



October 27, 2008

NIRB File No: 03MN107

Honourable Minister Strahl, PC., MP
Minister of Indian and Northern Affairs Canada
10 Wellington, 21st Floor
Gatineau, QC, K1A 0H4

Via email: strahl.c@parl.gc.ca

Dear Minister,

RE: Nunavut Impact Review Board Decision to Reconsider Term and Condition 32 of the Meadowbank Gold Mine Project Certificate No. 004

On September 12, 2008, the Nunavut Impact Review Board (NIRB or Board) received correspondence from the Hamlet of Baker Lake (Hamlet) requesting that the NIRB consider relocating access restrictions which are required along the All-Weather Private Access Road (AWPAR) from the Hamlet to the Meadowbank Gold Mine project site. The installation of locked gates at bridges 1 and 4 along the AWPAR are a requirement of Condition 32 of the Meadowbank Project Certificate (PC) issued by the NIRB December 30, 2006.¹ Accordingly, the NIRB has interpreted the Hamlet's request to be an application pursuant to Section 12.8.2 of the Nunavut Land Claim Agreement (NLCA) for the NIRB's reconsideration of Condition 32 of the Meadowbank Project Certificate (No. 004). Section 12.8.2 of the NLCA reads:

¹ 32. Cumberland shall operate the all-weather road as a private access road, and implement measures to limit public access to the road, including:

- a. The installation of locked gates at bridges 1 and 4;
- b. The posting of signs in English and Inuktitut at each gate, each major bridge crossing, and each 10 kilometres of road, stating that public use of the road is prohibited;
- c. The posting of signs in English and Inuktitut along the road route to identify when entering or leaving crown land;
- d. Prior to the opening of the road, advertise and hold at least one community meeting in the Hamlet of Baker Lake to explain to the community that the road is restricted to mine use only;
- d. [sic] Place notices on the radio and television to inform the residents of the Hamlet of Baker Lake that the road is restricted to mine use only;
- e. Require all mine personnel using the road to monitor and report unauthorized non-mine use of the road, and collect and report this data to NIRB one (1) year after the road is opened and annually thereafter; and
- f. Report any information received, including accidents or other safety incidents on the road, including the locked gates, to the GN, KivIA, and the Hamlet immediately, and to NIRB annually.

NIRB may on its own account or upon application by a DIO, the proponent, or other interests, reconsider the terms and conditions contained in the NIRB certificate if it is established that:

- a) The terms and conditions are not achieving their purpose;*
- b) The circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the certificate was issued; or*
- c) There are technological developments or new information which provide a more efficient method of accomplishing the purpose of the terms and conditions.*

Furthermore, in correspondence dated July 29, 2008, Agnico-Eagle Mines Ltd (AEM), the Proponent responsible for the Meadowbank Project and current holder of the PC, indicated that a road gate and gatehouse were installed and are currently in use at Km 5 of the AWPAP, beyond the last private cabin along the road right of way. The gatehouse is manned by an AEM employee while the AWPAP is being utilized for mine related traffic. On August 13, 2008, AEM formally requested that the Board reconsider Condition 32(a) of the PC pursuant to Section 12.8.2 of the NLCA. Consideration would be given to providing for the replacement of the two locked gates with the currently installed manned gatehouse.

On October 1, 2008, the NIRB requested comments from interested parties with respect to the Hamlet and AEM's request for the reconsideration of Condition 32 pursuant to Section 12.8.2. Copies of all comment submissions are available on the NIRB ftp site at:

<http://ftp.nirb.ca/MONITORING/03MN107-MEADOWBANK/01-PROJECT%20CERTIFICATE/FOLLOW-UP/CONDITION%2032/>

On October 14, 2008, the Kivalliq Inuit Association (KIA), after consulting with the local Community Lands and Resources Committee (CLARC) and AEM, advised the Board that the request meets the requirements of section 12.8.2(b) of the NLCA - that the circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the certificate was issued.

In correspondence dated October 15, 2008, the Department of Fisheries and Oceans (DFO) indicated that Condition 32 was drafted in such a manner as to mitigate those concerns identified through the extensive environmental assessment of the Meadowbank project. As such, DFO further requested that any reconsideration of Condition 32 take those issues identified through the NIRB's Part 5 Review of the Meadowbank Project into account.

After reviewing the requests from the Hamlet and AEM, and the comment submissions from various parties, including the CLARC remarks, NIRB has determined that:

- 1) The requirements of Section 12.8.2 (a), (b), and potentially (c), have been established; and,

- 2) The matter is of sufficient importance to the community of Baker Lake and the general public to exercise the Board's discretion pursuant to Section 12.8.2 to a reconsider Condition 32 of the PC.

The Board notes that a reconsideration of Condition 32 may also lead to the requirement for further amendments to other road related conditions in the PC.

The PC is the product of an extensive review process which provided opportunities for public comment through both written submissions and participation in the public hearings which took place in Baker Lake on June 6-7, 2005 and on March 27-29, 2006, respectively. Parties in attendance at these hearings included the Government of Nunavut (GN); federal government departments including Indian and Northern Affairs Canada (INAC) and the Department of Fisheries and Oceans Canada (DFO); the Kivalliq Inuit Association (KIA); and the Hamlet of Baker Lake. Members of the general public including residents of Baker Lake were also in attendance. The matter of public access to the road was a significant issue throughout the NIRB's review of the Meadowbank Gold Mine project. The importance of these issues was further highlighted by direction provided to the NIRB from then-INAC Minister Andy Scott². In correspondence dated September 7, 2005, then Minister Scott stated:

Pursuant to Section 12.5.1 of the Nunavut Land Claims Agreement, I would like to identify a particular issue for the Board to consider. An all-weather road of this scale would be the first of its kind in Nunavut. Given the fact that the road is connected to the community of Baker Lake, it is essential that the environmental and socio-economic effects of its construction, use and eventual abandonment, be fully considered as well as possible future options for the road.

Accordingly, the Board has determined that a public hearing in the Hamlet of Baker Lake is necessary to properly reconsider Condition 32. The Board further proposes that upon reconsideration, the Board issue a report with recommendations to the Minister for approval. Furthermore, and pursuant to Sections 12.8.4 and 12.5.4 of the NLCA, the Board requests that the Minister advise the Board of any priorities and reasonable time frames for this process, and also advise the Board of those or any other concerns with the proposed process as set out by the Board above.

If possible, the Board would like to have the Minister's comments, if any, by the end of this year 2008 as the Board will be issuing further procedural direction at that time regarding the upcoming 12.8.2 public hearing. Without making any final decisions on the matter, and subject to the Minister's comments, it is likely that the public hearing can be held early in 2009.

Finally, the Board notes that the Meadowbank Gold Project is the subject of a conformity determination pursuant to Article 11 of the NLCA and furthermore, that the NIRB initially proceeded on the basis of the Nunavut Planning Commission's (NPC) July 19, 2005 determination. Any change to this conformity determination as a result of a potential change in the nature of the road or its use will require attention from the NPC. The NIRB will forward to

² Correspondence dated September 7, 2005 from then-INAC Minister Andy Scott which provided direction to the NIRB regarding its Part 5 Review of the Meadowbank Project

the NPC all submissions it has received to date. The NIRB requests that the NPC provide the Board with advice or decisions it has on the matter of the AWPAP and conformity to the KRLUP. In due course, NIRB will send all parties any comments NIRB has on the effect, if any, of NPC's decision on the upcoming public hearing.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lucassie Arragutainaq', written in a cursive style.

Lucassie Arragutainaq
Acting Chairperson

cc:

GN Minister responsible for Environment
GN C&GS, ED&T
Hamlet of Baker Lake
AEM
NPC
Meadowbank Distribution List