



NUNAVUT WATER BOARD

**WATER LICENCE NOS: 2AM-WTP1830 AND 2AM-
MEA1530**

**REASONS FOR DECISION
INCLUDING RECORD OF PROCEEDINGS**

NUNAVUT WATER BOARD

In the Matter of:

Applicant: Agnico Eagle Mines Limited

Subject: Applications to Amend existing Type “A” Water Licences
Nos: 2AM-WTP1826 and 2AM-MEA1526 and existing
Type “B” Water Licence No: 2BB-MEA1828

Date: March 27, 2020

Precedence: Where there is any inconsistency or conflict between the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA)*, the *Nunavut Agreement* prevails to the extent of the inconsistency or conflict. Where there is any inconsistency or conflict between the *NWNSRTA* and any other act of Parliament, except the *Nunavut Land Claims Agreement Act*, the *NWNSRTA* prevails to the extent of the inconsistency or conflict.

RECORD OF PROCEEDINGS

Applicant: Agnico Eagle Mines Limited

Address: Suite 400, 145 King Street East
Toronto, ON M5C 2Y7

Purpose: Application for Amendments to Type
“A” Water Licences Nos: 2AM-
WTP1826, 2AM-MEA1526 and Type
“B” Water Licence No: 2BB-MEA1828

Applications Received on: May 16, 2019

Application Received from: Agnico Eagle Mines Limited

Dates of Public Hearing: February 13 and 14, 2020

Date Public Hearing Record Closed: February 14, 2020

ATTENDEES:**Nunavut Water Board:**

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Written Record of Submissions:	Available from the Board’s public registry using the following link: ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-WTP1826%20Agnico/	
Hearing Record (including Hearing Transcript):	Available from the Board’s public registry using the following link: ftp://ftp.nwb-oen.ca/registry/2 MINING MILLING/2A/2AM - Mining/2AM-WTP1826 Agnico/2 ADMIN/4 HEARINGS/2 HEARING/	

TABLE OF CONTENTS

RECORD OF PROCEEDINGS	3
TABLE OF CONTENTS	7
ABBREVIATIONS	11
REASONS FOR DECISION	11
Executive Summary	11
SECTION I FILE BACKGROUND AND REGULATORY HISTORY	16
Current Applications	16
Amendments to Water Licence No: 2AM-WTP1826	17
Amendments to Water Licence No: 2AM-MEA1526	18
Amendments to Water Licence No: 2BB-MEA1828	18
History of the Whale Tail Pit Expansion Project Proposal	24
Licensing History	24
Type “B” Licences for the Project	24
Water Licence NWB2MEA9899 (as renewed Water Licence No: 2BB-MEA1828)	24
Water Licence No: 8BC-AEA1525	25
Water Licence No: 2BC-WTP1819	25
Type “A” Licences for the Project	25
Water Licence No: 2AM-MEA0815	26
Renewed and Amended Water Licence No: 2AM-MEA1525	26
Regulatory and Procedural History of this Application	27
Pre-Licensing Regulatory History	27
Key Steps in the NWB’s Procedural History for the Amendment Applications	29
NWB Timeline for Processing the Application	32
SECTION II SUMMARY OF FINAL SUBMISSIONS OF THE PARTIES	33
Kivalliq Inuit Association (KIA or KivIA)	33
Water Quality	36
Water Management	36
Waste Rock Storage	36
Water Compensation	38
Crown-Indigenous and Northern Affairs (CIRNA)	39
Environment and Climate Change Canada (ECCC)	41
Interim Closure and Reclamation Plan	43
Operational Activities	44
Term of the Licence for the Whale Tail Pit Project	45
Draft Licence Frameworks Review	45

Fisheries and Oceans Canada (DFO)	46
Fish Passage	47
Water Use.....	47
Downstream Environment	47
Agnico Eagle Mines Limited (Agnico Eagle or Applicant).....	48
Responses to Issues Raised by Interveners	48
Draft Water Licence Frameworks	51
SECTION III SUBMISSIONS BY OTHER INTERVENING PARTIES OR MEMBERS OF THE PUBLIC	52
SECTION IV JURISDICTION OF THE NWB.....	52
SECTION V REQUIREMENTS OF THE <i>NWNSRTA</i> , <i>REGULATIONS</i> AND <i>NUNAVUT</i> <i>AGREEMENT</i>	53
Objects of the NWB and its Relationship to other Bodies	53
Land Use Planning	53
Impact Assessment.....	53
Inuit Water Rights	54
SECTION VI DECISION TO ISSUE.....	55
Conditions for Issuance of a Licence	56
Financial Responsibility of the Applicant.....	56
Compensation of Existing or Other Users.....	58
Issuance of the Amended Type “A” Water Licences.....	58
Assumptions	59
Applications in Relation to the Licences	59
Future Modifications or Amendments to the Licences	59
Assignment of a Licence	64
Cancellation or Expiry of the Licence	65
Term of Licence	66
SECTION VII WATER LICENCES NOS: 2AM-WTP1830 and 2AM-MEA1530 TERMS AND CONDITIONS	67
Water Licence No: 2AM-WTP1830	68
Part A: Scope, Definitions and Enforcement	68
Definitions.....	70
Part B: General Conditions	70
Reports and/or Plans Filed with the NWB	70
Spill Contingency, Hazardous Materials Management, and Emergency Response Plans	73
Interim Closure and Reclamation Plan (ICRP)	74
Waste Rock Management	74

Quality Assurance / Quality Control.....	75
Water Management	75
Part C: Conditions Applying to Security	75
Requirement of Security	75
Arrangements Related to Security	76
Review of the Amount of Security.....	78
Form of Security	78
Periodic Review of the Amount of Security	79
Part D: Conditions Applying to Construction	79
Part E: Conditions Applying to Water Use and Management	81
Part F: Conditions Applying to Waste Disposal and Management	85
Waste Rock and Overburden Storage Facilities.....	85
Landfarm	87
Landfill.....	87
Bulk Fuel Storage Facility and Powerhouse	87
Sewage	87
Sludge.....	88
Mine Contact Water	88
Incinerator and Composter	88
Part G: Conditions Applying to Modifications	88
Part H: Conditions Applying to Emergency Response and Spill Contingency Planning.....	89
Part I: Conditions Applying to General and Aquatic Effects Monitoring	89
Part J: Conditions Applying to Abandonment, Reclamation and Closure	90
Schedules A through J.....	93
Water Licence No: 2AM-MEA1530.....	93
Part A: Scope, Definitions and Enforcement	93
Part B: General Conditions	94
Quality Assurance / Quality Control.....	95
Part C: Conditions Applying to Security	95
Part D: Conditions Applying to New Construction.....	95
Part E: Conditions Applying to Water Use and Management	95
Part F: Conditions Applying to Waste Disposal and Management	96
Part G: Conditions Applying to Modifications	97
Part H: Conditions Applying to Emergency Response and Spill Contingency Planning.....	98
Part I: Conditions Applying to General and Aquatic Effects Monitoring	98
Part J: Conditions Applying to Applying to Abandonment, Reclamation and Closure.....	98
APPENDIX A - Agendas for Public Hearing and Community Session	99

APPENDIX B - Exhibit List.....	102
APPENDIX C - List of Acronyms.....	107
APPENDIX D - List of Submissions and Correspondence	108
Amendment Applications and Attachments:.....	108
Submissions & Correspondence in relation to the Amendment Applications:	110
APPENDIX E - Sign-in Sheets – List of Participants in the Public Hearing.....	120

ABBREVIATIONS

In this decision, the following abbreviations are used:

Short Form	Full Name
Agnico Eagle	Agnico Eagle Mines Limited
CIRNA or CIRNAC	Crown Indigenous Relations and Northern Affairs
DFO	Fisheries and Oceans Canada
DIO	Designated Inuit Organization
ECCC	Environment and Climate Change Canada
KIA or KivIA	Kivalliq Inuit Association
<i>MDMER</i>	<i>Metal and Diamond Mining Effluent Regulations</i>
NIRB	Nunavut Impact Review Board
NPC or Commission	Nunavut Planning Commission
<i>Nunavut Agreement</i>	<i>Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada</i>
<i>NUPPAA</i>	<i>Nunavut Planning and Project Assessment Act</i>
NWB	Nunavut Water Board
<i>NWNSRTA</i>	<i>Nunavut Waters and Nunavut Surface Rights Tribunal Act</i>
<i>NWR or Regulations</i>	<i>Nunavut Waters Regulations</i>
PHC	Pre-Hearing Conference
PH	Public Hearing
TM	Technical Meeting

REASONS FOR DECISION

Executive Summary

These Reasons for Decision are in relation to applications submitted by Agnico Eagle Mines Limited (the Applicant or Agnico Eagle) to the Nunavut Water Board (NWB or Board), for amendments to Type “A” Water Licence No: 2AM-WTP1826 (the Whale Tail Licence), Type “A” Water Licence No: 2AM-MEA1526 (the Meadowbank Licence) and Type “B” Water Licence No: 2BB-MEA1828 (the Advanced Exploration Licence). The amendment applications seek to authorize changes to the previously-approved uses of water and deposit of wastes under the Whale Tail Licence, the Meadowbank Licence and the Advanced Exploration Licence necessary to reflect the expansion of the Whale Tail Pit Gold Mine Project, as proposed by Agnico Eagle in the Whale Tail Pit Expansion Project Proposal (the Expansion Proposal). As discussed by the parties during the Pre-Hearing Conference for the applications, as the requests for amendments to the three water licences are interconnected, the NWB has processed the applications together (collectively referred to as the Amendment Applications).

Prior to the NWB's completion of decision-making for the Amendment Applications, the pre-licensing requirements of the Nunavut Planning Commission (NPC) and the Nunavut Impact Review Board (NIRB) were completed as follows. On October 16, 2018, the NPC confirmed the Expansion Proposal was in conformity with the Keewatin Regional Land Use Plan (KRLUP). The NPC then referred the Expansion Proposal to the NIRB for screening of the potential ecosystemic and socio-economic effects of the Expansion Proposal because the Expansion Proposal included components or activities that were not part of the previously-approved Whale Tail Pit Project Proposal. In October 2019, following the NIRB's assessment of the Expansion Proposal and reconsideration of the terms and conditions of NIRB Project Certificate No. 008 s for the Whale Tail Pit Project, the NIRB recommended that the Expansion Proposal be allowed to proceed to the licensing stage.¹ Subsequently, on January 20, 2020, the Minister of Northern Affairs (on behalf of all relevant Ministers) accepted the NIRB's recommendation that the Expansion Proposal should be allowed to proceed and varied two of the NIRB's recommended terms and conditions (Term and Condition #30 and Term and Condition #66).

The Amendment Applications seek amendments to the previously-approved gold Mining Undertaking² at the Whale Tail Pit Gold Mine, which is located on the bigger Amaruq property in the Kivalliq Region of Nunavut. The Amaruq property is a 408 square kilometre (km²) site located on Inuit Owned Land approximately 150 kilometres (km) north of the Hamlet of Baker Lake and approximately 50 km northwest of Agnico Eagle's Meadowbank Gold Mine. Reflecting that the mill and mining infrastructure at the existing Meadowbank Gold Mine would also be used to process the additional ore from the Whale Tail Pit Mine, the Amendment Applications involve changes both to the Whale Tail Licence and consequential amendments to the Meadowbank Licence. In addition, the Applicant requested that the amended Whale Tail Licence should incorporate some of the scope of the existing Type "B" Water Licence No: 2BB-MEA828 issued for the Meadowbank Advanced Exploration Project.

Key steps in the NWB's specific processing of the Amendment Applications included:

- providing Notice of the Amendment Applications;
- conducting a completeness check;

¹ Nunavut Impact Review Board, Reconsideration Report and Recommendations: Whale Tail Pit Expansion Project Proposal, NIRB File No.: 16MN056, October 18, 2019.

² As defined under Schedule 1, Item 2 of the *Nunavut Waters Regulations*, SOR/2013-69 a Mining Undertaking involves:

Exploration or prospecting — including bulk sampling — for minerals other than petroleum or gas, the operation of a mine, the processing of minerals other than petroleum or gas, the restoration of the site of a mine and any other mining activity other than an industrial activity described in item 1, column 2.

- conducting a technical review, including requesting technical review comments from interveners and any interested members of the public;
- hosting a Technical Meeting (TM) and Pre-Hearing Conference (PHC) held in-person in Yellowknife, NWT on October 29-30, 2019. The TM and PHC were originally scheduled to occur in Baker Lake, NU but the venue had to be changed to Yellowknife, NWT due to weather and travel restrictions that prevented travel into Baker Lake, NU;
- publishing notice on November 29, 2019 of the NWB's proposed Public Hearing for the Amendment Applications to take place on February 12 and 13, 2020; and
- conducting an in-person Public Hearing (PH) for the Amendment Applications in Baker Lake, NU (due to weather and associated travel restrictions, the Public Hearing was rescheduled from the advertised dates of February 12 and 13, 2020 to February 13 and 14, 2020). As part of the Public Hearing, a Community Session was hosted by the NWB on the evening of February 13, 2020, with residents of Baker Lake in attendance.³

At the conclusion of the Public Hearing, on February 14, 2020, the NWB's duly appointed three-member decision-making Panel for the file (Panel P17 or Whale Tail Pit Panel) indicated that the Public Hearing Record associated with the Board's consideration of the Amendment Applications was closed, and the applications were remitted to the Whale Tail Pit Panel for decision-making.

The Whale Tail Pit Panel considered the following information during decision-making:

- the information provided with the Amendment Applications by Agnico Eagle;
- technical review of the Amendment Applications by the Board, interveners and the public, including discussions during the Technical Meeting and Pre-Hearing Conference conducted for the file;
- commitments and responses to information requests from the parties during the technical review of the Amendment Applications;
- comment submissions received throughout the Board's consideration of the Amendment Applications;
- the final written submissions filed with the Board in advance of the Public Hearing; and
- the information provided during the Public Hearing and Community Session.

³ For a complete list of attendees at the Public Hearing and Community Session, see APPENDIX E – Sign-in Sheets – List of Participants in the Public Hearing.

On this basis, the Whale Tail Pit Panel, duly appointed by the Board to consider the Amendment Applications met on March 11, 2020 to deliberate and make a decision in respect of the Amendment Applications. The Whale Tail Pit Panel decided the following, by way of Motions #2019-26-P17-05 and #2019-26-P17-06:

- To grant Agnico Eagle’s request for amendments to Type “A” Water Licence No: 2AM-WTP1826 as set out in the attached reissued Water Licence No: 2AM-WTP1830, (renumbered to reflect the change to the term of the existing Whale Tail Pit Licence) and amendments to Water Licence No. 2AM-MEA1526, as set out in reissued Water Licence No: 2AM-MEA1530 (renumbered to reflect the change to the term of the existing Meadowbank Licence) in accordance with the terms and conditions outlined in this Decision and in the reissued and amended licences;
- Specific terms and conditions of note in the amended and reissued licences include the following:
 - the term of Water Licence No: 2AM-WTP1830 will be extended by 4 years, expiring in March, 2030;
 - the term of Water Licence No: 2AM-MEA1530 will also be extended by 4 years, expiring in March, 2030;
 - the security required to be posted under Part C of the amended and reissued Type “A” Water Licence No: 2AM-WTP1830 reflects the submissions of the parties that security in the global amount of **\$50,663,508** is required to reclaim the undertaking, but the NWB has taken note that as set out in the *Whale Tail Security Management Agreement* only 50% of this global amount or **\$25,331,754** will be held under the Licence, with the remaining 50% to be held under the land lease negotiated by Agnico Eagle and the Kivalliq Inuit Association;
 - the security required to be held under Part C of the amended and reissued Type “A” Water Licence No: 2AM-WTP1830 may be reviewed by the Board (in the form of an amendment) if:
 - the *Whale Tail Security Management Agreement* is terminated;
 - when there is a change in the phase of the undertaking from construction to commercial operation or from commercial operation to abandonment and reclamation; or
 - upon a material change to the Project that may have a material effect on the amount of reclamation liability/security that should be held under the Licence;

- Parts D and F of the amended and reissued licences provide specific information regarding the effluent quality limits that must not be exceeded during discharges to the receiving environment where appropriate;
- Part E of the amended and reissued Type “A” Water Licence No: 2AM-WTP1830 sets out changes to the volume of water Agnico Eagle is authorized to use and specifies that the following water uses are authorized:
 - up to two hundred and nine thousand five hundred and forty-four (209,544) cubic metres per year from Nemo Lake of during construction and operations;
 - up to two thousand five hundred (2,500) cubic metres per year from Mammoth Lake for explosives mixing and associated use construction and operations;
 - up to one hundred fifty-three thousand seven hundred and thirty-five (153,735) cubic metres per year from Whale Tail Lake (North Basin), Lakes A-P38, A46, A47, A49, A50, A51, A52, A53, A-P21, A-P10, A-P67, and A-P68 for dewatering to Whale Tail Lake (South Basin);
 - up to one hundred and nine thousand one hundred and thirty-five (109,135) cubic metres per year from sources near to drilling sites for drilling;
 - up to one hundred and nine thousand one hundred and thirty-five (109,135) cubic metres per year from sources close to the Whale Tail Haul Road for dust suppression during construction and operations;
 - during closure, up to fourteen thousand six hundred and seventy-two (14,672) cubic metres per year, from Nemo Lake for all purposes, up to ten million six hundred fifty-five thousand (10,655,000) cubic metres from Whale Tail Lake (South Basin) for reflooding of mined out pits and underground works and up to one million seven hundred and ten thousand (1,710,000) cubic metres per year from Lake D1 for reflooding of mined out pits and underground works; and
- Part F, the waste disposal and management section of the amended and reissued Type “A” Water Licence No: 2AM-WTP1826 reflects the addition of a Landfarm, incinerator and composter operation at the Whale Tail Pit Gold Mine site and changes to effluent limits; and
- Part I has been amended to add to the monitoring requirements under the amended and reissued Type “A” Water Licence No: 2AM-WTP1830 to reflect the requirement for additional monitoring of new Waste Rock Storage Facilities, a new Thermal Monitoring Program and the addition of a landfarm.

At this time, recognizing that amendments to the existing Type “B” Water Licence No: 2BB-MEA1828 are dependent upon whether the Minister approves the issuance of amendments to the existing Whale Tail Licence, as part of the scope of the Type “B” Licence would be included in the amended and reissued Type “A” Water Licence No: 2AM-WTP1830, the NWB has not attached an amended Type “B” Water Licence at this time. If the Minister approves the issuance of the amendments to the existing Whale Tail Licence, the Board will issue an amended and reissued Type “B” exploration licence to reflect the amendments to the scope of Licence No: 2BB-MEA1828. If the Minister does not approve the issuance of the amendments to the existing Whale Tail Licence, the existing Licence No: 2BB-MEA1828 will remain in force in accordance with the existing terms and conditions in that Licence, including the existing scope.

SECTION I **FILE BACKGROUND AND REGULATORY HISTORY**

Current Applications

The applications being considered by the Board and that are the subject matter of these Reasons for Decision were filed by Agnico Eagle Mines Limited (the Applicant, the Licensee or Agnico Eagle) on May 16, 2019, and seek amendments to Type “A” Water Licences Nos: 2AM-WTP1826 (Whale Tail Licence), 2AM-MEA1526 (the Meadowbank Licence) and Type “B” Water Licence No: 2BB-MEA1828 (the Advanced Exploration Licence), to reflect modifications to existing project infrastructure associated with the construction/ operation/ closure of Agnico Eagle’s Whale Tail Pit Expansion Project Proposal (the Amendment Applications). The Amendment Applications seek the NWB’s authorization of changes to the existing water uses and deposit of wastes associated with Mining Undertakings (as defined under the *Nunavut Waters Regulations*⁴) at the existing Whale Tail Pit Gold Mine site and the Meadowbank Gold Mine site.

In general, the amendments to the existing Type “A” Water Licence No: 2AM-WTP1826, as requested by Agnico Eagle, would involve a 17-year extension of the term of the Whale Tail Licence from the current expiry in 2026 to a term ending in December 2043, and the authorization of changes to the use of water and deposit of waste associated with the expansion of the previously approved Whale Tail Pit Project. The Applicant intends to expand gold mining activities at the Whale Tail Pit mine site by enlarging the existing Whale Tail open pit and creating a new IVR open pit and an underground pit to produce 23.5 million tons (Mt) ore. Ore will continue to be transported via the approximately 65 km long Whale

⁴ SOR/2013-69, Schedule 1, Item 2, Column 2, which describes a “Mining undertaking” as: Exploration or prospecting — including bulk sampling — for minerals other than petroleum or gas, the operation of a mine, the processing of minerals other than petroleum or gas, the restoration of the site of a mine and any other mining activity other than an industrial activity described in item 1, column 2 [of Schedule 1].

Tail Pit Haul Road⁵ for processing at the facilities at the previously approved Meadowbank Gold Mine site.

More detail regarding the descriptions of the scope of the Amendment Applications are set out below.

Amendments to Water Licence No: 2AM-WTP1826

The scope of the proposed amendments to Water Licence No: 2AM-WTP1826 included the following:

- Extending the Licence term from 2026 to December 2043;
- Additional water use during operations – for purposes other than drilling:
 - Nemo Lake - 209,544 m³/year;
 - Mammoth Lake - 2,500 m³/year.
- Additional water use during operations – for purposes of drilling:
 - Whale Tail Lake South Basin – 20,990 m³/year;
 - Lake A20 - 20,990 m³/year;
 - Nemo Lake - 20,990 m³/year;
 - Mammoth Lake - 20,990 m³/year;
 - Lake A11 – 2,092 m³/year during open water season only;
 - Lake A54 – 2,093 m³/year during open water season only; and
 - Other waterbodies listed as footprint losses (A53, A49, A48, A47, A46, A-P38, A0) - 20,990 m³/year.
- In total, 109,135 m³/year for drilling purposes from sources proximal to drilling sites.
- Water use during closure:
 - Whale Tail Lake South Basin - 8,284,380 m³/year;
 - Nemo Lake - 45,750 m³/year; and
 - Mammoth Lake - 2,500 m³/year.
- Expansion of Whale Tail Pit, including mining of an additional open IVR Pit; underground mining below Whale Tail and IVR pits;

⁵ The Expansion Proposal includes widening the existing Whale Tail Pit Haul Road from 6.5 to 9.5 metres to accommodate the increased ore transport associated with the additional mining at the Whale Tail Gold Mine site.

- Increases to ore and waste rock storage capacity;
- The addition of surface water controls IVR Diversion and IVR-D1, IVR-D2, and IVR-D3 dikes to control the flow of surface water into IVR Pit;
- Removal of the Northeast Dike once development of the IVR Pit is initiated;
- Dewatering of Lakes A47, A49 (to construct IVR Pit) and A53 (to construct IVR Attenuation Pond);
- Construction and operation of the IVR Attenuation Pond;
- Construction and operation of three (3) groundwater management ponds at surface (GSP-1, GSP-2, and GSP-3) to support underground mine operations (treatment to be provided if necessary to meet water quality criteria);
- Installation of an additional discharge point into Whale Tail Lake South Basin;
- Alternative discharge locations, such as Lakes D1 and D5 for consideration;
- Widening the Whale Tail Pit Haul Road from nine (9) to fifteen (15) metres;
- Expansion of on-site facilities at Whale Tail Pit to accommodate a maximum of 544 persons;
- Installation of a larger maintenance shop, core shack and additional wings to the Main Camp, to support additional personnel;
- Installation of an incinerator, composter, and landfarm to support waste management activities;
- Additional diesel generators to power underground infrastructures and expanded camp facilities; and
- Increasing of bulk fuel storage capacity to 3.325 ML.

Amendments to Water Licence No: 2AM-MEA1526

The scope of the proposed amendments to Water Licence No: 2AM-MEA1526 include the following:

- Extending the Water Licence term to December 2033.

Amendments to Water Licence No: 2BB-MEA1828

The scope of the proposed amendments to Water Licence No: 2BB-MEA1828 included transferring the following activities from the scope of the Type “B” Licence to be included within the scope of amended Type “A” Water Licence No: 2AM-WTP1826:

- bulk sampling;
- underground development and underground exploration drilling (including the portal, ramp and 2 ventilation raises);
- operation of stormwater management pond (A-P5), which will be converted into GSP-1 for the Expansion Proposal;
- construction of services and operations pads;
- handling and storage of waste rock and ore on pads; and
- quarrying; laydown/garage/warehouse area for the ramp.

The following documents pertaining to the Amendment Applications in relation to Type “A” Water Licences Nos: 2AM-WTP1826 and 2AM-MEA1526 and Type “B” Water Licence No: 2BB-MEA1828 were submitted to the Nunavut Water Board:

- Water Licence Amendment Application for 2AM-WTP1826;
- Water Licence Amendment Application for 2AM-MEA1526;
- Water Licence Amendment Application for 2BB-MEA1828;
- Main Application Document;
- Executive summary in English and Inuktitut;
- Letter to NWB;
- Filled out Supplemental Information Guide table;
- NPC conformity determination;
- Compliance assessment;
- Certificate of Incorporation;
- List of Permits and Licenses for the Project;
- Record of consultations;
- Whale Tail Pit Waste Rock Management Plan dated May 2019;
- Thermal Monitoring Plan dated May 2019;
- Water Quality Monitoring and Management Plan for Dike Construction and Dewatering dated May 2019;
- Whale Tail Pit Expansion Project Landfill Design and Waste Management Plan dated April 2019;
- Whale Tail Pit Water Management Plan dated May 2019;

- Whale Tail Pit Water Quality and Flow Monitoring Plan dated May 2019;
- Whale Tail Pit – Expansion Project Landfarm Design and Management Plan dated April 2019;
- Whale Tail Pit – Incinerator and Composter Waste Management Plan dated April 2019;
- Whale Tail Pit - Expansion Project Haul Road Management Plan dated April 2019;
- Ammonia Management Plan Whale Tail Pit Expansion Project dated April 2019;
- Meadowbank and Whale Tail Bulk Fuel Storage Facility: Environmental Performance Monitoring Plan dated April 2019;
- Whale Tail Pit – Emergency Response Plan dated May 2019;
- Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan dated May 2019;
- Spill Contingency Plan dated April 2019;
- Groundwater Monitoring Plan dated May 2019;
- Conceptual Fish Habitat Offsetting Plan dated April 2019;
- Operational ARD-ML Sampling and Testing Plan – Whale Tail Pit Expansion Project dated April 2019;
- Core Receiving Environment Monitoring Plan: 2015 Plan Update dated April 2019;
- Interim Closure and Reclamation Plan dated May 2019;
- Quality Assurance / Quality Control (QA/QC) Plan dated May 2019;
- Operation & Maintenance Manual Sewage Treatment Plant (STP) dated May 2019;
- Updated Hydrogeological Assessment, Whale Tail Pit, Expansion Project dated May 6, 2019;
- 2019 Mean Annual Water Balance Update, dated May 2019;
- Mine Site and Downstream Receiving Water Quality Predictions dated May 2019;
- Whale Tail Lake Thermal Assessment dated April 2019;
- Site layout;
- Pre-development layout;
- Planned site layouts for 2019 through 2025 and 2042 post-closure;
- Operation IVR Attenuation Pond Dikes Longitudinal Profiles and Sections;
- IVR WRSF cross-section drawing;

- Typical section and road widening; and
- Appendix K – Project Design Considerations.

The following information was included within Agnico Eagle’s response to the technical comment submissions of the parties filed during the Board’s technical review of the Amendment Applications:

- 2AM-WTP1826 Information Request Responses dated August 1, 2019;
- Whale Tail Project - Thermal Modelling of the Whale Tail and IVR WRSFs dated July 23, 2019;
- Nearfield Mixing Modelling in Mammoth Lake and Whale Tail Lake (South Basin) dated July 12, 2019;
- TSF North Cell Closure Design Report Construction Plan dated November 16, 2015;
- Amaruq Mine – Hydrodynamic Modelling of Mammoth Lake, Whale Tail Approved Project dated March 25, 2019;
- Whale Tail Pit Expansion Project Hydrodynamic Modelling of Whale Tail Pit Lake dated May 13, 2019;
- Effluent Plume Modelling in Whale Tail Lake (South Basin) dated May 28, 2019;
- Summary of CIRNAC Meeting during the NIRB Technical Meetings dated July 23, 2019;
- Application of TSS Concentrations at Meliadine and Meadowbank Sites as an Analogue to TSS Concentrations from the Whale Tail WRSF in Post-Closure dated July 11, 2019;
- Agnico Eagle Mines Limited. - Landform Water Balance Modelling of Whale Tail and IVR WRSF dated May 10, 2019;
- Whale Tail Permitting Support – Lake D1 and Lake D5 Baseline Aquatic Receiving Environment Data Memorandum (August 2018 to March 2019) dated May 23, 2019;
- Whale Tail Permitting Support – Revised Predictions of Fish Mercury Concentrations in Whale Tail Lake (South Basin) FINAL dated August 19, 2019;
- File No. 2AM-WTP1826 and 2AM-MEA1526 Technical Meeting/Pre-Hearing Conference – October 29-30, 2019 dated October 1, 2019;
- Cover letter dated October 7, 2019;
- 2AM-WTP1826 Technical Comment Responses dated October 7, 2019;

- Whale Tail Project - Thermal Modelling of Whale Tail WRSF Under RCP8.5 dated June 20, 2019;
- Compilation and Implementation of Prior Management Plan Reviews, undated;
- Whale Tail Pit Project: Predicted Changes in Fish Mercury Concentrations in the flooded area of Whale Tail Lake (South Basin) dated February 2017; and
- IVR Deposit Summary of Preliminary Open Pit Slope Recommendations dated September 27, 2019;
- Whale Tail Pit Expansion Project NWB Technical Meeting & Pre-Hearing Conference Community Presentation October 29-30, 2019;
- Whale Tail Pit Expansion Project NWB Technical Meeting & Pre-Hearing Conference Presentation October 29-30, 2019;
- Whale Tail Pit Expansion Project: Response to Technical Comment DFO 3.4 dated October 24, 2019;
- 2AM-WTP1826 Whale Tail Expansion Speaking Notes Adaptive Management dated October 29, 2019;
- Video presentation;
- Summary of Commitments for the Whale Tail Expansion Project – NWB Review Process, undated; and
- 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3 dated November 8, 2019.

The following information was submitted to the Board as responses to commitments agreed to by the parties during the NWB's Technical Meeting and Pre-Hearing Conference conducted by the Board on October 29 and 30, 2019:

- Whale Tail Expansion Project – Commitment 11 / DFO TC 2.2.3 dated December 4, 2019;
- 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3 dated December 5, 2019;
- 2015 Baseline Bathymetry dated December 2018;
- Whale Tail Pit Expansion Project: Response to Technical Comment DFO 3.4 Addendum dated December 4, 2019;
- 2AM-MEA1525 Draft Licence Framework;
- 2AM-WTP1826 Draft Licence Framework;

- 2BB-MEA1828 Draft Licence Framework;
- Water Infrastructure 20-Day Notice for the Whale Tail Pit Project 2AM-WTP1826 dated December 20, 2019;
- Whale Tail Mine Site and Downstream Receiving Water Balance and Water Quality Under Climate Change Scenario RCP 8.5 dated December 20, 2019;
- Effects of Wet Year Scenarios on Water Management dated December 17, 2019;
- Whale Tail Pit - Expansion Project Water Balance for Lake 38 (Nemo Lake) dated December 17, 2019;
- Technical Comment KivIA-WL-TC#9: Assessment of Lake D5 and Lake D1 to Expedite the Refilling Duration of Whale Tail Lake (North Basin) at Closure December 13, 2019;
- Effects of Cryo-Concentration on the Downstream Receiving Lakes Water Quality December 18, 2019;
- Mixing Zone Boundaries in Mammoth Lake and Whale Tail Lake (South Basin) dated December 20, 2019;
- NWB Commitments from Technical Meeting dated December 20, 2019;
- Permafrost Development – Thermal Data Report dated December 2019;
- Adaptive Management Plan dated December 2019;
- Whale Tail WRSF Expansion and IVR WRSF Design Report and Drawings dated December 2019;
- Interim Closure and Reclamation Plan dated December 2019; and
- Whale Tail Mine Cover System Design dated December 17, 2019.

In advance of the Public Hearing in respect of the Amendment Applications, Agnico Eagle also filed:

- A Response to Final Comment Submissions for Agnico Eagle Mines Limited's "Whale Tail Pit Expansion Project" Applications for Amendments to Water Licences (NWB File Numbers 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828) (collectively, the Whale Expansion Project Amendment Application) dated January 30, 2020.

Copies of all submissions received for the Amendment Applications, as well as documents related to the file are available on the NWB's Public Registry and the FTP site.

ftp://ftp.nwb-oen.ca/registry/2_MINING_MILLING/2A/2AM_-_Mining/2AM-WTP1826_Agnico/1_APPLICATION/2019_Amendment/

History of the Whale Tail Pit Expansion Project Proposal⁶

The Amendment Applications are linked to changes to the original Whale Tail Pit Project Proposal under the Whale Tail Pit Expansion Project Proposal (the Expansion Proposal). The original Whale Tail Pit Project Proposal was proposed by Agnico Eagle in 2016 and involved the development of the Whale Tail Pit Project in order to continue employment and transition operations between Agnico Eagle's Meadowbank Gold Mine Project (which was entering the closure phase) and the Meliadine Gold Mine Project near Rankin Inlet (which was entering the construction phase). Construction of the Whale Tail Pit was proposed to take approximately one (1) year beginning in early 2018, with operations expected to commence in late 2018 and continuing for three (3) to four (4) years, from 2019 to 2022, followed by closure of the site over approximately seven (7) years, and ending in period of post closure monitoring.

In 2018, Agnico Eagle proposed to increase gold production from the original Whale Tail Pit Project by expanding mining activities at the Whale Tail Pit site as proposed in the Expansion Proposal. The Expansion Proposal proposes further developing the Whale Tail Pit open mine in addition to the development of the IVR open pit and Underground pit. The Project is intended to allow for access to an estimated 23.5 million tons (Mt) of ore, and is projected to produce 167.8 Mt of waste rock and 11.3 Mt of overburden. The additional ore produced at the Whale Tail Pit site would be trucked along the upgraded 65 km Whale Tail Haul Road to the existing Meadowbank Gold Mine for milling and tailings disposal. In addition, existing ancillary infrastructure supporting the Meadowbank Gold Mine would be used in support of the Expansion Proposal, including the use of Agnico Eagle's existing marine infrastructure to support open-water shipping during the construction phase, annual resupply during operations, and the use of the existing mill at the Meadowbank site. The mine product, doré gold bars would also be flown to market directly from the Meadowbank Gold Mine site.

Licensing History

Type "B" Licences for the Project

Water Licence NWB2MEA9899 (as renewed Water Licence No: 2BB-MEA1828)

The original Water Licence NWB2MEA9899 related to the exploration activities at the Meadowbank project was issued by the NWB in 1998. This licence was subsequently renewed in 2000, 2002, 2005, 2008 and 2013. Amendment No. 1 to the renewed Water

⁶ Unless otherwise referenced, this description of the original Whale Tail Pit Project Proposal and the Expansion Proposal are paraphrased from the Amendment Applications and supporting materials filed with the NWB by Agnico Eagle.

Licence No: 2BE-MEA1318 on July 31, 2014, extended the exploration project area to include the Amaruq property area. On December 1, 2016, the licence was amended again to allow for water use and the deposit of waste associated with the development of a portal/ramp and rock quarry at the Amaruq Exploration Project along with other exploration works. With this amendment, the Water Licence No: 2BE-MEA1318 progressed from an exploration licence (“2BE”) and became an advanced exploration licence that included bulk sampling activities (“2BB”), and the NWB issued the updated licence as Type “B” Water Licence No: 2BB-MEA1318. On February 7, 2018, the Board authorized the renewal of the advanced exploration licence (2BB-MEA1318), and issued the renewed Type “B” Water Licence No: 2BB-MEA1828, effective March 7, 2018.

Water Licence No: 8BC-AEA1525

Water Licence No: 8BC-AEA1525 was issued by the NWB to allow for the use of water and deposit of waste during the construction, operation, and eventual decommissioning of the Amaruq Exploration Access Road linking the Amaruq exploration project site to the Meadowbank Gold Mine site. The expiry date for this Licence was set for December 31, 2025. The scope of this Licence was merged with the original Whale Tail Licence, Type “A” Water Licence No: 2AM-WTP1826, issued by the Board on May 29, 2018 and approved by the Minister of Crown-Indigenous Relations and Northern Affairs on July 11, 2018.

Water Licence No: 2BC-WTP1819

Water Licence No: 2BC-WTP1819 was issued by the Board on March 15, 2018, to allow for the disposal of waste during construction of infrastructure and/or following activities at the Whale Tail Pit and Haul Road Site Preparation Project:

- Pre-construction delivery of material, fuel, and equipment;
- Construction of concrete pads, including options for supplies laydown area (the future site of the camp), and water treatment plant foundation; and
- Upgrade/widen Whale Tail Pit Haul Road from 6.5 m wide to 9.5 m wide, plus bypasses to ensure the safe pre-construction delivery of material and equipment (such as Vault Pit 777 haul trucks).

The scope of activities of this Type “B” Water Licence was incorporated into the original Type “A” Water Licence No. 2AM-WTP1826.

Type “A” Licences for the Project

Water Licence No: 2AM-MEA0815

The original Type “A” Water Licence No: 2AM-MEA0815 was associated with the original Meadowbank Gold Mine Project and was issued by the NWB on June 9, 2008. This licence was subsequently approved by the Minister on July 10, 2008. This licence authorized the use of water and deposit of waste in relation to the Mining Undertaking at the Meadowbank Gold Mine Project which is located approximately 70 km north of Baker Lake within the Kivalliq Region of Nunavut.

Amendment No. 1 to Water Licence No: 2AM-MEA0815

Amendment No. 1 was issued by the NWB on May 6, 2010 and was subsequently approved by the Minister on June 18, 2010. Amendment No. 1 allowed Agnico Eagle to expand the Marshalling Area Bulk Fuel Storage Facility and fuel storage area, allowing an increase to fuel storage capacity from 40 million litres (ML) of diesel fuel to 60 ML by adding two additional 10 ML capacity diesel fuel tanks. In addition, Amendment No. 1 authorized the construction of an additional 2 ML tank for the bulk storage of Jet A fuel to refuel aircraft flying into the Meadowbank Gold Mine site.

Amendment No. 2 to Water Licence No: 2AM-MEA0815

Amendment No. 2 was issued by the NWB on June 30, 2014 and was subsequently approved by the Minister on July 23, 2014. Amendment No. 2 authorized an increase to the use of water associated with the Meadowbank Gold Mine project from the licensed amount of 700,000 m³ per year of fresh water for all purposes (domestic camp use, mining, milling and associated uses), to a total amount of 1,870,000 m³ in 2013 and 1,150,000 m³ per year after 2013.

Short-Term Renewal of Water Licence No: 2AM-MEA0815

The Short-Term Renewal of the Licence was issued by the NWB on March 20, 2015 and was approved by the Minister on April 20, 2015. The Short-term Renewal extended the expiry of the Licence by an additional 180 days to allow time for the NWB to complete their full consideration of the application to renew and amend Water Licence No: 2AM-MEA0815. The Short-Term Renewal only extended the term of the licence, with all other terms and conditions of Licence 2AM-MEA0815 remaining unchanged.

Renewed and Amended Water Licence No: 2AM-MEA1525

The licence to renew and amend Water Licence No: 2AM-MEA0815 was issued by the NWB on August 8, 2015 as Water Licence No: 2AM-MEA1525 for a ten-year term. The renewed and amended Licence was subsequently approved by the Minister on September 2, 2015. The amendment to the scope of the Licence included provisions to authorize additional water use during re-filling of mined out open pits. The expiry was set as July 22, 2025.

Amendment No. 1 to Water Licence No: 2AM-MEA1525

Amendment No. 1 was issued by the NWB to Agnico Eagle on June 6, 2016 and was subsequently approved by the Minister on July 19, 2016. Amendment No. 1 involved amendments to terms and conditions in Part C of the Licence related to the reclamation security required to be held under the Licence. Amendment No. 1 amended Part C to reflect that Agnico Eagle, the Kivalliq Inuit Association (KivIA) and the Minister of Indigenous and Northern Affairs Canada (as the Minister then was) had entered into the Meadowbank Security Management Agreement to allocate reclamation security for the Project under both the Licence and under the Kivalliq Inuit Association's Commercial Land Lease.

Amendment No. 2 to Water Licence No: 2AM-MEA1525

Amendment No. 2 to Water Licence No: 2AM-MEA1525 was issued on May 29, 2018 and was subsequently approved by the Minister on July 11, 2018. Amendment No. 2 reflected that the mill and mining infrastructure at the existing Meadowbank Gold Mine would be used to manage the tailings and process the ore from the Whale Tail Pit mine site operated by Agnico Eagle. In addition to consequential amendments to reflect the use of the ore processing and tailings management infrastructure at the Meadowbank Gold Mine site for processing ore from the approved Whale Tail Pit Project, the term of the Water Licence was also extended by one year to coincide with the expiry of the water licence for the Whale Tail Pit Project. Consequently, the licence was renumbered to reflect the updated expiry in 2026 and became Water Licence No: 2AM-MEA1526.

Amendment No. 3 to Water Licence No: 2AM-MEA1526

Amendment No. 3 to Water Licence No: 2AM-MEA1526 was issued on March 29, 2019, and was subsequently approved by the Minister on May 17, 2019. Amendment No. 3 allowed Agnico Eagle to deposit tailings into the mined out pits at the Meadowbank Gold Mine site. As a result, Agnico Eagle was required to furnish and maintain security with the Minister in the amount of \$44,713,873 (being 50% of the total global security amount of \$89,427,746 that is required to reclaim the Undertaking). The remaining 50% of the global security amount is held outside the licence by the Kivalliq Inuit Association, in accordance with the terms and conditions of the Meadowbank Security Management Agreement.

Regulatory and Procedural History of this Application

Pre-Licensing Regulatory History

The Nunavut Planning Commission (NPC)

With respect to the Amendment Applications, on October 16, 2018, the Nunavut Planning Commission (NPC) determined that the Whale Tail Pit Expansion Project Proposal (the Expansion Proposal) conformed to the Keewatin Regional Land Use Plan. In the NPC's

positive conformity determination, the NPC concluded that the Expansion Proposal represented a significant modification to the approved Whale Tail Pit Project (NIRB File No: 16MN056) because it would involve activities and components that were not part of the original Whale Tail Pit Project, or the original Meadowbank Gold Mine Project (as amended to reflect the approved Vault Pit Amendment and the approved Whale Tail Pit Project). On this basis, NPC referred the Project to the Nunavut Impact Review Board (NIRB) for assessment under Article 12, Section 12.4.3 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (Nunavut Agreement) and the *Nunavut Planning and Project Assessment Act*⁷ (NuPPAA).

The Nunavut Impact Review Board

On November 16, 2018, the Nunavut Impact Review Board (NIRB) provided notice to the Minister of Intergovernmental Affairs, Northern Affairs and Internal Trade (the relevant Minister at that time), as required under s. 112 of the *NuPPAA* to indicate that the NIRB would be assessing the Expansion Proposal as a reconsideration of the terms and conditions of the existing Whale Tail Pit Project, Project Certificate No. 008. The notice indicated that the NIRB agreed that the scope of the activities, works and undertakings proposed by Agnico Eagle under the “Whale Tail Pit Expansion Project Proposal” (the Expansion Proposal) constituted a significant modification to the previously-approved Whale Tail Pit Project. Therefore, the NIRB initiated a formal reconsideration of the terms and conditions of the NIRB’s existing Project Certificate No. 008 and conducted an assessment of the potential ecosystemic and socio-economic effects of the Project.

On October 18, 2019 the NIRB issued the Board’s Reconsideration Report and Recommendations to the Minister of Crown-Indigenous Relations and Northern Affairs (the relevant Minister at that time).⁸ The NIRB recommended that the Project be allowed to proceed “*subject to the recommended amendments and additions to the Terms and Conditions of existing Project Certificate No. 008 and consequential revisions to the Monitoring Program for Project Certificate No. 008.*”

On January 20, 2020, the Minister of Northern Affairs (the relevant Minister at present), on behalf of the Ministers of Environment and Climate Change Canada, Fisheries and Oceans Canada, the Canadian Coast Guard and Natural Resources Canada accepted the NIRB’s recommendation that the Expansion Proposal should be allowed to proceed, subject only to the Ministers variance of two of the NIRB’s recommended terms and conditions (Term and

⁷ S.C. 2013, c. 14, s. 2.

⁸ Nunavut Impact Review Board, Reconsideration Report and Recommendations: Whale Tail Pit Expansion Project Proposal, NIRB File No.: 16MN056, October 18, 2019.

Condition #30 and Term and Condition #66). With respect to freshwater management and the NWB's regulatory process specifically, the Minister stated:

The responsible Ministers are confident that the Nunavut Water Board is well placed, both in respect of jurisdiction and expertise, to address the uncertainty that remains with respect to water quality in detail through the Nunavut Water Board's consideration of amendments to existing water licences. Given the significant uncertainty in predicted project effects to the freshwater environment noted by the Board in their report and to ensure this is carried out effectively. I strongly encourage any required information from the proponent be provided to the Nunavut Water Board in a timely manner in order to prevent adverse impacts to the freshwater environment.⁹

On this basis, the NWB has concluded that the land use planning and impact assessment requirements associated with the Amendment Applications have been met, as required under ss. 38 and 39 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (NWNSRTA), and has proceeded to the decision-making stage of the Board's processing of the Amendment Applications.

Key Steps in the NWB's Procedural History for the Amendment Applications

The following listing summarizes some of the key steps in the procedural history of the NWB's processing of the Amendment Applications. For a review of all process and procedure associated with the Amendment Applications, interested parties should consult [APPENDIX D – List of Submissions and Correspondence](#).

May 16, 2019

- The Nunavut Water Board received the Amendment Applications to amend the existing Type "A" and "B" Water Licences associated with the Whale Tail Pit Gold Mine site, and Meadowbank Gold Mine site and supporting documentation from Agnico Eagle for the proposed Whale Tail Pit Expansion Project Proposal (the Expansion Proposal). Agnico Eagle requested that the NIRB coordinate its assessment of the Expansion Proposal with the NWB's associated licensing process.

June 4, 2019

- The NWB acknowledged receipt of the Amendment Applications and asked interested persons to review the scope and completeness of information provided, as well as to identify any deficiencies and information requests. The NWB requested

that information be submitted to the NWB by **July 4, 2019**; the comment deadline was subsequently extended to **July 18, 2019** at the request of the Kivalliq Inuit Association (KivIA).

July 18, 2019

- The NWB received comments on the completeness of the Amendment Applications from the Kivalliq Inuit Association (KivIA), Crown-Indigenous Relations and Northern Affairs (CIRNA), Environment and Climate Change Canada (ECCC), and Fisheries and Oceans Canada (DFO). The Board did not receive any indication that any deficiencies were such that the Amendment Applications should not proceed to the technical review stage.

August 1, 2019

- Agnico Eagle provided additional information and a response to Interveners' comments on completeness and a reply to Information Requests (IR).

August 14, 2019

- The Board gave notice of the Amendment Applications in accordance with s. 55(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA)*¹⁰, inviting Interveners and any other interested persons to provide the Board with their comments on or before September 16, 2019, and advising parties of the consequences of failing to identify issues of water compensation to the Board in accordance with the comment timeline. The notice also advised parties to prepare for the in-person Technical Meeting and Pre-Hearing Conference (TM/PHC) to be hosted by the Board staff in Baker Lake and set the tentative timing of the TM/PHC for the week of October 28, 2019.

September 16, 2019

- The NWB received written representations from the KivIA, CIRNA, ECCC, and DFO.

October 7, 2019

- The NWB and the interveners received the Applicant's responses to Interveners' comments.

October 14, 2019

- The Board confirmed the dates of the in-person **TM/PHC as October 29-30, 2019**, to be held in Baker Lake, the community closest to the Whale Tail and Meadowbank Gold Mine sites, and provided parties with proposed agendas. Interested parties were asked to provide comments on the proposed agendas by October 18, 2019.

¹⁰ S.C. 2002, c. 10.

October 18, 2019

- Agnico Eagle, the KivIA, CIRNA, ECCC, and DFO provided confirmation of their attendance at the TM/PHC.

October 23, 2019

- The NWB distributed correspondence confirming that there were no changes to the draft agenda and included the presentations received for the TM.

October 28, 2019

- The NWB was advised that, due to weather conditions, all flights into and out of Rankin Inlet and Baker Lake were cancelled on October 28, 2019 and would also likely be cancelled on October 29, 2019.
- Recognizing that many parties were either in transit or were holding at transfer points such as Winnipeg or Yellowknife, the NWB's staff, in consultation with Agnico Eagle and representatives of the Interveners, delayed, by one day, the start of the Technical Meeting/Pre-Hearing Conference and hosted the in-person portion of the meetings in Yellowknife and via teleconference on October 29-30, 2019.

October 29-30, 2019

- The Board held the rescheduled in-person TM/PHC at an alternative venue in Yellowknife and made arrangements for parties to participate via teleconference throughout the meetings, including having simultaneous Inuktitut interpretation available and communicating call in numbers and times to community members in Baker Lake via the local radio.

November 29, 2019

- The NWB released the Pre-Hearing Conference (PHC) Decision including the Notice of the Public Hearing and the list of commitments to be fulfilled by the Applicant.

December 20, 2019

- Agnico Eagle filed submissions as agreed to in the list of commitments.

January 20, 2020

- The Minister accepted the NIRB's Report and Recommendations and authorized the Expansion Proposal to proceed.

January 23, 2020

- KivIA, CIRNA, DFO, and ECCC filed their final written submissions with the Board.

January 30, 2020

- Agnico Eagle filed their final response submissions in preparation for the Public Hearing.

February 4, 2020

- The NWB distributed the draft agenda for the Public Hearing.

February 6, 2020

- The NWB received copies of the Public Hearing presentations from KivIA, CIRNA, DFO, ECCC, and Agnico Eagle.

February 7, 2020

- The NWB circulated the final agenda for the Public Hearing.

February 12-13, 2020

- Due to inclement weather and associated travel cancellations and delays, the NWB, the Applicant and some Interveners were unable to travel to Baker Lake in time for the start of the in-person Public Hearing scheduled for February 12 and 13, 2020.

February 13-14, 2020

- All parties reached Baker Lake by late afternoon on February 13, 2020, and the Public Hearing commenced at 4:00 pm on February 13, 2020, continued with a Community Session on the evening of February 13 and concluded on the afternoon of February 14, 2020.
- At the close of the Public Hearing on February 14, 2020, the NWB's Whale Tail Pit Panel closed the Public Hearing Record and the Amendment Applications were remitted to the Panel for decision-making.

NWB Timeline for Processing the Application

As set out under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (NWNSRTA), s. 55.2, the NWB is required to process an Application (including an amendment) for a Type "A" Water Licence within nine months from the receipt of a complete application. However, as expressly noted in the NWNSRTA, s. 55.31¹¹ this nine-month time period did not commence until the NIRB's screening and subsequent review of the Whale Tail Pit Expansion Proposal was complete. In this case, the NIRB's Review of the Project Proposal was completed on February 19, 2020 when the NIRB, pursuant to Article 12, Section 12.8.3 of the *Nunavut Agreement* and s. 112(10) of the *NuPPAA*, issued NIRB Project Certificate [No. 008 (Amendment 001)] for the Whale Tail Pit Project to Agnico Eagle Mines Limited.

¹¹ As stated in s. 55.31:

If the Board is cooperating and coordinating with ...the Nunavut Impact Review Board...the time limit referred to in section 55.2 does not begin to run until the ...Nunavut Impact Review Board...has completed its screening or review of the project.

Consequently, although the Board provided notice of a complete Application on August 14, 2019, as provided for under s. 55.31, the NWB's timeline for processing the Application did not commence until **February 19, 2020**. On this basis, the NWB has concluded that the NWB's decision-making has been completed and provided to the Minister well within the nine-month timeline required under s. 55.2 of the *NWNSRTA*.

SECTION II **SUMMARY OF FINAL SUBMISSIONS OF THE PARTIES**

Kivalliq Inuit Association (KIA or KivIA)

The Kivalliq Inuit Association (KIA or KivIA) is a Designated Inuit Organization under the *the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)*, representing the rights and values of the Inuit within the Kivalliq Region of Nunavut. The specific focus of the KivIA's representation relates to rights to water and wildlife compensation, landowner rights and negotiation of an Inuit Impact and Benefit Agreement (IIBA).

In its technical review prior to the Technical Meeting, the KivIA raised a number of issues, with a focus on the following topics:

- Waste rock and overburden management;
- Operation and closure in the context of climate change;
- Site water management and groundwater management;
- Ore management;
- Components of closure planning and consideration of Inuit Qaujimajatuqangit in closure planning;
- Pit wall effects on water quality;
- Management of potentially acid generating (PAG) bedrock;
- Quality control and assurance;
- Fuel storage;
- Total Suspended Solids (TSS) management during construction;
- Water quality contingencies; and water quality trigger values;
- Water quality model;
- Mercury in water and fish;
- Mine development;

- Waste management;
- Dust suppression;
- Impact to permafrost;
- Monitoring; and
- Acid Rock Drainage and Metal Leaching (ARD/ML) Potential.

Specifically, the KivIA requested that Agnico Eagle provide additional information regarding the following:

- Calculation of the peak-increase factor in predicting mercury concentration in lake trout and contingency measures if there are greater than anticipated mercury concentrations;
- Verification of sufficient capacity of attenuation ponds to contain runoff;
- Decision tree for water quantity management;
- Water balance results for the wet weather;
- Long-term feasibility of the current closure plan under climate change;
- Support for the assertion that water treatment can effectively reduce Arsenic concentrations to safe levels;
- Relative groundwater contributions from rock fracturing;
- Feasibility of proposed mitigation of cover from erosion;
- How any high Arsenic loadings from pit walls could be isolated and treated in order to maintain pit water quality within the *Canadian Council of Ministers of the Environment (CCME) Canadian Environmental Quality Guidelines* levels and provide evidence of the feasibility of the proposed management option;
- The monitoring schedule for testing the quality of used oil/waste fuel to ensure these wastes meet standards for incineration; and
- Fish Habitat Offsetting Plan, including overall approach, timeline, monitoring, complementary measures and contingency options.

KivIA also provided recommendations that Agnico Eagle should:

- Include pit walls as source terms to the water quality model;
- Update the water quality model with cryoconcentration data;
- Incorporate existing climate change projections for the next 50-80 years into thermal modelling to provide a more accurate estimate of the fate of permafrost in the vicinity of the pits during closure and post-closure;

- Demonstrate the stability of the pits and the robustness of the hydrogeological predictions regarding groundwater dynamics given the increased rate of permafrost thawing that is expected;
- Request that the NWB include a condition within the amended water licence requiring Agnico Eagle to develop an adaptive management plan that identifies thresholds and timelines for treatment or other mitigation if water quality is subsequently determined not to be suitable for discharge during closure;
- Provide results of the quantitative assessment of Lakes D1 and D5 as alternative discharge locations and explain under what circumstances these lakes would be considered as alternative discharge locations;
- Provide a schedule as to when trigger and threshold values will be developed and applied;
- Request that the NWB incorporate a feasible schedule for the development and implementation of the triggers and threshold values into the Licence terms and conditions;
- Include within the reclamation cost estimate RECLAIM Model the removal of equipment and machinery from the underground, and the transport of this equipment and machinery to a secure off-site disposal;
- Confirm that water quality in the pits will meet CCME criteria for the Protection of Aquatic Life, or site-specific water quality objectives, as applicable, prior to breaching dikes;
- Apply a short-term maximum TSS limit for dike construction that meets either *CCME Canadian Environmental Quality Guidelines* or *Metal and Diamond Mining Effluent Regulations*¹² guidelines;
- Explain why lake bed sediments are not considered adequate for use in the revegetation; and
- Establish a sufficient number of thermistor strings in the Whale Tail Waste Rock Storage Facility (WRSF) and the bedrock beneath and in close proximity to the WRSF in order to ensure that the modeling is updated with local project data.

In the KivIA's final written submission,¹³ KivIA stated that there were nine concerns outstanding at the completion of the Technical Meeting. The majority of these concerns had been resolved by the information provided by Agnico Eagle prior to the Public Hearing.

¹² SOR /2002-222

¹³ Nunavut Tunngavik Inc. and Kivalliq Inuit Association, FINAL TECHNICAL SUBMISSION ON THE WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION, dated January 23, 2020.

Water Quality

The KivIA identified concerns that pit walls might contribute to an increase in Arsenic and Phosphorus concentrations in the mine site water, as well as undergo acid rock drainage (ARD), thereby adversely affecting water quality in the pits and downstream during post-closure. Consequently, the KivIA recommended that the water quality model suggested by Agnico Eagle for the Whale Tail Expansion Proposal be updated to integrate the potential impacts of pit walls. The issue was resolved by Agnico Eagle's development of an adaptive management plan that identified triggers and thresholds for adaptive management measures that could be taken if water quality diverges from the predictions in the water quality model. Adaptive management measures could include evaluating Lake D1 as an additional water source for pit re-flooding.

The KivIA requested that the effects of cryoconcentration in affected water bodies be considered in the water quality model, and the Applicant complied with this request. The results of updated modelling were discussed in the Applicant's adaptive management plan.

The effects of climate change resulting in increased or decreased volumes of mine site water on water quality were also discussed by the KivIA. The intervener emphasized that the effects on seepage at the waste rock storage facility be mitigated. The Applicant resolved the concern by addressing it in the adaptive management plan.

Water Management

In addition to the potential effects of climate change on water quality described above, the KivIA was interested in ensuring that the Applicant was prepared for a minimum 10-year flood during freshet 2020. Agnico Eagle resolved the concern stating that the capacity of Quarry 1 and Groundwater Storage Pond 1 (GSP-1) would be sufficient to manage excess water.

KivIA was also concerned with the risk of an increased groundwater inflow in the instances of rock fracturing. In response, Agnico Eagle indicated that, based on the Meadowbank field experience, they expect the impact from rock fracturing on the freeze-back of the pit walls will be negligible.

Waste Rock Storage

The KivIA recommended that the Applicant ensure that the design of the caps on the water rock storage facilities are sufficient to mitigate acid rock drainage and metal leaching (ARD/ML). Agnico Eagle provided the results of thermal modelling and thermistor placement diagrams to address KivIA's recommendation that:

... Agnico Eagle establish a sufficient number of thermistor strings in the Whale Tail WRSF and the bedrock beneath and in close proximity to the WRSF in order to ensure that the modeling is updated with local project data instead of thermistor readings from the Portage WRSF at the Meadowbank Gold Mine. This local data will best determine how effective the ARD/ML material has been isolated within the WRSF. In addition, it will allow for a better understanding of the depth and distribution of the active layer as it is related to permafrost distribution should be determined with the additional thermistor strings that will be established in the Whale Tail WRSF. This will also better determine the effectiveness of the:

- 1) freeze back in the WRSF,*
- 2) the water retention ability and capacity of WRSF dike, and*
- 3) the impact of water flow from the WRSF on the water quality in Mammoth Lake.¹⁴*

In addition to technical comments, KivIA also provided its review of the draft licence frameworks submitted by the Applicant. During the Public Hearing, the KivIA identified several concerns regarding Agnico Eagle's proposed draft water licence frameworks. As summarized in Exhibit #21¹⁵ filed by the KivIA during the Public Hearing these concerns include:

- 1. Any reference to the Amaruq Exploration property should not be included in the Type A licenses:*
- 2. The Board's decision making and timelines should not be constrained:*
- 3. The standard license language that "the expiry or cancellation of the license does not relieve the licensee from any obligation imposed by the license or any other regulatory requirements" should be included in the licenses:*
- 4. Agnico Eagle's proposed provision allowing it to "at any time" submit to the Board a request for change in the amount of security should not be included in the license (see Agnico Eagle's January 30, 2020 draft license Part C(9)):*
- 5. The license should require Agnico Eagle to remove culverts and restore the drainage in the manner described in the approved final closure plan:*

¹⁴ Nunavut Tunngavik Inc. and Kivalliq Inuit Association, FINAL TECHNICAL SUBMISSION ON THE WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION, dated January 23, 2020.

¹⁵ Kivalliq Inuit Association, Exhibit #21, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828, Kivalliq Inuit Association, Electronic Copy Only, Comments on Agnico Eagle Mines Limited, January 30, 2010 Draft Water Licence Framework, (English) filed on February 14, 2020.

6. *References to Adaptive Management in the licenses should be limited to the Board approved Adaptive Management Plan:*
7. *KIA does not support Agnico Eagle's proposed process for New Adaptive Management Actions (Part D(27))*
8. *Definitions:*
 - a. *Adaptive Management: KIA has concerns with the proposed broad definition.*
 - b. *Amendment/Modification: The definitions should not include a carve out for Adaptive Management or New Adaptive Management Action, particularly given the broad proposed definition of Adaptive Management. Some Adaptive Management action may require an Amendment.*
 - c. *...regarding [the] definition of "Open Pit" and "Underground" [should not be expanded to include the Amaruq Exploration property].*

During the Public Hearing, KivIA confirmed that otherwise, all technical issues had been resolved. However, they included the following recommendation:

Adaptive management plan measure for surface water quantity -- Table Number 4 in the adaptive management plan -- should be implemented prior to reaching the maximum operation capacity of the water storage infrastructure... We recommend Agnico Eagle begin implementing management strategies at the 90 percent storage capacity between the noted water management infrastructure.¹⁶

Water Compensation

At the Public Hearing, the KivIA provided the Board with the following confirmation regarding the status of their water compensation discussions with the Applicant:

The Kivalliq Inuit Association confirms that it has entered into an existing Whale Tail water compensation agreement with Agnico Eagle and that there is sufficient consensus on any consequential amendments thereto in relation to the Whale Tail Expansion Project that the Kivalliq Inuit Association agrees and supports that the Board may proceed and issue the Whale Tail Expansion Type "A" water licence amendment in accordance with Section 63(1)(a) of ... the Nunavut Water Nunavut Surface Tribunal Act [sic]. Further, Kivalliq Inuit Association and Agnico Eagle confirm and agree that

¹⁶ L. Manzo, Kivalliq Inuit Association, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA182, Transcript, February 13, 2020, Volume 1, pp. 80-81, lines 20-26 and 1-3.

they will not be filing a request for the Board to make a determination on water compensation under Section 63(1)(b).¹⁷.

Crown-Indigenous and Northern Affairs (CIRNA)

CIRNA provided comments reflective of their roles and obligations under the following:

- *Department of Crown-Indigenous Relations and Northern Affairs Act*;¹⁸
- *the Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)*;
- *Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWSRTA)*;¹⁹
- *Nunavut Waters Regulations*;²⁰
- *Territorial Lands Act*²¹ and *Territorial Lands Regulations*;²² and
- *Arctic Waters Pollution Prevention Act*²³ and *Arctic Waters Pollution Prevention Regulations*.²⁴

The CIRNA technical review prior to the Technical Meeting raised a number of issues, with a focus on the following topics:

- Waste rock management;
- Water quality;
- Revisions of management plans; and
- Alternative discharge locations.

Specifically, CIRNA provided the following comments:

- Requesting Agnico Eagle provide the following additional information:
 - Whether disposal of potentially acid generating and/or metal leaching (PAG/ML) or non-potentially acid generating and/or non-metal leaching (non-PAG/ML) waste rock is considered for the IVR Pit; and if so, CIRNA requested that more detail should be provided; and

¹⁷ J. King, Kivalliq Inuit Association, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, pp. 81-82, lines 20-26 and 1-9.

¹⁸ S.C. 2019, c. 29.

¹⁹ S.C. 2002, c. 10.

²⁰ SOR/2013-69.

²¹ R.S.C. 1985, c. T-7.

²² C.R.C., c. 1525.

²³ R.S.C. 1985, c. A-12.

²⁴ C.R.C., c. 354.

- How CIRNA's past comments have been incorporated into Agnico Eagle's management plans.
- Recommendations to:
 - Include in the Interim Closure and Reclamation Plan (ICRP) the work and/or research that has been done to minimize the uncertainty regarding post-closure water quality impacts due to the waste rock storage facilities (WRSF); and
 - Reflect in the ICRP adaptive management measures (excluding long-term water treatment) if seepage from the WRSFs is greater than predicted during interim closure, closure, and post-closure.

In its final written submission,²⁵ CIRNA made recommendations on closure and post-closure activities and adaptive management. To ensure that the performance of WRSF's covers is satisfactory upon site closure, CIRNA recommended:

- Increased post-closure monitoring to 25 years;
- Integration of monitoring results and model outputs into the final closure and reclamation plan;
- Geochemical assessment of placed WRSF covers, prior to closure, to ensure that the material used in the cover contains less than 1.0% by weight of waste rock types with elevated Arsenic leaching potential;
- Approval of the WRSF cover designs currently suggested by Agnico Eagle in concept only; and
- Incorporation of all monitoring data and additional thermal and seepage modelling results into the final WRSF cover designs prior to full closure.

At the Public Hearing, CIRNA expanded on its position on the approval of WRSF cover designs:

We recommend that the current waste rock storage facility cover's design be approved on the understanding that all monitoring data generated prior to the full closure of the site will be used to inform the final waste rock storage facility cover designs. Additional thermal monitoring and seepage modelling should be performed prior to the finalizing cover designs to ensure adequacy of the cover²⁶.

²⁵ Crown-Indigenous Relations and Northern Affairs, FINAL WRITTEN SUBMISSION - The Whale Tail Pit Expansion Project (Agnico Eagle Mines Limited) Water licence amendments of 2AM-MEA1526, 2AM-WTP1826, and 2BB-MEA1828, dated January 23, 2019.

²⁶ S. Dewar, Crown-Indigenous Relations and Northern Affairs, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, p. 88, lines 14-21.

In regards to adaptive management, CIRNA expressed support for the approach that was suggested by Agnico Eagle in CIRNA's final written submission, noting:

Based on the information that is currently available, CIRNAC has concluded that the proposed mitigations are suitable. In particular, CIRNAC notes that Agnico Eagle has identified the following "Level 4" potential mitigations for the WRSF covers:

- 1) Addition of finer-textured cover system material locally to the existing cover system based on recommendations of Level 3 modelling; and*
- 2) Addition of non-granular material amendments to the cover system (e.g., geosynthetic) based on recommendation of Level 3 modelling.*

The CIRNA also recommended that the contingent solutions in the adaptive management plan should be incorporated into all aspects of the Applicant's operations and that the reclamation security for the site should include provisional allowances for adaptive management mitigations that may be required in the future.

Environment and Climate Change Canada (ECCC)

ECCC provided comments reflective of their roles and obligations under the *Department of the Environment Act*,²⁷ *Canadian Environmental Protection Act, 1999*,²⁸ the pollution prevention provisions within the *Fisheries Act*,²⁹ the *Migratory Birds Convention Act, 1994*,³⁰ and the *Species at Risk Act*.³¹ ECCC has general responsibility for environmental management and protection; preservation and enhancement of water, air and soil quality; conservation and protection of migratory birds, species and risk, flora and fauna; the gathering and provision of meteorological information; and coordination of various specific environmental policies and programs.

The ECCC technical review prior to the Technical Meeting raised a number of issues, with a focus on the following topics:

- ARD/ML mitigation;
- Active layer depth;

²⁷ R.S.C., 1985, c. E-10

²⁸ S.C. 1999, c. 33.

²⁹ R.S.C. 1985, c. F-14.

³⁰ S.C. 1994, c. 22.

³¹ S.C. 2002, c. 29.

- Melting permafrost;
- Reports on climate change modelling;
- Effluent mixing;
- Waste rock management;
- Water quality;
- Closure components; and
- Alternative discharge locations.

Specifically, ECCC provided the following comments leading up to the Technical Meeting:

- Requesting Agnico Eagle provide the following additional information:
 - Groundwater Storage Ponds' (GSPs) closure and contingency planning in case the GSPs are not provided with rock covers; and
 - Whether the quality of contact water from the landfarm is to be used as screening criteria for discharge to the IVR Attenuation Pond.
- ECCC provided the following recommendations:
 - The NWB should include a licence condition requiring that water quality objectives for the pit waters be identified prior to the end of operations and include thresholds for implementing treatment;
 - Agnico Eagle should identify monitoring that will be done to ground-truth the prediction of negligible seepage from the WRSF;
 - Agnico Eagle should update the water quality model with monitoring results;
 - Agnico Eagle should include the discharge of landfarm contact water to the attenuation pond in the next update of the water management schematic flowsheets; and
 - Agnico Eagle should follow soil restrictions in order to avoid microorganism toxicity, as outlined in the Federal Guidelines for Landfarming Petroleum Hydrocarbon Contaminated Soils.

In its final written submission³², ECCC made recommendations pertaining to different phases of the Project.

³² Andrea McLandress (ECCC) to Richard Dwyer (NWB), RE: Type A and B Water Licence Amendments 2AM-WTP1826, 2AM-MEA1526, 2BBMEA1828 – Agnico Eagle Mines Ltd. – Whale Tail Pit Expansion Project – Final Written Submission, dated January 23, 2019

Interim Closure and Reclamation Plan

In regards to the Interim Closure and Reclamation Plan (ICRP), ECCC had several concerns. The first concern touched on the inclusion of the commitments previously made by the Applicant into the ICRP. ECCC recommended that:

- The ICRP specify closure water quality objectives that represent baseline conditions or national water quality objectives (Canadian Council of Ministers of the Environment (CCME)) or site-specific water quality objectives.
- The ICRP include a map showing post-closure drainage conditions, with connectivity between surface waters and water management structures identified, including potential for fish passage.

Also, ECCC recommended wording in the ICRP to reflect that closure objectives and associated criteria and actions/measurements related to flooded pit water should include requirements to demonstrate stability and continuity in meeting water quality objectives. Next, ECCC requested that the ICRP account for water quality monitoring and provisions to deal with contingent surface flows of groundwater. ECCC also viewed inclusion of closure objectives for attenuation ponds into the ICRP as a necessary measure. In regards to the closure objectives of the waste rock storage facility, ECCC noted that Agnico Eagle should plan to prevent acid-generating reactions, migration of contaminants, and water impacts, rather than just reducing/limiting reactions or impacts, and ECCC suggested specific wording to be included in the ICRP to reflect that. ECCC also recommended inclusion of measures that would be taken if the WRSF covers fail to perform as planned. For the closure of transportation routes, the ECCC recommended that closure objectives be chosen to address the potential for degradation of surface waters from acidification, sedimentation or migration of contaminants and the ICRP should include prevention methods, namely:

- Add a closure objective to prevent degradation of surface waters, including from acidification and sedimentation, as well as from the migration of contaminants;
- Identify appropriate closure criteria and actions/measurements to support the above recommended closure objective;
- Identify methods to prevent potentially acid generating (PAG) bedrock from becoming exposed along the corridor of the Whale Tail Haul Road; and
- Identify erosion prevention methods.

In addition, ECCC discussed the importance of addressing the potential acidification of surface water due to road construction materials. Specifically, ECCC recommended that Agnico Eagle provide:

- A description of monitoring activities at the Whale Tail Haul Road and potentially impacted surface waters
- Methods of impact assessment; and
- Mitigation and contingency options.

Another recommended update to the closure objectives and criteria provided by ECCC was in respect of runoff and seepage. ECCC recommended that the ICRP should incorporate requirements to demonstrate stability and continuity in meeting water licence criteria. ECCC commented on the deficiencies of the ICRP in relation to the closure of flooded pit lakes. In particular, ECCC recommended that the ICRP address the requirements for in-situ treatment of water in flooded pit lakes and the methods and duration of such treatment, as well as the discussion of alternative short, medium, and long-term water management options in the situation when the water in flooded pit lakes is unsuitable for direct discharge or reconnection.

Concerning the duration of post-closure monitoring, the Applicant suggested that a three-year period should be sufficient. In contrast, ECCC noted that steady state may not have been achieved in the pit water at the time, so the term of the post-closure monitoring should be open-ended.

Operational Activities

ECCC expressed a number of concerns in regards to the operational phase. One such concern was management of excess surface water during freshet in 2020. ECCC requested that the Applicant should provide information to confirm that Quarry 1 capacity was sufficient to manage increased volumes of melt water. The final concern for construction and operations was stated as follows:

*The high-flow periods (i.e., when the two summer diffusers are operating) are identified as having the greatest potential to exceed Canadian water quality guidelines (CWQG) and/or site-specific water quality objectives (SSWQOs) in the near field at 100 m and 200 m from the diffusers.*³³

ECCC also recommended that Agnico Eagle discuss possible way to improve source control and wastewater treatment plant output quality, as well as to increase monitoring frequency during months of high-flow discharge and in the month following the end of high-flow discharge.”

³³ Andrea McLandress (ECCC) to Richard Dwyer (NWB), RE: Type A and B Water Licence Amendments 2AM-WTP1826, 2AM-MEA1526, 2BBMEA1828 – Agnico Eagle Mines Ltd. – Whale Tail Pit Expansion Project – Final Written Submission, dated January 23, 2019

Term of the Licence for the Whale Tail Pit Project

ECCC posed a question to the Applicant, requesting that Agnico Eagle provide the rationale for seeking a new licence term extending from 2026 to 2043.

Draft Licence Frameworks Review

ECCC also provided comments on the draft licence frameworks proposed by Agnico Eagle for amendments to the Whale Tail Licence and Meadowbank Licence. Discussion of ECCC's comments on the draft licence frameworks is provided in SECTION VI DECISION TO ISSUE and [SECTION VII](#) of these Reasons for Decision

During the Community Session, ECCC stated:

Our final comments FC1 to FC11 related specifically to the interim closure and reclamation plan. FC1 specifically discussed setting the closure objectives for water quality so that the pits can be reconnected to surface waters and will be acceptable for aquatic life. We have clarified the path for water quality objectives and reached agreement on that. The other aspects raised in respect of the interim closure and reclamation plan have substantially been resolved with only one area partly outstanding, and that is the wording for the closure monitoring period of three years. The rest of the final comments are fully resolved up to Final Comment 14.

Final Comment 12 was addressed by the response on the technical memorandum on wet-year scenarios and having enough capacity for water management in wet years. Final Comment 13 related to the technical memorandum mixing zone boundaries in Mammoth Lake and Whale Tail Lake, and that has been resolved. Number 14 related to the licence term for the Whale Tail expansion licence. That was satisfactorily answered. And our remaining items fall under the Technical Comment 15, which was our review of the draft water licence. We have some questions still on the regulation of TDS at Meadowbank that warrant further consideration, also on the approval of plans as proposed in the draft water licence frameworks for both the Whale Tail and the Meadowbank licences and some concern with the extension of the Meadowbank licence term to 2023 [sic 2033].³⁴

³⁴ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, pp. 94-95, lines 14-26 and 1-22.

Fisheries and Oceans Canada (DFO)

DFO is responsible for the administration of the *Fisheries Act*³⁵, and some aspects of the *Species at Risk Act*³⁶. Under the *Fisheries Act*, DFO is responsible for the management, protection and conservation of fish (which include marine mammals as defined by the *Fisheries Act*) and their habitats. The Minister of Fisheries, Oceans and the Canadian Coast Guard is one of the competent ministers under the *Species at Risk Act*.

The Fish and Fish Habitat Protection Program (FFHPP) of Fisheries and Oceans Canada is focused on reviewing proposed developments in and around fisheries waters to ensure that works, undertakings and activities are conducted in such a way that the proponents are in compliance with the applicable provisions of the *Fisheries Act*. FFHPP seeks to conserve existing fish habitat and habitat resources, protect them against future impacts, and to restore fish habitat where impacts have occurred.

The DFO technical review raised a number of issues focused on possible impacts to fish and fish habitat. Specifically, prior to the Technical Meeting, DFO provided the Board with comments and recommendations requesting the provision of the following additional information:

- How the existing Letter of Advice (11---HCAA---CA6---00006), specific to the Whale Tail Haul Road, accounts for changes to the amount of fish habitat impacted by works, activities and undertakings associated with widening the Haul Road from 6.5 m to 9.5 m and for changes to the amount of fish habitat impacted by works, activities and undertakings associated with widening the Haul Road from 6.5 m to 9.5 m;
- Details on how authorized volumes in Water Licence No: 2AM-WTP1826 are adequate, given that updated water withdrawal requirements suggest there will be exceedances;
- Explanation on the calculations of the under-ice volume of water of 6,170,000 m³ for Nemo Lake;
- Details regarding the waterbodies that will be used as water sources for operational geological drilling, and the volumes that are expected from each waterbody;
- The identification of waterbodies replacing Lakes A47, Lake A49, Lake A50, Lake A51, Lake A52, Lake A53 as summer water sources for operational drilling; and
- Advice regarding when the Applicant will supply information to quantify changes in water levels to downstream fish and fish habitat.

³⁵ R.S.C. 1985, c. F-14.

³⁶ S.C. 2002, c. 49.

In DFO's final written submissions,³⁷ DFO made recommendations in respect of the following topics.

Fish Passage

DFO expressed its opinion that future discussions between DFO and Agnico Eagle are necessary to ensure safe fish passage at watercourse crossings during the widening of the Whale Tail Haul Road.

Water Use

DFO had concerns about the methodology of under-ice water volume calculation employed by the Applicant. As an example, the recalculation of the volume for the Whale Tail Lake (South Basin) was provided. In addition, DFO noted, "... for some waterbodies for which total lake volume is unavailable (i.e., many of the waterbodies designated "to be dewatered"), water withdrawal volumes fall close to the available under-ice volume, and in a few cases surpass the available volume." The intervener indicated its preference to holding further discussions with the Applicant on the fishout requirements. At the Community Session, the intervener noted that, in regards to water use:

Agnico has provided DFO with additional information since some of our technical comments were provided, and DFO will continue to discuss this with the proponent regarding fish habitats and data requirements in the future, but at this time DFO has no further concerns.³⁸

Downstream Environment

In its final submission, DFO requested that relevant information that was previously provided should be included in the Final Offsetting Plan. Another recommendation in regards to the Final Offsetting Plan was for Agnico Eagle to clarify what monitoring approaches with regards to verifying predictions in downstream changes in water levels, surface area and volumes are to be included. DFO also questioned the methodology employed by Agnico Eagle when calculating median volume, median lake depth, and mean maximum decreases in water levels. In addition, the intervener requested bathymetry data for water bodies and watercourses A11, A76, A10, A9, A8, A7, A6, A5, A4, A3, A2, A1, A76, A75, A74, A73, A72, A 71, 70, and A69.

³⁷ Fisheries and Oceans Canada, Final Comment Submission to the Nunavut Water Board (NWB), dated January 23, 2019.

³⁸ A. Beattie, Fisheries and Oceans Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, p. 102.

At the Public Hearing, DFO informed the Board that it intends to hold future discussions with Agnico Eagle to address outstanding issues:

We've had positive and ongoing discussions with the proponent. We expect the ongoing discussions to continue going forward. We feel that should the project be approved, we have a good basis for us to continue in our own regulatory process following the hearings.³⁹

Agnico Eagle Mines Limited (Agnico Eagle or Applicant)

Responses to Issues Raised by Interveners

During the licensing process, Agnico Eagle was fully engaged and participating actively. At the Technical Meeting, the parties agreed that the Applicant provided sufficient information to resolve the following issues:

- Issues raised by the KivIA:
 - Mercury concentrations in fish;
 - Permafrost degradation modelling;
 - Reflection of effects of climate change in modelling;
 - Discharge to alternative locations;
 - Development of area-specific triggers and thresholds;
 - Stability of pit walls;
 - Equipment disposal at closure;
 - Pit water quality at closure;
 - TSS management during construction;
 - Overburden disposal at closure;
 - Testing of used oil and waste fuel; and
 - Development of the Fish Habitat Offsetting Plan.
- Issues raised by CIRNA:
 - In-pit disposal of waste rock; and
 - Past revision of management plans.
- Issues raised by ECCC:
 - Removal of seepage from model inputs;
 - Discharge of landfarm contact water;
 - Landfarm acceptance criteria;
 - Active layer depth; and

³⁹ A. Beattie, Fisheries and Oceans Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, p. 187.

- Errata in management plans.
- Issues raised by DFO:
 - Impacts to fish and fish habitat as a result of the widening of the Whale Tail Pit Haul Road.

In the Applicant's final written submission,⁴⁰, Agnico Eagle responded to the concerns outlined by the interveners in their respective final submissions.

The Applicant addressed the KivIA's unresolved concerns by listing the ways to manage increased water volumes resulting from freshet 2020, providing the updated Adaptive Management Plan, and a revised version of the draft licence framework.

In response to CIRNA's final submission, the Applicant argued that a twenty-five-year post-closure monitoring period is unnecessary, but agreed to include in the Final Closure and Reclamation Plan monitoring data and model results obtained during mine operations, and clarified that it would conduct monitoring as described in the Operational ARD-ML Sampling and Testing Plan to confirm Waste Rock Storage Facility (WRSF) cover performance. Disagreement with CIRNA's recommendation to approve WRSF cover designs in concept only was expressed by Agnico Eagle, and the Applicant argued that updated water quality modelling, adaptive management, and planned monitoring would all ensure that the WRSF covers function properly. Agnico Eagle also disagreed with CIRNA's suggestion for site reclamation security to include provisional allowances for potential adaptive management mitigations.

Next, Agnico Eagle addressed the unresolved concerns of Environment and Climate Change Canada. The Applicant reiterated

...its commitment made at the NWB Technical Meeting on November 26, 2019 to identify Site Specific Water Quality Objectives for the pit waters and thresholds for implementing treatment prior to the end of operations (i.e., 2026) within the Final Closure and Reclamation Plan.⁴¹

In addition, the Applicant agreed to

include a map in the Final Closure and Reclamation Plan illustrating post-closure drainage conditions to and from the pit lakes. This map will also identify connectivity between surface

⁴⁰ Agnico Eagle Mines Limited, 2AM-WTP1826 Final Written Comment Responses Whale Tail Pit – Expansion Project, dated January 30, 2020.

⁴¹ Agnico Eagle Mines Limited, 2AM-WTP1826 Final Written Comment Responses Whale Tail Pit – Expansion Project, dated January 30, 2020.

*waters and remnant water management structures in post-closure, and highlight connecting streams with potential for fish passage.*⁴²

Agnico Eagle provided alternative wording to be included in the Interim Closure and Reclamation Plan (ICRP) in relation to the closure objectives and criteria for open pit workings, WRSF, water management facilities, and contingencies. The Applicant also provided more information to support the notion that the underground water would not appear on surface. In regards to ECCC's concerns over closure of transportation routes and potential acidification due to road construction materials, Agnico Eagle referred to the Whale Tail Pit - Expansion Project Haul Road Management Plan to demonstrate that the concerns were addressed. Discussing options for management of in-pit lake water if the water quality does not meet criteria for direct discharge into the receiving environment upon closure, Agnico Eagle committed to necessary monitoring and treatment during filling of mined out pits.

In regards to the term of post-closure monitoring, Agnico Eagle noted that, in its opinion, three-year post-closure monitoring is sufficient based on the forecasted duration of closure activities, modelling output and adaptive management measures. The Applicant responded to ECCC's recommendations on the mitigation of water quality exceedances stating that segregation of water at the mine site is the most effective strategy, and it believed that the existing monitoring programs in place are sufficient. The Applicant explained its request to extend the term of the original licence stating that the licence should include the Closure phase of the Project. Finally, the Applicant provided revised wording in response to ECCC's feedback on the draft water licence framework.

When responding to DFO's final submission, Agnico Eagle made the following statements:

- Agnico Eagle would continue working with DFO to ensure that the Applicant fulfills all requirements of the *Fisheries Act* and other regulations pertaining to DFO's mandate;
- Agnico Eagle utilized the DFO's methodology in calculating lake volumes using bathymetry data;
- The Applicant ensured that it possesses extensive experience in performing fish-outs.

In addition, Agnico Eagle provided further clarifications on the statistical methodology it used in its hydrological calculations. In regards to monitoring levels in Lakes A12, A15 and A76, Agnico Eagle expressed its opinion that it was not required, as these water bodies "lie

⁴² Agnico Eagle Mines Limited, 2AM-WTP1826 Final Written Comment Responses Whale Tail Pit – Expansion Project, dated January 30, 2020.

outside the spatial extent of residual effects”. The Applicant also informed that the Final Offsetting Plan would be finalized if and when the amended Whale Tail Licence is approved.

Draft Water Licence Frameworks

As this is becoming a standard practice, Agnico Eagle filed two versions of draft water licence frameworks in which the Applicant provided recommendations regarding amendments to the existing licences that they consider to be appropriate and necessary to reflect the Expansion Proposal.⁴³ During the Public Hearing for the Amendment Applications, parties had some questions as to how the Board treats this kind of written submission (i.e. does the Board consider themselves bound to adopt the wording proposed by Agnico Eagle in the draft water licence frameworks if parties do not comment on each proposed amendment). In response, the Board’s legal counsel provided the following summary:

...a number of parties have raised the same question with us -- and that is: What is the effect of the draft water licence framework that is proposed by Agnico Eagle? The way the Board treats that submission is the same as any other submission. So the fact that there are terms or conditions proposed by Agnico Eagle in the draft water licence framework is not binding on the Board. It is a submission the same as any other submission.

And the reason and the rationale for the Board encouraging and allowing the draft water licence frameworks to be submitted is so that we can focus some of the discussions on the key amendments that Agnico Eagle may think are necessary in the draft water licence. And so that helps focus the discussion, but it does not mean that the Board is bound to follow the wording that is provided, nor does the Board expect intervenors to be providing detailed wordsmithing suggestions to the draft terms and conditions that have been proposed by the Applicant.⁴⁴

The Board included its discussion of the items provided by Agnico Eagle for the Board’s consideration and inclusion into the Amended Licences in [SECTION VII](#) of this document.

⁴³ Versions of the draft water licence frameworks were filed on December 20, 2019 and January 30, 2020.

⁴⁴ T. Meadows, Nunavut Water Board, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, p. 187

SECTION III **SUBMISSIONS BY OTHER INTERVENING PARTIES OR MEMBERS OF THE PUBLIC**

There were no written submissions provided to the NWB by any other intervening party or members of the public in advance of the Public Hearing. On the evening of February 13, 2020, a Community Session was conducted by the Board, and community members in attendance were invited to question Agnico Eagle and any of the interveners. Community members were also invited to share with the Board any comments or concerns they may have with respect to the Amendment Applications. Community members in attendance during the Community Session and during the technical component of the Public Hearing did not pose any questions or provide any comments. The sign in sheets provided in [APPENDIX E - Sign-in Sheets – List of Participants in the Public Hearing](#) provide a full listing of all attendees present throughout the Public Hearing.

SECTION IV **JURISDICTION OF THE NWB**

Under Article 13 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (the *Nunavut Agreement*) and Division 2 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*⁴⁵ (NWNSRTA) the NWB has the jurisdiction to issue a licence, amend a licence (including a renewal) or, in certain circumstances, cancel a licence. In exercising the Board’s statutory functions under the *Nunavut Agreement* and the statutory regime governing the Board (under the NWNSRTA and the *Nunavut Waters Regulations*⁴⁶), the NWB must be guided by the following objects:

*... to provide for the conservation and utilization of waters in Nunavut, except in a national park, in a manner that will provide the optimum benefit from those waters for the residents of Nunavut in particular and Canadians in general.*⁴⁷

In setting the terms and conditions of any licence, including any amendments to terms and conditions of existing licences, the NWB is guided by these objects and the NWB’s statutory duty to make *all* reasonable efforts to minimize *any* adverse effects on aquatic ecosystems. Reading several of the Articles of the *Nunavut Agreement* together,⁴⁸ the NWB relies on the broad definition of “ecosystemic” found in Article 12, Section 12.1.1 of the *Nunavut Agreement*, requiring not only the Nunavut Impact Review Board, but also the NWB to

⁴⁵ Sections 42-81 of the NWNSRTA.

⁴⁶ SOR/2013-69.

⁴⁷ See s. 35 of the NWNSRTA.

⁴⁸ This approach is consistent with the direction provided in Article 2, section 2.9.1 of the *Nunavut Agreement*..

ensure that all components of the ecosystem, such as fish and fish habitat, are protected within the parameters of s. 71 of the *NWNSRTA*.

SECTION V **REQUIREMENTS OF THE NWNSRTA, REGULATIONS AND NUNAVUT AGREEMENT**

Objects of the NWB and its Relationship to other Bodies

As established under Articles 10-13 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (the *Nunavut Agreement*) prior to the NWB's consideration of the Amendment Applications, Agnico Eagle was required to meet the pre-licensing requirements of the Nunavut Planning Commission (land use planning) and the Nunavut Impact Review Board (impact assessment).

Land Use Planning

As noted in the previous sections of these Reasons for Decision providing the regulatory and procedural history of the Application, on October 16, 2018, the Nunavut Planning Commission (NPC) determined that the Whale Tail Pit Expansion Project Proposal (the Expansion Proposal) conformed to the Keewatin Regional Land Use Plan.⁴⁹

Impact Assessment

In the NPC's positive conformity determination, the NPC concluded that the Expansion Proposal represented a significant modification to the approved Whale Tail Pit Project (NIRB File No: 16MN056) and referred the Expansion Proposal to the Nunavut Impact Review Board (NIRB) to conduct an assessment under Article 12, Section 12.4.3 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (*Nunavut Agreement*) and the *Nunavut Planning and Project Assessment Act*⁵⁰ (*NuPPAA*).

On October 18, 2019 the NIRB issued the NIRB's Reconsideration Report and Recommendations to the Minister of Crown-Indigenous Relations and Northern Affairs (the relevant Minister at that time).⁵¹ The NIRB recommended that the Project be allowed to proceed "*subject to the recommended amendments and additions to the Terms and*

⁴⁹ Correspondence from P. Scholz, Nunavut Planning Commission to M. Turmel, Agnico Eagle, N. Lear, NIRB, R. Dwyer, NWB, T. McCaie, CIRNA, B. Osmond and A. Aupaluktuq-Burton, KivIA, G. Gilchrist and G. Williston, ECCC, M. D'Aguiar, DFO, D. Lavoie, NRCAN, Re: NPC File #148953 (Whale Tail Pit – Expansion Project), dated October 16, 2018.

⁵⁰ S.C. 2013, c. 14, s. 2.

⁵¹ Nunavut Impact Review Board, Reconsideration Report and Recommendations: Whale Tail Pit Expansion Project Proposal, NIRB File No.: 16MN056, October 18, 2019.

Conditions of existing Project Certificate No. 008 and consequential revisions to the Monitoring Program for Project Certificate No. 008.”

On January 20, 2020, the Minister of Northern Affairs accepted the NIRB’s recommendation that the Expansion Proposal should be allowed to proceed and varied the NIRB’s recommendations with respect to changes to Term and Condition #30 and Term and Condition #66 in NIRB Project Certificate No. 008.

Inuit Water Rights

As noted previously, during the Public Hearing the Kivalliq Inuit Association stated the following:

The Kivalliq Inuit Association confirms that it has entered into an existing Whale Tail water compensation agreement with Agnico Eagle and that there is sufficient consensus on any consequential amendments thereto in relation to the Whale Tail Expansion Project that the Kivalliq Inuit Association agrees and supports that the Board may proceed and issue the Whale Tail Expansion Type "A" water licence amendment in accordance with Section 63(1)(a) of ... the Nunavut Water [*sic Nunavut Waters and*] Nunavut Surface Tribunal Act. Further, Kivalliq Inuit Association and Agnico Eagle confirm and agree that they will not be filing a request for the Board to make a determination on water compensation under Section 63(1)(b).⁵².

This was subsequently confirmed by Agnico Eagle that there are currently no outstanding water compensation issues associated with the Expansion Proposal as follows: “...*we want to confirm the status of the water compensation agreement is as Kivalliq Inuit Association said during their presentation.*”⁵³

On this basis, the Board has concluded that there are no outstanding issues of water compensation under s. 63 of the *NWNSRTA* that must be addressed before the Board can issue the Amendment Applications.

⁵² J. King, Kivalliq Inuit Association, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, pp. 81-82, lines 20-26 and 1-9.

⁵³ C. Kowbel, Agnico Eagle, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, p. 125, lines 1-4.

SECTION VI **DECISION TO ISSUE**

During the Board's consideration of the applications filed by Agnico Eagle to amend Type "A" Water Licence Nos: 2AM-WTP1826 and 2AM-MEA1526 and Type "B" Water Licence No: 2BB-MEA1828 (the Amendment Applications), the Board has considered:

- the Application materials filed by Agnico Eagle;
- responses to information requests and supporting documents filed in response to commitments;
- technical review comments;
- final written submissions;
- presentation materials; and
- information and evidence provided at the in-person Technical Meeting, and Pre-Hearing Conference held in Yellowknife, NWT and the in-person Public Hearing held in respect of the Amendment Applications in Baker Lake, Nunavut.

Based on the information and materials provided during the Board's consideration of the Amendment Applications, and for the reasons that follow, the NWB's duly appointed Whale Tail Panel, Panel P17 has, by Motion Number: 2019-26-P17-05: decided to issue amended and renumbered Type "A" Water Licences Nos: 2AM-WTP1830 and 2AM-MEA1530 (the Amended Licences) to the Applicant, subject to the terms and conditions described further in these Reasons for Decision.⁵⁴ Recognizing that if the Minister does not approve the issuance of the amended Type "A" Water Licence No: 2AM-WTP1830, (which includes amendments that would incorporate some of the scope of Type "B" Water Licence No: 2BB-MEA1828), then amendments to the Type "B" Water Licence may not be appropriate. Consequently, the Board will await the Minister's decision with respect to the amendments to the Type "A" Water Licences to determine whether consequential amendments to the existing Type "B" Water Licence No: 2BB-MEA1828 are appropriate.

If the Minister does approve the issuance of the Amended Licences, within 30 days following the Minister's decision, the Board will issue an amended Type "B" Water Licence to reflect the inclusion of the scope of that licence into the amended Type "A" Water Licence No: 2AM-WTP1830.

By way of Motion No.: 2019-26-P17-06 the Panel also authorized the release of these Reasons for Decision and the amended and renumbered Water Licences Nos: 2AM-WTP1830 and 2AM-MEA1530. It is the Board's view that the amended terms and conditions included in Water Licences Nos: 2AM-WTP1830 and 2AM-MEA1530 (the

⁵⁴ The licences will be issued under separate cover as 2AM-WTP1830 and 2AM-1530, subject to the approval of the Minister under s. 56 of the *NWNSTRA*.

Amended Licences) are necessary to protect the environment, conserve freshwater resources, and provide appropriate safeguards in respect of the changes and additions to the water uses and waste deposits associated with the Whale Tail Pit Expansion Project Proposal (the Expansion Proposal).

The Amended Licences continue to authorize the use of water and deposit of wastes associated with the construction, operation, reclamation, closure and post-closure monitoring of a Mining Undertaking as defined under Schedule 1 of the *Nunavut Waters Regulations*.

Conditions for Issuance of a Licence

As set out under sections 57, 58, 60, 63 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (NWNSRTA) and as specifically discussed below there are a number of conditions that must be met before the Board can consider issuing a water licence.

Section 57 of the NWNSRTA identifies several key legislative requirements that must be satisfied before the NWB may issue a licence, as follows:

The Board may not issue a licence unless the applicant satisfies the Board that

(a) any waste produced by the appurtenant undertaking will be treated and disposed of in a manner that is appropriate for the maintenance of the water quality standards and effluent standards that are prescribed by the regulations or, in the absence of such regulations, that the Board considers acceptable; and

(b) the financial responsibility of the applicant, taking into account the applicant's past performance, is adequate for

(i) the completion of the appurtenant undertaking,
(ii) such measures as may be required in mitigation of any adverse impact, and
(iii) the satisfactory maintenance and restoration of the site in the event of any future closing or abandonment of that undertaking.

Financial Responsibility of the Applicant

As outlined under the NWNSRTA, s. 57(b), the NWB considers three aspects of financial responsibility:

- the financial ability of the Applicant to complete the appurtenant undertaking;

- the ability of the Applicant to undertake measures to adequately monitor for impacts and implement measures to mitigate any impacts; and
- the Applicant's ability to maintain and restore the site during care and maintenance, closure and abandonment.

The third aspect of financial responsibility under s. 57(b) will be specifically addressed in the section of these Reasons for Decision discussing reclamation security.

The NWB's assessment of the Applicant's financial responsibility under s. 57(b) is a contextual analysis that considers not only the specific activities in relation to the Expansion Proposal which is the subject matter of these Amendment Applications, but also the Applicant's overall financial capacity to carry out the Undertakings that are the subject of the Amended Licences. In this regard, recognizing that these are existing mining Undertakings that have been in operation in some form since 2008, the Board has paid particular attention to the Applicant's past performance as well.

With respect to considering Agnico Eagle's past performance to assess their financial capacity to carry out the Undertakings governed by the Amended Licences, the Board notes that:

- Agnico Eagle has been operating the Meadowbank Gold Mine Project since 2008, which is approximately 70 km north of the Hamlet of Baker Lake, Nunavut, with no indication that the Applicant has been unable to meet the financial responsibilities of carrying out that Undertaking under the terms and conditions of the existing Water Licence No: 2AM-MEA1526;
- With respect to the original Whale Tail Pit Project, Agnico Eagle has undertaken construction and operation of the Whale Tail Pit Gold Mine, which is located approximately approximately 50 km northwest of Agnico Eagle's Meadowbank Gold Mine, commencing in 2018, with no indication that the Applicant has been unable to meet the financial responsibilities of carrying out that Undertaking under the terms and conditions of the existing Water Licence No: 2AM-WTP1826; and
- With respect to Agnico Eagle's Meliadine Gold Project, Agnico Eagle's other active operating gold mine in Nunavut, which is approximately 25 km north of Rankin Inlet, since 2016, that site has been developed into an operating gold mine, and there is no indication that the Applicant has been unable to meet the financial responsibilities of carrying out that Undertaking under the terms and conditions of the existing Water Licence No:...2AM-MEL1631.

There was no evidence before the Board of any outstanding issues that would suggest limits on the financial ability of Agnico Eagle to successfully fulfill the obligations arising from

the additions to the scope of the original Undertakings at the Whale Tail Gold Mine and at the Meadowbank Gold Mine as proposed in the Expansion Proposal or to comply with the amended terms and conditions in the Amended Licences. The Board also notes that with respect to all elements of the Applicant's financial responsibility, none of the parties, including community members in Baker Lake presented evidence that would call into question the Applicant's financial capacity to fulfill their responsibilities as required by s. 57(b).

On the basis of the financial information provided with the Amendment Applications, and with the Board's acknowledgement of Agnico Eagle's prior operating history at the Meadowbank Gold Mine, the Whale Tail Gold Mine and the Meliadine Gold Mine, the Board has concluded that Agnico Eagle has established that they have the financial resources to meet the obligations imposed under the Amended Licences.

Compensation of Existing or Other Users

The *NWNSRTA* requires that the NWB must also be satisfied that compensation of existing or other water users affected by the Amendment Applications has been or will be paid.⁵⁵ To ensure that all parties with the potential to bring a water compensation claim have been notified of their rights under the *NWNSRTA*, the NWB provided, in the Notice of Amendment Applications, issued on **August 14, 2019**, an invitation to parties with water user compensation issues to advise the NWB regarding such issues. The NWB confirms that other than the representations of the Kivalliq Inuit Association and confirmation by Agnico Eagle regarding Inuit water rights compensation (referenced in the previous section of these Reasons for Decision), no water compensation claims were made to the NWB.

Issuance of the Amended Type "A" Water Licences

As stated above and pursuant to s. 42(1) of the *NWNSRTA*, the NWB has decided to reissue amended and renumbered Type "A" Water Licences Nos: 2AM-WTP1830 and 2AM-MEA1530 (the Amended Licences), subject to the terms and conditions set out in these Reasons for Decision. In issuing the Amended Licences, the NWB is satisfied that the Applications contained the required information and were in the proper form having regard to the requirements of the *NWNSRTA*⁵⁶ and associated regulations.⁵⁷

⁵⁵ See ss. 58-60 of the *NWNSRTA*.

⁵⁶ See s. 48 of the *NWNSRTA*.

⁵⁷ *Nunavut Waters Regulations*, SOR/2013-69.

Assumptions

When faced with choices regarding monitoring requirements such as standards or parameters to be imposed under the Amended Licences, the Board has opted to impose stringent monitoring requirements in an effort to ensure that the Applicant meets their on-going environmental protection obligations.

Applications in Relation to the Licences

Overall, the NWB is satisfied that the requirements of s. 48 of the *NWNSRTA* have been met. Agnico Eagle filed the Amendment Applications, which complied with the NWB's Guide No.4 (Guideline for Completing and Submitting an Application for a New Water Licence) and associated Supplemental Information Guideline (MM3) for Mine Development, accompanied by the fees required by *Nunavut Waters Regulations*, including the application fee. In addition, Agnico Eagle has provided the necessary applications and responses to supplementary information requests provided by the Board and other parties as necessary for the Board to evaluate whether the Amended Licences should be granted.

Future Modifications or Amendments to the Licences

One of the central changes to the existing Whale Tail Licence proposed by Agnico Eagle in the proposed draft water licence framework filed with the Board in advance of the Public Hearing were revisions to the Board's existing approach to processing of changes to the Whale Tail Licence to accommodate changes to Agnico Eagle's plans to carry out the Undertaking triggered under Agnico Eagle's Adaptive Management Plan as filed with the Board on December 20, 2019.

This approach, was described by Agnico Eagle during the Public Hearing as follows:

The adaptive management plan is specific potential adaptive management actions and potential facility waste water management changes that have been collaboratively developed, reviewed, and discussed with intervenors. As with other action described in approved plan, should the threshold specified in the adaptive management plan be triggered, Agnico Eagle will be permitted to proceed with this action without amendment or modification to the water licence upon notice of the Board.

For clarity, we would consider every action describe in the adaptive management plan as included in the scope of the water licence. This allow flexibility within our footprint to implement change to protect

Nunavut lands and water and provide certainty to regulators, agencies, and to the Board.⁵⁸

In an exchange with the Board's legal counsel, Agnico Eagle reiterated that their suggested difference in approach to the Board's processing of future modifications and amendments was tied to activities included under the scope of "adaptive management" measures:

[Question]:...I do want Agnico Eagle to kind of walk me through their understanding of what they're proposing in terms of the process because it seems to me, upon a reading of the revisions to definitions and several additional sections in the general conditions and then in the conditions applying to construction and operation, that Agnico Eagle's perception is adaptive management measures will be dealt with in a unique way under the regulatory system that is not reflecting the way that modifications and amendments are typically dealt with by the Board.⁵⁹

[Answer]: So the plan is built on if a certain event happens dealing with water volume or water quality and certain thresholds are made -- are met, we have an agreed-upon mitigation... So based on the existing actions that we have within our adaptive management plan, we hit those triggers, we have a -- a set action plan which has been agreed upon, we implement those based on the approval of this adaptive management plan... It provides that certainty that within our footprint we have that flexibility to manage certain situations. And then we implement those [adaptive management measures approved under the plan] in a timely way to ensure that we protect the environment, the receiving environment.

...We all want the same thing: To protect the environment in a timely way and be -- have that flexibility. That's what we're all about, and that's what we're trying to exhibit here... We want to implement those mitigation action items when the thresholds are met in that decision tree in our adaptive management plan.⁶⁰

Subsequently as a follow up to continued questioning from the Board's legal counsel during the Public Hearing, Agnico Eagle summarized their proposed unique approach to

⁵⁸ M. Groleau, Agnico Eagle, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, pp. 106-107, lines 18-26 and 1-4.

⁵⁹ T. Meadows, Nunavut Water Board, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 2, p. 132, lines 16-26.

⁶⁰ J. Quesnel, Agnico Eagle, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 2, pp. 135-136, lines 16-26 and 18-24.

implementing changes to wastewater and water management actions under the Adaptive Management Plan as follows:

For greater clarity, adaptive management strategy actions identified in an approved adaptive management plan may be implemented by the licensee upon notice to the Board and do not require modification or amendment to this licence prior to implementation.⁶¹

The concerns of the Kivalliq Inuit Association (KivIA or KIA) associated with Agnico Eagle's suggested approach to adaptive management measures was set out in writing in the excerpt of Exhibit #21,⁶² filed by KIA during the Public Hearing and set out below:

6. *References to Adaptive Management in the licenses should be limited to the Board approved Adaptive Management Plan:*

The intent of the Adaptive Management Plan is to reduce uncertainty and risk associated with the current approved Project as outlined in the FEIS – it is not intended to expand the scope of the Project. The intent of Adaptive Management as defined in the Adaptive Management Plan is to minimize environmental impacts associated with project activities and ensure the project is able to meet closure objectives.

The general references to “Adaptive Management” in the Agnico Eagle January 30, 2020 draft licenses (including in Part A(1)(a), Part B(9), Part D(27)), however, have too broad a meaning and could encompass activities outside of those approved by the Board.

7. *KIA does not support Agnico Eagle's proposed process for New Adaptive Management Actions (Part D(27))*

Agnico Eagle's proposed process in its draft licenses does not provide for any review, community consultation, or Board approval. In any event, the benefits of the New Adaptive Management Actions are not clear to KIA in the

⁶¹ J. Quesnel, Agnico Eagle, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 2, p. 144, lines 16-21.

⁶² Kivalliq Inuit Association, Exhibit #21, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828, Kivalliq Inuit Association, Electronic Copy Only, Comments on Agnico Eagle Mines Limited, January 30, 2010 Draft Water Licence Framework, (English) filed on February 14, 2020.

face of an approved Adaptive Management Plan and available emergency procedures.

8. *Definitions:*
 - a. Adaptive Management: KIA has concerns with the proposed broad definition.
 - b. Amendment/Modification: The definitions should not include a carve out for Adaptive Management or New Adaptive Management Action, particularly given the broad proposed definition of Adaptive Management. Some Adaptive Management action may require an Amendment. KIA would be content with language to the following effect: “Proceeding with an action in the Adaptive Management Plan as approved by the Board shall not require an Amendment”

During the Public Hearing, Crown-Indigenous Relations and Northern Affairs (CIRNA) summarized their response to Agnico Eagle’s proposal that adaptive management measures would not constitute amendments or modifications to the Type “A” Water Licences as follows:

We want to thank Agnico Eagle for working with Crown-Indigenous Relations and Northern Affairs Canada, the Kivalliq Inuit Association, Environment and Climate Change Canada to develop and clarify adaptive management for this project. The proposed adaptive management plan for this project provides thresholds, triggers, and actions to address issues that go beyond monitoring. This document goes a long way to satisfy uncertainty and provides Agnico Eagle flexibility in operations. Crown-Indigenous Relations and Northern Affairs Canada recommends that this plan be incorporated into all aspects of Agnico Eagle's operations and that adaptive management be approved insofar as adaptive management activity does not include significant modifications or other -- or -- or require other regulatory approvals under the *Nunavut Planning and Project Assessment Act* or the *Nunavut Waters and Nunavut Rights Surface Tribunal Act*.⁶³

The Board recognizes, as did all the interveners during the Board’s consideration of the Amendment Applications, that the level of detail contained in the Adaptive Management Plan developed by Agnico Eagle in consultation with KivIA, CIRNA, and ECCC and filed with the Board on December 20, 2019 represents a significant step forward in identifying

⁶³ S. Dewar, Crown-Indigenous Relations and Northern Affairs, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, p. 89, lines 9-26.

thresholds that could trigger Agnico Eagle undertaking specified adaptive management measures. The NWB also agrees with all parties that Agnico Eagle may require flexibility in the timing and implementation of the specific adaptive management measures put forward in the Adaptive Management Plan and may also require flexibility in relation to the development of additional adaptive management measures in the event the specific adaptive management measures in the current version of the Adaptive Management Plan are not effective, difficult to implement or otherwise insufficient to address effects on freshwater. The Board also notes that some of the proposed adaptive management measures, particularly those actions at the lower risk levels may not be activities, works or undertakings that would constitute a modification or amendment to the existing terms and conditions of the Amended Licences.

However, the Board does not agree with Agnico Eagle that it is appropriate for the Board to pre-empt the integrated regulatory process that would normally apply to the potential assessment and NWB's consideration of adaptive management measures that could constitute significant modifications to the previously assessed Whale Tail Pit Project (as modified by the approved Whale Tail Pit Expansion Project Proposal) and/or that would, upon review, warrant changes to the Amended Licences. For example, Agnico Eagle has identified in the Adaptive Management Plan that as the risks of harm increase, some significant adaptive management actions may be implemented that could be significant changes to the way the existing project is carried out. Examples of these types of measures specified in the adaptive management included the relocation or reconfiguration of waste rock storage facilities, construction of new water management or interception structures, and "performing deep well injection for high TDS water and/or meromatic pit lake disposal" to store underground contact water. Although Agnico Eagle maintained that because these actions would be undertaken within the "footprint" of the existing mines and have been identified as adaptive management measures in the Adaptive Management Plan, that once the Amended Licences are issued and the NWB "approves" the Adaptive Management Plan, all such measures would not be subject to any further regulatory assessment or approval processes and could be implemented upon notice being provided to the NWB.

In the Board's view, this approach is not consistent with the pre-licensing jurisdiction of the Nunavut Planning Commission (NPC) and the Nunavut Impact Review Board (NIRB) as established under the *Nunavut Agreement*, the *Nunavut Planning and Project Assessment Act* and the *NWNSRTA*. As directed by s. 146 of the *NuPPAA* any work or activity that constitutes a significant modification to the original project, is subject to an assessment by the NIRB. Under the integrated regulatory system in Nunavut, the future determination of whether a specific adaptive management measure as proposed to be implemented by Agnico Eagle upon reaching the thresholds set out in the Adaptive Management Plan constitutes a "significant modification" to the original project that should be assessed by the NIRB remains with the NPC and the NIRB. The NWB cannot, via the approval of a plan under the

terms of the Amended Licence fetter this future exercise of discretion by the NPC and/or the NIRB by provisions that would have the effect of defining any such adaptive management action as “not a modification” regardless of significance.

As indicated in response to questioning by the Board’s Director of Technical Services, the Adaptive Management Plan developed by Agnico Eagle was not provided to the NIRB for consideration, during the assessment of the Whale Tail Pit Expansion Proposal, and as such, the extent to which any specific adaptive management measure was assessed during the NIRB’s assessment of the Expansion Proposal remains to be determined.

This plan has not been submitted to NIRB, but we've had -- there were discussions during the Nunavut Impact Review Board's reconsideration process about water management and decision trees related to that component, so there was some initial discussions. And we had some informal discussions with the Nunavut Impact Review Board, but this plan has not been submitted to [the] Nunavut Impact Review Board.⁶⁴

The Board agrees with the comments of the KivIA and CIRNA that it is not appropriate for the Board to “carve out” an exception to the normal regulatory process for activities, works or undertakings described by Agnico Eagle as adaptive management measures. As with any other changes to the previously-approved mining Undertaking, some adaptive management measures may not be sufficient to constitute a modification or amendment as defined under the Amended Licences. However, if a specific adaptive management measure fits within the scope of a modification or amendment, Agnico Eagle must follow the normal regulatory path for such activities, works or undertakings, including compliance with all applicable requirements for land use plan conformity assessment by the NPC and impact assessment by the NIRB under the *Nunavut Agreement*, *NuPPAA* and *NWNSRTA*.

Assignment of a Licence

If Agnico Eagle wishes to assign the Amended Licences, the Board highlights that the licences are only assignable if the requirements of s. 44 of the *NWNSRTA* have been met. This section states:

A sale or other disposition by a licensee of any right, title or interest in an appurtenant undertaking constitutes, subject to the authorization of the Board, an assignment of the licence to the person to whom the sale or other disposition is made.

⁶⁴ J. Quesnel, Agnico Eagle, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 2, p. 148, lines 17-24..

Cancellation or Expiry of the Licence

As noted by the KivIA in their written submission filed as Exhibit #21⁶⁵ during the Public Hearing, in Agnico Eagle's draft water licence frameworks, Agnico Eagle had requested a change to the standard wording in the licences that states that the expiry or cancellation of the licences does not relieve the licensee from fulfilling any outstanding obligations under the licences. Agnico Eagle requested that the term "cancellation" should be removed from this clause so that upon cancellation of a licence their obligations will cease. The KivIA objected to Agnico Eagle's proposed change as follows:

3. The standard license language that "the expiry or cancellation of the license does not relieve the licensee from any obligation imposed by the license or any other regulatory requirements" should be included in the licenses:

Agnico Eagle's January 30, 2020 drafts propose the opposite for cancellation – that cancellation of the License relieves the licensee from all obligations under the license. KIA does not support Agnico Eagle's revisions and submits that the licenses must include the standard language.

The NWB notes that the standard wording in existing licences parallels s. 46 of the *NWNSRTA*, which states: "[t]he expiry or cancellation of a licence does not relieve the holder from any obligations imposed by the licence." The Board has, therefore, not changed the standard wording in the Amended Licences.

The Board advises Agnico Eagle that the Board's process for considering an application by a licensee to cancel a licence under s. 43(1)(c)(iii) of the *NWNSRTA* is intended to provide reassurance to the NWB, the licensee and CIRNA (as the authority responsible for enforcement of the licence) that there are no outstanding obligations that remain unfulfilled under the licence before cancellation takes place. To ensure all obligations under the licence have been met, in a licensee's application to cancel a licence, the NWB requires evidence from the licensee and CIRNA's Inspector establishing that an undertaking has been abandoned, fully reclaimed and there are no outstanding obligations under the licence. In such circumstances, the Board would not expect the licensee to have remaining obligations under the licence that would continue following the cancellation of that licence.

⁶⁵ Kivalliq Inuit Association, Exhibit #21, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828, Kivalliq Inuit Association, Electronic Copy Only, Comments on Agnico Eagle Mines Limited, January 30, 2010 Draft Water Licence Framework, (English) filed on February 14, 2020.

Term of Licence

Section 45 of the *NWNSRTA* provides that the term of a licence or any renewal shall not exceed twenty-five years or the anticipated duration of an Undertaking in the case of a Type “A” Licence (other than an Undertaking for which the maximum term is prescribed by regulation as 25 years). In general, the amendments to the existing Type “A” Water Licence No: 2AM-WTP1826 (Whale Tail Licence), as requested by Agnico Eagle, would involve a 17-year extension of the term of the Whale Tail Licence from the current expiry in 2026 to a term ending in December 2043. With respect to the existing Type “A” Water Licence No: 2AM-MEA1526 (the Meadowbank Licence), Agnico Eagle requested an additional term of 7 years which would extend the expiry to a term ending in December 2033.

As noted during the Public Hearing, Environment and Climate Change Canada expressed concern about the grant of the full term requested under the Meadowbank Licence on the following basis:

This leads me to the concern with the request for extending the Meadowbank licence to 2033. It had been initially contemplated that review of the water quality for TDS and sulphate would be done in a renewal process in 2025 initially, then 2026. Going past this initial period, there would be the potential within this current water licence, if amended to 2033, for discharge of treated effluent to the lakes. And at the predicted levels of total dissolved solids and sulphate, there could be concern if there was no regulatory criteria set for this parameter.⁶⁶

And the last item I have is regarding the proposed extension of the Meadowbank licence. While we have done a thorough review of the proposed draft licence terms for Whale Tail and a reasonably in-depth look of the Meadowbank ones, it has not been done with a view to it being renewed in 2033. Questions will arise on the activities associated with the in-pit disposal and water treatment if the licence period spans that and development of any closure site-specific water quality objectives that are brought forward. While there's the opportunity to review items in the normal Water Board processes, it would seem unusual to have a licence that bridges closure without thoroughly reviewing such an amendment. Just thinking of the timing as outlined in the ICRP for Meadowbank, the dike opening or reconnection is currently scheduled for about 2030. So that would be three years before the end of licence, and active

⁶⁶ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, pp. 164-165, lines 17-26 and 1.

closure and closure monitoring also ends in -- goes to 2030. So I think there should be further review of any changes to the licence term.⁶⁷

The Board recognizes and shares the concerns of ECCC that if the Board extends the term of the Meadowbank Licence to 2033, the Licence would extend beyond closure and into the post-closure period without a licence renewal process providing an opportunity to review monitoring data from pit reflooding to develop site-specific water quality objectives to govern closure and post-closure monitoring. The Board also notes that granting the full extension of the term requested by Agnico Eagle to the term of the Whale Tail Licence (expiry in 2043) would result in a licence term of 25 years from the issuance of the original Whale Tail Licence.

As noted in previous decisions, the Board is typically hesitant to issue licences for terms approaching 25 years given the uncertainties and contingencies that may arise for active operations over a longer term. The Board recognizes that 2030 is a critical year for active closure activities, including potentially breaching dikes between pit lakes and reconnection to the receiving environment under the Meadowbank Licence. The Board also notes that water quality monitoring data from this site may also inform closure plans for the Whale Tail Pit site as well. Consequently, the Board considers it reasonable to extend the terms of both licences by a further period of 4 years with both licences set to expire at the end of March 2030. This will mean that Agnico Eagle will be required to submit the renewal applications for the Amended Licences on or before March 2029, and will give the Board and all interveners an opportunity to more extensively review water quality data following pit reflooding at the Meadowbank site in order to confirm whether the water quality is as predicted and water quality mitigations are performing as forecasted, before projected breaching of dikes.

SECTION VII **WATER LICENCES NOS: 2AM-WTP1830 and 2AM-MEA1530 TERMS AND CONDITIONS**

The Licence does not take effect until approval of the Minister is given or deemed to have been given pursuant to s. 56 of the *NWNSRTA*.⁶⁸ As indicated in Section VI, the Panel has

⁶⁷ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, pp. 166-167, lines 7-26 and 1.

⁶⁸ Section 56 of the *NWNSRTA* states:

The issuance, amendment, renewal and cancellation of a type A licence, and if a public hearing is held, a Type B licence are subject to the approval of the Minister.

decided to reissue the amended and renumbered Type “A” Water Licences Nos: 2AM-WTP1830 and 2AM-MEA1530 (the Amended Licences), subject to the terms and conditions contained in the attached Amended Licences. To provide context and clarity, the NWB has provided discussion and comments in the section that follows about specific terms and conditions. The NWB has not, however, provided specific comments for those terms and conditions in the Amended Licences that are clear in their wording and intent on the face of the Amended Licences.

Water Licence No: 2AM-WTP1830

Part A: Scope, Definitions and Enforcement

The undertaking, for which the Amended Licences are issued, are classified as Mining Undertakings in accordance with Schedule 1, Item 2 of the *Nunavut Waters Regulations*.⁶⁹

The general scope of Water Licence No: 2AM-WTP1830 has been amended and includes the following activities and/or facilities [note capitalized terms are defined terms under the Licence]:

- Withdrawal and use of water from Nemo Lake for camp operation, associated activities and drilling purposes;
- Dewatering of Whale Tail Lake (North Basin), Lakes A-P38, A46, A47, A49, A50, A51, A52, A53, A-P21, A-P10, A-P67, and A-P68;
- Withdrawal and use of water for drilling from sources proximal to drilling sites;
- Withdrawal and use of water from Mammoth Lake for use in explosives mixing at the Emulsion Plant;
- Withdrawal and use of water for dust suppression at the Whale Tail Haul Road from sources proximal to the Whale Tail Haul Road;
- Withdrawal and use of water for re-flooding from Whale Tail Lake (South Basin) and Lake D1;
- Quarrying of materials from specified locations;
- Operation of a camp at the Whale Tail Pit Project site;

Under s. 56(2.2) if the Minister does not issue a decision within 45 days of receiving the Licence from the Board, (or within 90 days if the Minister has extended the decision-making period by an additional 45 days) the Minister is deemed to have approved the Licence.

⁶⁹ SOR/2013-69.

- Construction and operation of the Whale Tail Haul Road and site roads, including associated water crossings and bridges;
- Construction and operation of an Emulsion Plant;
- Operation of satellite mine site facilities including bulk fuel storage, shops, offices, and warehouse;
- Handling and storage of petroleum products and hazardous materials including explosives and other reagents;
- Construction and operation of the Waste Rock Storage Facilities, and ore stockpiles, as well as their water collection systems;
- Construction and operation of the Attenuation Ponds and Groundwater Storage Ponds;
- Construction of Whale Tail site water management infrastructure including: Whale Tail Dike, Mammoth Dike, Waste Rock Storage Facility Dike, Northwest Dike, Mammoth Channel Culvert, Whale Tail Diversion Channel, IVR Diversion, and IVR dikes;
- Construction and Operation of a Sewage Treatment Plant, Operational Wastewater Treatment Plant, Saline Water Treatment Plant;
- Controlled and regulated Discharge of Effluent to Mammoth Lake and Whale Tail (South Basin);
- Controlled and regulated Discharge of Effluent to Lakes D1 and/or Lake D5 following Board approval;
- Installation and operation of the Incinerator;
- Installation and operation of the Composter;
- Construction and operation of the Landfill;
- Construction and operation of the Landfarm;
- Planning and carrying out progressive Reclamation, Closure and Abandonment of on-site facilities and infrastructure;
- Re-flooding of the Whale Tail and IVR open pits and Underground mine following development; and
- Additional scope transferred from Water Licence No: 2BB-MEA1828:
 - underground development and underground exploration drilling;
 - construction and operation of pads and handling and storage of Waste Rock and ore on pads; and

- operation of Storm-water Management Pond A-P5 with its subsequent conversion to Groundwater Storage Pond GSP-1.

Definitions

A revised definition of “Traditional Knowledge” that reflects the definition included in *NuPPAA* has been included in Schedule A of the Amended Licences. A definition for “Site-Specific Water Quality Objectives or SSWQO” has been added to Schedule A of the Amended Licences.

For amended Water Licence No: 2AM-WTP1830, the Board has added a definition of “Adaptive Management” and “Adaptive Management Plan” to reflect the provision of the detailed Adaptive Management Plan provided by Agnico Eagle on December 20, 2019. The definitions of these terms as proposed by Agnico Eagle in the draft water licence frameworks were not adopted by the Board, as these definitions were focused on creating adaptive management measures as exempt from the normal integrated regulatory process, and the Board did not consider Agnico Eagle’s approach appropriate.

The definitions included in Schedule A of Water Licence No: 2AM-WTP1830 were developed by the Board to reflect the central notion that “Adaptive Management” is a response to uncertainty with respect to the prediction of risk and to recognize that Agnico Eagle may require the flexibility to update and improve upon the measures proposed in the “Adaptive Management Plan” filed with the Board in December 2019.

Part B: General Conditions

Reports and/or Plans Filed with the NWB

Agnico Eagle submitted a draft water licence framework during the licensing process proposing a number of conditions and amendments for the Board to consider including in the licences. With respect to management plans specifically, Agnico Eagle recommended that management plans should be deemed to be approved by the Board within forty-five days of submission, unless otherwise advised by the Board. Under the suggested revised section of the licences, if the NWB determined that a plan was unacceptable to the NWB, Agnico Eagle would be required to file a revised version, which would then be approved.

Both the KivIA and ECCC expressed their disagreement with both the proposed timing and “deeming” provisions for plan approvals. The KivIA noted that adopting such an approach erodes the Board’s jurisdiction, and ECCC stated that the approach was impractical due to the short timeline for review. The Board agrees that, given the substantive nature of many of the management plans filed under the Amended Licences, that adopting Agnico Eagle’s

recommended approach is not appropriate. The Board also notes that this would be a significant change to the Board's standard approach to the review and approval process for management plans that governs all other licensees in Nunavut, the creation of an unique process and different timelines within the Amended Licences is not warranted and would create inconsistency and confusion for parties such as the KivIA, CIRNA and ECCC who typically provide comment on these management plans.

In the draft water licence frameworks Agnico Eagle also proposed that a condition be included that would allow a licensee to "consolidate and streamline one or more Plans". The Board did not include this specific condition because the Board did not consider it to be necessary. The Board notes that the existing wording in Type "A" Licences does not explicitly prohibit any Licensee from merging relevant management plans, and the Board leaves the organization, consolidation and streamlining of relevant plans to individual licensees to develop as they consider appropriate.

In support of the Amendment Applications, the Proponent submitted a number of Programs/Plans that have been approved and/or accepted by the Board with the approval of the Amended Licences.

Plans applicable to both Water Licences Nos: 2AM-MEA1530 and 2AM-WTP1830

The following documents are also required under the Water Licence No: 2AM-MEA1530. The Licensee is advised that any changes to these Plans as approved or accepted under the Amended Licences shall be applicable to both Licences Nos: 2AM-MEA1526 and 2AM-WTP1830:.

- a. Aquatic Effects Monitoring Program (Agnico EagleP), Version 3 (November 2015)*⁷⁰;
- b. Core Receiving Environment Monitoring Program (CREMP), Version WT (May 2018)^;
- c. Meadowbank and Whale Tail Bulk Fuel Storage Facility: Environmental Performance Monitoring Plan dated April 2019;
- d. Mercury Monitoring Plan (March 2019) [Note this Plan appears as Appendix A to the CREMP];
- e. Dewatering Dikes: Operation, Maintenance and Surveillance Manual, Version 8 (March 2019)*; and
- f. Operational ARD/ML Testing and Sampling Plan, Version 5 (April 2019)^.

⁷⁰ The Plans identified as "Version WT" are addenda^ to existing Meadowbank Mine Project's plans; otherwise the most up-to-date Meadowbank plan is applicable*

Plans applicable to Water Licence No: 2AM-WTP1830

The Applicant submitted the following additional Plans that are applicable only to the Whale Tail Pit Project:

- a. Ammonia Management Plan Whale Tail Pit Expansion Project dated April 2019;
- b. Core Receiving Environment Monitoring Plan: 2015 Plan Update – Whale Tail Pit Expansion Addendum dated April 2019;
- c. Groundwater Monitoring Plan dated May 2019;
- d. Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan dated May 2019;
- e. Interim Closure and Reclamation Plan dated December 2019;
- f. Operation & Maintenance Manual Sewage Treatment Plant (STP) dated May 2019;
- g. Operational ARD-ML Sampling and Testing Plan – Whale Tail Pit Expansion Project dated April 2019;
- h. Quality Assurance / Quality Control (QA/QC) Plan dated May 2019;
- i. Spill Contingency Plan dated April 2019;
- j. Thermal Monitoring Plan dated May 2019;
- k. Water Quality Monitoring and Management Plan for Dike Construction and Dewatering dated May 2019;
- l. Whale Tail Pit – Emergency Response Plan dated May 2019;
- m. Whale Tail Pit – Expansion Project Haul Road Management Plan dated April 2019;
- n. Whale Tail Pit – Expansion Project Landfarm Design and Management Plan dated April 2019;
- o. Whale Tail Pit – Incinerator and Composter Waste Management Plan dated April 2019;
- p. Whale Tail Pit Expansion Project Landfill Design and Waste Management Plan dated April 2019;
- q. Whale Tail Pit Waste Rock Management Plan dated May 2019;
- r. Whale Tail Pit Water Management Plan dated May 2019; and
- s. Whale Tail Pit Water Quality and Flow Monitoring Plan dated May 2019.

The NWB notes that the Board's approval or acceptance of a plan does not necessarily imply that the NWB is commenting on or has otherwise approved elements of that plan that may be outside of the NWB's jurisdiction. In addition, reflecting the scale and scope of the future changes to an approved plan, the Board may subsequently process the changes as solely an amendment to the plan, as a Modification under Part G of the Licence, or, if the changes proposed are significant, as an amendment to the Licence.

For a number of management plans, the NWB is setting a sixty-day deadline after approval of the Amended Licences by the Minister for Agnico Eagle to submit updates to the plans, taking into account commitments made with respect to the submissions received during the technical review of the Amendment Applications, as well as final submissions and issues raised during the 2019-2020 Public Hearing process.

The management plans that the Board requires Agnico Eagle to update are as follows:

- a. Spill Contingency Plan dated April 2019;
- b. Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan dated May 2019;
- c. Whale Tail Pit – Emergency Response Plan dated May 2019;
- d. Whale Tail Pit Interim Closure and Reclamation Plan dated December 2019;
- e. Whale Tail Pit Waste Rock Management Plan dated May 2019;
- f. Quality Assurance / Quality Control (QA/QC) Plan dated May 2019; and
- g. Whale Tail Pit Water Management Plan dated May 2019.

In general, Agnico Eagle is reminded that the NWB expects Agnico Eagle to fulfill all commitments made in the course of technical review for the Amendment Applications observing the agreed upon timelines, and the Board highlights the following comments and commitments in relation to specific plans.

Spill Contingency, Hazardous Materials Management, and Emergency Response Plans

The Applicant committed to updating the *Spill Contingency Plan* dated April 2019, the *Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan* dated May 2019, and the *Whale Tail Pit – Emergency Response Plan* dated May 2019 within sixty days of the Licence approval. The *Spill Contingency Plan* is to include the correct fuel storage capacity and be Whale Tail Pit Project-centric. The *Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan* is to include accurate description of the storage of hazardous materials at the Project complete with an inventory. Finally, the *Whale Tail Pit – Emergency Response Plan* is to include the list of internal emergency response contacts for the Whale Tail Pit response team, the chain of command, a flowchart of the notification sequence, and be Whale Tail Pit Project-centric.

Interim Closure and Reclamation Plan (ICRP)

At the Technical Meeting, the Applicant agreed⁷¹ to include the following commitment within the Interim Closure and Reclamation Plan (ICRP):

(i) identify water quality objectives for the pit waters and thresholds for implementing treatment prior to the end of operations (i.e., 2026) within the Final Closure Plan:

- *Characterize pit lake water quality and limnological conditions (in profile) during and following the conclusion of flooding.*
- *Demonstrate that water quality in the flooded pits is stable and consistently meets water quality objectives prior to reconnecting the flooded pit lake to surface waters. Water quality monitoring conducted during and following pit flooding will be used to assess seasonal changes and water quality trends. Comparing actual site monitoring data to existing water quality predictions will demonstrate that there is no risk to aquatic life in reconnecting the flooded pits to the receiving environment.*

The Board also recommends Agnico Eagle incorporate into the ICRP another commitment as agreed to during the Technical Meeting:

Should Agnico Eagle consider reconnecting the groundwater storage ponds to surface drainage, Agnico Eagle would characterize pond contents (including residual water and bed sediments), it will update the water quality model and update the closure option in the Final Closure and Reclamation Plan.

In addition, the ICRP should include the relevant commitments outlined in the Applicant's final submission.⁷²

Waste Rock Management

The Board reminds Agnico Eagle of the commitment to clarify non-potentially acid generating and non-metal leaching material quantities.

⁷¹ Nunavut Water Board, Pre-Hearing Conference Decision in Respect of Applications for Amendments to Type "A" Water Licences No: 2AM-WTP1826 and No: 2AM-MEA1526 and Type "B" Water Licence No: 2BB-MEA1828, dated November 29, 2019.

⁷² Agnico Eagle Mines Limited, 2AM-WTP1826 Final Written Comment Responses, dated January 30, 2020.

Quality Assurance / Quality Control

Agnico Eagle is required to update the *Quality Assurance / Quality Control (QA/QC) Plan* dated May 2019 with a letter from an accredited laboratory confirming acceptance of the Plan for analyses to be performed under the Amended Licences.

Water Management

The NWB reminds Agnico Eagle of the commitment to include the discharge of Landfarm contact water to the IVR Attenuation Pond into the water management flowsheets.

As discussed in more detail under the subheading [Future Modifications or Amendments to the Licences](#) in these Reasons for Decision, “Adaptive Management” was a topic for an extensive discussion during the licensing process. Reflecting the Board’s conclusion that the specific adaptive management measures proposed in Agnico Eagle’s Adaptive Management Plan should not be excepted from the normal regulatory path for changes to previously-assessed and approved projects as established under the *Nunavut Agreement*, *NuPPAA* and the *NWNSRTA*, in Part B of the Licence, the Board has included in Water Licence No: 2AM-WTP1830 additional terms and conditions to recognize that the risks of uncertainty in relation to the potential for effects associated with the Undertaking will be managed by the Licensee through Adaptive Management and, more specifically, the Adaptive Management Plan. In addition, the Board has included a term and condition in Part B to emphasize that adaptive management measures implemented when the thresholds and triggers in the Adaptive Management Plan have been met will be subject to Nunavut’s normal regulatory process associated with changes to previously assessed and approved projects, including the NWB’s process for considering modifications and amendments to existing water licences.

Part C: Conditions Applying to Security

Requirement of Security

The *NWNSRTA* allows the Board to require the Licensee to furnish and maintain security with the Minister in a form determined by the regulations or satisfactory to the Minister. Specifically, subsection 76(1) of the *NWNSRTA* states:

The Board may require an applicant, a licensee or a prospective assignee to furnish and maintain security with the Minister in the form, of the nature, subject to such terms and conditions and in an amount prescribed by, or determined in accordance with, the regulations or that is satisfactory to the Minister.

Further, as referred to previously in the discussion included under the subheading Financial Responsibility of the Applicant, the Board may not issue a licence unless the Board is satisfied regarding the financial responsibility of the Applicant, including reviewing any costs associated with the closing or abandonment of the undertaking.

The *Nunavut Waters Regulations* impose the following limits on the Board's jurisdiction to fix the amount of security:

10. (1) For the purposes of subsection 76(1) of the Act, the Board may fix the amount of security required to be furnished by an applicant for a licence, a licensee or a prospective assignee in an amount not exceeding the aggregate of

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

Arrangements Related to Security

With respect to the existing licences, in fixing security the Board is required to consider that Agnico Eagle, the Kivalliq Inuit Association (KivIA) and Crown-Indigenous Relations and Northern Affairs (CIRNA) have entered into a Security Management Agreement that governs how the overall reclamation security (the global security amount) for the Undertakings will be allocated between the KivIA, under their commercial land lease, and CIRNA, under the applicable water licences. Section 76.1 of the *NWNSRTA* states as follows:

Arrangements relating to security

76.1 (1) If a licence is in respect of an appurtenant undertaking that is situated, partially or wholly, on Inuit-owned land, the Minister may enter into a written arrangement with the designated Inuit organization and the applicant, licensee or prospective assignee of the license that provides for

- (a) the amount of security to be furnished and maintained by the applicant, licensee or prospective assignee, as well as the form and nature and any conditions of the security, for the purpose mentioned in paragraph 76(2)(b) or for the purpose of reimbursing the designated Inuit organization for the costs specified in the arrangement; and*

(b) the periodic review of the security, including by taking into account any material changes to the undertaking or the risk of environmental damage, and the adjustment of the amount of the security as a result of the review.

Copy of arrangement to be provided to Board

(2) The Minister shall, as soon as possible after entering into the written arrangement described in subsection (1), provide a copy of it to the Board.

Arrangement to be taken into account under subsection 76(1)

(3) The Board shall take into account the written arrangement when it determines the amount of the security required to be furnished and maintained by the applicant, licensee or prospective assignee under subsection 76(1).

As outlined in the NWB's Reasons for Decision associated with the issuance of the Whale Tail Licence and associated amendments to the Meadowbank Licence in 2018, the Board reviewed the Security Management Agreement filed by the parties and took the 50/50 allocation of the global security amount between KivIA and CIRNA into account when fixing the security required to be held under the water licences:

Reflecting the status of information available at the Public Hearing, the Board accepts that security in the global amount of \$26,286,000, as proposed by INAC and accepted by KivIA and Agnico Eagle is adequate to ensure the reclamation of the activities and undertakings included in the scope of the new Water Licence, and constitutes the appropriate amount of security to reclaim the undertaking. However, as set out in the Whale Tail Pit Security Management Agreement, Article 6, Item 1, the Board recognizes that only 50% of the global amount, being \$13,143,000 will be held under the new Type "A" Water Licence 2AM-WTP1826.⁷³

As confirmed during Board's review of the Amendment Applications, and confirmed by the parties during the Public Hearing, a Security Management Agreement remains in force and is applicable to the Whale Tail Pit Expansion Project Proposal (Expansion Proposal), and, as required by s. 76.1 of the NWNSRTA, the Board has taken the Security Management Agreement into account when fixing the amount of security that must be held under the amended Whale Tail Licence.

⁷³ Nunavut Water Board, Type "A" Water Licence No: 2AM-WTP1826 and Amended Type "A" Water Licence No: 2AM-MEA1526, Reasons for Decision, Including Record of Proceedings, May 29, 2018, p. 82.

Review of the Amount of Security

During the Public Hearing, Agnico Eagle provided the following summary of the agreement the parties had reached with respect to updates to the security that should be held under the licences as amended to reflect the Expansion Proposal:

So as we discussed just earlier, the approved Whale Tail Project for the Water Licence A, we have an existing letter of credit that is split 50 percent between Kivalliq Inuit Association and Crown-Indigenous Relations and Northern Affairs for \$26,286,000. Now, with the expansion project, we have agreement on the security for the Water Licence A for \$50,663,508, and related to the changes in the Type "B" licence that we referenced earlier, the security would be \$1,200,650.

And based on the 50 percent split between Kivalliq Inuit Association and Crown-Indigenous Relations Northern Affairs, that's all part of the security management agreement.⁷⁴

Throughout the Board's consideration of the Amendment Applications the Board has considered the information provided by the Applicant and the technical review comments provided by the interveners with respect to the additional security that is required to reflect the increases to reclamation liability associated with the additional activities, works and undertakings included in the Expansion Proposal. The Board has concluded that the increase to the global security amount by approximately \$24.4 million represents an appropriate increase to the total reclamation security required to reclaim the Undertaking when additional activities, works and undertakings included in the Expansion Proposal are taken into account.

On this basis, the Board has amended Part C, Item 1 of Water Licence No: 2AM-WTP1830 to require that Agnico Eagle post increased security in the amount of **\$25,331,754** under Water Licence No: 2AM-WTP1830, which represents 50% of the increased global security amount, **\$50,663,508**, which is the total reclamation security that must be posted under the updated Security Management Agreement applicable to the Whale Tail Pit Project as amended by the Expansion Proposal.

Form of Security

Pursuant to s. 76(1) of the NWNSRTA and s. 10(3) of the *Nunavut Waters Regulations* SOR/2013-69:

⁷⁴ J. Quesnel, NWB Public Hearing, File No. 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 13, 2020, Volume 1, p. 108, lines 10-22.

10(3) Security must be in the form of

(a) a promissory note guaranteed by a bank listed in Schedule I or II to the Bank Act and made payable to the Receiver General;

(b) a certified cheque drawn on a bank listed in Schedule I or II to the Bank Act and made payable to the Receiver General;

(c) a performance bond approved by the Treasury Board for the purposes of paragraph (c) of the definition “security deposit” in section 2 of the Government Contracts Regulations;

(d) an irrevocable letter of credit from a bank listed in Schedule I or II to the Bank Act; or

(e) a cash payment.

Periodic Review of the Amount of Security

In Water Licence No: 2AM-WTP1830, the Board has preserved the NWB’s to periodically review security, to take into account any material changes to the project or the risk of environmental damage, and the adjustment of the amount of security as a result of such reviews. Although Agnico Eagle proposed revisions to the way the periodic review of security would be triggered and addressed in the regulatory process, the Board has not adopted the recommended revisions. In maintain the terms and conditions in the existing Whale Tail Licence, the Board emphasizes the importance of consistency across water licences where Security Management Agreements have been considered and incorporated into the Board’s process for fixing and periodically reviewing security.

Consequently, the original provisions requiring the periodic review of the amount of security to be held under the Licence to reflect three key circumstances that may trigger the Board’s review and potential adjustment to the amount of security held under the Licence remain the same.

Part D: Conditions Applying to Construction

The scope of the Amendment Applications include the construction of engineered facilities and infrastructure at Whale Tail Pit Project site. The Board included conditions requiring the Licensee to submit to the Board for review, at least sixty (60) days prior to the construction, for-construction drawings stamped and signed by a Professional Engineer licensed to practice in Nunavut for all engineered facilities and infrastructure designed to contain, withhold, divert or retain waters. The Amended Licence requires these drawings to be accompanied by a detailed report(s) that includes design rationale, requirements, criteria, parameters, construction methods, and monitoring summary. The Board considered Agnico

Eagle's request to shorten review periods and ECCC's feedback on the request stating that such changes may not allow for proper review by interveners. The Board agreed with ECCC and did not change the original timeframe for review.

However, taking into account the tight construction schedule related to dewatering activities, the Board will accept the Applicant's submission of for-construction drawings and accompanying report thirty (30) days prior to construction of infrastructure (such as access roads, jetties, and conveyance systems) used for dewatering the following Lakes: A47, A49, A-50, A-51, A-52, A53, and A-P21. Within ninety (90) days of the completion of each structure designed to contain, withhold, divert or retain waters, Agnico Eagle is to submit a Construction Summary Report including as-built drawings and designs as well as documentation of field decisions that deviated from original plans, as required under the terms and conditions in the amended Whale Tail Licence.

It should be noted that the Board introduced changes into the list of regulated parameters for dewatering activities. Original Water Licence No: 2AM-WTP1826 prescribed limits for total suspended solids (TSS), turbidity, pH, and the concentration of total aluminum. The Applicant requested that the list be reduced to total suspended solids only, and ECCC, in its final submission, stated:

ECCC does not object to removing turbidity as a regulated parameter, based on work done at Meadowbank; however, ECCC recommends it still be retained as a monitoring parameter with site-specific correlation to TSS determined, so turbidity can be used as a real-time surrogate. ECCC also recommends pH be retained as a regulated parameter, and aluminum be retained as a monitored rather than regulated parameter (because aluminum is closely associated with suspended solids, and would be substantially controlled by the TSS criteria, depending on pH).⁷⁵

In response, Agnico Eagle provided the following justification in its final submission:

Turbidity and aluminum are closely linked to TSS so there is redundancy in regulating all of these parameters. For pH, Agnico Eagle recommends it is retained as a monitored parameter because dewatering to the receiving environment represents the transfer of water that would be considered a 'like for like' water transfer; that is, pH in the dewatering water is expected to be similar to that in the Receiving Environment (any variability in pH between the two areas

⁷⁵ Andrea McLandress (ECCC) to Richard Dwyer (NWB), RE: Type A and B Water Licence Amendments 2AM-WTP1826, 2AM-MEA1526, 2BBMEA1828 – Agnico Eagle Mines Ltd. – Whale Tail Pit Expansion Project – Final Written Submission, dated January 23, 2019

*will be within the natural range of variability of pH reported in the receiving environment.*⁷⁶

Having considered this explanation, ECCC noted:

We don't have concerns with removing pH as a regulated parameter. It's a reasonable basis to do so, and some of the other licences for dewatering do simply just have... TSS, total suspended solids.⁷⁷

The NWB, noting Agnico Eagle's justification and the resulting agreement of ECCC with the recommendations provided, has amended the list of regulated parameters for dewatering to TSS only. All Effluent exceeding the TSS limit shall be treated prior to release.

In addition, the Board included Effluent quality limits for runoff from drainage management systems, during Construction and Operations of any facilities and infrastructure associated with this project, including laydown areas and the Haul Road, where flow may directly or indirectly enter a Water body.

Part E: Conditions Applying to Water Use and Management

Section 11 of the *NWNSRTA* states "... no person shall use, or permit the use of, water in Nunavut except in accordance with the conditions of a licence."

The Board has amended Water Licence No: 2AM-WTP1830 to approve the Applicant's request to obtain fresh water during Construction and Operations phases of the Project as follows:

- 209,544 m³ annually from Nemo Lake using a Fresh Water Intake and associated structures for camp use, drilling, dust suppression, Construction and Operations, and associated use;
- 2,500 m³ annually from Mammoth Lake for explosives mixing;
- 153,735 m³ annually from Whale Tail Lake (North Basin), Lakes A-P38, A46, A47, A49, A50, A51, A52, A53, A-P21, A-P10, A-P67, and A-P68 for dewatering into Whale Tail Lake (South Basin);
- 109,135 m³ annually from sources proximal to drilling sites for drilling; and
- 109,135 m³ annually from sources proximal to the Whale Tail Haul Road for dust suppression.

⁷⁶ Agnico Eagle Mines Limited, 2AM-WTP1826 Final Written Comment Responses, dated January 30, 2020.

⁷⁷ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, p. 180, lines 18-22.

The Applicant also requested, and the Board has included authorization for the following fresh water withdrawal during Closure:

- 14,672 m³ annually from Nemo Lake for all purposes and
- 10,655,000 m³ annually from Whale Tail Lake (South Basin) and 1,710,000 m³ annually from Lake D1 for reflooding of the Whale Tail Pit, IVR Pit, Underground mine, and Whale Tail Lake (North Basin) and associated use, or as otherwise approved by the Board in writing.

In addition, the Board grants the Applicant's request to increase water consumption by 20% for contingencies, thus bringing the maximum annual water withdrawal limits to 700,859 m³ during Construction and Operations and 14,855,606 m³ during Closure.

The Board requires Agnico Eagle to equip all water intake hoses with a screen of an appropriate mesh size to ensure that fish are not entrained, and withdraw water at a rate such that fish do not become impinged on the screen.

Water Balance and Water Quality Modeling

The Board included the provisions as described in its Decision⁷⁸ recommending the issuance of Type "A" Water Licences Nos. 2AM-WTP1826 and 2AM-MEA1525 in 2018:

The Board concurs with parties and believes that periodically re-running the water quality model and updating predictions using the current monitoring data for total metals and other parameters is important in order to inform both operational and closure planning, especially given the short operational phase of Project. The Board requires that annual updates of Water Balance and Water Quality Modelling be included within the annual updates to the Water Management Plan. All updated Water Quality Modelling shall take into account data from the hydrogeological characterization that Agnico Eagle shall complete to evaluate the hydraulic gradients and further assess the potential for arsenic diffusion of the pit walls. The Hydrodynamic modelling of the WRSF contact water mixing into Mammoth Lake post-closure shall also be part of the annual update to Water Quality Modelling.

The Board also requires that during the Closure Phase the predicted water quantity and quality within the pits be compared to the measured water quantity and quality to ensure that pit water quality meets CCME⁷⁹ *Water Quality Guidelines for the Protection of Aquatic Life*,

⁷⁸ Nunavut Water Board, Reasons for Decision for 2AM-WTP1826 and 2AM-MEA1525, May 29, 2018 at p. 95.

⁷⁹ Canadian Council of Ministers of the Environment (CCME).

baseline concentrations, or appropriate site-specific water quality objectives, such as the predictions in *Final Environmental Impact Statement (FEIS) 6-H: Addendum Mine Site and Downstream Receiving Water Quality Predictions* dated December 2018 and Agnico Eagle's Technical Comment Response to ECCC-T17 submitted to the Nunavut Impact Review Board and dated May 29, 2019.

In the NIRB's Report and Recommendations⁸⁰ pertaining to the Whale Tail Pit Expansion Project Proposal (Expansion Proposal), the NIRB noted the following:

The [NIRB] recognizes the Proponent will be restricted to use of the Mammoth Lake and Whale Tail (South Basin) discharge locations as part of the water management and monitoring plans, until the basis for the alternative discharge scenarios can be more fully understood. Accordingly, the Board has made recommendations with respect to the additional baseline analysis that should be provided to support the selection of alternative discharge locations during the Nunavut Water Board's (NWB) consideration of potential alternative discharge options as part of the NWB's licensing process. It should be noted that if adequate information is not available during the NWB's consideration of alternative discharge scenarios, the NIRB reconsideration process could be triggered if, in future, Agnico Eagle wishes to change from the existing assessed discharge locations.

As discussed earlier, the Minister accepted the NIRB's Report and Recommendations and authorized the Expansion Proposal to proceed on January 20, 2020. As a result, the NIRB included the following Term and Condition No. 67 into its Project Certificate⁸¹:

Subject to the additional direction and requirements of the Nunavut Water Board (NWB), the Proponent shall:

- a) Conduct an evaluation of the potential aquatic effects to Lakes D1 and D5 and downstream that may result from the discharge of treated effluent. The evaluation will include:*
 - *Additional water quality and phytoplankton baseline data in Lakes D1 and D5*
 - *Updated water balance and water quality forecast*
 - *Updated near field and far field effluent discharge modelling*

⁸⁰ Nunavut Impact Review Board, Reconsideration Report and Recommendations Whale Tail Pit Expansion Project Proposal, dated October 2019 at p. 72.

⁸¹ Nunavut Impact Review Board, NIRB PROJECT CERTIFICATE [NO.: 008], dated February 19, 2020 at pp. 54-55.

- *Updated Water Management Plan, Water Quality and Flow Monitoring Plan, and Core-Receiving Environment Monitoring Plan*
- b) *Provide adequate rationale for the need to use the alternative discharge contingency, based on the thresholds established as per the Whale Tail Pit Expansion Project water management decision tree.*
- c) *In the event that discharge to Lakes D1 and/or D5 is not approved to proceed by the NWB, the Proponent will develop alternative effluent management plans as part of the Water Management Plan.*

In accordance with the NIRB's directions, the NWB requires Agnico Eagle, at least ninety (90) days prior to any decision to use Lakes D1 and/or D5 as Effluent discharge alternatives, provide the Board with an adequate rationale for the need to use these alternatives and submit updates of the following plans to the Board for approval: the Water Management Plan; Water Quality and Flow Monitoring Plan; and Core-Receiving Environment Monitoring Plan. The updated Plans shall respectively include: additional water quality and phytoplankton baseline data in Lakes D1 and D5; an updated Project Water Balance and Water Quality Model; and updated near-field and far-field Effluent discharge modelling. The Board also highlights ECCC's feedback from the Public Hearing:

We had initially requested that new watersheds not be used for waste disposal unless they have no other options to do so, and Agnico Eagle was requested to do the biological and baseline work to be able to monitor change in the event that it was used for effluent disposal at some point. So I think that it is a reasonable contingency, but we hope they don't have to use it.⁸²

Under this Part of the Amended Licence, the Board also requires Agnico Eagle to carry out weekly inspections of all water management structures during periods of flow and must include this information in the annual update of the Water Management Plan, and must maintain records for review upon the request of an Inspector.

This part of the Amended Licence also specifies that Agnico Eagle must provide at least thirty (30) days' notice to the NWB and Inspector prior to the start of pits re-flooding.

⁸² A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, pp. 179-180, lines 22-26 and 1-3.

Part F: Conditions Applying to Waste Disposal and Management

The Board included conditions in the Amended Licences to ensure that the main types of waste and/or effluent generated by the Project do not negatively impact the freshwater receiving environment. The following lists the wastes, facilities and/or activities that are within the NWB's mandate and are included within the scope of the Amended Licences:

- Waste Rock Storage Facility (WRSF);
- Attenuation Ponds;
- Groundwater Storage Ponds;
- Landfill;
- Landfarm;
- Incinerator;
- Composter;
- Bulk Fuel Storage Facility;
- Mine Contact Water;
- Seepages; and
- Sewage.

Waste Rock and Overburden Storage Facilities

The Project mining facilities at the Whale Tail Pit Project include six ore stockpiles; one overburden stockpile; and two Waste Rock Storage Facilities (WRSF) to receive waste rock and overburden.

It should be noted that no direct discharge from the WRSF ponds into the receiving environment is authorized during the term of Licence No: 2AM-WTP1830 (the amended Whale Tail Licence). Seepage and runoff water from the WRSFs during the construction and operation phases are to be pumped to the Whale Tail and/or IVR Attenuation Ponds where contact water will be treated by a Water Treatment Plant (WTP) prior to discharging to the receiving environment.

During the Board's processing of the Amendment Applications, Agnico Eagle proposed removing total dissolved solids (TDS) from the list of regulated parameters for Effluent Discharge from the Attenuation Ponds. The Applicant explained in its final submission:

Agnico Eagle is proposing to remove TDS as a regulated parameter but would continue to monitor for TDS. ECCC has not identified

TDS as a parameter of potential concern (deleterious substance) in Schedule 4 of the MDMER. Further [sic] the only mining Type A Water Licences that include TDS as a regulated parameter in Nunavut are the Whale Tail, Meadowbank and Meliadine Type A Water Licences. Therefore, TDS is not considered a parameter of particular concern. Acute toxicity testing of Effluent required by the Licence and the MDMER would ensure that discharges are protective of Nunavut waters, and continuing monitoring of TDS would ensure that any trends of interest are appropriately considered.

It is also noted that several of the parameters listed in Part F, Item 4 include more stringent discharge requirements than ECCC has included in Schedule 4 of the MDMER.⁸³

During the Public Hearing, ECCC provided the Board with the following response:

... ECCC notes that whether or not a parameter is listed in the MDMER is not relevant to whether it should be regulated under a water licence. The MDMER represent a minimum national standard for effluent discharge quality. It does not preclude setting more stringent standards where warranted on the basis of protection for pristine or sensitive receiving environments, which is the case in Nunavut here. And other mines in Nunavut and the NWT do have limits for TDS in their water licences or, alternatively, have limits on the individual constituents that make up the TDS

... Going specifically to the Whale Tail project, the predictions in the effluent quality report for Whale Tail appear to indicate the TDS concentrations will be under about 500 milligrams per litre.⁸⁴

.... I can confirm that there are no concerns with removing TDS as a regulated parameter from the Whale Tail site...⁸⁵

Having reviewed Agnico Eagle's request and the parties' comments in response, the Board has concluded that the rationale Agnico Eagle provided in support of the request is reasonable, and therefore, has decided that it is appropriate to grant Agnico Eagle's request

⁸³ Agnico Eagle Mines Limited, 2AM-WTP1826 Final Written Comment Responses, dated January 30, 2020.

⁸⁴ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, p. 163, lines 6-17 and 20-23.

⁸⁵ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File Nos: 2AM-WTP1826, 2AM-MEA1526 and 2BB-MEA1828, Transcript, February 14, 2020, Volume 2, p. 177, lines 20-22.

to remove TDS from the list of regulated parameters for Effluent Discharge from the Attenuation Ponds.

Landfarm

The Applicant intends to construct a lined Landfarm for remediation of petroleum-hydrocarbon-contaminated soil and snow at the Whale Tail Pit site. Accumulated Landfarm leachate will be discharged to the IVR Attenuation Pond or sprayed to increase soil moisture content in the Landfarm. The Amended Licence states that water accumulating in the Landfarm will not be discharged to the receiving environment.

Landfill

A landfill will be required for the disposal of non-salvageable, non-hazardous, non-putrescible solid wastes from the construction, operation, and closure of the Whale Tail Pit Project. According to the “Whale Tail Pit Expansion Project Landfill Design and Waste Management Plan”, dated April 2019, runoff from the Landfill will be collected in the Whale Tail WRSF Pond and will be pumped to the Whale Tail Attenuation Pond for further management.

Bulk Fuel Storage Facility and Powerhouse

Under the amended Whale Tail Licence, the Board included quality limits for Effluent discharged from the Bulk Fuel Storage Facility’s secondary containment area and the Landfarm onto land. Any proposed Effluent that exceeds Effluent quality limits (tested prior to discharge) shall be treated prior to release onto land or shall be transferred to an Attenuation Pond. It should be noted that, at the request of the Applicant, the Board increased the limits for lead in Effluent Discharge from the Landfarm and Bulk Fuel Storage Facility and Powerhouse to align the limit under the amended Whale Tail Licence with the limits under the *MDMER*.

Sewage

Sewage will be collected from the camp and change-room facilities and pumped to the Sewage Treatment Plant (STP). The objective of the STP is to treat sewage to an acceptable level prior to discharge to an Attenuation Pond.

Agnico Eagle is required to submit to the Board, for approval in writing, a site-specific Operation and Maintenance Manual(s) for the Wastewater Treatment Plant(s), including the saline water treatment plant(s) (S-WTP) for brine and brackish water, at least ninety (90) days prior to the Construction/installation of facilities. The Manual(s) must be prepared in accordance with the “*Guidelines for the Preparation of an Operation and Maintenance*

Manual for Sewage and Solid Waste Disposal Facilities in the Northwest Territories; 1996". The Manual(s) shall include disposal information and contingency measures in the event of plant(s) malfunction.

Sludge

The Licensee shall direct all sludge removed from the Sewage Treatment Plant to the Waste Rock Storage Facilities, Tailings Storage Facility or the Landfarm as a nutrient amendment.

Mine Contact Water

As proposed by Agnico Eagle and outlined in the amended Whale Tail Licence, the NWB requires that all contact water from major mine infrastructure will be diverted and/or collected in the collection ponds, then discharged into an Attenuation Pond, including runoff from the open pits and seepage and runoff water from the WRSFs and ore stockpiles. The only direct discharge of contact water during the term of this Licence will be from the Attenuation Ponds to Mammoth Lake and/or Whale Tail Lake (South Basin), if the Effluent discharge criteria are met.

Effluent discharge to Lakes D1 and D5 may be authorized by the Board as discussed in Part E.

Incinerator and Composter

The Board authorizes Agnico Eagle to dispose of all acceptable food waste, paper waste and untreated wood products in an Incinerator and all acceptable food waste, paper waste and small animal carcasses in a Composter.

Part G: Conditions Applying to Modifications

Although the provisions of Part G, Item 1 allow the Applicant to carry out certain types of Modifications without consent from the Board, it should be noted that pursuant to Articles 11, 12 and 13 of the *Nunavut Agreement*, *NuPPAA*, the *NWNSRTA*, and as set out in Part G of the Licence, a proposed Modification submitted under this Licence may require consideration by the Nunavut Planning Commission (NPC) and assessment by the Nunavut Impact Review Board (NIRB) if the change proposed constitutes a "significant modification" to a previously assessed and approved project. As noted in the Board discussion of Agnico Eagle's request for adaptive management measures to be excluded from the Board's normal modification and amendment processes under subheading [Future Modifications or Amendments to the Licences](#), the Board has not excluded adaptive management measures from the normal regulatory processes established under the *Nunavut Agreement*, *NuPPAA*, the *NWNSRTA*.

Consequently, for any proposed Modifications, including adaptive management measures implemented in accordance with Agnico Eagle's Adaptive Management Plan, it remains the responsibility of the Licensee to notify and consult with the NPC and the NIRB to ensure the requirements of the *Nunavut Agreement* and the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 are met prior to submitting a notification of Modification to the NWB under the Amended Licences.

Further, Modifications that do not meet the criteria of Part G, Item 1 may require written permission from the NWB. Without written consent from the NWB, the Applicant is not allowed to carry out modifications. Changes that do not meet the definition of a Modification under the Licence or the requirements of Part G would be considered to be Amendments to the Amended Licences. The Board requires that such changes remain subject to the requirements of the Type "A" Water Licence amendment process, including potentially requiring some form of public hearing before the Board considers the Amendment as required under the *NWNSRTA* and the *Nunavut Waters Regulations*.

Part H: Conditions Applying to Emergency Response and Spill Contingency Planning

The development and implementation of measures to respond to spills and other emergencies are fundamental to ensuring that any potential unpredicted adverse effects on the environment from Project activities are prevented and/or minimized. Accordingly, the Applicant submitted the *Spill Contingency Plan* dated April 2019 and the *Whale Tail Pit – Emergency Response Plan* dated May 2019 as part of the Application. These Plans identify potential emergencies that could arise while carrying out the undertaking and provides a procedural framework for responding to those emergencies.

As set out in the Board's discussion of Part B of the Amended Licences, the Applicant is required to submit the updated plans in this Part in the timeframe determined by the Board.

Part I: Conditions Applying to General and Aquatic Effects Monitoring

As previously noted, s. 73 of the *NWNSRTA*⁸⁶ requires the NWB to set conditions at least as stringent as conditions prescribed by regulation pursuant to ss. 36(5) of the *Fisheries Act*. Furthermore, for the purpose of ensuring compliance with the licence or regulations, an Inspector designated by the Minister may inspect or examine works, waters or waste and

⁸⁶ Section 73 of the *NWNSRTA* states:

Where the Board issues a licence in respect of any waters to which regulations made under subsection 36(5) of the *Fisheries Act* apply, any conditions in the licence relating to the deposit of waste in those waters shall be at least as stringent as the conditions prescribed by those regulations.

exercise other powers according to the *NWNSRTA*⁸⁷. For the purpose of monitoring, the NWB may include conditions in the licence regarding monitoring programs to be undertaken⁸⁸.

The following monitoring plans were include as part of Amendment Applications:

- Aquatic Effects Management Program (Agnico EagleP), Version 3 (November 2015);
- Core Receiving Environment Monitoring Plan: 2015 Plan Update – Whale Tail Pit Expansion Addendum dated April 2019;
- Groundwater Monitoring Plan dated May 2019;
- Operational ARD-ML Sampling and Testing Plan – Whale Tail Pit Expansion Project dated April 2019
- Quality Assurance / Quality Control (QA/QC) Plan dated May 2019;
- Thermal Monitoring Plan dated May 2019;
- Water Quality Monitoring and Management Plan for Dike Construction and Dewatering dated May 2019; and
- Whale Tail Pit Water Quality and Flow Monitoring Plan dated May 2019.

In this Part of the Amended Licences, the NWB directs the Applicant to undertake the Monitoring Program provided in Schedule I of the Licence and to measure and record monthly the quantities of water used from various sources and waste produced. In addition, the Board included conditions requiring the Applicant to undertake geotechnical inspections of facilities and infrastructure designed and constructed to withhold, divert or retain waters in accordance with set intervals as well as adherence to the *Canadian Dam Association Safety Guidelines* for relevant infrastructure/facilities. The Board also requires Agnico Eagle to adhere to the thermal monitoring program as described in the *Whale Tail Pit Waste Rock Management Plan* dated May 2019 and the *Thermal Monitoring Plan* dated May 2019.

Part J: Conditions Applying to Abandonment, Reclamation and Closure

The Board requires all Type “A” Water Licence applicants to prepare an Interim, and, eventually, a Final Closure and Reclamation Plan in accordance with the *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the NWT*

⁸⁷ See ss. 85-94 of the *NWNSRTA*.

⁸⁸ See s. 70(1)(c) of the *NWNSTRA*.

(2013) (Guidelines)⁸⁹ and consistent with the *Mine Site Reclamation Policy for Nunavut, 2002* (Policy)⁹⁰.

As clearly outlined by the Board in the Shear Diamonds Licence Renewal Decision:

The Board's approach to reclamation reflects the four main objectives outlined in the Policy:

The Mine Site Reclamation Policy⁹¹ for Nunavut serves four main objectives:

- 1. Ensure the impact of mining on the environment and human health and safety is minimized;*
- 2. Reduce the environmental liability that falls to government to the greatest extent possible;*
- 3. Provide industry and the public with a clear signal of the government's expectations; and*
- 4. Build positive and supportive relationships with the new regulatory authorities coming into operation in the North.⁹²*

With respect to the specific components of the plans, in the Amended Licence the Board has maintained the approach put forward in the *Guidelines* that recognizes that there are three stages in the development of a Closure and Reclamation Plan (CRP). The first stage involves the preparation of a Preliminary Closure and Reclamation Plan that is typically prepared as part of the environmental assessment of the project that demonstrates “how the mine site is proposed to be reclaimed and describes the likely residual risks to human health and the environment”. The second stage involves the development of one or more Interim Closure and Reclamation Plans (ICRP) through the operating life of the mine, which builds on the Preliminary CRP, and is updated to reflect significant changes to the mine plan or key milestones in terms of the mine life.

As stated in the *Guidelines*:

The general purpose of the Interim CRP is to update preceding plans according to the current mine operating plan, updated or

⁸⁹ Mackenzie Valley Land and Water Board, (Yellowknife: Mackenzie Valley Land and Water Board, 2013) *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the NWT* (2013) available on-line:

https://mvlwb.com/sites/default/files/documents/wg/WLWB_5363_Guidelines_Closure_Reclamation_WR.pdf.

⁹⁰ Minister of Indian Affairs and Northern Development, (Ottawa: Minister of Public Works and Government Services Canada, 2002) *Mine Site Reclamation Policy for Nunavut*, available on-line: <https://www.aadnc-aandc.gc.ca/eng/1100100036042/1100100036044>

⁹¹ Minister of Indian Affairs and Northern Development, (Ottawa: Minister of Public Works and Government Services Canada, 2002), *Mine Site Reclamation Policy for Nunavut*, p. 2.

⁹² Nunavut Water Board, Reasons for Decision: 2AM-JER1119 Type A – Licence Renewal at pp. 66-68.

*renewed community values, or advances in mine reclamation technology. Interim Reclamation Plans provide conceptual detail on the reclamation of mine components which will not be closed until near the end of the mining operations, and operational detail for components which are to be progressively reclaimed earlier in the mine life. The Interim CRP should include increased detail and more specific closure criteria regarding reclamation components as these become available and as those areas of the mine are developed (e.g. rock piles that are completed or reclamation test studies that have been conducted).*⁹³

The third stage involves the preparation of a Final CRP that should be provided and approved before a scheduled permanent closure takes place, or as soon as is practical after an unplanned closure. The general purpose of the Final CRP is to provide complete details, usually for regulatory approval, regarding the proposed reclamation activities such that they can be subsequently implemented⁹⁴. The Licence requires the filing of a Final Closure and Reclamation Plan at least twelve (12) months prior to the closure of the mine.

In compliance with these requirements, Agnico Eagle included the *Whale Tail Pit Interim Closure and Reclamation Plan* (ICRP) dated December 2019 as part of the Amendment Applications.

The ICRP will be updated throughout the phases of the Project, as new information (such as monitoring results) becomes available, the Board has included a requirement in the amended Whale Tail Licence to update the ICRP for the Board's approval within three years of Operations. In addition, the Board included a provision in Part B of the Amended Licences requiring Agnico Eagle to update the ICRP within sixty days of Licence approval.

The Board has also included a requirement that Agnico Eagle must notify the Board in writing, as soon as practically possible, and in any event, at least sixty (60) days prior to entering into a Care and Maintenance Phase. A Care and Maintenance Plan shall also be submitted to the Board within thirty (30) days of Agnico Eagle providing such a notification of intent, and the Plan shall detail the Licensee's plans for maintaining compliance with the Terms and Conditions of the Licence during Care and Maintenance.

Suggested closure and reclamation planning and reporting requirements throughout the life of a mine are outlined in the documents *Mine Site Reclamation Guidelines for the Northwest*

⁹³ Mackenzie Valley Land and Water Board, (Yellowknife: Mackenzie Valley Land and Water Board, 2013) *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the NWT* (2013), at p. 22.

⁹⁴ Mackenzie Valley Land and Water Board, (Yellowknife: Mackenzie Valley Land and Water Board, 2013) *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the NWT* (2013), at pp. 24-26.

*Territories (2007) or (the 2007 Guidelines)*⁹⁵ and *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories*⁹⁶. As set out in both of these Guidelines, after the permanent closure of a mine and when reclamation activities are finalized, a post-closure monitoring period is recommended. Following the initial phase of post-closure monitoring period, post-closure monitoring may be extended at the discretion of regulators. The Guidelines note that this longer-term post-closure monitoring will likely be required for projects, where some individual components may remain at site in perpetuity, such as mine tailings, underground structures, etc., which must be further monitored to ensure stability and full reclamation.

Schedules A through J

The Schedules in the Amended Licences provide instructive detail to the conditions appearing in more general terms in the main body of the Amended Licences and are spelled out in this format for greater clarity and as an aid to interpretation for the Licensee. Except for Schedule A, the Schedules provide, if needed, specific requirements for plans or reports to be submitted to the Board.

If the Board subsequently determines that an item in any of the Schedules requires revision in order to better reflect the intent and objectives of the Amended Licences, the Board may at its discretion, and upon consulting and providing written notice to the Licensee and intervening parties, revise the Schedule. Unless the Board directs otherwise, such revision may not necessarily be considered as an Amendment to the Licences.

Water Licence No: 2AM-MEA1530

Part K: Scope, Definitions and Enforcement

A revised definition of “Traditional Knowledge” that reflects the definition included in *NuPPAA* has been included in Schedule A of the Amended Licences. A definition for “Site-Specific Water Quality Objectives or SSWQO” has been added to Schedule A of the Amended Licences.

⁹⁵ Indian and Northern Affairs Canada, (Yellowknife: Indian and Northern Affairs Canada, 2007) available on-line:

http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-NWT/STAGING/texte-text/msr_1320177195268_eng.pdf.

⁹⁶ Mackenzie Valley Land and Water Board, (Yellowknife: Mackenzie Valley Land and Water Board, 2013) *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the NWT* (2013), at p. 22.

Part L: General Conditions

There were no new or updated management plans specific to the Meadowbank Gold Mine Project submitted during the 2019-2020 licensing process; however, the NWB updated the list of the plans that pertain to the Meadowbank Licence to include the latest versions:

- a. 2013 Water Management Report and Plan (March 2019);
- b. Ammonia Management Plan (March 2015);
- c. Aquatic Effects Monitoring Program (Agnico EagleP), November 2015);
- d. Core Receiving Environment Monitoring Program (CREMP), Design Document (November 2015);
- e. Dewatering Dikes Operation, Maintenance and Surveillance Manual (March 2019);
- f. Emergency Response Plan (August 2013);
- g. Freshet Action Plan (March 2019).
- h. Groundwater Monitoring Plan (July 2019);
- i. Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan (May 2019);
- j. Incinerator Waste Management Plan (October 2018);
- k. Landfarm Design and Management Plan (March 2017);
- l. Landfill Design and Management Plan (October 2018);
- m. Meadowbank and Whale Tail Bulk Fuel Storage Facility: Environmental Performance Monitoring Plan (April 2019);
- n. Meadowbank Interim Closure and Reclamation Plan (ICRP) - Update 2019 Final Report (May 29, 2019);
- o. Operation and Maintenance Manual: Sewage Treatment Plan (March 2017);
- p. Operational ARD/ML Testing and Sampling Plan, Version 2 (Nov. 2013);
- q. Pore Water Quality Monitoring Program (July 2019);
- r. Quality Assurance/Quality Control (QA/QC) Plan (May 2019) as accepted by the Board;
- s. Spill Contingency Plan (April 2019);
- t. Tailings Storage Facility - Operation, Maintenance and Surveillance Manual (March 2019);
- u. Updated Mine Waste Rock and Tailings Management Plan (July 2019);
- v. Water Quality and Flow Monitoring Plan (March 2016); and
- w. Water Quality Monitoring and Management Plan for Dike Construction and Dewatering (June 2016).

The Board notes that, reflecting the scale and scope of the changes, the Board may approve the changes as an amendment to the plan, as a Modification under Part G of the Licence, or as an Amendment to the Licence.

Quality Assurance / Quality Control

Due to the fact that the *Quality Assurance / Quality Control (QA/QC) Plan* dated May 2019 was submitted for both Meadowbank Gold Mine and Whale Tail Pit Projects, Part B requires Agnico Eagle to update the plan with a letter from an accredited laboratory confirming acceptance of the Plan for analyses to be performed under the Meadowbank Licence.

In addition, on July 26, 2019, the Nunavut Water Board acknowledged the receipt of the following updated management plans reflecting in-pit deposition of tailings at the Meadowbank Gold Mine Project:

Name	Status	Dated
<i>Groundwater Monitoring Plan (GWMP)</i>	Update	July 2019
<i>Meadowbank Interim Closure and Reclamation Plan (ICRP)</i>	Update	May 29, 2019
<i>Pore Water Quality Monitoring Program (PWQMP)</i>	New	July 2019
<i>Waste Rock and Tailings Management Report & Plan (WRTMP)</i>	Update	July 2019

The NWB fully reviewed the submitted plans in the context of interveners' comments and recommendations and the Licensee's clarifications and commitments and issued its approval on October 21, 2019. However, the Board also prescribed⁹⁷ a number of updates to these plans to be submitted by Agnico Eagle on or before March 31, 2020 with the 2019 Annual Report. The Board reminds the Applicant of the requirement.

Part M: Conditions Applying to Security

No changes.

Part N: Conditions Applying to New Construction

As discussed above, in relation to the amended licence for the Whale Tail Pit Project, the Board is limiting the list of regulated parameters for dewatering activities to total suspended solids (TSS) only. All effluent exceeding the TSS limit shall be treated prior to release.

Part O: Conditions Applying to Water Use and Management

No changes.

⁹⁷ Assol Kubeisinova (NWB) to Marie-Pier Marcil and Robin Allard (Agnico Eagle), Groundwater Monitoring Plan, Meadowbank Interim Closure and Reclamation Plan, Pore Water Quality Monitoring Program, and Waste Rock and Tailings Management Report & Plan; Type "A" Water Licence 2AM-MEA1526, Meadowbank Gold Mine Project; Agnico Eagle Mines Ltd., dated October 21, 2019.

Part P: Conditions Applying to Waste Disposal and Management

During the licensing process, Agnico Eagle made a request to remove total dissolved solids (TDS) from the list of regulated parameters for Effluent Discharge from the Portage and Vault Attenuation Ponds. The request is analogous to the one made for the Whale Tail Pit Project and discussed above in this document. In discussing this request at the Public Hearing, ECCC stated:

Going specifically to the Whale Tail project, the predictions in the effluent quality report for Whale Tail appear to indicate the TDS concentrations will be under about 500 milligrams per litre. Similarly, discharges from the Vault attenuation pond at ST10 on the Meadowbank site should have also very low levels of TDS, as that pit did not intercept saline groundwater. In discussions with Agnico Eagle, it was stated that, given these concentrations, there is no need to regulate TDS at Whale Tail or Vault. ECCC agrees.⁹⁸

Consequently, the Board accepts the recommendation and has removed TDS as a regulated parameter for Effluent Discharge from the Vault Attenuation Pond.

However, ECCC continued to express concern about the Discharge of Effluent with high TDS content from the Portage Attenuation Pond into the receiving environment. After a sidebar discussion with ECCC on the issue, Agnico Eagle made the following statement at the Public Hearing:

In this morning discussion, Environment and Climate Change Canada expressed interest in application of an alternative process for total dissolved solid management for Meadowbank which would be apply [sic] in the post-closure phase by which a single numerical limit is replaced with a site-specific and scientifically based process intended to achieve three components of aquatic life protection: 1, no acute toxicity at the point of discharge; 2, no unacceptable chronic toxicity at the edge of mixing zone; and 3, evaluation of assimilation capacity in receiving environment... Would Environment and Climate Change Canada now support the removal of total dissolved solid from the Meadowbank licence if the Board includes licence wording that require Agnico Eagle to provide a report which address Items 1 to 3 above as part of the final closure plan for Meadowbank or before?... Agnico Eagle commit[s] to not

⁹⁸ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File No. 2AM-WTP1826, Transcript, February 14, 2020, Volume 2, pp. 163-164, lines 20-26 and 1-3.

discharge to the receiving environment prior to the development and approval of the described plan.⁹⁹

ECCC provided the following clarification:

As alluded to earlier, our concern with the removal of the TDS limit pertained to potential discharges with the higher sulphate limits and the higher TDS that are predicted to exceed the licence limits as they stand now. That had never been assessed in the previous water licence or in the environmental assessment before.

So when the proposal was made to switch to a site-specific approach, I would support the use of the acute and chronic toxicity and, equally importantly, the evaluation of effects in the receiving environment. And my understanding or hope would be that this plan will have to be approved by the Board with review by everybody prior to any implementation. And if there is no discharge to the receiving environment between now and then, that would alleviate our concerns with the removal of the limit.¹⁰⁰

In consideration of the positions of ECCC and Agnico Eagle, the Board has chosen to not remove TDS as a regulated parameter for Effluent Discharge from the Portage Attenuation Pond for the time being. However, the Board has included a condition in Part F of the Meadowbank Licence giving the option to exclude TDS as a criteria in the Portage Attenuation Pond Effluent once the Site-Specific Water Quality Program for Effluent Release is submitted to, and approved by, the Board. The Program, as committed to by Agnico Eagle, is to achieve three objectives for aquatic life protection for Effluent Discharge from the Portage Attenuation Pond:

- a. no acute toxicity at the point of discharge;
- b. no unacceptable chronic toxicity at the edge of mixing zone; and
- c. evaluation of assimilation capacity in the receiving environment.

Part Q: Conditions Applying to Modifications

No changes.

⁹⁹ M. Groleau, Agnico Eagle Mines Limited, NWB Public Hearing, File No. 2AM-WTP1826, Transcript, February 14, 2020, Volume 2, pp. 193-194, lines 10-20, 7-13, and 23-25.

¹⁰⁰ A. Wilson, Environment and Climate Change Canada, NWB Public Hearing, File No. 2AM-WTP1826, Transcript, February 14, 2020, Volume 2, p. 195, lines 10-26.

Part R: Conditions Applying to Emergency Response and Spill Contingency Planning

No changes to this Part, except to update the references to the latest the *Emergency Response Plan* dated August 2013 and the *Spill Contingency Plan* dated April 2019, as approved by the Board with the issuance of the Amended Licences.

Part S: Conditions Applying to General and Aquatic Effects Monitoring

No changes except to update the references to the latest management plans as approved by the Board.

Part T: Conditions Applying to Applying to Abandonment, Reclamation and Closure

No changes.

APPENDIX A - Agendas for Public Hearing and Community Session

AGENDA

PUBLIC HEARING

WHALE TAIL PIT MINE PROJECT AND MEADOWBANK GOLD MINE PROJECT TYPE “A” LICENCES NO. 2AM-WTP1826 AND 2AM-MEA1526, AMENDMENT APPLICATIONS

February 12, 2020, 9:00 a.m. – 5:00 p.m., CST, Baker Lake Community Hall

February 13, 2020, 9:00 a.m. – 5:00 p.m., CST, Baker Lake Community Hall

1. Opening Prayer
2. Opening Remarks by the Chairperson, which shall include the purpose of the Hearing and the scope of matters which will be considered by the Board
3. Introduction of the Board Members and staff
4. Identification and introduction of the Parties
5. Introduction of the Elders and their role in the Hearing
6. Introduction and identification of the persons, associations, agencies, etc., who have not submitted interventions but who have expressed a desire to speak at the Hearing
7. Identification of any Motions or any objections
8. Presentation by the Applicant
9. Questioning of the Applicant by Parties respecting the Applicant’s presentation
10. Questioning by the Board staff and Panel Members
11. Presentation by Interveners
12. Questioning of Interveners by Parties
13. Questioning by the Board staff and Panel Members
14. Presentation by any other persons, associations, agencies, etc. who have advised the Chairperson that they wish to speak
15. Questioning of other persons, associations, agencies, etc. by Parties

16. Questions by the Board staff and Panel Members
17. Upon completion of presentations by all Parties, the Board will give the Applicant the opportunity to reply. Then all Parties will have the opportunity to make final closing statements taking into account matters raised at the Hearing
18. Closing remarks by the Chairperson; and
19. Closing Prayer

AGENDA

COMMUNITY SESSION

WHALE TAIL PIT MINE PROJECT AND MEADOWBANK GOLD MINE PROJECT TYPE “A” LICENCES NO. 2AM-WTP1826 AND 2AM-MEA1526, AMENDMENT APPLICATIONS

February 12, 2020, 7:00 p.m. – 10:00 p.m., CST, Baker Lake Community Hall

1. Opening Prayer
2. Opening Remarks by the Chair
3. Presentation by the Nunavut Water Board (NWB) – Type “A” water licensing process for the Applications (15 minutes)
4. Questions and/or comments from community members and other participants
5. Presentation by Agnico Eagle Mines Ltd. on the Amendment Applications before the Board for Type “A” Water Licences 2AM-WTP1826 and 2AM-MEA1526 and Type “B” Water Licence 2BB-MEA1828 (20 Minutes)
6. Questions and/or comments from community members and other participants
7. Presentation from each intervening party pertaining to its mandate and role(s) in the water licensing process as well as an overview of their findings during their technical review (15 Minutes/Intervener)
8. Questions and/or comments from community members and other participants
9. Closing Remarks
10. Closing Prayer

APPENDIX B - Exhibit List

Exhibits filed during the Public Hearing held in Baker Lake, Nunavut, on February 13 and 14, 2020

Exhibit	Exhibit Description	Date	From
1	Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project NWB Public Hearing February 12-13, 2020 (English)	February 13, 2020	Agnico Eagle Mines Limited
2	Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project NWB Public Hearing February 12-13, 2020 (Inuktitut)	February 13, 2020	Agnico Eagle Mines Limited
3	Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project NWB Public Hearing February 12-13, 2020 (French)	February 13, 2020	Agnico Eagle Mines Limited
4	Hard Copy PowerPoint Presentation Nunavut Water Board Community Session Presentation Type “A” Water Licences 2AM-WTP 1826 Whale Tail Pit Project 2AM-MEA1526 (English/Inuktitut)	February 13, 2020	Nunavut Water Board
5	Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project NWB Public Hearing – Community Session February 12-13, 2020 (English)	February 13, 2020	Agnico Eagle Mines Limited

Exhibit	Exhibit Description	Date	From
6	Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project—Community Session NWB Public Hearing February 12-13, 2020 <i>(Inuktitut)</i>	February 13, 2020	Agnico Eagle Mines Limited
7	Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project NWB Public Hearing—Community Session February 12-13, 2020 <i>(French)</i>	February 13, 2020	Agnico Eagle Mines Limited
8	Hard Copy PowerPoint Presentation Whale Tail Expansion Project Water Licence Amendment Application KIA-NTI Technical Review of the Water Licence <i>(English/Inuktitut)</i>	February 13, 2020	Kivalliq Inuit Association – Nunavut Tunngavik Inc.
9	Hard Copy PowerPoint Presentation Crown-Indigenous Relations and Northern Affairs Canada Water Licence Amendment Application for Agnico Eagle Ltd. (Agnico Eagle), Whale Tail Expansion Project Nunavut Water Board Public Hearing, February 12 and 13, 2020 <i>(English/Inuktitut)</i>	February 13, 2020	Crown-Indigenous Relations and Northern Affairs

Exhibit	Exhibit Description	Date	From
10	<p>Hard Copy PowerPoint Presentation Crown-Indigenous Relations and Northern Affairs Canada Water Licence Amendment Application for Agnico Eagle Ltd. (Agnico Eagle), Whale Tail Expansion Project</p> <p>Nunavut Water Board Public Hearing, February 12 and 13, 2020</p> <p><i>(French/Inuktitut)</i></p>	February 13, 2020	Crown-Indigenous Relations and Northern Affairs
11	<p>Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project Presentation to the Nunavut Water Board by Environment and Climate Change Canada</p> <p><i>(Community Session)</i></p> <p><i>(English/Inuktitut)</i></p>	February 13, 2020	Environment and Climate Change Canada
12	<p>Electronic Copy Only PowerPoint Presentation DFO's Fish and Fish Habitat Protection Program</p> <p>Community Meeting Baker Lake, NU – February 2020</p> <p><i>(English)</i></p>	February 13, 2020	Fisheries and Oceans Canada
13	<p>Hard Copy PowerPoint Presentation Whale Tail Pit Expansion Project Presentation to the Nunavut Water Board by Environment and Climate Change Canada</p> <p><i>(English/Inuktitut)</i></p>	February 14, 2020	Environment and Climate Change Canada

Exhibit	Exhibit Description	Date	From
14	<p>Hard Copy PowerPoint Presentation</p> <p>Agnico Eagle Mines Limited's "Whale Tail Pit Expansion" Project</p> <p>Presentation to the Nunavut Water Board by Fisheries and Oceans Canada (DFO)</p> <p><i>(English)</i></p>	February 14, 2020	Fisheries and Oceans Canada
15	<p>Hard Copy PowerPoint Presentation</p> <p>Agnico Eagle Mines Limited's "Whale Tail Pit Expansion" Project</p> <p>Presentation to the Nunavut Water Board by Fisheries and Oceans Canada (DFO)</p> <p><i>(Inuktitut)</i></p>	February 14, 2020	Fisheries and Oceans Canada
16	<p>Electronic Copy Only</p> <p>Resume of Cameron Stevens</p> <p><i>(English)</i></p>	February 14, 2020	Agnico Eagle Mines Limited
17	<p>Electronic Copy Only</p> <p>Resume of Gary Lawrence</p> <p><i>(English)</i></p>	February 14, 2020	Agnico Eagle Mines Limited
18	<p>Electronic Copy Only</p> <p>Resume of John Faithful</p> <p><i>(English)</i></p>	February 14, 2020	Agnico Eagle Mines Limited
19	<p>Electronic Copy Only</p> <p>Resume of Gillian Allen</p> <p><i>(English)</i></p>	February 14, 2020	Agnico Eagle Mines Limited

Exhibit	Exhibit Description	Date	From
20	Electronic Copy Only Resume of Nicola Lower <i>(English)</i>	February 14, 2020	Agnico Eagle Mines Limited
21	Electronic Copy Only Kivalliq Inuit Association Comments on Agnico Eagle Mines Limited, January 30, 2010 Draft Water Licence Framework <i>(English)</i>	February 14, 2020	Kivalliq Inuit Association
22	Electronic Copy Only Agnico Eagle Mines Limited response to Exhibit 21 (Kivalliq Inuit Association Comments on Agnico Eagle Mines Limited, January 30, 2010 Draft Water Licence Framework) <i>(English)</i>	February 14, 2020	Agnico Eagle Mines Limited

APPENDIX C - List of Acronyms

[illegible]

APPENDIX D - List of Submissions and Correspondence

Amendment Applications and Attachments:

1. Cover letter and initial submission of application for water licence by Agnico Eagle Mines Limited (Agnico Eagle) dated **May 16, 2019**.
2. Letter to Stephanie Autut, NWB, RE: WHALE TAIL PIT PROJECT NWB WATER LICENCE 2AM-WTP1826/2AM-MEA1526/2BB-MEA1828 – AMENDMENT REQUEST, from Jamie Quesnel, Agnico Eagle, Dated **May 16, 2019**
3. Submitted **May 16, 2019** by Agnico Eagle Main Application Document NWB Water Licence 2AMWTP1826 Amendment
4. Submitted **May 16, 2019** by Agnico Eagle Application for Water Licence Amendment
5. Submitted **May 16, 2019** by Agnico Eagle, Appendix A Supplemental Information Guide
6. Submitted **May 16, 2019** by Agnico Eagle Appendix B NPC File # 148953 [Whale Tail Pit - Expansion Project] Dated **October 16, 2018**
7. Submitted **May 16, 2019** by Agnico Eagle Appendix C COMPLIANCE ASSESSMENT AND STATUS REPORT
8. Submitted **May 16, 2019** by Agnico Eagle Appendix D CERTIFICATE CORPORATION Dated **November 26, 2018**
9. Submitted **May 16, 2018** by Agnico Eagle Appendix E List of Permits and Licenses for the Project
10. Submitted **May 16, 2019** by Agnico Eagle Appendix F List of Consultation
11. Submitted **May 16, 2019** by Agnico Eagle Appendix G1 Waste Rock Management Plan
12. Submitted **May 16, 2019** by Agnico Eagle Appendix G2 Thermal Monitoring Plan
13. Submitted **May 16, 2019** by Agnico Eagle Appendix G3 Water Quality Monitoring and Management Plan for Dike Construction and Dewatering
14. Submitted **May 16, 2019** by Agnico Eagle Appendix G4 Landfill Design and Waste Management Plan
15. Submitted **May 16, 2019** by Agnico Eagle Appendix G5 Water Management Plan
16. Submitted **May 16, 2019** by Agnico Eagle Appendix G6 Water Quality and Flow Monitoring Plan
17. Submitted **May 16, 2019** by Agnico Eagle Appendix G7 Landfarm Design and Management Plan
18. Submitted **May 16, 2019** by Agnico Eagle Appendix G8 Incinerator and Composter Waste Management Plan
19. Submitted **May 16, 2019** by Agnico Eagle Appendix G9 Haul Road Management Plan
20. Submitted **May 16, 2019** by Agnico Eagle Appendix G10 AMMONIA MANAGEMENT PLAN

21. Submitted **May 16, 2019** by Agnico Eagle Appendix G11 Bulk Fuel Storage Facility: Environmental Performance Monitoring Plan
22. Submitted **May 16, 2019** by Agnico Eagle Appendix G12 Emergency Response Plan
23. Submitted **May 16, 2019** by Agnico Eagle Appendix G13 Hazardous Materials: Meadowbank Mine Site, Whale Tail Pit Site, Baker Lake Facilities Management Plan
24. Submitted **May 16, 2019** by Agnico Eagle Appendix G14 Spill Contingency Plan Meadowbank Mine Site All Weather Access Road (AWAR) Whale Tail Pit Whale Tail Haul Road Baker Lake Facilities
25. Submitted **May 16, 2019** by Agnico Eagle Appendix G15 Groundwater Monitoring Plan
26. Submitted **May 16, 2019** by Agnico Eagle Appendix G16 Conceptual Fish Habitat Offsetting Plan
27. Submitted **May 16, 2019** by Agnico Eagle Appendix G17 Operational ARD-ML Sampling and Testing Plan
28. Submitted **May 16, 2019** by Agnico Eagle Appendix G18 Core Receiving Environment Monitoring Program (CREMP): 2015 Plan Update
29. Submitted **May 16, 2019** by Agnico Eagle Appendix G19 Interim Closure and Reclamation Plan
30. Submitted **May 16, 2019** by Agnico Eagle Appendix G20 Quality Assurance / Quality Control (QA/QC) Plan
31. Submitted **May 16, 2019** by Agnico Eagle Appendix G21 Operation & Maintenance Manual Sewage Treatment Plant (STP)
32. Submitted **May 16, 2019** by Agnico Eagle Appendix H1 Water Balance Update
33. Submitted **May 16, 2019** by Agnico Eagle Appendix H2 Mine Site and Downstream Receiving Water Quality Predictions
34. Submitted **May 16, 2019** by Agnico Eagle Appendix H3 Whale Tail Lake Thermal Assessment
35. Submitted **May 16, 2019** by Agnico Eagle Appendix H4 UPDATED HYDROGEOLOGICAL ASSESSMENT
36. Submitted **May 16, 2019** by Agnico Eagle Appendix I1 General Site Layout
37. Submitted **May 16, 2019** by Agnico Eagle Appendix I2 Pre-development
38. Submitted **May 16, 2019** by Agnico Eagle Appendix I3 Yearly Site Layout Plan (Year 2019_Q4)
39. Submitted **May 16, 2019** by Agnico Eagle Appendix I4 Yearly Site Layout Plan (Year 2020_Q4)
40. Submitted **May 16, 2019** by Agnico Eagle Appendix I5 Yearly Site Layout Plan (Year 2021_Q4)
41. Submitted **May 16, 2019** by Agnico Eagle Appendix I6 Yearly Site Layout Plan (Year 2022_Q4)
42. Submitted **May 16, 2019** by Agnico Eagle Appendix I7 Yearly Site Layout Plan (Year 2023_Q4)

43. Submitted **May 16, 2019** by Agnico Eagle Appendix I8 Yearly Site Layout Plan (Year 2024_Q4)
44. Submitted **May 16, 2019** by Agnico Eagle Appendix I9 Yearly Site Layout Plan (Year 2025_Q4)
45. Submitted **May 16, 2019** by Agnico Eagle Appendix I10 Site Layout Plan (Year 2042_Post_Closure)
46. Submitted **May 16, 2019** by Agnico Eagle Appendix I11 Site Layout Plan (Year 2042_Post_Closure)
47. Submitted **May 16, 2019** by Agnico Eagle Appendix J1 IVR Dike – PFS design
48. Submitted **May 16, 2019** by Agnico Eagle Appendix J2 IVR WRSF Typical Cross-section
49. Submitted **May 16, 2019** by Agnico Eagle Appendix J3 Typical Road Cross-Section
50. Submitted **May 16, 2019** by Agnico Eagle Appendix K Project Design Considerations
51. Submitted **May 16, 2019** by Agnico Eagle Nunavut Water Board (NWB) Acknowledgement and Receipt of Application Fee for amendment Water Licence Application – 2AM-MEA1526 & 2AM-WTP1826
52. Submitted **May 16, 2019** by Agnico Eagle Executive Summary English and Inuktitut

Agnico Eagle Submissions & Correspondence in relation to the Amendment Applications:

1. Letter to Manon Turmel, Agnico Eagle, RE: Acknowledgement and Receipt of Application Fee for amendment Water Licence Application – 2AM-MEA1526 & 2AM-WTP1826, from Richard Dwyer, NWB, Dated **May 13, 2019**
2. Submitted **June 3, 2019** by Agnico Eagle Appendix H1 2019 Mean Annual Water Balance Update
Letter to Jamie Quesnel, Agnico Eagle, RE: Licence No. 2AM-WTP1826; Amendment Application by Agnico Eagle Mines Ltd.; Whale Tail Pit Mine and Haul Road, From Richard Dwyer, NWB, Dated **June 4, 2019**
3. Letter to Richard Dwyer, NWB, RE: Licence No. 2AM-WTP1826; Amendment Application by Agnico Eagle Mines Ltd.: Whale Tail Pit Mine and Haul Road, From Luis Manzo, Agnico Eagle, Dated **June 12, 2019**
4. Email to Jamie Quesnel, Agnico Eagle, RE: 2AM-MEA1526, 2AM-WTP1826, 2BB-MEA1828 amendment application completeness check, from Richard Dwyer, NWB, Dated **June 12, 2019**
5. Letter to Richard Dwyer, NWB, RE: 2AM-MEA1526, 2AM-WTP1826, 2BB-MEA1828 – Agnico Eagle Mines Limited – Whale Tail Pit Expansion Project – Type A and B Water Licence Amendments Application Information Requests, From Andrea McLandress, Environment Climate Change Canada (ECCC), Dated **July 4, 2019**
6. Letter to Richard Dwyer, NWB, RE: Crown-Indigenous Relations and Northern Affairs Canada comments on completeness review for the water licence amendment of 2AM-WTP1826 – Whale Tail – Agnico Eagle Mines Limited, From Godwin Okonkwo, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), Dated **July 18, 2019**
7. Letter to Richard Dwyer, NWB, RE: Fisheries and Oceans Canada's Information Requests (IRs) regarding Licence No. 2AM-WTP1826; Amendment Application by Agnico Eagle Mines Ltd.; Whale Tail Pit Mine and Haul Road, From Marek Janowicz, Fisheries and Oceans Canada, Dated **July 18, 2019**

8. Email to Richard Dwyer, NWB, RE: 2AM-MEA1526, 2AM-WTP1826, 2BB-MEA1828 amendment application completeness check, from Melissa Pinto, ECCC, Dated **July 18, 2019**
9. Submitted **July 18, 2019** by Kivalliq Inuit Association (KIA) COMPLETENESS REVIEW OF WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826
10. Email to Philippe Lapointe, Agnico Eagle, RE: 2AM-MEA1526, 2AM-WTP1826, 2BB-MEA1828 amendment application completeness check, from Richard Dwyer, NWB, Dated **July 18, 2019**
11. Submitted **July 26, 2019** by Agnico Eagle Meeting Notes dated **July 8, 2019**
12. Submitted **August 1, 2019** by Agnico Eagle 2AM-WTP1826 Information Request Responses
13. Submitted **August 1, 2019** by Agnico Eagle Appendix A, Thermal Modelling of the Whale Tail and IVR WRSFs Dated **July 23, 2019**
14. Submitted **August 1, 2019** by Agnico Eagle Appendix B, Nearfield Mixing Modelling in Mammoth Lake and in Whale Tail Lake (South Basin) Technical Commitment 26, Dated **July 12, 2019**
15. Submitted **August 1, 2019** by Agnico Eagle Appendix C, TSF North Cell Closure Design Report Construction Plan Dated **November 16, 2015**
16. Submitted **August 1, 2019** by Agnico Eagle Appendix D, AMARUQ MINE – HYDRODYNAMIC MODELLING OF MAMMOTH LAKE, WHALE TAIL APPROVED PROJECT, Dated **March 25, 2019**
17. Submitted **August 1, 2019** by Agnico Eagle Appendix E, Whale Tail Pit Expansion Project Hydrodynamic Modelling of Whale Tail Pit Lake, Dated **May 13, 2019**
18. Submitted **August 1, 2019** by Agnico Eagle Appendix F, EFFLUENT PLUME MODELLING IN WHALE TAIL LAKE (SOUTH BASIN), Dated **May 28, 2019**
19. Submitted **August 1, 2019** by Agnico Eagle Appendix G, Summary of CIRNAC Meeting during the NIRB Technical Meetings, Dated **July 23, 2019**
20. Submitted **August 1, 2019** by Agnico Eagle Appendix H, APPLICATION OF TSS CONCENTRATIONS AT MELIADINE AND MEADOWBANK MINES AS AN ANALOGUE TO TSS CONCENTRATIONS FROM THE WHALE TAIL WRSF IN POST-CLOSURE, Dated **July 11, 2019**
21. Submitted **August 1, 2019** by Agnico Eagle Appendix I, Agnico Eagle Mines Ltd. - Landform Water Balance Modelling of Whale Tail and IVR WRSF, Dated **May 10, 2019**
22. Submitted **August 1, 2019** by Agnico Eagle Appendix J, Whale Tail Permitting Support – Lake D1 and Lake D5 Baseline Aquatic Receiving Environment Data Memorandum (August 2018 to March 2019), Dated **May 23, 2019**
23. Email to Jamie Quesnel, Agnico Eagle, RE: 2AM-MEA1526, 2AM-WTP1826, 2BB-MEA1828 amendment application completeness check, from Richard Dwyer, NWB, Dated **August 2, 2019**
24. Letter to Richard Dwyer, NWB, RE: Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) review of Agnico Eagle Mines Limited (Agnico Eagle) information request responses for water licence amendments of 2AM-MEA1526, 2AM-WTP1826, AND 2BB-MEA1826 – Whale Tail Expansion Project, From Godwin Okonkwo, Dated **August 9, 2019** Submitted **August 12, 2019**
25. Submitted **August 9, 2019** by Kivalliq Inuit Association (KIA) WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826 Review of Agnico Eagle Response to KIA Information Requests
26. Submitted **August 9, 2019** by Kivalliq Inuit Association (KIA) WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826 Review of Agnico Eagle Response to KIA Information Requests, Excel Spreadsheet Copy.

27. Submitted **August 12, 2019** by Kivalliq Inuit Association (KIA) WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826 Review of Agnico Eagle Response to KIA Information Requests
28. Letter to Richard Dwyer, NWB, RE: 2AM-MEA1526, 2AM-WTP1826, 2BB-MEA1828 amendment application completeness check, from Tracz Boyan, Department of Fisheries and Oceans (DFO), Dated **August 14, 2019**
29. Letter to Jamie Quesnel, Agnico Eagle, RE: Applications for Amendments to Water Licences No. 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828; Agnico Eagle Mines Ltd, from Stephanie Autut, NWB, Dated **August 14, 2019**
30. Email to Jamie Quesnel, Agnico Eagle, RE: 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828 notice of technical review and Application, from Richard Dwyer, NWB, Dated **August 14, 2019**
31. Distributed **August 14, 2019** by NWB RE: NUNAVUT WATER BOARD PUBLIC NOTICE Amendment Application for a Type “A” Licence 2AM-WTP1826, 2AM-MEA1526, Type “B” 2BB-MEA1828 Agnico Eagle Mines Ltd.
53. Submitted **August 20, 2019** by Agnico Eagle RE: Whale Tail Permitting Support – Revised Predictions of Fish Mercury Concentrations in Whale Tail Lake (South Basin) FINAL, Dated **August 19, 2019**
54. Email to Michel Groleau, Agnico Eagle, RE: 2AM-WTP1826 Agnico Eagle Mines Ltd. Whale Tail Mercury Assessment Update, from Richard Dwyer, NWB, Dated **August 20, 2019**
55. Letter to Richard Dwyer, NWB, RE: Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) technical review comments for water licence amendments of 2AM-MEA1526, 2AM-WTP1826, and 2BB-MEA1828 – Whale Tail Expansion project. From Michelle Blade, CIRNAC, Dated **September 16, 2019**
56. Submitted **September 16, 2019** by Fisheries and Oceans Canada, Technical Review Comments to the NWB
57. Letter to Richard Dwyer, NWB, RE: 2AM-WTP1826, 2BB-MEA1828 – Agnico Eagle Mines Limited – Whale Tail Pit Expansion Project – Type A and B Water Licence Amendments Application, From Andrea McLandress, Environmental Protection Operations Division, Dated **September 16, 2019**
58. Submitted **September 16, 2019** TECHNICAL REVIEW OF WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826
59. Submitted **September 16, 2019** by KIA RE: 190916 2AM-WTP1826 Technical Review KIA Inuktitut Summary-IMLS
60. Email to Jamie Quesnel, Agnico Eagle, RE: 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828 notice of technical review and application, From Richard Dwyer, NWB, Dated **September 17, 2019**
61. Submitted **September 25, 2019** by ECCC RE: Inuktitut & French Executive Summary.
62. Letter to Karen Kharatyan, NWB RE: File No. 2AM-WTP1826 and 2AM-MEA1526 Technical Meeting/Pre-Hearing Conference – October 29-30, 2019, from Jamie Quesnel, Agnico Eagle, dated **October 01, 2019**.
63. Letter to Richard Dwyer, NWB, RE: Agnico Eagle Responses to technical comments for amendment applications for 2AM-MEA1526, 2AM-WTP1826 and 2BB-MEA1828 -

- Whale Tail Pit Expansion Project, from Jamie Quesnel, Agnico Eagle, dated **October 7, 2019**.
64. Submitted **October 7, 2019**, by Agnico Eagle, RE: 2AM-WTP1826 Technical Comment Responses Whale Tail Pit – Expansion Project.
 65. Submitted **October 7, 2019**, by Agnico Eagle, RE: 2AM-WTP1826 Technical Comment Responses Whale Tail Pit – Expansion Project (Appendix A: Whale Tail Project – Thermal Modelling of Whale Tail WRSF Under RCP8.5)
 66. Submitted **October 7, 2019**, by Agnico Eagle, RE: 2AM-WTP1826 Technical Comment Responses Whale Tail Pit – Expansion Project (Appendix B: Compilation and Implementation of Prior Management Plan Reviews)
 67. Submitted **October 7, 2019**, by Agnico Eagle, RE: 2AM-WTP1826 Technical Comment Responses Whale Tail Pit – Expansion Project (Appendix C: Whale Tail Pit Project: Predicted Changes In Fish Mercury Concentrations in Flooded Areas of Whale Tail Lake (South Basin))
 68. E-mail to Manon Turmel, Agnico Eagle, Jennifer Range, Golder, Meadowbank Distribution List, RE: 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828 notice of technical review and application, from Richard Dwyer, NWB, dated **October 7, 2019**.
 69. Letter to Jamie Quesnel, Agnico Eagle, RE: Applications for Amendments to Type “A” Water Licences Nos. 2AM-WTP1826 and 2AM-MEA1526 and Type “B” Water Licence No. 2BB-MEA1828, Agnico Eagle Mines Ltd.; Confirmation of Technical Meeting and Pre-hearing Conference, from Richard Dwyer, NWB, dated **October 15, 2019**.
 70. E-mail to Jamie Quesnel, Agnico Eagle, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda, from Richard Dwyer, NWB, dated **October 15, 2020**.
 71. Submitted **October 17, 2019**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT NWB TECHNICAL MEETING & PRE-HEARING CONFERENCE PRESENTATION OCTOBER 29-30, 2019.
 72. Submitted **October 17, 2019**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT NWB TECHNICAL MEETING & PRE-HEARING CONFERENCE COMMUNITY PRESENTATION OCTOBER 29-30, 2019.
 73. Submitted **October 17, 2019**, by DFO, Agnico Eagle Mines Limited’s “Whale Tail Expansion” Project Water Licence Amendment Application, Presentation to the Nunavut Water Board Technical Meeting Baker Lake, NU October 29-30, 2019.
 74. E-mail to NWB, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda (DFO attendance confirmation), from Boyan Tracz, DFO, dated **October 17, 2019**.
 75. Submitted **October 18, 2019**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT NWB TECHNICAL MEETING & PRE-HEARING CONFERENCE PRESENTATION OCTOBER 29-30, 2019 (French).
 76. E-mail to Assol Kubeisinova, Karen Kharatyan, NWB, RE: Agnico Eagle Participants - 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference (Agnico Eagle attendance confirmation), from Jamie Quesnel, Agnico Eagle, dated **October 18, 2019**.

77. Submitted **October 18, 2019**, by CIRNA, RE: Water Licence Amendment Application for Agnico Eagle Ltd. (Agnico Eagle), Whale Tail Expansion Project, Water Licence No. 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828 Nunavut Water Board Technical Meeting October 29-30, 2019.
78. E-mail to NWB, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda (CIRNA attendance confirmation), from Michelle Blade, CIRNA, dated **October 18, 2019**.
79. Submitted **October 18, 2019**, by ECCC, RE: Environment and Climate Change Canada's Presentation to the Nunavut Water Board Respecting the Whale Tail Pit Expansion Project, 2AM-WTP1826 –Technical Meeting October to 29, 2019 Baker Lake, Nunavut.
80. E-mail to NWB, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda (ECCC attendance confirmation), from Eva Walker, ECCC, dated **October 18, 2019**
81. E-mail to Richard Dwyer, NWB, RE: 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828 notice of technical review and application (KIA attendance confirmation), from Ashley Aupaluktuq-Burton, KIA, dated **October 18, 2019**.
82. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda (Parties Presentations acknowledged) from Richard Dwyer, NWB, dated **October 18, 2019**.
83. Submitted **October 22, 2019** by KIA, RE: WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION, KIA – NTI TECHNICAL REVIEW of the Water License.
84. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda (KIA Presentation submission acknowledged) from Richard Dwyer, NWB, dated **October 22, 2019**.
85. Prepared **October 23, 2019** by Assol Kubeisinova, NWB, RE: Nunavut Water Board Community Session Presentation Regarding an Application for amendment Type "A" Water Licences 2AM – WTP1826 Whale Tail Pit Mine and Haul Road Project, 2AM-MEA1526 Meadowbank Gold Mine Project (Inuktitut, English, French)
86. Prepared **October 23, 2019** by Assol Kubeisinova, NWB, RE: FINAL AGENDA TECHNICAL MEETING AND PRE-HEARING CONFERENCE WHALE TAIL PIT MINE AND HAUL ROAD PROJECT AND MEADOWBANK GOLD MINE PROJECT.
87. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference final agenda, from Richard Dwyer, NWB, dated **October 23, 2019**.
88. Submitted **October 24, 2019**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT: RESPONSE TO TECHNICAL COMMENT DFO 3.4
89. Submitted **October 25, 2019**, by ECCC, RE: Environment and Climate Change Canada's Presentation to the Nunavut Water Board Respecting the Whale Tail Pit Expansion Project, 2AM-WTP1826 –Technical Meeting October to 29, 2019 Baker Lake, Nunavut (Community Presentation).

90. Prepared **October 25, 2019**, by NWB, RE: FINAL AGENDA TECHNICAL MEETING AND PRE-HEARING CONFERENCE WHALE TAIL PIT MINE AND HAUL ROAD PROJECT AND MEADOWBANK GOLD MINE PROJECT (Inuktitut).
91. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-MEA1526 and 2AM-WTP1826 Agnico Eagle Mines Ltd. amendment application technical meeting and pre-hearing conference agenda (Inuktitut Agenda), from Richard Dwyer, NWB, dated **October 25, 2019**.
92. Submitted **October 28, 2019**, by CIRNA, RE: Water Licence Amendment Application for Agnico Eagle Ltd. (Agnico Eagle), Whale Tail Expansion Project, Water Licence No. 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828 Nunavut Water Board Technical Meeting October 29-30, 2019 (French Presentation).
93. Submitted **October 28, 2019**, by KIA, RE: WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION, KIA – NTI TECHNICAL REVIEW of the Water License Community Presentation.
94. E-mail to NWB, RE: 2AM-WTP1826 Whale Tail Expansion Speaking Notes Adaptive Management, from Manon Turmel, Agnico Eagle, dated **October 29, 2019**.
95. E-mail to Manon Turmel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Whale Tail Expansion Speaking Notes Adaptive Management (NWB acknowledged receipt), from Richard Dwyer, NWB, dated **October 29, 2019**.
96. E-mail Meadowbank Distribution List RE: 2AM-WTP1826, 2AM-MEA1526 Technical Meeting and Pre-Hearing Conference (Change of Venue), from Richard Dwyer, NWB, dated **October 28, 2019**.
97. E-mail to Manon Turmel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Technical Meeting Agnico Eagle Video, from Richard Dwyer, NWB, dated **October 29, 2019**.
98. Scanned to Public Registry **November 1, 2019**, 2AM-WTP1826, 2AM-MEA1526 Technical Meeting and Pre-Hearing Conference Registration Sheet.
99. Submitted **November 8, 2019**, by Agnico Eagle, RE: Summary of Commitments for the Whale Tail Expansion Project – NWB Review Process.
100. E-mail to Boyan Tracz, DFO, RE: 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3 from Manon Turmel Agnico Eagle, dated **November 08, 2019**.
101. E-mail to Boyan Tracz, DFO, RE: 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3 from Manon Turmel Agnico Eagle, dated **November 18, 2019**.
102. E-mail to Manon Turmel, Agnico Eagle, RE: 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3, from Boyan Tracz, DFO, dated **November 19, 2019**.
103. Memo to Meadowbank / Whale Tail Pit Distribution List, from NWB, RE: Pre-Hearing Conference Decision in Respect of Applications for Amendments to Type “A” Water Licences No: 2AM-WTP1826 and No: 2AM-MEA1526 and Type “B” Water Licence No: 2BB-MEA1828, dated **November 29, 2019**.
104. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828 Pre-hearing Conference Decision, from Richard Dwyer, NWB, dated **November 29, 2019**.
105. E-mail to Boyan Tracz, DFO, RE: 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3, from Manon Turmel, Agnico Eagle, dated **December 5, 2019**.

106. Submitted **December 5, 2019**, by Agnico Eagle, RE: Drill Water Withdrawal Table (Whale Tail Expansion Project – Commitment 11 / DFO TC 2.2.3).
107. Submitted **December 5, 2019**, by Agnico Eagle, RE: 6-M: 2015 Baseline Bathymetry (Whale Tail Expansion Project – Commitment 11 / DFO TC 2.2.3).
108. Submitted **December 11, 2019**, by Agnico Eagle, RE: ‘Whale Tail Pit Expansion Project: Response to Technical Comment DFO 3.4’ Addendum.
109. Submitted **December 20, 2019**, by Agnico Eagle, RE: WATER LICENCE NO: 2AM-MEA1525 (Draft Water Licence Framework).
110. Submitted **December 20, 2019**, by Agnico Eagle, RE: WATER LICENCE NO: 2AM-MEA1826 (Draft Water Licence Framework).
111. Letter to Richard Dwyer, NWB, RE: Water Infrastructure 20-Day Notice for the Whale Tail Pit Project 2AM-WTP1826, from Jamie Quesnel, Agnico Eagle, dated **December 20, 2019**.
112. Submitted **December 20, 2019**, by Agnico Eagle, RE: Whale Tail Mine Site and Downstream Receiving Water Balance and Water Quality Under Climate Change Scenario RCP 8.5.
113. Submitted **December 20, 2019**, by Agnico Eagle, RE: Effects of Wet Year Scenarios on Water Management.
114. Submitted **December 20, 2019**, by Agnico Eagle, RE: Whale Tail Pit – Expansion Project Water Balance For Lake C38 (Nemo Lake).
115. Submitted **December 20, 2019**, by Agnico Eagle, RE: Technical Comment KIVIA-WL-TC#9: Assessment of Lake D5 and Lake D1 to Expedite The Refilling Duration of Whale Tail Lake (North Basin) at Closure.
116. Submitted **December 20, 2019**, by Agnico Eagle, RE: Effects of Cryo-Concentration on the Downstream Receiving Lakes Water Quality.
117. Submitted **December 20, 2019**, by Agnico Eagle, RE: Mixing Zone Boundaries in Mammoth Lake and Whale Tail Lake (South Basin).
118. E-mail to Richard Dwyer, Karen Kharatyan, Assol Kubeisinova, NWB, RE: NWB Commitments from Technical Meeting, Email 1 (Submission Table of Commitments), from Jamie Quesnel, Agnico Eagle, dated **December 20, 2019**.
119. Submitted **December 20, 2019**, by Agnico Eagle, RE: Permafrost Development – Thermal Data Report Whale Tail Project Expansion, 60-Day Notice to Nunavut Water Board In Accordance with Water License 2AM-WTP-1826.
120. Submitted **December 20, 2019**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT Adaptive Management Plan (Version 1).
121. Submitted **December 20, 2019**, by Agnico Eagle, RE: Whale Tail WRSF Expansion and IVR WRSF Design Report and Drawings, 60-Day Notice to Nunavut Water Board In Accordance with Water License 2AM-WTP-1826.
122. Submitted **December 20, 2019**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT Interim Closure and Reclamation Plan (Version 3).
123. Submitted **December 20, 2019**, by Agnico Eagle, RE: WATER LICENCE NO: 2BB-MEA1828 (Draft Water Licence Framework).

124. E-mail to Michel Groleau, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Commitment list submission, from Richard Dwyer, NWB, dated **December 23, 2019**.
125. Submitted **January 20, 2020**, by Agnico Eagle, RE: WHALE TAIL MINECOVER SYSTEM DESIGN DETAILED DESIGN
126. Submitted **January 23, 2020**, by KIA, RE: FINAL TECHNICAL SUBMISSION ON THE WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826 Executive Summary (Inuktitut & French).
127. Submitted **January 23, 2020**, by CIRNA, RE: FINAL WRITTEN SUBMISSION - The Whale Tail Pit Expansion Project (Agnico Eagle Mines Limited) Water licence amendments of 2AM-MEA1526, 2AM-WTP1826, and 2BB-MEA1828.
128. Letter to Richard Dwyer, NWB, RE: Fisheries and Oceans Canada, Fish and Fish Habitat Protection Program (DFO-FFHPP) Final Comment Submitssion for Agnico Eagle Mines Limited's "Whale Tail Pit Expansion Project" Applications for Amendments to Water Licences (NWB File Numbers: 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828) dated **January 23, 2020**.
129. Submitted **January 23, 2020**, by DFO, RE: Final Comment Submission to the Nunavut Water Board (NWB) Agnico Eagle Mines Limited (Agnico Eagle) Whale Tail Pit Expansion Project DFO File No.: 16-HCAA-00370 NWB File No. 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828.
130. Submitted **January 23, 2020**, by ECCC, RE: Type A and B Water Licence Amendments 2AM-WTP1826, 2AM-MEA1526, 2BBMEA1828 – Agnico Eagle Mines Ltd. – Whale Tail Pit Expansion Project – Final Written Submission.
131. Submitted **January 23, 2020**, by KIA, RE: FINAL TECHNICAL SUBMISSION ON THE WHALE TAIL EXPANSION PROJECT WATER LICENCE AMENDMENT APPLICATION NWB Water Licence 2AM-WTP1826.
132. E-mail to Michel Groleau, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Commitment list submission (acknowledges receipt of Final Written submissions) from Richard Dwyer, NWB, dated **January 24, 2020**.
133. Submitted **January 30, 2020** by Agnico Eagle, RE: Response to Final Comment Submissions for Agnico Eagle Mines Limit's "Whale Tail Pit Expansion Project" Applications for Amendments to Water Licences (NWB File Numbers 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828) (collectively, the Whale Expansion Project Amendment Application).
134. E-mail to Etienne Parent, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Agnico Eagle Final Written Submissions Response, from Richard Dwyer, NWB, dated **January 30, 2020**.
135. Prepared **February 3, 2020**, by NWB, RE: Nunavut Water Board Community Session Presentation Regarding an Application for amendment Type "A" Water Licences 2AM – WTP1826 Whale Tail Pit Mine and Haul Road Project, 2AM-MEA1526 Meadowbank Gold Mine Project.
136. Letter to Jamie Quesnel, Agnico Eagle, RE: Water Licences No. 2AM-WTP1826 and 2AM-MEA1526, Type "A", 2BB-MEA1828, Type "B"; Agnico Eagle Mines Ltd.,

- Amendment Applications; Public Hearing Update and Hearing Agenda, from Richard Dwyer, NWB, dated **February 4, 2020**.
137. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Public Hearing Update and Hearing Agenda, from Richard Dwyer, NWB, dated **February 4, 2020**.
 138. E-mail to Richard Dwyer, NWB, RE: 2AM-WTP1826 Public Hearing Update and Hearing Agenda (CIRNA Attendance Confirmation) from Godwin Okonkwo, CIRNA, dated **February 6, 2020**.
 139. E-mail to Richard Dwyer, NWB, RE: 2AM-WTP1826 Public Hearing Update and Hearing Agenda (DFO Attendance Confirmation) from Edyta Ratajczyk, DFO, dated **February 6, 2020**.
 140. E-mail to Richard Dwyer, NWB, RE: 2AM-WTP1826 Public Hearing ECCC Presentations and Executive Summary (ECCC Attendance Confirmation) from Eva Walker, ECCC, dated **February 6, 2020**.
 141. Submitted **February 6, 2020**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT NWB PUBLIC HEARING FEBRUARY 12-13, 2020, (Community Presentation, English, Inuktitut, French).
 142. Submitted **February 6, 2020**, by ECCC, RE: Whale Tail Pit Expansion Project Presentation to the Nunavut Water Board by Environment and Climate Change Canada, 2AM-WTP1826 / 2AM-MEA1526 / 2BB-MEA1828 -Public Hearing.
 143. Submitted **February 6, 2020**, by CIRNA, RE: EXECUTIVE SUMMARY The Whale Tail Pit Expansion Project (Agnico Eagle Mines Limited) Water licence amendments of 2AM-MEA1526, 2AM-WTP1826, and 2BB-MEA1828 (English, French).
 144. Submitted **February 6, 2020**, by DFO, RE: Executive Summary, DFO File No.: 16-HCAA-00370, (English, Inuktitut, French).
 145. Submitted **February 6, 2020**, by ECCC, RE: Environment and Climate Change Canada's Final Written Submission to the Nunavut Water Board – Respecting the Type A and B Water Licence Amendment (2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828) Application for the Whale Tail Pit Expansion Project Proposed by Agnico Eagle Mines Ltd. (English, Inuktitut, French).
 146. Submitted **February 6, 2020**, by KIA, RE: Final Technical Submission on the Whale Tail Expansion Project Water Licence Amendment Application Plain Language Executive Summary (English, Inuktitut, French).
 147. Submitted **February 6, 2020**, by Agnico Eagle, RE: WHALE TAIL PIT EXPANSION PROJECT NWB PUBLIC HEARING FEBRUARY 12-13, 2020 (Technical Presentation, English, Inuktitut, French).
 148. Submitted **February 6, 2020** by CIRNA, RE: Water Licence Amendment Application for Agnico Eagle Ltd. (Agnico Eagle), Whale Tail Expansion Project, Water Licence No. 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828 Nunavut Water Board Public Hearing February ,12 and 13, 2020 (English, Inuktitut, French)
 149. Submitted **February 6, 2020**, by DFO RE: Agnico Eagle Mines Limited's "Whale Tail Pit Expansion" Project, Presentaiton to the Nunavut Water Board, Public Hearing, Baker Lake, NU February 12-13, 2020 (English, Inuktitut, French).

150. Submitted **February 6, 2020**, by ECCC, RE: Whale Tail Pit Expansion Project Presentation to the Nunavut Water Board by Environment and Climate Change Canada.
151. Submitted **February 6, 2020**, by KIA, RE: Whale Tail Expansion Project Water Licence Amendment Application, KIA – NTI TECHNICAL REVIEW of the Water License.
152. E-mail to Richard Dwyer, NWB, RE: Agnico Eagle Presentations - Part 2 (Agnico Eagle Attendance Confirmation), from Etienne Parent, Agnico Eagle, dated **February 7, 2020**.
153. E-mail to Richard Dwyer, NWB, RE: 2AM-WTP1826 KIA Public Hearing Presentation (KIA Attendance Confirmation) from Ashley Aupaluktuq-Burton, KIA, dated **February 7, 2020**.
154. Submitted **February 7, 2020**, by KIA, RE: Whale Tail Expansion Project Water Licence Amendment Application, KIA – NTI TECHNICAL REVIEW of the Water License.
155. Prepared February 7, 2020, by NWB, RE: AGENDA PUBLIC HEARING WHALE TAIL PIT MINE PROJECT AND MEADOWBANK GOLD MINE PROJECT TYPE “A” LICENCES NO. 2AM-WTP1826 AND 2AM-MEA1526, AMENDMENT APPLICATIONS (English, Inuktitut).
156. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Public Hearing Update, from Richard Dwyer, NWB, dated **February 7, 2020**.
157. Submitted **February 10, 2020**, by CIRNA, RE: EXECUTIVE SUMMARY The Whale Tail Pit Expansion Project (Agnico Eagle Mines Limited) Water licence amendments of 2AM-MEA1526, 2AM-WTP1826, and 2BB-MEA1828 (English, Inuktitut, French).
158. Submitted **February 10, 2020**, by CIRNA, RE: Water Licence Amendment Application for Agnico Eagle Ltd. (Agnico Eagle), Whale Tail Expansion Project, Water Licence No. 2AM-WTP1826, 2AM-MEA1526, and 2BB-MEA1828 Nunavut Water Board Public Hearing February ,12 and 13, 2020 (English, Inuktitut).
159. E-mail to Jamie Quesnel, Agnico Eagle, Meadowbank Distribution List, RE: 2AM-WTP1826 Public Hearing update (The Nunavut Water Board will begin the public hearing/community session this evening from 7:00 pm to 10:00 pm subject to parties arrival), from Richard Dwyer, NWB, dated **February 12, 2020**.
160. Submitted **February 13, 2020**, by DFO, RE: DFO’s Fish and Fish Habitat Protection Program, Community Meeting Baker Lake, NU – February 2020.

APPENDIX E - Sign-in Sheets – List of Participants in the Public Hearing

PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020
Registration Form Day One

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
1.	Michiel	Godwin	AEM	418 670 6590		Michiel.Godwin@agm.org
2.	Gillian	Allen	OKane	306 713/568		gallen@okc-sk.com
3.	John	GOLDER	GOLDER	403 880-4399		john.golder@golder.com
4.	JAMIE	QUEWEL	AGNICO EAGLE	319 856 0821		jamie.quewel@agnc.ca
5.	Edyta	Ratajczyk	DFO	867 775 3054		edyta.ratajczyk@dfo-mpo.gc.ca
6.	Nancy	Dunnet-Harvey	AEM	819-856-4395		nancy.harvey@agm.org
7.	Cam	Stevens	Golder	780 916 1970		cam.stevens@golder.com
8.	Etienne	Parent	AEM	514-619-5561		etienne.parent@agm.org
9.	NICOLA	LOWER	ERM	437-777 8715		NICOLA.LOWER@erm.com
10.	Alasdair	Bentley	DFO	867-444-0285		alsadair.bentley@dfo-mpo.gc.ca
11.	Chris	Kennedy	AEM	416-525-7126		Chris.Kennedy@agm.org
12.	Chasler	Kono	AEM			
13.	Suzanne	Leclair	AEM	819 355 9482		Suzanne.Leclair@agm.org
14.	Maren	Turnell	AEM			maren.turnell@agm.org
15.	Arrol	Kubermova	NWB			
16.	Luis	MARZ	KIA	867 222 2490		luis.marz@kivalliq.ca
17.	Ashley	Aupakutug-Sun	KIA	867 645 5730		ashley@kivalliq.ca
18.	Jeff Fetzger	Fetzger	KIA	867 645 5730		jfetzger@kivalliq.ca
19.	David	Zhuang	CIRNAC	867-975-4846		David.Zhuang@Canada.ca
20.	Spencer	Dewar	CIRNAC	867-975-4846		Spencer.Dewar@Canada.ca
21.	Anne	Wilson	ECCC	867 765 8480		anne.wilson@Canada.ca
22.	Godwin	Okonkwo	CIRNAC	867 222 1668		godwin.Okonkwo@Canada.ca
23.	Sandra	Sandra		867-775-4314		
24.	Martha	Martha		867-193434		

PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020

Registration Form Day One

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PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020

Registration Form Day One

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
49.	Alan	Sexton	KIA			as.geovector@bellnet.ca
50.	Richard	Nesbitt	KIA			richard.nesbitt@environmental-science.ca
51.	Jennifer	King	KIA legal			jennifer.king@gowling.com
52.	Jose	Andet-Lecours	DFD			jose.andet-le-cours@dfd.gc.ca
53.	Jamie	Kataluk	KIA			jkataluk@kivalliq.ca
54.	Lootie	Toomasie	NWB			
55.	Ross	Murphy	NWB			
56.	Makube	Narok	NWB			
57.	Ben	Kocvik	NWB			
58.	Karen	Khatatyan	NWB			
59.	Richard	Dwyer	NWB			
60.	Terese	Mearns	NWB			
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PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020
Registration Form Day Two

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
1.	GILLIAN	ALLEN	OKANE	306-7131568		gallen@okc-sk.rpm
2.	Christine	Kochel	ACM			
3.	Janice	Quinn	ACM			
4.	GRAS	Laurie	ACM			
5.	Chris	Kimely	ACM			
6.	John	Fathful	ACM			
7.	Cam	Stevens	Goldier			
8.	Etienne	Parent	ACM			
9.	John	FATHFUL	GOLDEE	403 880 4396		john.fathful@golder.com
10.	MANON	TURMEL	ACM			
11.	David	ZHONG	CIRNAC	416 5		David.Zhang@Canada.ca
12.	Luis	MARZO	KIA			
13.	Rage	Wilson	CCC			
14.	Edyta	Rutajczyk	DFU	867 725 2351		edyta.rutajczyk@dfmp.gc.ca
15.	MASDAIR	DEATHIE	DFU	867 444 0735		alasdair.deathie@dfmp.gc.ca
16.	Jennifer	King	legal counsel KIA			jennifer.king@gowlings.com
17.	JOSE	Audet-lecoultre	DFU	317 440 0634		jose.audet-lecoultre@dfmp.gc.ca
18.	NICOLA LOWER	ERM LOWER	ERM			NICOLA.LOWER@ERM-con
19.	Matthew	Ugaymittuq	MT. Ugaymittuq			
20.	Richard	Aksamen	Hanlet			
21.	QD					
22.	CHARLIE	TUTUAGJUK	KIA	4469 (W)		
23.	C					
24.	SANSON	OKANE				

PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020

Registration Form Day Two

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
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PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020
Registration Form Community Session

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49.	SAITWIL	CHODUN	AEM			
50.	Cesey	Pardis	AEM			
51.	Lisamary	Qaqimat	Baker Lake			
52.	Zinia	Qujuk				
53.	RAYMOND	Quringayuk	Baker Lake			
54.	JAMES KANE					
55.	Lena Tapata	Tapata	Baker Lake			
56.	Saksinnad	Attungala	Baker Lake			
57.	Kaylie Grace	Niqtatig				
58.	Lootie	Tomasie	NWB			
59.	Makabe	Nartok	NWB			
60.	Ross	Krcek	NWB			
61.	Karen	Kharatyan	NWB			
62.	Ben	Koovik	NWB			
63.	Assol	Kubisinau	NWB			
64.	Richard	DeJor	NWB			
65.	Teresa	Meadows	NWB			
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PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020
Registration Form Community Session

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
1.	Maetha	Jorah				
2.	Samson	Jorah				
3.	Chris	Kennedy	AEM			
4.	Wilson	Lomer	ERM -			
5.	Chris	Kennedy	AEM			
6.	Grillian	Allen	Okone			
7.	Gary	Lawrence	Goldar			
8.	Etiene	Darent	AEM			
9.	JAMIE	DUBNER	AGNICO			
10.	Ashey	Aburton	KIA	867-655-7340		aburton@kivalligimut.ca
11.	Aranxa	Tunguag		867-793-2300		
12.	Rosalinda	Kaayah	Baker Lake	793-1628		
13.	Richard	AKSawnee	Hamlet	793 1481		
14.	Anne	Wilson	ECCC			
15.	George	Anisig	Baker Lake	793-2341		
16.	Peter	TARMAI	Baker Lake	793-2703		
17.	SAMSON	OKKOGA	BAKER LAKE			
18.						
19.	Leah	Pupils	Guard			
20.	Godwin	Okonkwo	CIRNAC			godwin.okonkwo@canada.ca
21.	Spencer	Dewar	CIRNAC			
22.	David	Zhong	CIRNAC			
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24.						

PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020
Registration Form Community Session

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PUBLIC HEARING WHALE TAIL PIT
Baker Lake, Nunavut February 12 – 13, 2020

Registration Form Day Two

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
49.	Leah					
50.	Lootie	Toomuse	NWB			
51.	Makube	NARTOK	NWB			
52.	Ross	Mcazek	NWB			
53.	Ben	Kayik	NWB			
54.	Karen	Kharatyan	NWB			
55.	ASSOL	Kabe-Siavul	NWB			
56.	Richard	Dwyer	NWB			
57.	Teresa	Meadows	NWB			
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