



**NIRB File No.: 03MN107**

January 23, 2015

The Honourable Bernard Valcourt  
Minister of Aboriginal Affairs and Northern Development  
10 rue Wellington  
Gatineau, QC K1A 0H3

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**Re: The NIRB's Determination With Respect to Agnico Eagle Mines Ltd.'s Request to Reconsider Terms and Conditions in Project Certificate No. 004 for the Meadowbank Gold Project**

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Dear Mr. Bernard Valcourt:

By way of this letter, the Nunavut Impact Review Board (NIRB or Board) is providing an update to the Minister in relation to 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).

In addition, as set out in Article 12, Part 8, Sections 12.8.3 and 12.5.4 of the NLCA, the Board is also providing opportunity for the Minister to provide the Board with any proposed priorities and reasonable time frames considered appropriate for the Board's reconsideration of the Terms and Conditions of Project Certificate No. 004.

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 effects 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.

As with the Board's Review of the original Project, during the reconsideration process the NIRB is committed to maintaining open communication and sharing of technical expertise with the Nunavut Water Board (NWB) in a manner that recognizes our respective jurisdictions, mandates and processes under the NLCA that also supports timely and efficient participation and collaboration.

## LEGAL FRAMEWORK

As established under Article 12, Part 8: Flexibility in Relation to Certificates, where, as is the case with respect to the Meadowbank Gold Mine Project, the NIRB has issued a project certificate, changes may be considered by the NIRB in accordance with the following process:

*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.*

The Minister may also direct the NIRB to reconsider terms and conditions in accordance with Article 12, Part 8, Section 12.8.3:

*12.8.3 Where the Minister determines that any of the conditions in Sub-sections 12.8.2(a), (b) or (c) have been established, NIRB shall reconsider the terms and conditions contained in a certificate, and NIRB shall produce a report of its reconsideration. The Minister may accept, reject or vary that report only on the grounds specified in Section 12.6.13. NIRB shall amend its certificate to reflect any changes as accepted, rejected or varied by the Minister.*

As established under Article 12, Sections 12.8.4 and 12.5.4, regardless of whether the NIRB's reconsideration is initiated under Sections 12.8.2 or 12.8.3, with respect to the resulting reconsideration, the Minister may propose priorities and reasonable time frames for completion, as follows:

*12.8.4 For greater certainty, Section 12.5.4 applies to reconsideration by NIRB pursuant to Section 12.8.2 or 12.8.3.*

*12.5.4 The Minister may propose priorities and reasonable time frames for completion of the reviews.*

Given that the reconsideration request was initiated by AEM in its letter to the NIRB on July 28, 2014, the Board has undertaken its consideration of the request under the jurisdiction granted to the NIRB under the NLCA, Article 12, Part 8, Section 12.8.2.

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 Phaser 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.

All materials received and pertaining to AEM's Project amendment request, including submissions received in response to the Board's November 18, 2014 request for comments are available from the NIRB's online public registry at the following address:

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

#### PROPOSED CHANGES TO THE PROJECT

As reviewed by the NIRB, the Meadowbank Gold Mine Project involved the development of an open pit gold mine, consisting of three pits, approximately 70 kilometres (km) north of Baker Lake, with associated infrastructure to include a camp, airstrip, and an all-weather access road between Baker Lake and the Meadowbank mine site. Additional facilities included a bulk fuel storage facility and marshalling area, including barge facilities, 2 km east of Baker Lake.

In its July 28, 2014 correspondence to the NIRB and DFO, AEM proposed to expand the current Vault Pit operations into Phaser Lake – what AEM refers to as the proposed Phaser Pit. It noted

that Phaser Pit is proposed to form a small open pit mine that would extend from the southwest perimeter of the now active Vault Pit into the northwest perimeter of Phaser Lake. AEM has proposed that the development of this expansion would require that it begin to dewater Phaser Lake (estimated volume 700,000 cubic metres) in 2015 and remove fish from the lake, and that it complete the dewatering in 2016, with mining to commence in 2017.

AEM's proposal as filed also provided details regarding the proposed development, noting that equipment already in use for the Meadowbank mine would serve to facilitate the development of the Phaser Pit, and that the previously assessed waste rock storage and milling activities would not significantly change as a result of the proposed Vault Pit expansion into Phaser Lake. AEM has noted that the Phaser Pit would be anticipated to result in an additional recovery of 21,511 ounces of gold product after mining and processing of ore, and that the expansion would represent 210,026 tonnes of ore or 2.42% of the total ore of the Vault Pit. It also noted with respect to waste management that the expansion is expected to generate 1,061,404 tonnes of waste rock and 452,551 tonnes of overburden, all of which would be sent to its existing Vault Rock Storage Facility. No changes to plans for closure have been anticipated by AEM, including the reflooding of the Vault Pit as originally proposed within the Final Environmental Impact Statement for the Meadowbank Project and the closure involved for the Vault waste rock storage area.

While AEM did not provide specific information within its proposal with respect to the expected addition to actual life of mine operations, it did note its opinion that the proposed Vault Pit Expansion into Phaser Lake would not represent a significant change to the originally approved Project and that the expansion is believed to be within the scope of the original project as permitted by the Meadowbank Project Certificate. AEM further indicated that the proposed modifications to the project would, however, likely necessitate changes to the existing Project Certificate, specifically noting Condition 48.

#### COMMENTS AND CONCERNS

The following Table 1 represents only a very 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**

<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>
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. In addition, recognizing the Minister's jurisdiction as set out in Article 12, Sections 12.8.3 and 12.5.4 of the NLCA, the Board is also providing opportunity for the Minister to propose any priorities or reasonable time frames that may be considered appropriate for the Board's reconsideration of the Terms and Conditions of Project Certificate No. 004.

## ANTICIPATED NEXT STEPS IN THE NIRB'S RECONSIDERATION

The NIRB will be providing a letter to AEM under separate cover with copy to all parties, outlining in greater detail the process, requirements and timelines applicable to the next steps in the NIRB's reconsideration of the terms and conditions of Project Certificate No. 004. In summary, the NIRB expects that an addendum to the Final Environmental Impact Statement (EIS) will be prepared and filed by AEM to support the NIRB reconsideration process. The NIRB will assess the information provided to ensure it meets the requirements of the EIS Guidelines issued for the Meadowbank Gold Project and will subject the Vault Pit expansion proposal to a public technical review and public hearing (form to be decided) prior 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.

determining whether the proposed project amendments should be permitted to proceed. 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. At the conclusion of the reconsideration process, the Board will prepare a report for the Minister's consideration pursuant to NLCA 12.8.3 summarizing the outcome of the NIRB's reconsideration, and if applicable, any recommendations for amendments and/or additions to the Terms and Conditions of Project Certificate No. 004.

In closing, the NIRB appreciates the Minister's support for the NIRB's reconsideration of Project Certificate No. 004 and the Board looks forward to receiving any direction the Minister may wish to provide regarding proposed priorities and timelines for the reconsideration process.

If you have any questions or require clarification regarding this matter, please contact the NIRB's Executive Director, Ryan Barry, at (867) 983-4608 or via email at [rbarry@nirb.ca](mailto:rbarry@nirb.ca).

Sincerely,



Elizabeth Copland  
Chairperson  
Nunavut Impact Review Board

cc: Stéphane Robert, Agnico Eagle Mines Ltd.  
Meadowbank Distribution List