March 11, 2019

NWB File No: 2AM-MEA1526

By Email

Jamie Quesnel
Environmental Superintendent - Nunavut
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Luis Manzo
Director of Lands
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Re: Follow Up Process and Timing Guidance of the Nunavut Water Board (NWB) in Relation to the NWB's Water Compensation Determination Associated With the In-Pit Tailings Deposition Amendment to Water Licence No: 2AM-MEA1526 by Agnico Eagle Mines Limited

Dear Messrs. Quesnel and Manzo:

Please find in the text that follows the proposed process and timing guidance of the Nunavut Water Board (NWB or Board) pertaining to the NWB's Water Compensation Determination Process (WCDP) in relation to the amendment of Water Licence No: 2AM-MEA1526 by Agnico Eagle Mines Limited (Agnico Eagle or the Applicant) required to authorize the water uses and waste deposits associated with the In-Pit Tailings Deposition Proposal at the Meadowbank Gold Mine (the Amendment Application). The guidance provided by the NWB in this correspondence and attached *draft* Compensation Determination Process Agreement reflects the information provided by Agnico Eagle and the Kivalliq Inuit Association (KIA) and the NWB during the February 28, 2019 teleconference hosted by the NWB to discuss general process questions, the written submissions of Agnico Eagle and the KIA provided on March 4, 2019 and the guidance of the NWB's duly appointed decision-making responsible for this file, Panel P9 (the Panel or the Meadowbank Panel).

On this basis, on Thursday, March 7, 2019, the Meadowbank Panel met by teleconference and by Board Motion No: 2018-20-P9-05 approved the issuance of the attached Board direction regarding schedule and format of hearing in respect of the WCDP associated with the Amendment Application. Please note that although the NWB has considered the information provided by the parties with respect to proposed process and schedules, the NWB has deviated from the parties' suggestions as necessary to reflect the NWB's assessment of the appropriate process and procedure and to reflect logistical limits imposed by travel schedules.

Specifically, the NWB has been unable to accommodate the abbreviated schedule suggested by

Agnico Eagle that would result in an in-person oral hearing being conducted on March 25. As indicated by the KIA during the February 28 teleconference, the KIA would be unable to meet the timeline for substantive submissions associated with this timing (March 18). Similarly, recognizing that the NWB has been advised for several months that Agnico Eagle and the KIA have been negotiating with respect to water compensation associated with the Amendment Application, the NWB does not consider it necessary for the NWB to build in an information request (IR) stage into the WCDP as requested by the KIA. The elimination of the IR stage shortens the time until an in-person oral hearing can be conducted from early May to the third week in April.

In addition, the NWB has determined that, because all other evidence in respect of the Amendment Application has been received by the Board and so the Amendment Application file can be remitted to the Meadowbank Panel responsible for decision-making as soon as the Panel has concluded the water compensation determination, it is not efficient for the Panel to issue a separate water compensation determination decision in advance of the Board's decision in relation to the Amendment Application. Accordingly, within 30-45 days following the Panel's closure of the hearing record associated with the water compensation determination, the Meadowbank Panel will issue a single decision that addresses <u>both</u> the Amendment Application and the Panel's water compensation determination. If the Panel recommends the issuance of amendments to the Licence, the Panel will also append the amended terms and conditions to Water Licence No: 2AM-MEA1526.

In considering the form of oral hearing that should be conducted as part of the water compensation determination, the Board agrees with the parties that it is appropriate and in keeping with the Board's preference for transparency that the oral hearing be conducted in person in the most directly affected community, Baker Lake, in the week of April 22-26, 2019. Recognizing that April 22 is Easter Monday, and is a statutory holiday, the Board has determined that due to the logistics of travel over the Easter holiday week end, April 24 is the earliest date possible for the oral hearing in that week, and the Board has tentatively planned for the hearing to be held on that date. The Board recognizes that the KIA has indicated unavailability from April 24-30, but given the urgency of this matter and the advance notice of this hearing and having concluded that April 24-26 were the earliest possible dates to hold an in-person oral hearing, the Board appreciates the parties making best efforts to work within the timelines proposed, including the timing of the hearing.

As outlined below and indicated in the attached *draft* Water Compensation Determination Process Agreement, the Panel has considered the submissions of the parties and issues the following process and timeline guidance. As always, the Board reserves the right to revisit this timing as circumstances warrant, but recognizing that the NWB's consideration of the Amendment Application is suspended until the completion of the NWB's determination of water compensation concludes and mindful of the logistical limits outlined above, the NWB expects all parties to make all reasonable efforts to comply with these timelines going forward.

a. On or before March 15, 2019 the Parties will provide written submissions to the Board

- regarding the scope of issues to be considered by the Panel during the NWB's water compensation determination;
- b. **On or before March 18, 2019** the Board will provide direction on the scope of issues that will be considered by the Panel during the NWB's water compensation determination;
- c. **On or before April 8, 2019**, the Parties will provide all materials in support of their assessment of the appropriate measure of compensation to the Board;
- d. **On or before April 13, 2019**, the Board will review the Parties' materials provided under (c) above, and the Board will identify and provide notice to the Parties if the Board identifies that information in addition to the materials provided by the Parties is considered necessary to arrive at a fair determination;
- e. **On or before April 15, 2019** the Parties will file the presentation materials on which they intend to rely at the in-person oral hearing conducted by the NWB in support of the water compensation determination;
- f. The week of April 22-26, 2019 (hearing tentatively planned for April 24, 2019), the NWB will conduct a one-day in-person oral hearing to support the Board's water compensation determination.

In closing, the Board requests the parties to review the updated *draft* Water Compensation Determination Process Agreement and provide the NWB with any comments or questions regarding the draft on or before **March 15, 2019.** The NWB will then revise and send a finalized Agreement to the parties for signature the following week.

If you have any questions or require further direction with respect to the technical aspects of this matter, please contact Assol Kubeisinova, Technical Advisor, at (867) 360-6338 or via e-mail at assol.kubeisinova@nwb-oen.ca or Karén Kharatyan, Director of Technical Services, at (867) 360-6338 or via e-mail at karen.kharatyan@nwb-oen.ca.

Regards,

Lootie Toomasie Chairperson Nunavut Water Board

Encl. draft Water Compensation Determination Process Agreement

cc Kimberley Gilson, KIA Legal Counsel, Duboff Edwards Haight & Schacter Christine Kowbel, Legal Counsel Agnico Eagle, Lawson Lundell