

December 13, 2018

Stephanie Autut  
Executive Director  
Nunavut Water Board  
Gjoa Haven, Nunavut  
X0B 1J0

**Re: CRITICAL NEED FOR AN EXPEDITED REVIEW SCHEDULE AND AMENDMENT PROCESS TO ENSURE OPERATIONAL READINESS AND MITIGATE ENVIRONMENTAL RISKS AT AGNICO EAGLE'S MEADOWBANK FACILITIES (MEADOWBANK IN-PIT TAILINGS DEPOSITION)**

Dear Ms. Autut:

Further to the Nunavut Water Board's (NWB) letter dated November 30, 2018 providing guidance regarding proposed next steps in the NWB's processing of Agnico Eagle's modification request to the *Meadowbank Gold Mine Project to Allow In-Pit Tailings Deposition (Type "A" Water Licence No.: 2AM-MEA1526 [In-Pit Tailings Disposal Proposal])*, Agnico Eagle wishes to reconfirm the following comments made during the December 7, 2018 teleconference.

We want to reiterate our disappointment at the NWB's latest guidance, which is to change the treatment of the *In-Pit Tailings Proposal at Meadowbank (Type A Water Licence)* from a modification process to an amendment process, based on the recommendation of the Minister of Intergovernmental Affairs, Northern Affairs and Internal Trade.

We hasten to assure you, however, that Agnico Eagle recognizes and will comply with, to the best of our ability, this variance to the terms and conditions that were previously outlined in the NWB's approval process.

We do want to advise the NWB that it is critical there be an expedited review schedule and amendment process to ensure the safe and responsible operation of our Meadowbank facilities. We seek your cooperation in this regard, so that we may achieve our development milestones, mitigate any risks to the environment, and reduce the impact of any delays on our Nunavut operations, employees, and business partners.

We appreciate your recognition (November 30<sup>th</sup> letter) of the extensive engagement and efforts we have made to date to consult, reply to comments, review and resolve outstanding technical issues on this matter. At the federal level, the Minister has also acknowledged (November 27<sup>th</sup> letter to the NIRB) that the impact assessment has provided "*many opportunities for engagement and consultation of Indigenous people and organizations...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.”*

We also appreciate the NWB’s call for an expedited review schedule and the need to avoid duplication and delay in the licensing process going forward. As such, we respectfully request that no further hearings on the Meadowbank In-Pit Tailings Deposition Proposal take place. We believe that with the thorough review conducted during the earlier modification process, all impacts have been comprehensively assessed and mitigated.

Additionally, an expedited approach will help us manage the unintended consequences this mid-process switch will impose on our project timelines, namely:

- Our original tailings deposition plan (prepared following NWB’s decision in July 2018 to treat the project as a modification) called for work to begin in January 2019, allowing us to begin tailings deposition in March.
- Our current tailing deposition reaches capacity August 2019, but our operational and environmental risk management guidelines require that we maintain between 6 to 12 months of tailing capacity.
- With an amendment process, we do not have certainty with the Amendment Process Schedule and this can leave us with minimal tailings capacity. This represents a high-operational and environmental risk.
- Even if every effort is made to manage and mitigate this impact, we would be unable to expand our tailings capacity before Spring 2019 due to logistics of equipment and associated procurement of materials.
- We have already significantly delayed the project start date to March 15, 2019. To keep the project on track, safe and environmentally responsible, the ideal timetable would permit the NWB to issue its decision no later than January 30<sup>th</sup>, 2019.

From a technical perspective, we want to reassure the NWB that the proposed In-Pit Tailings will take place within an existing footprint (which has been approved by NIRB through a reconsideration process); is not an expansion of the footprint of the Meadowbank project; *and*, has already been endorsed by the Independent Geotechnical Expert Review Panel.

Adding to this assurance and request for an expedited process, it is important to acknowledge the rigorous steps Agnico Eagle, the NWB, the NIRB and others have already taken to ensure this project adheres to current technical, environmental and regulatory standards (See *Addendum 1*).

Going forward, we believe any NWB application requirements should be minimal in light of the materials that have already been provided to NWB within the previous modification process (*See Addendum 2*).

We appreciate the NWB's assessment for an expedited review schedule and the need to avoid duplication and delay in the licensing process going forward. Agnico Eagle reiterates our request for an expedited process with no public hearings required.

By December 17<sup>th</sup>, we will file with the NWB an application for amendments to our *"Application for Water Licence Amendment (April 2013)"*. We hope you will shortly thereafter be in a position to expedite the amendment process and issue an updated project certificate for the *In-Pit Tailings Modification Proposal for the Meadowbank Gold Mine Project*. This will help Agnico Eagle ensure safe and environmentally responsible operations at our Meadowbank facilities.

We look forward to discussing these matters further with the NWB. Please do not hesitate to contact me should you require additional information.

Yours truly,

Regards,



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Environmental Superintendent: Permitting and Regulatory Affairs – Nunavut

Enc. CIRNAC correspondence dated July 20, 2018

## **ADDENDUM 1 – Responding and Adhering to Technical, Environmental and Regulatory Standards**

Agnico Eagle, the NWB, the NIRB and others have taken rigorous steps to ensure this project adheres to current technical, environmental and regulatory standards:

1. It is our belief and understanding that no changes to the terms and conditions of the Water Licence are required (as per the NWB):
  - In Agnico Eagle's view, the matters addressed in the additional term and condition included in the Ministerial Decision were already a requirement of the modification process established under the Water Licence, and so no changes to the Water Licence are necessary.
  - Consistent with previous NWB procedural determinations on this file, the current definitions, terms and conditions of the Water Licence are sufficiently broad in scope and rigorous such that the In-Pit Disposal Proposal can proceed in a way that is protective.
2. Technical issues relating to the In-Pit Disposal progressed toward resolution via the modification process during Fall 2018:
  - Considerable technical review of the In-Pit Tailings Disposal Proposal has already taken place, with numerous opportunities for comment, reply to comments and resolution of outstanding technical issues occurring since the In-Pit Tailings Disposal Modification Proposal was received by the NWB in February 2018.
3. Since the NIRB's positive recommendation of August 30, 2018, Agnico Eagle has been working within the NWB modification process to answer questions and resolve technical concerns. Information which provides further details respecting this engagement appears on the NWB public registry<sup>1</sup>.
4. Additionally, we believe we have addressed CIRNAC's three outstanding concerns pertaining to *"thermal monitoring and hydrogeological connectivity, flooding strategy and security"*:
  - Agnico Eagle submitted Meadowbank's flooding strategy to CIRNAC on December 12, 2018.
  - We completed a comparison of the security assessment and this will be submitted to CIRNAC and KIA on December 13, 2018.
  - We met with CIRNAC and NRCAN officials to discuss thermal monitoring and hydrogeological connectivity. These discussions, particularly the input and expertise of NRCAN, have improved the file. Version 4 of the model will be submitted to NRCAN and CIRNAC on December 13, 2018.

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<sup>1</sup> Agnico Eagle Response to Concerns re In-Pit Modification (August 31, 2018); ECCC confirmation of no outstanding comments (Sept. 4, 2018); CIRNAC confirmation of three outstanding concerns (Sept. 7, 2018); NRCAN confirmation of outstanding concerns (Sept. 21, 2018); and meetings held between NRCAN, Agnico Eagle (July 27/28, 2018) and NRCAN, Agnico Eagle and CIRNAC (Sept. 25, 2018).

## ADDENDUM 2 – Proposed Next Steps for an Expedited Amendment Process

The proposed expedited amendment process for the *In-Pit Tailings Proposal at Meadowbank (Type A Water Licence)*, from Agnico Eagle's point of view, would entail the following steps:

- Agnico Eagle completes the NWB form, "*Application for Water Licence Amendment (April 2013)*", including a simple accompanying cover letter directing reviewers to the materials appearing on the NWB public registry to date. No further application materials would be required, given the circumstances, such as the Supplemental Information Guidelines.
- A summary of additional information associated with the *In-Pit Disposal Proposal* would be provided to the NWB during December 2018. This summary would include a list and specific description of the additional information Agnico Eagle would provide that we believe would satisfy CIRNAC and NRCan information requests regarding thermal monitoring and hydrogeological connectivity, flooding strategy and security, and estimated timing for filing this information. Once this information has been filed, it is Agnico Eagle's understanding that we will have provided the Board with all information requested by parties during the modification process.
- Based on Section 9 of the *Nunavut Waters Regulations*<sup>2</sup>, Agnico Eagle is of the view that no public hearing is required.

There are several examples where the NWB has processed amendments to Type A Water Licences involving facility changes without a public hearing. Some of these examples are summarized below:

- Amendment No. 1 to Licence No. 2AM-MEA0815, Marshalling Area Bulk Fuel Storage Facility Expansion (2010);
- Amendment No. 1 to Licence No. 2AM-DOH0713, Relocation of the Explosives Mixing and Storage Facility (2010);
- Amendment No. 2 to Licence No. 2AM-DOH0713, Expansion of fuel storage and containment facility, airstrip and bypass road expansion, and revised location of cyanide/reagent storage facility (2011); and,
- Amendment No. 3 to Licence No. 2AM-DOH0713, Waste rock and ore management - storage and use (2012).

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<sup>2</sup> 9 (1) For the purposes of section 13.7.3 of the Agreement and subsection 52(1) of the Act, no public hearing is required in respect of an application for (a) an amendment to a type A licence that does not affect the use, flow or quality of waters or alter the term of the licence; (b) one or several renewals of a type A licence if the total duration of the renewal or renewals does not exceed 180 days; (c) the assignment of a type A licence; or (d) the issuance, amendment, renewal, assignment or cancellation of a type B licence.

**ADDENDUM 2 (continued)**

It was noted during the December 7<sup>th</sup> teleconference that these determinations were made prior to the *Nunavut Waters Regulations* coming into force. However, Agnico Eagle wishes to note for all parties that these determinations were made under the previous s. 174 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, which read as follows at that time (and was later incorporated as Section 9 in the *Nunavut Waters Regulations*):

174. (1) The regulations made under paragraph 33(1)(c) of the Northwest Territories Waters Act are deemed, in relation to the use of waters or the deposit of waste in Nunavut, to prescribe, as classes of applications that are exempted from the requirement of a public hearing, the classes of applications in relation to the following:

- (a) in the case of a Type A licence,
  - (i) any amendment that does not affect the use, flow or quality of waters or alter the term of the licence,
  - (ii) any amendment that affects the use, flow or quality of waters or alters the term of the licence, where the Nunavut Water Board, with the consent of the Minister, is of the opinion that an emergency exists that requires the amendment, or
  - (iii) one or several renewals of a total duration not exceeding sixty days; and
- (b) in the case of a Type B licence, its issuance, amendment, renewal or cancellation.

Agnico Eagle assures the NWB that the *In-Pit Disposal Proposal* will not affect the use, flow or quality of waters or alter the term of the licence. We will continue to comply with all of the Water Licence terms and conditions respecting use, flow and quality. No changes to the existing Water Licence volumes or discharge criteria are being sought by Agnico Eagle. As stated previously within the NIRB and NWB process, as currently, Agnico Eagle will meet Type A license requirements at the point any discharges enter the Second and Third Portage Lake.

Additionally, the NWB has, in several instances as noted above, processed amendments to Type A Water Licences involving facility changes without a public hearing. We would appreciate similar consideration and treatment of our Proposal.