

Minister of Intergovernmental
and Northern Affairs and Internal Trade



Ministre des Affaires intergouvernementales
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Ottawa, Canada
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Ms. Elizabeth Copland
Chairperson
Nunavut Impact Review Board
PO Box 1360
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Thank you for your letter of August 31, 2018, and the enclosed Reconsideration Report and Recommendations regarding Agnico Eagle Mines Limited's "In-Pit Tailings Modification" for the Meadowbank Gold Mine Project. I apologize for the delay in responding.

The Ministers of Transport; Environment and Climate Change; Natural Resources; Fisheries, Oceans and the Canadian Coast Guard; and Crown-Indigenous Relations and Northern Affairs have the regulatory jurisdiction for authorizing the Meadowbank Project to proceed. As the responsible Ministers, we are required to accept, reject or vary the terms and conditions recommended in the Report. This role is established in section 12.8.3 of the *Nunavut Agreement*, which is brought forward into legislation in section 112 of the *Nunavut Planning and Project Assessment Act* (the Act).

As described in the Board's Report, the Nunavut Impact Review Board has assessed the proposal by way of a reconsideration of the terms and conditions of Project Certificate No. 004, conducted under section 112 of the Act. The Board concluded that this proposed change in the Meadowbank Gold Project may proceed to the regulatory phase without revisions to the existing Terms and Conditions.

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Having carefully considered the Board's Report, with the concurrence of the other Ministers, I accept the Review Board's recommendation that the proposal can proceed pursuant to section 112(6)(a) of the Act. However I will also add an additional term to the Project Certificate, for reasons described below.

As is sometimes the case at the completion of an impact assessment and the commencement of subsequent regulatory processes, some uncertainty remains with respect to the prediction of environmental effects until more detailed information becomes available. In particular there remains uncertainty regarding the risk of a contaminant pathway between the tailings and the Second and Third Portage Lakes.

The Review Board noted in their report that the subsequent water licensing process would provide an opportunity for these issues to be addressed, and be an appropriate platform for their resolution. To this end, the Review Board provided direction to regulators, including the Nunavut Water Board, in the form of a list of items to be considered as part of subsequent regulatory processes. Those items include addressing the limitations associated with current hydrogeological modeling and related data gaps.

The responsible Ministers agree that the Nunavut Water Board is well placed, both in respect of jurisdiction and expertise, to address the uncertainty that remains with respect to water quality and related issues. However, I also want to ensure that the Nunavut Water Board is provided with the detailed information that will be required to exercise that jurisdiction carefully and effectively.

From my perspective, given the importance of ecosystemic protection and of avoiding legacy issues, the remaining uncertainty about potential water quality issues in the future should be minimized before the project is allowed to proceed. Therefore, on the basis of section 112(7) of the Act, I am adding the following term and condition:

The Proponent shall, prior to the deposition of tailings into the Portage or Goose Pits, file with the Nunavut Water Board (NWB) a report containing updated hydrogeological modelling addressing information gaps as per the NIRB recommendation in the Reconsideration Report and Recommendations to the satisfaction of the NWB. The Proponent shall not deposit tailings into the Portage or Goose pits until the Water Board is satisfied that the modelling addresses the specific information gaps, and that the proponent can manage any identified risks with existing designs and feasible management strategies.

The In-Pit Tailings Disposal Modification Project will be a significant modification of the Meadowbank Gold Project. This modification would alter the manner in which the project uses water and deposits waste, and eventually interacts with surrounding waterbodies. By definition, this significant modification was not part of – and significantly alters – the project that was before the Nunavut Water Board and the then Minister of the Department of Indian Affairs and Northern Development when the water license was issued on July 10, 2008. As such, the current licence does not authorize this undertaking, and I suggest that an amendment process is required under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*. A licence approval cannot change or expand materially in scope without amendment and the Nunavut Water Board could exercise its jurisdiction to open an amendment process.

In addition to being legally appropriate, an amendment to the Class A water licence together with changes to licence requirements will help ensure that outstanding risks and their appropriate mitigation can be fully addressed by the Nunavut Water Board.

The impact assessment conducted by the Review Board has provided many opportunities for engagement and consultation of Indigenous people and organizations. Following the release of the Review Board's Report, further input was sought from the Kivalliq Inuit Association in the form of correspondence issued by the Northern Project Management Office. No outstanding concerns were expressed by the Designated Inuit Organization with respect to their ability to engage in the assessment process or with the determination of the Review Board. The thorough and inclusive assessment process conducted by the Review Board, coupled with effective responses to issues raised by Indigenous participants, has led the other Responsible Ministers and me to conclude that there has been adequate and meaningful consultation with affected Indigenous groups.

My colleagues and I look forward to the issuance of the updated project certificate, and appreciate the Review Board's commitment to work with the parties to ensure that all of the associated terms and conditions can be fully implemented.

On behalf of my colleagues, I would like to acknowledge the efforts of the Board and its staff to complete the reconsideration process in an expedited manner while meeting the objectives set out in Article 12 of the *Nunavut Agreement*.

Sincerely,



Dominic LeBlanc, P.C., Q.C., M.P.

c.c.: Mr. Lootie Toomasie

The Honourable Jonathan Wilkinson, P.C., M.P.

The Honourable Amarjeet Sohi, P.C., M.P.

The Honourable Marc Garneau, P.C., M.P.

The Honourable Catherine McKenna, P.C., M.P.