



Fisheries and Oceans
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August 24th, 2018

Your file *Votre référence*
2AM-MEA1525

Our file *Notre référence*
03-HCAA-CA07-00191

Nunavut Water Board (NWB)
Attention: Karén Kharatyan
PO Box 119
Gjoa Haven, NU
X0B 1J0

Dear Mr. Kharatyan,

Subject: Proposed modification to allow In-Pit Deposition under Agnico Eagle Mines Limited's Type "A" Water Licence No. 2AM-MEA1525

The Fisheries Protection Program of Fisheries and Oceans Canada (DFO-FPP) would like to thank the Nunavut Water Board (NWB) for the opportunity to review Agnico Eagles Mines Limited's (AEM) responses to our comments regarding the proposed modification to allow In-Pit Tailings Deposition under AEM's Type "A" Water Licence No. 2AM-MEA1525 for the Meadowbank Gold Mine Project. As per correspondence on August 20, 2018, the Board requested they be informed directly by all Parties to confirm whether or not concerns were addressed by AEM.

DFO-FPP has reviewed AEM's response in accordance with its mandate to maintain the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries.

DFO-FPP acknowledges AEM's responses to our comments, and notes AEM's commitment to work with DFO-FPP on compensation/offsetting measures in the regulatory phase. DFO-FPP would like to reiterate that the proposed modifications would impact the compensation measures that are described in AEM's No Net Loss Plan (NNLP) dated October 2012. These proposed modifications change the intended use of the Goose Pit and the Portage Pits from the original approved plan and *Fisheries Act* authorization under section 35(2) of the *Fisheries Act*, and DFO will need to consider this in the context of other potential regulatory processes, should the modification be approved. DFO-FPP also notes that uncertainty remains with regards to the tailings being capped with materials other than water. DFO-FPP understands that AEM "*agrees with ECCC to evaluate the feasibility for capping the tailings and identify conditions where this may be warranted in the final closure plan*" (AEM's Response to IR ECCC#3a Response, p. 4).

AEM's Response to DFO-FPP #1.1a and #1.1b

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DFO-FPP acknowledges that AEM has provided additional information for the tailings deposition regarding 'Habitat 7', which is the habitat category comprised of fines. However, DFO-FPP notes that five out of the seven case studies provided by AEM to support their response did not have information related to fish/ecological surveys. In the two case studies that did conduct fish surveys, the lake classifications do not allow for direct comparison to arctic lakes. DFO-FPP acknowledges the general lack of information on arctic lake ecology, but notes that Second Portage and Third Portage lakes are classified ultraoliotrophic lakes (Final Environmental Impact Statement, sec. 4.12.8, p. 56-57; PRI: 281513 (October 2005), whereas Mandy Lake near Flin Flon Manitoba, which was provided as an example, is classified as meso-eutrophic.

AEM's response indicated that "*Mandy Lake has diverse and abundant biota...*"(p.15). However, DFO-FPP notes that comparison to the in-fill pits indicates habitat conditions are not the same. DFO-FPP understands Portage Pits and Goose Pit are expected to have an 8m water cover on the tailings, with the expectation being that benthic organisms will establish themselves on the new bottom habitat. However, there is no evidence provided to indicate that an organic layer will cover the entire surface of the tailings – which are the conditions described for Mandy Lake. As previously mentioned, DFO-FPP acknowledges that AEM "*agrees with ECCC to evaluate the feasibility for capping the tailings and identify conditions where this may be warranted in the final closure plan*" (AEM's Response to IR ECCC#3a Response, p. 4).

DFO-FPP also notes that AEM indicated that "*Babine Lake (BC), Buttle Lake (BC), Summit Lake (BC), Fox Lake (Manitoba) and Garrow Lake (NWT) environmental monitoring of lakes found insignificant impacts on lake and aquatic populations due to historical subaqueous tailings deposition in these lakes*" (AEM's Response, p. 6). DFO-FPP notes that AEM did not provide references for the lakes other than Buttle Lake in the Table 1.2.b, and that Buttle Lake did not conduct habitat/fisheries surveys work.

Furthermore, DFO-FPP notes that there is remaining uncertainty with respect to the potential time-lag for return to functionality of fish habitat. For example, DFO-FPP notes that in the Mandy Lake case study (Section 6.1, p.10) provided, it is reported that the information collected was 32 years after tailings had been submerged, with no information provided on when in the 32 year period that habitat became functional.

AEM's Response to DFO-FPP#1.2.a & #1.2b

DFO-FPP acknowledges that AEM has committed to working with DFO-FPP with regards to the calculation of offsetting and requirements for this proposed project.

AEM's Response to DFO-FPP#1.3

DFO-FPP does not necessarily agree that, as AEM responded, "...the existing contingency options presented in Agnico Eagle (2012) remain viable." (AEM's Response, p. 12). However, DFO-FPP acknowledges that AEM is committed to working with DFO-FPP regarding contingency options.

If you have any questions, please contact Sally Wong at (867) 669-4934 or by email at Sally.Wong@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bev Ross', with a stylized, flowing script.

Bev Ross
Regional Manager, Regulatory Reviews
Fisheries and Oceans Canada

Cc: Mark D'Aguiar, DFO
Sally Wong, DFO