



**NIRB File No.: 03MN107**

January 23, 2015

Stéphane Robert  
Manager Regulatory Affairs Nunavut  
Agnico Eagle Mines Ltd., Meadowbank Division  
P.O. Box 540  
Baker Lake, NU X0B 0C0

*Sent via email: [stephane.robert@agnicoeagle.com](mailto:stephane.robert@agnicoeagle.com)*

**Re: Next Steps for the NIRB's Reconsideration of Terms and Conditions Within Project Certificate No. 004 for AEM's Meadowbank Gold Mine Project**

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Dear Stéphane Robert:

By way of this letter, the Nunavut Impact Review Board (NIRB or Board) is advising Agnico Eagle Mines Ltd. and parties of the Board's determination under Article 12, Part 8, Section 12.8.2(b) of the Nunavut Land Claims Agreement (NLCA) that it is appropriate and advisable for the Board to reconsider the Terms and Conditions of Project Certificate No. 004 (the 'Project Certificate') issued by the NIRB December 30, 2006 for the Meadowbank Gold Mine Project (NIRB File No. 03MN107). The NIRB has also provided an update under separate cover to the Minister of Aboriginal Affairs and Northern Development (the Minister), allowing opportunity for the Minister to provide proposed priorities and timelines for the NIRB's reconsideration process if desired.

In making the Board's determination, the Board has concluded that:

- the changes to specific activities as proposed in AEM's July 28, 2014 Project Description as submitted to the Board are integrally linked to the Meadowbank Gold Mine Project as approved under Project Certificate No. 004, that it would not be appropriate to assess any potential ecosystemic and socioeconomic effects associated with these changes in isolation from the already approved Meadowbank Gold Mine Project, and that these effects are best addressed through reconsideration of the comprehensive terms and conditions of the existing Project Certificate No. 004; and
- the proposed project amendments have not, to date, been subject to impact assessment by the Board and also have not been subject to full technical review by the parties, public comment or approval by the various responsible authorities.

## PROCEDURAL HISTORY REGARDING THE RECONSIDERATION REQUEST

On July 28, 2014 the Nunavut Impact Review Board (NIRB or Board) received a project description from Agnico Eagle Mines Ltd. (AEM or Proponent) which outlined proposed changes to the Meadowbank Gold Mine and related amendments which may be necessary to the NIRB Project Certificate [004] (the 'Project Certificate') issued by the NIRB December 30, 2006 for the Meadowbank Gold Mine Project (NIRB File No. 03MN107). On September 4, 2014 the NIRB received a referral from Fisheries and Oceans Canada (DFO) to assess AEM's Application for *Paragraph 35(2) (b) Fisheries Act Authorization (Normal Circumstances)* as associated with the request to amend the Project Certificate. Furthermore, on September 18, 2014 the NIRB received a notification from the Nunavut Planning Commission (NPC) which indicated that the project as proposed would not require an NPC conformity determination and that all conformity requirements previously agreed to by the Proponent related to the Meadowbank Gold Project remain in effect.

On November 18, 2014 the NIRB distributed the project description to parties and agencies with jurisdiction, authority and/or licences and approvals associated with the Meadowbank Gold Project and solicited input by December 2, 2014 regarding the following:

- Whether the proposed changes, as presented in the request, meet the requirement for reconsideration as set out in the NLCA, Section 12.8.2 (a), (b), or (c), and if so, which provisions of the NLCA trigger the reconsideration;
- Whether, at this point the parties have identified any specific terms and conditions within the Meadowbank Project Certificate that would need to be reconsidered or amended to reflect the Vault Pit Expansion into Phaser Lake Project Proposal;
- Whether a reconsideration of the Project Certificate terms and conditions is likely to arouse significant public concern, and if so, a description of the basis for the concern;
- Whether parties have comments or concerns regarding the potential content and/or format of any update or addendum to the existing Final Environmental Impact Statement required to support the reconsideration of the Project Certificate; and,
- Any matter of importance to the Party related to the request to reconsider the terms and conditions of the Project Certificate by the NIRB.

On or before December 2, 2014 the NIRB received comments from the following interested parties with respect to the consideration of AEM's proposed Project amendment:

- Government of Nunavut
- Aboriginal Affairs and Northern Development Canada
- Environment Canada
- Fisheries and Oceans Canada
- Natural Resources Canada
- Transport Canada

On December 9, 2014 the NIRB also received a joint comment submission from Nunavut Tunngavik Incorporated and the Kivalliq Inuit Association.

On January 2, 2015 the NIRB issued correspondence to the Nunavut Water Board (NWB) requesting clarification on whether amendment(s) would be required to the Type A Water Licence (No. 2AM-MEA0815) in place for the Meadowbank Gold Mine Project to address the proposed works in the enclosed project description. The NIRB also issued correspondence on January 2, 2015 to DFO requesting clarification as to the scope of the current No Net Loss (NNL) plan for the Meadowbank Gold Mine Project in regards to potential impacts to Phaser Lake, especially as it relates to statements made within Nunavut Tunngavik Incorporated/Kivalliq Inuit Association's (NTI/KIA) December 9, 2014 comment submission and within AEM's project description. The NIRB further requested any additional information DFO considered to be pertinent to a consideration of the acceptability of the existing NNL plan and applicability of other requirements of the *Fisheries Act* to the proposed Project amendments.

On January 7, 2015 the NWB responded to the NIRB's request and confirmed that the additional activities as proposed would require an amendment to the current Type A Water Licence (File No. 2AM-MEA0815). Further, on January 7, 2015 DFO responded that although the current NNL plan accounts for offsetting in the event that Phase Lake is dewatered and meets Condition 5 of the *Fisheries Act* for the DFO Authorization (No. NU-03-0191.4), the potential impacts to Phaser Lake have not been assessed or authorized.

#### COMMENTS AND CONCERNS

The following Table 1 represents a brief *summary* of the comments and concerns received during the public commenting period on AEM's reconsideration request; please note that the original comment submissions are accessible online from the NIRB's public registry at the following address:

<http://ftp.nirb.ca/03-MONITORING/03MN107-MEADOWBANK%20GOLD%20MINE/01-PROJECT%20CERTIFICATE/AMENDMENTS/2014%20VAULT%20EXPANSION/03-COMMENTS/>.

**Table 1:**  
**AEM Reconsideration Request**  
**Summary of Key Comments, Concerns and Issues**

Party	12.8.2 Trigger	Amended Terms and Conditions	Public Concern	Suggested Format for Update/Addendum	Additional Issues
Nunavut Tunngavik Inc. and Kivalliq Inuit Association	(No) The proposed extension of Vault Pit into Phaser Lake is not a significant change to the approved project scope and is within the area of the existing production lease.				As long as current mitigation, monitoring and reporting are undertaken, overall, there should be no significant impacts to ecosystemic, socio-economic or archaeological components.
Government of Nunavut	No				Requires additional archaeological surveys and reporting mechanisms before recommendations can be made for the protection and management of heritage resources.

<b>Party</b>	<b>12.8.2 Trigger</b>	<b>Amended Terms and Conditions</b>	<b>Public Concern</b>	<b>Suggested Format for Update/Addendum</b>	<b>Additional Issues</b>
Aboriginal Affairs and Northern Development Canada (AANDC)	(Yes) 12.8.2 (b)	Identified some terms and conditions to be reconsidered or amended, but unable to provide further comment until a thorough environmental and socio-economic assessment of the proposed amendment has been conducted. In general, terms and conditions related to fish-out programs, monitoring plans, waste management plans, model development or closure plans would need to be reviewed and potentially amended.	Not enough information to determine the likelihood of significant public concern. Recommends community consultation activities be undertaken.	Addendum should clearly identify changes and should include, but not be limited to: project description, impact identification and predictions, significance determinations, and mitigation and monitoring plans.	Provide an information request stage in relation to the EIS document and technical review, technical meetings if required, and undertake a Public hearing.
Environment Canada (EC)	(Yes) 12.8.2 (b)	Recommends that # 49 be amended to include recommendations relating the proposed dewatering and the Proponent's fish-out program.	Recommends that additional community consultation be undertaken to determine if the reconsideration would be likely to arouse significant public concern.	Stand-alone document identifying and assessing all impacts, including changes to the impacts discussed in the existing FEIS associated with the proposal.	

Party	12.8.2 Trigger	Amended Terms and Conditions	Public Concern	Suggested Format for Update/Addendum	Additional Issues
Fisheries and Oceans Canada (DFO)	(Yes) 12.8.2 (b)	Recommends that consideration to # 48 and 49 be given to reflect the proposed activities regarding Phaser Lake.	Recommends that additional community consultation be undertaken to determine if the reconsideration would be likely to arouse significant public concern.	Stand-alone document, identifying and assessing all impacts, including changes to the impacts discussed in the existing FEIS associated with the proposal.	Provide an Information Request stage and technical meetings if necessary and undertake a Public hearing.
Natural Resources Canada (NRCan)	Within the context of NRCan's regulatory role pursuant to the <i>Explosives Act</i> no changes have been identified that would indicate a need for reconsideration pursuant to 12.8.2(a),(b) or(c) of the NLCA	#8, 15, 17, 18, 19, and 20 are of general applicability and may be sufficiently broad as to encompass the proposed changes.			Little information available on the geochemistry of the additional material to be mined and no information on hydrogeology or permafrost. Requests updated information to support conclusions related to potential impacts to permafrost, terrain stability and groundwater, as well as updated geochemical results.

Party	12.8.2 Trigger	Amended Terms and Conditions	Public Concern	Suggested Format for Update/Addendum	Additional Issues
Transport Canada (TC)	(Yes) 12.8.2 (b)	#14 may require reconsideration. A navigability assessment of Phaser Lake would need to be conducted to determine if the <i>Navigation Protection Act</i> (NPA) would apply.	Would need to review additional information regarding historical (traditional knowledge), current and future potential for navigation on Phaser Lake as part of the NPA assessment, to determine if significant public concern would be aroused.	Stand-alone document detailing the prospective changes to the project with coordinated references to specific portions of the original Final Impact Statement.	Provide an information request stage and technical meetings and undertake a Public hearing if necessary.

## BOARD DETERMINATION

Reflecting the Board's review of AEM's description of the Meadowbank Gold Mine, Project Certificate No. 004, the NIRB's Final Hearing Report for the Meadowbank Gold Mine Project,<sup>1</sup> and the comments and concerns received during the public commenting period regarding the changes required to accommodate the proposed activities, the Board has made the following determinations.

The proposed activities for the Vault Pit expansion are integrally linked to the Meadowbank Gold Mine Project as approved under Project Certificate No. 004. Reflecting this linkage, the Board has determined that any potential ecosystemic and socioeconomic effects associated with these changes are most appropriately assessed pursuant to NLCA Section 12.8.2. In making this determination, the Board has decided that the proposed activities do not constitute a distinct, stand-alone project that should be subject to a screening and review process separately from the Project as approved under Project Certificate No. 004.

The Board accepts the submissions of commenting parties and the Proponent in support of its request to the Board to reconsider the terms and conditions of Project Certificate No. 004, that the economic circumstances relating to the Project or the effect of the terms and conditions are now significantly different than were considered at the time the Board issued its Final Hearing Report and Recommendations in August 2006 and subsequently, when, as directed by the Minister of Indian and Northern Affairs (then INAC, now Aboriginal Affairs and Northern Development), the Board issued Project Certificate No. 004 on the basis of the Board's Report and Recommendations.

Reflecting these considerations, the Board finds that under Article 12, Part 8, Section 12.8.2(b) of the NLCA it is appropriate and advisable for the Board to reconsider the Terms and Conditions of Project Certificate No. 004 for the Meadowbank Gold Mine Project. The Board's reconsideration will determine whether the proposed Project amendments should be allowed to proceed and, if so, whether the wording of specific Terms and Conditions within the Project Certificate would require updating and/or inclusion of additional Terms and Conditions. The NIRB notes that based on comments received from Authorizing Agencies, the following terms and conditions, at a minimum, require reconsideration and possible amendment:

48. Cumberland shall demonstrate to the satisfaction of the DFO that the water management framework, including the embankment details and diversion ditch, will permit the maintenance of over-wintering fish habitat in Phaser Lake through the life of the Project.

49. Cumberland shall develop, implement and report on the fish-out programs for the dewatering of Second Portage Lake, Third Portage Lake and Vault Lake. This must be done in consultation with the DFO, Elders and the HTOs, and in a manner that optimizes the acquisition of northern fisheries science and augments baseline fisheries data to

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<sup>1</sup> NIRB File No.: 03MN107, Final Hearing Report for Cumberland Resources Ltd.s' Meadowbank Gold Mine Project, August 30, 2006.



support monitoring programs and the final design of fish habitat compensation for the Project.

#### NEXT STEPS IN THE NIRB'S RECONSIDERATION PROCESS

The NIRB is required to assess the environmental and socio-economic impacts associated with the proposed Project amendment for the Meadowbank Gold Mine Project. It should be noted that the scope of the reconsideration will be limited to reconsideration of those Terms and Conditions of Project Certificate No. 004 requiring amendment or addition to reflect the potential effects of the proposed Vault Pit expansion and will not involve the reconsideration of Project Certificate No. 004 in its entirety. To facilitate the assessment of this proposed Project amendment, the NIRB requests that AEM prepare a comprehensive addendum to the Final Environmental Impact Statement submitted in support of the NIRB's Review of the Meadowbank Gold Project<sup>2</sup> (FEIS Addendum), describing all aspects of the proposed amendments, including updates to relevant baseline data, impact predictions, proposed mitigation measures and monitoring plans and proposed community consultation as per the direction previously provided. The FEIS Addendum must also include a concordance table demonstrating compliance with the EIS Guidelines for the Meadowbank Gold Project (enclosed) and should be prepared as a stand-alone document capable of supporting an intervenor and public review, comment and assessment process.

Upon receipt of AEM's Final EIS Addendum, the NIRB will conduct an internal check of the submission for conformity with the EIS Guidelines. Should the NIRB determine the FEIS Addendum conforms with the EIS Guidelines, the Board will initiate a 90 day public review consisting of an initial 30 day information request period followed by a 60 day technical review period, as well as the facilitation of public information sessions in the potentially affected communities of Baker Lake and Chesterfield Inlet. The NIRB will also solicit public input into the need/utility in the potential scheduling of a meeting of technical experts (i.e. Technical Meeting) and the most appropriate format for a public hearing (written, teleconference or in person) in support of this reconsideration process.

Following the completion of the public review period and public hearing, the Board will prepare a report detailing its reconsideration and recommendations for the Minister of Aboriginal Affairs and Northern Development pursuant to NLCA s. 12.8.3. As with the Board's Review of the original Project, the NIRB remains committed to maintaining open communication and sharing of technical expertise with the Nunavut Water Board (NWB) throughout the reconsideration process in a manner that recognizes our respective jurisdictions, mandates and processes under the NLCA that also supports timely and efficient participation and collaboration.

In closing, the NIRB requests that AEM review the enclosed EIS Guidelines and provide a date for its anticipated submission of an FEIS Addendum to the NIRB at its earliest opportunity. Should AEM require direction regarding the applicability of specific requirements within the EIS

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<sup>2</sup> The Final Environmental Impact Statement for the Meadowbank Gold Project, NIRB File No. 03MN107, can be accessed from the NIRB's online public registry at the following address: [http://ftp.nirb.ca/02-REVIEWS/COMPLETED%20REVIEWS/03MN107-MEADOWBANK%20GOLD%20MINE/02-REVIEW/08-FINAL\\_EIS/](http://ftp.nirb.ca/02-REVIEWS/COMPLETED%20REVIEWS/03MN107-MEADOWBANK%20GOLD%20MINE/02-REVIEW/08-FINAL_EIS/)

Guidelines, or for any questions or clarification regarding the reconsideration process, please contact Heather Rasmussen, Technical Advisor and NIRB Monitoring Officer for the Meadowbank Project at (867) 983-4606 or via email at [hrasmussen@nirb.ca](mailto:hrasmussen@nirb.ca)

Sincerely,

A handwritten signature in black ink that reads "Ryan Barry". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Ryan Barry  
Executive Director  
Nunavut Impact Review Board

cc: David Hohnstein, Nunavut Water Board  
Meadowbank Distribution List

Enclosure (2): EIS Guidelines for the Meadowbank Project, (NIRB File No. 03MN107) – English  
EIS Guidelines for the Meadowbank Project (NIRB File No. 03MN107) – Inuktitut