



NIRB File No.: 16MN056
NWB File No.: 2AM-WTP- - - -

January 27, 2017

To: *NIRB*: Whale Tail Pit Project Distribution List
NWB: Meadowbank Distribution List

Sent via email

Re: Commencement of Technical Review Period for the NIRB's Review and NWB Consideration of Agnico Eagle Mines Ltd.'s "Whale Tail Pit" Project Proposal and associated Water Licence Application

Dear Parties:

On November 25, 2016 the Nunavut Impact Review Board (NIRB) and Nunavut Water Board (NWB) jointly accepted the Environmental Impact Statement (EIS) submitted by Agnico Eagle Mines Ltd.'s (Agnico Eagle or Proponent) for the "Whale Tail Pit" project proposal (the Project) and initiated the public technical review process.¹

NIRB Call for Information Requests

On November 25, 2016 the NIRB invited interested parties to submit Information Requests (IRs) to the NIRB by December 16, 2016, later extended to December 22, 2016 to identify information required by parties to develop technical review comments of the EIS. The NIRB received parties' IRs on or before December 22, 2016 and, after confirming the submissions as IRs, on December 23, 2016 requested that the Proponent review the submissions and supply the NIRB with an indication of an anticipated submission date of an IR Response Package by January 13, 2017. The NIRB received the response package to IRs from Agnico Eagle on January 20, 2017.

The Whale Tail Pit project proposal, IRs and the IR Response Package(s) as received by the NIRB can be accessed online from the NIRB's online public registry at www.nirb.ca by using any of the following search criteria:

- Project Name: Whale Tail Pit Project
- NIRB File No.: 16MN056
- Application No.: 124683

¹ Letter from S. Granchinho (NIRB) and K. Kharatyan (NWB) to the NIRB and the NWB Distribution Lists Re: *Next steps in the NIRB's Review and NWB Consideration of Agnico Eagle Mines Ltd.'s "Whale Tail Pit" Project Proposal and associated Water Licence Application*, November 25, 2016.

NWB Response to Completeness of Application

On November 7, 2016 the NWB distributed correspondence requesting that Agnico Eagle provide a response to parties' comments on the completeness of the 2AM-WTP---- water licence application and supporting documentation (the Application). Agnico Eagle provided responses to the completeness review related comments made by Interveners on December 7, 2016 with additional information provided on January 25, 2017.

The comments received from Intervening parties, the submission from Agnico Eagle, the Type "A" Water Licence Application and associated documents for the Whale Tail Pit project can be accessed online from the NWB's online public registry at <ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-WTP----%20Agnico/>.

NIRB-NWB Coordination

The NIRB and the NWB note that Agnico Eagle had previously requested a coordinated process be undertaken by the Boards for consideration of the Whale Tail Pit project proposal and the associated water licence application, up to and including joint public hearings. As such, the NIRB and the NWB met in November 2016 to develop further clarity regarding the anticipated coordination for the Whale Tail Pit project and developed process map for the information of all parties that was released on November 25, 2016 (process map enclosed).¹ The Boards are intending to coordinate a joint Technical Meeting, Pre-Hearing Conference (PHC) and Final/Public Hearing for this project, and will be further developing associated procedures for these events moving forward. Further to the planned coordination on this specific file, the Boards have also committed to updating the existing Detailed Coordinated Process Guide in the near future, providing background and information pertaining to the possible coordination between the Boards' respective processes for all projects moving forward.

The NIRB Technical Review Process and Call for Technical Review Comments

The NIRB has conducted a preliminary completeness check to ensure all IRs relevant to the current stage of the review have been addressed and has determined that the sixty (60) day technical review period can commence. Although unable to fully assess the technical quality of the responses and to determine whether they will meet with reviewers' requirements, the NIRB is of the opinion that sufficient information has been provided to commence with the next steps in the technical review of the Whale Tail Pit project proposal. The NIRB notes that while recognizing that the environmental assessment process does not require the final version of documents to be presented if a draft is provided in the EIS; if the Proponent defers providing information at this part of the process, the information would have to be provided following the PHC, which may add time to complete the review process.

The public technical review period will allow for a detailed review of the EIS with the intent of analyzing the completeness and quality of the information presented by the Proponent in support of this project proposal. Parties are invited to review the EIS submission and develop technical review comments. Please note that parties are encouraged to review [Appendix A](#) of this letter, which provides the NIRB's suggested format for the development of technical review comments and additional clarification regarding the information that must be included with submissions as follows:

- Determination of whether Parties agree/disagree with the conclusions in the EIS regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures – and reasons to support the determination;
- Determination of whether or not conclusions in the EIS are supported by the analysis – and reasons to support the determination;
- Determination of whether appropriate methodology was utilized in the EIS to develop conclusions – and reasons to support the determination, along with any proposed alternative methodologies which may be more appropriate (if applicable);
- Assessment of the quality and presentation of the information in the EIS; and
- Any comments regarding additional information which would be useful in assessing impacts – and reasons to support any comments made.

The NIRB is requesting that responsible authorities, interested parties and those with specialist advice provide their technical review comments to the NIRB prior to the conclusion of the public comment period on **Tuesday, March 28, 2017**.

NWB Notice of Application and Commencement of Technical Review

The NWB has determined through the completeness and preliminary assessment, which took into consideration the Application, Interveners' submissions, and the NWB's initial review, that the Application submitted by Agnico Eagle generally constitutes an administratively and materially complete Application in accordance with the Guides.² The NWB has therefore decided that the Application can proceed to technical review stage of the licensing process. The NWB retains the rights, however, to request additional information and studies pursuant to s. 48(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA) or to issue guidelines for the provision of information pursuant to s. 48(3) of the NWNSRTA if it becomes necessary.

In accordance with s. 55(1) of the NWNSRTA, the **NWB gives Notice of the Application** and invites interested persons to make representation to the NWB by no later than **Tuesday, March 28, 2017**. A Notice of the Application will also be forwarded to the council of each municipality in the area(s) most affected by the Application and shall be published in a newspaper of general circulation in the area(s) affected or, if there is no such newspaper, in such other manner as the NWB considers appropriate. Parties are advised that the consequences of failure to respond are outlined in s. 59 and s. 60(2) of the NWNSRTA.³ Please note that parties are encouraged to review [Appendix B](#) of this letter, which provides the NWB's suggested format for the development of technical review comments.

Technical Meeting, Pre-Hearing Conference (PHC) and Community Roundtable

At present, the NIRB and the NWB are planning a meeting of technical experts (i.e., a Technical Meeting) in order to facilitate discussions on technical matters related to the review of the EIS and the consideration of the Application. The Technical Meeting is being planned to bring technical reviewers together in person with the Boards' staff in an effort to address technical issues prior to

² The minimum information requirements set out in the NWB Guidance Document- Guide 7 – Licensee Requirements Following the Issuance of a Water Licence, April 2010, see Table 3.

³ Section 59: In the circumstances described in paragraph 58(b), an applicant need not compensate the person under section 58 if the person fails to respond to the notice of application given under subsection 55(1) within the time period specified in the notice for making representations to the Board. Section 60(2) Subsection (I) does not apply in respect of a person referred to in that subsection who fails to respond to the notice of application given under subsection 55(1) within the time period specified in that notice for making representations to the Board.

the PHC. Reflecting *Rule 18* of the NIRB Rules⁴ and *Rule 14* of the NWB Rules⁵ the meeting will be facilitated by the NIRB and the NWB staff with participation by the Proponent, responsible authorities and other interested parties. The Technical Meeting is tentatively scheduled for the week of **April 24, 2017 in the community of Baker Lake**. Break-out sessions may be used, with each break out group (e.g., may be related to engineering, wildlife, water or socioeconomic issues) also to be facilitated by the NIRB and the NWB staff. During the Technical Meeting, the NIRB and the NWB staff will compile a list of commitments made by the Proponent when addressing planned clarifications, edits or additions for the EIS and the Application. The list of commitments will then be carried forward to the PHC and may be incorporated into the Boards' PHC decision.

Following the Technical Meeting, the NIRB and the NWB anticipate holding a PHC in Baker Lake in order to discuss matters such as the readiness of the matter to proceed to a Final/Public Hearing; timelines for submissions and the Final/Public Hearing; future meetings, evidence and document exchange; participants in a Final/Public Hearing; Final/Public Hearing venue(s); Final/Public Hearing format; and, any other matters related to the procedure and logistics associated with the Final/Public Hearing. The PHC provides an opportunity for parties to present to the Boards on the issues that were resolved during the technical meeting, and also to identify those issues which remain outstanding and are likely to be carried forward to the Final/Public Hearing. It is also an opportunity for the NIRB and the NWB to hear from the public regarding the information contained in the EIS and the Application. While the Technical Meeting is a structured but largely informal opportunity for technical experts to resolve outstanding issues, participation in the PHC is somewhat more restricted and formalized.

The NIRB and the NWB will facilitate a Community Roundtable session in conjunction with the PHC, to include representation from communities identified as potentially impacted by the proposed Project in order to provide further opportunity for meaningful participation in the NIRB's Review and the NWB's consideration of the Application.

Having considered other scheduling obligations for the NIRB and the NWB, and determining the availability of meeting rooms and hotel accommodations in Baker Lake, the NIRB and the NWB have tentatively scheduled the Technical Meeting for the week of April 24, 2017 and the Pre-Hearing Conference for the week of May 1, 2017. Please be advised that the NIRB has reserved a block of rooms for attendees of these events. Interested persons should note that further details will be provided in the coming months confirming the exact dates and relevant details regarding the Boards' plans for the Technical Meeting and the PHC.

Pre-Hearing Conference (PHC) Decision

Following the PHC, the NIRB and the NWB will issue a PHC decision which may outline the technical commitments of Agnico Eagle, will provide direction to Agnico Eagle whether any additional information and submissions would be required prior to the scheduling of the Final/Public Hearing, and the administrative and procedural requirements for a Final/Public Hearing.

Public Hearing (PH) Notice

⁴ NIRB's *Rules of Procedure* dated September 3, 2009.

⁵ NWB's *Rules of Practice and Procedure for Public Hearing* dated May 11, 2005.

Rule 20 of the NIRB Rules⁴ and s. 55(2) of the NWNSRTA require that at least sixty (60) days' notice be provided in advance of a Final/Public Hearing. Once the NIRB and the NWB have received all information requested through this process and is satisfied that the Final/Public Hearing should proceed, the type or place, date, and time of the hearing will be determined. As well, a notice will be published by the both Boards in advance of the Final/Public Hearing, in a manner that promotes public awareness and participation in the hearing.

Next Steps in the Coordinated Process

The next steps in the NIRB's Review and the NWB's consideration of the Application by Agnico Eagle in respect of the proposed Whale Tail Pit project have been outlined as follows for the information of parties. Please note that the Boards reserve the right to revise the next steps and timelines if circumstances dictate:

- | | |
|---------------------------|---|
| January 27, 2017: | Commencement of the technical review period; parties are asked to provide their technical review comments on a number of specific points as outlined above and in Appendix A and Appendix B of this letter. |
| March 28, 2017: | Submission of technical review comments and representations to the NIRB and the NWB. |
| April 7, 2017: | Agnico Eagle to provide response(s) to technical review comments.
Parties given an opportunity to review responses from Agnico Eagle. |
| April 12, 2017: | Circulation of draft agenda for the NIRB and the NWB Technical Meeting. |
| April 21, 2017: | Submission of Proponent's and parties' presentations for technical meeting (<i>including translated versions</i>). |
| April 28-29, 2017: | Technical Meeting in Baker Lake. The objective of the Technical Meeting would be to clarify and resolve technical issues in the EIS and Application. |
| May 1-2, 2017: | Community Roundtable and PHC in Baker Lake. |
| June 6, 2017: | NIRB and NWB to issue PHC decision for the Whale Tail Pit project. |

Throughout the technical review phase, interested parties are encouraged to work cooperatively with Agnico Eagle to discuss issues in advance of the proposed Technical Meeting and Pre-hearing Conference. The NIRB and the NWB, however, request to be kept informed of any issues and any agreement(s) reached between the parties on specific issues related to the Project proposal and the Application.

The NIRB and the NWB would like to remind Agnico Eagle and all parties that all comment submissions on the Whale Tail Pit project proposal and on the Type "A" Water Licence

Application should be submitted to each Board independently. Submissions to the NIRB should be provided directly to info@nirb.ca or through the online public registry at www.nirb.ca. Submissions to the NWB should be provided directly to licensing@nwb-oen.ca. All submissions are to be provided to the NIRB and the NWB by **Tuesday, March 28, 2017**.

If you have any questions regarding the NIRB's Review of the Whale Tail Pit project proposal, please contact Sophia Granchinho, Manager, Impact Assessment at sgranchinho@nirb.ca or by phone at (867) 857-2052. If you have any questions on the NWB's consideration of the water licence Application, please contact Karén Kharatyan, Acting Manager, Licensing at karen.kharatyan@nwb-oen.ca or by phone at (867) 360-6338 (ext. 35).

Sincerely,

Sincerely,



Sophia Granchinho, M.Sc.
Manager, Impact Assessment
Nunavut Impact Review Board

Karén Kharatyan, Ph.D.
Acting Manager, Licensing
Nunavut Water Board

cc: Ryan Vanengen, Agnico Eagle Mines Ltd.
Stéphane Robert, Agnico Eagle Mines Ltd.
Jamie Quesnel, Agnico Eagle Mines Ltd.
Larry Connell, Agnico Eagle Mines Ltd.

Attachments: Appendix A: NIRB's Suggested Format for Parties' Technical Review Comments
Appendix B: NWB's Suggested Format for Parties' Technical Review Comments

Enclosure (1): Anticipated process for the NIRB's/NWB's Coordination of Agnico Eagle Mines Ltd.'s Whale Tail Pit Project Proposal Review and Water Licence Application (November 25, 2016)

APPENDIX A: NIRB'S SUGGESTED FORMAT FOR PARTIES' TECHNICAL REVIEW COMMENTS

For each issue raised, parties are asked to include a clear reference to the volume, document, section, and/or page number in the EIS (and included Application) where relevant information may be found. Parties may find efficiencies in structuring submissions by issue, and are asked, where possible, to align their submission in accordance with the ordering of materials as presented within the EIS. A tabular presentation as provided below is requested as a means of systematically organizing comment submissions and to assist with the compilation of submissions for the next steps of the NIRB's Review process.

Format and File Size

Parties must provide submissions in a fully functional, electronically searchable Word, Excel or unlocked PDF format. Noting the current constraints with respect to internet bandwidth and speed, the NIRB requests that all documents be submitted as electronic file(s), no larger than 5 MB.

Deadline for filing technical review comments

The NIRB and the NWB have requested that responsible authorities, interested parties and those with specialist advice provide their technical review comments to the NIRB and the NWB on or before **Tuesday, March 28, 2017**.

Technical review comment submissions must contain the following:

1. Executive Summary

Submissions must contain a non-technical executive summary of the major issues identified during the review of the EIS. The summary should not exceed two pages.

The NIRB requires executive summaries be provided in English and be translated into both **Inuktitut** and **French**. Please note that parties are responsible for sourcing this translation.

2. Table of Contents

Submissions must contain a table of contents with sections that relate to the main headings of the EIS document for the Whale Tail Pit Project and also which identify the major issues under those headings the party intends to bring forward for discussion and intends to address at the Technical Meeting and/or Pre-Hearing Conference. Submissions may also address any other matter that the party considers relevant to the NIRB's Review of the EIS and Whale Tail Pit project proposal.

3. Introduction

All submissions should contain a statement of the party's mandate and relationship to the project. Parties that have regulatory jurisdiction over the Whale Tail Pit project must also provide a description of the party's jurisdiction as well as a list of the legislation, regulations, policies and guidelines administered by the party that are applicable to the project.

4. Specific Comments

For each issue included in the submissions, parties should provide the following:

- a. A detailed description of the issue and, where appropriate, a reference to where within the EIS (volume/document, section and page number) that issue is discussed;
- b. If provided by the Proponent within the EIS, identify the Proponent's conclusion(s) related to the issue;

- c. A statement regarding the conclusion(s) of the commenting party related to the issue, including reference to the justification/data/rationale supporting that conclusion;
- d. A brief discussion assessing the issue's importance to the impact assessment process; and
- e. Any recommendation(s) to the NIRB with respect to the disposition of the issue.

5. Summary of Recommendations

Finally, submissions to the NIRB must contain a *summary* of the recommendations to the Board with respect to:

- Whether Parties agree/disagree with the conclusions presented in the EIS regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures – and all evidence supporting the parties' position;
- Whether or not conclusions presented in the EIS are supported by the analysis – and all evidence supporting the parties' position;
- Whether appropriate methodology was utilized in the EIS to develop conclusions – and all evidence supporting the parties' position along with any proposed alternative methodologies which may be more appropriate if applicable;
- An assessment of the quality and the presentation of the information presented in the EIS;
- An assessment of the appropriateness of proposed monitoring measures – and evidence to support the determination, along with any proposed alternative monitoring measures which may be more appropriate (if applicable); and
- Any comments regarding additional information which would be useful in assessing impacts – and reasons to support any comments made.

6. Suggested submission format in Table Form

Review Comment Number	
Subject/Topic	
References to the EIS (i.e., volume/document, Section/sub-section, page number, etc.)	
Summary (include Proponent's conclusion if relevant and conclusions of commenting party)	
Importance of issue to the impact assessment process	
Detailed Review Comment	1. Gap/Issue 2. Disagreement with EIS conclusion 3. Reasons for disagreement with EIS conclusion
Recommendation/Request	

APPENDIX B: NWB'S SUGGESTED FORMAT FOR PARTIES' TECHNICAL REVIEW COMMENTS

For each issue raised, parties are asked to include a clear reference to the volume, document, section, and/or page number in the Application (and included EIS) where relevant information may be found. Parties may find efficiencies in structuring submissions by issue, and are asked, where possible, to align their submission in accordance with the ordering of materials as presented within the Application. A tabular presentation as provided below is requested as a means of systematically organizing comment submissions and to assist with the compilation of submissions for the next steps of the NWB's consideration of the Application.

Format and File Size

Parties must provide submissions in a fully functional, electronically searchable Word, Excel or unlocked PDF format. Noting the current constraints with respect to internet bandwidth and speed, the NWB requests that all documents be submitted as electronic file(s), no larger than 5 MB.

Deadline for filing technical review comments

The NIRB and the NWB have requested that responsible authorities, interested parties and those with specialist advice provide their technical review comments to the NIRB and the NWB on or before **Tuesday, March 28, 2017**.

Technical review comment submissions must contain the following:

1. Executive Summary

Submissions must contain a non-technical executive summary of the major issues identified during the review of the Application. The summary should not exceed two pages.

The NWB requires executive summaries be provided in English and requests that the summaries also be translated into both **Inuktitut** and **French**. Please note that parties are responsible for sourcing this translation.

2. Table of Contents

Submissions must contain a table of contents with sections that relate to the main headings of the Application and also which identify the major issues under those headings the party intends to bring forward for discussion and intends to address at the Technical Meeting and/or Pre-Hearing Conference. Submissions may also address any other matter that the party considers relevant to the NWB's consideration of the Type "A" Water Licence Application.

3. Introduction

All submissions should contain a statement of the party's mandate and relationship to the project. Parties that have regulatory jurisdiction over the Whale Tail Pit project must also provide a description of the party's jurisdiction as well as a list of the legislation, regulations, policies and guidelines administered by the party that are applicable to the project.

4. Specific Comments

For each issue included in the submissions, parties should provide the following:

- a. A detailed description of the issue and, where appropriate, a reference to where within the Application (volume/document, section and page number) that issue is discussed;

- b. If provided by the Proponent within the Application, identify the Proponent's conclusion(s) related to the issue;
- c. A statement regarding the conclusion(s) of the commenting party related to the issue, including reference to the justification/data/rationale supporting that conclusion;
- d. A brief discussion assessing the Issue's importance to the water licence process; and
- e. Any recommendation(s) to the NWB with respect to the disposition of the issue.

5. Suggested submission format in Table Form

Review Comment Number	
Subject/Topic	
References to the Application (i.e., volume/document, Section/sub-section, page number, etc.)	
Summary (include Proponent's conclusion if relevant and conclusions of commenting party)	
Importance of issue to the water licence process	
Detailed Review Comment	1. Gap/Issue 2. Disagreement with Application conclusion 3. Reasons for disagreement with Application conclusion
Recommendation/Request	