



**NIRB File No.: 03MN107**

DFO File No.: NU-03-0191

*Fisheries Act* Authorization: NU-03-0190 & NU-03-0191.3

NWB File No.: 2AM-MEA0815

AANDC File No.: 5510-5-3

EC File No.: 4703 001 015 120

NRCAN File No.: F74222

September 26, 2013

To: Meadowbank Distribution List

*Sent via email*

**Re: Agnico-Eagle Mines Ltd.'s request for Amendments to its existing *Fisheries Act* Authorization NU-03-0190 and Authorization NU-03-0191.3**

Dear Parties:

On July 30, 2013 the Nunavut Impact Review Board (NIRB or Board) received correspondence from the Government of Canada's Northern Projects Management Office (NPMO) indicating that Agnico Eagle Mines Ltd. (AEM) recently requested amendments to its existing *Fisheries Act* Authorization NU-03-0190 – All Weather Private Access Road (AWPAR) and *Fisheries Act* Authorization NU-03-0191.3 for the Main Mine Site. Additional clarification regarding the type of amendments requested by AEM was provided to the NIRB by Fisheries and Oceans Canada (DFO) on July 31, 2013 and on September 6, 2013. Specifically, it is the NIRB's understanding that AEM has requested an amendment to the monitoring frequency as required by its *Fisheries Act* Authorization NU-03-0190 and a reduction to the existing letters of credit held by the Government of Canada from the currently held \$25.675 million to \$8.6 million as required by its *Fisheries Act* Authorization NU-03-0191.3. The formal request is available from the NIRB's online public registry at the following location:

<http://ftp.nirb.ca/03-MONITORING/03MN107-MEADOWBANK%20GOLD%20MINE/06-AUTHORIZATIONS/Fisheries%20and%20Oceans%20Canada/03-CORRESPONDENCE/>.

#### PROCESS OVERVIEW

The NIRB Project Certificate [004] issued for the Meadowbank Gold Project on December 31, 2006 was the product of the Board's extensive public review of the potential impacts associated with the project proposal filed by the original proponent of the project, Cumberland Resources Ltd. in March 2003. The NIRB's Review provided opportunities for public input through written submissions, community meetings and participation in a Public Hearing. The scope of the

NIRB's Review was based on the project as proposed in 2003 and as reviewed by the Board between 2003 and 2006. In order to determine the impact assessment requirements applicable to AEM's current amendment request, the NIRB is required to consider two possible avenues under the Nunavut Land Claims Agreement (NLCA).

If the NIRB determines that the proposed amendment is within the scope of the Meadowbank Gold Project as previously reviewed by the Board and as addressed by the existing terms and conditions of the NIRB Project Certificate [004], the amendment would be exempt from the requirement for screening by the NIRB as set out in Article 12, Section 12.4.3 of the NLCA:

*12.4.3 Any application for a component or activity of a project proposal that has been permitted to proceed in accordance with these provisions shall be exempt from the requirement for screening by NIRB unless:*

- (a) such component or activity was not part of the original proposal; or*
- (b) its inclusion would significantly modify the project.*

Alternatively, if the NIRB determines that the amendment request represents a significant change to the project as previously reviewed, the Board would also then evaluate whether the significant changes to the project warrant a formal reconsideration of the terms and conditions of the existing NIRB Project Certificate [004] pursuant to Section 12.8.2 of the NLCA:

*12.8.2 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.*

Given the integrated regulatory process established by the NLCA Article 12, Sections 12.10.1, DFO cannot approve the issuance of an amended licence until the NIRB has confirmed that the assessment provisions of Article 12 of the NLCA have been satisfied. In making its determination, the NIRB will work with the Proponent and parties to ensure its assessment requirements are satisfied as expeditiously as possible.

#### REQUEST FOR PUBLIC COMMENTS

By copy of this letter, the NIRB invites interested parties and agencies with jurisdictional authority and/or licences and approvals associated with the Meadowbank Gold Project to provide their comments to the Board with respect to AEM's proposed Authorization NU-03-0190 – AWPAP and Authorization NU-03-0191.3 on or before **October 10, 2013**. The Board requests that parties provide their views on the following points in particular:

- Whether or not the proposed amendments are within the scope of the project as originally reviewed by the NIRB in 2006 and as approved under the existing terms and conditions of the NIRB Project Certificate [004];
- Whether or not parties support the proposed decrease in the amount of credit held by the Government of Canada, with justification provided for the position taken;
- Whether or not the proposed amendments or the proposed decrease in amount of credit to be held trigger a requirement for a formal reconsideration of the terms and conditions of the NIRB Project Certificate [004] as set out in NLCA Sections 12.8.2 (a), (b), or (c) and, if so, which of the circumstances supporting reconsideration under the NLCA provides the basis for the reconsideration;
- Whether the proposed project amendments are likely to arouse significant public concern and, if so, describe the basis for the concern;
- Whether, if a reconsideration of Project Certificate [No. 004] is triggered under Section 12.8.2 of the NLCA, there are specific terms and conditions that should be reconsidered;
- Whether parties require additional information to support the consideration of the proposed amendment applications and the Board's request for comments; and
- Any matter of importance to the Party related to the amendment applications as presented by AEM that should be considered by the NIRB in making its determination.

In addition, by copy of this letter the NIRB is also requesting that DFO provide comment with respect to the following:

- In its opinion, would the requested amendments alter the initial impact assessment as presented throughout the NIRB's Review of the Meadowbank project from a fish and fish habitat perspective, and specifically, is DFO able to confirm that Authorization NU-03-0190 conditions 5.2.1<sup>1</sup> and 5.2.3<sup>2</sup> can be met with the proposed change of monitoring to every 5 years instead of every other year as originally required in the *Fisheries Act* Authorization;
- Confirm that AEM has sufficiently proven the successful utilization by Arctic grayling of all compensation features during the spawning and nursery periods (5.2.1);
- Describe DFO's expectations of AEM to monitor compensation features during operation periods when no monitoring would be conducted to ensure that these are functioning as intended (5.2.3); and
- For condition 5.2.2<sup>3</sup>, confirm that AEM has proven that the crossing structures along the AWPAP have not adversely affected upstream and downstream fish migrations.

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<sup>1</sup> 5.2.1 *The stability and successful utilization of all compensation features shall be assessed during the spawning and nursing period for Arctic grayling (Thymallus arcticus) according to the schedule in 5.2 above.*

<sup>2</sup> 5.2.3 *If at any time during the monitoring period, compensation features are not functioning as intended, measures shall be identified to reduce the risk of future failure and additional compensation shall be created to meet the No-Net-Loss guiding principle using an adaptive management approach.*

<sup>3</sup> 5.2.2 *Monitoring to assess if the installation of crossing structures has adversely affected upstream and downstream fish migration according to the schedule in 5.2 above.*

Please direct all forthcoming submissions to the Board via email at [info@nirb.ca](mailto:info@nirb.ca) or via fax to (867) 983-2594 on or before **October 10, 2013**.

Should you have any questions or require clarification regarding the NIRB's monitoring program for the Meadowbank Gold project, please contact the undersigned directly at (867) 793-4633 or [sgranchinho@nirb.ca](mailto:sgranchinho@nirb.ca).

Sincerely,



Sophia Granchinho  
A/Director, Technical Services  
Nunavut Impact Review Board

cc: Stéphane Robert, Agnico Eagle Mines Ltd.  
Kevin Buck, Agnico Eagle Mines Ltd.  
Johann Pélage, Northern Projects Management Office  
Elizabeth Patreau, Fisheries and Oceans Canada