



NIRB File No.: 16MN056

February 20, 2018

To: Whale Tail Pit Distribution List

Sent via email

Re: Scheduling of a Project Certificate Workshop for Agnico Eagle Mines Ltd.'s "Whale Tail Pit Project", March 9, 2018

Dear Parties:

On February 15, 2018 the Nunavut Impact Review Board (NIRB) received notification from the Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations and Northern Affairs that the Final Hearing Report for the Review of Agnico Eagle Mines Ltd.'s Whale Tail Pit Project Proposal (NIRB File No. 16MN056) had been accepted pursuant to s. 105(a)(i) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*).

Now that the Whale Tail Pit Project has been approved to proceed, the NIRB is required to issue a Project Certificate pursuant to s. 111(1) of the *NuPPAA*, which sets out the terms and conditions of approval, as included in the Final Hearing Report for this Review. Prior to finalization and issuance of a Project Certificate for the Whale Tail Pit Project, the Board must ensure that all associated terms and conditions are clearly understood by the responsible parties and are clarified where necessary to allow for full implementation and incorporation into applicable regulatory instruments, as required by *NuPPAA* ss. 136(1) and 137(1):

NuPPAA, s. 136(1): Each federal or territorial minister, each department or agency and each municipality must, to the extent of their jurisdiction and authority to do so, implement the terms and conditions that are set out in an original or amended project certificate.

NuPPAA, s. 137(1): Each regulatory authority must, to the extent of its jurisdiction and authority to do so, incorporate the terms and conditions referred to in subsection 136(1) into any licence, permit or other authorization that it issues.

To assist with the finalization of the enclosed *draft* Project Certificate for the Whale Tail Pit Project, the NIRB is scheduling a project certificate workshop by teleconference for **March 9, 2018**.

The Project Certificate workshop will be scheduled to facilitate discussions amongst regulatory authorities, the NIRB staff, and the Proponent regarding the implementation of terms and conditions contained within the Project Certificate. During the workshop, regulatory authorities will be expected to confirm which terms and conditions from the Final Hearing Report will be incorporated into their respective licences, permits or other authorizations that it issues. All parties are further advised that the NIRB will not be modifying the explicit wording of, nor providing justification for, specific terms and conditions during the workshop as this has been provided in the Final Hearing Report. Initial reporting expectations may also be discussed, with the intention of coordinating future reporting requirements to the extent possible.

The Proponent and the following relevant regulatory authorities are asked to ensure they provide appropriate representation at the workshop:

- Nunavut Water Board
- Kivalliq Inuit Association
- Government of Nunavut
- Environment and Climate Change Canada
- Fisheries and Oceans Canada
- Indigenous and Northern Affairs Canada
- Natural Resources Canada
- Transport Canada

To ensure the objectives of the workshop are met, each department, agency, or organization is asked to, where possible, select staff representatives who are directly involved in the development of their respective regulatory instruments for the Whale Tail Pit Project.

While the NIRB intends to finalize and issue the Whale Tail Pit Project Certificate shortly after the workshop, the project-specific monitoring program, which is usually issued as an Appendix to the Project Certificate, may not be issued in *final* form until some months after key regulatory authorizations, including land use permits, water licences, mineral leases, etc. are issued. This will help to ensure that the monitoring program supplements and supports, but does not duplicate the monitoring and reporting requirements that may be contained within and/or be required by regulatory instruments. The NIRB will begin actively monitoring the Whale Tail Pit Project upon issuance of the Project Certificate.

Upon issuance of the Project Certificate to the Proponent, the NIRB will also provide all parties with a tracking document listing any points of clarification made to the terms and conditions as set out in the NIRB's Final Hearing Report. This will be provided for information only.

FINAL HEARING REPORT RECOMMENDATIONS:

Within the Final Hearing Report, the NIRB used the following format for its recommended project-specific terms and conditions to provide clear direction on the intended application, objectives, and reporting requirements:

Category: Identifies the relevant environmental component or project activity to which the term and condition applies. Wherever possible categories have been labelled to directly link back to the Environmental Impact Statement prepared for the Project.

Responsible Parties: Identifies the parties responsible for implementation of the term and condition. While this is generally the Proponent, at times other regulatory authorities have been identified as also having a role in the Proponent's compliance with the term and conditions (such as consulting with the Proponent, participating on a working group, etc.).

Project Phase: Identifies the phase(s) of Project development to which the term and condition is applicable. Project phase may include any one or more of the following:

- Pre-Construction - includes site preparation and staging of materials and equipment in advance of construction
- Construction
- Operations
- Temporary Closure /Care and Maintenance
- Closure and Post-Closure - includes abandonment, decommissioning and reclamation

Objective: Provides a short description of the impact or effect being mitigated, or issue the term and conditions is meant to address. Where relevant, expectations have been provided regarding the timing for when terms and conditions will be deemed to be satisfied (i.e., sunset clause), and who has discretion for determining they are satisfied.

Term or Condition: Provides specific direction on the required action or follow up. In most instances the NIRB has endeavoured to use wording that is clearly understood by all parties, but that also allows for some flexibility for the Proponent to determine how best to achieve the stated objective. However, there are some terms and conditions for which the Board has decided that more explicit direction is necessary, and more prescriptive language has been used in those terms and conditions .

Reporting Requirements: Sets out any specific reporting parameters required to measure achievement of objectives or to demonstrate compliance, as well as the required frequency of reporting. Consideration will be given to coordination of Project Certificate reporting requirements with reporting requirements as established by other regulatory instruments associated with the Project.

Within the Final Hearing Report, it was noted that for a number of the recommended terms and conditions, some of the above parameters would be developed following approval of the Project by the Minister through discussions at a meeting with regulators and prior to issuance of the Project Certificate (i.e. project certificate workshop). It is expected that a number of terms and conditions may also require clarification for some of the parameters. For example, it may become apparent that there are additional parties responsible for implementing certain terms and conditions, or it may be that commentary to the term and condition is required to ensure that the intention and administration of the term and condition is clarified. Through the Project

Certificate workshop, the NIRB will provide opportunity to discuss where clarification to the terms and conditions is to be incorporated into the Project Certificate.

In addition, the NIRB will also provide an opportunity during the workshop to the Proponent and parties to discuss the continued applicability of the existing terms and conditions in the Meadowbank Project Certificate No. 004. These discussions will include how existing terms and conditions from the Meadowbank Project Certificate No. 004 that will be applicable to the Whale Tail Pit Project and that will extend beyond the closure of the Meadowbank Project to govern the Whale Tail Pit Project will be cross-referenced to denote their continued applicability to the infrastructure and activities shared with the Whale Tail Pit Project. As identified by the NIRB in the Final Hearing Report for the Project, these terms and conditions include the following:

- General Monitoring Commitments and Regulatory Requirements, Terms and Conditions 2-4 and 6, 7, 21 and 23;
- Water Quality and Waste Management, Terms and Conditions 8-14, 18, 19, 25-28;
- Project Alternatives and Planned Changes, Term and Condition 29;
- All-Weather Access Road, Terms and Conditions 32, 34 and 35;
- Marine Environment, Terms and Conditions 36-38 and 40-45;
- Fish and Fish Habitat, Terms and Conditions 46, 47, 50-52;
- Wildlife and Terrestrial Environment, Terms and Conditions 54 and 56-61;
- Noise, Term and Condition 62;
- Socio-Economics, Terms and Conditions 63-65;
- Human Health, Term and Condition 68;
- Archaeology, Terms and Conditions 69 and 70;
- Air Quality, Terms and Conditions 71-74;
- Accidents and Malfunctions, Term and Condition 75;
- Abandonment and Reclamation, Terms and conditions 78-80; and
- Other, Terms and Conditions 81-84.

NEXT STEPS

The enclosed *draft* Project Certificate contains the recommended terms and conditions as set out in the Final Hearing Report for the Project. This document will form the basis of discussions for the workshop, as set out in the draft workshop agenda in **Appendix A**.

To facilitate preparation and efficient discussion time, parties are encouraged to provide the NIRB with a listing of any terms and conditions from the enclosed *draft* Project Certificate as well as identifying any of the existing terms and conditions from the existing Meadowbank Project Certificate No. 004 that will be applicable to the Whale Tail Pit Project and which continue to govern the Whale Tail Pit Project beyond the closure of the Meadowbank Project, which they expect to implement through their respective licences, permits or other authorizations and, any terms and conditions which, in their view, might require clarification prior to issuance of a Project Certificate. The NIRB respectfully requests that parties provide the Board with their respective listings and confirmation of planned attendance via email at info@nirb.ca on or before **March 5, 2018**. Should any of the required parties be unable to attend, the Board would

appreciate being notified with as much advance notice as possible to permit potential re-scheduling.

Should any parties have questions or require additional clarification, please contact Kelli Gillard, Acting Director, Technical Services at (867) 983-4619 or kgillard@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Ryan Vanengen, Agnico Eagle Mines Ltd.
Jamie Quesnel, Agnico Eagle Mines Ltd.
Erika Voyer, Agnico Eagle Mines Ltd.
Karén Kharatyan, Nunavut Water Board
Luis Manzo, Kitikmeot Inuit Association
Tineka Simmons, Canadian Northern Economic Development Agency
Steve Pinksen, Government of Nunavut
Erika Zell, Government of Nunavut
Spencer Dewar, Indigenous and Northern Affairs Canada
Georgina Williston, Environment and Climate Change Canada
Veronique D'Amours-Gauthier, Fisheries and Oceans Canada
Mark D'Aguiar, Fisheries and Oceans Canada
Rob Johnstone, Natural Resources Canada
Rachelle Besner, Natural Resources Canada
Christopher Aguirre, Transport Canada

Attachment: Appendix A: Project Certificate Workshop *Draft* Agenda (NIRB File No. 16MN056)

Enclosure (2): *Draft* Whale Tail Pit Project Certificate No.: 008 (NIRB File No. 16MN056)
Meadowbank Project Certificate No.: 004

APPENDIX A:
PROJECT CERTIFICATE WORKSHOP *DRAFT* AGENDA

NIRB File No.: 16MN056 – Whale Tail Pit Project
Proponent: Agnico Eagle Mines Ltd.
Location: Teleconference (call number to be provided to confirmed attendees)
Date: March 9, 2018
Time: 8:45 am – 12:00 pm; 1:30 pm – 5:00 pm
Time Zone: Mountain Standard Time (MST)

Objectives:

- 1) To bring together the Proponent and relevant regulatory authorities to facilitate discussions on the implementation of terms and conditions contained within the Project Certificate into their respective licences, certificates and permits.
- 2) To identify specific points of clarification required for terms and conditions prior to finalization and issuance of the Project Certificate by the NIRB.

Note(1): The workshop will be chaired by Ryan Barry, NIRB Executive Director.

Note(2): Each party will be provided with an opportunity to speak to each agenda item in an ordered fashion. Time limits will be implemented as necessary.

Friday, March 9, 2018 - Day 1 of Project Certificate Workshop

8:45 am – 9:00 am NIRB Opening Remarks

9:00 am – 12:00 pm Ecosystemic Terms and Conditions

- Air Quality: Terms and Conditions 1-2
- Climate and Meteorology: Term and Condition 3
- Noise and Vibration: Terms and Conditions 4-5
- Terrestrial Environment (Geology and Geochemistry): Terms and Conditions 6-8
- Geological Features, Soils and Permafrost: Terms and Conditions 9-13
- Hydrogeology and Groundwater Quantity and Quality: Terms and Conditions 14-16
- Surface Water Hydrology, Surface Water Quality and Sediment Quality: Terms and Conditions 17-19
- Freshwater Aquatic Environment: Terms and Conditions 20-24
- Vegetation: Terms and Conditions 25-26
- Terrestrial Wildlife and Wildlife Habitat: Terms and Conditions 27-33
- Birds and Bird Habitat: Terms and Conditions 34-36
- Marine Environment including Marine Wildlife and Habitat: Term and Condition 37-43

1:30 pm – 3:30 pm Socio-Economic Terms and Conditions

- Economic Development and Business Opportunities: Terms and Conditions 44-47
- Employment, Education and Training: Terms and Conditions 48-52
- Population Demographics: Term and Condition 53
- Traditional Activity and Knowledge: Terms and Conditions 54-56
- Individual and Community Wellness: Terms and Conditions 57-59
- Community Infrastructure and Public Services: Terms and Conditions 60-62

3:30 pm – 4:30 pm Other Terms and Conditions

- Human Health and Ecological Risk Assessment: Term and Condition 63
- Cumulative Effects: Term and Condition 64

4:30 pm – 5:00 pm Discussion of the Existing Terms and Conditions in the Meadowbank
Project Certificate No. 004 Applicable to the Whale Tail Pit Project

NIRB Closing Remarks

Close of Project Certificate Workshop