

NUNAVUT WATER BOARD

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

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PUBLIC HEARING

VOLUME 2

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Baker Lake, Nunavut  
September 27, 2017

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6 (PROCEEDINGS COMMENCED AT 9:35 AM)

7 THE CHAIR TOOMASIE: Good morning, everyone. This  
8 second day of our public hearing here in Baker Lake.9 Before we actually start with our agenda, I'd like  
10 to have opening prayer. Let us stand.

11 (OPENING PRAYER)

12 THE CHAIR: Before, actually, we start, I  
13 would like to ask the staff if there is any  
14 housekeeping we need to do? There's not? Okay. All  
15 right.16 Okay. We done with applicant yesterday. Okay.  
17 So we start with intervenors this morning. So let's  
18 start with Kivalliq Inuit Association.

19 Do they need to be sworn in? Okay.

20 Presentation by the Kivalliq Inuit Association

21 MR. MANZO: Good morning, Mr. Chairman.

22 My name is Luis Manzo from the Kivalliq Inuit  
23 Association. My name is L-U-I-S, M-A-N-Z-O.24 I would like to thank the Board for the  
25 opportunity to be here today, to the staff, to members  
26 of the public, the institutions of the

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

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

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

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

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

26 So I will skip to ...

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

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

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

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

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

1 concerns to the presentation from KIA.

2 MR. QUESNEL: Thank you, Mr. Chair.

3 Jamie Quesnel, Agnico Eagle.

4 No questions.

5 Thank you.

6 THE CHAIR: Thank you.

7 INAC. Call upon.

8 MS. COSTELLO: Good morning, Mr. Chair.

9 Karen Costello for Indigenous and Northern Affairs  
10 Canada.

11 We have no questions at this time.

12 Thank you.

13 THE CHAIR: Thank you.

14 Then Environment and Climate Change Canada.

15 MS. PINTO: Thank you, Mr. Chair.

16 Melissa Pinto, Environment and Climate Change Canada.

17 We have no questions at this time.

18 THE CHAIR: Thank you.

19 And then DFO.

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

21 Mark D'Aguiar with Fisheries and Oceans Canada.

22 We have no questions at this time.

23 Thank you.

24 THE CHAIR: Thank you.

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

1 And Water Board staff.

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

3 Karen Kharatyan, Water Board staff.

4 No questions at this time.

5 THE CHAIR: Thank you.

6 Panel members? Okay. There's none.

7 Thank you. Thank you for your presentation.

8 Thank you.

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

11 MS. MEADOWS: Thank you, Mr. Chair.

12 Teresa Meadows, legal counsel for the Nunavut Water  
13 Board. I see that there are two additional witnesses.  
14 If I can have the witnesses state and spell their name  
15 for the record, please.

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

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

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

22 MR. BROWN: Affirmed.

23 MR. PARSONS: Affirmed as well.

24 IAN PARSON, TONY BROWN, Affirmed

25 MS. MEADOWS: Thank you, Mr. Chair.

26 Teresa Meadows, legal counsel for the Nunavut Water

1 Board.

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

7 Thank you, Mr. Chair.

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

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

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

23 THE CHAIR: Thank you.

24 So INAC, go ahead.

25 MS. COSTELLO: Good morning, Mr. Chair.

26 Karen Costello for Indigenous and Northern Affairs

1 Canada.

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

13 THE CHAIR: Go ahead.

14 MS. MEADOWS: Thank you, Mr. Chair.

15 Teresa Meadows, legal counsel for the Nunavut Water  
16 Board.

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

20 Thank you, Mr. Chair.

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

26 THE CHAIR: Thank you.

1           So, INAC, your presentation.

2       Presentation by Indigenous and Northern Affairs Canada

3       MS. COSTELLO:                   Thank you, Mr. Chair.

4           Good day, everyone. My name is Karen Costello.

5       I'm the director of resource management with the  
6       Nunavut regional office of Indigenous and Northern  
7       Affairs Canada. I am joined here today by Ian Parsons,  
8       the regional coordinator and water licence application  
9       review lead with the water resources division of the  
10      Nunavut regional office, and Tony Brown of Arcadis, who  
11      supported the department's technical review of the  
12      application. In the audience I'm joined by  
13      Amanda Belanger, a water resource analyst with our  
14      Gatineau office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 rock storage facility cover.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 There is still some uncertainty as to whether

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

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

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

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

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

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

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

26            The second concern was that the calculations

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

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

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

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

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

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

1     uncertainty in postclosure that was discussed earlier  
2     in this presentation.

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

8             Additionally, there is agreement between the  
9     parties for a security management agreement. As such,  
10    Indigenous and Northern Affairs Canada is recommending  
11    50 percent of the reclamation closure cost estimate be  
12    held under the water licence for the Whale Tail Pit  
13    Project. To be exact, the department recommends the  
14    amount -- and I'm hoping my math is right -- the amount  
15    of \$13,142,963 be required under the new licence should  
16    the Board issue it. This amount will include the  
17    security requirements for the Type B licence for the  
18    road, for the haul road, as we were directed by the  
19    Board to include.

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

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

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

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

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

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

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

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

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

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

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

1 approve the licence.

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

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

13 Thank you.

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

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

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

20 We have no questions at this time.

21 Thank you.

22 THE CHAIR: Thank you.

23 Then Kivalliq Inuit Association.

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

26 No questions at this time.

1 THE CHAIR: Thank you.

2 Environment and Climate Change Canada.

3 MS. PINTO: Thank you, Mr. Chair.

4 Melissa Pinto, Environment and Climate Change Canada.

5 We have no questions at this time.

6 THE CHAIR: Thank you.

7 Then DFO.

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

9 Mark D'Aguiar with Fisheries and Oceans Canada.

10 We have no questions at this time.

11 Thank you.

12 THE CHAIR: Thank you.

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

15 Staff.

16 Nunavut Water Board Staff Questions Indigenous and  
17 Northern Affairs Canada

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

19 Karen Kharatyan, Nunavut Water Board staff.

20 Couple of small questions, please.

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

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

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

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

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

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

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

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

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

3 MR. VANENGEN: Ryan Vanengen from  
4 Agnico Eagle.

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

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

18 Thank you, Mr. Chair.

19 THE CHAIR: Thank you.

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

21 Karen Kharatyan, Nunavut Water Board staff.

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

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

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

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

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

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

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

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

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

18 No more questions.

19 THE CHAIR: Thank you.

20 MR. VANENGEN: Mr. Chair.

21 THE CHAIR: Go ahead.

22 MR. VANENGEN: If I may, that should be  
23 corrected to elevation 154 metres above sea level, not  
24 54.

25 Thank you. Mat'na.

26 THE CHAIR: Okay. And then Panel members,

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

3 Thank you for your presentation, INAC.

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

6 (ADJOURNMENT)

7 THE CHAIR: Break is over.

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

10 Go ahead.

11 Presentation by Environment and Climate Change Canada

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

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

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

26 Teresa.

1 MS. MEADOWS: Thank you, Mr. Chair.

2 Teresa Meadows, legal counsel for the Nunavut Water  
3 Board.

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

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

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

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

18 THE CHAIR: Thank you.

19 Go ahead.

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

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

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

15          For water quality, some of the outstanding  
16   concerns that Environment and Climate Change Canada had  
17   at the close of the prehearing conference were resolved  
18   by subsequent exchanges with the proponent. One such  
19   concern was with the site-specific water quality  
20   objective for arsenic which was initially proposed at  
21   28 micrograms per litre.

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

26          The department acknowledges that there is unlikely

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

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

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

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

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

12 Environment and Climate Change Canada noted that  
13 the environmental risks and benefits of removing  
14 approximately half of the exposed north wall ultramafic  
15 material from the Whale Tail Pit, that is, a north wall  
16 pushback, had not been fully quantified or discussed.  
17 Given the large volume of waste rock that would be  
18 produced by a north wall pushback, which would increase  
19 the waste rock storage facility to an elevation of  
20 66 metres, together with modest improvements in water  
21 quality, an alternatives assessment was recommended.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 resolved.

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

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

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

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

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

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

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

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

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

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

12 That concludes our presentation.

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

15 Thank you.

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

18 Open up for concerns, questions, comments.

19 Start with applicants.

20 MR. QUESNEL: Thank you, Mr. Chair.

21 Jamie Quesnel.

22 We have no questions at this time.

23 THE CHAIR: Thank you.

24 INAC, do you have concerns, questions?

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

1           We have no questions at this time.

2   THE CHAIR:                   Thank you.

3           DFO.

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

5   Mark D'Aguiar with Fisheries and Oceans.

6           We have no comments at this time.

7   THE CHAIR:                   Thank you.

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

10          Staff.

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

12   Karen Kharatyan, Water Board staff.

13          No question this time.

14   THE CHAIR:                   I forgot about Kivalliq.  
15   Sorry about that.

16          Kivalliq Inuit Association.

17   MR. MANZO:                 Thank you, Mr. Chairman.

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

19   THE CHAIR:                   Thank you.

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

22          Thank you for your presentation,  
23   Environment Canada.

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

26          Okay. Before we get started, our legal counsel

1 wanted ...

2 MS. MEADOWS: Thank you, Mr. Chair.

3 Teresa Meadows, legal counsel for the Nunavut Water  
4 Board.

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

11 Thank you, Mr. Chair.

12 EXHIBIT 27 - Fisheries and Oceans Canada hard  
13 copy PowerPoint presentation to the Nunavut  
14 Water Board final hearing (English/Inuktitut)  
15 EXHIBIT 28 - Fisheries and Oceans Canada hard  
16 copy PowerPoint presentation to the Nunavut  
17 Water Board final hearing (French)

18 THE CHAIR: Thank you.

19 You may start your presentation.

20 Presentation by Fisheries and Oceans Canada

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

1 fisheries protection biologist with Fisheries and  
2 Oceans Canada.

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

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

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

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

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

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

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

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

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

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

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

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

1 illustrations to demonstrate the proposed increased  
2 surface area of Whale Tail Lake and its viability as  
3 newly created littoral habitat. Fisheries and Oceans  
4 Canada also had a meeting with Agnico on March 23rd,  
5 2017, whereby Agnico agreed to provide better  
6 illustrations, for example, 3-D images, to demonstrate  
7 the proposed increased surface area of Whale Tail Lake.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 In our final written submission, Fisheries and  
22 Oceans Canada requested that Agnico provide more  
23 information regarding their plan to permanently flood  
24 Whale Tail Lake by raising the water level by  
25 .5 metres, including the rationale and the ability to  
26 sustain this condition so as to provide measurable

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 fish.

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

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

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

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

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

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

1 and fish habitat are fully accounted for and fully  
2 offset.

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

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

21 Thank you.

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

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

1 Oceans Canada

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

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

10 Mat'na.

11 THE CHAIR: Thank you.

12 DFO.

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

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

19 THE CHAIR: Thank you.

20 Applicant.

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

23 MR. MANZO: Thank you, Mr. Chairman.

24 Luis Manzo, Kivalliq Inuit Association.

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

26 THE CHAIR: Thank you.

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

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

5           We have no questions or concerns at this time.  
6           Thank you.

7    THE CHAIR:                    Thank you.  
8           Environment and Climate Change Canada.

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

11           We have no questions at this time.

12   THE CHAIR:                    Thank you.

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

15           Staff.

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

18           No questions at this time.

19   THE CHAIR:                    Thank you.

20           Panel members? Okay. There's none.

21           Thank you for your presentation, DFO. Thank you.

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

23   THE CHAIR:                    Teresa.

24           So we are getting -- done with our agenda for this  
25   public hearing, so we may as well take a break now.  
26   30 minutes. Or for whole lunch. Lunch? Take a break

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

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

6 THE CHAIR: Okay. Good. Okay.  
7 Stephanie.

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

11 THE CHAIR: Okay. Take a break now up to  
12 1:30.

13 (LUNCHEON ADJOURNMENT AT 11:33 AM)

14 (PROCEEDINGS RECOMMENCED AT 1:36 PM)

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

20 Teresa.

21 MS. MEADOWS: Thank you, Mr. Chair.

22 Teresa Meadows, legal counsel for the Nunavut Water  
23 Board.

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

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

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

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

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

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

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

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

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

3 Thank you, Mr. Chair.

4 THE CHAIR: Thank you.

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

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

9 THE CHAIR: Okay. Go ahead.

10 MS. KOWBEL: Thank you, Mr. Chair.

11 Christine Kowbel, Agnico Eagle.

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

25 THE CHAIR: Staff.

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

1 Karen Kharatyan, Water Board staff.

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

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

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

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

16 Thank you.

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

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

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

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

11 Thank you, Mr. Chair.

12 THE CHAIR: Thank you.

13 Applicant.

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

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

21 THE CHAIR: Go ahead, Teresa.

22 MS. MEADOWS: Thank you, Mr. Chair.

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

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

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

11          Thank you, Mr. Chair.

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

14  (ADJOURNMENT)

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

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

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

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

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

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

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

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

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

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

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

21          EXHIBIT 29 - Agnico Eagle hard copy  
22          memorandum from C. Prather and D. Filiatrault  
23          to J. Quesnel; dated September 26, 2017;  
24          entitled "Water Monitoring Reduction  
25          Framework" (English)  
26          EXHIBIT 30 - Agnico Eagle updated hard copy

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

4 THE CHAIR: Thank you.  
5 Applicant.

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

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

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

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

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

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

14       Once we receive our operational monitoring data,  
15 interpret this information, we want to ensure that we  
16 create the confidence of this uncertainty as stated by  
17 Indigenous Northern Affairs Canada but look at this  
18 information, the field data, the monitoring, what will  
19 be comparing this to. 'Cause we had to add additional  
20 11 years of monitoring. So we want to ensure that our  
21 field information, the operating window, including  
22 closure, that phase of Whale Tail, that information is  
23 analyzed correctly to predict what the postclosure  
24 monitoring would look like to remove this uncertainty  
25 with the concern related to that phase of the  
26 operation.

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

9   THE CHAIR:                   Thank you.

10          Teresa.

11   MS. MEADOWS:               Thank you, Mr. Chair.

12   Teresa Meadows, legal counsel for the Nunavut Water  
13   Board.

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

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

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

7 THE CHAIR: Thank you.

8 Luis.

9 MR. MANZO: Thank you, Mr. Chairman.

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

13 Thank you.

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

17 Thank you.

18 THE CHAIR: Thank you.

19 Teresa.

20 MS. MEADOWS: Thank you, Mr. Chair.

21 Teresa Meadows, legal counsel for the Nunavut Water  
22 Board.

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

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

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

5 THE CHAIR: Thank you.

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

11 Okay. Start with the KIA, closing remarks.

12 Closing Remarks by the Kivalliq Inuit Association

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

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

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

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

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

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

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

21           Mat'na.

22       THE CHAIR:                   Thank you.

23           Next intervenor.

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

1 Farewell to Karen Costello

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

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

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

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

18 THE CHAIR: So next intervenor for closing  
19 remarks is Indigenous and Northern Affairs Canada.  
20 Closing Remarks by Indigenous and Northern Affairs  
21 Canada

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

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

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

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

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

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

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

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

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

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

26 When I first started doing --with water licences,

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

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

10 THE CHAIR: Thank you.

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

13 Closing Remarks by Environment and Climate Change  
14 Canada

15 MS. PINTO: Thank you, Mr. Chair.

16 Melissa Pinto, Environment and Climate Change Canada.

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

1 Environment and Climate Change Canada will  
2 endeavour to provide comments on the two framework  
3 documents submitted by the proponent by October 17th,  
4 2017, and provide the summary of how Environment and  
5 Climate Change Canada's concerns were resolved.  
6 Environment and Climate Change Canada looks forward to  
7 continuing its participation in the regulatory process  
8 for this project. Thank you.

9 THE CHAIR: Thank you.

10 Now I will call upon DFO for closing remarks.

11 Closing Remarks by Fisheries and Oceans Canada

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

13 Mark D'Aguiar with Fisheries and Oceans Canada.

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

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

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

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

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

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

26 In closing, Fisheries and Oceans Canada would like

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

9 Mat'na.

10 THE CHAIR: Thank you.

11 Then now I will call the applicants for closing  
12 remarks.

13 Closing Remarks by Agnico Eagle Mines Limited

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

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

1 employment and business benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 required under the Metal Mining Effluent Regulations.

2 At Whale Tail, we propose criteria of  
3 0.1 milligrams per litre of discharge and  
4 0.025 milligrams per litre in the lake, which will be  
5 protective of fish and fish habitat. If needed, we  
6 have committed to treat for parameters of potential  
7 concern, such as arsenic and phosphorous, in order to  
8 ensure water quality is met. We have provided design  
9 details of the water treatment plants, and we will be  
10 ready to use them if necessary. However, our  
11 conservative predictions are that treatment for arsenic  
12 may not be necessary, and we will meet closure water  
13 quality limits as a result of our site management.

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

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

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

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

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

14          Mr. Chair, as you have heard from Agnico, Kivalliq  
15   Inuit Association and Indigenous and Northern Affairs  
16   Canada, we are in agreement that the global reclamation  
17   security is \$26,285,926. As set out in detail in the  
18   security management agreement between Agnico, the  
19   Kivalliq Inuit Association, and Indigenous and Northern  
20   Affairs Canada dated September the 5th, 2017, and filed  
21   with the Board in this hearing as Exhibit 12, the  
22   Kivalliq Inuit Association and Indigenous and Northern  
23   Affairs Canada have agreed to hold -- each hold  
24   50 percent of the global security amount for the  
25   Whale Tail Pit Project.

26          Requests for approval. We understand and respect

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

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

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

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

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

1 with us.

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

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

8 THE CHAIR: Thank you.

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

11 MS. AUTUT: Thanks, Mr. Chair.

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

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

23 Closing Remarks by the Chair

24 THE CHAIR: Thank you.

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

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

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

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

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

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

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

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

25      (CLOSING PRAYER)

26      \_\_\_\_\_

1 PROCEEDINGS CONCLUDED

2

3 CERTIFICATE OF TRANSCRIPT:

4

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

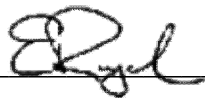
10 Dated at the City of Calgary, Province of Alberta,  
11 this 16th day of October 2017.

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16 Elizabeth Royal, CSR(A)

17 Official Court Reporter

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