



Indigenous and
Northern Affairs Canada

Affaires autochtones
et du Nord Canada

Your file - Votre référence
2AM-MEA1525

May 2, 2016

Our file - Notre référence
IQALUIT-#1052105

Licensing Department
Nunavut Water Board
GJOA HAVEN, NU X0E 1J0

Sent via email: licensing@nwb-oen.ca

Re: Amendment to Reclamation Security Amount Required Under Nunavut Water Board Water Licence No. 2AM-MEA1525, Request by Licensee

To Whom It May Concern,

Thank you for the Nunavut Water Board's February 29, 2016 notice of Agnico Eagle Mines Limited's request to amend the amount of reclamation security required under its type A Nunavut Water Board Water Licence, No. 2AM-MEA1525. A memorandum is provided for the Nunavut Water Board's consideration. Comments and recommendations have been provided pursuant to Indigenous and Northern Affairs Canada's mandated responsibilities under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Department of Indian Affairs and Northern Development Act*.

Please do not hesitate to contact David Abernethy by telephone at 867-975-4555 or email at david.abernethy@aadnc-aadnc.gc.ca for further information.

Sincerely,

Karen Costello
Director, Resource Management
Nunavut Region
Indigenous and Northern Affairs Canada
IQALUIT, NU X0A 0H0

Encl.

Cc. Stéphane Robert, Agnico Eagle Mines Limited
Luis Manzo, Kivalliq Inuit Association
Julie Dahl, Fisheries and Oceans Canada
Michel Chenier, Indigenous and Northern Affairs Canada

Canada

Memorandum

To: Licensing Department, Nunavut Water Board

From: David Abernethy, Regional Coordinator, Indigenous and Northern Affairs Canada

Cc: Stéphane Robert, Agnico Eagle Mines Limited
Luis Manzo, Kivalliq Inuit Association
Julie Dahl, Fisheries and Oceans Canada
Michel Chenier, Indigenous and Northern Affairs Canada
Karen Costello, Indigenous and Northern Affairs Canada

Date: May 2, 2016

Re: Amendment to Reclamation Security Amount Required Under Nunavut Water Board Water Licence No. 2AM-MEA1525, Request by Licensee

Licensee: Agnico Eagle Mines Limited
Project: Meadowbank Gold Mine
Region: Kivalliq

A. Background

On February 29, 2016, the Nunavut Water Board (NWB) invited interested parties to review Agnico Eagle Mines Limited's (the Licensee) request to amend the reclamation security requirement specified under Part C, Item 1¹ of the type A NWB Water Licence that was issued for its Meadowbank Gold Mine on July 23, 2015, No. 2AM-MEA1525. More specifically, the Licensee applied to reduce its reclamation security requirement from \$71,700,000 to \$7,684,904 pursuant to Part C, Items 2² and 3³ of the water licence.

¹ The Licensee shall, within thirty (30) days following the approval of this Licence by the Minister, furnish and maintain security with the Minister in the amount for a total of seventy one million seven hundred thousand dollars (\$71,700,000) in the form, of the nature, subject to such terms and conditions, in accordance with, the Regulations, or that is satisfactory to the Minister.

² Upon the Licensee filing evidence, in writing with the Board and with notice to the Minister and the Kivalliq Inuit Association that the Licensee has furnished and maintained security with the Kivalliq Inuit Association in an amount that the Kivalliq Inuit Association confirms is sufficient to secure the mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Inuit-owned lands, the Board may reduce the amount of security required to be held under Part C, Item 1. The Board shall ensure that the reduced amount of security furnished under Part C, Item 1 is equal to the estimated anticipated mine closure and reclamation costs (including cumulative legacy liabilities) of the portion of the Project located on Crown-owned lands.

³ The Licensee, the Minister, or Kivalliq Inuit Association, may apply to amend the amount of security required to be held under the Licence. The submission shall include supporting evidence to justify the amendment and will be processed by the Board as an amendment to the terms and conditions of the Licence.

During the April 29-30, 2015 NWB public hearing for the Licensee's water licence renewal and amendment application, it was determined that the total reclamation estimate for the project was \$86,519,614. This amount is for the completion of activities presented in the Licensee's Interim Closure and Reclamation Plan⁴ and a post-abandonment interim care and maintenance phase.

At the time of the public hearing, Indigenous and Northern Affairs (INAC, or the Department) held \$43,900,000 in reclamation security under the water licence and the Kivalliq Inuit Association held \$14,900,000 in reclamation security against a commercial land lease, No. KVPL08D280. The renewed and amended water licence required that the Licensee furnish and maintain \$71,700,000 in reclamation security with the Department's Minister, acknowledging that the amount held by the Kivalliq Inuit Association (\$14,900,000) accounted for the difference to the agreed upon total reclamation liability.

Following the July 23, 2015 water licence renewal and amendment, the Licensee furnished to the Minister the required \$71,700,000 water licence reclamation security. Additionally, the Licensee furnished \$78,834,710 to the Kivalliq Inuit Association, pursuant to an amendment to its commercial land lease (increase from \$14,900,000 to \$78,834,710). As a result, the Licensee has furnished \$150,534,710 in reclamation security to both the Department and the Kivalliq Inuit Association. This is an over bonding of \$64,015,096 against the accepted reclamation estimate of \$86,519,614 (174% increase). The Licensee has provided correspondence confirming that the above-mentioned security deposits have been accepted by the Department and the Kivalliq Inuit Association.

Consequently, the Licensee is requesting that the water licence reclamation security requirement be reduced from \$71,700,000 to \$7,684,904 pursuant to Part C, Item 2 and 3 of the water licence to stop the over-bonding of security held by the Department and the Kivalliq Inuit Association.

The NWB's February 29, 2016 notice asked the Department to comment on the following:

- Comment as to whether or not the Minister agrees that the reduced security amount proposed by the Licensee to be required under an amended Part C, Item 1 of the Licence (\$7,684,904) would be sufficient to secure mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Crown-owned lands; and
- Any other comments the Minister would consider relevant to the Board in assessing the Licensee's request for amendment to the security held under Part C, Item 1 of the Licence.

On March 21, 2016, following the receipt of March 18, 2016 extension requests that were submitted by the Department and the Kivalliq Inuit Association, the NWB extended the original March 21, 2016 deadline for interested parties to comment on the submitted application to April 25, 2016.

⁴ Golder Associates Limited. *Meadowbank Gold Project, Interim Closure and Reclamation Plan*. Prepared for Agnico Eagle Mines Limited. Golder Associates Limited. Report No. 13-1151-0131. January 7, 2014.

On April 22, 2016, following receipt of an April 21, 2016 extension request that was submitted by the Kivalliq Inuit Association, the NWB extended the April 25, 2016 deadline for interested parties to comment on the submitted application to May 2, 2016.

B. Results of Review

On behalf of Indigenous and Northern Affairs Canada's Water Resources Division, the following comments and recommendations are provided in accordance with the two requests made by the NWB to the Department:

Request No. 1:

Comment as to whether or not the Minister agrees that the reduced security amount proposed by the Licensee to be required under an amended Part C, Item 1 of the Licence (\$7,684,904) would be sufficient to secure mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Crown-owned lands.

1. Reduction in Water Licence Security to \$7,684,904

The NWB has asked the Department to comment on whether or not its Minister agrees that the proposed reduction in water licence security (\$7,684,904) would be sufficient to secure mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Crown-owned lands. Project components situated on Crown-owned land consist of a 61 km portion of the 111 km All Weather Private Access Road that connects the mine site to the Baker Lake Marshalling and six quarries that were associated with this road's construction. The project is primarily situated on Inuit-owned lands administered by the Kivalliq Inuit Association.

Recommendation

Pursuant to Section 4 of the *Department of Indian Affairs and Northern Development Act*⁵, the Department's Minister is responsible for the management of Nunavut's freshwater resources. The allocation of reclamation security under water licences should not be based on land ownership (Crown versus private land ownership) as it may not be sufficient for projects mostly or completely on Inuit-owned lands given the Minister's responsibilities for water in the whole of Nunavut under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Nunavut Waters Regulations*. The proposed amount \$7,684,904 is therefore inadequate.

⁵ The powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relation to: (a) Indian affairs; (b) Yukon, the Northwest Territories and Nunavut and their resources and affairs; and (c) Inuit affairs.

Request No. 2:

Any other comments the Minister would consider relevant to the Board in assessing the Licensee's request for amendment to the security held under Part C, Item 1 of the Licence.

2. Establishment of a Security Management Agreement

The Department, the Kivalliq Inuit Association, and the Licensee are entering into a security management agreement whereby the total reclamation security will be apportioned equally between the Kivalliq Inuit Association, under a commercial lease agreement, and the Crown, under this water licence (50% of \$86,519,614 held by each party, or \$43,259,807). A copy of this agreement will be sent to the NWB once it has been signed by all parties (anticipated to occur in the near future).

Recommendation

Based on the establishment of a security management agreement between the Department, the Kivalliq Inuit Association, and the Licensee, the Department recommends that the reclamation security amount specified under Part C, Item 1 of the water licence be reduced to \$43,259,807.

3. Flooding of Mine Pits

It should be noted that the Licensee's January 2014 Interim Closure and Reclamation Plan includes the flooding of mine pits (Goose, Portage, and Vault) and the stabilization of water levels and water quality. The flooding of pits is consistent with the pre-development landscape in the project area. In its March 14, 2016 letter⁶ to the NWB, Fisheries and Oceans Canada stated that it, "requires assurance that the securities held by INAC will be sufficient to cover the costs of re-flooding and dike breaching at all of the Meadowbank mine site pits; and, that securities will be sufficient to cover the costs of the proposed expansion into Phaser Lake."

Recommendation

The Department has confirmed with Fisheries and Oceans Canada that the total reclamation security of \$86,519,614, covers the costs of re-flooding and dike breaching of the Goose, Portage, and Vault mine pits. The estimate is based on the January 2014 Interim Closure and Reclamation Plan that includes these activities and associated water level and water quality stabilization activities. The reclamation security does not cover the costs of the proposed expansion into Phaser Lake because this activity was not included in the scope of the licence renewal and amendment application. On Monday April 18, 2016, the Nunavut Impact Review Board submitted a Public Hearing Report to the Minister of INAC on its assessment of the

⁶ Fisheries and Oceans Canada. *Subject: Licence No. 2AM-MEA1525 – Request by Licensee, Agnico Eagle Mines Limited to Amend the Reclamation Security Amount Required Under the Licence Part C to Reflect "Overbonding."* Letter from Ms. Julie Dahl, Fisheries and Oceans Canada to Ms. Stephanie Autut, Nunavut Water Board and Mr. Stéphane Robert, Agnico Eagle Mines Limited. Winnipeg: March 14, 2016.

potential ecosystemic and socio-economic effects for the Vault Pit Expansion Project proposal and concluded that the project should proceed.⁷ Should the Minister approve the Vault Pit Expansion Project, project activities should be assessed under the water licence. These project activities would include the increased use of water and reclamation costs associated with the eventual re-flooding of Phaser Lake.

On April 25, 2016, the NRB asked interested parties to comment on the Licensee's February 18, 2016 notification of planned modification to the Vault Pit and ancillary works by May 25, 2016. The Department will provide comments on these matters on or before this deadline.

⁷ Nunavut Impact Review Board. *Re: Public Hearing Report for Agnico Eagle Mines Limited's Addendum to the Final Environmental Impact Statement (FEIS) Submission of the Vault Pit Expansion Project Proposal*. Letter from Ms. E. Copeland, Chairperson, Nunavut Impact Review Board, to Ms. C. Bennett, Minister of Indigenous and Northern Affairs Canada. Cambridge Bay, NU: April 18, 2016.