing is required before the Board’s decision-making Panel for the file can consider the Amendment and render the Board’s decision.

All submissions pertaining to this file should be provided to the NWB’s Manager of Licensing by email at licensing@nwb-oen.ca by Friday, March 15, 2024 (3:00 p.m., MST).

If you have any questions regarding procedural matters related to the file, please contact Richard Dwyer, Licensing Manager, at richard.dwyer@nwb-oen.ca or by phone at (867) 360-6338 (ext. 27).

For any technical inquiries, please contact Mohammad Ali Shaikh, Technical Advisor, at ali.shaikh@nwb-oen.ca or by phone at 867-360-6338, ext. 33, or Karén Kharatyan, Director of Technical Services, by e-mail to karen.kharatyan@nwb-oen.ca.

Sincerely,

NUNAVUT WATER BOARD

Stephanie Autut
Executive Director

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Cc: Distribution List – Hope Bay