

NUNAVUT WATER BOARD

Whale Tail Pit Project Type "A" Water Licence
Application No. 2AM-WTP--- and Consequential Amendments
to Water Licence 2AM-MEA1525

PUBLIC HEARING

VOLUME 2

Baker Lake, Nunavut

September 27, 2017

TABLE OF CONTENTS

1		
2		
3	Description	Page
4		
5	September 27, 2017	268
6		
7	Presentation by the Kivalliq Inuit	273
8	Association	
9	IAN PARSON, TONY BROWN, Affirmed	277
10	Presentation by Indigenous and Northern	280
11	Affairs Canada	
12	Nunavut Water Board Staff Questions	297
13	Indigenous and Northern Affairs Canada	
14	Presentation by Environment and Climate	301
15	Change Canada	
16	Presentation by Fisheries and Oceans	313
17	Canada	
18	Agnico Eagle Mines Limited Questions	328
19	Fisheries and Oceans Canada	
20	Closing Remarks by the Kivalliq Inuit	344
21	Association	
22	Farewell to Karen Costello	346
23	Closing Remarks by Indigenous and Northern	346
24	Affairs Canada	
25	Closing Remarks by Environment and Climate	349
26	Change Canada	

TABLE OF CONTENTS

Description

Page

Closing Remarks by Fisheries and Oceans

Canada

350

Closing Remarks by Agnico Eagle Mines

352

Limited

Closing Remarks by the Chair

361

Certificate of Transcript

364

List of Exhibits

365

Proceedings taken at Baker Lake, Nunavut

September 27, 2017

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6 (PROCEEDINGS COMMENCED AT 9:35 AM)

7 THE CHAIR TOOMASIE: Good morning, everyone. This
8 second day of our public hearing here in Baker Lake.

9 Before we actually start with our agenda, I'd like
10 to have opening prayer. Let us stand.

11 (OPENING PRAYER)

12 THE CHAIR: Before, actually, we start, I
13 would like to ask the staff if there is any
14 housekeeping we need to do? There's not? Okay. All
15 right.

16 Okay. We done with applicant yesterday. Okay.
17 So we start with intervenors this morning. So let's
18 start with Kivalliq Inuit Association.

19 Do they need to be sworn in? Okay.

20 Presentation by the Kivalliq Inuit Association

21 MR. MANZO: Good morning, Mr. Chairman.

22 My name is Luis Manzo from the Kivalliq Inuit
23 Association. My name is L-U-I-S, M-A-N-Z-O.

24 I would like to thank the Board for the
25 opportunity to be here today, to the staff, to members
26 of the public, the institutions of the

1 federal government who help us and distribute the
2 proponent to facilitate those meetings in which we
3 address KIA issues.

4 Present a joint submission for Nunavut Water
5 Board, so I will skip the slides that are not a part of
6 this hearing to the end of the presentation.

7 KIA represent Inuit, administer, and monitors
8 certain provisions of the Nunavut final agreement in
9 the Kivalliq Region. KIA's mission is to represent
10 Inuit in a fair and democratic manner in the
11 development, protection, administration, and
12 advancement of the rights and benefits and to promote
13 economic, social, and political and cultural
14 well-being.

15 The purpose of our technical review was to ensure
16 that the potential impacts and benefits were
17 comprehensively assessed through scientific,
18 socioeconomic, and impact assessment best practices,
19 and to ensure Inuit traditional knowledge were
20 incorporated into the impact designation, mitigation,
21 project design, and monitoring.

22 The technical review identify and sent in '11 --
23 in August 11, 2017, there was six issues in regard to
24 caribou and one issue -- three issues regarding to
25 water.

26 So I will skip to ...

1 Kivalliq Inuit Association had several meetings
2 and workshops with INAC, Environment and Climate Change
3 Canada, and the proponent; finally resolved the issue
4 in regard to the arsenic component. So that issue no
5 longer -- has been resolved.

6 In regard to security deposit, we are getting the
7 total amount of security and we also agree and signed
8 the security management agreement which divide the
9 security 50 percent for INAC and 50 percent for KIA for
10 the purpose of this Whale Tail Project.

11 We still working the water compensation issues.
12 We were here last week and is with different dates in
13 terms of start of construction, start of operations,
14 post -- closure and postclosure dates, which we have to
15 go back into our assessment and try to accommodate and
16 also values, quantities, and the lakes; and we went
17 back to that and tried to reassess it. We're hoping to
18 have that before this hearing is closed. And proponent
19 will -- we will trigger proponent in negotiations for
20 that particular matter.

21 And with that, I conclude my presentation. If
22 anybody have any specific questions, I am going to
23 respond to it.

24 THE CHAIR: Thank you for your
25 presentation. Now questions, concerns. I'd like to
26 start with the applicant, if you have any questions or

1 concerns to the presentation from KIA.

2 MR. QUESNEL: Thank you, Mr. Chair.

3 Jamie Quesnel, Agnico Eagle.

4 No questions.

5 Thank you.

6 THE CHAIR: Thank you.

7 INAC. Call upon.

8 MS. COSTELLO: Good morning, Mr. Chair.

9 Karen Costello for Indigenous and Northern Affairs
10 Canada.

11 We have no questions at this time.

12 Thank you.

13 THE CHAIR: Thank you.

14 Then Environment and Climate Change Canada.

15 MS. PINTO: Thank you, Mr. Chair.

16 Melissa Pinto, Environment and Climate Change Canada.

17 We have no questions at this time.

18 THE CHAIR: Thank you.

19 And then DFO.

20 MR. D'AGUIAR: Thank you, Mr. Chair.

21 Mark D'Aguiar with Fisheries and Oceans Canada.

22 We have no questions at this time.

23 Thank you.

24 THE CHAIR: Thank you.

25 From public. From public, is there concerns,
26 questions? Okay. There's none?

1 And Water Board staff.

2 MR. KHARATYAN: Thank you, Mr. Chair.

3 Karen Kharatyan, Water Board staff.

4 No questions at this time.

5 THE CHAIR: Thank you.

6 Panel members? Okay. There's none.

7 Thank you. Thank you for your presentation.

8 Thank you.

9 Now I'd like to call INAC to have your
10 presentation.

11 MS. MEADOWS: Thank you, Mr. Chair.

12 Teresa Meadows, legal counsel for the Nunavut Water
13 Board. I see that there are two additional witnesses.
14 If I can have the witnesses state and spell their name
15 for the record, please.

16 MR. PARSONS: Ian Parsons, I-A-N,
17 P-A-R-S-O-N-S.

18 MR. BROWN: Tony Brown, T-O-N-Y,
19 B-R-O-W-N.

20 MS. MEADOWS: Do the witnesses wish to be
21 sworn or affirmed?

22 MR. BROWN: Affirmed.

23 MR. PARSONS: Affirmed as well.

24 IAN PARSON, TONY BROWN, Affirmed

25 MS. MEADOWS: Thank you, Mr. Chair.

26 Teresa Meadows, legal counsel for the Nunavut Water

1 Board.

2 Mr. Chair, I have three additional presentations
3 to file as the exhibits in this public hearing, being
4 the presentation of Indigenous and Northern Affairs
5 Canada with respect to the -- this public hearing and
6 the technical sessions of this public hearing.

7 Thank you, Mr. Chair.

8 EXHIBIT 22 - Indigenous and Northern Affairs
9 Canada hard copy PowerPoint presentation
10 regarding Agnico Eagle's Whale Tail Pit
11 Project for the Nunavut Water Board public
12 hearing (English)

13 EXHIBIT 23 - Indigenous and Northern Affairs
14 Canada hard copy PowerPoint presentation
15 regarding Agnico Eagle's Whale Tail Pit
16 Project for the Nunavut Water Board public
17 hearing (Inuktitut)

18 EXHIBIT 24 - Indigenous and Northern Affairs
19 Canada hard copy PowerPoint presentation
20 regarding Agnico Eagle's Whale Tail Pit
21 Project for the Nunavut Water Board public
22 hearing (French)

23 THE CHAIR: Thank you.

24 So INAC, go ahead.

25 MS. COSTELLO: Good morning, Mr. Chair.

26 Karen Costello for Indigenous and Northern Affairs

1 Canada.

2 We provided an updated English presentation
3 electronically yesterday to the Nunavut Water Board,
4 and that will be the presentation in front of us. Our
5 apologies. We were not able to update the printed
6 copies. The substantial differences are the inclusion
7 of the agreed-upon reclamation cost estimate and the
8 symbols on the slides that were changed from "X",
9 indicating unresolved, to checkmarks. So that is the
10 only substantial difference between the two. And I
11 believe I also changed out one photo. But other than
12 that, they are materially the same.

13 THE CHAIR: Go ahead.

14 MS. MEADOWS: Thank you, Mr. Chair.

15 Teresa Meadows, legal counsel for the Nunavut Water
16 Board.

17 So, Mr. Chair, I'm going to recommend that we also
18 file the electronic copy of that exhibit as the copy
19 for the final hearing.

20 Thank you, Mr. Chair.

21 EXHIBIT 25 - Indigenous and Northern Affairs
22 Canada updated electronic PowerPoint
23 presentation regarding Agnico Eagle's Whale
24 Tail Pit Project for the Nunavut Water Board
25 public hearing (English)

26 THE CHAIR: Thank you.

1 So, INAC, your presentation.

2 Presentation by Indigenous and Northern Affairs Canada

3 MS. COSTELLO: Thank you, Mr. Chair.

4 Good day, everyone. My name is Karen Costello.

5 I'm the director of resource management with the

6 Nunavut regional office of Indigenous and Northern

7 Affairs Canada. I am joined here today by Ian Parsons,

8 the regional coordinator and water licence application

9 review lead with the water resources division of the

10 Nunavut regional office, and Tony Brown of Arcadis, who

11 supported the department's technical review of the

12 application. In the audience I'm joined by

13 Amanda Belanger, a water resource analyst with our

14 Gatineau office.

15 I'd like to express our thanks to the Nunavut

16 Water Board for holding the hearing for this

17 application process as well as the community of

18 Baker Lake for the hospitality and participation in the

19 hearing process.

20 The purpose of this presentation will be to

21 outline the department's role in the water licence

22 process, our participation in the review of the

23 application for the Whale Tail Pit Project, the final

24 review comments on both the application for the

25 Whale Tail licence and the amendment for the Meadowbank

26 water licence. We'll do a review of the resolved

1 concerns and a discussion of the department's
2 reclamation and closure cost estimate.

3 As I mentioned during the discussion of exhibits,
4 the printed copy of the document has been updated. As
5 such, the electronic copy on the screen is the most
6 current.

7 The department has completed this review and
8 delivers this presentation under the purview of the
9 Department of Indian Affairs and Northern Development
10 Act, the Nunavut Land Claims Agreement Act, the Nunavut
11 Waters and Nunavut Surface Rights Tribunal Act, as well
12 as its associated regulations. We also considered the
13 Territorial Lands Act and its associated regulations
14 and the Arctic Waters Pollution Prevention Act.

15 I'm sure all of you know that the Minister for
16 Indigenous and Northern Affairs Canada has a role in
17 the water licencing process. She will be responsible
18 for considering the decision made by the Nunavut Water
19 Board.

20 The department has participated in the review of
21 this -- of the Whale Tail application through scoping
22 and initial information requests. We submitted nine
23 technical review comments prior to the May technical
24 meeting and prehearing conference. We then
25 participated in the technical meeting and prehearing
26 conference here in Baker Lake. And since then, have

1 continued to engage with other intervenors as well as
2 Agnico Eagle to ensure a robust final submission. The
3 department made its final written submission on
4 August 14th, 2017.

5 The focus of our review and advice on the
6 application was on surface water quality and quantity,
7 groundwater quality and quantity, and the reclamation
8 and closure cost estimate. The department's final
9 written submission included three outstanding concerns
10 related to water quality and two that had been
11 satisfied since the May 2017 technical meeting.

12 Since making our submission, Agnico has provided a
13 response that addresses the outstanding concerns either
14 in their August 28th response or in clarifications,
15 submissions, and commitments brought forward to the
16 Board during the course of this hearing. So,
17 basically, the remainder of this presentation will
18 outline why these issues were outstanding and their
19 current resolved status.

20 In addition, the department's final submission to
21 the Nunavut Water Board included two comments with
22 regard to the amendment application for the existing
23 Meadowbank licence. These have also been satisfied.

24 So as -- I'm just going to reiterate so it's clear
25 for the Board, as you heard in Agnico's presentation,
26 the issues that Indigenous and Northern Affairs Canada

1 has brought forward have been addressed to the
2 satisfaction of the department through either
3 commitments or some agreements on some proposed terms
4 and conditions which will be brought forward to the
5 Board for their consideration.

6 I will now turn the microphone over to
7 Ian Parsons, who will speak to the department's
8 technical comments.

9 MR. PARSONS: Good morning, Mr. Chair,
10 everyone. Thank you, Karen.

11 So as Karen just -- as Karen just said, we have
12 three comments that were outstanding but now are
13 resolved, and now I will just go through a little
14 outline of those issues.

15 The department's -- the first comment relates to
16 the seepage from the waste rock storage facility and,
17 specifically, during the postclosure period. During
18 operations and closure, seepage from the waste rock
19 storage facility will be actively treated in order to
20 ensure that seepage entering the receiving waterbodies
21 meets applicable criteria in order to protect the
22 aquatic environment.

23 However, if seepage continues in the postclosure
24 period or if seepage onset is delayed to the future and
25 if this seepage exceeds water quality guidelines, then
26 treatment of seepage from the waste rock storage may be

1 needed in the long term or even indefinitely. Agnico
2 Eagle recently modelled arsenic concentrations in the
3 waste rock storage facility seepage based on the
4 assumption that there will be zero arsenic leaching
5 material in the cover of the waste rock storage
6 facility. Based on this assumption, Agnico showed that
7 without treatment, arsenic concentrations in the
8 seepage are predicted to oscillate between just below
9 at -- or just above criteria, such as the Portage
10 effluent limit. Arsenic concentrations in the
11 Mammoth Lake mixing zone would peak cyclically above
12 the site-specific water quality objective for arsenic.

13 With this information, the department was
14 concerned that Agnico had assumed that their onset
15 segregation practices for waste rock would be
16 infallible such that there would be absolutely no
17 inclusion of arsenic leaching or potentially
18 arsenic-leaching material in the waste rock storage
19 facility cover. The department was concerned that this
20 was an overly optimistic assumption.

21 Because of this concern regarding contamination in
22 the waste rock storage facility cover, the department
23 asked the applicant to model arsenic concentrations in
24 the waste rock storage facility if a low amount of
25 arsenic-leaching materials were included in the waste
26 rock storage facility cover, as well as the resulting

1 water quality of receiving waterbodies for this
2 seepage. The model results report by Agnico Eagle in
3 response to this request show that if 2 percent or 5
4 percent of arsenic-leaching material was included in
5 the waste rock storage facility cover, that arsenic
6 concentrations in the receiving waterbodies would be
7 predicted to be above the site-specific water quality
8 objective, meaning that this level of contamination in
9 the waste rock storage facility cover would result in
10 decreased water quality in receiving waterbodies and
11 would trigger the need for long-term treatment of the
12 waste rock storage facility seepage.

13 Extrapolation from these model results would show
14 the same issue at 1 percent and 0.5 percent
15 arsenic-leaching material in the cover.

16 To emphasize this point and focus on impacts to
17 downstream water quality, this figure from
18 documentation submitted by Agnico shows receiving water
19 arsenic water concentrations above the site-specific
20 water quality objectives if 2 percent arsenic-leaching
21 materials were included in the cover and no treatment
22 occurred. If this scenario occurs, treatment will be
23 required postclosure.

24 In summary, for this first issue, the department's
25 August 14th submission spoke to our concerns about
26 arsenic concentrations in the waste rock storage

1 facility seepage and resulting arsenic concentrations
2 in downstream waterbodies because even with
3 well-managed segregation practices for waste rock,
4 there remains the potential for inadvertent inclusion
5 of arsenic-leaching material in the waste rock storage
6 facility cover.

7 The applicant's own modelling results show that
8 arsenic concentrations in receiving waterbodies would
9 warrant long-term treatment of the waste rock storage
10 facility seepage if the composition of cover material
11 was not as clean as expected.

12 Since our August 14th submission, the department
13 has since received further responses from Agnico
14 whereby they have committed to additional monitoring.
15 The department has addressed some of the uncertainty
16 with the inclusion of costs for potential water
17 treatment in the closure and the postclosure phase.

18 In relation to the department's concern around
19 postclosure seepage from the waste rock storage
20 facility, the department made the following
21 recommendations to Agnico Eagle:

22 The department recommended an increase to the
23 applicant's plans for waste rock sampling to better
24 evaluate their waste rock segregation practices, thus
25 increasing the confidence of intervenors that no
26 arsenic-leaching material will be included in the waste

1 rock storage facility cover.

2 The department recommended updated monitoring for
3 the waste rock storage facility seepage with criteria
4 that must be met before the dike for the associated
5 attenuation pond is breached.

6 The department also recommended hydrodynamic
7 modelling to evaluate the mixing of seepage in
8 Mammoth Lake.

9 Finally, the department factored in potential for
10 some longer-term treatment of the waste rock storage
11 facility into their reclamation closure cost estimate.

12 Based on these commitments and agreement on the
13 reclamation closure cost estimate from Agnico Eagle,
14 the department considers these items addressed.

15 The second concern in the department's written
16 submission relates to impacts on water quality by
17 maximum thaw depths in the waste rock storage facility
18 cover. The effectiveness of the waste rock storage
19 facility to prevent contamination and decreases in
20 water quality is effective by the thickness of the
21 active freeze-thaw zone in the cover. Depending on the
22 depth of the zone, arsenic contaminant seepage may or
23 may not be a problem. At the request of the
24 department, as well as other intervenors, the applicant
25 performed thermal modelling for the waste rock storage
26 facility to estimate the depth of the active zone on

1 their future climate change scenarios. Their modelling
2 resulted -- their modelling results showed that cover
3 thickness should be 3.8 metres in order to account for
4 the active zone.

5 The applicants' environmental impact statement
6 specified a cover thickness of 2 to 4 metres, and so a
7 cover thickness of 3.8 metres is within their original
8 plans. However, actual data from the Meadowbank
9 Portage waste rock storage facility shows that the
10 depth of the active zone in the waste rock storage
11 facility is up to 5.5 metres in some locations.

12 In relation to thaw depths in the waste rock
13 storage facility, the department made the following
14 recommendations in their final written submission:

15 First, Agnico Eagle has consistently stated that
16 real data generated from their operations at Meadowbank
17 are critical to planning at the Whale Tail Pit site and
18 may be more useful than data from modelling. In this
19 case, the department agrees that Agnico Eagle's
20 experience with the waste rock storage facility at
21 Meadowbank may be useful in further validating the
22 design of the Whale Tail Pit waste rock storage
23 facility cover.

24 As a result, the department recommended that the
25 thermal modelling for the waste rock storage facility
26 cover be further calibrated with ground temperature

1 monitoring data from Meadowbank. The department also
2 recommended that Agnico's thermal model be continually
3 updated through operations to inform final waste rock
4 storage facility cover design.

5 Similar to the department's first comment,
6 uncertainty in final cover design has been considered
7 in the department's reclamation closure cost estimate.

8 Based on commitments and agreement and the
9 reclamation closure cost estimate from the applicant,
10 the department considers these items addressed as well.

11 The department's final outstanding issue in
12 relation to the application concerns postclosure water
13 quality in the flooded pit. The department's final
14 written submission spoke to our concern about the
15 potential for diffusion of arsenic from the pit walls
16 into the pit once it is re-flooded. This is because,
17 even with the proposed north wall pushback, the
18 proportion of ultramafic rock surrounding the pit means
19 that there is a high amount of arsenic-leaching
20 material. Arsenic diffusion into the pit walls is only
21 a concern if the pit or the parts of the pit with
22 ultramafic rock in the walls are in a groundwater
23 discharge zone, meaning that surrounding groundwater
24 will flow through the pit walls and into the pit during
25 re-flooding.

26 There is still some uncertainty as to whether

1 recharge will be a factor for the pit. The applicant
2 has described the area around the pit as circumneutral
3 based on their examination of regional lake levels,
4 meaning that some areas around the pit are recharged
5 and some are discharged, and therefore, the pit as a
6 whole is considered neutral. However, this does not
7 mean that there will be no discharge of groundwater to
8 the pit, only that both recharge and discharge will
9 occur, meaning that overall flow into and out of the
10 pit cancels out to zero in terms of flow.

11 In their presentation yesterday, they illustrated
12 the area being an overall recharge zone. Agnico is
13 confident that areas of discharge do not coincide with
14 areas of ultramafic rock. However, the department is
15 of the position that there is still insufficient
16 information about groundwater flows. To address the
17 department's concern regarding water quality in flooded
18 pit, the following recommendations were made in our
19 final written submission:

20 The department recommended that additional
21 hydrogeological studies to confirm hydraulic gradients
22 occur during the 2018 field season before development
23 of the pit. The department also recommended that if
24 the hydrogeological studies show that there is
25 likely -- likely to be diffusion of arsenic from the
26 pit walls, that additional analysis be done to confirm

1 that water within the flooded pit will exhibit stable
2 meromixis, thus reducing the impact of arsenic on water
3 quality.

4 The department also advised that Agnico Eagle
5 should prepare an updated monitoring plan for the
6 flooded pit with criteria to be met before the dike is
7 breached.

8 Following discussions between the department and
9 Agnico Eagle, agreement has been reached on proposed
10 terms and conditions that address the department's
11 recommendations. As a result, the department considers
12 this issue to be resolved.

13 As Karen mentioned earlier, there was two issues
14 that's been resolved since the technical meeting. At
15 the May 2017 technical meeting, the department brought
16 forward two additional concerns regarding the
17 Whale Tail Pit licence application. The first concern
18 was that there may not be enough metal leaching --
19 sorry -- non-metal-leaching rock available for the
20 waste rock storage facility cover. The department has
21 since conferred with the applicant and received updated
22 information regarding the size and the footprint of the
23 waste rock storage facility. The department now agrees
24 with the applicant that there will be sufficient cover
25 material available. This issue is resolved.

26 The second concern was that the calculations

1 performed by the applicant to predict nitrate and
2 ammonia concentrations and effluent as a result from
3 the use of explosives use used average data from
4 Meadowbank as opposed to taking into consideration
5 Whale Tail-specific blasting volumes. Upon further
6 discussion by technical experts from both the
7 department and Agnico Eagle's method for these
8 calculations, these have been accepted, and the issue
9 is resolved.

10 I will now turn the mic back over to Karen to
11 finish our presentation.

12 MS. COSTELLO: Thank you, Ian.

13 Karen Costello for Indigenous and Northern Affairs
14 Canada.

15 The department enlisted the technical input of
16 Arcadis to prepare a reclamation closure cost estimate
17 for the Whale Tail Pit Project as well as the
18 all-weather road as -- locally termed as the "haul
19 road" during these proceedings, that will connect the
20 Whale Tail Pit to the Meadowbank mine.

21 We had previously made one submission with an
22 estimate, and yesterday morning we provided a revised
23 reclamation closure cost estimate to the Board.

24 Indigenous and Northern Affairs Canada's current
25 reclamation and closure cost estimate is \$26,285,926
26 and includes consideration around some of the

1 uncertainty in postclosure that was discussed earlier
2 in this presentation.

3 Discussion on the reclamation closure cost
4 estimate has occurred between the department,
5 Agnico Eagle, and the Kivalliq Inuit Association. And
6 as you have already heard, all parties have accepted
7 the estimate that we have presented.

8 Additionally, there is agreement between the
9 parties for a security management agreement. As such,
10 Indigenous and Northern Affairs Canada is recommending
11 50 percent of the reclamation closure cost estimate be
12 held under the water licence for the Whale Tail Pit
13 Project. To be exact, the department recommends the
14 amount -- and I'm hoping my math is right -- the amount
15 of \$13,142,963 be required under the new licence should
16 the Board issue it. This amount will include the
17 security requirements for the Type B licence for the
18 road, for the haul road, as we were directed by the
19 Board to include.

20 The final two issues discussed in this
21 presentation relate to the consequential amendment
22 application to the Meadowbank mine licence that is to
23 cover activities associated with the Whale Tail Pit
24 Project.

25 Amendment Number 1 relates to Meadowbank tailings
26 management. All ore from the Whale Tail Pit will be

1 milled at the Meadowbank facility. In order to
2 accommodate ore storage and tailings from the
3 additional milling activity, Agnico Eagle plans to
4 raise the north cell wall of their existing approved
5 facility.

6 While the facility has -- is approved, its
7 approval was given based on Meadowbank activities. As
8 a result, the department recommends that the facility
9 design change be fully reviewed by the Board and that
10 Agnico Eagle submit an updated tailings management plan
11 that includes consideration of the Whale Tail tailings.

12 Agnico Eagle has agreed to this recommendation,
13 and as a result, the department considers this issue to
14 be resolved.

15 Our second comment in our August 14th submission
16 regarding this amendment had to do with a change of the
17 term of the water licence. The amendment application
18 did not contain an amendment to the term. Currently,
19 the Meadowbank licence expires in 2025. The department
20 recommended that the term be amended to align with that
21 of Whale Tail operations and go to 2026.

22 Agnico has agreed, and the department considers
23 this issue resolved. And we bring forward that
24 recommendation to the Board for their consideration.

25 In conclusion, the information, analysis, and
26 presentation of documentation in the application and

1 the associated submissions was complete. The
2 department still feels that there are some
3 uncertainties that remain as to long-term and
4 postclosure water quality based on the models
5 presented. The department has recommended that
6 Agnico Eagle undertake additional modelling as
7 information becomes available and more intensive -- and
8 a more intensive monitoring program for the site to
9 better understand what for us are the remaining
10 uncertainties and provide more confidence to the
11 predicted outcomes.

12 Up-to-date modelling and monitoring during
13 operations and closure may show that the site
14 conditions match predicted outcomes. However, outcomes
15 that deviate from predictions could result in
16 unintended impacts requiring mitigation.

17 The department is satisfied with the commitments
18 by the applicant and has reached agreement on proposed
19 terms and conditions that relate to all of the issues
20 brought forward in our submissions. Indigenous and
21 Northern Affairs Canada has no outstanding or
22 unresolved issues. The department can commit to
23 providing comments on some additional documents, should
24 they become available. And we will also continue to be
25 engaged on this project should the Board approve the
26 licence -- or should the project go ahead and the Board

1 approve the licence.

2 It's important also to know that Indigenous and
3 Northern Affairs' participation in this licence does
4 not end with the awarding of the licence. Water
5 resource officers with the field operations division of
6 the Nunavut regional office will inspect the project
7 for compliance with the terms and conditions of all
8 water licences attributed to the project. So our
9 engagement and actions on this file will continue,
10 should the licence be issued.

11 That concludes the presentation. We look forward
12 to any questions.

13 Thank you.

14 THE CHAIR: Thank you, INAC, for your
15 presentation.

16 So open up for questions, concerns. Start with
17 the applicant.

18 MR. QUESNEL: Thank you, Mr. Chair.
19 Jamie Quesnel, Agnico.

20 We have no questions at this time.

21 Thank you.

22 THE CHAIR: Thank you.

23 Then Kivalliq Inuit Association.

24 MR. MANZO: Thank you, Mr. Chairman.
25 Luis Manzo, Kivalliq Inuit Association.

26 No questions at this time.

1 THE CHAIR: Thank you.
2 Environment and Climate Change Canada.

3 MS. PINTO: Thank you, Mr. Chair.
4 Melissa Pinto, Environment and Climate Change Canada.

5 We have no questions at this time.

6 THE CHAIR: Thank you.
7 Then DFO.

8 MR. D'AGUIAR: Thank you, Mr. Chair.
9 Mark D'Aguiar with Fisheries and Oceans Canada.

10 We have no questions at this time.
11 Thank you.

12 THE CHAIR: Thank you.
13 Public. (OTHER LANGUAGE SPOKEN). Do you have any
14 questions, concerns? There's none. Okay. Thank you.
15 Staff.

16 Nunavut Water Board Staff Questions Indigenous and
17 Northern Affairs Canada

18 MR. KHARATYAN: Thank you, Mr. Chair.
19 Karen Kharatyan, Nunavut Water Board staff.

20 Couple of small questions, please.

21 If you go down to Slide 9, please. Because of
22 some side discussion between applicant and agencies, we
23 were -- we may not be fully aware of results. So just
24 looking for confirmation related to Bullet B, which
25 criteria you mean for the waste rock storage facility,
26 I guess, before dike so this could be direct discharge

1 to Mammoth Lake. So is this the site-specific criteria
2 established for arsenic or different criteria?

3 MS. COSTELLO: Thank you, Mr. Chair.

4 Karen Costello for Indigenous and Northern Affairs
5 Canada.

6 We were -- for breaching the dike, there are
7 certain criteria that have to be met. We've been
8 working on some proposed terms and conditions with
9 Agnico, and I don't think we've actually filed them yet
10 as to -- and we were also talking about a monitoring
11 framework. And the criteria has to do with -- we've
12 been working on water quality and also just the -- we
13 want to make sure that when the dike is breached, that
14 there's not going to be any impacts; it's going to be
15 water that's within the guidelines and the criteria
16 that are going to be developed or have already been
17 developed.

18 MR. KHARATYAN: Thank you, Mr. Chair.

19 Karen Kharatyan, Nunavut Water Board staff.

20 So this could be different than site-specific
21 criteria for arsenic; yes?

22 MS. COSTELLO: I'm going to -- Karen Costello
23 for Indigenous and Northern Affairs Canada.

24 I'm just going to reach over to the applicant,
25 because this is something that we've been working on
26 with them. And I've got proposed terms and conditions

1 in front of me. So I'll just turn it over to Ryan, if
2 I could, Mr. Chair.

3 MR. VANENGEN: Ryan Vanengen from
4 Agnico Eagle.

5 The concept at this point, Karen, is that we would
6 meet our discharge criteria at the Mammoth discharge
7 during operations. And as we move into closure, we'll
8 make sure we continue to meet that discharge criteria
9 into Mammoth. As well, consider water quality criteria
10 in the pit.

11 The specific criteria of the water quality within
12 the pit would be part of a closure objective and would
13 be based on either baseline data, site-specific water
14 quality data, or other reasonable criteria. And that
15 would be determined by the Nunavut Water Board in
16 consultation with INAC and Environment Canada -- is
17 what we've talked about to this point.

18 Thank you, Mr. Chair.

19 THE CHAIR: Thank you.

20 MR. KHARATYAN: Thank you, Mr. Chair.

21 Karen Kharatyan, Nunavut Water Board staff.

22 Similar question is on the Slide 13. I think I
23 had the same -- yes, the same question about specific
24 criteria, whether this is different from site-specific
25 criteria established that will be potentially
26 applicable at the postclosure phase before breaching

1 the dikes or no? Or other criteria will be
2 established?

3 MS. COSTELLO: Karen Costello for Indigenous
4 and Northern Affairs Canada.

5 Yes, it would be similar to the response just
6 provided.

7 MR. KHARATYAN: Thank you. Thank you,
8 Mr. Chair.

9 And very small comments. On Slide 17, just for
10 confirmation, this should be north cell? Or ...

11 MS. COSTELLO: Karen Costello for Indigenous
12 and Northern Affairs Canada.

13 Yeah, we were -- the compass was oriented wrong.
14 Yes, it's the north cell wall raise. And apologize for
15 that error.

16 MR. KHARATYAN: Thank you. Thank you,
17 Mr. Chair.

18 No more questions.

19 THE CHAIR: Thank you.

20 MR. VANENGEN: Mr. Chair.

21 THE CHAIR: Go ahead.

22 MR. VANENGEN: If I may, that should be
23 corrected to elevation 154 metres above sea level, not
24 54.

25 Thank you. Mat'na.

26 THE CHAIR: Okay. And then Panel members,

1 you have questions? Okay. No more questions or
2 concerns.

3 Thank you for your presentation, INAC.

4 Should we take a break, 15-minute break, before we
5 continue on with the intervenors? 15-minute break.

6 (ADJOURNMENT)

7 THE CHAIR: Break is over.

8 So we'll start with the next intervenors,
9 Environment and Climate Change Canada.

10 Go ahead.

11 Presentation by Environment and Climate Change Canada

12 MS. PINTO: Good morning, Mr. Chair, Board
13 members, community members, Board staff, and parties
14 that have joined us here today. My name is
15 Melissa Pinto, and I'm a senior environmental
16 assessment coordinator with Environment and Climate
17 Change Canada. With me today I have Trish Auser, our
18 water quality expert.

19 To start off I will go through Environment and
20 Climate Change Canada's mandate, briefly touch upon the
21 relevant acts and legislation, and then go through the
22 recommendations outlined in the department's final
23 written submission --

24 THE CHAIR: Just a quick -- quick stop for
25 a minute.

26 Teresa.

1 MS. MEADOWS: Thank you, Mr. Chair.

2 Teresa Meadows, legal counsel for the Nunavut Water
3 Board.

4 Ms. Pinto, if I can just confirm, do you have a
5 separate presentation than the community presentation
6 that was filed? At the back. All right.

7 So, Mr. Chair, let the record show that I will be
8 marking this presentation as the next exhibit in the
9 public hearing.

10 Thank you, Mr. Chair. Those are my procedural
11 matters.

12 EXHIBIT 26 - Environment and Climate Change
13 Canada hard copy PowerPoint presentation to
14 the Nunavut Water Board respecting the Whale
15 Tail Pit Project Type A water licence
16 application for the public hearing
17 (English/Inuktitut)

18 THE CHAIR: Thank you.

19 Go ahead.

20 MS. PINTO: As I was saying, we'll then go
21 through the recommendations outlined in the
22 department's final written submission to the Nunavut
23 Water Board. For each recommendation, we will indicate
24 whether or not the issue has been resolved or still
25 remains outstanding, along with any commitments made by
26 the proponent.

1 Summarized, Environment and Climate Change

2 Canada's mandate is to conserve and protect Canada's
3 water resources, forecast daily weather conditions and
4 warnings, coordinate environmental policies and
5 programs for the federal government, and continued on,
6 to preserve and enhance the quality of the natural
7 environment -- including air, water, soil, flora, and
8 fauna -- and enforce rules relating to boundary waters.

9 Environment and Climate Change Canada's mandate is
10 governed by the Department of the Environment Act, the
11 Canadian Environmental Protection Act, the pollution
12 prevention provisions of the Fisheries Act, the
13 Migratory Birds Convention Act, and the Species at Risk
14 Act.

15 For water quality, some of the outstanding
16 concerns that Environment and Climate Change Canada had
17 at the close of the prehearing conference were resolved
18 by subsequent exchanges with the proponent. One such
19 concern was with the site-specific water quality
20 objective for arsenic which was initially proposed at
21 28 micrograms per litre.

22 In response to the department's concerns, the
23 proponent removed the amphibian data and provided
24 summary statistics for the models and the rationale for
25 selecting the normal model.

26 The department acknowledges that there is unlikely

1 to be a statistically significant difference between
2 the results of the two models. Therefore, the
3 department accepts the revised site-specific water
4 quality objective of 25 micrograms per litre for total
5 arsenic which excludes the amphibian data.

6 The department had also raised concerns regarding
7 water quality modelling predictions for arsenic and
8 phosphorous levels in the receiving environment and has
9 recommended improved treatment for these constituents.

10 The proponent now proposes to improve the treatment
11 objective for arsenic and for phosphorous. The
12 department accepts these more stringent treatment
13 objectives.

14 I will now hand it over to Trish to continue the
15 presentation, but before I do that, I would like to
16 note that the comment and recommendation numbers in the
17 presentation refer to the Nunavut Impact Review Board's
18 submission and not the Nunavut Water Board submission.
19 This is to be consistent with the proponent's
20 responses, which were only provided for the
21 department's comments and recommendations, submitted to
22 the Nunavut Impact Review Board, which were the same
23 water quality comments and recommendations that were
24 submitted to the Nunavut Water Board.

25 MS. AUSER: Comment Number 4 relates to
26 the north wall pushback of Whale Tail Pit. The

1 original Whale Tail Pit design, which is the base case,
2 resulted in approximately 29 percent of the final pit
3 shell containing exposed ultramafic rock, which has a
4 higher potential to leach arsenic than does other rock
5 types. A pushback, that is, increased removal of the
6 north wall containing this ultramafic rock, was
7 initially identified by the proponent as a potential
8 contingency measure to reduce the amount of exposed
9 ultramafic rock on the final pit shell by roughly half
10 with the intent to reduce arsenic levels within
11 Whale Tail Pit Lake.

12 Environment and Climate Change Canada noted that
13 the environmental risks and benefits of removing
14 approximately half of the exposed north wall ultramafic
15 material from the Whale Tail Pit, that is, a north wall
16 pushback, had not been fully quantified or discussed.
17 Given the large volume of waste rock that would be
18 produced by a north wall pushback, which would increase
19 the waste rock storage facility to an elevation of
20 66 metres, together with modest improvements in water
21 quality, an alternatives assessment was recommended.

22 Environment and Climate Change Canada recommended
23 that the proponent conduct an alternatives analysis of
24 the pit design with and without the north wall pushback
25 scenario in order to assess the potential risks and
26 benefits to the aquatic receiving environment. Such an

1 alternatives analysis should consider the entire life
2 of mine and through postclosure.

3 In their responses to final submissions, the
4 proponent summarized the evaluations done, stating that
5 they have evaluated the change from base case to adding
6 the north wall pushback. Given that the north wall
7 pushback has already been selected as the preferred
8 design over the base case, Environment and Climate
9 Change Canada acknowledges that the main issues have
10 been compared -- that is, water quality, arsenic, waste
11 rock, and closure -- and is currently satisfied with
12 the information provided.

13 Environment and Climate Change Canada anticipates
14 that operational information will refine predictions
15 and management actions for this alternative.

16 For Comment Number 5, the proponent provided
17 sensitivity analyses for a range of modelled conditions
18 which highlight potential for problems to arise if
19 conditions are not as predicted. The department
20 recommends that the proponent submit detailed
21 management plans to be implemented for waste rock
22 segregation and testing, thermal monitoring of waste
23 rock, and seepage management and monitoring.

24 Plans should include a schedule for reporting of
25 results and periodic updating of predictions for the
26 waste rock storage facility pond quality, along with

1 proactive planning for optimal cover conditions.
2 Contingency measures should be identified as
3 appropriate.

4 Monitoring results for receiving waters should be
5 compared to model predictions and to thresholds
6 identified for management actions should trends
7 indicate water quality objectives may be exceeded.

8 The proponent has responded in agreement with this
9 recommendation. Environment and Climate Change Canada
10 considers this issue resolved.

11 Comment Number 6 in our final written submission
12 discussed the effluent quality criteria proposed by the
13 proponent. Environment and Climate Change Canada
14 recommends the effluent quality criteria be set based
15 on concentrations that are achievable and that minimize
16 discharge levels to receiving waters. Effluent quality
17 criteria should be applicable to all mine-related
18 discharges to surface waters.

19 In response to this recommendation, the proponent
20 has provided revised effluent quality criteria that
21 have been updated to reflect discussions with the
22 department. As noted by the proponent yesterday, it
23 was also agreed that the Vault effluent quality
24 criteria -- that the Vault effluent quality criteria
25 limits for mercury would be used for this project, and
26 this issue is now considered resolved.

1 Initially, proposed sludge management involved
2 discharging sludge wastes from the treatment plants
3 into the Whale Tail attenuation pond. Because the
4 attenuation pond will be located within the drainage
5 north basin of Whale Tail Lake, the pond site will
6 ultimately become submerged within Whale Tail Lake upon
7 re-flooding of the north basin and would therefore
8 result in sludge waste within the lake bed of
9 Whale Tail Lake north basin in perpetuity. Environment
10 and Climate Change Canada had raised a concern with
11 disposing of sludge at this location as there would be
12 no way to manage or monitor environmental effects such
13 as migration of contaminants from the sludge into
14 Whale Tail Lake over time.

15 Environment and Climate Change Canada recommends
16 that sludge be disposed using methods that have been
17 demonstrated to provide effective containment and
18 isolation under Northern conditions, such as into the
19 waste rock storage facility or the tailings storage
20 facility at Meadowbank rather than into the attenuation
21 pond, Whale Tail Lake.

22 In response to Comment Number 7, the proponent
23 agreed with the department's recommendation and will
24 dispose of the sludge in the waste rock storage
25 facility instead of the attenuation pond. Environment
26 and Climate Change Canada considers this issue

1 resolved.

2 The Azimuth report from February 2017 provides a
3 synthesis of information on mercury and methylmercury
4 in connection with flooding of terrestrial areas. It
5 provides a good review of the factors and tries to
6 assign a risk level for the likelihood of increased
7 methylmercury associated with the flooding of the area
8 around south Whale Tail Lake.

9 In the absence of information on conditions that
10 are unique to this environment, conclusions are
11 tentative and qualified. The report notes that the
12 authors are unaware of other -- of any other reservoirs
13 created strictly within an arctic environment and that
14 the arctic is an untested environment with respect to
15 mercury modelling for impoundment. Specifically, a
16 number of key uncertainties are identified. Conducting
17 an investigation of these key uncertainties would
18 contribute to understanding mercury dynamics in a
19 northern impoundment scenario and could improve mercury
20 predictions for fish, other aquatic biota, sediment,
21 and water quality.

22 The department recommends conducting a separate
23 study during the construction, operations, and closure
24 of the flooded areas to address key uncertainties that
25 were identified in the Azimuth report in order to
26 inform mercury modelling for this product. Adaptive

1 management actions should be considered based on the
2 results from this study.

3 The proponent agrees with this recommendation and
4 proposes to conduct a separate mercury monitoring
5 program with water, sediment, and biota of south
6 Whale Tail Lake south basin that will be conducted
7 alongside the core receiving environment monitoring
8 program and fisheries and offsetting monitoring plan
9 with results compared to model predictions. Details of
10 the monitoring program will be provided 60 days
11 following approval of the Type A water licence.

12 Through discussions with the department, the
13 proponent also indicated that it would include triggers
14 and thresholds for total mercury and methylmercury
15 within this monitoring program.

16 Environment and Climate Change Canada accepts this
17 response and the proposed term and condition and
18 considers this issue resolved.

19 At the technical meeting, Environment and Climate
20 Change Canada noted that sediment core analysis was
21 limited to metals only and requested that a full suite
22 of testing be conducted. The proponent responded that
23 there was insufficient material to permit a full suite
24 of testing and did not agree to the request for full
25 sediment core analysis. Clarifications were made, and
26 as indicated in the proponent's response to this

1 comment, the proponent will continue to analyze for a
2 full suite of constituents in sediment grab samples and
3 will collect sediment core samples in 2017 for analysis
4 of moisture, metals, and pH. The department accepts
5 the proposed analyses, and this issue is considered
6 resolved.

7 In summary, Environment and Climate Change Canada
8 is generally satisfied with the information provided by
9 the proponent and looks forward to participating in
10 reviewing information as it becomes available in the
11 regulatory phase should the project proceed.

12 That concludes our presentation.

13 We would like to thank the Nunavut Water Board for
14 giving us the opportunity to present.

15 Thank you.

16 THE CHAIR: Thank you, Environment and
17 Climate Change Canada, for your presentation.

18 Open up for concerns, questions, comments.

19 Start with applicants.

20 MR. QUESNEL: Thank you, Mr. Chair.

21 Jamie Quesnel.

22 We have no questions at this time.

23 THE CHAIR: Thank you.

24 INAC, do you have concerns, questions?

25 MR. PARSONS: Mr. Chair. Ian Parsons,
26 Indigenous and Northern Affairs Canada.

1 We have no questions at this time.

2 THE CHAIR: Thank you.

3 DFO.

4 MR. D'AGUIAR: Thank you, Mr. Chair.

5 Mark D'Aguiar with Fisheries and Oceans.

6 We have no comments at this time.

7 THE CHAIR: Thank you.

8 Comments, concerns from public. (OTHER LANGUAGE

9 SPOKEN). Okay. Thank you. There's none.

10 Staff.

11 MR. KHARATYAN: Thank you, Mr. Chair.

12 Karen Kharatyan, Water Board staff.

13 No question this time.

14 THE CHAIR: I forgot about Kivalliq.

15 Sorry about that.

16 Kivalliq Inuit Association.

17 MR. MANZO: Thank you, Mr. Chairman.

18 Okay, I don't have no questions at this time.

19 THE CHAIR: Thank you.

20 Panel members, do you have any questions or

21 concerns? No? None.

22 Thank you for your presentation,

23 Environment Canada.

24 Okay. Next intervenors we'd like to call upon,

25 DFO.

26 Okay. Before we get started, our legal counsel

1 wanted ...

2 MS. MEADOWS: Thank you, Mr. Chair.

3 Teresa Meadows, legal counsel for the Nunavut Water
4 Board.

5 Mr. Chair, there are two copies of the PowerPoint
6 presentation that the Department of Fisheries and
7 Oceans Canada is presenting today. There's an English
8 and Inuktitut copy, and then there's also a copy of the
9 presentation in French that I propose to file as the
10 next two exhibits in this final hearing.

11 Thank you, Mr. Chair.

12 EXHIBIT 27 - Fisheries and Oceans Canada hard
13 copy PowerPoint presentation to the Nunavut
14 Water Board final hearing (English/Inuktitut)

15 EXHIBIT 28 - Fisheries and Oceans Canada hard
16 copy PowerPoint presentation to the Nunavut
17 Water Board final hearing (French)

18 THE CHAIR: Thank you.

19 You may start your presentation.

20 Presentation by Fisheries and Oceans Canada

21 MR. D'AGUIAR: Thank you, Mr. Chair. Good
22 morning, Mr. Chair, and members of the staff of the
23 Board and the community of Baker Lake. My name is
24 Mark D'Aguiar, and I am the senior fisheries protection
25 biologist with Fisheries and Oceans Canada, and I am
26 accompanied by my support Laura Watkinson, who is a

1 fisheries protection biologist with Fisheries and
2 Oceans Canada.

3 I'd like to thank the Water Board for providing us
4 with the opportunity to present our comments and
5 recommendations from our final written submission on
6 the Whale Tail Project.

7 So I will first provide you with an overview of
8 Fisheries and Oceans' mandate, our legislation, and our
9 policies. I will provide an overview of the technical
10 comments that we provided to the Nunavut Water Board in
11 our final written submission, and these final technical
12 comments will touch on habitat losses, valued
13 components, habitat alteration, changes to the lake
14 ecosystem productivity, and the water quality and flow
15 monitoring plan. Fisheries and Oceans will bring to
16 the Board's attention only the key points and
17 outstanding items, recognizing that in our final
18 written submission, it includes a more complete
19 discussion of all the issues.

20 Fisheries and Oceans would like to acknowledge
21 that Agnico has agreed to many of our requests through
22 their final submission responses, and they have also
23 agreed to furthering discussions with DFO to finalize
24 the fish and habitat gains, losses accounting, and the
25 associated offsetting plans, as well as monitoring
26 plans. So, in general, we are satisfied with the

1 responses from the proponent and the agreements for
2 furthering discussions to resolve those outstanding
3 issues during the regulatory phase.

4 On behalf of the Government of Nunavut, the
5 mandate of Fisheries and Oceans Canada, the fisheries
6 protection program is to maintain the sustainability
7 and ongoing productivity of commercial, recreational,
8 and aboriginal fisheries.

9 The fisheries protection program is responsible
10 for ensuring that projects in or near water are
11 undertaken following the requirements of the
12 Fisheries Act and the Species at Risk Act. The
13 fisheries protection program of Fisheries and Oceans
14 Canada provides guidance to proponents on how to avoid,
15 mitigate, or offset impacts to fish and fish habitat.

16 The regulatory role is defined by the
17 Fisheries Act, Section 35 of the Fisheries Act, which
18 prohibits serious harm to fish that are part of a
19 commercial, recreational, or aboriginal fishery or to
20 fish that support such a fishery. In the
21 Fisheries Act, "serious harm" is defined as "the death
22 of fish, permanent alteration of habitat, or
23 destruction of habitat".

24 Section 20 of the Fisheries Act relates to the
25 requirement to provide sufficient water for fish and to
26 ensure fish passage is maintained. The fisheries

1 protection program is also the main program at
2 Fisheries and Oceans Canada involved in the
3 environmental and Water Board licencing processes.

4 So the fisheries protection program is guided by
5 two main policies: The fisheries protection policy
6 statement, which provides guidance on the application
7 of the fisheries protection provisions of the
8 Fisheries Act; and the Fisheries Productivity
9 Investment Policy: A Proponent's Guide to Offsetting,
10 which provides guidance on undertaking effective
11 measures to offset serious harm to fish that may be
12 reasonably expected to counterbalance the loss of fish
13 habitat and fisheries productivity as a result of the
14 negative impact of the project. Proponents are
15 required to demonstrate that the offsetting measures
16 will maintain or improve the productivity of fishes.

17 So the first technical comment that Fisheries and
18 Oceans Canada presented in our final submission related
19 to habitat losses. It was unclear to Fisheries and
20 Oceans Canada whether their proposed 13 percent
21 increased surface area of Whale Tail Lake will be a
22 viable offset.

23 In our final -- sorry. In our technical
24 submission, Technical Comment 1 and Request 2 submitted
25 on March 28th, 2017, Fisheries and Oceans Canada
26 requested that Agnico Eagle provide better

1 illustrations to demonstrate the proposed increased
2 surface area of Whale Tail Lake and its viability as
3 newly created littoral habitat. Fisheries and Oceans
4 Canada also had a meeting with Agnico on March 23rd,
5 2017, whereby Agnico agreed to provide better
6 illustrations, for example, 3-D images, to demonstrate
7 the proposed increased surface area of Whale Tail Lake.

8 So in our final written submission, Fisheries and
9 Oceans Canada requested that Agnico provide requested
10 illustrations as agreed to by Agnico, which Fisheries
11 and Oceans Canada would like to receive prior to
12 commencement of the regulatory phase. Agnico Eagle has
13 agreed to work with us to fulfil this request and
14 providing requested illustrations during this
15 regulatory phase. So this issue is considered resolved
16 to the satisfaction of DFO.

17 The second request under habitat losses, Fisheries
18 and Oceans Canada notes that Agnico had not adequately
19 demonstrated the evaluation of the sustainable water
20 quality and habitat suitability for fish in the
21 postclosure scenario. Fisheries and Oceans has
22 concerns respecting how Agnico will effectively
23 evaluate and monitor the mixing or non-mixing in the
24 re-flooded pit. Fisheries and Oceans Canada was also
25 concerned that water quality from the pit could
26 negatively affect the remainder of the lake and fish

1 habitat. As such, Fisheries and Oceans Canada has
2 therefore requested that Agnico Eagle provide
3 additional details outlining how they intend to
4 evaluate the question of potential mixing or non-mixing
5 of waters in the pit portion of Whale Tail Lake. If
6 these additional details cannot be provided to
7 Fisheries and Oceans Canada, additional offsetting
8 options located outside of the Whale Tail Lake basin
9 would need to be developed.

10 Fisheries and Oceans acknowledges that Agnico's
11 commitment in their final submission response to
12 evaluate the mixing and non-mixing of the pit through
13 depth profile, limnological monitoring, and
14 depth-integrated sampling which will aid in assessing
15 the potential for end pit lakes to support
16 self-sustaining fish populations.

17 Fisheries and Oceans also requested that Agnico
18 provide additional and updated information on the
19 evaluation of end pit lake scenarios with references to
20 address Fisheries and Oceans' concerns regarding end
21 pit lake scenarios.

22 In our final written submission with respect to
23 habitat losses, Fisheries and Oceans Canada expressed
24 concern that fish would not be able to return to the
25 north basin of Whale Tail Lake postclosure due to
26 several concerns with the long-term water quality and

1 physical aspects of an end pit lake. DFO acknowledges
2 the efforts by Agnico Eagle to address the uncertainty
3 respecting the successful creation of an end pit lake
4 that can support healthy, self-sustaining fish
5 populations but notes that sufficient information to
6 support consideration of the postclosure pit as fish
7 habitat is not yet available. As such, additional
8 offsetting measures should also be explored. Fisheries
9 and Oceans Canada will continue to work with Agnico and
10 the Kivalliq Inuit Association and the Hunters and
11 Trappers Organizations during the regulatory phase
12 should the project be approved and water licence issued
13 to ensure that all losses to fish and fish habitat are
14 accounted for and fully offset.

15 DFO also notes that, since the conclusion of the
16 Nunavut Impact Review Board hearing, we have met with
17 Agnico Eagle to further discuss these issues.

18 Our next technical component related to valued
19 components. Fisheries and Oceans Canada noted that
20 evaluating potential fisheries losses and gains, all
21 fish should be weighted equally. As such, we requested
22 that Agnico give equal weight to species based on their
23 presence and absence in their offsetting calculation.
24 In their final submission responses, Agnico had agreed
25 to our recommendation to use equal weighting. As such,
26 we consider this resolved to the satisfaction of DFO.

1 The next technical comment presented was with
2 regard to habitat alteration. Habitat alteration
3 refers to the alteration that will occur due to the
4 proposed flooding activities. DFO acknowledges that
5 Agnico has provided additional clarification in their
6 final submission response, and we acknowledge that we
7 will work with Agnico and the Kivalliq Inuit
8 Association during the regulatory phase should the
9 project be approved and a water licence issued to
10 ensure that all losses to fish and fish habitat are
11 accounted for and fully offset. So we consider this
12 issue resolved to the satisfaction of DFO.

13 In our final written submission, Fisheries and
14 Oceans Canada requested that Agnico clarify the
15 calculated numbers for all phases of the project,
16 providing the rationale with the calculations,
17 including the raw data. Fisheries and Oceans
18 reiterated previous comments that Agnico admit any
19 habitat gains associated with temporary flooding
20 activities during the operation. The temporary
21 alteration of streams due to flooding may have negative
22 effects on the fish productivity due to a loss of
23 stream habitat.

24 Fisheries and Oceans Canada also does not believe
25 temporary flooding activities will result in an overall
26 positive change in fish productivity.

1 Fisheries and Oceans acknowledges that Agnico has
2 agreed to provide the raw data during the authorization
3 phase and to work together at that time to finalize an
4 offsetting plan. We note that Fisheries and Oceans
5 Canada will still require additional rationalization on
6 other calculated fish habitat losses and gains
7 associated with the proposed offsetting plans.

8 DFO will work with Agnico and the Kivalliq Inuit
9 Association during the regulatory phase prior to the
10 authorization to ensure all losses to fish and fish
11 habitat are accounted for and fully offset should the
12 project be approved to proceed and a water licence
13 issued.

14 The third request under habitat alteration is in
15 regard to the proposed plan by Agnico in which a
16 portion of Mammoth dike will be reconfigured to
17 re-create a surface connection between Whale Tail and
18 Mammoth Lake permanently raising the elevation of
19 Whale Tail Lake by .5 metres. This was proposed in our
20 recent offsetting plan from June.

21 In our final written submission, Fisheries and
22 Oceans Canada requested that Agnico provide more
23 information regarding their plan to permanently flood
24 Whale Tail Lake by raising the water level by
25 .5 metres, including the rationale and the ability to
26 sustain this condition so as to provide measurable

1 increases in fisheries productivity. Fisheries and
2 Oceans Canada was unclear -- is unclear on what
3 mechanisms will be used to ensure the lake will remain
4 at this increased water level in perpetuity and
5 requires more information on the plans to make this
6 permanent increase happen.

7 In addition, Fisheries and Oceans Canada is not
8 confident that this type of flooding and associated
9 increase in lake surface area will result in a
10 productive habitat gain given the uncertainty in the
11 long-term productivity of end pit lakes. As such,
12 additional measures to offset the loss of fish habitat
13 may be required.

14 DFO will work with Agnico and Kivalliq Inuit
15 Association during the regulatory phase to ensure that
16 all losses to fish and fish habitat are accounted for
17 and fully offset should the project be approved to
18 proceed.

19 DFO notes we have again engaged Agnico post-NIRB
20 conclusion of the hearing, and we have made further
21 discussions and progress on this issue.

22 The next comment that Fisheries and Oceans Canada
23 presented is in regard to changes in lake ecosystem
24 productivity. Our first request related to potential
25 proposed change to the lake trophic status of
26 Mammoth Lake. Fisheries and Oceans Canada requested

1 clarification on whether the newly proposed changes to
2 the project, specifically in the form of the
3 phosphorous treatment plant, will still result in a
4 change to the trophic status of Mammoth Lake. In their
5 final written submission, Agnico clarified that the
6 worst-case scenario will now see a change from
7 oligotrophic to mesotrophic rather than a eutrophic.
8 As such, this is resolved to the satisfaction of DFO.

9 Fisheries/Oceans Canada had also requested that
10 losses caused by a trophic change in the lake ecosystem
11 from nutrient overloading be considered as losses in
12 the calculations for offsetting. In their final
13 submission responses, Agnico confirmed that a smaller
14 trophic change was actually predicted to occur. Given
15 that a trophic change is still predicted to occur,
16 Fisheries and Oceans Canada is unclear how this
17 predicted change in trophic status will impact fish
18 productivity and requests that Agnico conduct an
19 appropriate analysis. This can be provided during the
20 regulatory phase should the project be approved to
21 proceed and the water licence issued.

22 Fisheries and Oceans' third request in relation to
23 changes in trophic status is in regard to proposed
24 research studies evaluating the change from an
25 oligotrophic to a eutrophic lake and then back to
26 oligotrophic again, as originally proposed.

1 Fisheries and Ocean Canada previously requested
2 that Agnico undertake a detailed research study to
3 evaluate fisheries productivity losses when altering
4 waterbodies in such a way. Fisheries and Oceans Canada
5 was unclear since the discussions of the phosphorous
6 treatment options -- whether Agnico was still planning
7 to complete the proposed study.

8 So in our final written submission, Fisheries and
9 Oceans Canada requested clarification on whether Agnico
10 is still planning on conducting a study in conjunction
11 with the University of Manitoba on the change in
12 fisheries productivity due to a change in the lake
13 ecosystem from oligotrophic to eutrophic and back
14 again.

15 In Agnico's final submission responses, Agnico
16 responded and explained that the study on the change to
17 eutrophic will no longer be completed since the lakes
18 will not change to eutrophic status. However, Agnico
19 had proposed monitoring and adaptive management to
20 track changes to downstream environments.

21 Fisheries and Oceans Canada acknowledges Agnico's
22 response and recommends that in addition to the
23 monitoring and proposed adaptive management, additional
24 studies be conducted to assess the impact of the
25 predicted trophic change on fish productivity.
26 Fisheries and Oceans Canada notes that discussions on

1 this had occurred on Saturday after the Nunavut Impact
2 Review Board hearing.

3 The next technical comment that Fisheries and
4 Oceans Canada presented in our final written submission
5 discussed our concerns with the water quality and flow
6 monitoring plan. In discussing plan monitoring
7 station, Fisheries and Oceans Canada noted that Agnico
8 has referenced the core receiving environmental
9 monitoring plan in addition to the water quality and
10 flow management plan. The core receiving environmental
11 monitoring plan is a different plan focused on
12 measuring different parameters than the water quality
13 and flow monitoring plan, and thus Fisheries and Oceans
14 Canada is concerned that data generated from these two
15 plans, including the reference data, may not be
16 directly comparable and/or complementary.

17 DFO notes it is important to addressing future
18 offsetting requirements that appropriate monitoring
19 stations that are consistent and comparable are
20 captured in any monitoring plan intended to address the
21 requirements of a Fisheries Act authorization should
22 the project proceed to the regulatory phase.

23 In addition, Fisheries and Oceans Canada will work
24 with Agnico and the Kivalliq Inuit Association to
25 ensure that monitoring supports any research proposed
26 as complementary measures to offset serious harm to

1 fish.

2 Fisheries and Oceans's second request under water
3 quality and flow monitoring is in regard to reference
4 stations. In our final written submission, Fisheries
5 and Oceans Canada requested that Agnico include at
6 least two control lake monitoring stations in the water
7 quality and flow monitoring plan and include rationale
8 to why the reference lakes that are chosen are
9 appropriate.

10 In Agnico's final submission responses, they have
11 referenced the core receiving environmental monitoring
12 plan and the reference lakes used for Meadowbank
13 project. However, Fisheries and Oceans Canada is still
14 unclear on the rationale for using the reference lakes
15 used for Meadowbank project when the reference lakes
16 are not within the Whale Tail watershed. Therefore,
17 Fisheries and Oceans Canada recommended that Agnico
18 provide a rationale to Fisheries and Oceans Canada
19 clearly indicating and outlining how the current
20 reference lakes used in the CREMP, the core receiving
21 environmental monitoring plan, are suitable for the
22 Whale Tail Project. Agnico has agreed to provide
23 further rationalization; therefore, we consider this
24 request resolved.

25 The third request for water quality and flow
26 monitoring plan is in regard to consistency and

1 sampling frequency. Fisheries and Oceans was concerned
2 about consistency and sampling frequency that will
3 occur throughout operations, closure, and postclosure
4 at monitoring stations and requested that a consistent
5 and increased frequency be considered for sampling at
6 all sampling stations throughout the project to acquire
7 appropriate, comparable data to inform future studies
8 as committed by Agnico.

9 Fisheries and Oceans Canada acknowledges that
10 Agnico has agreed to our requests respecting monitoring
11 in their final submission responses, including ensuring
12 consistency in sampling locations and sampling
13 frequency. Fisheries and Oceans Canada will continue
14 to work with Agnico to ensure that monitoring frequency
15 and location supports any research proposed as
16 complementary measures to offset serious harm to fish.
17 As such, DFO considers this resolved to the
18 satisfaction of DFO.

19 In conclusion, Mr. Chair, Fisheries and Oceans
20 believes that it's possible to offset the impacts to
21 fish and fish habitat that will result from the
22 Whale Tail Project. Fisheries and Oceans will continue
23 to work with Agnico, the Kivalliq Inuit Association,
24 the Hunters and Trappers Association to address any
25 remaining concerns with the proposed offsetting plan.
26 And this will include ensuring that all losses to fish

1 and fish habitat are fully accounted for and fully
2 offset.

3 Fisheries and Oceans Canada also believes that a
4 robust monitoring program is necessary to be able to
5 verify proponent's impact predictions and detect any
6 unforeseen changes to the aquatic environment.

7 Therefore, Fisheries and Oceans Canada will continue to
8 work cooperatively with the proponent, the
9 stakeholders, the Kivalliq Inuit Association, Hunters
10 and Trappers Organizations, our colleagues at
11 Environment and Climate Change Canada, and
12 Indigenous/Northern Affairs Canada, the potentially
13 impacted communities during the regulatory phase should
14 the project be approved to proceed to specifically
15 ensure that appropriate mitigation, monitoring, and
16 robust follow-up programs are implemented.

17 Fisheries and Oceans Canada thanks the Board, the
18 community of Baker Lake, other attending members for
19 the opportunity to present these comments and
20 recommendations regarding the Whale Tail Pit.

21 Thank you.

22 THE CHAIR: Thank you, DFO, for your
23 presentation.

24 Just before we start, open up for comments,
25 concerns, questions. We'll start with the applicant.
26 Agnico Eagle Mines Limited Questions Fisheries and

1 Oceans Canada

2 MR. VANENGEN: Thank you, Mr. Chair and Board
3 members.

4 And thank you, DFO. We just would like to confirm
5 that the matters that you mentioned in your
6 presentation are resolved with DFO and will be
7 addressed in the authorization phase. And could you --
8 could DFO confirm that they have no outstanding
9 concerns in the Type A water licence process?

10 Mat'na.

11 THE CHAIR: Thank you.

12 DFO.

13 MR. D'AGUIAR: Mark D'Aguiar for Fisheries
14 and Oceans Canada.

15 Confirm both of those things. They can -- our
16 issues are able to be addressed during the
17 authorization phase, and we have no concern with
18 respect to the water licence.

19 THE CHAIR: Thank you.

20 Applicant.

21 KIA, do you have any concerns, questions,
22 comments?

23 MR. MANZO: Thank you, Mr. Chairman.

24 Luis Manzo, Kivalliq Inuit Association.

25 We don't have no concerns at this time. Thanks.

26 THE CHAIR: Thank you.

1 INAC, do you have any concerns, questions,
2 comments?

3 MR. PARSONS: Thank you, Mr. Chairman.
4 Ian Parsons, Indigenous/Northern Affairs Canada.

5 We have no questions or concerns at this time.
6 Thank you.

7 THE CHAIR: Thank you.
8 Environment and Climate Change Canada.

9 MS. PINTO: Thank you, Mr. Chair.
10 Melissa Pinto, Environment and Climate Change Canada.

11 We have no questions at this time.

12 THE CHAIR: Thank you.
13 Public. (OTHER LANGUAGE SPOKEN). Okay. Thank
14 you.
15 Staff.

16 MR. KHARATYAN: Thank you, Mr. Chair.
17 Karen Kharatyan, Nunavut Water Board staff.

18 No questions at this time.

19 THE CHAIR: Thank you.
20 Panel members? Okay. There's none.
21 Thank you for your presentation, DFO. Thank you.

22 MR. D'AGUIAR: Thank you, Mr. Chair.

23 THE CHAIR: Teresa.

24 So we are getting -- done with our agenda for this
25 public hearing, so we may as well take a break now.
26 30 minutes. Or for whole lunch. Lunch? Take a break

1 for lunch. Come back here at 1:00, 1:30. 1:30 would
2 be good. 1:30, yeah. Yeah. Okay. So is that okay
3 for the applicant?

4 MR. QUESNEL: Thank you, Mr. Chair. Yes,
5 that's fine. We'll be back at 1:30.

6 THE CHAIR: Okay. Good. Okay.
7 Stephanie.

8 MS. AUTUT: So, Mr. Chair, just to
9 confirm, we'll be moving into closing statements after
10 lunch at 1:30.

11 THE CHAIR: Okay. Take a break now up to
12 1:30.

13 (LUNCHEON ADJOURNMENT AT 11:33 AM)

14 (PROCEEDINGS RECOMMENCED AT 1:36 PM)

15 THE CHAIR: Good afternoon. We are in the
16 final hour now of this public hearing. So before we
17 actually getting into business, we will start with
18 our -- this afternoon, business with -- legal counsel
19 to start with.

20 Teresa.

21 MS. MEADOWS: Thank you, Mr. Chair.

22 Teresa Meadows, legal counsel for the Nunavut Water
23 Board.

24 Mr. Chair, we have a few final sort of procedural
25 matters to deal with before the parties can get into
26 closing statements, the first being -- and we'd like to

1 have a little bit of a discussion with respect to some
2 of the timing after the close of the public hearing but
3 while the public hearing record remains open.

4 So, overall, I'll just preface my comments with
5 this observation: We expect that the parties may want
6 to have clarification or have questions for the
7 Water Board with respect to this, and so I'll invite
8 them to step up to the mic afterwards and ask questions
9 if they have them. But as the -- as the parties
10 indicated during their submissions today, a number of
11 issues -- and there have been a number of discussions
12 back and forth between Agnico Eagle Mines Limited and
13 the intervenors here today -- to come to resolution of
14 many of the comments, technical review comments they
15 provided the Nunavut Water Board. In some respects, we
16 have -- the Water Board has some information about how
17 those things have been resolved, but not all of the
18 information about how those things have been resolved
19 necessarily on the public record.

20 And so the Water Board is going to request that in
21 addition to the submissions that are proposed to be
22 filed after the close of the public hearing by the
23 parties, the Water Board would also like to see the
24 intervenors provide the Board with just a very brief
25 summary that provides an indication of the comments
26 that they had raised, how those comments were resolved.

1 So if, for example, they are resolved by way of the
2 water monitoring framework document, then reference the
3 water monitoring framework addresses that issue. If
4 they are addressed in the licence framework document,
5 reference that they are addressed in the licence
6 framework document.

7 If they are addressed in some other way, so if
8 they've been addressed in a commitment that was made
9 during the Nunavut Impact Review Board process or in an
10 independent meeting that was held between the parties
11 and Agnico Eagle Mines Limited, please reference not
12 only that they were resolved but how they were
13 resolved.

14 So if there are licencing criteria that were
15 agreed to, please provide that information. It's
16 really for the ease of reference of both the Nunavut
17 Water Board but also to any member of the public who is
18 trying to follow through on the range of commitments
19 that are being made, the agreements that are being
20 discussed, and then the resolution, ultimate
21 resolution, of issues that may find their way into
22 terms and conditions in the water licence.

23 So I don't know if there are any specific
24 questions from any of the parties with respect to what
25 the Nunavut Water Board intends, but maybe I will leave
26 it to the parties to now come up, and if they have any

1 questions or, Agnico Eagle, if you have any questions,
2 to direct it to the Water Board staff.

3 Thank you, Mr. Chair.

4 THE CHAIR: Thank you.

5 Any questions to the legal counsel's procedures?

6 Applicant, do you have ... Go ahead, applicant.

7 MS. KOWBEL: Mr. Chair, if we could just
8 have one more minute to confer?

9 THE CHAIR: Okay. Go ahead.

10 MS. KOWBEL: Thank you, Mr. Chair.

11 Christine Kowbel, Agnico Eagle.

12 Agnico Eagle, we've -- thank you for the
13 suggestion and direction from the Board and the Board
14 staff. We have a suggestion. We wonder if it would be
15 helpful to the Board and Board staff if Agnico Eagle
16 provided a -- basically a further draft of their final
17 written submission that they filed on August 28th with
18 a black line which summarizes where, I guess, the
19 additional conversations and final resolution of each
20 of those issues that were on -- and then you would have
21 all of the information in one place and an update on
22 those issues that were still outstanding as of
23 August 28th. Is that the kind of information that you
24 would be looking for?

25 THE CHAIR: Staff.

26 MR. KHARATYAN: Thank you, Mr. Chair.

1 Karen Kharatyan, Water Board staff.

2 If by August 28th all information was updated or
3 included or will be included with the submission, it's
4 okay. The question is whether you have -- I think you
5 may have additional meetings after 28th. So ...

6 THE CHAIR: Okay, go ahead. Applicant, go
7 ahead.

8 MS. KOWBEL: Thank you, Mr. Chair.
9 Christine Kowbel for Agnico Eagle.

10 Yes, I'm sorry. I wasn't -- I wasn't clear
11 enough. We would take that written submission from
12 August 28th, and we would add the information about
13 additional meetings and additional resolution that has
14 happened since August 28th and re-file that document
15 with the Board.

16 Thank you.

17 MS. MEADOWS: Thank you, Mr. Chair.
18 Teresa Meadows, legal counsel for the Nunavut Water
19 Board.

20 Ms. Kowbel, what I would suggest is really the
21 Board's concern with that is just that we would need to
22 have further confirmation from the parties. So if you
23 can submit it as a joint submission, so circulate the
24 drafts to the parties first and when you are submitting
25 it to the Board, the Board knows then that there's
26 sign-off from all of the -- all of the intervening

1 parties, that all of those issues are resolved as
2 you've indicated in that updated table. That's
3 really -- would be very, very useful for the
4 Water Board, because that's the biggest outstanding
5 issue for the Water Board, is making sure we have an
6 understanding of where all the parties are in respect
7 of the resolution.

8 So it's really that question of whether or not
9 there's time and then what kind of timing you're
10 talking about in terms of filing that document.

11 Thank you, Mr. Chair.

12 THE CHAIR: Thank you.

13 Applicant.

14 MS. KOWBEL: Thank you, Mr. Chair.

15 Christine Kowbel, Agnico Eagle.

16 Yes, Agnico Eagle is certainly amenable to that
17 approach. It would probably make sense for the parties
18 to confer offline about when the right date for that to
19 happen would be, but the company is certainly able to
20 do that.

21 THE CHAIR: Go ahead, Teresa.

22 MS. MEADOWS: Thank you, Mr. Chair.

23 So maybe if we can maybe take about a ten-minute
24 break for the parties to confer for Agnico Eagle to
25 check so that we can confirm that timeline on the
26 record.

1 What I'm going to propose is that the Water Board
2 will be issuing correspondence at the end of next week
3 to all the parties and also to the Minister to confirm
4 what the timelines are going to be and to also confirm
5 for the Minister that the Water Board is not engaging
6 in decision-making until after the Minister has issued
7 her decision.

8 So just for clarity on the process because this is
9 a unique process, the first time we've done a
10 coordinated hearing like this.

11 Thank you, Mr. Chair.

12 THE CHAIR: Thank you. Okay. Take a
13 ten-minute break.

14 (ADJOURNMENT)

15 MS. MEADOWS: Thank you, Mr. Chair.

16 Teresa Meadows, legal counsel for the Nunavut Water
17 Board.

18 So I'm assuming that that is a positive sign. So,
19 Ms. Kowbel, if you'd care to enlighten us as to the
20 agreements that have been -- that have been agreed to
21 over there.

22 MS. KOWBEL: Thank you, Mr. Chair.

23 Christine Kowbel, Agnico Eagle.

24 Yes, the parties have had a discussion, and
25 there's alignment. What was discussed will -- there
26 are some further matters that I think you'll address

1 shortly. These -- the dates align with those matters.
2 The parties have agreed to provide Agnico Eagle with
3 summaries which describe how issues were resolved by
4 October 17th. Agnico Eagle will then use that
5 information to update its final written submission and
6 reflect that update and will also append the memos from
7 each of the parties to that update. But it'll be in a
8 form of black line for the ease of reference of the
9 Board staff and the Board. And that updated -- that
10 updated final summary by Agnico Eagle would be filed on
11 October 24th.

12 MS. MEADOWS: Teresa Meadows, legal counsel
13 for the Nunavut Water Board.

14 Thank you very much for that. So the -- that
15 leads me to sort of the next couple of things.

16 The first is that we had filed an exhibit at the
17 beginning of the hearing -- let's see. So we had filed
18 an exhibit at the beginning of the hearing that was the
19 framework -- licence framework document that was filed
20 in draft form by Agnico Eagle, and it's my
21 understanding that the parties will -- have requested
22 to file their comments on the licencing framework
23 agreement on or before Tuesday, October the 17th. So
24 it's my understanding that that will come in. And the
25 parties will also be providing Agnico Eagle with their
26 sort of summarized comments of resolution of matters.

1 The second document that we also are expecting
2 comments to be filed by the parties on that date is a
3 document that has just been offered to us as the next
4 exhibit in this final hearing, and it is entitled
5 "Water Monitoring Reduction Framework". The date is
6 September 25th, 2017, and it was provided by Golder and
7 Associates, and Agnico Eagle Mines Limited is offering
8 it as the next exhibit.

9 And then the next exhibit that I have that has
10 been provided by Agnico Eagle is a summary of three
11 commitments that were provided to -- provided by
12 Agnico Eagle to the parties to clarify some of the
13 commitments that have been made at this -- at this
14 public hearing, and so updated from the final hearing
15 of the Nunavut Impact Review Board, and that document
16 has been offered to us as the next exhibit.

17 It's my understanding that those are the exhibits
18 to be filed in the final hearing offered by
19 Agnico Eagle, and I would just like to get confirmation
20 from Ms. Kowbel that that's the case.

21 EXHIBIT 29 - Agnico Eagle hard copy
22 memorandum from C. Prather and D. Filiatrault
23 to J. Quesnel; dated September 26, 2017;
24 entitled "Water Monitoring Reduction
25 Framework" (English)
26 EXHIBIT 30 - Agnico Eagle updated hard copy

1 Project A water licencing framework for Water
2 Licence Number 2AM-WTP---, Appendix A, Agnico
3 Eagle's proposed commitments (English)

4 THE CHAIR: Thank you.
5 Applicant.

6 MS. KOWBEL: Thank you, Mr. Chair.
7 Christine Kowbel for Agnico Eagle.

8 Yes, I confirm that those are the remaining
9 exhibits. I just wanted to offer one point of clarity:
10 The document that you referred to which is titled
11 "Agnico Eagle's Proposed Commitments," that's actually
12 an update of the commitments that are appended to
13 Appendix A of Exhibit 8. So a replacement of those
14 commitments that are part of the framework, that'll be
15 reflected in the final draft of that framework
16 document. We wanted to point that out to the Board.

17 And I think, Mr. Chair, if possible, I might turn
18 the mic over to Jamie Quesnel to give a little context
19 for the water monitoring framework memo that
20 Ms. Meadows referenced.

21 MR. QUESNEL: Thank you, Mr. Chair.
22 Jamie Quesnel, Agnico Eagle.

23 Yeah, in reference to the document titled "Water
24 Monitoring Reduction Framework" dated September 25,
25 2017, we had discussions with the intervenors regarding
26 that. And this framework is for consideration to the

1 Board, and it's primarily related to monitoring for all
2 phases of the -- of the project, if it's approved, and
3 also for reduction in security. We just wanted to have
4 the discussion related to how do we have an exit
5 strategy on certain aspects. And this has been --
6 basically it started on the discussion with our
7 security related to the postclosure monitoring where
8 there was some discussions with Indigenous Northern
9 Affairs Canada about some uncertainties directly
10 related to waste rock storage facility seepage. We
11 have confidence in our predicted models, but we want to
12 ensure that we're aligned on this path with this
13 framework.

14 Once we receive our operational monitoring data,
15 interpret this information, we want to ensure that we
16 create the confidence of this uncertainty as stated by
17 Indigenous Northern Affairs Canada but look at this
18 information, the field data, the monitoring, what will
19 be comparing this to. 'Cause we had to add additional
20 11 years of monitoring. So we want to ensure that our
21 field information, the operating window, including
22 closure, that phase of Whale Tail, that information is
23 analyzed correctly to predict what the postclosure
24 monitoring would look like to remove this uncertainty
25 with the concern related to that phase of the
26 operation.

1 So this framework does kind of go through some of
2 the thinking around it, how we looked at this, compared
3 it to the Metal Mining Effluent Regulation; and so it's
4 detailed based on the background, the comparison to
5 existing licences but also some of the context how we
6 can reduce the monitoring and reduce the security in
7 a -- in a reasonable approach. So that's submitted for
8 your consideration.

9 THE CHAIR: Thank you.

10 Teresa.

11 MS. MEADOWS: Thank you, Mr. Chair.

12 Teresa Meadows, legal counsel for the Nunavut Water
13 Board.

14 So if I can confirm with the parties that the --
15 following the public hearing, the next stage will be
16 filing of various updates and documents while the
17 record remains open, and so it's my understanding that
18 the timing will be that the parties' comments on the
19 water monitoring reduction framework that Agnico Eagle
20 has just tendered as an exhibit and also the licence
21 framework document, which was filed as Exhibit Number 9
22 in these proceedings yesterday, that the parties will
23 be providing the Nunavut Water Board with their
24 comments, submissions in respect of all of that on or
25 before October 17th followed by, the following week,
26 Agnico Eagle filing their final submissions and

1 responses and reply to all of that material on
2 October 24th.

3 So if I can have confirmation from the parties,
4 from the Kivalliq Inuit Association and from the
5 Department of Justice for the federal family, that
6 those -- that my understanding is correct.

7 THE CHAIR: Thank you.

8 Luis.

9 MR. MANZO: Thank you, Mr. Chairman.

10 Yes, that's correct. We'll work with the
11 partners, the intervenors, and hopefully we can get an
12 agreement into the framework before the 17th.

13 Thank you.

14 MR. GRUDA-DOLBEC: Simon Gruda-Dolbec, legal
15 counsel for the Department of Justice. I can confirm
16 for the federal departments.

17 Thank you.

18 THE CHAIR: Thank you.

19 Teresa.

20 MS. MEADOWS: Thank you, Mr. Chair.

21 Teresa Meadows, legal counsel for the Nunavut Water
22 Board.

23 So, Mr. Chair, the correspondence that goes out at
24 the end of next week will reflect those timelines and
25 will provide clarity for all the parties and including
26 those who could not be attendance at the public hearing

1 as to the next steps in this -- in this process while
2 we keep the public hearing record open.

3 Thank you, Mr. Chair. Those are my procedural
4 matters, and now we can proceed to closing statements.

5 THE CHAIR: Thank you.

6 All right. Move on to Agenda Item 17, closing
7 remarks from intervenors. We'll start with
8 intervenors, and then the applicant will go
9 second-last, and then the Board and staff. I think
10 that's how it's -- that's how -- okay.

11 Okay. Start with the KIA, closing remarks.
12 Closing Remarks by the Kivalliq Inuit Association

13 MR. MANZO: Thank you, Mr. Chairman. My
14 name is Luis Manzo, Kivalliq Inuit Association.

15 On behalf of the Kivalliq Inuit Association, I
16 would like to thank everyone who participate in the
17 water licence application for the Whale Tail Project.
18 The Kivalliq Inuit Association acknowledges the effort
19 of Agnico Eagle and all the intervenors who work to
20 ensure a strong, effective review of the water licence
21 application for Whale Tail Project.

22 The Kivalliq Inuit Association also wishes to
23 recognize and thanks community members and
24 organizations who have also participated in the licence
25 process provided us with information which will help
26 the Nunavut Water Board to make an informed decision.

1 The Kivalliq Inuit Association recognize that the
2 water licence is a very important part of this joint
3 review for the Whale Tail Project if the project is
4 approved.

5 Kivalliq Inuit Association wants to ensure all the
6 necessary protections are in place. We'll continue to
7 actively monitor the project and ensure all mitigation
8 measures are being taken.

9 The Kivalliq Inuit Association recognize the need
10 to finalize the water compensation agreement before the
11 closing of the Nunavut Water Board hearings. In
12 addition, the Kivalliq Inuit Association will continue
13 to work with the rest of the intervenors and the
14 proponent to develop the water monitoring framework.

15 I would like to thank the Board for this
16 opportunity. I would like to thank the Nunavut Water
17 Board and staff for the great organization with this
18 joint review. I'd also like to thanks the translators
19 and also thanks for all the services provided during
20 the meetings, like the coffee and goodies.

21 Mat'na.

22 THE CHAIR: Thank you.

23 Next intervenor.

24 Before we actually go into INAC, I'd like -- we
25 would like to call upon Karen. Stephanie, you wish to
26 speak a bit to that? Yeah.

1 Farewell to Karen Costello

2 MS. AUTUT: Okay. Thanks, Mr. Chair.

3 So we're going to put Karen Costello on the hot
4 seat for a moment.

5 So the Board would like to recognize, Karen, that
6 this is your last hearing as part of this bigger
7 process. We wanted to recognize your 15 years of
8 dedication to the Water Board's public hearing process
9 and the strong commitment that you've put into this and
10 always coming to the table with a smile and good
11 comments and good feedback for the Board. We
12 understand that you're moving on, and we want to wish
13 you the best in your -- in your move.

14 And we have a small token of our appreciation that
15 the Chairman would like to present to you. So if you
16 could come up and take a moment, we'd appreciate that.
17 Thank you.

18 THE CHAIR: So next intervenor for closing
19 remarks is Indigenous and Northern Affairs Canada.
20 Closing Remarks by Indigenous and Northern Affairs
21 Canada

22 MS. COSTELLO: Thank you, Mr. Chair.
23 Karen Costello for the Nunavut regional office of
24 Indigenous and Northern Affairs, one last time.

25 Oh. Shouldn't be doing this. This is the second
26 time in a week.

1 Anyway, I'd like to thank the community of
2 Baker Lake for welcoming us and hosting the hearing.
3 The community centre in Baker Lake is very much a
4 centre point of the community and giving it up for both
5 the Nunavut Impact Review Board and the Water Board
6 meetings is significant. So I thank them for that.

7 As always, we've been very well taken care of here
8 with the Chair and staff running an efficient process,
9 and just in case we got a little hungry or needed
10 beverages, we also had tasty coffee breaks.

11 Indigenous and Northern Affairs has participated
12 in all steps of the Board process. During this
13 process, we are engaged both with the staff and the
14 applicant Agnico Eagle. Should the project be approved
15 and the licence issued, Indigenous/Northern Affairs
16 Canada will be part of the inspection and enforcement
17 of all -- of the water licence and any other
18 authorizations associated with it. So you haven't seen
19 the last of us yet, Agnico Eagle. We're going to be --
20 should the project proceed, you'll be seeing more of
21 Indigenous and Northern Affairs Canada.

22 Getting through this process -- and it's been a
23 challenging process because it's been coordinated, and
24 we have worked as diligently as possible to work -- to
25 complete the process. It does require dedicated and
26 professional staff. So a thanks go to the Board staff

1 for your diligence in administering the process. For
2 the interpreters, the court reporters, the sound
3 technician, the caterers, and the panel for your
4 attention over the past two days. We're all well aware
5 that your work won't yet begin, but your awareness of
6 the licence application has already started.

7 To the Indigenous/Northern Affairs team, it
8 started off with Amanda Winegardner -- not this Amanda;
9 she didn't get married -- Ian Parsons, and we have
10 always been supported by our consultants at Arcadis;
11 and during these last two weeks, Amanda Belanger has
12 definitely been a key support for me. They've all
13 demonstrated dedication to this file, and they have my
14 thanks.

15 Our colleagues of the Government of Canada and
16 Kivalliq Inuit Association have always been available
17 to discuss shared interests, and their contributions
18 are appreciated.

19 Thanks also to Agnico Eagle. It seems silly to
20 say we couldn't have done this process without you, but
21 we couldn't have done this process without you. The
22 proponent's commitments and responses have satisfied
23 all of Indigenous and Northern Affairs' concerns, and
24 we look forward to providing that clarification in the
25 documents we just spoke to.

26 When I first started doing --with water licences,

1 I never expected that I would end up Kugluktuk,
2 Cambridge, Resolute, Arctic Bay, Rankin, Iqaluit,
3 Pond Inlet. I feel like my luggage should have little
4 bumper stickers that says "I've been everywhere".

5 I've learned a lot along the way, met some great
6 people. Been challenged personally, professionally.
7 That's what's so great about this process. It's what's
8 so great about Nunavut. So thank you all for that and
9 safe travels home, everybody.

10 THE CHAIR: Thank you.

11 Now I would like to call Environment and Climate
12 Change Canada for closing remarks.

13 Closing Remarks by Environment and Climate Change
14 Canada

15 MS. PINTO: Thank you, Mr. Chair.

16 Melissa Pinto, Environment and Climate Change Canada.

17 First, we would like to thank the Nunavut Water
18 Board, along with the Board staff, for allowing us to
19 present today and to be a part of the discussions that
20 have taken place during these last two days. We would
21 also like to thank the elders and other community
22 members for their participation. We would like to
23 thank the proponent in working hard to address our
24 concerns as well. In addition, we would like to extend
25 a big thank you to the interpreters for their patience
26 and to the community of Baker Lake for hosting us.

1 Environment and Climate Change Canada will
2 endeavour to provide comments on the two framework
3 documents submitted by the proponent by October 17th,
4 2017, and provide the summary of how Environment and
5 Climate Change Canada's concerns were resolved.
6 Environment and Climate Change Canada looks forward to
7 continuing its participation in the regulatory process
8 for this project. Thank you.

9 THE CHAIR: Thank you.

10 Now I will call upon DFO for closing remarks.

11 Closing Remarks by Fisheries and Oceans Canada

12 MR. D'AGUIAR: Thank you, Mr. Chair.

13 Mark D'Aguiar with Fisheries and Oceans Canada.

14 Fisheries and Oceans Canada would like to thank
15 the Nunavut Water Board for organizing the final
16 hearing for the Type A water licence for the Whale Tail
17 Project and for giving us the opportunity to present
18 our concerns and recommendations.

19 We would also like to thank Agnico for their
20 continued engagement and professionalism when working
21 with Fisheries and Oceans Canada to resolve concerns
22 and outstanding issues.

23 We have presented our conclusions on the technical
24 review and recommendations on habitat losses and gains
25 calculations, the proponent's plans to offset impacts
26 to fish and fish habitat, and fish and fish habitat

1 monitoring. Fisheries and Oceans Canada has noted a
2 number of concerns to the Board, most of which involve
3 the need for additional information respecting
4 accounting for potential impacts to fish and fish
5 habitat and the proponent's plans for mitigating,
6 offsetting, and monitoring in relation to these.
7 However, Fisheries and Oceans Canada does believe that
8 it will be possible to fully offset the impacts to fish
9 and fish habitat that will resolve from the project.

10 Should the project be approved to proceed and the
11 water licence is issued, Fisheries and Oceans will
12 continue to work with Agnico, the Kivalliq Inuit
13 Association, and the Hunters and Trappers and other
14 interested parties during the regulatory phase to
15 address the remaining concerns with the offsetting plan
16 and to ensure mitigation, monitoring, and a robust
17 follow-up monitoring plan and programs are implemented.

18 Any authorization issued by Fisheries and Oceans
19 Canada in relation to this project will contain
20 specific conditions to ensure mitigation measures for
21 the protection of fish and fish habitat are
22 implemented, that any residual habitat loss is
23 identified and adequately offset, and that monitoring
24 capable of demonstrating if impacts have been
25 adequately mitigated and offset is carried out.

26 In closing, Fisheries and Oceans Canada would like

1 to thank the elders and all the other participants from
2 the Kivalliq Region. We'd also like to give a special
3 thank you to the community of Baker Lake for the
4 hospitality during these proceedings. And we'd finally
5 like to acknowledge the Board members, the Board staff,
6 the interpreters, the court reporters, the sound
7 technician, and all those who worked hard to provide us
8 with the coffee, tea, and snacks.

9 Mat'na.

10 THE CHAIR: Thank you.

11 Then now I will call the applicants for closing
12 remarks.

13 Closing Remarks by Agnico Eagle Mines Limited

14 MR. QUESNEL: Thank you, Mr. Chair.

15 Jamie Quesnel.

16 Mr. Chair and members of the Board, I would like
17 to start by thanking our hosts, the community of
18 Baker Lake, for their hospitality these past two weeks.
19 We would also like to thank the community members who
20 have come to these hearings and meetings and
21 participated by listening, asking questions, and
22 sharing information. Agnico Eagle is proud to bring
23 this project forward as an extension of the Meadowbank
24 project. The Whale Tail Pit Project provides the
25 opportunity to build on the positive experiences of the
26 Meadowbank operation and to provide continuity for

1 employment and business benefits.

2 Agnico is committed to Nunavut and to the
3 Kivalliq Region for the long term. It is our hope that
4 we can bring forward future mine extensions to the
5 Nunavut Impact Review Board and the Nunavut Water Board
6 for consideration in the future.

7 I am now going to provide you with a brief summary
8 of the main points we covered during these hearings.

9 Consultation and communities. Through both the
10 Meadowbank and Meliadine projects, Agnico Eagle has
11 developed a strong and beneficial relationship with the
12 communities and the people of Nunavut. The approach to
13 the Whale Tail Project continues on this path. As
14 summarized during our presentations, we have consulted
15 broadly and extensively and have considered and
16 incorporated traditional knowledge and IQ in our
17 project design and plans. We have listened to
18 questions and suggestions and done our best to respond
19 to them respectfully and responsibly.

20 This project will provide continuity of employment
21 and business opportunities as the Meadowbank mine
22 completes its production from the Portage, Bay Goose,
23 and Vault deposits. The Meadowbank is very close to
24 the end of its mine life. If Whale Tail is approved,
25 there will be approximately 150 new jobs created by the
26 mining of the Whale Tail Pit to feed the Meadowbank

1 mill, and we will strive to fill as many of them with
2 Inuit employees as we can, with a minimum of 50 percent
3 as our goal.

4 We are proud of what we have achieved in
5 partnership with the people of Nunavut at our
6 Meadowbank mine and at Meliadine. The Whale Tail
7 Project provides us with an opportunity to continue and
8 extend our presence and our relationships.

9 Dealing with waste disposal and management,
10 Mr. Chair, as we hope we are able to show the Board
11 during our presentations, Agnico Eagle is very
12 experienced at managing waste and water at Meadowbank
13 mine, and given the similarity of the conditions at
14 Whale Tail, this experience is directly relevant to the
15 Whale Tail Project.

16 Typically, at this stage of a project, the Board
17 would have to rely on predictions alone. In this case,
18 we are in the position to provide the Board with
19 evidence based on actual operational data. This data
20 further increases our confidence in our predictions and
21 in our Whale Tail Pit management and monitoring plans.
22 Whale Tail has been designed to use as much of the
23 existing Meadowbank mine facilities as possible. For
24 example, we are going to use existing capacity in the
25 Meadowbank mine tailings impoundment facility. As
26 Michel Groleau explained, there is more capacity in the

1 Meadowbank tailings impoundment facility than we will
2 need to store the Whale Tail tailings. We are very
3 confident of this.

4 We are also relying on other existing Meadowbank
5 facilities, such as the mill. Similar to Vault Pit,
6 this will help keep the footprint of the Whale Tail Pit
7 Project relatively confined.

8 In designing the project, we have placed our
9 Whale Tail facilities to impact as few watersheds in
10 the area of the project as possible. We have
11 extensively tested the rock that we will be handling at
12 the Whale Tail Project, and we understand the
13 properties of that rock and the geology very well.
14 Through consultation with parties and our operational
15 experience at Meadowbank, we have developed protocols
16 that will ensure that we handle and store the rock
17 effectively. We have proposed plans that will ensure
18 that rock on site will be placed in the right location
19 for its end use. As presented by Erika Voyer, our
20 truck operators understand very well to place rock and
21 the importance of following the plans to make sure this
22 is done properly. These plans have been proven
23 effective at Meadowbank. We already know how to do
24 this.

25 Based on water use and management, we have
26 designed the Whale Tail Pit Project to minimize impact

1 on both water quality and fish habitat and to ensure
2 that Nunavut waters are protected from negative
3 downstream water quality effects. We have worked
4 extensively with the Nunavut Water Board staff,
5 Kivalliq Inuit Association, Indigenous and Northern
6 Affairs Canada, Fisheries and Oceans Canada, and
7 Environment and Climate Change Canada to revise and
8 test our models to ensure we will protect the receiving
9 environment.

10 During operations, if the project is approved, we
11 will collect data through monitoring and continue to
12 look at those data to ensure that the information we
13 collect is analyzed properly and compared to the
14 conservative predictions that were described during our
15 presentations. As explained by Ryan Vanengen,
16 Agnico Eagle will not just be making decisions based on
17 what we think. We will be using IQ, fact-based
18 engineering, science, and the best models we can use to
19 make sure the receiving environment is protected.

20 We have proposed discharge limits are consistent
21 with the Metal Mining Effluent Regulations under the
22 Fisheries Act; and with the Canadian water quality
23 guidelines, we will achieve water quality that is
24 protective of the lakes, streams, and aquatic life.
25 For some parameters, such as arsenic, we are committing
26 to meet site-specific limits more stringent than

1 required under the Metal Mining Effluent Regulations.

2 At Whale Tail, we propose criteria of
3 0.1 milligrams per litre of discharge and
4 0.025 milligrams per litre in the lake, which will be
5 protective of fish and fish habitat. If needed, we
6 have committed to treat for parameters of potential
7 concern, such as arsenic and phosphorous, in order to
8 ensure water quality is met. We have provided design
9 details of the water treatment plants, and we will be
10 ready to use them if necessary. However, our
11 conservative predictions are that treatment for arsenic
12 may not be necessary, and we will meet closure water
13 quality limits as a result of our site management.

14 In terms of fish habitat, we have put forward a
15 compensation plan to Fisheries and Oceans Canada, and
16 we are confident that we can reach agreement for an
17 authorization that will offset the loss of fish
18 habitat.

19 Dealing with closure and security, as I noted
20 earlier, we will prepare for closure during
21 construction and operations by implementing management
22 plans with careful handling and segregation of rock
23 during the operational phase.

24 In the long term, waste rock with potential to
25 impact waters will be well contained through a cover
26 and freezeback strategy.

1 The 4-metre waste rock pile cover, about as high
2 as the pipe in this room, is a very conservative
3 approach which has been previously approved by the
4 Nunavut Water Board and proven effective at Meadowbank.
5 Once water quality in pits are safe for fish, our
6 closure plan includes breaching the temporary dikes in
7 Whale Tail Lake and Mammoth Lake and restoring the
8 natural water flows when mining is complete.

9 The Whale Tail Pit interim closure and reclamation
10 plan has been reviewed extensively by both the Kivalliq
11 Inuit Association and Indigenous/Northern Affairs
12 Canada, and they have confirmed they have no
13 outstanding technical concerns.

14 Mr. Chair, as you have heard from Agnico, Kivalliq
15 Inuit Association and Indigenous and Northern Affairs
16 Canada, we are in agreement that the global reclamation
17 security is \$26,285,926. As set out in detail in the
18 security management agreement between Agnico, the
19 Kivalliq Inuit Association, and Indigenous and Northern
20 Affairs Canada dated September the 5th, 2017, and filed
21 with the Board in this hearing as Exhibit 12, the
22 Kivalliq Inuit Association and Indigenous and Northern
23 Affairs Canada have agreed to hold -- each hold
24 50 percent of the global security amount for the
25 Whale Tail Pit Project.

26 Requests for approval. We understand and respect

1 the responsibility that the Nunavut Water Board has in
2 determining conditions for water licences that will be
3 protective of Nunavut waters. We have worked hard,
4 along with our team of professional consultants with
5 the Inuit organizations and communities and with the
6 government regulatory, to address the water and
7 waste-related issues. In our application, we made two
8 requests of the Board in relation to the Whale Tail Pit
9 Project. First, we asked the Board to amend the
10 existing Type A Meadowbank Licence 2AM-MEA1525. We
11 have identified in Exhibit 8 terms and conditions of
12 the Meadowbank water licence, which will require
13 reconsideration by the Water Board should the Whale
14 Tail Pit Project proceed.

15 Secondly, we have asked the Board to issue a new
16 Type A licence for the Whale Tail Pit Project. We
17 encourage the Board to give full consideration to the
18 proposed Whale Tail Pit Project Type A water licence
19 framework for Water Licence Number 2AM-WTP that we
20 filed in this hearing as Exhibit 9. The framework
21 reconfirms the commitments that Agnico has made to
22 parties to this proceeding and is intended to support
23 the Nunavut Water Board and staff in their development
24 of a water licence for the Whale Tail Pit Project
25 should they proceed to issue a licence. We hope these
26 are of assistance to the Board in its decision-making.

1 We acknowledge the Kivalliq Inuit Association's
2 support of the project and look forward to working with
3 you through our impact benefit agreement. We are very
4 close to reaching a water compensation agreement with
5 the Kivalliq Inuit Association. We expect to be in a
6 position for Kivalliq Inuit Association to confirm
7 water compensation shortly. We also are pleased that
8 the federal agencies, including Indigenous and Northern
9 Affairs Canada, Environment and Climate Change Canada,
10 and Fisheries and Oceans Canada, have all indicated
11 that the technical issues they raised in the water
12 licencing process have all been resolved. These issues
13 were resolved by providing the parties with additional
14 information analysis, making commitments, and providing
15 recommended water licence terms to the Water Board.

16 We are confident that we can construct, operate,
17 and ultimately close the project in a way that respects
18 and protects water quality and fish populations and ask
19 that the Board issue the necessary water licences to
20 proceed.

21 In closing, Agnico Eagle would like to thank the
22 Chair and the Board members for conducting this water
23 licence hearing with fairness to all parties. We'd
24 also like to thank all the participants, including
25 community members, for their presentations, their
26 questions, and for sharing some of their experiences

1 with us.

2 And, also, Agnico Eagle would like to have a
3 special thank you to Karen Costello, not just for this
4 file, for multiple files she's been involved with with
5 Agnico Eagle. All the best to you.

6 Thank you, Mr. Chair, and members of the Board.
7 That completes our closing statement. Thank you.

8 THE CHAIR: Thank you.

9 Before I do my closing remarks, is there any
10 housekeeping to do here? Stephanie.

11 MS. AUTUT: Thanks, Mr. Chair.

12 I won't go around with all of the thanks again. I
13 think it's noted that the Board is certainly
14 appreciative of everybody's efforts. I would like to
15 make a special note, though, to acknowledge the efforts
16 that Sophia and William have put in on behalf of the
17 Nunavut Impact Review Board helping the Water Board
18 with the conduct of the hearing this week and the
19 provision of the sound equipment. So thank you to you
20 both for your time and your efforts.

21 And with that, Mr. Chair, I'll hand it back to
22 you. Thanks.

23 Closing Remarks by the Chair

24 THE CHAIR: Thank you.

25 So I'll also do my closing remarks on behalf of
26 the Nunavut Water Board.

1 The Board takes this opportunity to thank the
2 parties, especially the applicant Agnico Eagle Mines
3 Limited; intervenors, Kivalliq Inuit Association,
4 Indigenous and Northern Affairs Canada, Environment and
5 Climate Change Canada, Fisheries and Oceans Canada, and
6 the NWB staff and legal counsel; interpreters,
7 Ben Kogvik, Alexander Alooq; court reporter,
8 Elizabeth Royal; audio facilitator from NIRB, William
9 Nicoll; all the community members and the elders for
10 their valued participation in this hearing. Thanks
11 also to the caterers and Hamlet of Baker Lake for their
12 outstanding hospitality and patience with the Board.

13 As we are at the end of this hearing, I will make
14 some comments to let the parties know what happens next
15 for the application.

16 As stated in the prehearing consultation of
17 June 8, 2017, the NWB's public hearing records will
18 remain open after the NIRB has issued that -- the
19 Board's final hearing reports and the Minister has made
20 her decision to accept or reject the NIRB's reports and
21 recommendations. If the NIRB and the Minister agree
22 that the Whale Tail Pit Project Proposal can be allowed
23 to proceed, the NWB will give all parties a final
24 opportunity to file written materials to supplement the
25 NWB's public hearing record to the extent the Board and
26 the parties may consider to be necessary.

1 Once the NWB has received all of these
2 submissions, the Board will close the public hearing
3 record and will remit the file to the Panel for
4 decision-making. Within 30 days to 45 days after the
5 public hearing record closes, the NWB will issue its
6 record of proceedings and decision to the Minister of
7 Indigenous and Northern Affairs Canada. If the Board's
8 decision is to grant the application, a draft of the
9 new Type A water licence and recommended amendments to
10 the existing Type A water licence would be attached for
11 the Minister's consideration.

12 If, however, the NIRB recommends to the Minister
13 that the project proposal should not be allowed to
14 proceed and the Minister accepts the NIRB's
15 recommendation, the application will not be considered
16 further by the NWB and the NWB will not issue a written
17 decision in respect of the application.

18 That concludes the public hearing component of the
19 Nunavut Water Board's consideration of the Whale Tail
20 Pit water licence application. The Board and I wish
21 you all a good afternoon and evening and safe travel
22 returning home to all visitors of Baker Lake.

23 So let's have a closing remarks [sic]. Let's
24 stand.

25 (CLOSING PRAYER)

1 PROCEEDINGS CONCLUDED

2 _____
3 CERTIFICATE OF TRANSCRIPT:

4
5 I, Elizabeth Royal, certify that the foregoing
6 pages are a complete and accurate transcript of the
7 proceedings, taken down by me in shorthand and
8 transcribed from my shorthand notes to the best of my
9 skill and ability.

10 Dated at the City of Calgary, Province of Alberta,
11 this 16th day of October 2017.

12
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15 _____
16 Elizabeth Royal, CSR(A)
17 Official Court Reporter

EXHIBITS ENTERED

SEPTEMBER 27, 2017

PAGE NUMBER:

EXHIBIT 22 - Indigenous and Northern Affairs Canada hard copy PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (English)

278

EXHIBIT 23 - Indigenous and Northern Affairs Canada hard copy PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (Inuktitut)

278

EXHIBIT 24 - Indigenous and Northern Affairs Canada hard copy PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (French)

278

1	EXHIBIT 25 - Indigenous and Northern	279
2	Affairs Canada updated electronic	
3	PowerPoint presentation regarding Agnico	
4	Eagle's Whale Tail Pit Project for the	
5	Nunavut Water Board public hearing	
6	(English)	
7		
8	EXHIBIT 26 - Environment and Climate	302
9	Change Canada hard copy PowerPoint	
10	presentation to the Nunavut Water Board	
11	respecting the Whale Tail Pit Project Type	
12	A water licence application for the public	
13	hearing (English/Inuktitut)	
14		
15	EXHIBIT 27 - Fisheries and Oceans Canada	313
16	hard copy PowerPoint presentation to the	
17	Nunavut Water Board final hearing	
18	(English/Inuktitut)	
19		
20	EXHIBIT 28 - Fisheries and Oceans Canada	313
21	hard copy PowerPoint presentation to the	
22	Nunavut Water Board final hearing (French)	
23		
24		
25		
26		

1 EXHIBIT 29 - Agnico Eagle hard copy 339
2 memorandum from C. Prather and D.
3 Filiatrault to J. Quesnel; dated September
4 26, 2017; entitled "Water Monitoring
5 Reduction Framework" (English)

6
7 EXHIBIT 30 - Agnico Eagle updated hard 339
8 copy Project A water licencing framework
9 for Water Licence Number 2AM-WTP---,
10 Appendix A, Agnico Eagle's proposed
11 commitments (English)

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