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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

NWB File No: 2AM-MEA1526

December 17, 2018

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Subject: Notice of Application and Commencement of Technical Review of an Amendment to Type “A” Water Licence No: 2AM-MEA1526 Associated with the In-Pit Tailings Disposal Modification Proposal at the Meadowbank Gold Mine; Agnico Eagle Mines Limited

Dear Messrs. Quesnel, Vanengen,

On February 26, 2018, the NWB acknowledged receipt of the In-Pit Tailings Disposal Modification Proposal and advised Agnico Eagle Mines Limited (Agnico Eagle or the Applicant) that the Nunavut Water Board (NWB or the Board) would commence the NWB’s consideration of the In-Pit Tailings Disposal Modification request once the Nunavut Planning Commission (NPC) and the Nunavut Impact Review Board (NIRB) had completed their respective land use planning and impact assessment processes. The NWB’s initial direction, based on the information received with the request and the NWB’s review of the existing terms and conditions of the Type “A” Water Licence No: 2AM-MEA1526 was that Agnico Eagle’s request did not require an amendment of any specific terms and conditions in the Water Licence, and Agnico Eagle’s request would be processed as a modification to the existing Water Licence.

On March 22, 2018 the NPC indicated that the In-Pit Tailings Disposal Modification Proposal conformed to the Keewatin Regional Land Use Plan (KRLUP) but required NIRB screening under Article 12, Section 12.4.3 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)* and Part 3 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (NuPPAA). On June 18, 2018, the NIRB issued a Notice of Reconsideration, in support of the NIRB’s reconsideration of the Terms and Conditions of existing Project Certificate No. 004 under Article 12, Section 12.8.2 of the *Nunavut Agreement* and s. 112 of the NuPPAA, and started an assessment of the “In-Pit Tailings Disposal Modification” Proposal.

As Agnico Eagle had requested that the NIRB's assessment and the NWB's consideration of the In-Pit Tailings Disposal Modification Proposal be undertaken in a coordinated fashion, while the NIRB's assessment was ongoing, the NWB invited interested parties to conduct a review of the modification request and submit relevant comments to the NWB in August 2018. Following the receipt of the initial technical comments, additional information has been received from Agnico Eagle in response to parties' concerns, and several meetings have been held amongst the parties to resolve technical issues as the NWB's processing of the In-Pit Tailings Disposal Modification Proposal has continued. To date, comments have been provided to the NWB from the following parties:

- The Kivalliq Inuit Association (KIA);
- Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC);
- Environment and Climate Change Canada (ECCC);
- Fisheries and Oceans Canada (DFO); and
- Natural Resources Canada (NRCan).

On August 31, 2018, the NIRB concluded its reconsideration of the In-Pit Tailings Disposal Modification Proposal and issued the Reconsideration Report and Recommendations to the Minister of Intergovernmental Affairs, Northern Affairs and Internal Trade (Minister). On November 29, 2018, the decision of the Minister in response to the NIRB's Reconsideration Report and Recommendations was circulated by the NIRB. While largely accepting the NIRB's conclusions that the In-Pit Tailings Disposal Modification Proposal can be allowed to proceed to the licensing stage, the Minister stated the following:

The In-Pit Tailings Disposal Modification Project will be a significant modification of the Meadowbank Gold Project. This modification would alter the manner in which the project uses water and deposits waste, and eventually interacts with surrounding waterbodies. By definition, this significant modification was not part of—and significantly alters—the project that was before the Nunavut Water Board and the then Minister of the Department of Indian Affairs and Northern Development when the water license [sic licence] was issued on July 10, 2008. As such, the current licence does not authorize this undertaking, and I suggest that an amendment process is required under the Nunavut Water and Nunavut Surface Rights Tribunal Act.

As part of the integrated regulatory system established under the *Nunavut Agreement* and the relevant legislation, the NWB recognizes that the assessment/reconsideration process of the NIRB, including the Minister's decision and direction in response to the NIRB's Reconsideration Report and Recommendations, not only informs the NWB's subsequent licensing processes, but also acknowledges that ultimately the terms and conditions in water licences must be consistent with and implement the terms and conditions in the Project Certificates issued by the NIRB for a given project (as established under Article 12, Section 12.9.1 of the *Nunavut Agreement* and s. 136 of the *NuPPAA*). The NWB recognizes that implementing the Minister's additional term and condition in Project Certificate No. 004 may result in potential amendments to the existing

management plans and monitoring requirements of Water Licence No.: 2AM-MEA1526 and, also noting the Minister's conclusion that, in the Minister's opinion the changes proposed under the In-Pit Tailings Disposal Modification Proposal are not within the scope of the current Water Licence, acknowledges that it is now necessary to continue the processing of Agnico Eagle's In-Pit Tailings Disposal Modification Proposal as an amendment process.

On December 7, 2018, NWB hosted a teleconference attended by Agnico Eagle KIA, CIRNAC, DFO, ECCC, and NRCan where a discussion on the expedited licence amendment process took place. All parties agreed that since Agnico Eagle's request for the In-Pit Tailings Disposal Modification Proposal was received by the NWB in February 2018, considerable technical review and submission of supplemental information has already taken place. Recognizing that numerous opportunities for comment and reply, and resolution of outstanding technical issues have occurred, all parties were supportive of eliminating duplication in the Board's consideration of the amendment. Consequently, the Interveners and NWB discussed that upon the Board's receipt of Agnico Eagle's application for an amendment, the Board could forego the completeness check stage and immediately initiate a technical review period.

On December 17, 2018, Agnico Eagle submitted the water licence amendment application (the Application) to the NWB. Attached to this correspondence, please find the Notice of the Application associated with the amendment to Water Licence No: 2AM-MEA1526 to authorize the In-Pit Tailings Disposal Modification to the existing mining undertaking at the Meadowbank Gold Mine Project.

Copies of the comments received from intervening parties, submissions from the Applicant, and all documents associated with the Application received to date have been placed on 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-MEA1526%20Agnico/1%20APPLICATION/2018%20Amendment%20In-Pit/>

NWB Notice of Application and Commencement of Technical Review

In accordance with ss. 55(1) of the *NWNSRTA*, the **Board gives Notice of the Application** and invites interested persons to make representation to the Board no later than **January 17, 2019** (3:00 p.m., MST). Notice of the Application will also be forwarded to the council of each municipality in the area(s) most affected by the Application and 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. Parties are advised that the consequences of failure to respond are outlined in s. 59 and ss. 60(2) of the *NWNSRTA*¹.

¹ Section 59: In the circumstances described in paragraph 58(b), an applicant need not compensate the person under section 58 if the person fails to respond to the notice of application given under subsection 55(1) within the time period specified in the notice for making representations to the Board. Section 60(2) Subsection (1) does not apply in respect of a person referred to in that subsection who fails to respond to the notice of application given under subsection 55(1) within the time period specified in that notice for making representations to the Board.

By copy of this letter to the distribution list, all interested parties or persons are requested to complete a thorough technical assessment of the Application for the amendment to the Type “A” Water Licence No. 2AM-MEA1526, available from the NWB Public Registry or by directly contacting Jamie Quesnel or Ryan Vanengen, Agnico Eagle Mines Limited. NWB strongly encourages all parties to work directly with the Applicant to resolve remaining technical issues, keeping the NWB informed about all resolutions of issues. Parties are also reminded that as discussed during the December 7, 2018 conference call, and as set out in s. 9 of the *Nunavut Waters Regulations*, SOR/2013-69 a Public Hearing is not required for an amendment to a Type “A” Water Licence that does not “affect the use, flow or quality of waters or alter the term of the licence.” As parties expressed differing opinions during the call about whether s. 9 of the Regulations is applicable to the processing of the Application, parties are also invited to address this issue in the submission of their technical review comments to the NWB.

Next Steps in the Process

Shortly after the close of the technical review period and receipt of additional technical review comments, the Board will advise parties regarding the NWB’s next steps in processing the Application, including whether or not the Board will require some form of Technical Meeting / Pre-Hearing Conference, and/or Public Hearing.

All submissions pertaining to this file should be provided to the NWB’s Manager of Licensing by email to licensing@nwb-oen.ca prior to **Thursday, January 17, 2019 (3:00 p.m., MST).**

If you have any questions regarding procedural matters related to the file, please contact Richard Dwyer, Manager of Licensing at richard.dwyer@nwb-oen.ca or by phone at (867) 360-6338 (ext. 27). For any technical inquiries, please contact Assol Kubeisinova, Technical Advisor at assol.kubeisinova@nwb-oen.ca or by phone at (867) 360-6338 (ext. 31) or Karén Kharatyan, Director of Technical Services, by e-mail to karen.kharatyan@nwb-oen.ca.

Sincerely,

NUNAVUT WATER BOARD

Stephanie Autut
Executive Director

SA/ak/rqd

Cc: Distribution List – Meadowbank