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Kivalliq Inuit Association

ᑲᑲᑦᑦᑦᑦᑦᑦ/P.O. Box 340, ᑲᑦᑦᑦᑦᑦᑦᑦᑦ/Rankin Inlet, ᐃᐅᑦᑦᑦᑦ/Nunavut X0C 0G0

ᑲᑦᑦᑦᑦ/Tel: (867) 645-5725 ᑲᑦᑦᑦᑦᑦᑦ/Fax: (867) 645-2348/ᐃᑲᑦᑦᑦᑦᑦᑦᑦᑦ/Toll free: 1-800-220-6581

Alex Power,
Project Manager,
Northern Projects Management Office,
Canadian Northern Economic Development Agency,
5019-52nd Street,
Yellowknife, NT X1A 1T5

November 19, 2019

Dear Alex Power:

Re: Whale Tail Pit Proposed Project – Agnico Eagle Mines Ltd. - NIRB Final Report

Thank you for your letter dated October 22nd. The Kivalliq Inuit Association (KIA) had the opportunity to participate in the Nunavut Impact review Board (NIRB) Technical and Final Hearing, and to present its comments on the proposed Whale Tail Project.

The NIRB released its reconsideration report and recommendations for the Agnico Eagle Mines (AEM) Whale Tail Expansion Project to Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) on October 18, 2019. The NIRB recommended that the Expansion Proposal 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.

KIA is generally satisfied with NIRB's Final Hearing Report. However, while we appreciate the fact that NIRB carefully considered and addressed potential effects on the environment, we continue to have concerns which we would like to see addressed.

Caribou

NIRB was sympathetic to KIA's concerns about analysis of existing data and the uncertainty surrounding the magnitude and extent of potential impacts to caribou migration and movement resulting from the proposed widening and continued use of the Whale Tail haul road: *"The Board notes there is a lack of existing monitoring data to fully assess the potential impacts to caribou and other terrestrial wildlife from the haul road and other project components including the continued use of the all-weather access road"* (pg 18). NIRB also touched on balancing recommendations with ongoing work under the Terrestrial Advisory Group (TAG): *"...the Board has carefully considered the recommendations provided while bearing in mind the need for the TAG to have sufficient flexibility in determining thresholds and how to effectively implement mitigation and monitoring*

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ᑦᑦᑦᑦᑦᑦ/Tel: (867) 645-5725 ᑦᑦᑦᑦᑦᑦ/Fax: (867) 645-2348/ᑦᑦᑦᑦᑦᑦᑦᑦᑦ/Toll free: 1-800-220-6581

inclusion and utilization of Inuit Qaujimajatuqangit.

The revisions to T&C 30 are a bit odd, as they refer to the Proponent working with “...the Government of Nunavut and the Baker Lake Hunters and Trappers Organization through the TAG to develop and update thresholds to trigger implementation of mitigation measures on both the AWAR and Whale Tail Haul road, up to and including temporary road closures” (pg 87). The KIA is not mentioned; an oversight which we suggest should be corrected.

The one new T&C related to caribou (no. 65, pg 88), which essentially follows from Commitment #8 (KIA-Terrestrial-TC#1 and GN-TRC-01) from the June 2019 technical meeting:

“The Proponent shall, in consultation with the Terrestrial Advisory Group, develop a construction plan for the widening of the Whale Tail haul road which includes:

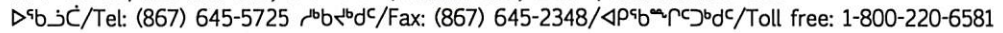
- *Design features of the Whale Tail haul road intended to facilitate caribou movement across the road;*
- *Identified sections of the roadside that will be constructed with slopes and top-dressing material appropriate for caribou crossing.*

The plan must incorporate available Inuit Qaujimajatuqangit in the selection of caribou crossing locations.”

Freshwater Environment

The NIRB notes in their report the proponent’s “request for a coordinated but offset process between the NIRB and NWB” (pg 16). They further acknowledged that “Given the NWB’s jurisdiction over the use of freshwater and deposit of waste, and considering the continued use of the Whale Tail infrastructure as well as the Meadowbank site and Baker Lake storage facility, the NIRB has provided specific direction to the NWB in respect of specific items that remain to be addressed in detail subsequently through the NWB’s consideration of the requested amendments to existing water licences” (pg 16). This has translated into the resolution of key concerns for the aquatic environment highlighted by the KIA being deferred to the Water Licencing process.

The NIRB still provided consideration for the KIA’s concerns regarding AEM’s predicted effects, stating that the “even with the benefit of monitoring data for some aspects of the Expansion Proposal, considerable uncertainty exists regarding the effects the Expansion Proposal may have on air quality and water quality and associated impacts to vegetation





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the KIA with the proposed field program for aquatic environment data collection in project streams in August 2019 for KIA approval”,

- Commitment #22: *“Agnico Eagle will include Westbay well data collected at the Whale Tail project area in March 18, 2019 in their submission to the NWB. Once these data are provided, AEM will evaluate with KIA whether there is a need to use that data to update the hydrogeological model for the project”,*
- Commitment #24: *“Agnico Eagle commits to update the water quality model for the project including cryo-concentration as a model input”, and*
- Commitment #25: *“Agnico Eagle commits to update the Spill Contingency Plan: Meadowbank Mine Site, All Weather Access Road, Whale Tail Pit Site, Figure 5 to indicate where above ground fuel storage tanks will be located.”*

AEM is still working to fulfill:

- Commitment #1: *“Agnico Eagle is committed to complete additional sampling in 2019 and 2020 to include water quality and phytoplankton in D1 and D5 Lakes”* which is due by September 2020.

AEM has only partially fulfilled Commitment #23: *“Agnico Eagle commits to include a decision tree for adaptive Water management plan in their submission to the NWB. Agnico Eagle further commits to updating the water quality model with assumptions and inputs based on their ongoing experience at the site to better validate FEIS predictions”*. While the water quality model has been updated, AEM has yet to provide a decision tree for adaptive water management. This decision tree was to have been submitted prior to the water license technical review period and is essential to provide confidence AEM can manage potential project impacts in the face of the significant uncertainty surrounding predicted effects to the aquatic environment highlighted in the NIRB report. The NIRB report should specifically highlight this commitment as a similar commitment regarding air quality is highlighted in the NIRB report as follows: *“[the] Board expects the Proponent will update the associated monitoring plan to include an adaptive management strategy that identifies air contaminant thresholds for triggering of appropriate mitigation measures”* (pg 66), and Revised Term and Condition No. 1 (pg 84-85).

Failure by the proponent to provide a quantitative adaptive management plan and decision tree further precludes the satisfactory conclusion of Commitment #21 made by the KIA to *“review the Water management plan once received by Agnico Eagle to ensure it meets the KIA's needs”*. At present the water management plan included in the both the NIRB and NWB submissions do not meet the KIA's needs as it does not provide confidence that potential project impacts that diverge from the base case can be adequately managed.



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In addition, this provides uncertainty as to whether AEM will be able to fulfill their commitment “to incorporating new mitigation measures where required and implementing adaptive management strategies” (pg 31) in a timely manner. It also raises uncertainty as to whether AEM will be able to operate the Expansion Project in a way that does not result in adverse impacts to the aquatic environment.

Summary

The reconsideration report fairly captured concerns about caribou and water raised by the KIA and others provided during the assessment and specifically during the public hearings. Regarding caribou, most of KIA’s concerns have been addressed through commitments made by the Proponent, many of which are threaded through the Terrestrial Advisory Group (TAG) for discussion and implementation. We do note, however, that this approach defers decisions about monitoring and mitigation to the ongoing work of the TAG, which then leaves the recommendations as relatively open ended. This can, however, be addressed through KIA’s firm input into the TAG.

The revisions to T&C 30 are a bit odd as they overlook the KIA, but it is not expected that discussions on mitigation measures at TAG meetings would change from the inclusive discussions that have occurred in the past.

AEM has also addressed most KIA concerns with respect to the freshwater environment and so resulting terms and conditions are understandably absent from the NIRB report; most issues were deferred to the water licencing stage and have since been addressed. However, AEM’s commitment to provide a quantitative adaptive management plan and decision tree including triggers and thresholds for implementing key management and mitigation measures following Commitment #23 made during the June Technical Hearings appears to be a notable oversight. The quantitative adaptive management plan and decision tree is important given the significant uncertainty in predicted project effects to the aquatic environment noted by the NIRB in their report.

Confidence in the proponent’s ability to prevent adverse effects to the aquatic environment is dependent on the provision of the fully detailed adaptive management plan as committed to during the NIRB process.

Closing

Thank you for providing us with the opportunity to comment on the NIRB Final Report. KIA is prepared to continue working with AEM and other Intervenors to achieve an acceptable outcome on our outstanding issues.

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