



May 27, 2015

Phyllis Beaulieu
Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
X0B 1J0

Security Arrangements in Respect of Amended and Renewed Type A Meadowbank Water Licence No. 2AM-MEA0815 (the Water Licence)

Dear Ms. Beaulieu,

Agnico Eagle Mines Ltd. (AEM) wishes to thank the Nunavut Water Board (the Board) for the opportunity to make the following submissions in respect of Aboriginal Affairs and Northern Development Canada (AANDC)'s and Kivalliq Inuit Association (KIA)'s submissions on the issue of security to be held under the renewed and amended Water License.

Summary of Evidence on Security Currently Before the Board

As set out in AEM's submissions to the Board during these hearings, the company accepts that the global reclamation security amount applicable to the Water License for the Meadowbank Mine may be set at **\$86,519,614** million in total. While AEM is of the view this amount (which includes the amount augmented by the **\$1,650,126** care and maintenance allowance suggested by AANDC) is in excess of what is necessary, it does not appear that there is any material disagreement with this global security amount by any of the parties to these hearings.

AEM's expectation is that there be a fair process under the *Nunavut Waters and Nunavut Surface Tribunals Act* (NWNSTTA) to set a security amount that is adequate to reclaim and recover the site if we fail to be there to do so in future. It is not our intent to fail, but we recognize that the Crown and landowner require protection in the form of reclamation security. For all of the reasons stated during the public hearing it is unacceptable to AEM to be required to double bond in respect of the Meadowbank Mine. In addition to the impact on our company of this action, in our view this approach is contrary to the public interest as it impairs the attractiveness of Nunavut to companies wanting to invest.

AEM recognizes that it is preferable to come to the Board with a solution that all parties agree with, and that the current situation leaves the Board in a somewhat challenging position. We are aware that AANDC and KIA are intending to continue discussions regarding a shared security arrangement following the completion of these proceedings, and would be supportive of this to the extent that the ultimate arrangement addresses double bonding in a



way that is satisfactory to all parties involved. We are disappointed that AANDC and KIA have failed to reach an agreement to date. Unfortunately, it is unlikely that these arrangements will be finalized in the near term and AEM is not in a position to support any further delay to the renewed and amended Water License.

AEM's Proposed Interim Solution to the Current Security Bonding Challenge

The NWNSRTA allows the Board to require AEM to furnish and maintain security with the Minister in a form determined by the regulations or otherwise satisfactory to the Minister. In accordance with its duties and authority under the NLCA and the NWNSRTA, the Board has a broad and widely recognized mandate to assess and order both land and water related security, to ensure that the overall reclamation of the licensed undertaking is secured. The Board's fixing of security is limited by s. 10(1) of the *Nunavut Waters Regulations* (the Regulations) and the Board must ensure that the amount fixed does not exceed:

- (a) the costs of the abandonment of the undertaking;
- (b) the costs of the restoration of the site of the undertaking;
- (c) the costs of any ongoing measures that may remain to be taken after the abandonment of the undertaking; and
- (d) the compensation that a person, including the designated Inuit organization, who is adversely affected by the use of waters or deposit of waste may be entitled to under section 13 of the NWNSRTA.

In AEM's view, the Board's holistic approach to the issue of land and water security required under the NWNSRTA is appropriate in the interim before an agreement between AANDC and KIA is reached. This interim approach would allow the Board to set the security payable under the license at an appropriate amount that would not result in double bonding, in order to permit AANDC and KIA time to resolve outstanding matters relating to security administration.

AEM is of the view that on the current evidence before the Board, it would be appropriate for the Board to initially set the security due to the Minister under the license in the amount of **\$8,651,961** (approximately 10% of the total agreed estimated reclamation liability). A license term could be included which requires the security amount to be revisited in one year's time following the issuance of the Water License, or earlier at the request of AANDC, KIA or AEM should the parties agree on an arrangement or should any other relevant circumstances change over the course of the year. As part of this arrangement, the Board and AANDC would be provided with at least sixty (60) days prior notice of any reduction in security held by the KIA, and AEM expects there would be a formal mechanism in the license which would permit the Board to increase the security required under the license on application by any party.



AEM proposes to post the additional security of **\$62,967,653** (additional to the **\$14,900,000** already held by KIA) with KIA in the form of a letter of credit from an accredited Canadian bank within 30 days of issuance of the license and would provide evidence of same to the Board and to AANDC. At that time, the letters of credit comprising the overbonding amount would be released back to AEM by AANDC.

Evidence Justifying Board Discounting in the Proposed Interim Period

It is AEM's view that the following factors should be taken into consideration by the Board in fixing the security due under the license at **\$8,651,961** for 2015/2016:

- a. The current commercial arrangements between AEM and KIA are equivalent to the security that would otherwise be posted with the Minister pursuant to the Water License**

The KIA filed with the Board the *Commercial Lease for Inuit Owned Lands No. KVPL08D280 between the Kivalliq Inuit Association and Agnico Eagle Mines Ltd.* dated July 24, 2008 (the Production Lease). As set out in AADNC's submission to the Board of May 26, 2015:

Generally speaking, the lease puts the land owner as a private actor in much the same position as the Minister of Aboriginal Affairs and Northern Development in vis a vis the publicly-held security under the Nunavut Waters and Nunavut Surface Rights Tribunal Act. The Lease positions the land owner well to protect their interests and to be the stewards of the environment on their land.

The Closure and Reclamation Security Deposit that AEM has posted with the KIA is governed by clause 14.10 of the Production Lease:

If AEM breaches any material term, covenant or condition pertaining to its obligations relating to the Environment or the abandonment, closure and reclamation of the Project and fails to remedy such breach within the time permitted pursuant to this Lease, KIA may, at its option and without prejudice to any other rights, on thirty (30) days' prior written notice to AEM of its intention to do so, appropriate and apply the Closure and Reclamation Security Deposit or so much of it as may be necessary to compensate KIA for loss, costs or damages sustained by KIA arising out of or in connection with such breach by AEM. Should KIA draw or realize on the Closure and Reclamation Security Deposit, AEM shall, within thirty (30) business days of receipt of written notice given by KIA, replenish the Closure and Reclamation Security Deposit by such amount as KIA, replenish the Closure and Reclamation Security Deposit by such amount as may have been required to be realized on pursuant to this section. KIA shall provide AEM with a full accounting for any amount appropriated and applied under this section along with written justification for the expenditure.



AEM agrees to make the small adjustments to the Production Lease described in the AANDC submission of May 26, 2015 to further support discounting of security required under the Water License.

As set out in the Production Lease, the reclamation bond to be held by KIA is held for equivalent purposes to those that would be required under the NWNSRTA. While there are some differences, the fact that there are these differences does not mean that this form of security is inadequate and should not be included in the Board's assessment of whether the costs of abandonment and restoration have been secured. The fundamental question is whether the KIA's security is adequate and accessible to secure the costs of the abandonment of the undertaking, restoration of the site and implementation of required remedial measures such that it should reduce the part of the global security amount that is required to be filed under the Water license as the total security amount. In our view, the Production Lease provides adequate information on each of these important factors for the Board to make a determination that the KIA would hold equivalent and adequate security to justify discounting from the total security required under the Water License.

b. Liability should be considered holistically

AEM has provided a memo to the Board entitled *Comments on Technical Review of Spilt on Liability on RECLAIM Model Closure and Reclamation Plan for Meadowbank Mine, NU* Prepared by Golder Associates Ltd. for Agnico Eagle Mines Ltd. Reference No. 1416641, May 22, 2014, which addresses the underlying rationale for determining what portion of the reclamation costs are in respect of water as opposed to land. While it reflects an attempt based on the subjective judgment of the writer to allocate liability to land and water, in AEM's view this is not a useful distinction and the liability should instead be viewed holistically. As set out in the memo,

The closure estimate considers costs to close mines in Nunavut and considers the liability for both land and water portions of the closure and reclamation effort. It is anticipated that both components are key and equal with some tasks potentially having more impact on land or water, but the overall objective is to protect the environment on land and on the water.

We note that the cover discussed in that letter, which is the single largest cost component, will protect both land and water:

The design and implementation of the closure of the tailings storage facility would take place on land as the final elevation of the closed facility is above the water level of the surrounding lakes, but the closure and effort must also consider the liability to the adjacent water bodies and the regional groundwater... Thus, the cap will protect the land at, and adjacent to, the closed tailings facility and the water/groundwater adjacent to and beneath the tailings storage facility. The cap equally protects the land and water on site and the environment.



AANDC has encouraged the Board to not apply any discount which "would reduce the security quantum below the costs of water protection in the event of operator abandonment". AEM is concerned that allocating the funds as suggested by AANDC has the potential of negatively impacting the execution of reclamation activities that will be required in future. The tailings impoundment area is located on Inuit owned lands. Given the function of the cover to protect both land and water, it would not be in KIA's interest not to use the bond to place the cover, should that action become necessary. In this respect, KIA's and AANDC's interests are aligned. We have no doubt that in administering the funds and undertaking any necessary reclamation activities KIA would act in a responsible manner protective of land and water resources on and near Inuit owned lands and in consideration of the needs of future generations.

The private landowner KIA is a solvent Designated Inuit Organization with responsibility for environmental stewardship over its Inuit owned lands. KIA has potential liability under the NWNSRTA for the operations located on their lands, which is part of the reason they seek to hold what they consider to be the necessary security to reclaim them. In the unlikely event that KIA were to take control over the reclamation of the Meadowbank Mine in future and cause a release of waste into Nunavut waters protected by the NWNSRTA, AANDC may take any of the enforcement actions available under the NWNSRTA, including but not limited to directions, orders, regulatory charges and fines.

c. Security has been maintained by AEM in respect of the existing Water License and other regulatory approvals and permits

As described during the hearing, AEM currently has posted security in the amount of \$5 million with the Government of Nunavut to address any future spill from the tank farm, as well as security in the amount of \$25,950,000 with Fisheries and Oceans Canada in respect of the *Fisheries Act* authorizations issued to AEM. AEM also currently has posted \$14,900,000 with KIA - evidence of the Irrevocable Standby Letter of Credit No. S18572/276888 (July 28, 2008) was filed with the Board during these proceedings. As the Board is aware, \$43,900,000 has been posted with AANDC pursuant to the terms of the current license.

d. It is highly unlikely that there will be any need to access security bonds held by KIA or AANDC in respect of the Meadowbank Mine in the 12 month period following issuance of the Water License

AEM is the direct 100% owner of the Meadowbank Mine. AEM is a publicly traded company and is in a strong financial position, with numerous assets valued at amounts that far exceed the reclamation liability at Meadowbank Mine. As recent evidence of this, AEM has enclosed its most recent Annual Report, management discussion and analysis and audited financial statements (which are also publicly available on sedar.com). AEM produced a record 1,429,288 ounces of gold in 2014 and 3.6 million ounces of silver. Agnico has a strong track record of growing gold reserves and resources through exploration – our gold reserves



stand at 20.0 million ounces. We also have approximately 67 million ounces of silver, 131,000 tonnes of zinc and 51,000 tonnes of copper in reserves as of December 31, 2014. In 2015, we expect to grow our annual gold production by 12% to 1,600,000 from 2014 production levels, including the Canadian Malartic mine.

Given that there are significant gold resources remaining in the ground at Meadowbank, even in the very unlikely event that AEM abandoned the site it is very unlikely that KIA or AANDC would implement the final closure and reclamation of the site in the next year. Meadowbank is AEM's largest gold producer, and is expected to produce 400,000 ounces of gold in 2015. AEM has at least two further years of production remaining at the Meadowbank Mine. In addition to this, the Company is evaluating a potential expansion of the Vault pit, which could result in approximately 150,000 to 200,000 ounces being added to the mine plan starting in 2017. A positive decision on the Vault expansion could affect the distribution of ounces produced in 2016 to 2018. In addition, a major drill program is planned at Amaruq in 2015 to expand the initial 1.5 million ounce inferred resource base with the goal of potentially developing the deposit as a satellite operation to Meadowbank.

AEM has operated the Meadowbank Mine in material compliance with applicable regulatory requirements throughout its ownership of the project, and its strong environmental stewardship record should also be taken into account by the Board when contemplating the security arrangements.

In addition to all of the above, AEM holds \$100 million in environmental insurance which could be accessed in the event of an environmental incident at the mine.

Taking into account all of these factors along with the company's strong balance sheet and list of assets, it is highly unlikely that any closure and reclamation activities requiring access to any security bonding would be undertaken at the mine site within the 12 months following issuance of the Water License.

Conclusion

In closing, on the evidence provided to the Board it is not necessary or in the public interest for the Board to require double bonding in respect of the Water License at this time. AEM intends to carry out all reclamation required in respect of the Meadowbank Mine, and is of the view that the total security amount is more than sufficient to reclaim the lands to the standards required by the KIA and by the NWNSRTA. Should this fail to occur, AEM is confident that the KIA and AANDC, as holders of security respectively would be able to efficiently administer these funds and ensure the project is fully reclaimed to the high standards that are necessary to complete this task.



In AEM's view, an interim approach by the Board which would see KIA hold 90% of the global security amount and AANDC hold 10% of the global security amount, for one year only, pending an agreed arrangement by the parties, is protective of the interests set out in the NWNSRTA and respectful of the Inuit landowner, Crown, and proponent rights protected in the *Nunavut Land Claims Agreement*.

If further evidence is required by the Board in respect of this submission or more generally in respect of AANDC's motion on security, we would be pleased to provide it as needed.

Regards,

Larry Connell, P. Eng.
Agnico Eagle Mines Ltd.