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NUNAVUT WATER BOARD  
NUNAVUT IMALIRIYIN KATIMAYINGI  
OFFICE DES EAUX DU NUNAVUT

**File Nos.:** 2AM-WTP1826, 2AM-MEA1526, 2BB-MEA1828

**To:** Meadowbank / Whale Tail Pit Distribution List

**Date:** November 29, 2019

**Subject:** 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

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On November 28, 2019, by Motion #2019-20-P17-05 the members of the Whale Tail Pit Panel (P17 Panel or Panel), duly appointed by the Nunavut Water Board (NWB or Board) to consider the applications submitted by Agnico Eagle Mines Limited (Agnico Eagle or Applicant) for amendments to Type “A” Water Licence Nos.: 2AM-WTP1826 and 2AM-MEA1526 and Type “B” Water Licence No: 2BB-MEA1828 (the Amendment Applications), approved and directed the release of this Pre-Hearing Conference Decision Report (Decision). By Motion #2019-20-P17-06, the Panel also directed the issuance of procedural direction and a Notice of Public Hearing associated with the Board’s next stages in the processing the Amendment Applications, which includes an upcoming in-person Public Hearing to be held in the community of Baker Lake, that is tentatively scheduled for the week of February 10-14, 2020.

As indicated on August 14, 2019, in the NWB’s Notice of the Amendment Applications, in order to facilitate the NWB’s technical review of the Amendment Applications, the Panel directed the staff of the NWB to hold an in person Technical Meeting (TM) and Pre-Hearing Conference (PHC) (TM/PHC) to discuss technical and procedural issues in relation to the Amendment Applications in Baker Lake on October 29 and 30, 2019 in accordance with Rule 14 of the NWB *Rules of Practice and Procedure* (May 2005) (*Rules*). Unfortunately, however, due to unfavorable weather conditions, which resulted in flight cancellations for several days into and out of Rankin Inlet and Baker Lake, the Applicant, the NWB staff and Interveners were unable to reach Baker Lake on October 29 and 30 as planned. In addition, although the NWB had secured the Baker Lake Community Hall as the venue for the in person TM/PHC, due to the inclement weather, voting in the municipal election in Baker Lake, originally scheduled to take place on October 28, 2019 was rescheduled to take place on October 29, 2019 in the Community Hall.



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Consequently, on October 28, 2019, following consultations with the Applicant and the Interveners and recognizing the circumstances, the Board's staff directed that as the parties could not reach Baker Lake within the timelines set for the TM/PHC by the Panel, the meetings would be moved to an alternative location that could be reached by the parties. As the NWB staff identified that it was possible for parties to travel to Yellowknife, NWT, and the facilities required to hold the in person TM/PHC were available in Yellowknife, the Board staff directed that the TM/PHC be moved to Yellowknife. To accommodate parties rerouting to Yellowknife on October 29, 2019, the start of the Technical Meeting was delayed from the original timing of 9:00 am central time and commenced instead at 2:00 pm mountain time on October 29, 2019.

The Board made announcements on the local Radio station in Baker Lake to let community members know that they could attend the TM/PHC by teleconference and to advise that simultaneous Inuktitut interpretation was available throughout the TM/PHC. Some representatives of the Applicant and the Interveners attended the TM/PHC by teleconference, but no members of the public called in. The PHC was held on October 30, 2019, following the conclusion of the TM. The original Agendas for the TM/PHC are attached as [Appendix A](#) to this Decision.

As set out in Rule 14.1 of the *Rules*, the PHC dealt with the following matters relevant to the Amendment Applications:

- Timetable for the exchange of information prior to the Public Hearing;
- Identification of interested parties;
- Submissions of interested parties;
- List of issues to be dealt with at the Public Hearing for the file;
- Desirability of amending the Applications for the purpose of clarification;
- Procedures for the Public Hearing; and
- Identification of any other matters that may assist in the simplification and disposition of the Public Hearing.

### **Introduction and Registration**

The representatives from the following parties participated in the Board's TM/PHC:

- Agnico Eagle Mines Limited (Agnico Eagle or Applicant);
- The Kivalliq Inuit Association (KivIA);
- Crown-Indigenous Relations and Northern Affairs (CIRNA);
- Environment and Climate Change Canada (ECCC); and



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- Fisheries and Oceans Canada (DFO).

No questions and/or comments about the Amendment Applications were provided to the NWB by members of the community of Baker Lake. The listing of attendees at the TM/PHC held in Yellowknife is attached as [Appendix B](#) to this Decision.

### **1.0 The Amendment Applications before the Board**

The Amendment Applications being considered by the Board were filed by Agnico Eagle on May 16, 2019, seeking amendments to Type “A” Water Licences No: 2AM-WTP1826 and No: 2AM-MEA1526 and Type “B” Water Licence No: 2BB-MEA1828, to reflect modifications to existing project infrastructure associated with the construction/operation/closure of Agnico Eagle’s Whale Tail Pit Expansion Project Proposal (Project). 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*<sup>1</sup>) at the existing Whale Tail Pit Gold Mine site and the Meadowbank Gold Mine site.

The Project is located approximately 150 km north of the Hamlet of Baker Lake and approximately 50 km northwest of the Meadowbank Gold Mine site, within the Kivalliq Region of Nunavut. The Whale Tail Pit Gold Mine is connected to the Meadowbank Gold Mine by the 64 kilometre-long Whale Tail Pit Haul Road.

With respect to the existing Type “A” Water Licence No: 2AM-WTP1826 Agnico Eagle is requesting an addition of 17 years to the term of the Licence from 2026 to a term ending in December 2043, to authorize the 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 to the processing facilities at the previously approved Meadowbank Gold Mine site via the widened Whale Tail Pit Haul Road.

The following phases are included within the requested Project:

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<sup>1</sup> 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].



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- 2019-2026: construction, operation and ore processing at the enlarged Whale Tail open pit, IVR open pit and underground mining,
- 2026-2042: closure; and
- 2042-TBD: the post-closure period. This phase is not included into the requested Amendment Applications.

There are six ore stockpiles and three waste rock storage facilities planned for the Project.

Freshwater to be used during the Project is proposed to be sourced as follows:

- Lake A17 (Whale Tail Lake) for dewatering of Whale Tail Lake North Basin and reflooding of Whale Tail Lake North Basin and open pits at closure, camp purposes, truck shop, drilling at pits;
- Lake C38 (Nemo Lake) for camp purposes, truck shop, drilling at pits, makeup water underground, cement mixing, dust suppression;
- Lake A16 (Mammoth Lake) for explosives mixing; and
- Sources proximal to drilling sites for drilling.

The Applicant proposes to use three groundwater management ponds (GSPs) at the surface (GSP-1, GSP-2, and GSP-3) to manage groundwater associated with the underground mine operations. The Applicant has proposed that treatment of this water would be provided at the GSPs if required to meet water quality criteria such as limits on the Total Dissolved Solids (TDS).

In addition, the Project includes the following:

- Expansion/upgrades of on-site facilities and infrastructure at Whale Tail Pit to accommodate a maximum of 544 persons;
- Increases to bulk fuel storage capacity;
- 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; and
- Additional diesel generators to power underground infrastructure and expanded camp facilities.

### **Amendment Applications and Supporting Materials Submitted by the Applicant**

On May 16, 2019, Agnico Eagle submitted applications and supporting documentation for amendments to the Applicant's existing two Type "A" Water Licences and one Type "B" Water



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Licence required to accommodate the changes proposed to the previously-approved Whale Tail Pit Project under the Whale Tail Pit Expansion Project (Amendment Applications). [Appendix C](#) provides a listing of the specific information provided with the Amendment Applications, all of which is available from the Nunavut Water Board’s public registry at the following link:

<ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-WTP1826%20Agnico/1%20APPLICATION/2019%20Amendment/>

On August 1, 2019, the Applicant provided responses to the comments provided by KivIA, CIRNA, ECCC, and DFO in the context of their completeness review of the Amendment Applications.

On October 7, 2019, the Applicant provided a further submission in response to the technical review comments filed by September 16, 2019 on behalf of KivIA, CIRNA, ECCC, and DFO.

### **Scope of the Amendment Applications**

The scope of the proposed amendments to Water Licence No: 2AM-WTP1826 include 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 m<sup>3</sup>/year;
  - Mammoth Lake - 2,500 m<sup>3</sup>/year;
- Additional water use during operations – for purposes of drilling:
  - Whale Tail Lake South Basin – 20,990 m<sup>3</sup>/year;
  - Lake A20 - 20,990 m<sup>3</sup>/year;
  - Nemo Lake - 20,990 m<sup>3</sup>/year;
  - Mammoth Lake - 20,990 m<sup>3</sup>/year;
  - Lake A11 – 2,092 m<sup>3</sup>/year during open water season only;
  - Lake A54 – 2,093 m<sup>3</sup>/year during open water season only; and
  - Other waterbodies listed as footprint losses (A53, A49, A48, A47, A46, A-P38, A0) - 20,990 m<sup>3</sup>/year.

In total, 109,135 m<sup>3</sup>/year for drilling purposes from sources proximal to drilling sites.

- Water use during closure:



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- Whale Tail Lake South Basin - 8,284,380 m<sup>3</sup>/year;
- Nemo Lake - 45,750 m<sup>3</sup>/year; and
- Mammoth Lake - 2,500 m<sup>3</sup>/year;
- Expansion of Whale Tail Pit; mining of an additional open IVR Pit; underground mining below Whale Tail and IVR pits;
- 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.

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

- Extending the Water Licence term to December 2033.

The scope of the proposed amendments to Water Licence No: 2BB-MEA1828 include the following:



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- Transferring the following activities from the scope of the Type “B” Licence to be included within the scope of the Type “A” Water Licence No: 2AM-WTP1826 as proposed to be amended under the Whale Tail Pit Expansion Project:
  - 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 Project;
  - 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.

## 2.0 Procedural History

### Pre-Licensing Requirements

With respect to the Amendment Applications, the following pre-licensing requirements have been completed:

- On **October 16, 2018**, the Nunavut Planning Commission (NPC) determined that the Whale Tail Pit Expansion Project (Project) conforms to the Keewatin Regional Land Use Plan and determined that the Project requires assessment by the Nunavut Impact Review Board (NIRB) under 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*<sup>2</sup> (NuPPAA) ;
- On **October 18, 2019**, the Nunavut Impact Review Board (NIRB) issued its Reconsideration Report and Recommendations to the Minister of Crown-Indigenous Relations and Northern Affairs (Minister).<sup>3</sup> 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*”.

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<sup>2</sup> S.C. 2013, c. 14, s. 2.

<sup>3</sup> NIRB Reconsideration Report and Recommendations: Whale Tail Pit Expansion Project Proposal, NIRB File No.: 16MN056, October 18, 2019.





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On this basis, the NWB awaits the Minister’s decision in relation to the NIRB’s Reconsideration Report and Recommendations before the environmental assessment requirements associated with the applications to amend the Type “A” Water Licences 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 (NWNSTRA). If the Minister rejects the NIRB’s recommendation that the Whale Tail Pit Expansion Project should be allowed to proceed to the licensing stage, the NWB’s further processing of the Amendment Applications would be suspended.

### **Nunavut Water Board Processing of the Amendment Applications**

The following includes a brief overview of the procedural history for the Amendment Applications. This listing captures only the major procedural steps associated with the Amendment Applications. All documentation and the complete history of the NWB licensing process are available from the NWB’s FTP site at the link provided in Section 1.0 of this Decision.

#### ▪ **October 19, 2018**

- The Nunavut Impact Review Board (NIRB) determined that Whale Tail Pit Expansion Project proposal is a change to the original Whale Tail Pit and Haul Road Project, related to the continued development of the Amaruq Advanced Exploration Project and the Meadowbank Gold Mine and will require an assessment of the Project by the NIRB under 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 ss. 145 and 146 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (NuPPAA) because it is for a component or activity that was not part of the original Whale Tail Pit Proposal.

#### ▪ **May 16, 2019**

- The Nunavut Water Board received applications to amend the existing Type “A” 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. Agnico Eagle requested that the NIRB coordinate its assessment of the Whale Tail Pit Expansion Project proposal with the NWB's associated licensing process.

#### ▪ **June 4, 2019**





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- 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 KivIA.
- **July 18, 2019**
  - The NWB was in receipt of comments on the completeness of the Amendment Applications from the KivIA, CIRNA, ECCC, and DFO. The Board did not receive any indication that the 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*<sup>4</sup> (NWNSTRA), 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 user 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) 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**

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<sup>4</sup> S.C. 2002, c. 10.



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- 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 Intervenors' 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 Project, and provided parties with proposed agendas. Interested parties were asked to provide comments on the proposed agendas by October 18, 2019.
- **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 are 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 Nunavut Water Board's staff proposed two options:
    1. Hosting the TM/PHC as scheduled, but in person at an alternative venue in Yellowknife and via teleconference (with the community being invited to participate via phone during the planned community session on October 29, 2019);



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2. Delaying, by one day, the start of the Technical Meeting/Pre-Hearing Conference and hosting the in person portion of the meetings in Yellowknife and via teleconference on October 30-31, 2019.
- As a result of discussions with the parties, option 1 was selected and the in person portion of the TM/PHC was held in Yellowknife on October 29 and 30, 2019.
- **October 29-30, 2019**
    - The Board held the in person TM/PHC at an alternative venue in Yellowknife and provision to have parties participate via teleconference throughout the meetings.

### **Licences Previously Issued to the Project**

Agnico Eagle currently holds several licences in relation to the:

- Whale Tail Pit;
- Whale Tail Pit Haul Road; and
- Meadowbank Gold Mine Project.

The discussion below focuses on the three licences Agnico Eagle proposes to amend to reflect additions and other changes to the activities, works and undertakings associated with the Whale Tail Pit Expansion Project.

### **Water Licence No: 2AM-WTP1826**

Type “A” Water Licence No: 2AM-WTP1826 was issued by the NWB on May 29, 2018. The Licence was subsequently approved by the Minister of Crown-Indigenous Relations and Northern Affairs (Minister) on July 11, 2018. The Licence authorizes the use of water and deposit of waste in relation to the Mining Undertaking at the Whale Tail Pit and Haul Road Project located approximately 150 km north of the Hamlet of Baker Lake and approximately 50 km northwest of the Meadowbank Gold Mine within the Kivalliq Region of Nunavut.

### **Water Licence 2AM-MEA1526**

The Type “A” Water Licence No: 2AM-MEA0815 was issued by the NWB on June 9, 2008. This licence was subsequently approved by the Minister on July 10, 2008. The Licence 2AM-MEA0815 authorized the use of water and deposit of waste in relation to the Mining Undertaking at the



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Meadowbank Gold Mine Project located approximately 70 km north of Baker Lake within the Kivalliq Region of Nunavut.

Amendment No. 1 to the Water Licence No. 2AM-MEA0815 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, with increasing capacity from 40 million litres (ML) to 60 ML of diesel fuel by adding two additional 10 ML capacity diesel fuel tanks. In addition, the amendment 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 the Water Licence No. 2AM-MEA0815 was issued by the NWB on June 30, 2014, and was subsequently approved by the Minister on July 23, 2014, to increase the authorized use of water associated with the Meadowbank Gold Mine Project from the licensed amount of 700,000 m<sup>3</sup> per year to a total amount of 1,870,000 m<sup>3</sup> in 2013 and 1,150,000 m<sup>3</sup> per year of freshwater for all purposes (domestic camp use, mining, milling and associated uses) after 2013.

A Short Term Renewal Water Licence No: 2AM-MEA0815 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 consideration of a full renewal and amendment application. Only the term of the Licence was amended by the Short Term Renewal, with all other terms and conditions of the Licence remaining unchanged.

Renewal/Amendment Water Licence No: 2AM-MEA1525 was issued by the NWB on August 8, 2015. The Licence was subsequently approved by the Minister on September 2, 2015. The amended scope of the Licence included provisions to authorize additional water use during re-filling of mined out open pits at the Meadowbank Gold Mine site. The Licence expiry date was set at July 22, 2025.

Amendment No. 1 to Water Licence No: 2AM-MEA1525 was issued by the NWB to Agnico Eagle on June 6, 2016. Amendment No. 1 involved amendments to the terms and conditions in Part C of the Licence related to the reclamation security required to be held under the Licence in order to take into account that Agnico Eagle, the Kivalliq Inuit Association and the Minister of Crown-Indigenous Relations and Northern Affairs had entered into an agreement to govern how reclamation security would be held for the Meadowbank Gold Mine Project under both the Licence



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and the Kivalliq Inuit Association’s Commercial Land Lease. Amendment No. 1 to Water Licence No: 2AM-MEA1525 was subsequently approved by the Minister on July 19, 2016.

Amendment No. 2 to Water Licence No: 2AM-MEA1525 was issued on May 29, 2018, and Amendment No. 2 was subsequently approved by the Minister on July 11, 2018. The Amendment 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. 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 and Haul Road Project, and as a result this Water 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 was issued on March 29, 2019, and was subsequently approved by the Minister on May 16, 2019. This Amendment reflected in-pit deposition of tailings at the Meadowbank mine site.

### **Water Licence No: 2BB-MEA1828**

The first water licence issued by the NWB in relation to the exploration activities at the Meadowbank property was issued by NWB in 1998 and was Water Licence No: NWB2MEA9899. This exploration licence was subsequently renewed in 2000, 2002, 2005, 2008 and 2013 and became Water Licence No: 2BE-MEA1318. Amendment No. 1 to Water Licence No: 2BE-MEA1318 issued 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 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 became 2BB-MEA1318. On March 7, 2018, this Water Licence was renewed as Water Licence No: 2BB-MEA1828.

### **3.0 Technical Review Comments Received by the Board**

Prior to the Technical Meeting and Pre-Hearing Conference (TM/PHC), the Board provided interested parties with two opportunities for review of the Amendment Applications. The Board’s first comment period (June 4, 2019 – July 18, 2019) requested parties to consider whether the Amendment Applications were complete and to identify any outstanding issues that should prevent the Board from continuing to process the Amendment Applications. Although this comment



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period was set to close on July 4, 2019, the deadline was extended to July 18, 2019, to reflect the request of KivIA.

The second comment period (August 14, 2019 – September 16, 2019) requested parties to file substantive technical review comments in advance of the TM/PHC for the file. The sections that follow briefly outline the comments provided during these comment periods, but also reflect issues discussed during the TM/PHC. For a complete review of all submissions received by the NWB in respect of the Amendment Applications, the NWB’s FTP site could be consulted at the link provided in Section 1.0 of this Decision.

### **Kivalliq Inuit Association (KivIA)**

The KivIA is the representative of the Inuit beneficiaries of the Kivalliq Region at both the territorial and regional levels and supports sustainable economic development opportunities for Inuit beneficiaries. KivIA’s participation in the review of the Application was focused on ensuring that adequate protection of the environment occurs by requiring the Applicant to implement best practices in their mitigation and monitoring programs.

The KivIA technical review 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;



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- Monitoring; and
- Acid Rock Drainage and Metal Leaching (ARD/ML) Potential.

Specifically, the KivIA provided the Board with the following:

- Requests for Agnico Eagle to provide the following additional information:
  - Calculating peak-increase factor in predicting mercury concentration in lake trout and contingency measures if there are greater than anticipated mercury concentrations;
  - 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 *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 to:
  - 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;





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- 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 *Canadian Council of Ministers of the Environment (CCME) Canadian Environmental Quality Guidelines* or *Metal and Diamond Mining Effluent Regulations*<sup>5</sup> 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.

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<sup>5</sup> SOR /2002-222



## Type "A" Water Licences No: 2AM-WTP1826 and 2AM-MEA1526 Amendment Applications - PHC Decision

### **Crown-Indigenous Relations and Northern Affairs (CIRNA)**

CIRNA administers Crown land and resources and enforces regulatory permits affecting land and water resources in Nunavut, including the provisions of the water licences. Reflecting CIRNA's responsibilities and jurisdiction, it provided comment submissions on the completeness of the Application and its technical review.

The CIRNA technical review 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, more detail should be provided; and
  - Incorporation of CIRNA's past comments 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 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.

### **Environment and Climate Change Canada (ECCC)**

The focus of ECCC's involvement in respect of the Application is based on their jurisdiction under the *Canadian Environmental Protection Act, 1999*<sup>6</sup> and the pollution prevention provisions within the *Fisheries Act*.<sup>7</sup>

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<sup>6</sup> S.C. 1999, c. 33.

<sup>7</sup> R.S.C. 1985, c. F-14.



Type "A" Water Licences No: 2AM-WTP1826 and 2AM-MEA1526  
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The ECCC technical review raised a number of issues, with a focus on the following topics:

- ARD/ML mitigation;
- Active layer depth;
- 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:

- Requesting Agnico Eagle provide the following additional information:
  - Groundwater Storage Ponds' (GSPs) closure and contingency planning for the case when 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.

**Fisheries and Oceans Canada (DFO)**



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The focus of DFO's involvement in respect of the Application is based on their jurisdiction under the *Fisheries Act*<sup>8</sup> and the *Species at Risk Act*<sup>9</sup>.

The DFO technical review raised a number of issues, with a focus on the following topics:

- Planned water withdrawal;
- Drilling water sources and fish-bearing capacity; and
- Blasting procedures.

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

- DFO requested 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 15 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 15 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 m<sup>3</sup>;
  - 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.

#### **4.0 Technical Meeting**

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<sup>8</sup> R.S.C. 1985, c. F-14.

<sup>9</sup> S.C. 2002, c. 29.



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The Technical Meeting (TM) for the Amendment Applications was held in person in Yellowknife, NWT, on October 29 and 30, 2019. As is the Board's practice, the TM was an informal meeting and was chaired by Karén Kharatyan, the Board's Director of Technical Services. The meeting was attended, in person and via teleconference, by the NWB's staff, and the representatives and consultants participating on behalf of the Applicant and the Interveners: the KivIA; CIRNA; DFO; and ECCC.

It should also be noted that, as is the Board's normal practice, the three NWB Board Members who are the duly appointed Panel of the Board who are the decision-makers for the Amendment Applications (Whale Tail Pit Panel, P17), were not present at the TM or the subsequent PHC, having delegated the conduct of these meetings to the Board's staff.

At the commencement of the TM the objectives of the meeting were outlined by the NWB's Director of Technical Services as follows:

- To examine technical data and other materials submitted as part of the Amendment Applications, including the interveners' submissions that the Board has received to date for the Amendment Applications;
- To informally discuss and resolve, to the extent possible, any technical matters or issues raised by Interveners and the Applicant, particularly those matters that could affect the Board's determination to advance to the discussion of procedural matters during the Pre-Hearing Conference;
- To provide an opportunity for the Applicant and Interveners to identify and confirm for the Board the issues and concerns that have been resolved, and to discuss any unresolved or ongoing issues related to the Amendment Applications;
- To identify opportunities for streamlining the issues and Board's processes so as to eliminate existing or potential duplication or delay; and
- To document any commitments made by the various parties during this Technical Meeting, with the aim of carrying over the discussion of those commitments and timelines to meet commitments into the procedural discussions during the Pre-Hearing Conference.

The participants were advised that upon completion of the TM, the Board expected any outstanding issues that may prevent the Board from moving forward to a Public Hearing in respect of the Amendment Applications would either be resolved, or, if not resolved, some form of consensus would be achieved by the parties as to whether the Application might proceed to the next stage of the licensing process even though there are unresolved issues.



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At the TM, the following topics were discussed:

- **By Agnico Eagle:**
  - Site preparation in advance of the completion of the licensing process;
  - Adaptive management;
- **By KivIA:**
  - Effluent management via segregation and treatment and provision of a water management decision tree for these purposes;
  - Treatment for elevated arsenic concentrations;
  - Phosphorus uptake calculations;
  - Excess runoff management;
  - A requirement for a contingency plan for water volumes exceeding average conditions via a water management decision tree;
  - Arsenic and acid rock drainage (ARD) mitigation in waste rock and pit walls;
  - Groundwater storage;
  - Arsenic treatment capabilities;
  - Waste Rock Storage Facilities (WRSF) thermal monitoring;
- **By CIRNA:**
  - Interflow seepage from WRSF – measures to address a predicted increase in Arsenic concentrations in Mammoth Lake;
  - Performance of the WRSF thermal cover as affected by climate change;
  - Performance of the WRSF and its monitoring;
  - In-pit disposal of waste rock;
  - Past revision of management plans;
- **By ECCC:**
  - Flooded pit reconnection;
  - Closure of the groundwater storage ponds;
  - Water management during wet climate years;
  - Details on effluent mixing zone;
- **By DFO:**
  - Water withdrawal rates and water source drawdown.

In addition, the following issues were confirmed by the Interveners as resolved:

- **By KivIA:**
  - Mercury concentrations in fish;



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- 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;
  - Development of the Fish Habitat Offsetting Plan;
- **By CIRNA:**
    - In-pit disposal of waste rock;
    - Past revision of management plans;
  - **By ECCC:**
    - Removal of seepage from model inputs;
    - Discharge of landfarm contact water;
    - Landfarm acceptance criteria;
    - Active layer depth;
    - Errata in management plans;
  - **By DFO:**
    - Impacts to fish and fish habitat as a result of the widening of the Whale Tail Pit Haul Road.

## Commitments

In their submissions filed with the Board, the Applicant made a number of commitments to address the concerns or issues raised by the Interveners in their technical comments filed with the Board. The NWB expects Agnico Eagle to comply with the commitments provided in all submissions.

During the TM, the Applicant and other parties made additional commitments, and these commitments have been summarized in the Commitment List provided in [Appendix D](#) and attached to this Decision. The Commitment List was reviewed and agreed to by the Applicant and Interveners in attendance at the TM. As previously noted, the NWB expects the Applicant or Interveners, where applicable, to comply with the commitments that have been provided in





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accordance with the timelines set out in the Commitment List. As noted in the discussion of the next steps in the Board's processing of the Application, failing to meeting the agreed timelines in the Commitment List can result in delays in the next steps and in the NWB cancelling or rescheduling the Public Hearing, if required.

### **5.0 Community Session**

To foster public awareness and public engagement, the NWB, Panel P17 directed that the on the evening of October 29, during the first day of the Technical Meeting that the Board would host a Community Session to ensure that the community members from Baker Lake would have an opportunity to ask questions regarding the Amendment Applications of the NWB staff, the Applicant and the Interveners. Regrettably, as discussed above, due to inclement weather and associated flight cancellations, the Board moved the in person TM/PHC from Baker Lake to Yellowknife. However, Board staff announced on the local radio station that as a contingency, the Board had provided teleconference capability and had a simultaneous Inuktitut interpreter on the line to ensure any interested members of the public could join the discussions throughout the TM/PHC. Although representatives from the Applicant and Interveners attended the meetings via teleconference, no members of the public joined the call.

### **6.0 Pre-Hearing Conference**

At the conclusion of the TM, the parties confirmed that there were no outstanding issues that would prevent the Amendment Applications from proceeding to the next step in the licensing process, a Public Hearing. The Pre-Hearing Conference (PHC) portion of the Agenda proceeded in the afternoon of October 30, 2019.

The PHC was chaired by Stephanie Autut, the NWB's Executive Director, with the assistance of Karén Kharatyan, Director of Technical Services, and Teresa Meadows, the Board's Legal Counsel. The same parties who participated in the TM, namely Agnico Eagle, the KivIA, CIRNA, ECCC, and DFO, also attended the PHC.

The purpose of the PHC was to discuss the various matters as set out in Rule 14 of the NWB Rules of Practice and Procedure for Public Hearings (May 2005), (the Rules) in preparation for the Public Hearing.

Pursuant to Rule 14, the following matters were addressed through the PHC:



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- To identify issues preventing the Amendment Applications from proceeding to a Public Hearing;
- Procedures for the Public Hearing, including form, timing and location;
- To set a timetable for the pre-Hearing exchange of information, including document translation requirements, documentation to be included in the Public Hearing record, etc.;
- To finalize the list of issues to be dealt with at the Public Hearing;
- To identify interested parties;
- To consider the desirability of altering the Amendment Applications for the purposes of clarification;
- To finalize procedures to be followed during the Public Hearing, including requested modifications to the NWB's *Rules*, including language requirements; and
- To consider any other matters that may aid in the simplification and disposition of the application at the Public Hearing.

### **Issues Preventing the Amendment Applications from Proceeding to a Hearing**

The Applicant and parties did not identify any issues that would prevent the Amendment Applications from proceeding to the Public Hearing.

### **Procedures for the Public Hearing**

The Applicant and parties participating in the PHC were polled on the issue of the timing for the Public Hearing. The Applicant indicated the week of February 3, 2020 was most convenient to hold a Public Hearing. The Interveners, recognizing the mid-December timing of submissions from Agnico Eagle set out in the Commitments List, suggested that the week of February 10, 2020 for the Public Hearing would be more appropriate. All parties, including the Applicant, subsequently agreed that they would be able to accommodate participation at a Public Hearing sometime during the week commencing on February 10, 2020.

Parties were asked for their views on the location and form of the Public Hearing (written, teleconference or in-person). All parties, including the Applicant, agreed that an in person Public Hearing was the most appropriate form. All parties agreed that holding the Public Hearing in Baker Lake, NU would be most appropriate as Baker Lake is the community nearest to the Project.

At present, based on the time commitments outlined in the discussion of the exchange of documents set out below, the NWB has tentatively scheduled an in person Public Hearing in Baker Lake for the week commencing on February 10, 2020 (tentative dates for the two-day Public



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Hearing are **February 12-13, 2020**). The Board reserves the right to adjust this schedule if Public Hearing logistics dictate, if the documentation required to be supplied to meet the Commitments List and in advance of the Public Hearing has not been provided, etc.

The parties have confirmed that they do not anticipate that any deviations from the Board's normal *Rules of Practice and Procedure for Public Hearings* (May, 2005) (*Rules*) will be required, and as such, the Board directs all parties that the Public Hearing will be conducted in accordance with Parts III and IV of the *Rules*.

### **Timetable for Pre-Hearing Exchange of Information**

It was noted at the beginning of this discussion that, as required by s. 55(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*), the NWB must give the public and parties a minimum of sixty (60) days' notice in advance of a Public Hearing.

In addition, in order to give the Board, all parties, and community members the opportunity to fully consider and respond to information filed in advance of the Public Hearing, Agnico Eagle had committed to provide a considerable volume of additional information on December 19, 2019, so that the Interveners would have some time to review and consider the additional information prior to filing their final written submissions in advance of the Public Hearing. On the assumption that the timelines in the Commitment List are maintained, at the PHC the Board staff and Legal Counsel provided a tentative outline of dates. If, however, the timelines proposed are not met, delays to the next steps in the process may result. All parties are strongly encouraged to meet the schedule set out below.

Regarding the outstanding information requirements that must be supplied in advance of a Public Hearing, the NWB staff highlighted the timing that is outlined in the commitments provided in [Appendix D](#). The Applicant and parties in attendance confirmed that they would make every effort to ensure that the preparation and submission of additional information will not delay a potential Public Hearing.

On this basis, the Board has established a proposed timetable for the pre-Hearing exchange of information as set below. As noted above, the Board reserves the right to revisit the timing set out below in the event that parties are unable to meet the deadlines in the commitments, in response to the requests of the parties, the community, or as may subsequently be considered necessary by the Board. In addition, if the Minister subsequently rejects the recommendation of the Nunavut Impact Review Board that the Whale Tail Pit Expansion Project should be allowed to proceed to



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the licensing stage, the NWB would suspend the NWB's further consideration of the Amendment Applications.

The following schedule is premised on the assumption that all information is exchanged in accordance with parties' commitments and that the NWB will be hosting an in person Public Hearing in the community of Baker Lake in the week commencing on February 10, 2020 (tentatively on February 12-13, 2020). Unless modified as outlined above, the Board requires the participants to observe the following timetable:

- On or before **Friday, November 29, 2019**, the Board releases the TM/PHC Decision Report and publishes the tentative Notice of Public Hearing;
- On or before **Thursday, December 19, 2019**, the parties provide all outstanding information as set out in commitments list;
- On or before **Thursday, January 23, 2020**, Interveners and interested parties provide their Final Comment Submissions;
- On or before **Thursday, January 30, 2020**, the Applicant provides written reply submissions;
- On or before **Thursday, February 6, 2020**, all parties file their Public Hearing presentations; and
- The Public Hearing commences during **the week of February 10, 2020 (tentatively Wednesday, February 12, 2020 and Thursday, February 13, 2020)** in Baker Lake.

All submissions will be posted on the NWB's FTP site (<ftp://ftp.nwb-oen.ca/>) and in the public registry upon receipt. A copy of the public registry as it relates to the Amendment Applications will be available for review at the Public Hearing.

### **List of Issues to be Discussed at the Public Hearing**

The parties in attendance at the TM/PHC confirmed that none of the issues for discussion associated with the Amendment Applications, and the related information requirements should prevent the Board from proceeding to a Public Hearing.

At the end of the TM/PHC, the parties reviewed and confirmed that the following list of issues should be brought forward for discussion at the Public Hearing. Subject to adding issues following the review of information that may be exchanged in advance of the Public Hearing, the NWB expects that the following issues will be discussed at the Public Hearing:

- Amendments to the terms of Existing Licences



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- Requested extension to the term of the Whale Tail Pit and Haul Road Project Water Licence from 2026 to 2043) and the Meadowbank Gold Mine Water Licence (from 2026 to 2033)
- Changes to the Scope of the Existing Licences:
  - Amendments to Water Licence No. 2AM-WTP1826
  - Amendments to Water Licence No. 2AM-MEA1526
  - Amendments to Water Licence No. 2BB-MEA1828
- Water Use and Management
  - Annual water use amounts from each source (including changes to allocations of existing licenced water uses) for Nemo Lake, Mammoth Lake, Whale Tail South Basin and small ponds/lakes proximal to drilling sites
    - Pit flooding water sources
  - Management of expected volume of water during 2020 freshet
  - Water Management during “wet years”
  - Groundwater Management
  - Additional or alternative waterbodies as locations for discharge of treated effluent
- Water Balance and Water Quality Models and Predictions
- Waste Disposal and Management
  - New and expanded infrastructure for disposal of different types of waste
  - Waste Rock Management
  - Characterization of Non-Potentially Acid Generating and Potentially Acid Generating Waste Rock
  - Thermal Modeling for Waste Rock Storage Facility design
- Monitoring
  - Water quality monitoring during closure
- Adaptive Management/Operation Flexibility
  - Definitions
  - Thresholds and triggers and options for adaptive management actions
  - Adaptive Management Decision Tree



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- Integration into Management Plans
- Abandonment, Closure and Reclamation and
  - Updates to Interim Closure and Reclamation Plan
  - Final Closure and Reclamation Plan
  - Water Quality of flooded pit lake
  - Site Specific Water Quality Objectives and potential thresholds for treatment
  - Reconnection of pit lakes and GSP ponds
- Security
  - Updates to Reclamation Cost Estimate and Security Management Agreement
- Water Compensation
  - Confirmation of Kivalliq Inuit Association and Agnico Eagle finalized water compensation agreement
- Revisions to Management and Monitoring Plans
  - Timing of submission, and review timelines

### **Identification of Interested Parties**

Summary listings identifying the attendees at the TM/PHC (based on the sign-in sheets completed at these sessions) are provided in Appendix B attached to this Decision. During the PHC, the following parties confirmed their participation and attendance at the Public Hearing:

- The Applicant, Agnico Eagle Mines Limited;
- The Kivalliq Inuit Association;
- Crown-Indigenous Relations and Northern Affairs;
- Environment and Climate Change Canada; and
- Fisheries and Oceans Canada.

Further, the parties indicated that in addition to the general public notice, a specific invitation to the Public Hearing should be extended to the local Hunters and Trappers Organization.

### **Changes to the Amendment Applications for the Purposes of Clarification**

The Applicant and Interveners in attendance were canvassed regarding any potential changes to the Amendment Applications, and they responded that no changes to the Amendment Applications



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were required. Should any changes become necessary, any additional information that the parties wish the Board to consider during their review of the Amendment Applications must be filed with the Board in advance of the Public Hearing and in accordance with the timelines outlined above under the Heading *Pre-Hearing Exchange of Information*.

### **Other Procedural Matters including Language Requirements**

The Applicant and parties in attendance were polled and confirmed that, at this time, there are no additional procedural matters or issues for consideration at the Public Hearing.

The staff of the NWB discussed whether any party requires additional language translation and interpretation services at the Public Hearing. In response, the Applicant and the parties in attendance confirmed that they were satisfied with the Board's usual approach to translations and the Board's provision of simultaneous English/Inuktitut interpretation services during the Public Hearing.

The NWB staff also confirmed that as is the Board's practice, the Board will provide notice of the Public Hearing in French, English and Inuktitut. The Notice will also invite any parties planning to participate at the Public Hearing to advise the Board of any additional language requirements, including translation and interpretation requirements by January 23, 2020.

### **Measures to Simplify the Disposition of the Amendment Applications**

The Applicant suggested that they could submit a Draft Licence Framework document to highlight the potential Licence approval conditions they believe would align with their commitments, the resolution of technical issues and the submissions of various parties. Agnico Eagle intends to provide this document to simplify and focus the parties' discussion of the amendments to the existing Licences as proposed by Agnico Eagle.

The Board requested that Agnico Eagle provide the Draft Licence Framework no later than **December 19, 2019**, so that all parties could review, and comment, as appropriate, in their final submissions due on **January 23, 2020**.

No other comments or issues were identified with respect to measures to simplify the disposition of the Application.

### **Steps following the Public Hearing**





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The Board anticipates following the NWB's usual timelines and practice following the Public Hearing. Accordingly, when the Panel has reached a decision, which is typically within thirty (30) to forty-five (45) days of the close of the Public Hearing Record, the Board will issue its Record of Proceedings and Decision to the Minister of Northern Affairs (formerly the Minister of Crown-Indigenous Relations and Northern Affairs). If the Panel recommends that the amendments requested by Agnico Eagle in the Amendment Applications should be granted, the Licences, as amended, would also be provided for the Minister's review and consideration along with the Record of Proceedings and Decision.

If you require additional information regarding the Amendment Applications, the Board's specific direction or the Board's processes in general, please do not hesitate to contact the NWB's Director of Technical Services, Karén Kharatyan, [karen.kharatyan@nwb-oen.ca](mailto:karen.kharatyan@nwb-oen.ca). For any administrative matters related to the Public Hearing, please contact the NWB's Manager of Licensing, Richard Dwyer, at [licensing@nwb-oen.ca](mailto:licensing@nwb-oen.ca).

Regards,

**NUNAVUT WATER BOARD**

Stephanie Autut  
Executive Director

SA/ak/rqd

**Attachments:**

- Appendix A: Technical Meeting, Community Session and Pre-Hearing Conference Agenda
- Appendix B: Summary Listing of Attendees at the Technical Meeting, Community Session and Pre-Hearing Conference
- Appendix C: List of Application Submissions
- Appendix D: List of Commitments Generated during the Technical Meeting and Pre-Hearing Conference held on October 29 and 30, 2019 for Applications



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## **APPENDIX A:**

### **AGENDA**

#### **TECHNICAL MEETING AND PRE-HEARING CONFERENCE WHALE TAIL PIT MINE AND HAUL ROAD PROJECT AND MEADOWBANK GOLD MINE PROJECT**

**APPLICATIONS FOR AMENDMENT TO WATER LICENCES NO. 2AM-WTP1826,  
2AM-MEA1526, AND 2BB-MEA1828**

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#### **TECHNICAL MEETING**

**Date:** October 29, 2019  
**Time:** 8:30 AM – 5:00 PM (CT)  
**Location:** Baker Lake Community Hall

1. Introduction and registration.
2. Application to the Board, NWB Opening Remarks (15 minutes).
3. Purpose of the Technical Meeting / Pre-Hearing Conference.
4. Technical Review of the Applications:
  - a) Agnico Eagle Mines Limited presentation on the Project (45 minutes);
  - b) Identification of Interested Parties;
  - c) Presentations from Interested parties (30 minutes per party);
  - d) Discussion of Commitments to Address Technical Issues; and
  - e) Formulation of Outstanding Issues.

Health Breaks – 20-30 minutes

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#### **COMMUNITY SESSION**

**Date:** October 29, 2019  
**Time:** 7:00 - 9:30 PM (CT)  
**Location:** Baker Lake Community Hall

1. Overview of NWB process by NWB (15 minutes).
2. Presentation of Application by Applicant (30 minutes).
3. Presentation/statements by Intervening Parties (15 minutes per party).
4. Questions and comments from community members.

## **AGENDA - CONTINUED**

### **TECHNICAL MEETING AND PRE-HEARING CONFERENCE -WHALE TAIL PIT MINE AND HAUL ROAD PROJECT AND MEADOWBANK GOLD MINE PROJECT**

#### **APPLICATIONS FOR AMENDMENT TO WATER LICENCES NO. 2AM-WTP1826, 2AM-MEA1526, AND 2BB- MEA1828**

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#### **PREHEARING CONFERENCE**

**Date:** October 30, 2019

**Time:** 8:30 AM (CT)

**Location:** Baker Lake Community Hall

1. Identify issues preventing Application from proceeding to a Public Hearing.
2. Discuss form, timing and location for any potential Public Hearing.
3. Establish timetable for the pre-hearing exchange of information, including:
  - a. preparation and service of documents to parties (deadlines, form, public registry);
  - b. document translation requirements; and
  - c. documentation to be included in the hearing record.
4. Finalize the list of issues to be dealt with at the Public Hearing.
5. Identify interested parties.
6. Identify any changes to Applications for the purposes of clarification.
7. Final procedures to be followed at the Public Hearing, including:
  - a. requested modifications to the applicable NWB *Rules of Practice and Procedure for Public Hearing* (May 2005); and
  - b. language requirements at the Public Hearing.
8. Consider any other matters that may aid in the simplification and disposition of the Applications at the Public Hearing.
9. Other Issues.
10. Closing of the Meeting.

# APPENDIX B: Summary Listings of Attendees at Technical Meeting, Community Session and Pre-Hearing Conference

In-Person TM/PHC – October 29, 2019 Day 1 Daytime Session  
Registration Form

## TECHNICAL MEETING Pre-Hearing Conference WHALE TAIL PIT Baker Lake, Nunavut October 29-30 Registration Form Day One

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
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13.	Trish	Auser	ECCE			
14.	Michelle	Blonde	CCNR			
15.	Jamie	Quensel	AEM			
16.	Luis	Manzo	AEM/KIA			
17.	Mark	D'Aguilar	DFO			
18.	Chris	Kennedy	AEM			
19.	Manon	Turmel	AEM			
20.	Stephanie	Autut	NWB			
21.	Ben	Reynolds	NWB			
22.	Karen	Kharatyan	NWB			
23.	Sergey	Korolevskiy	NWB			
24.	Teresa	Healson	NWB			

In-Person TM/PHC – October 29, 2019 Day 1  
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Registration Form Day One

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
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26.	Kayla	Carter	NWB			
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In-Person TM/PHC – October 30, 2019 Day 2  
Registration Form

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6.	Abdul	Kubermaz	NWB			
7.	Sergey	Kufedskiy	NWB			
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In-Person TM/PHC – October 30, 2019 Day 2  
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In-Person TM/PHC – October 30, 2019 Day 2  
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TECHNICAL MEETING Pre-Hearing Conference WHALE TAIL PIT

Baker Lake, Nunavut October 29-30

Registration Form Day Two

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55.	Michelle	Blade	CIRNA			
56.	Junie	Quensel	AEM			
57.	Luis	Munzo	KEA			
58.	Mark	V Aguilar	DFO			
59.	Chris	Kennedy	AEM			
60.	Manon	Jermel	AEM			
61.	Tony	Brown	CIRNA(Arcadis)			
62.	Stephanie	Autut	NWB			
63.	Faren	Kharaifan	NWB			
64.	Sergey	Kraftanski	NWB			
65.	Jessica	Meadow	NWB			
66.	Ben	Kogvik	NWB			
67.	Richard	Dwyer	NWB			
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## **APPENDIX C: List of Application Submissions**

The following documents were included with the Application:

### **1. On or before May 16, 2019:**

- 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 – Whale Tail Pit Expansion Addendum\_NWB 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

## **2. On August 1, 2019:**

- 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 Ltd. - 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;
- 3. On August 20, 2019:**
- Whale Tail Permitting Support – Revised Predictions of Fish Mercury Concentrations in Whale Tail Lake (South Basin) FINAL dated August 19, 2019;
- 4. On October 1, 2019:**
- File No. 2AM-WTP1826 and 2AM-MEA1526 Technical Meeting/Pre-Hearing Conference – October 29-30, 2019 dated October 1, 2019;
- 5. On October 7, 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;
- 6. On October 17, 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;
- 7. On October 24, 2019:**
- Whale Tail Pit Expansion Project: Response to Technical Comment DFO 3.4 dated October 24, 2019;
- 8. On October 29, 2019:**
- 2AM-WTP1826 Whale Tail Expansion Speaking Notes Adaptive Management dated October 29, 2019;
  - Video presentation;
- 9. On November 8, 2019:**

- Summary of Commitments for the Whale Tail Expansion Project – NWB Review Process, undated;
- 2AM-WTP1826 - Technical Meeting Commitment 11/DFO-TC 2.2.3 dated November 8, 2019.

**APPENDIX D: List of Commitments generated during the Technical Meeting and Pre-Hearing Conference held October 29 and 30, 2019 for Water Licence Amendment Applications No.: 2AM-WTP1826 and 2AM-MEA1526**

No	Party Responsible for Commitment	Reference	TM Commitment	Timeline for Submission
1	Agnico Eagle, CIRNA	CIRNA-TRC#1, part 4  CIRNA-TRC#3	Hold further meetings to discuss the impact of WRSFs interflow breakthrough on the financial security arrangement, as part of overall discussions on security for the Whale Tail Expansion Project. Meeting minutes with the summary of the resolutions will be provided to the NWB following the meeting.	To be finalized during the security meeting in December 2019
2	Agnico Eagle	Agnico Eagle Responses to: CIRNA-TRC#1 part 8 and TRC#3 part 2  ECCC-TC-4  KivIA-TC 2, 6 & 9	<p>Agnico Eagle commits to provide a draft of the adaptive management plan that will include at minimum, water management decision tree, thresholds, triggers, and associated action items for water quality and quantity.</p> <p>In developing the draft plan, Agnico Eagle commits to give consideration to including items and options that have been discussed in meetings with KivIA and regulatory agencies such as:</p> <ul style="list-style-type: none"> <li>• Targeted cover system enhancement;</li> <li>• Water quality objectives;</li> <li>• Chemical and physical stability of the WRSF and other adaptive management strategies;</li> <li>• Analytical water quality triggers and thresholds based upon site water quality objectives and discharge criteria;</li> <li>• The volume of site contact water in comparison to available water storage infrastructure; and</li> <li>• Mitigation of any situations involving WRSF seepage loadings that are greater than predicted during post-closure, and clearly stating the</li> </ul>	<p>Draft Adaptive Management Plan to be provided on or before December 19, 2019</p> <p>Final Adaptive Management Plan to be provided prior to the Public Hearing</p>

No	Party Responsible for Commitment	Reference	TM Commitment	Timeline for Submission
			<p>thresholds for when these adaptive management options would be implemented.</p> <p>Agnico Eagle has committed that a conceptual monitoring plan be put in place in the Interim Closure and Reclamation Plan that will be protective of surrounding water quality; and that on site monitoring will be ongoing until site-specific field data demonstrates interflow physical and chemical criteria, which meet discharge requirements.</p> <p>The monitoring data will be compared to the agreed thresholds for implementing adaptive management as part of the annual report.</p>	
3	Agnico Eagle	CIRNA-TRC#2, part 4	Provide results of water quality model scenario with WRSF RCP 8.5 input.	December 19, 2019
4	Agnico Eagle	ECCC-TC-1	<p>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:</p> <ul style="list-style-type: none"> <li>• Characterize pit lake water quality and limnological conditions (in profile) during and following the conclusion of flooding.</li> <li>• 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.</li> </ul>	<p>Update the ICRP with the commitment 60 days following approval of the amended water licence</p> <p>Within the Final Closure and Reclamation Plan</p>



No	Party Responsible for Commitment	Reference	TM Commitment	Timeline for Submission
5	Agnico Eagle	ECCC-TC-2	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.	Within the Final Closure and Reclamation Plan
6	Agnico Eagle	ECCC-TC-3	Commit to updating and issuing associated plans for the expanded WRSFs as part of the 60-day construction notice, implement the monitoring program described in Agnico Eagle's response to ECCC-TC3 and update the water quality model from the monitoring results as per the existing water licence conditions.	As part of the 60-day construction notice
7	Agnico Eagle	ECCC-TC-4	<ul style="list-style-type: none"> <li>Update 1:10 and 1:100 years wet year scenario with 2000-2018 climate dataset;</li> <li>Provide the monthly exceedance volumes for the wet-year scenarios using the 2000-2018 dataset for freshet of 2020 (June); and</li> <li>Evaluate potential WQ exceedances associated with the water quantity exceedances derived from the 2000-2018 dataset, and provide updated WQ predictions for Arsenic &amp; Phosphorus under this scenario, focusing on the receivers.</li> </ul>	December 19, 2019
8	Agnico Eagle	ECCC-TC-5	Include the discharge of landfarm contact water to the IVR Attenuation Pond in the next update to the water management flowsheets.	60 days following approval of the amended water licence
9	Agnico Eagle	ECCC-IR-6	Provide additional details regarding the mixing zone boundary and clarify the size of the entire mixing zone for each receiver.	December 19, 2019

No	Party Responsible for Commitment	Reference	TM Commitment	Timeline for Submission
10	Agnico Eagle, DFO	DFO TC 2.2.3	<p>Agnico Eagle committed to provide a table listing the waterbodies that are planned to be used to withdraw water for the purposes of operational geological drilling in the Project area. Maximum amount expected to be taken yearly per waterbody will also be included in that table.</p> <p>DFO will complete review on November 15, 2019 and commit to meet with Agnico Eagle to finalize this item prior to Public Hearing.</p>	<p>November 8, 2019</p> <p>November 15, 2019</p> <p>Updating December 19, 2019</p>
11	Agnico Eagle, DFO	DFO TC 2.1.2	The widening of the Haul Road and related extensions to existing culverts will be addressed under a new Request for Review application that will be submitted to DFO for review. An assessment of fish passage for each crossing will be provided as part of the application, and will be reviewed by DFO.	DFO Request for Review Application
12	Agnico Eagle	DFO TC 2.3.1	Provide the requested information as part of the Fisheries Act Authorization Application package.	DFO Request for Review Application
13	Agnico Eagle	DFO TC 2.3	<p>Previously provided predictions for potential downstream changes in surface areas, as part of Agnico Eagle's reply to DFO Technical Comment 3.4.7, will be updated using recently collected bathymetry data for Lake A76, A12, and A15 as representative downstream habitats for conservatively predicting downstream changes to fish habitat, and provided as part of an Application for Authorization.</p> <p>DFO will complete review on November 15, 2019 and commit to meet with Agnico Eagle to finalize this item prior to Public Hearing.</p>	Prior to the Public Hearing
14	Agnico Eagle	KivIA TC 3	Agnico Eagle commits to providing the list of literature references to address the information request related to the Phosphorus uptake rate.	Submitted on October 24, 2019 Updating December 19, 2019

No	Party Responsible for Commitment	Reference	TM Commitment	Timeline for Submission
15	Agnico Eagle	KivIA TC 4 and 7	<p>Agnico Eagle is evaluating the potential construction of the GSP-2 and/or GSP-3 and other options for implementation during the winter of 2020 with the NWB. Agnico Eagle will provide technical memo explaining 2020 water management.</p> <p>Agnico Eagle will submit the construction drawings for GSP-2 and/or GSP-3 at least 30 days prior to the Public Hearing. Agnico Eagle will also provide a technical memorandum outlining additional feasible water management options should the NWB and other stakeholders deem that expedited construction of GSP-2 and/or GSP-3 is not the preferred option for 2020.</p>	December 19, 2019 or at least 30 days prior to the Public Hearing.
16	Agnico Eagle	KivIA TC 10	Agnico Eagle commits to provide thermistor data from Meadowbank to support the conclusion that the freeze-back of the pit walls will result in a negligible impact from rock fracturing on the overall water balance.	December 19, 2019
17	Agnico Eagle	KivIA TC 5 and 21	Agnico Eagle commits to updating and issuing associated plans for the expanded WRSFs as part of the 60-day construction notice and updating the water quality model from the monitoring results as per existing water licence conditions. The update is to include a map that shows the planned locations of the drill holes that will contain the thermistor strings.	60-day construction notice
18	Agnico Eagle, KivIA, CIRNA	KivIA TC 11 and 14	<p>Hold further meetings prior to the Public Hearing to finalize the financial security arrangement.</p> <p>Agnico Eagle is to provide associated costs with both construction and dismantling of infrastructure related to water withdrawal and effluent discharge alternatives to Lakes D1 and D5 to inform those security discussions.</p> <p>Agnico Eagle is to provide an estimate of funds required to decontaminate equipment and machinery left underground, such that it does not pose a residual environmental risk.</p>	<p>Initial meetings are planned for November and December 2019.</p> <p>The Security Management Agreement required prior to the Public Hearing.</p>
19	Agnico Eagle	KivIA TC 20	Agnico Eagle to include the Kivalliq Inuit Association in discussions related to the Fisheries Act Authorization approval process.	Ongoing
20	Agnico Eagle, KivIA		Agnico Eagle commits to working with the KivIA to update the water compensation agreement for the Whale Tail Project to include the proposed Whale Tail Pit Expansion Project.	Prior to the Public Hearing

No	Party Responsible for Commitment	Reference	TM Commitment	Timeline for Submission
21	Agnico Eagle	NWB TM	Provide Whale Tail Pit Expansion Project Water Balance for Nemo Lake.	December 19, 2019
22	Agnico Eagle	NWB TM	Submit proposed Draft Water Licence Framework with final written submissions at least 3 weeks prior to the Public Hearing.	December 19, 2019
23	Agnico Eagle	NWB TM	Provide draft adaptive management plan including a definition of adaptive management and approval process.	December 19, 2019
24	Agnico Eagle	NWB TM	Update the Spill Contingency Plan reflecting spill contingency measures at the Whale Tail Pit mine site.	60 days following approval of the amended water licence
25	Agnico Eagle	NWB TM	Update the Hazardous Materials Management Plan reflecting hazardous waste management (including storage locations and inventory) at the Whale Tail Pit mine site.	60 days following approval of the amended water licence
26	Agnico Eagle	NWB TM	Submit a functional Emergency Response Plan that provides a clear emergency response procedure. The Plan is to include the Whale Tail Pit emergency response team contact information, chain of command, and a flowchart describing the notification sequence. The Plan should be self-sufficient and is not to refer to the Meadowbank Emergency Response Plan.	60 days following approval of the amended water licence
27	Agnico Eagle	NWB TM	Update Waste Management Plan section 3 to clarify non-PAG/non-ML material quantities.	60 days following approval of the amended water licence