

distinct development rather than an amendment to the approved Meadowbank project as set out by the Proponent.

As the Whale Tail Pit project proposal was submitted for consideration post-July 9, 2015 and has been subsequently reviewed by the Nunavut Planning Commission (NPC or Commission) and referred to the Board for screening, the NIRB finds that the provisions of the NuPPAA apply, and screening of the project proposal pursuant to Part 3 of the NuPPAA is required.

PROCEDURAL HISTORY

On May 25, 2016 the NIRB received information in support of the “Whale Tail Pit” project proposal directly from the Proponent. Within the correspondence provided to the NIRB, Agnico Eagle requested that the NIRB carry out the assessment of the Whale Tail Pit project proposal by way of a reconsideration of the existing Meadowbank Gold Mine Project Certificate No. 004, rather than screening it as a separate project proposal. Agnico Eagle further requested that the NIRB’s consideration of the Whale Tail Pit project proposal be conducted under either Article 12, Section 12.8.2 of the NLCA alone or under Section 12.8.2 of the NLCA and subsection 112(1) of the NuPPAA.

On June 17, 2016 the NIRB received a referral to screen Agnico Eagle’s “Whale Tail Pit” project proposal from the NPC, with an accompanying positive conformity determination under the Keewatin Regional Land Use Plan. The NPC noted that the project proposal was submitted by Agnico Eagle as a proposal involving a significant modification to the Meadowbank Gold Mine Project (NIRB File No. 03MN107) and related to the continued development of the Amaruq Advanced Exploration Project (NIRB File No. 11EN010). Further, the NPC indicated that the Whale Tail Pit project proposal involves the development of a mining undertaking in a location that was not previously included in the assessment of the Meadowbank Gold Mine Project, as well as developing supporting infrastructure (including widening and improvements to the all-weather access road) to service this new site. On this basis, the Commission concluded that the Whale Tail Pit project proposal requires screening by the NIRB pursuant to the NLCA and NuPPAA.

On June 20, 2016, the NIRB circulated notice of the proposal and solicited comments from interested parties and regulatory authorities regarding the extent to which the project proposal and supporting materials established that it is warranted and appropriate for the Board to assess the Whale Tail Pit project proposal as a reconsideration of the terms and conditions of existing Meadowbank Gold Mine Project Certificate No. 004 under Section 12.8.2 of the NLCA and subsection 112(1) of the NuPPAA. Specifically, the NIRB invited parties to provide comments and advice to the Board with respect to the following:

- Whether it is appropriate for the proposed changes, as presented in Agnico Eagle’s request and the Whale Tail Pit project proposal referral by the NPC to be assessed as a reconsideration as set out in the NLCA, Sections 12.8.2 (a), (b), and/or (c), and if so, which provisions of the NLCA are applicable to support the reconsideration;
- Further if the commenting party accepts that the request meets the requirements for reconsideration set out under the NLCA whether, taking into account the transition

provisions of NuPPAA (subsection 235), the NuPPAA should apply to the Board's reconsideration;

- If the NuPPAA applies to the reconsideration, which provisions of subsection 112(1)(a), (b) and/or (c) are applicable to support the reconsideration; and
- Any matter of importance to the commenting party related to the Board's processing of the Whale Tail Pit project proposal.

The NIRB noted in its correspondence that, should the Board determine that it is appropriate to assess the Whale Tail Pit project proposal through a formal reconsideration of the terms and conditions of Project Certificate No. 004 a comprehensive submission in the form of an update or addendum to the Final Environmental Impact Statement for the Meadowbank project would likely be required to support the necessary technical review of the proposal. Further, the Board indicated that the alternative to assessing the Whale Tail Pit project proposal as a reconsideration of the terms and conditions of the existing Meadowbank Gold Mine Project Certificate would have the NIRB conduct a screening of the Whale Tail Pit project proposal pursuant to Section 12.4.4 of the NLCA and section 86 of the NuPPAA.

On or before July 6, 2016 the NIRB received comments from the following interested parties with respect to the consideration of Agnico Eagle's proposed Project amendment:

- Kivalliq Inuit Association
- Government of Nunavut
- Government of Canada, Northern Projects Management Office
- Yellowknives Dene First Nations

COMMENTS AND CONCERNS

The following provides a brief summary of the comments and concerns received from parties during the public commenting period on Agnico Eagle's reconsideration request; please note that the complete comment submissions have been provided in Appendix A of this memo and are also accessible online from the NIRB's public registry by using any of the following search criteria:

- Project Name: Whale Tail Pit Project
- NIRB File No.: 16MN---
- Application No.: 124683

Kivalliq Inuit Association (KIA):

- The extension of the Meadowbank project milling facility life and the associated Whale Tail mining activities will extend the associated employment and business opportunities that communities in the Kivalliq region benefit from, particularly Baker Lake.
- The extension will also extend the associated royalties, the territorial taxes and the Inuit Impact Benefits Agreement.
- The proposed Whale Tail Pit project does not require new technology or methods in order to be developed as the mining methods have been well established by Agnico Eagle based on the mining of Meadowbank.

- The proposed project will use the existing Meadowbank facilities which would significantly reduce the project footprint; in turn reducing the closure timeline and post closure monitoring which will be confined to a smaller area.
- The environmental impacts will be significantly less for this project than those of a new project. This project should be viewed as a satellite gold deposit to the existing Meadowbank Gold Mine Project, not a new project.
- KIA is of the opinion that it is warranted and appropriate for the Board to assess the Whale Tail Pit project proposal by reconsideration of the terms and conditions of existing Meadowbank Gold Mine Project Certificate 004 under section 12.8.2 of the NLCA and subsection 112(1) of the NuPPAA.

Government of Nunavut (GN):

- The “Whale Tail Pit” project as proposed cannot stand alone as a new project.
- The Whale Tail Pit project proposal is of a larger scope than historical NLCA 12.8.2 reconsideration applications, the project appears to be integrally linked to the existing Meadowbank Gold Mine via the use of existing infrastructure covered under Project Certificate [004]; therefore, the circumstances relating to the Meadowbank Gold Mine could be considered significantly different from the time when the project certificate was issued, per section 12.8.2 (b) of the NLCA.
- The assessments for both the Meadowbank Gold Mine Project and the Amaruq Project commenced before NuPPAA came into force; therefore the transition provisions outlined in section 235 of the NuPPAA do not apply to the current proposal and the proposed Whale Tail Pit project should be assessed under the NLCA exclusively.
- The NuPPAA does not lay out a clear process for amending under the Act a project certificate created under the NLCA.
- Subsection 112(1) of the NuPPAA does not apply to the current assessment of the “Whale Tail Pit” project proposal at this time.
- It would be appropriate to assess the proposed Whale Tail Pit project as a project certificate amendment, as a full review would unlikely lead to significantly different terms and conditions than those currently in the Meadowbank project certificate.
- It is important for the NIRB to note the potential assessment trajectory, and the ability to continue to assess projects robustly in a regulatory environment where staged/phased assessments are becoming the norm.
- Stresses the need for clarity from the NRIB regarding what constitutes a ‘significant modification’ to a project under the NuPPAA.
- It is recommended that the 12.8.2 process, should it proceed, include ample opportunity for community consultation and engagement

Government of Canada – Northern Projects Management Office

- The assessment of the Whale Tail Pit project must be done in accordance with the NuPPAA as the project was proposed after the NuPPAA came into force with the next step in the assessment being a screening.
- The Whale Tail Pit proposal is a project as defined under the NuPPAA; it is a new proposal that has not been previously been assessed; and it would modify a previously approved project (Meadowbank).

- The proposal does not fall within the exemption from assessment in section 145 of the NuPPAA because the proposal would be a significant modification to the Meadowbank Mine project and therefore would require an assessment under Part 3 of the NuPPAA.
- The NPC has determined that the proposal is not exempted from screening under section 78 and has referred the proposal to the NIRB for screening. Therefore, in the Government of Canada's view, the only available procedural starting point for the Board is a screening as per section 86 of the NuPPAA and the screening process will determine whether a review of the proposal is required.
- Recognizes that the Whale Tail Pit proposal would modify and interact with the existing Meadowbank Mine Project.
- Noted that it appeared that some terms and conditions in the Project Certificate would require reconsideration to accommodate the integration of the Whale Tail Pit project proposal. The process would fall under section 112 of the NuPPAA.
- The Board may wish to convene a teleconference to lay out tentative plans and to discuss procedural matters for a process to assess a new project proposal that would significantly modify an existing project.

Yellowknives Dene First Nation (YKDFN):

- Holds the position that the Whale Tail Pit project should be screened independently of the existing Meadowbank Gold Mine Project Certificate No. 004. This would help will help ensure that the appropriate due diligence is undertaken, and is in keeping the spirit of the regulations. If the project were adjacent the existing mine, screening it as an amendment might be more appropriate.
- The proposal would be far outside the zone of influence of the existing Meadowbank Gold Mine (approximately 50 kilometres northwest of Meadowbank), disrupting or eliminating more habitat and significantly increasing the footprint of the Meadowbank project.
- The scale of the proposed Whale Tale Project is sufficiently large as to extend the life of the mine by years. This will have a substantial impact on the land and is not comparable to extending the life of an existing pit through, for example, subsurface mining.
- The independent nature of the project is of concern with respect to potential effect on caribou habitat and behaviour.

NEXT STEPS

The NIRB is required to assess the environmental and socio-economic impacts associated with the proposed project pursuant to Part 3 of the NuPPAA. As such, the NIRB will be issuing correspondence in the near future, initiating the screening process.

Recognizing the anticipated reliance of the proposed Whale Tail Pit project on existing infrastructure at the Meadowbank Gold Mine, should screening of this project proposal lead to a determination that a full environmental review is necessary, it is expected that the scope of such a review could include consideration of any revisions to relevant terms and conditions in the Meadowbank Project Certificate that may be necessary as a result of approval of the Project. The Board also acknowledges that the Proponent has recently provided a detailed environmental impact statement (EIS) to support the Board's assessment of the Whale Tail Pit project; should a

full environmental review be initiated, the Board expects that the associated assessment process could be expedited significantly should this submission be deemed satisfactory to support the required public technical review process.

The Board also acknowledges that the Proponent has requested that the NIRB coordinate its assessment of the Whale Tail Pit project proposal with the Nunavut Water Board's licensing process for the associated water licence application. Again, should screening determine that a full environmental review of the proposal is necessary, the NIRB expects that the requested coordination can be achieved without significantly expanding the Board's usual process timelines.

Should you have any questions or require clarification regarding the matters discussed above, please contact Sophia Granchinho, Manager, Impact Assessment at (867) 857-2052 or at sgranchinho@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Stéphane Robert, Agnico Eagle Mines Ltd.
Jamie Quesnel, Agnico Eagle Mines Ltd.
Larry Connell, Agnico Eagle Mines Ltd.
Brian Aglukark, Nunavut Planning Commission
Karén Kharatyan, Nunavut Water Board
Luis Manzo, Kivalliq Inuit Association
Mark Dahl, Environment and Climate Change Canada
Elizabeth Patreau, Fisheries and Oceans Canada
Tracey McCaie, Indigenous and Northern Affairs Canada
Rob Johnstone, Natural Resources Canada
Rachelle Besner, Natural Resources Canada
Meighan Andrews, Transport Canada
Meadowbank Distribution List

Attachment: Appendix A: Party Comment Submissions Regarding Agnico Eagle Mines' Reconsideration Request

Appendix A: Party Comment Submissions Regarding Agnico Eagle Mines' Reconsideration Request

**TECHNICAL REVIEW
OF
MEADOWBANK GOLD MINE PROJECT
CERTIFICATE RECONSIDERATION for the
WHALE TAIL PIT PROJECT PROPOSAL**

Prepared By:



KIVALLIQ INUIT ASSOCIATION

July 6, 2016

Prepared For:

NUNAVUT IMPACT REVIEW BOARD (NIRB)

1.0 INTRODUCTION

The Kivalliq Inuit Association (KIA) has completed a technical review of Agnico Eagle Mines Limited's (AEM) request for reconsideration of the Meadowbank Gold Mine project certificate for the Whale Tail Pit project proposal. The purpose of this review, as outlined by the Nunavut Impact Review Board (NIRB), was to *“comment specifically on the extent to which the project proposal and the material provided directly to the NIRB have established that it is warranted and appropriate for the Board to assess the Whale tail Pit project proposal under the Board's powers to reconsider the terms and conditions of existing Meadowbank Gold Mine Project Certificate 004 under section 12.8.2 of the NLCA and subsection 112 (1) of the Nunavut Planning and Project Assessment Act (NuPPAA).”*

The KIA, represents the Inuit beneficiaries of the Kivalliq Region, at the territorial and regional levels, and supports sustainable economic development opportunities for Inuit beneficiaries. The purpose of this technical review was to ensure that the potential impacts and benefits were comprehensively assessed. The following documents were reviewed:

- 1) Volume 1 – Project Description. Whale Tail Pit Project, Meadowbank Division. Report Number 1541520. Agnico Eagle Mines Ltd and Golder Associates. 69 pages. May, 2016. This entire document was reviewed.
- 2) Letter from Agnico Eagle Mines Ltd. to the NIRB, dated May 25, 2016. 6 pages. This entire document was reviewed.
- 3) Letter from the NIRB to Agnico Eagle Mines Ltd. and all intervenors, dated June 20, 2016. 6 pages. This entire document was reviewed.

2.0 SOCIO-ECONOMIC AND ECO-SYSTEM SUMMARY

The KIA's view on this project is based on the following socio-economic and ecosystem reasons:

Socio-Economic Summary

- 1) The extension of the Meadowbank project milling facility life will also extend the associated employment and business opportunities that communities in the Kivalliq Region benefit from, in particular, Baker Lake.
- 2) The extension of the mining activity associated with the Whale Tail Pit project will also extend the associated employment and business opportunities that communities in the Kivalliq Region benefit from, in particular, Baker Lake.
- 3) The extension of the Meadowbank Gold Mine Project life will also extend the associated royalties and territorial taxes that are paid to Nunavut Tunngavik Inc. (NTI) and the Government of Nunavut (GN), respectively.

4) The extension of the Meadowbank Gold Mine Project life will also expand and extend the Inuit Impact Benefits Agreement (IIBA) with the KIA.

Eco-System Summary

1) The development and mining methods for the proposed Whale Tail Pit project have been well established by AEM based on the development and mining of the Meadowbank gold deposits since 2009. Therefore the proposed Whale Tail Pit project does not require new technology or methods in order to be developed.

2) The proposed Whale Tail Pit project will use the existing Meadowbank milling and tailing storage facilities which will significantly reduce the project foot print.

3) The reduced project foot print will also reduce the closure time line and the post closure monitoring will be confined to a significantly smaller area.

3.0 SUMMARY

The KIA is of the opinion that it is warranted and appropriate for the Board to assess the Whale tail Pit project proposal under the Board's powers to reconsider the terms and conditions of existing Meadowbank Gold Mine Project Certificate 004 under section 12.8.2 of the NLCA and subsection 112 (1) of the Nunavut Planning and Project Assessment Act (NuPPAA).

Overall the environmental impacts will be significantly less for this project than those of a new project that would require on-site milling and tailings storage facilities. Therefore, this project should be viewed as a satellite gold deposit to the existing Meadowbank Gold Mine Project, not a new project.

The continued positive socio-economic benefits should be self-explanatory.

July 6, 2016

Sophia Granchinho
Manager, Project Monitoring
Nunavut Impact Review Board
P.O Box 1360
Cambridge Bay, NU X0B 0C0

Sent VIA Email: info@nirb.ca

RE: Comment Request on Agnico Eagles Mines Ltd.'s (AEM) Request for Reconsideration of the Meadowbank Gold Mine Project Certificate for the "Whale Tail Pit" project proposal (NIRB File No. 03MN107 & 11EN010)

Dear Ms. Granchinho,

On behalf of the Government of Nunavut (GN), I would like to thank the Nunavut Impact Review Board (NIRB) for the opportunity to provide comments on the Agnico Eagles Mines Ltd.'s (AEM) Request for Reconsideration of the Meadowbank Gold Mine Project Certificate for the "Whale Tail Pit" project proposal.

The GN has reviewed the proposed “Whale Tail Pit” project and provides our comments to address the specific NIRB questions:

- Whether it is appropriate for the proposed changes, as presented in Agnico Eagle's request and the Whale Tail Pit project proposal referral by the NPC to be assessed as a reconsideration as set out in the NLCA, Sections 12.8.2 (a), (b), and/or (c), and if so, which provisions of the NLCA are applicable to support the reconsideration;
- Further if the commenting party accepts that the request meets the requirements for reconsideration set out under the NLCA whether, taking into account the transition provisions of NuPPAA (subsection 235), the NuPPAA should apply to the Board's reconsideration;
- If the NuPPAA applies to the reconsideration, which provisions of subsection 112(1)(a), (b) and/or (c) are applicable to support the reconsideration; and
- Any matter of importance to the commenting party related to the Board's processing of the Whale Tail Pit project proposal.

If required, the GN would be happy to discuss this issue in follow-up meeting or teleconference, please contact me by phone at 867-975-7837 or by email at tprice@gov.nu.ca.

Qujannamiik,

[Original Signed By]

Tina Price
Avatiliriniq Coordinator

(1) Whether it is appropriate for the proposed changes, as presented in Agnico Eagle’s request and the Whale Tail Pit project proposal referral by the NPC to be assessed as a reconsideration as set out in the NLCA, Sections 12.8.2 (a), (b), and/or (c), and if so, which provisions of the NLCA are applicable to support the reconsideration;

Under the Nunavut Land Claims Agreement (NLCA), section 12.8.2 allows the NIRB to reconsider a project certificate and its terms and conditions if it can be 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 project certificate was issued; or
- (c) There are technological developments or new information which provides more efficient methods of accomplishing the purpose of the terms and conditions.

In correspondence to the NIRB, AEM requested that the proposed “*Whale Tail Pit*” project be assessed as a project certificate reconsideration under the NLCA 12.8.2 or the NLCA 12.8.2 in conjunction with subsection 112(1) of the *Nunavut Planning and Project Assessment Act* (NuPPAA). AEM considers the “*Whale Tail Pit*” project to be related to the existing Meadowbank Gold Mine (NIRB Project Certificate [004]) due to the proposed use of the existing Meadowbank mill and tailings storage facilities for the duration of operations at the new site.

Although AEM has not directly addressed requirements under Section 12.8.2 of the NLCA, it has concluded that the “*Whale Tail Pit*” project as proposed cannot stand alone as a new project.

While the “*Whale Tail Pit*” proposal is of a larger scope than historical NLCA 12.8.2 reconsideration applications, the project appears to be integrally linked to the existing Meadowbank Gold Mine via the use of existing infrastructure covered under Project Certificate [004]; therefore, the circumstances relating to the Meadowbank Gold Mine could be considered significantly different from the time when the project certificate was issued, per section 12.8.2 (b) of the NLCA.

(2) Further if the commenting party accepts that the request meets the requirements for reconsideration set out under the NLCA whether, taking into account the transition provisions of NuPPAA (subsection 235), the NuPPAA should apply to the Board’s reconsideration;

After review of the transition provisions discussed in subsection 235 of the NuPPAA, because the assessments for both the Meadowbank Gold Mine Project (NIRB file no. 03MN107) and the Amaruq Project (NIRB file no. 11EN010) commenced before NuPPAA came into force on July 9th, 2015, the transition provisions outlined in the NuPPAA do not apply to the current proposal. Therefore, the proposed “*Whale Tail Pit*” project should be assessed under the NLCA exclusively.

(3) If the NuPPAA applies to the reconsideration, which provisions of subsection 112(1)(a), (b) and/or (c) are applicable to support the reconsideration; and

The NuPPAA does not lay out a clear process for amending under the act a project certificate created under the NLCA. Subsection 112(1) of the NuPPAA does not apply to the current assessment of the “*Whale Tail Pit*” project proposal at this time.

(4) Any matter of importance to the commenting party related to the Board’s processing of the Whale Tail Pit project proposal.

It seems appropriate to assess the proposed “*Whale Tail Pit*” project as a project certificate amendment, as a full review would unlikely lead to significantly different terms and conditions than those currently in the Meadowbank project certificate. However, it is important for the NIRB to note the potential assessment trajectory, and the ability to continue to assess projects robustly in a regulatory environment where staged/phased assessments are becoming the norm.

First, AEM’s current regulatory approach creates challenges in differentiating between the Meadowbank and Amaruq projects and where the “*Whale Tail Pit*” project fits in. While the “*Whale Tail Pit*” project cannot stand without the use of the mill and tailings storage facilities at the Meadowbank site, the deposit was discovered as part of ongoing exploration associated with the Amaruq project. The screening-level assessment of ongoing exploration activities at the Amaruq site (NIRB file no. 11EN010) simultaneous to the proposed amendment application above (NIRB file no. 03MN107; Project Certificate [004]) could be considered an example of project splitting, and if that is the case, the assessment process now, and in the future, would benefit from a clear delineation between the two projects. Clarification now would similarly benefit the assessments of other ongoing projects within the Nunavut Settlement Area.

Second, there are limitations to the utility of both the NLCA and the NuPPAA in assessing increasingly staged projects. The impacts assessment processes laid out in the NLCA were designed to accommodate stand-alone projects, and the direction provided in NLCA 12.8.2 for project certificate amendments is vague and is being used in ways that may not have been envisioned when the document was first written, and may not reflect the current economic realities of the mining industry. Today, assessing projects in phases is becoming much more common, and it is likely that this trend will continue into the near future. It is possible that this question of best practice will be addressed with the true implementation of the NuPPAA, but until the first project goes through the process, it remains uncertain. The GN notes concerns regarding the precedent that this decision will set, and stresses the need for clarity from the NIRB regarding what constitutes a ‘significant modification’ to a project under the NuPPAA.

Third, it is important to emphasize that the reconsideration process for an amendment to Project Certificate [004] must adequately address the potential ecosystemic and socio-economic impacts of the proposed changes to the Meadowbank Gold Mine project in their own right. The potential technical challenges associated with phased impact assessment, including ensuring the use of adequate data in the face of evolving environmental baseline conditions, cumulative effects analysis, and a potential basin-opening effect due to increased mining and transportation infrastructure in the project area.

Finally, the GN acknowledges the potential for significant benefits to accrue to Kivalliq communities if the project proceeds and minimizes the gap between the end of operations at the Meadowbank site and future AEM projects in the territory. The GN believes that there is the potential for positive impacts to communities and Nunavummiut in having a known mine operator continue operations in a region with which they are familiar, including extending employment and training opportunities and other socio-economic provisions captured in the existing AEM–Kivalliq Inuit Association Inuit Impact and Benefits Agreement. It is recommended that the 12.8.2 process, should it proceed, include ample opportunity for community consultation and engagement.



Northern Regional Office
2nd Floor, Nova Plaza
5019 – 52nd Street
PO Box 2052
Yellowknife, NT X1A 2P5

Bureau régional du Nord
2^{ième} étage, édifice Nova Plaza
5020 – 52^{ième} rue
CP 2052
Yellowknife TN-O X1A 2P5

July 6, 2016

Ms. Sophia Granchinho
Manager, Impact Assessment
Nunavut Impact Review Board

Dear Ms. Granchinho:

RE: Your Request for Comments on Procedure for AEM's Whale Tail Pit Project Proposal

This letter replies to your letter dated June 20, 2016. In that letter you invited comments on procedural issues for the impact assessment of the Whale Tail Pit project proposal. This letter is the Government of Canada's response.

Agnico Eagle proposed the Whale Tail Pit project in 2016, after the *Nunavut Planning and Project Assessment Act* came into force. Therefore the assessment must be done in accordance with the Act. For the reasons below, in our view that means that the next step in the assessment would be a screening.

The Whale Tail Pit project proposal is a "project" as that term is defined in the *Nunavut Planning and Project Assessment Act*, section 2(1). It is a new project proposal that has not previously been assessed. It is also a project that would modify a previously approved project, that being AEM's Meadowbank Mine. The Whale Tail Pit project proposal does not fall within the exemption from assessment in section 145 of the Act because the Whale Tail Pit project would be a significant modification to the Meadowbank Mine project. Therefore, as provided by section 146 of the Act, the Whale Tail Pit project proposal requires an assessment under Part 3 of the Act.

An assessment under Part 3 of the Act begins with a conformity determination by the Nunavut Planning Commission. The Commission has already completed its conformity determination for the Whale Tail Pit project proposal, and determined that the project proposal conforms to the applicable land use plan. The Commission has also determined that the project proposal is not exempted from screening by section 78, and the Commission has accordingly discharged its obligation under section 79 of the Act to send the project proposal to NIRB "in order for [the Board] to conduct a screening" (section 79). In our view, section 79 of the Act is directive and therefore the only available procedural starting point for the Board is a screening beginning with section 86 of the Act.

We are aware that AEM presented this project proposal to the NIRB with a request that the Board conduct an impact assessment of the Whale Tail Pit proposal using section 112 of the Act. This procedure, if it were available, would be similar to the approach the Board took for past projects. However, those examples involve projects where the assessment began before the Act came into force. The Act is now in force, applies to the Whale Tail Pit proposal, and clearly sets screening as the Board's starting point. The screening process will determine whether a review of the Whale Tail Pit project proposal is required.



The discussion above focusses on the procedural starting point for the assessment of the Whale Tail Pit. However we recognize that the Whale Tail Pit proposal would modify and interact with the existing Meadowbank Mine project. On our initial review it appears that some terms and conditions in the Meadowbank Mine Project Certificate would require adjustment to accommodate the integration of the Whale Tail Pit project proposal. Therefore it appears the potential approval of the Whale Tail Pit project proposal would make it necessary to reconsider at least some of the terms and conditions of the Meadowbank Mine project certificate. That process would fall under section 112 of the Act (noting again section 235(2) of the Act making the Act applicable to projects that were approved before it came into force when a significant modification is being made).

We believe it would be helpful to have additional consideration at an early stage of how the above observations affect the procedural paths. For example, we recommend that the Board should consider whether it is desirable to use a consolidated process for both the impact assessment of the Whale Tail Pit project proposal and the reconsideration of any potentially affected terms and conditions of the Meadowbank Mine project certificate.

As this may be the first time since the Act has come into force that the Board designs a process to assess a new project proposal that would significantly modify an existing project, the Board may wish to convene a teleconference to lay out tentative plans and to discuss procedural matters. We would be pleased to participate in such a call.

Thank you for soliciting our comments on this matter. We look forward to the next steps.

Yours truly,

Tineka Simmons
A/Director General, Northern Projects Management Office
CanNor
Government of Canada

c.c.: David Rochette, Regional Director General
Indigenous and Northern Affairs Canada

Nicholas Winfield, Director General
Fisheries and Oceans Canada

Marc D'lorio, Director General
Environment and Climate Change Canada

Michele Taylor, Regional Director General
Transport Canada

Diane Galus, Acting Director General
Natural Resources Canada



Yellowknives Dene First Nation

P.O. Box 2514
Yellowknife, NT X1A 2P8

Dettah
Telephone: (867) 873-4307
Facsimile: (867) 873-5969

Ndilo
Telephone: (867) 873-8951
Facsimile: (867) 873-8545

Nunavut Impact Review Board
P.O. Box 1360 (29 Mitik)
Cambridge Bay, Nunavut
X0B 0C0

Dear Board Members,

Yellowknives Dene First Nation (YKDFN) is submitting this letter in response to Agnico Eagles Mines Ltd.'s (AEM) request for reconsideration of Meadowbank Gold Mine Project for the Whale Tail Pit project proposal. As indicated, AEM requested that screening for the Whale Tail Pit project be undertaken as a reconsideration of the existing Meadowbank Gold Mine Project Certificate No. 004 rather than being screened as a separate project. YKDFN holds the position that the Whale Tail Pit project should be screened independently of the existing Meadowbank Gold Mine Project Certificate No. 004.

The proposed Whale Tail project is located approximately 50 km Northwest of the existing Meadowbank Gold Mine. This puts Whale Tail far outside the zone of influence of the existing mine, disrupting or eliminating more habitat and significantly increasing the footprint of the Meadowlands project. YKDFN is particularly concerned about the potential impact this could have on barren ground caribou.

The scale of the proposed Whale Tail Project is sufficiently large as to extend the life of the mine by a years. This will have a substantial impact on the land and is not comparable to extending the life of an existing pit through, for example, subsurface mining.

YKDFN asserts that screening the Whale Tail Pit project independently will help ensure that the appropriate due diligence is undertaken, and is in keeping the spirit of the regulations. The project is sufficiently large and distal from the existing Meadowbank Gold Mine that it is most naturally considered as an independent project in many respects.

The independent nature of the project is of particular concern with respect potential effect on caribou habitat and behaviour. If the project were adjacent the existing mine, screening it as an amendment might be more appropriate. However, YKDFN is concerned that screening the Whale Tail Pit project in this way risks a kind of *pernicious incrementalism*, wherein projects grow by small steps and amendments until they have little-to-no resemblance to originally approved projects. Major expansions need to be screened accordingly.

Sincerely,

Alex Power, M.Sc.
Regulatory and Research Specialist
Yellowknives Dene First Nation