



Mr. Ryan Barry  
Executive Director  
Nunavut Impact Review Board  
PO Box 1360  
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Via email: [info@nirb.ca](mailto:info@nirb.ca)

Dear Mr. Barry:

**RE: Agnico Eagle Mines Limited's "In-Pit Tailings Disposal Modification"  
Project Proposal, a Proposed Amendment to the Meadowbank Gold  
Mine Project**

On behalf of the participating federal departments, we are writing to respond to your May 29, 2018 letter about Agnico Eagle Mines Limited's proposed In-Pit Tailings Disposal Modification project in advance of the Technical Meeting that is scheduled for Tuesday June 12, 2018.

Earlier in the procedural history of this application, in your letter of April 13, 2018, you also sought feedback on "whether the proposed changes warrant reconsideration of the existing Project Certificate No. 004". That letter stated that the

...alternative to the Board processing the "In-Pit Tailings Disposal Modification" project proposal as a reconsideration of the terms and conditions of the existing Meadowbank Gold Mine Project Certificate would involve the Board conducting a separate screening of the modification project proposal pursuant to Section 12.4.4 of the *Nunavut Agreement* and s. 79 of the *Nunavut Planning and Project Assessment Act*...

The Northern Projects Management Office, on behalf of the participating federal departments, responded to that request on May 4, and explained our view that this proposal is a significant modification of an existing project, and as a consequence that it needed an assessment under Part 3 of the Act. Further, we explained our view that applying the Board's *Updated Guidance on Process for Seeking Approval for Modifications to Previously-Approved Projects*, an assessment under Section 112 of the Act would be consistent with the Board's guidance and recent precedent.



Your April 13, 2018 letter did not identify as an option dispensing with an assessment under Part 3 of the Act, and proceeding only the basis of updating the Meadowbank monitoring program, but those seem to be the options identified in your more recent letter of May 29, 2018.

In the recent Board decision regarding Agnico Eagle's Saline Effluent Discharge proposal, the Board gave what it characterized as both "general and project specific guidance regarding the process" for post-approval proposals for project modifications. In that guidance, the Board observed that where a proposal would be a significant modification to an existing project, it must be assessed by the Board under Part 3 of the Act before it could proceed (sections 145 and 146).

With those sections of the Act as the starting point, it would only be possible to proceed on the basis of updating the Meadowbank monitoring program, dispensing with a Board assessment under Part 3 of the Act, if the proposal is a non-significant modification of the existing Meadowbank project.

The Nunavut Planning Commission has determined that it considers this proposal to be a significant modification of the Meadowbank project (Commission letter dated March 22, 2018). Our May 4 letter to you agreed with this conclusion. Your latest letter seems to indicate that the Board is considering dispensing with an assessment of the proposal.

The Board's Saline Effluent Discharge decision states that the Board has the jurisdiction under section 146 of the Act to "consider, on its own, whether a modification proposal constitutes a significant modification..." of an existing project. The decision goes on to say that

The Board expects it will only be in very rare instances when the Board, upon consideration of the potential impacts of a modification proposal would differ from the Commission's view that the modification proposal constitutes a significant modification.

Assuming for the moment that the Board has the jurisdiction to over-ride the Planning Commission's conclusion on this point, in our view the proposed modification is sufficiently significant so as to require an assessment under Part 3 of the Act. The new proposal would fundamentally change the approach to tailings management that was previously assessed for Meadowbank, and could also have significant implications for water management, water quality, fish and fish habitat management and off-setting, amongst other implications. The modified project would become sufficiently different from the original Meadowbank project such that, in material respects, the original project description, environmental impact statement, and the Board's report of environmental assessment would no longer be fully applicable or sufficient, meaning that further assessment is required.



In conclusion, the federal departments are still seeking clarification on the assessment process that the Board intends to take. Also to note, we have not concluded that there would be significant adverse effects from this proposal, rather we agree with the Nunavut Planning Commission's conclusion that the modification is sufficiently significant that the change must be considered in a Part 3 assessment before moving forward.

Thank you for soliciting our views. We look forward to the Technical Meeting on Tuesday, and our continued participation in this process.

Respectfully,

Adrian Paradis  
A/Director General  
Northern Projects Management Office

c.c.:

David Rochette, Regional Director General, Indigenous and Northern Affairs  
Canada

Scott Gilbert, A/Regional Director General, Fisheries and Oceans Canada,  
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Mary Taylor, A/Director General, Environment Protection Branch, Environment  
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