



NIRB File No.: 03MN107

NPC File No.: 148681

NWB File No.: 2AM-MEA1525

DFO File No.: NU-03-191 Mine Site

ECCC File No.: 6100 000 008/002

January 31, 2018

Goump Djalogue, Senior Planner
Nunavut Planning Commission
PO Box 1797
Iqaluit, NU X0A 0H0

Sent via email: gdjalogue@nunavut.ca

Re: Request for Opinion as to whether Agnico Eagle Mines Ltd.'s "In-Pit Tailings Disposal Modification" Project Proposal is a Significant Modification to an Existing Project

Dear Goump Djalogue:

On January 12, 2018 the Nunavut Impact Review Board (NIRB or Board) received correspondence from the Nunavut Planning Commission (NPC or Commission) regarding Agnico Eagle Mines Ltd.'s (Agnico Eagle or Proponent) "In-Pit Tailings Disposal Modification" project proposal. Specifically, the Commission requested the NIRB's opinion as to whether the project proposal represents a significant modification to the Meadowbank Gold Mine Project approved under NIRB Project Certificate No. 004 (NIRB File No.: 03MN107). The NIRB notes that the documentation provided included a self-assessment from Agnico Eagle's which concluded that, in its view, the changes proposed do not constitute significant modifications to the Meadowbank Gold Mine Project (Project Certificate No.: 004) as originally approved by the NIRB.

Please be advised that the correspondence from the NPC referenced above can be accessed from the NIRB's online public registry at www.nirb.ca by using any of the following search criteria:

- Project Name: Meadowbank Gold Project
- NIRB File No.: 03MN107
- Application No.: 124588
- Document Id No.: 315309

The Meadowbank Gold Mine Project as operated by Agnico Eagle consists of an open pit gold mine located approximately 70 kilometres (km) north of the Hamlet of Baker Lake on Inuit-

owned surface lands (the approved Project). While the in-pit tailings disposal was identified as an alternative in the Final Environmental Impact Statement which included “option A” sub-aqueous slurry deposition in Second Portage Arm and North Portage Pit^{1,2}, the Proponent identified placing all the tailings within the Meadowbank Tailings Storage Facility (within the former Second Portage Lake northwest dewatered arm) as the preferred option for management of tailings; subsequently, the Project Certificate No. 004 issued for the approved Project does not contemplate in-pit disposal of tailings. Agnico Eagle’s proposed modification as received on January 12, 2018 from the Commission proposes to dispose of tailings in three mined out pits, Portage Pit A, Portage Pit E, and Goose Pit, all within the footprint of the assessed and approved Meadowbank Mine in order to ensure that best practices are followed and to ensure appropriate long term planning to optimize the site footprint.

In response to the Commission’s request, the NIRB has considered the significance of the proposed change in relation to the scope of the previously assessed and approved Project, as well as the extent to which the proposed change is likely to significantly affect the ecosystemic and socio-economic impacts previously assessed by the NIRB in respect of the approved Project. On this basis, the NIRB has undertaken a cursory review of the proposed modification and has determined the following:

- In-pit disposal of tailings was not fully developed as an alternative in the NIRB’s prior assessment of the approved Project, and Project Certificate No. 004 did not contemplate in-pit disposal of tailings;
- Insufficient information has been provided by the Proponent in the submission to the Commission to demonstrate whether or not the proposed modifications have the potential to result in significant adverse ecosystemic or socio-economic impacts (the additional information required by the NIRB is itemized in the text that follows under the heading “Supplemental Information Requirements”); and
- Based on the information provided to the Commission to date about the change to in-pit disposal, the NIRB does not agree with the Proponent’s conclusion that the proposed modification would not be a significant modification.

Supplemental Information Requirements of the NIRB

As noted above, additional information is required by the NIRB to fully consider the significance of the modifications proposed, as well as to determine whether or not the proposed works/activities will trigger a formal reconsideration of the terms and conditions of Project Certificate No. 004 pursuant to Article 12, Section 12.8.2 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (the *Nunavut Agreement*) and s. 112(1) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*). Accordingly, the Board requires Agnico Eagle to provide supplemental information that addresses the following points:

1 Golder Associates Ltd., Report on *Evaluation of Tailings Alternatives, Meadowbank Project, Nunavut*, October 2005. Prepared for Cumberland Resources Ltd.

2 Cumberland Resources Ltd. *Integrated Report on Evaluation of Tailings Management Alternatives, Meadowbank Gold Project, Nunavut*. February 2007.

- Discussion of factors contributing to the change in the preferred option for tailings disposal for the Meadowbank Gold Mine Project, including:
 - Feasibility of continuing with no changes to the existing method of tailings disposal within the Meadowbank Tailings Storage Facility for approved operations with discussion of any relevant capacity constraints;
 - Estimates of tailings production associated with the approved Whale Tail Pit Mine and any further reasonably foreseeable future development; and
 - Update to the alternative analysis for tailings disposal as presented within the *Integrated Report on Evaluation of Tailings Management Alternatives*² for the Meadowbank Gold Mine with discussion of cost, environmental risks, available storage space in existing structures, and any other pertinent factors.
- Detailed information on the potential for impacts to the groundwater resulting from the proposed modifications' disposal of tailings into the three (3) pits, Portage Pit A, Portage Pit E and Goose Pit.
- Information on the additions/changes to the existing groundwater monitoring to monitor the freshwater environment downstream of the three (3) pits. This should include groundwater flow to assist in the monitoring of the integrity of the pits and the dikes, especially at the Bay Goose Dike as monitoring of seepage through the dike was not collected by Agnico Eagle in 2017.
- Updated description of the use and fate of the Goose Pit, recognizing that this pit has been allowed to slowly fill-in naturally with water since mining ended in early 2015. In addition, Agnico Eagle noted during the NIRB's 2017 site visit that active re-flooding would commence in 2018 for Goose Pit.
- Changes in the use and fate of Portage Pit A and Portage Pit E (as the original plan was to flood Portage Pit following mining).
- Details on the proposed extension of the slurry and reclaim water piping.
- Proposed changes to the Fisheries Offsetting and Compensation Plans.
- Proposed updates to the Closure and Reclamation Plans.
- Specific terms and conditions within the Meadowbank Project Certificate (No. 004) that are applicable to the existing tailings disposal facilities and process, and that could be applicable to the new or modified works in the proposed modifications.
- The potential ecosystemic and socio-economic effects of the proposed modifications to the Meadowbank Gold Mine. Discussion should include potential impacts to terrestrial wildlife, migratory birds, non-migratory birds and the freshwater environment.

NIRB Future Process Guidance

For Agnico Eagle's future reference, Appendix A of this correspondence provides general process guidance for proponents to follow when seeking approval for modifications to previously assessed and approved projects governed by existing NIRB Project Certificates.

In addition, although the NIRB provides this correspondence to the Commission for their consideration as the NPC decides whether the modifications proposed constitute a significant modification, while the Board awaits the receipt of the supplemental information outlined above and the determination of the Commission, the NIRB also offers, for the benefit of all parties, the following additional process guidance outlining the possible regulatory paths available to the NIRB if called upon to assess the potential for significant effects arising from the proposed modification (i.e. expanding on points 4(a) and 4(b) in Appendix A).

Where the proposed modifications apply to a previously assessed and approved Project governed by an existing NIRB Project Certificate, consideration will be given to the implications to the NIRB's monitoring program generally, and also to the Project Certificate terms and conditions specifically. A determination will be made regarding whether the proposed modifications necessitate a formal reconsideration of the terms and conditions of the Project Certificate (as set out in Article 12, Section 12.8.2 of the *Nunavut Agreement* and s. 112(1) of the *NuPPAA*) or, if a formal reconsideration deemed unnecessary by the NIRB, whether other less significant updates to the ongoing monitoring program may be required as the modifications proceed (e.g. updated reporting requirements).

Alternatively, if the proposed modifications are considered by the NIRB to be a project that is separate and distinct from the approved Project and the NIRB concludes that no changes to the existing Project Certificate would be required to accommodate the proposed modifications, the NIRB could conduct a separate screening of the modification project proposal. (Note: in this instance as it appears to the NIRB that the proposed modifications would negate the existing fisheries offsetting and compensation plans for the Project and require authorization from Fisheries and Oceans Canada, if the modification project proposal were to be considered as a separate project proposal, it would not be exempt from screening pursuant to Schedule 12-1 of the *Nunavut Agreement*).

Conclusion

The NIRB is requesting submission of the information outlined above under the heading Supplement Information Required from Agnico Eagle on or before **February 15, 2018** to support the Board's consideration of the modifications proposed to the approved Meadowbank Gold Mine Project and potential implications to the Meadowbank Project Certificate No. 004. If Agnico Eagle determines that more time is required to supply the requested information, the Board requests the Proponent provide the NIRB with written notification and an anticipated date for submission as soon as possible.

If the Commission or Agnico Eagle have any questions or require additional clarification, please contact the undersigned directly at (867) 857-4829 or sgranchinho@nirb.ca.

Sincerely,



Sophia Granchinho, M.Sc., EP
Manager, Impact Assessment
Nunavut Impact Review Board

cc: Brian Aglukark, Nunavut Planning Commission
Jonathon Savoy, Nunavut Planning Commission
Jamie Quesnel, Agnico Eagle Mines Ltd.
Ryan Vanengen, Agnico Eagle Mines Ltd.
Karén Kharatyan, Nunavut Water Board
David Hohnstein, Nunavut Water Board
Georgina Williston, Environment and Climate Change Canada
Mark D'Aguiar, Fisheries and Oceans Canada
Tracey McCaie, Indigenous and Northern Affairs Canada
Meadowbank Distribution List

Attachment: Appendix A: Process for Seeking Approval for Modifications to Approved Projects

APPENDIX A: PROCESS FOR SEEKING APPROVAL FOR MODIFICATIONS TO APPROVED PROJECTS

Where a proponent has determined that a modification to project works or activities is required due to unforeseen circumstances or as part of the phased development of a previously approved Project, the NIRB recommends the following:

Self-Assessment

1. The proponent undertakes a self-assessment to determine whether the proposed modification constitutes a “significant modification” to the project as previously considered by the Nunavut Planning Commission (NPC) for conformity, assessed by the NIRB, and/or licenced by the Nunavut Water Board (NWB);
 - a. At a minimum, the proponent’s self-assessment should include:
 - i. a sufficiently detailed scope of project components and activities to be undertaken during the proposed modification, contrasted with the scope of the original project as previously considered by the NPC, the NIRB and/or the NWB;
 - ii. information demonstrating the proponent has considered the significance of the potential impacts associated with the proposed modification using the factors for determining significance as set out in s. 90 of the *NuPPAA* reflecting any other guidance or information requirements of the NPC, the NIRB and/or the NWB to evaluate the significance of the proposed modification;
 - b. The proponent should also identify whether any new or modified permits, licences or other approvals are anticipated to be necessary for the proposed works or activities;
 - c. For proposed modifications to approved projects with a NIRB Project Certificate, information should also be provided as to whether the grounds for a reconsideration of the existing Project Certificate terms and conditions have been met (see *Nunavut Agreement* s. 12.8.2 and *NuPPAA* s. 112).
2. If the proponent is unsure as to whether the modification is a significant modification, the proponent should provide a sufficiently detailed project proposal document with the information noted above to the NPC with a direct request for the NPC to provide guidance regarding whether, in the NPC’s view, the modification constitutes a significant modification;

Application Submission

3. **If the proponent and/or the NPC identify that the modification constitutes a significant modification**, the proponent should submit the modification project proposal to the NPC for consideration. In addition, the proponent is encouraged to:
 - a. At the time of submission of the modification project proposal to the NPC, provide the NIRB with the appropriate supporting project proposal documentation required to assess the modification request; and provide the NWB with any associated water licence amendment application materials that are required by the NWB to consider any requested amendments to the water licence.

- b. Where an Environmental Impact Statement (EIS) had been developed for the assessment of the original project, documentation submitted to the NIRB for consideration of a proposed modification should clearly link back to the EIS predictions, identifying any changes to the significance of those predicted impacts, and further referencing new or modified mitigation plans and required changes to the existing monitoring program for the approved project as result of the proposed modification. The justification or rationale for the proposed modification must be described in sufficient detail to be understood and thoroughly assessed.
- c. Where the original project is governed by an existing NIRB Project Certificate, proponents should include reference to the specific terms and conditions that are understood to be applicable to the scope of the proposed modification, with commentary regarding planned compliance and/or identifying the terms and conditions that may require formal reconsideration.

Consideration of Modification Requests

- 4. The NIRB and the NWB are not able to commence formal processing of a proponent's modification request until the NPC's land use planning requirements have been satisfied, and in the case of the NWB, the NIRB's assessment requirements associated with the proponent's modification request have been completed. However, early engagement at this stage with the NIRB and NWB is strongly encouraged to ensure that all parties have reviewed the scope and content of the proposed modifications being considered by the NPC at the early stages of the regulatory process.
 - a. When a proponent's significant modification request has met the applicable land use planning requirements and the NPC issues a positive conformity determination where required, the NIRB will then undertake any assessment of the project that may be required.
 - b. If assessment by the NIRB is not required, or upon the NIRB issuing a positive decision that the project can proceed to the permitting stage, the NWB would then be able to consider any water licence amendments associated with the modification request.
- 5. **If the proponent's self-assessment and/or NPC guidance conclude that the modification request does not constitute a significant modification**, a proponent can submit the application materials supporting the modification request to the appropriate permitting agencies (such as a water licence amendment application to the NWB). A proponent's submission to permitting agencies should also include, for the permitting agencies' consideration, the materials supporting the proponent's self-assessment or the NPC's confirmation that the modification request is not a significant modification.
 - a. While non-significant modifications may not necessitate changes to the permits, licences, or a project certificate, such changes may still have implications for the monitoring responsibilities associated with the approved project. As such, proponents are encouraged to provide the NIRB with a copy of the materials provided in support of the proposed modification for information, and to support the Board's ongoing monitoring of the approved project.