NUNAVUT WATER BOARD

Whale Tail Pit Project Type "A" Water Licence
Application No. 2AM-WTP--- and Consequential Amendments
to Water Licence 2AM-MEA1525

PUBLIC HEARING

VOLUME 2

Baker Lake, Nunavut

September 27, 2017

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(PROCEEDINGS COMMENCED AT 9:35 AM)

THE CHAIR TOOMASIE: Good morning, everyone. This second day of our public hearing here in Baker Lake.

Before we actually start with our agenda, I'd like to have opening prayer. Let us stand.

(OPENING PRAYER)

THE CHAIR: Before, actually, we start, I would like to ask the staff if there is any housekeeping we need to do? There's not? Okay. All right.

Okay. We done with applicant yesterday. Okay. So we start with intervenors this morning. So let's start with Kivalliq Inuit Association.

Do they need to be sworn in? Okay.

Presentation by the Kivalliq Inuit Association

MR. MANZO: Good morning, Mr. Chairman. My name is Luis Manzo from the Kivalliq Inuit Association. My name is L-U-I-S, M-A-N-Z-O.

I would like to thank the Board for the opportunity to be here today, to the staff, to members of the public, the institutions of the

federal government who help us and distribute the proponent to facilitate those meetings in which we address KIA issues.

Present a joint submission for Nunavut Water Board, so I will skip the slides that are not a part of this hearing to the end of the presentation.

KIA represent Inuit, administer, and monitors certain provisions of the Nunavut final agreement in the Kivalliq Region. KIA's mission is to represent Inuit in a fair and democratic manner in the development, protection, administration, and advancement of the rights and benefits and to promote economic, social, and political and cultural well-being.

The purpose of our technical review was to ensure that the potential impacts and benefits were comprehensively assessed through scientific, socioeconomic, and impact assessment best practices, and to ensure Inuit traditional knowledge were incorporated into the impact designation, mitigation, project design, and monitoring.

The technical review identify and sent in '11 -- in August 11, 2017, there was six issues in regard to caribou and one issue -- three issues regarding to water.

So I will skip to ...

Kivalliq Inuit Association had several meetings and workshops with INAC, Environment and Climate Change Canada, and the proponent; finally resolved the issue in regard to the arsenic component. So that issue no longer -- has been resolved.

In regard to security deposit, we are getting the total amount of security and we also agree and signed the security management agreement which divide the security 50 percent for INAC and 50 percent for KIA for the purpose of this Whale Tail Project.

We still working the water compensation issues. We were here last week and is with different dates in terms of start of construction, start of operations, post -- closure and postclosure dates, which we have to go back into our assessment and try to accommodate and also values, quantities, and the lakes; and we went back to that and tried to reassess it. We're hoping to have that before this hearing is closed. And proponent will -- we will trigger proponent in negotiations for that particular matter.

And with that, I conclude my presentation. If anybody have any specific questions, I am going to respond to it.

THE CHAIR: Thank you for your presentation. Now questions, concerns. I'd like to start with the applicant, if you have any questions or

concerns to the presentation from KIA.

MR. QUESNEL: Thank you, Mr. Chair. Jamie Quesnel, Agnico Eagle.

No questions.

Thank you.

THE CHAIR: Thank you.

INAC. Call upon.

MS. COSTELLO: Good morning, Mr. Chair. Karen Costello for Indigenous and Northern Affairs Canada.

We have no questions at this time.

Thank you.

THE CHAIR: Thank you.

Then Environment and Climate Change Canada.

MS. PINTO: Thank you, Mr. Chair. Melissa Pinto, Environment and Climate Change Canada.

We have no questions at this time.

THE CHAIR: Thank you.

And then DFO.

MR. D'AGUIAR: Thank you, Mr. Chair. Mark D'Aguiar with Fisheries and Oceans Canada.

We have no questions at this time.

Thank you.

THE CHAIR: Thank you.

From public. From public, is there concerns, questions? Okay. There's none?

And Water Board staff.

MR. KHARATYAN: Thank you, Mr. Chair. Karen Kharatyan, Water Board staff.

No questions at this time.

THE CHAIR: Thank you.

Panel members? Okay. There's none.

Thank you. Thank you for your presentation. Thank you.

Now I'd like to call INAC to have your presentation.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board. I see that there are two additional witnesses. If I can have the witnesses state and spell their name for the record, please.

MR. PARSONS: Ian Parsons, I-A-N, P-A-R-S-O-N-S.

MR. BROWN: Tony Brown, T-O-N-Y, B-R-O-W-N.

MS. MEADOWS: Do the witnesses wish to be sworn or affirmed?

MR. BROWN: Affirmed.

MR. PARSONS: Affirmed as well.

IAN PARSON, TONY BROWN, Affirmed

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water

Board.

Mr. Chair, I have three additional presentations to file as the exhibits in this public hearing, being the presentation of Indigenous and Northern Affairs Canada with respect to the -- this public hearing and the technical sessions of this public hearing.

Thank you, Mr. Chair.

EXHIBIT 22 - Indigenous and Northern Affairs Canada hard copy PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (English)

EXHIBIT 23 - Indigenous and Northern Affairs Canada hard copy PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (Inuktitut)

EXHIBIT 24 - Indigenous and Northern Affairs Canada hard copy PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (French)

THE CHAIR: Thank you.

So INAC, go ahead.

MS. COSTELLO: Good morning, Mr. Chair. Karen Costello for Indigenous and Northern Affairs

Canada.

We provided an updated English presentation electronically yesterday to the Nunavut Water Board, and that will be the presentation in front of us. Our apologies. We were not able to update the printed copies. The substantial differences are the inclusion of the agreed-upon reclamation cost estimate and the symbols on the slides that were changed from "X", indicating unresolved, to checkmarks. So that is the only substantial difference between the two. And I believe I also changed out one photo. But other than that, they are materially the same.

THE CHAIR: Go ahead.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

So, Mr. Chair, I'm going to recommend that we also file the electronic copy of that exhibit as the copy for the final hearing.

Thank you, Mr. Chair.

EXHIBIT 25 - Indigenous and Northern Affairs Canada updated electronic PowerPoint presentation regarding Agnico Eagle's Whale Tail Pit Project for the Nunavut Water Board public hearing (English)

THE CHAIR: Thank you.

So, INAC, your presentation.

Presentation by Indigenous and Northern Affairs Canada

MS. COSTELLO: Thank you, Mr. Chair.

Good day, everyone. My name is Karen Costello. I'm the director of resource management with the Nunavut regional office of Indigenous and Northern Affairs Canada. I am joined here today by Ian Parsons, the regional coordinator and water licence application review lead with the water resources division of the Nunavut regional office, and Tony Brown of Arcadis, who supported the department's technical review of the application. In the audience I'm joined by Amanda Belanger, a water resource analyst with our Gatineau office.

I'd like to express our thanks to the Nunavut Water Board for holding the hearing for this application process as well as the community of Baker Lake for the hospitality and participation in the hearing process.

The purpose of this presentation will be to outline the department's role in the water licence process, our participation in the review of the application for the Whale Tail Pit Project, the final review comments on both the application for the Whale Tail licence and the amendment for the Meadowbank water licence. We'll do a review of the resolved

concerns and a discussion of the department's reclamation and closure cost estimate.

As I mentioned during the discussion of exhibits, the printed copy of the document has been updated. As such, the electronic copy on the screen is the most current.

The department has completed this review and delivers this presentation under the purview of the Department of Indian Affairs and Northern Development Act, the Nunavut Land Claims Agreement Act, the Nunavut Waters and Nunavut Surface Rights Tribunal Act, as well as its associated regulations. We also considered the Territorial Lands Act and its associated regulations and the Arctic Waters Pollution Prevention Act.

I'm sure all of you know that the Minister for Indigenous and Northern Affairs Canada has a role in the water licencing process. She will be responsible for considering the decision made by the Nunavut Water Board.

The department has participated in the review of this -- of the Whale Tail application through scoping and initial information requests. We submitted nine technical review comments prior to the May technical meeting and prehearing conference. We then participated in the technical meeting and prehearing conference here in Baker Lake. And since then, have

continued to engage with other intervenors as well as Agnico Eagle to ensure a robust final submission. The department made its final written submission on August 14th, 2017.

The focus of our review and advice on the application was on surface water quality and quantity, groundwater quality and quantity, and the reclamation and closure cost estimate. The department's final written submission included three outstanding concerns related to water quality and two that had been satisfied since the May 2017 technical meeting.

Since making our submission, Agnico has provided a response that addresses the outstanding concerns either in their August 28th response or in clarifications, submissions, and commitments brought forward to the Board during the course of this hearing. So, basically, the remainder of this presentation will outline why these issues were outstanding and their current resolved status.

In addition, the department's final submission to the Nunavut Water Board included two comments with regard to the amendment application for the existing Meadowbank licence. These have also been satisfied.

So as -- I'm just going to reiterate so it's clear for the Board, as you heard in Agnico's presentation, the issues that Indigenous and Northern Affairs Canada

has brought forward have been addressed to the satisfaction of the department through either commitments or some agreements on some proposed terms and conditions which will be brought forward to the Board for their consideration.

I will now turn the microphone over to Ian Parsons, who will speak to the department's technical comments.

MR. PARSONS: Good morning, Mr. Chair, everyone. Thank you, Karen.

So as Karen just -- as Karen just said, we have three comments that were outstanding but now are resolved, and now I will just go through a little outline of those issues.

The department's -- the first comment relates to the seepage from the waste rock storage facility and, specifically, during the postclosure period. During operations and closure, seepage from the waste rock storage facility will be actively treated in order to ensure that seepage entering the receiving waterbodies meets applicable criteria in order to protect the aquatic environment.

However, if seepage continues in the postclosure period or if seepage onset is delayed to the future and if this seepage exceeds water quality guidelines, then treatment of seepage from the waste rock storage may be

needed in the long term or even indefinitely. Agnico Eagle recently modelled arsenic concentrations in the waste rock storage facility seepage based on the assumption that there will be zero arsenic leaching material in the cover of the waste rock storage facility. Based on this assumption, Agnico showed that without treatment, arsenic concentrations in the seepage are predicted to oscillate between just below at -- or just above criteria, such as the Portage effluent limit. Arsenic concentrations in the Mammoth Lake mixing zone would peak cyclically above the site-specific water quality objective for arsenic.

With this information, the department was concerned that Agnico had assumed that their onset segregation practices for waste rock would be infallible such that there would be absolutely no inclusion of arsenic leaching or potentially arsenic-leaching material in the waste rock storage facility cover. The department was concerned that this was an overly optimistic assumption.

Because of this concern regarding contamination in the waste rock storage facility cover, the department asked the applicant to model arsenic concentrations in the waste rock storage facility if a low amount of arsenic-leaching materials were included in the waste rock storage facility cover, as well as the resulting

water quality of receiving waterbodies for this seepage. The model results report by Agnico Eagle in response to this request show that if 2 percent or 5 percent of arsenic-leaching material was included in the waste rock storage facility cover, that arsenic concentrations in the receiving waterbodies would be predicted to be above the site-specific water quality objective, meaning that this level of contamination in the waste rock storage facility cover would result in decreased water quality in receiving waterbodies and would trigger the need for long-term treatment of the waste rock storage facility seepage.

Extrapolation from these model results would show the same issue at 1 percent and 0.5 percent arsenic-leaching material in the cover.

To emphasize this point and focus on impacts to downstream water quality, this figure from documentation submitted by Agnico shows receiving water arsenic water concentrations above the site-specific water quality objectives if 2 percent arsenic-leaching materials were included in the cover and no treatment occurred. If this scenario occurs, treatment will be required postclosure.

In summary, for this first issue, the department's August 14th submission spoke to our concerns about arsenic concentrations in the waste rock storage

facility seepage and resulting arsenic concentrations in downstream waterbodies because even with well-managed segregation practices for waste rock, there remains the potential for inadvertent inclusion of arsenic-leaching material in the waste rock storage facility cover.

The applicant's own modelling results show that arsenic concentrations in receiving waterbodies would warrant long-term treatment of the waste rock storage facility seepage if the composition of cover material was not as clean as expected.

Since our August 14th submission, the department has since received further responses from Agnico whereby they have committed to additional monitoring. The department has addressed some of the uncertainty with the inclusion of costs for potential water treatment in the closure and the postclosure phase.

In relation to the department's concern around postclosure seepage from the waste rock storage facility, the department made the following recommendations to Agnico Eagle:

The department recommended an increase to the applicant's plans for waste rock sampling to better evaluate their waste rock segregation practices, thus increasing the confidence of intervenors that no arsenic-leaching material will be included in the waste

rock storage facility cover.

The department recommended updated monitoring for the waste rock storage facility seepage with criteria that must be met before the dike for the associated attenuation pond is breached.

The department also recommended hydrodynamic modelling to evaluate the mixing of seepage in Mammoth Lake.

Finally, the department factored in potential for some longer-term treatment of the waste rock storage facility into their reclamation closure cost estimate.

Based on these commitments and agreement on the reclamation closure cost estimate from Agnico Eagle, the department considers these items addressed.

The second concern in the department's written submission relates to impacts on water quality by maximum thaw depths in the waste rock storage facility cover. The effectiveness of the waste rock storage facility to prevent contamination and decreases in water quality is effective by the thickness of the active freeze-thaw zone in the cover. Depending on the depth of the zone, arsenic contaminant seepage may or may not be a problem. At the request of the department, as well as other intervenors, the applicant performed thermal modelling for the waste rock storage facility to estimate the depth of the active zone on

their future climate change scenarios. Their modelling resulted -- their modelling results showed that cover thickness should be 3.8 metres in order to account for the active zone.

The applicants' environmental impact statement specified a cover thickness of 2 to 4 metres, and so a cover thickness of 3.8 metres is within their original plans. However, actual data from the Meadowbank Portage waste rock storage facility shows that the depth of the active zone in the waste rock storage facility is up to 5.5 metres in some locations.

In relation to thaw depths in the waste rock storage facility, the department made the following recommendations in their final written submission:

First, Agnico Eagle has consistently stated that real data generated from their operations at Meadowbank are critical to planning at the Whale Tail Pit site and may be more useful than data from modelling. In this case, the department agrees that Agnico Eagle's experience with the waste rock storage facility at Meadowbank may be useful in further validating the design of the Whale Tail Pit waste rock storage facility cover.

As a result, the department recommended that the thermal modelling for the waste rock storage facility cover be further calibrated with ground temperature

monitoring data from Meadowbank. The department also recommended that Agnico's thermal model be continually updated through operations to inform final waste rock storage facility cover design.

Similar to the department's first comment, uncertainty in final cover design has been considered in the department's reclamation closure cost estimate.

Based on commitments and agreement and the reclamation closure cost estimate from the applicant, the department considers these items addressed as well.

The department's final outstanding issue in relation to the application concerns postclosure water quality in the flooded pit. The department's final written submission spoke to our concern about the potential for diffusion of arsenic from the pit walls into the pit once it is re-flooded. This is because, even with the proposed north wall pushback, the proportion of ultramafic rock surrounding the pit means that there is a high amount of arsenic-leaching material. Arsenic diffusion into the pit walls is only a concern if the pit or the parts of the pit with ultramafic rock in the walls are in a groundwater discharge zone, meaning that surrounding groundwater will flow through the pit walls and into the pit during re-flooding.

There is still some uncertainty as to whether

recharge will be a factor for the pit. The applicant has described the area around the pit as circumneutral based on their examination of regional lake levels, meaning that some areas around the pit are recharged and some are discharged, and therefore, the pit as a whole is considered neutral. However, this does not mean that there will be no discharge of groundwater to the pit, only that both recharge and discharge will occur, meaning that overall flow into and out of the pit cancels out to zero in terms of flow.

In their presentation yesterday, they illustrated the area being an overall recharge zone. Agnico is confident that areas of discharge do not coincide with areas of ultramafic rock. However, the department is of the position that there is still insufficient information about groundwater flows. To address the department's concern regarding water quality in flooded pit, the following recommendations were made in our final written submission:

The department recommended that additional hydrogeological studies to confirm hydraulic gradients occur during the 2018 field season before development of the pit. The department also recommended that if the hydrogeological studies show that there is likely -- likely to be diffusion of arsenic from the pit walls, that additional analysis be done to confirm

that water within the flooded pit will exhibit stable meromixis, thus reducing the impact of arsenic on water quality.

The department also advised that Agnico Eagle should prepare an updated monitoring plan for the flooded pit with criteria to be met before the dike is breached.

Following discussions between the department and Agnico Eagle, agreement has been reached on proposed terms and conditions that address the department's recommendations. As a result, the department considers this issue to be resolved.

As Karen mentioned earlier, there was two issues that's been resolved since the technical meeting. At the May 2017 technical meeting, the department brought forward two additional concerns regarding the Whale Tail Pit licence application. The first concern was that there may not be enough metal leaching -- sorry -- non-metal-leaching rock available for the waste rock storage facility cover. The department has since conferred with the applicant and received updated information regarding the size and the footprint of the waste rock storage facility. The department now agrees with the applicant that there will be sufficient cover material available. This issue is resolved.

The second concern was that the calculations

performed by the applicant to predict nitrate and ammonia concentrations and effluent as a result from the use of explosives use used average data from Meadowbank as opposed to taking into consideration Whale Tail-specific blasting volumes. Upon further discussion by technical experts from both the department and Agnico Eagle's method for these calculations, these have been accepted, and the issue is resolved.

I will now turn the mic back over to Karen to finish our presentation.

MS. COSTELLO: Thank you, Ian. Karen Costello for Indigenous and Northern Affairs Canada.

The department enlisted the technical input of Arcadis to prepare a reclamation closure cost estimate for the Whale Tail Pit Project as well as the all-weather road as -- locally termed as the "haul road" during these proceedings, that will connect the Whale Tail Pit to the Meadowbank mine.

We had previously made one submission with an estimate, and yesterday morning we provided a revised reclamation closure cost estimate to the Board.

Indigenous and Northern Affairs Canada's current reclamation and closure cost estimate is $26,285,926 and includes consideration around some of the

uncertainty in postclosure that was discussed earlier in this presentation.

Discussion on the reclamation closure cost estimate has occurred between the department, Agnico Eagle, and the Kivalliq Inuit Association. And as you have already heard, all parties have accepted the estimate that we have presented.

Additionally, there is agreement between the parties for a security management agreement. As such, Indigenous and Northern Affairs Canada is recommending 50 percent of the reclamation closure cost estimate be held under the water licence for the Whale Tail Pit Project. To be exact, the department recommends the amount -- and I'm hoping my math is right -- the amount of $13,142,963 be required under the new licence should the Board issue it. This amount will include the security requirements for the Type B licence for the road, for the haul road, as we were directed by the Board to include.

The final two issues discussed in this presentation relate to the consequential amendment application to the Meadowbank mine licence that is to cover activities associated with the Whale Tail Pit Project.

Amendment Number 1 relates to Meadowbank tailings management. All ore from the Whale Tail Pit will be

milled at the Meadowbank facility. In order to accommodate ore storage and tailings from the additional milling activity, Agnico Eagle plans to raise the north cell wall of their existing approved facility.

While the facility has -- is approved, its approval was given based on Meadowbank activities. As a result, the department recommends that the facility design change be fully reviewed by the Board and that Agnico Eagle submit an updated tailings management plan that includes consideration of the Whale Tail tailings.

Agnico Eagle has agreed to this recommendation, and as a result, the department considers this issue to be resolved.

Our second comment in our August 14th submission regarding this amendment had to do with a change of the term of the water licence. The amendment application did not contain an amendment to the term. Currently, the Meadowbank licence expires in 2025. The department recommended that the term be amended to align with that of Whale Tail operations and go to 2026.

Agnico has agreed, and the department considers this issue resolved. And we bring forward that recommendation to the Board for their consideration.

In conclusion, the information, analysis, and presentation of documentation in the application and

the associated submissions was complete. The department still feels that there are some uncertainties that remain as to long-term and postclosure water quality based on the models presented. The department has recommended that Agnico Eagle undertake additional modelling as information becomes available and more intensive -- and a more intensive monitoring program for the site to better understand what for us are the remaining uncertainties and provide more confidence to the predicted outcomes.

Up-to-date modelling and monitoring during operations and closure may show that the site conditions match predicted outcomes. However, outcomes that deviate from predictions could result in unintended impacts requiring mitigation.

The department is satisfied with the commitments by the applicant and has reached agreement on proposed terms and conditions that relate to all of the issues brought forward in our submissions. Indigenous and Northern Affairs Canada has no outstanding or unresolved issues. The department can commit to providing comments on some additional documents, should they become available. And we will also continue to be engaged on this project should the Board approve the licence -- or should the project go ahead and the Board

approve the licence.

It's important also to know that Indigenous and Northern Affairs' participation in this licence does not end with the awarding of the licence. Water resource officers with the field operations division of the Nunavut regional office will inspect the project for compliance with the terms and conditions of all water licences attributed to the project. So our engagement and actions on this file will continue, should the licence be issued.

That concludes the presentation. We look forward to any questions.

Thank you.

THE CHAIR: Thank you, INAC, for your presentation.

So open up for questions, concerns. Start with the applicant.

MR. QUESNEL: Thank you, Mr. Chair. Jamie Quesnel, Agnico.

We have no questions at this time.

Thank you.

THE CHAIR: Thank you.

Then Kivalliq Inuit Association.

MR. MANZO: Thank you, Mr. Chairman. Luis Manzo, Kivalliq Inuit Association.

No questions at this time.

THE CHAIR: Thank you.

Environment and Climate Change Canada.

MS. PINTO: Thank you, Mr. Chair.

Melissa Pinto, Environment and Climate Change Canada.

We have no questions at this time.

THE CHAIR: Thank you.

Then DFO.

MR. D'AGUIAR: Thank you, Mr. Chair.

Mark D'Aguiar with Fisheries and Oceans Canada.

We have no questions at this time.

Thank you.

THE CHAIR: Thank you.

Public. (OTHER LANGUAGE SPOKEN). Do you have any questions, concerns? There's none. Okay. Thank you.

Staff.

Nunavut Water Board Staff Questions Indigenous and Northern Affairs Canada

MR. KHARATYAN: Thank you, Mr. Chair.

Karen Kharatyan, Nunavut Water Board staff.

Couple of small questions, please.

If you go down to Slide 9, please. Because of some side discussion between applicant and agencies, we were -- we may not be fully aware of results. So just looking for confirmation related to Bullet B, which criteria you mean for the waste rock storage facility, I guess, before dike so this could be direct discharge

to Mammoth Lake. So is this the site-specific criteria established for arsenic or different criteria?

MS. COSTELLO: Thank you, Mr. Chair. Karen Costello for Indigenous and Northern Affairs Canada.

We were -- for breaching the dike, there are certain criteria that have to be met. We've been working on some proposed terms and conditions with Agnico, and I don't think we've actually filed them yet as to -- and we were also talking about a monitoring framework. And the criteria has to do with -- we've been working on water quality and also just the -- we want to make sure that when the dike is breached, that there's not going to be any impacts; it's going to be water that's within the guidelines and the criteria that are going to be developed or have already been developed.

MR. KHARATYAN: Thank you, Mr. Chair. Karen Kharatyan, Nunavut Water Board staff.

So this could be different than site-specific criteria for arsenic; yes?

MS. COSTELLO: I'm going to -- Karen Costello for Indigenous and Northern Affairs Canada.

I'm just going to reach over to the applicant, because this is something that we've been working on with them. And I've got proposed terms and conditions

in front of me. So I'll just turn it over to Ryan, if I could, Mr. Chair.

MR. VANENGEN: Ryan Vanengen from Agnico Eagle.

The concept at this point, Karen, is that we would meet our discharge criteria at the Mammoth discharge during operations. And as we move into closure, we'll make sure we continue to meet that discharge criteria into Mammoth. As well, consider water quality criteria in the pit.

The specific criteria of the water quality within the pit would be part of a closure objective and would be based on either baseline data, site-specific water quality data, or other reasonable criteria. And that would be determined by the Nunavut Water Board in consultation with INAC and Environment Canada -- is what we've talked about to this point.

Thank you, Mr. Chair.

THE CHAIR: Thank you.

MR. KHARATYAN: Thank you, Mr. Chair. Karen Kharatyan, Nunavut Water Board staff.

Similar question is on the Slide 13. I think I had the same -- yes, the same question about specific criteria, whether this is different from site-specific criteria established that will be potentially applicable at the postclosure phase before breaching

the dikes or no? Or other criteria will be established?

MS. COSTELLO: Karen Costello for Indigenous and Northern Affairs Canada.

Yes, it would be similar to the response just provided.

MR. KHARATYAN: Thank you. Thank you, Mr. Chair.

And very small comments. On Slide 17, just for confirmation, this should be north cell? Or ...

MS. COSTELLO: Karen Costello for Indigenous and Northern Affairs Canada.

Yeah, we were -- the compass was oriented wrong. Yes, it's the north cell wall raise. And apologize for that error.

MR. KHARATYAN: Thank you. Thank you, Mr. Chair.

No more questions.

THE CHAIR: Thank you.

MR. VANENGEN: Mr. Chair.

THE CHAIR: Go ahead.

MR. VANENGEN: If I may, that should be corrected to elevation 154 metres above sea level, not 54.

Thank you. Mat'na.

THE CHAIR: Okay. And then Panel members,

you have questions? Okay. No more questions or concerns.

Thank you for your presentation, INAC.

Should we take a break, 15-minute break, before we continue on with the intervenors? 15-minute break.

(ADJOURNMENT)

THE CHAIR: Break is over.

So we'll start with the next intervenors, Environment and Climate Change Canada.

Go ahead.

Presentation by Environment and Climate Change Canada

MS. PINTO: Good morning, Mr. Chair, Board members, community members, Board staff, and parties that have joined us here today. My name is Melissa Pinto, and I'm a senior environmental assessment coordinator with Environment and Climate Change Canada. With me today I have Trish Auser, our water quality expert.

To start off I will go through Environment and Climate Change Canada's mandate, briefly touch upon the relevant acts and legislation, and then go through the recommendations outlined in the department's final written submission --

THE CHAIR: Just a quick -- quick stop for a minute.

Teresa.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

Ms. Pinto, if I can just confirm, do you have a separate presentation than the community presentation that was filed? At the back. All right.

So, Mr. Chair, let the record show that I will be marking this presentation as the next exhibit in the public hearing.

Thank you, Mr. Chair. Those are my procedural matters.

EXHIBIT 26 - Environment and Climate Change Canada hard copy PowerPoint presentation to the Nunavut Water Board respecting the Whale Tail Pit Project Type A water licence application for the public hearing (English/Inuktitut)

THE CHAIR: Thank you.

Go ahead.

MS. PINTO: As I was saying, we'll then go through the recommendations outlined in the department's final written submission to the Nunavut Water Board. For each recommendation, we will indicate whether or not the issue has been resolved or still remains outstanding, along with any commitments made by the proponent.

Summarized, Environment and Climate Change Canada's mandate is to conserve and protect Canada's water resources, forecast daily weather conditions and warnings, coordinate environmental policies and programs for the federal government, and continued on, to preserve and enhance the quality of the natural environment -- including air, water, soil, flora, and fauna -- and enforce rules relating to boundary waters.

Environment and Climate Change Canada's mandate is governed by the Department of the Environment Act, the Canadian Environmental Protection Act, the pollution prevention provisions of the Fisheries Act, the Migratory Birds Convention Act, and the Species at Risk Act.

For water quality, some of the outstanding concerns that Environment and Climate Change Canada had at the close of the prehearing conference were resolved by subsequent exchanges with the proponent. One such concern was with the site-specific water quality objective for arsenic which was initially proposed at 28 micrograms per litre.

In response to the department's concerns, the proponent removed the amphibian data and provided summary statistics for the models and the rationale for selecting the normal model.

The department acknowledges that there is unlikely

to be a statistically significant difference between the results of the two models. Therefore, the department accepts the revised site-specific water quality objective of 25 micrograms per litre for total arsenic which excludes the amphibian data.

The department had also raised concerns regarding water quality modelling predictions for arsenic and phosphorous levels in the receiving environment and has recommended improved treatment for these constituents. The proponent now proposes to improve the treatment objective for arsenic and for phosphorous. The department accepts these more stringent treatment objectives.

I will now hand it over to Trish to continue the presentation, but before I do that, I would like to note that the comment and recommendation numbers in the presentation refer to the Nunavut Impact Review Board's submission and not the Nunavut Water Board submission. This is to be consistent with the proponent's responses, which were only provided for the department's comments and recommendations, submitted to the Nunavut Impact Review Board, which were the same water quality comments and recommendations that were submitted to the Nunavut Water Board.

MS. AUSER: Comment Number 4 relates to the north wall pushback of Whale Tail Pit. The

original Whale Tail Pit design, which is the base case, resulted in approximately 29 percent of the final pit shell containing exposed ultramafic rock, which has a higher potential to leach arsenic than does other rock types. A pushback, that is, increased removal of the north wall containing this ultramafic rock, was initially identified by the proponent as a potential contingency measure to reduce the amount of exposed ultramafic rock on the final pit shell by roughly half with the intent to reduce arsenic levels within Whale Tail Pit Lake.

Environment and Climate Change Canada noted that the environmental risks and benefits of removing approximately half of the exposed north wall ultramafic material from the Whale Tail Pit, that is, a north wall pushback, had not been fully quantified or discussed. Given the large volume of waste rock that would be produced by a north wall pushback, which would increase the waste rock storage facility to an elevation of 66 metres, together with modest improvements in water quality, an alternatives assessment was recommended.

Environment and Climate Change Canada recommended that the proponent conduct an alternatives analysis of the pit design with and without the north wall pushback scenario in order to assess the potential risks and benefits to the aquatic receiving environment. Such an

alternatives analysis should consider the entire life of mine and through postclosure.

In their responses to final submissions, the proponent summarized the evaluations done, stating that they have evaluated the change from base case to adding the north wall pushback. Given that the north wall pushback has already been selected as the preferred design over the base case, Environment and Climate Change Canada acknowledges that the main issues have been compared -- that is, water quality, arsenic, waste rock, and closure -- and is currently satisfied with the information provided.

Environment and Climate Change Canada anticipates that operational information will refine predictions and management actions for this alternative.

For Comment Number 5, the proponent provided sensitivity analyses for a range of modelled conditions which highlight potential for problems to arise if conditions are not as predicted. The department recommends that the proponent submit detailed management plans to be implemented for waste rock segregation and testing, thermal monitoring of waste rock, and seepage management and monitoring.

Plans should include a schedule for reporting of results and periodic updating of predictions for the waste rock storage facility pond quality, along with

proactive planning for optimal cover conditions. Contingency measures should be identified as appropriate.

Monitoring results for receiving waters should be compared to model predictions and to thresholds identified for management actions should trends indicate water quality objectives may be exceeded.

The proponent has responded in agreement with this recommendation. Environment and Climate Change Canada considers this issue resolved.

Comment Number 6 in our final written submission discussed the effluent quality criteria proposed by the proponent. Environment and Climate Change Canada recommends the effluent quality criteria be set based on concentrations that are achievable and that minimize discharge levels to receiving waters. Effluent quality criteria should be applicable to all mine-related discharges to surface waters.

In response to this recommendation, the proponent has provided revised effluent quality criteria that have been updated to reflect discussions with the department. As noted by the proponent yesterday, it was also agreed that the Vault effluent quality criteria -- that the Vault effluent quality criteria limits for mercury would be used for this project, and this issue is now considered resolved.

Initially, proposed sludge management involved discharging sludge wastes from the treatment plants into the Whale Tail attenuation pond. Because the attenuation pond will be located within the drainage north basin of Whale Tail Lake, the pond site will ultimately become submerged within Whale Tail Lake upon re-flooding of the north basin and would therefore result in sludge waste within the lake bed of Whale Tail Lake north basin in perpetuity. Environment and Climate Change Canada had raised a concern with disposing of sludge at this location as there would be no way to manage or monitor environmental effects such as migration of contaminants from the sludge into Whale Tail Lake over time.

Environment and Climate Change Canada recommends that sludge be disposed using methods that have been demonstrated to provide effective containment and isolation under Northern conditions, such as into the waste rock storage facility or the tailings storage facility at Meadowbank rather than into the attenuation pond, Whale Tail Lake.

In response to Comment Number 7, the proponent agreed with the department's recommendation and will dispose of the sludge in the waste rock storage facility instead of the attenuation pond. Environment and Climate Change Canada considers this issue

resolved.

The Azimuth report from February 2017 provides a synthesis of information on mercury and methylmercury in connection with flooding of terrestrial areas. It provides a good review of the factors and tries to assign a risk level for the likelihood of increased methylmercury associated with the flooding of the area around south Whale Tail Lake.

In the absence of information on conditions that are unique to this environment, conclusions are tentative and qualified. The report notes that the authors are unaware of other -- of any other reservoirs created strictly within an arctic environment and that the arctic is an untested environment with respect to mercury modelling for impoundment. Specifically, a number of key uncertainties are identified. Conducting an investigation of these key uncertainties would contribute to understanding mercury dynamics in a northern impoundment scenario and could improve mercury predictions for fish, other aquatic biota, sediment, and water quality.

The department recommends conducting a separate study during the construction, operations, and closure of the flooded areas to address key uncertainties that were identified in the Azimuth report in order to inform mercury modelling for this product. Adaptive

management actions should be considered based on the results from this study.

The proponent agrees with this recommendation and proposes to conduct a separate mercury monitoring program with water, sediment, and biota of south Whale Tail Lake south basin that will be conducted alongside the core receiving environment monitoring program and fisheries and offsetting monitoring plan with results compared to model predictions. Details of the monitoring program will be provided 60 days following approval of the Type A water licence.

Through discussions with the department, the proponent also indicated that it would include triggers and thresholds for total mercury and methylmercury within this monitoring program.

Environment and Climate Change Canada accepts this response and the proposed term and condition and considers this issue resolved.

At the technical meeting, Environment and Climate Change Canada noted that sediment core analysis was limited to metals only and requested that a full suite of testing be conducted. The proponent responded that there was insufficient material to permit a full suite of testing and did not agree to the request for full sediment core analysis. Clarifications were made, and as indicated in the proponent's response to this

comment, the proponent will continue to analyze for a full suite of constituents in sediment grab samples and will collect sediment core samples in 2017 for analysis of moisture, metals, and pH. The department accepts the proposed analyses, and this issue is considered resolved.

In summary, Environment and Climate Change Canada is generally satisfied with the information provided by the proponent and looks forward to participating in reviewing information as it becomes available in the regulatory phase should the project proceed.

That concludes our presentation.

We would like to thank the Nunavut Water Board for giving us the opportunity to present.

Thank you.

THE CHAIR: Thank you, Environment and Climate Change Canada, for your presentation.

Open up for concerns, questions, comments.

Start with applicants.

MR. QUESNEL: Thank you, Mr. Chair. Jamie Quesnel.

We have no questions at this time.

THE CHAIR: Thank you.

INAC, do you have concerns, questions?

MR. PARSONS: Mr. Chair. Ian Parsons, Indigenous and Northern Affairs Canada.

We have no questions at this time.

THE CHAIR: Thank you.

DFO.

MR. D'AGUIAR: Thank you, Mr. Chair.

Mark D'Aguiar with Fisheries and Oceans.

We have no comments at this time.

THE CHAIR: Thank you.

Comments, concerns from public. (OTHER LANGUAGE SPOKEN). Okay. Thank you. There's none.

Staff.

MR. KHARATYAN: Thank you, Mr. Chair.

Karen Kharatyan, Water Board staff.

No question this time.

THE CHAIR: I forgot about Kivalliq.

Sorry about that.

Kivalliq Inuit Association.

MR. MANZO: Thank you, Mr. Chairman.

Okay, I don't have no questions at this time.

THE CHAIR: Thank you.

Panel members, do you have any questions or concerns? No? None.

Thank you for your presentation, Environment Canada.

Okay. Next intervenors we'd like to call upon, DFO.

Okay. Before we get started, our legal counsel

wanted ...

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

Mr. Chair, there are two copies of the PowerPoint presentation that the Department of Fisheries and Oceans Canada is presenting today. There's an English and Inuktitut copy, and then there's also a copy of the presentation in French that I propose to file as the next two exhibits in this final hearing.

Thank you, Mr. Chair.

EXHIBIT 27 - Fisheries and Oceans Canada hard copy PowerPoint presentation to the Nunavut Water Board final hearing (English/Inuktitut)

EXHIBIT 28 - Fisheries and Oceans Canada hard copy PowerPoint presentation to the Nunavut Water Board final hearing (French)

THE CHAIR: Thank you.

You may start your presentation.

Presentation by Fisheries and Oceans Canada

MR. D'AGUIAR: Thank you, Mr. Chair. Good morning, Mr. Chair, and members of the staff of the Board and the community of Baker Lake. My name is Mark D'Aguiar, and I am the senior fisheries protection biologist with Fisheries and Oceans Canada, and I am accompanied by my support Laura Watkinson, who is a

fisheries protection biologist with Fisheries and Oceans Canada.

I'd like to thank the Water Board for providing us with the opportunity to present our comments and recommendations from our final written submission on the Whale Tail Project.

So I will first provide you with an overview of Fisheries and Oceans' mandate, our legislation, and our policies. I will provide an overview of the technical comments that we provided to the Nunavut Water Board in our final written submission, and these final technical comments will touch on habitat losses, valued components, habitat alteration, changes to the lake ecosystem productivity, and the water quality and flow monitoring plan. Fisheries and Oceans will bring to the Board's attention only the key points and outstanding items, recognizing that in our final written submission, it includes a more complete discussion of all the issues.

Fisheries and Oceans would like to acknowledge that Agnico has agreed to many of our requests through their final submission responses, and they have also agreed to furthering discussions with DFO to finalize the fish and habitat gains, losses accounting, and the associated offsetting plans, as well as monitoring plans. So, in general, we are satisfied with the

responses from the proponent and the agreements for furthering discussions to resolve those outstanding issues during the regulatory phase.

On behalf of the Government of Nunavut, the mandate of Fisheries and Oceans Canada, the fisheries protection program is to maintain the sustainability and ongoing productivity of commercial, recreational, and aboriginal fisheries.

The fisheries protection program is responsible for ensuring that projects in or near water are undertaken following the requirements of the Fisheries Act and the Species at Risk Act. The fisheries protection program of Fisheries and Oceans Canada provides guidance to proponents on how to avoid, mitigate, or offset impacts to fish and fish habitat.

The regulatory role is defined by the Fisheries Act, Section 35 of the Fisheries Act, which prohibits serious harm to fish that are part of a commercial, recreational, or aboriginal fishery or to fish that support such a fishery. In the Fisheries Act, "serious harm" is defined as "the death of fish, permanent alteration of habitat, or destruction of habitat".

Section 20 of the Fisheries Act relates to the requirement to provide sufficient water for fish and to ensure fish passage is maintained. The fisheries

protection program is also the main program at Fisheries and Oceans Canada involved in the environmental and Water Board licencing processes.

So the fisheries protection program is guided by two main policies: The fisheries protection policy statement, which provides guidance on the application of the fisheries protection provisions of the Fisheries Act; and the Fisheries Productivity Investment Policy: A Proponent's Guide to Offsetting, which provides guidance on undertaking effective measures to offset serious harm to fish that may be reasonably expected to counterbalance the loss of fish habitat and fisheries productivity as a result of the negative impact of the project. Proponents are required to demonstrate that the offsetting measures will maintain or improve the productivity of fishes.

So the first technical comment that Fisheries and Oceans Canada presented in our final submission related to habitat losses. It was unclear to Fisheries and Oceans Canada whether their proposed 13 percent increased surface area of Whale Tail Lake will be a viable offset.

In our final -- sorry. In our technical submission, Technical Comment 1 and Request 2 submitted on March 28th, 2017, Fisheries and Oceans Canada requested that Agnico Eagle provide better

illustrations to demonstrate the proposed increased surface area of Whale Tail Lake and its viability as newly created littoral habitat. Fisheries and Oceans Canada also had a meeting with Agnico on March 23rd, 2017, whereby Agnico agreed to provide better illustrations, for example, 3-D images, to demonstrate the proposed increased surface area of Whale Tail Lake.

So in our final written submission, Fisheries and Oceans Canada requested that Agnico provide requested illustrations as agreed to by Agnico, which Fisheries and Oceans Canada would like to receive prior to commencement of the regulatory phase. Agnico Eagle has agreed to work with us to fulfil this request and providing requested illustrations during this regulatory phase. So this issue is considered resolved to the satisfaction of DFO.

The second request under habitat losses, Fisheries and Oceans Canada notes that Agnico had not adequately demonstrated the evaluation of the sustainable water quality and habitat suitability for fish in the postclosure scenario. Fisheries and Oceans has concerns respecting how Agnico will effectively evaluate and monitor the mixing or non-mixing in the re-flooded pit. Fisheries and Oceans Canada was also concerned that water quality from the pit could negatively affect the remainder of the lake and fish

habitat. As such, Fisheries and Oceans Canada has therefore requested that Agnico Eagle provide additional details outlining how they intend to evaluate the question of potential mixing or non-mixing of waters in the pit portion of Whale Tail Lake. If these additional details cannot be provided to Fisheries and Oceans Canada, additional offsetting options located outside of the Whale Tail Lake basin would need to be developed.

Fisheries and Oceans acknowledges that Agnico's commitment in their final submission response to evaluate the mixing and non-mixing of the pit through depth profile, limnological monitoring, and depth-integrated sampling which will aid in assessing the potential for end pit lakes to support self-sustaining fish populations.

Fisheries and Oceans also requested that Agnico provide additional and updated information on the evaluation of end pit lake scenarios with references to address Fisheries and Oceans' concerns regarding end pit lake scenarios.

In our final written submission with respect to habitat losses, Fisheries and Oceans Canada expressed concern that fish would not be able to return to the north basin of Whale Tail Lake postclosure due to several concerns with the long-term water quality and

physical aspects of an end pit lake. DFO acknowledges the efforts by Agnico Eagle to address the uncertainty respecting the successful creation of an end pit lake that can support healthy, self-sustaining fish populations but notes that sufficient information to support consideration of the postclosure pit as fish habitat is not yet available. As such, additional offsetting measures should also be explored. Fisheries and Oceans Canada will continue to work with Agnico and the Kivalliq Inuit Association and the Hunters and Trappers Organizations during the regulatory phase should the project be approved and water licence issued to ensure that all losses to fish and fish habitat are accounted for and fully offset.

DFO also notes that, since the conclusion of the Nunavut Impact Review Board hearing, we have met with Agnico Eagle to further discuss these issues.

Our next technical component related to valued components. Fisheries and Oceans Canada noted that evaluating potential fisheries losses and gains, all fish should be weighted equally. As such, we requested that Agnico give equal weight to species based on their presence and absence in their offsetting calculation. In their final submission responses, Agnico had agreed to our recommendation to use equal weighting. As such, we consider this resolved to the satisfaction of DFO.

The next technical comment presented was with regard to habitat alteration. Habitat alteration refers to the alteration that will occur due to the proposed flooding activities. DFO acknowledges that Agnico has provided additional clarification in their final submission response, and we acknowledge that we will work with Agnico and the Kivalliq Inuit Association during the regulatory phase should the project be approved and a water licence issued to ensure that all losses to fish and fish habitat are accounted for and fully offset. So we consider this issue resolved to the satisfaction of DFO.

In our final written submission, Fisheries and Oceans Canada requested that Agnico clarify the calculated numbers for all phases of the project, providing the rationale with the calculations, including the raw data. Fisheries and Oceans reiterated previous comments that Agnico admit any habitat gains associated with temporary flooding activities during the operation. The temporary alteration of streams due to flooding may have negative effects on the fish productivity due to a loss of stream habitat.

Fisheries and Oceans Canada also does not believe temporary flooding activities will result in an overall positive change in fish productivity.

Fisheries and Oceans acknowledges that Agnico has agreed to provide the raw data during the authorization phase and to work together at that time to finalize an offsetting plan. We note that Fisheries and Oceans Canada will still require additional rationalization on other calculated fish habitat losses and gains associated with the proposed offsetting plans.

DFO will work with Agnico and the Kivalliq Inuit Association during the regulatory phase prior to the authorization to ensure all losses to fish and fish habitat are accounted for and fully offset should the project be approved to proceed and a water licence issued.

The third request under habitat alteration is in regard to the proposed plan by Agnico in which a portion of Mammoth dike will be reconfigured to re-create a surface connection between Whale Tail and Mammoth Lake permanently raising the elevation of Whale Tail Lake by .5 metres. This was proposed in our recent offsetting plan from June.

In our final written submission, Fisheries and Oceans Canada requested that Agnico provide more information regarding their plan to permanently flood Whale Tail Lake by raising the water level by .5 metres, including the rationale and the ability to sustain this condition so as to provide measurable

increases in fisheries productivity. Fisheries and Oceans Canada was unclear -- is unclear on what mechanisms will be used to ensure the lake will remain at this increased water level in perpetuity and requires more information on the plans to make this permanent increase happen.

In addition, Fisheries and Oceans Canada is not confident that this type of flooding and associated increase in lake surface area will result in a productive habitat gain given the uncertainty in the long-term productivity of end pit lakes. As such, additional measures to offset the loss of fish habitat may be required.

DFO will work with Agnico and Kivalliq Inuit Association during the regulatory phase to ensure that all losses to fish and fish habitat are accounted for and fully offset should the project be approved to proceed.

DFO notes we have again engaged Agnico post-NIRB conclusion of the hearing, and we have made further discussions and progress on this issue.

The next comment that Fisheries and Oceans Canada presented is in regard to changes in lake ecosystem productivity. Our first request related to potential proposed change to the lake trophic status of Mammoth Lake. Fisheries and Oceans Canada requested

clarification on whether the newly proposed changes to the project, specifically in the form of the phosphorous treatment plant, will still result in a change to the trophic status of Mammoth Lake. In their final written submission, Agnico clarified that the worst-case scenario will now see a change from oligotrophic to mesotrophic rather than a eutrophic. As such, this is resolved to the satisfaction of DFO.

Fisheries/Oceans Canada had also requested that losses caused by a trophic change in the lake ecosystem from nutrient overloading be considered as losses in the calculations for offsetting. In their final submission responses, Agnico confirmed that a smaller trophic change was actually predicted to occur. Given that a trophic change is still predicted to occur, Fisheries and Oceans Canada is unclear how this predicted change in trophic status will impact fish productivity and requests that Agnico conduct an appropriate analysis. This can be provided during the regulatory phase should the project be approved to proceed and the water licence issued.

Fisheries and Oceans' third request in relation to changes in trophic status is in regard to proposed research studies evaluating the change from an oligotrophic to a eutrophic lake and then back to oligotrophic again, as originally proposed.

Fisheries and Ocean Canada previously requested that Agnico undertake a detailed research study to evaluate fisheries productivity losses when altering waterbodies in such a way. Fisheries and Oceans Canada was unclear since the discussions of the phosphorous treatment options -- whether Agnico was still planning to complete the proposed study.

So in our final written submission, Fisheries and Oceans Canada requested clarification on whether Agnico is still planning on conducting a study in conjunction with the University of Manitoba on the change in fisheries productivity due to a change in the lake ecosystem from oligotrophic to eutrophic and back again.

In Agnico's final submission responses, Agnico responded and explained that the study on the change to eutrophic will no longer be completed since the lakes will not change to eutrophic status. However, Agnico had proposed monitoring and adaptive management to track changes to downstream environments.

Fisheries and Oceans Canada acknowledges Agnico's response and recommends that in addition to the monitoring and proposed adaptive management, additional studies be conducted to assess the impact of the predicted trophic change on fish productivity. Fisheries and Oceans Canada notes that discussions on

this had occurred on Saturday after the Nunavut Impact Review Board hearing.

The next technical comment that Fisheries and Oceans Canada presented in our final written submission discussed our concerns with the water quality and flow monitoring plan. In discussing plan monitoring station, Fisheries and Oceans Canada noted that Agnico has referenced the core receiving environmental monitoring plan in addition to the water quality and flow management plan. The core receiving environmental monitoring plan is a different plan focused on measuring different parameters than the water quality and flow monitoring plan, and thus Fisheries and Oceans Canada is concerned that data generated from these two plans, including the reference data, may not be directly comparable and/or complementary.

DFO notes it is important to addressing future offsetting requirements that appropriate monitoring stations that are consistent and comparable are captured in any monitoring plan intended to address the requirements of a Fisheries Act authorization should the project proceed to the regulatory phase.

In addition, Fisheries and Oceans Canada will work with Agnico and the Kivalliq Inuit Association to ensure that monitoring supports any research proposed as complementary measures to offset serious harm to

fish.

Fisheries and Oceans's second request under water quality and flow monitoring is in regard to reference stations. In our final written submission, Fisheries and Oceans Canada requested that Agnico include at least two control lake monitoring stations in the water quality and flow monitoring plan and include rationale to why the reference lakes that are chosen are appropriate.

In Agnico's final submission responses, they have referenced the core receiving environmental monitoring plan and the reference lakes used for Meadowbank project. However, Fisheries and Oceans Canada is still unclear on the rationale for using the reference lakes used for Meadowbank project when the reference lakes are not within the Whale Tail watershed. Therefore, Fisheries and Oceans Canada recommended that Agnico provide a rationale to Fisheries and Oceans Canada clearly indicating and outlining how the current reference lakes used in the CREMP, the core receiving environmental monitoring plan, are suitable for the Whale Tail Project. Agnico has agreed to provide further rationalization; therefore, we consider this request resolved.

The third request for water quality and flow monitoring plan is in regard to consistency and

sampling frequency. Fisheries and Oceans was concerned about consistency and sampling frequency that will occur throughout operations, closure, and postclosure at monitoring stations and requested that a consistent and increased frequency be considered for sampling at all sampling stations throughout the project to acquire appropriate, comparable data to inform future studies as committed by Agnico.

Fisheries and Oceans Canada acknowledges that Agnico has agreed to our requests respecting monitoring in their final submission responses, including ensuring consistency in sampling locations and sampling frequency. Fisheries and Oceans Canada will continue to work with Agnico to ensure that monitoring frequency and location supports any research proposed as complementary measures to offset serious harm to fish. As such, DFO considers this resolved to the satisfaction of DFO.

In conclusion, Mr. Chair, Fisheries and Oceans believes that it's possible to offset the impacts to fish and fish habitat that will result from the Whale Tail Project. Fisheries and Oceans will continue to work with Agnico, the Kivalliq Inuit Association, the Hunters and Trappers Association to address any remaining concerns with the proposed offsetting plan. And this will include ensuring that all losses to fish

and fish habitat are fully accounted for and fully offset.

Fisheries and Oceans Canada also believes that a robust monitoring program is necessary to be able to verify proponent's impact predictions and detect any unforeseen changes to the aquatic environment. Therefore, Fisheries and Oceans Canada will continue to work cooperatively with the proponent, the stakeholders, the Kivalliq Inuit Association, Hunters and Trappers Organizations, our colleagues at Environment and Climate Change Canada, and Indigenous/Northern Affairs Canada, the potentially impacted communities during the regulatory phase should the project be approved to proceed to specifically ensure that appropriate mitigation, monitoring, and robust follow-up programs are implemented.

Fisheries and Oceans Canada thanks the Board, the community of Baker Lake, other attending members for the opportunity to present these comments and recommendations regarding the Whale Tail Pit.

Thank you.

THE CHAIR: Thank you, DFO, for your presentation.

Just before we start, open up for comments, concerns, questions. We'll start with the applicant. Agnico Eagle Mines Limited Questions Fisheries and

Oceans Canada

MR. VANENGEN: Thank you, Mr. Chair and Board members.

And thank you, DFO. We just would like to confirm that the matters that you mentioned in your presentation are resolved with DFO and will be addressed in the authorization phase. And could you -- could DFO confirm that they have no outstanding concerns in the Type A water licence process?

Mat'na.

THE CHAIR: Thank you.

DFO.

MR. D'AGUIAR: Mark D'Aguiar for Fisheries and Oceans Canada.

Confirm both of those things. They can -- our issues are able to be addressed during the authorization phase, and we have no concern with respect to the water licence.

THE CHAIR: Thank you.

Applicant.

KIA, do you have any concerns, questions, comments?

MR. MANZO: Thank you, Mr. Chairman. Luis Manzo, Kivalliq Inuit Association.

We don't have no concerns at this time. Thanks.

THE CHAIR: Thank you.

INAC, do you have any concerns, questions, comments?

MR. PARSONS: Thank you, Mr. Chairman. Ian Parsons, Indigenous/Northern Affairs Canada.

We have no questions or concerns at this time.

Thank you.

THE CHAIR: Thank you.

Environment and Climate Change Canada.

MS. PINTO: Thank you, Mr. Chair. Melissa Pinto, Environment and Climate Change Canada.

We have no questions at this time.

THE CHAIR: Thank you.

Public. (OTHER LANGUAGE SPOKEN). Okay. Thank you.

Staff.

MR. KHARATYAN: Thank you, Mr. Chair. Karen Kharatyan, Nunavut Water Board staff.

No questions at this time.

THE CHAIR: Thank you.

Panel members? Okay. There's none.

Thank you for your presentation, DFO. Thank you.

MR. D'AGUIAR: Thank you, Mr. Chair.

THE CHAIR: Teresa.

So we are getting -- done with our agenda for this public hearing, so we may as well take a break now. 30 minutes. Or for whole lunch. Lunch? Take a break

for lunch. Come back here at 1:00, 1:30. 1:30 would be good. 1:30, yeah. Yeah. Okay. So is that okay for the applicant?

MR. QUESNEL: Thank you, Mr. Chair. Yes, that's fine. We'll be back at 1:30.

THE CHAIR: Okay. Good. Okay.

Stephanie.

MS. AUTUT: So, Mr. Chair, just to confirm, we'll be moving into closing statements after lunch at 1:30.

THE CHAIR: Okay. Take a break now up to 1:30.

(LUNCHEON ADJOURNMENT AT 11:33 AM)

(PROCEEDINGS RECOMMENCED AT 1:36 PM)

THE CHAIR: Good afternoon. We are in the final hour now of this public hearing. So before we actually getting into business, we will start with our -- this afternoon, business with -- legal counsel to start with.

Teresa.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

Mr. Chair, we have a few final sort of procedural matters to deal with before the parties can get into closing statements, the first being -- and we'd like to

have a little bit of a discussion with respect to some of the timing after the close of the public hearing but while the public hearing record remains open.

So, overall, I'll just preface my comments with this observation: We expect that the parties may want to have clarification or have questions for the Water Board with respect to this, and so I'll invite them to step up to the mic afterwards and ask questions if they have them. But as the -- as the parties indicated during their submissions today, a number of issues -- and there have been a number of discussions back and forth between Agnico Eagle Mines Limited and the intervenors here today -- to come to resolution of many of the comments, technical review comments they provided the Nunavut Water Board. In some respects, we have -- the Water Board has some information about how those things have been resolved, but not all of the information about how those things have been resolved necessarily on the public record.

And so the Water Board is going to request that in addition to the submissions that are proposed to be filed after the close of the public hearing by the parties, the Water Board would also like to see the intervenors provide the Board with just a very brief summary that provides an indication of the comments that they had raised, how those comments were resolved.

So if, for example, they are resolved by way of the water monitoring framework document, then reference the water monitoring framework addresses that issue. If they are addressed in the licence framework document, reference that they are addressed in the licence framework document.

If they are addressed in some other way, so if they've been addressed in a commitment that was made during the Nunavut Impact Review Board process or in an independent meeting that was held between the parties and Agnico Eagle Mines Limited, please reference not only that they were resolved but how they were resolved.

So if there are licencing criteria that were agreed to, please provide that information. It's really for the ease of reference of both the Nunavut Water Board but also to any member of the public who is trying to follow through on the range of commitments that are being made, the agreements that are being discussed, and then the resolution, ultimate resolution, of issues that may find their way into terms and conditions in the water licence.

So I don't know if there are any specific questions from any of the parties with respect to what the Nunavut Water Board intends, but maybe I will leave it to the parties to now come up, and if they have any

questions or, Agnico Eagle, if you have any questions, to direct it to the Water Board staff.

Thank you, Mr. Chair.

THE CHAIR: Thank you.

Any questions to the legal counsel's procedures? Applicant, do you have ... Go ahead, applicant.

MS. KOWBEL: Mr. Chair, if we could just have one more minute to confer?

THE CHAIR: Okay. Go ahead.

MS. KOWBEL: Thank you, Mr. Chair. Christine Kowbel, Agnico Eagle.

Agnico Eagle, we've -- thank you for the suggestion and direction from the Board and the Board staff. We have a suggestion. We wonder if it would be helpful to the Board and Board staff if Agnico Eagle provided a -- basically a further draft of their final written submission that they filed on August 28th with a black line which summarizes where, I guess, the additional conversations and final resolution of each of those issues that were on -- and then you would have all of the information in one place and an update on those issues that were still outstanding as of August 28th. Is that the kind of information that you would be looking for?

THE CHAIR: Staff.

MR. KHARATYAN: Thank you, Mr. Chair.

Karen Kharatyan, Water Board staff.

If by August 28th all information was updated or included or will be included with the submission, it's okay. The question is whether you have -- I think you may have additional meetings after 28th. So ...

THE CHAIR: Okay, go ahead. Applicant, go ahead.

MS. KOWBEL: Thank you, Mr. Chair. Christine Kowbel for Agnico Eagle.

Yes, I'm sorry. I wasn't -- I wasn't clear enough. We would take that written submission from August 28th, and we would add the information about additional meetings and additional resolution that has happened since August 28th and re-file that document with the Board.

Thank you.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

Ms. Kowbel, what I would suggest is really the Board's concern with that is just that we would need to have further confirmation from the parties. So if you can submit it as a joint submission, so circulate the drafts to the parties first and when you are submitting it to the Board, the Board knows then that there's sign-off from all of the -- all of the intervening

parties, that all of those issues are resolved as you've indicated in that updated table. That's really -- would be very, very useful for the Water Board, because that's the biggest outstanding issue for the Water Board, is making sure we have an understanding of where all the parties are in respect of the resolution.

So it's really that question of whether or not there's time and then what kind of timing you're talking about in terms of filing that document.

Thank you, Mr. Chair.

THE CHAIR: Thank you.

Applicant.

MS. KOWBEL: Thank you, Mr. Chair. Christine Kowbel, Agnico Eagle.

Yes, Agnico Eagle is certainly amenable to that approach. It would probably make sense for the parties to confer offline about when the right date for that to happen would be, but the company is certainly able to do that.

THE CHAIR: Go ahead, Teresa.

MS. MEADOWS: Thank you, Mr. Chair.

So maybe if we can maybe take about a ten-minute break for the parties to confer for Agnico Eagle to check so that we can confirm that timeline on the record.

What I'm going to propose is that the Water Board will be issuing correspondence at the end of next week to all the parties and also to the Minister to confirm what the timelines are going to be and to also confirm for the Minister that the Water Board is not engaging in decision-making until after the Minister has issued her decision.

So just for clarity on the process because this is a unique process, the first time we've done a coordinated hearing like this.

Thank you, Mr. Chair.

THE CHAIR: Thank you. Okay. Take a ten-minute break.

(ADJOURNMENT)

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

So I'm assuming that that is a positive sign. So, Ms. Kowbel, if you'd care to enlighten us as to the agreements that have been -- that have been agreed to over there.

MS. KOWBEL: Thank you, Mr. Chair. Christine Kowbel, Agnico Eagle.

Yes, the parties have had a discussion, and there's alignment. What was discussed will -- there are some further matters that I think you'll address

shortly. These -- the dates align with those matters. The parties have agreed to provide Agnico Eagle with summaries which describe how issues were resolved by October 17th. Agnico Eagle will then use that information to update its final written submission and reflect that update and will also append the memos from each of the parties to that update. But it'll be in a form of black line for the ease of reference of the Board staff and the Board. And that updated -- that updated final summary by Agnico Eagle would be filed on October 24th.

MS. MEADOWS: Teresa Meadows, legal counsel for the Nunavut Water Board.

Thank you very much for that. So the -- that leads me to sort of the next couple of things.

The first is that we had filed an exhibit at the beginning of the hearing -- let's see. So we had filed an exhibit at the beginning of the hearing that was the framework -- licence framework document that was filed in draft form by Agnico Eagle, and it's my understanding that the parties will -- have requested to file their comments on the licencing framework agreement on or before Tuesday, October the 17th. So it's my understanding that that will come in. And the parties will also be providing Agnico Eagle with their sort of summarized comments of resolution of matters.

The second document that we also are expecting comments to be filed by the parties on that date is a document that has just been offered to us as the next exhibit in this final hearing, and it is entitled "Water Monitoring Reduction Framework". The date is September 25th, 2017, and it was provided by Golder and Associates, and Agnico Eagle Mines Limited is offering it as the next exhibit.

And then the next exhibit that I have that has been provided by Agnico Eagle is a summary of three commitments that were provided to -- provided by Agnico Eagle to the parties to clarify some of the commitments that have been made at this -- at this public hearing, and so updated from the final hearing of the Nunavut Impact Review Board, and that document has been offered to us as the next exhibit.

It's my understanding that those are the exhibits to be filed in the final hearing offered by Agnico Eagle, and I would just like to get confirmation from Ms. Kowbel that that's the case.

EXHIBIT 29 - Agnico Eagle hard copy memorandum from C. Prather and D. Filiatrault to J. Quesnel; dated September 26, 2017; entitled "Water Monitoring Reduction Framework" (English)

EXHIBIT 30 - Agnico Eagle updated hard copy

Project A water licencing framework for Water Licence Number 2AM-WTP---, Appendix A, Agnico Eagle's proposed commitments (English)

THE CHAIR: Thank you.

Applicant.

MS. KOWBEL: Thank you, Mr. Chair. Christine Kowbel for Agnico Eagle.

Yes, I confirm that those are the remaining exhibits. I just wanted to offer one point of clarity: The document that you referred to which is titled "Agnico Eagle's Proposed Commitments," that's actually an update of the commitments that are appended to Appendix A of Exhibit 8. So a replacement of those commitments that are part of the framework, that'll be reflected in the final draft of that framework document. We wanted to point that out to the Board.

And I think, Mr. Chair, if possible, I might turn the mic over to Jamie Quesnel to give a little context for the water monitoring framework memo that Ms. Meadows referenced.

MR. QUESNEL: Thank you, Mr. Chair. Jamie Quesnel, Agnico Eagle.

Yeah, in reference to the document titled "Water Monitoring Reduction Framework" dated September 25, 2017, we had discussions with the intervenors regarding that. And this framework is for consideration to the

Board, and it's primarily related to monitoring for all phases of the -- of the project, if it's approved, and also for reduction in security. We just wanted to have the discussion related to how do we have an exit strategy on certain aspects. And this has been -- basically it started on the discussion with our security related to the postclosure monitoring where there was some discussions with Indigenous Northern Affairs Canada about some uncertainties directly related to waste rock storage facility seepage. We have confidence in our predicted models, but we want to ensure that we're aligned on this path with this framework.

Once we receive our operational monitoring data, interpret this information, we want to ensure that we create the confidence of this uncertainty as stated by Indigenous Northern Affairs Canada but look at this information, the field data, the monitoring, what will be comparing this to. 'Cause we had to add additional 11 years of monitoring. So we want to ensure that our field information, the operating window, including closure, that phase of Whale Tail, that information is analyzed correctly to predict what the postclosure monitoring would look like to remove this uncertainty with the concern related to that phase of the operation.

So this framework does kind of go through some of the thinking around it, how we looked at this, compared it to the Metal Mining Effluent Regulation; and so it's detailed based on the background, the comparison to existing licences but also some of the context how we can reduce the monitoring and reduce the security in a -- in a reasonable approach. So that's submitted for your consideration.

THE CHAIR: Thank you.

Teresa.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

So if I can confirm with the parties that the -- following the public hearing, the next stage will be filing of various updates and documents while the record remains open, and so it's my understanding that the timing will be that the parties' comments on the water monitoring reduction framework that Agnico Eagle has just tendered as an exhibit and also the licence framework document, which was filed as Exhibit Number 9 in these proceedings yesterday, that the parties will be providing the Nunavut Water Board with their comments, submissions in respect of all of that on or before October 17th followed by, the following week, Agnico Eagle filing their final submissions and

responses and reply to all of that material on October 24th.

So if I can have confirmation from the parties, from the Kivalliq Inuit Association and from the Department of Justice for the federal family, that those -- that my understanding is correct.

THE CHAIR: Thank you.

Luis.

MR. MANZO: Thank you, Mr. Chairman.

Yes, that's correct. We'll work with the partners, the intervenors, and hopefully we can get an agreement into the framework before the 17th.

Thank you.

MR. GRUDA-DOLBEC: Simon Gruda-Dolbec, legal counsel for the Department of Justice. I can confirm for the federal departments.

Thank you.

THE CHAIR: Thank you.

Teresa.

MS. MEADOWS: Thank you, Mr. Chair. Teresa Meadows, legal counsel for the Nunavut Water Board.

So, Mr. Chair, the correspondence that goes out at the end of next week will reflect those timelines and will provide clarity for all the parties and including those who could not be attendance at the public hearing

as to the next steps in this -- in this process while we keep the public hearing record open.

Thank you, Mr. Chair. Those are my procedural matters, and now we can proceed to closing statements.

THE CHAIR: Thank you.

All right. Move on to Agenda Item 17, closing remarks from intervenors. We'll start with intervenors, and then the applicant will go second-last, and then the Board and staff. I think that's how it's -- that's how -- okay.

Okay. Start with the KIA, closing remarks.

Closing Remarks by the Kivalliq Inuit Association

MR. MANZO: Thank you, Mr. Chairman. My name is Luis Manzo, Kivalliq Inuit Association.

On behalf of the Kivalliq Inuit Association, I would like to thank everyone who participate in the water licence application for the Whale Tail Project. The Kivalliq Inuit Association acknowledges the effort of Agnico Eagle and all the intervenors who work to ensure a strong, effective review of the water licence application for Whale Tail Project.

The Kivalliq Inuit Association also wishes to recognize and thanks community members and organizations who have also participated in the licence process provided us with information which will help the Nunavut Water Board to make an informed decision.

The Kivalliq Inuit Association recognize that the water licence is a very important part of this joint review for the Whale Tail Project if the project is approved.

Kivalliq Inuit Association wants to ensure all the necessary protections are in place. We'll continue to actively monitor the project and ensure all mitigation measures are being taken.

The Kivalliq Inuit Association recognize the need to finalize the water compensation agreement before the closing of the Nunavut Water Board hearings. In addition, the Kivalliq Inuit Association will continue to work with the rest of the intervenors and the proponent to develop the water monitoring framework.

I would like to thank the Board for this opportunity. I would like to thank the Nunavut Water Board and staff for the great organization with this joint review. I'd also like to thanks the translators and also thanks for all the services provided during the meetings, like the coffee and goodies.

Mat'na.

THE CHAIR: Thank you.

Next intervenor.

Before we actually go into INAC, I'd like -- we would like to call upon Karen. Stephanie, you wish to speak a bit to that? Yeah.

Farewell to Karen Costello

MS. AUTUT: Okay. Thanks, Mr. Chair.

So we're going to put Karen Costello on the hot seat for a moment.

So the Board would like to recognize, Karen, that this is your last hearing as part of this bigger process. We wanted to recognize your 15 years of dedication to the Water Board's public hearing process and the strong commitment that you've put into this and always coming to the table with a smile and good comments and good feedback for the Board. We understand that you're moving on, and we want to wish you the best in your -- in your move.

And we have a small token of our appreciation that the Chairman would like to present to you. So if you could come up and take a moment, we'd appreciate that. Thank you.

THE CHAIR: So next intervenor for closing remarks is Indigenous and Northern Affairs Canada.

Closing Remarks by Indigenous and Northern Affairs Canada

MS. COSTELLO: Thank you, Mr. Chair. Karen Costello for the Nunavut regional office of Indigenous and Northern Affairs, one last time.

Oh. Shouldn't be doing this. This is the second time in a week.

Anyway, I'd like to thank the community of Baker Lake for welcoming us and hosting the hearing. The community centre in Baker Lake is very much a centre point of the community and giving it up for both the Nunavut Impact Review Board and the Water Board meetings is significant. So I thank them for that.

As always, we've been very well taken care of here with the Chair and staff running an efficient process, and just in case we got a little hungry or needed beverages, we also had tasty coffee breaks.

Indigenous and Northern Affairs has participated in all steps of the Board process. During this process, we are engaged both with the staff and the applicant Agnico Eagle. Should the project be approved and the licence issued, Indigenous/Northern Affairs Canada will be part of the inspection and enforcement of all -- of the water licence and any other authorizations associated with it. So you haven't seen the last of us yet, Agnico Eagle. We're going to be -- should the project proceed, you'll be seeing more of Indigenous and Northern Affairs Canada.

Getting through this process -- and it's been a challenging process because it's been coordinated, and we have worked as diligently as possible to work -- to complete the process. It does require dedicated and professional staff. So a thanks go to the Board staff

for your diligence in administering the process. For the interpreters, the court reporters, the sound technician, the caterers, and the panel for your attention over the past two days. We're all well aware that your work won't yet begin, but your awareness of the licence application has already started.

To the Indigenous/Northern Affairs team, it started off with Amanda Winegardner -- not this Amanda; she didn't get married -- Ian Parsons, and we have always been supported by our consultants at Arcadis; and during these last two weeks, Amanda Belanger has definitely been a key support for me. They've all demonstrated dedication to this file, and they have my thanks.

Our colleagues of the Government of Canada and Kivalliq Inuit Association have always been available to discuss shared interests, and their contributions are appreciated.

Thanks also to Agnico Eagle. It seems silly to say we couldn't have done this process without you, but we couldn't have done this process without you. The proponent's commitments and responses have satisfied all of Indigenous and Northern Affairs' concerns, and we look forward to providing that clarification in the documents we just spoke to.

When I first started doing --with water licences,

I never expected that I would end up Kugluktuk, Cambridge, Resolute, Arctic Bay, Rankin, Iqaluit, Pond Inlet. I feel like my luggage should have little bumper stickers that says "I've been everywhere".

I've learned a lot along the way, met some great people. Been challenged personally, professionally. That's what's so great about this process. It's what's so great about Nunavut. So thank you all for that and safe travels home, everybody.

THE CHAIR: Thank you.

Now I would like to call Environment and Climate Change Canada for closing remarks.

Closing Remarks by Environment and Climate Change Canada

MS. PINTO: Thank you, Mr. Chair. Melissa Pinto, Environment and Climate Change Canada.

First, we would like to thank the Nunavut Water Board, along with the Board staff, for allowing us to present today and to be a part of the discussions that have taken place during these last two days. We would also like to thank the elders and other community members for their participation. We would like to thank the proponent in working hard to address our concerns as well. In addition, we would like to extend a big thank you to the interpreters for their patience and to the community of Baker Lake for hosting us.

Environment and Climate Change Canada will endeavour to provide comments on the two framework documents submitted by the proponent by October 17th, 2017, and provide the summary of how Environment and Climate Change Canada's concerns were resolved. Environment and Climate Change Canada looks forward to continuing its participation in the regulatory process for this project. Thank you.

THE CHAIR: Thank you.

Now I will call upon DFO for closing remarks.

Closing Remarks by Fisheries and Oceans Canada

MR. D'AGUIAR: Thank you, Mr. Chair. Mark D'Aguiar with Fisheries and Oceans Canada.

Fisheries and Oceans Canada would like to thank the Nunavut Water Board for organizing the final hearing for the Type A water licence for the Whale Tail Project and for giving us the opportunity to present our concerns and recommendations.

We would also like to thank Agnico for their continued engagement and professionalism when working with Fisheries and Oceans Canada to resolve concerns and outstanding issues.

We have presented our conclusions on the technical review and recommendations on habitat losses and gains calculations, the proponent's plans to offset impacts to fish and fish habitat, and fish and fish habitat

monitoring. Fisheries and Oceans Canada has noted a number of concerns to the Board, most of which involve the need for additional information respecting accounting for potential impacts to fish and fish habitat and the proponent's plans for mitigating, offsetting, and monitoring in relation to these. However, Fisheries and Oceans Canada does believe that it will be possible to fully offset the impacts to fish and fish habitat that will resolve from the project.

Should the project be approved to proceed and the water licence is issued, Fisheries and Oceans will continue to work with Agnico, the Kivalliq Inuit Association, and the Hunters and Trappers and other interested parties during the regulatory phase to address the remaining concerns with the offsetting plan and to ensure mitigation, monitoring, and a robust follow-up monitoring plan and programs are implemented.

Any authorization issued by Fisheries and Oceans Canada in relation to this project will contain specific conditions to ensure mitigation measures for the protection of fish and fish habitat are implemented, that any residual habitat loss is identified and adequately offset, and that monitoring capable of demonstrating if impacts have been adequately mitigated and offset is carried out.

In closing, Fisheries and Oceans Canada would like

to thank the elders and all the other participants from the Kivalliq Region. We'd also like to give a special thank you to the community of Baker Lake for the hospitality during these proceedings. And we'd finally like to acknowledge the Board members, the Board staff, the interpreters, the court reporters, the sound technician, and all those who worked hard to provide us with the coffee, tea, and snacks.

Mat'na.

THE CHAIR: Thank you.

Then now I will call the applicants for closing remarks.

Closing Remarks by Agnico Eagle Mines Limited

MR. QUESNEL: Thank you, Mr. Chair. Jamie Quesnel.

Mr. Chair and members of the Board, I would like to start by thanking our hosts, the community of Baker Lake, for their hospitality these past two weeks. We would also like to thank the community members who have come to these hearings and meetings and participated by listening, asking questions, and sharing information. Agnico Eagle is proud to bring this project forward as an extension of the Meadowbank project. The Whale Tail Pit Project provides the opportunity to build on the positive experiences of the Meadowbank operation and to provide continuity for

employment and business benefits.

Agnico is committed to Nunavut and to the Kivalliq Region for the long term. It is our hope that we can bring forward future mine extensions to the Nunavut Impact Review Board and the Nunavut Water Board for consideration in the future.

I am now going to provide you with a brief summary of the main points we covered during these hearings.

Consultation and communities. Through both the Meadowbank and Meliadine projects, Agnico Eagle has developed a strong and beneficial relationship with the communities and the people of Nunavut. The approach to the Whale Tail Project continues on this path. As summarized during our presentations, we have consulted broadly and extensively and have considered and incorporated traditional knowledge and IQ in our project design and plans. We have listened to questions and suggestions and done our best to respond to them respectfully and responsibly.

This project will provide continuity of employment and business opportunities as the Meadowbank mine completes its production from the Portage, Bay Goose, and Vault deposits. The Meadowbank is very close to the end of its mine life. If Whale Tail is approved, there will be approximately 150 new jobs created by the mining of the Whale Tail Pit to feed the Meadowbank

mill, and we will strive to fill as many of them with Inuit employees as we can, with a minimum of 50 percent as our goal.

We are proud of what we have achieved in partnership with the people of Nunavut at our Meadowbank mine and at Meliadine. The Whale Tail Project provides us with an opportunity to continue and extend our presence and our relationships.

Dealing with waste disposal and management, Mr. Chair, as we hope we are able to show the Board during our presentations, Agnico Eagle is very experienced at managing waste and water at Meadowbank mine, and given the similarity of the conditions at Whale Tail, this experience is directly relevant to the Whale Tail Project.

Typically, at this stage of a project, the Board would have to rely on predictions alone. In this case, we are in the position to provide the Board with evidence based on actual operational data. This data further increases our confidence in our predictions and in our Whale Tail Pit management and monitoring plans. Whale Tail has been designed to use as much of the existing Meadowbank mine facilities as possible. For example, we are going to use existing capacity in the Meadowbank mine tailings impoundment facility. As Michel Groleau explained, there is more capacity in the

Meadowbank tailings impoundment facility than we will need to store the Whale Tail tailings. We are very confident of this.

We are also relying on other existing Meadowbank facilities, such as the mill. Similar to Vault Pit, this will help keep the footprint of the Whale Tail Pit Project relatively confined.

In designing the project, we have placed our Whale Tail facilities to impact as few watersheds in the area of the project as possible. We have extensively tested the rock that we will be handling at the Whale Tail Project, and we understand the properties of that rock and the geology very well. Through consultation with parties and our operational experience at Meadowbank, we have developed protocols that will ensure that we handle and store the rock effectively. We have proposed plans that will ensure that rock on site will be placed in the right location for its end use. As presented by Erika Voyer, our truck operators understand very well to place rock and the importance of following the plans to make sure this is done properly. These plans have been proven effective at Meadowbank. We already know how to do this.

Based on water use and management, we have designed the Whale Tail Pit Project to minimize impact

on both water quality and fish habitat and to ensure that Nunavut waters are protected from negative downstream water quality effects. We have worked extensively with the Nunavut Water Board staff, Kivalliq Inuit Association, Indigenous and Northern Affairs Canada, Fisheries and Oceans Canada, and Environment and Climate Change Canada to revise and test our models to ensure we will protect the receiving environment.

During operations, if the project is approved, we will collect data through monitoring and continue to look at those data to ensure that the information we collect is analyzed properly and compared to the conservative predictions that were described during our presentations. As explained by Ryan Vanengen, Agnico Eagle will not just be making decisions based on what we think. We will be using IQ, fact-based engineering, science, and the best models we can use to make sure the receiving environment is protected.

We have proposed discharge limits are consistent with the Metal Mining Effluent Regulations under the Fisheries Act; and with the Canadian water quality guidelines, we will achieve water quality that is protective of the lakes, streams, and aquatic life. For some parameters, such as arsenic, we are committing to meet site-specific limits more stringent than

required under the Metal Mining Effluent Regulations.

At Whale Tail, we propose criteria of 0.1 milligrams per litre of discharge and 0.025 milligrams per litre in the lake, which will be protective of fish and fish habitat. If needed, we have committed to treat for parameters of potential concern, such as arsenic and phosphorous, in order to ensure water quality is met. We have provided design details of the water treatment plants, and we will be ready to use them if necessary. However, our conservative predictions are that treatment for arsenic may not be necessary, and we will meet closure water quality limits as a result of our site management.

In terms of fish habitat, we have put forward a compensation plan to Fisheries and Oceans Canada, and we are confident that we can reach agreement for an authorization that will offset the loss of fish habitat.

Dealing with closure and security, as I noted earlier, we will prepare for closure during construction and operations by implementing management plans with careful handling and segregation of rock during the operational phase.

In the long term, waste rock with potential to impact waters will be well contained through a cover and freezeback strategy.

The 4-metre waste rock pile cover, about as high as the pipe in this room, is a very conservative approach which has been previously approved by the Nunavut Water Board and proven effective at Meadowbank. Once water quality in pits are safe for fish, our closure plan includes breaching the temporary dikes in Whale Tail Lake and Mammoth Lake and restoring the natural water flows when mining is complete.

The Whale Tail Pit interim closure and reclamation plan has been reviewed extensively by both the Kivalliq Inuit Association and Indigenous/Northern Affairs Canada, and they have confirmed they have no outstanding technical concerns.

Mr. Chair, as you have heard from Agnico, Kivalliq Inuit Association and Indigenous and Northern Affairs Canada, we are in agreement that the global reclamation security is $26,285,926. As set out in detail in the security management agreement between Agnico, the Kivalliq Inuit Association, and Indigenous and Northern Affairs Canada dated September the 5th, 2017, and filed with the Board in this hearing as Exhibit 12, the Kivalliq Inuit Association and Indigenous and Northern Affairs Canada have agreed to hold -- each hold 50 percent of the global security amount for the Whale Tail Pit Project.

Requests for approval. We understand and respect

the responsibility that the Nunavut Water Board has in determining conditions for water licences that will be protective of Nunavut waters. We have worked hard, along with our team of professional consultants with the Inuit organizations and communities and with the government regulatory, to address the water and waste-related issues. In our application, we made two requests of the Board in relation to the Whale Tail Pit Project. First, we asked the Board to amend the existing Type A Meadowbank Licence 2AM-MEA1525. We have identified in Exhibit 8 terms and conditions of the Meadowbank water licence, which will require reconsideration by the Water Board should the Whale Tail Pit Project proceed.

Secondly, we have asked the Board to issue a new Type A licence for the Whale Tail Pit Project. We encourage the Board to give full consideration to the proposed Whale Tail Pit Project Type A water licence framework for Water Licence Number 2AM-WTP that we filed in this hearing as Exhibit 9. The framework reconfirms the commitments that Agnico has made to parties to this proceeding and is intended to support the Nunavut Water Board and staff in their development of a water licence for the Whale Tail Pit Project should they proceed to issue a licence. We hope these are of assistance to the Board in its decision-making.

We acknowledge the Kivalliq Inuit Association's support of the project and look forward to working with you through our impact benefit agreement. We are very close to reaching a water compensation agreement with the Kivalliq Inuit Association. We expect to be in a position for Kivalliq Inuit Association to confirm water compensation shortly. We also are pleased that the federal agencies, including Indigenous and Northern Affairs Canada, Environment and Climate Change Canada, and Fisheries and Oceans Canada, have all indicated that the technical issues they raised in the water licencing process have all been resolved. These issues were resolved by providing the parties with additional information analysis, making commitments, and providing recommended water licence terms to the Water Board.

We are confident that we can construct, operate, and ultimately close the project in a way that respects and protects water quality and fish populations and ask that the Board issue the necessary water licences to proceed.

In closing, Agnico Eagle would like to thank the Chair and the Board members for conducting this water licence hearing with fairness to all parties. We'd also like to thank all the participants, including community members, for their presentations, their questions, and for sharing some of their experiences

with us.

And, also, Agnico Eagle would like to have a special thank you to Karen Costello, not just for this file, for multiple files she's been involved with with Agnico Eagle. All the best to you.

Thank you, Mr. Chair, and members of the Board. That completes our closing statement. Thank you.

THE CHAIR: Thank you.

Before I do my closing remarks, is there any housekeeping to do here? Stephanie.

MS. AUTUT: Thanks, Mr. Chair.

I won't go around with all of the thanks again. I think it's noted that the Board is certainly appreciative of everybody's efforts. I would like to make a special note, though, to acknowledge the efforts that Sophia and William have put in on behalf of the Nunavut Impact Review Board helping the Water Board with the conduct of the hearing this week and the provision of the sound equipment. So thank you to you both for your time and your efforts.

And with that, Mr. Chair, I'll hand it back to you. Thanks.

Closing Remarks by the Chair

THE CHAIR: Thank you.

So I'll also do my closing remarks on behalf of the Nunavut Water Board.

The Board takes this opportunity to thank the parties, especially the applicant Agnico Eagle Mines Limited; intervenors, Kivalliq Inuit Association, Indigenous and Northern Affairs Canada, Environment and Climate Change Canada, Fisheries and Oceans Canada, and the NWB staff and legal counsel; interpreters, Ben Kogvik, Alexander Alooq; court reporter, Elizabeth Royal; audio facilitator from NIRB, William Nicoll; all the community members and the elders for their valued participation in this hearing. Thanks also to the caterers and Hamlet of Baker Lake for their outstanding hospitality and patience with the Board.

As we are at the end of this hearing, I will make some comments to let the parties know what happens next for the application.

As stated in the prehearing consultation of June 8, 2017, the NWB's public hearing records will remain open after the NIRB has issued that -- the Board's final hearing reports and the Minister has made her decision to accept or reject the NIRB's reports and recommendations. If the NIRB and the Minister agree that the Whale Tail Pit Project Proposal can be allowed to proceed, the NWB will give all parties a final opportunity to file written materials to supplement the NWB's public hearing record to the extent the Board and the parties may consider to be necessary.

Once the NWB has received all of these submissions, the Board will close the public hearing record and will remit the file to the Panel for decision-making. Within 30 days to 45 days after the public hearing record closes, the NWB will issue its record of proceedings and decision to the Minister of Indigenous and Northern Affairs Canada. If the Board's decision is to grant the application, a draft of the new Type A water licence and recommended amendments to the existing Type A water licence would be attached for the Minister's consideration.

If, however, the NIRB recommends to the Minister that the project proposal should not be allowed to proceed and the Minister accepts the NIRB's recommendation, the application will not be considered further by the NWB and the NWB will not issue a written decision in respect of the application.

That concludes the public hearing component of the Nunavut Water Board's consideration of the Whale Tail Pit water licence application. The Board and I wish you all a good afternoon and evening and safe travel returning home to all visitors of Baker Lake.

So let's have a closing remarks [sic]. Let's stand.

(CLOSING PRAYER)

PROCEEDINGS CONCLUDED

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CERTIFICATE OF TRANSCRIPT:

I, Elizabeth Royal, certify that the foregoing pages are a complete and accurate transcript of the proceedings, taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Calgary, Province of Alberta, this 16th day of October 2017.

_____

Elizabeth Royal, CSR(A)
Official Court Reporter

EXHIBITS ENTERED

SEPTEMBER 27, 2017

1	EXHIBIT 29 - Agnico Eagle hard copy memorandum from C. Prather and D. Filiatrault to J. Quesnel; dated September 26, 2017; entitled "Water Monitoring Reduction Framework" (English)	339
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7	EXHIBIT 30 - Agnico Eagle updated hard copy Project A water licencing framework for Water Licence Number 2AM-WTP---, Appendix A, Agnico Eagle's proposed commitments (English)	339

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