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AGNICO EAGLE MINES LIMITED WHALE TAIL EXPANSION PROJECT

APPLICATIONS TO AMEND WATER LICENCES NOS.: 2AM-WTP1826,

2AM-MEA1526, 2BB-MEA1828

HEARING

VOLUME 2

Baker Lake, Nunavut February 14, 2020

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1	Proceedings taken at Bal	ker Lake Community Hall, Baker
2	Lake, Nunavut	
3		
4	February 14, 2020	
5		
6	NUNAVUT WATER BOARD	
7	L. Toomasie	Chair of Hearing
8	R. Mrazek	Board Member
9	M. Nartok	Board Member
10		
11	NUNAVUT WATER BOARD STAF	?F
12	K. Kharatyan	Director of Technical Services
13	B. Kogvik	Director of Board Administration
14		and Communications
15	R. Dwyer	Manager of Licencing
16	A. Kubeisinova	Technical Advisor
17	T. Meadows	Legal Counsel to the Board
18		
19	INTERVENORS	
20		
21	AGNICO EAGLE MINES LIMIT	TED
22	J. Quesnel	Regional Manager Permitting
23		and Regulatory Affairs
24	M. Groleau	General Supervisor Permitting
25	M. Turmel	Permitting Lead
26	E. Parent	Permitting Specialist

	1	S.	Leclair	Lead Indigenous and
	2			Stakeholder Relations Nunavut
	3	С.	Kennedy	Technical Specialist
	4	N.	Duquet-Harvey	Environmental Superintendent
	5			Meadowbank
	6	С.	Paradis St. Onge	Nunavut Communication
	7			Coordinator
	8	Μ.	Plante	General Manager Meadowbank
	9			Complex
	10	J.	Faithful	Senior Water Quality
	11			Specialist, Golder Associates
	12	N.	Lower	Principal Consultant
	13			Environmental Impact
	14			Assessment and Permitting,
	15			Environmental Resources
	16			Management
	17	С.	Stevens	Senior Fish Biologist, Golder
	18			Associates
	19	G.	Allen	Senior Geoenvironmental
	20			Engineer, Okane Consultants
	21	G.	Lawrence	Associate and Senior
	22			Environmental Scientist,
	23			Golder Associates
	24	С.	Kowbel	Legal Counsel for Agnico Eagle
	25			Mines, Lawson Lundell
	26			
- 1				

1	KIVALLIQ INUIT ASSOCIATI	ON
2	L. Manzo	Director of Lands
3	J. Tulugak	Inspector
4	A. Aupaluktuq-Burton	Lands Administrative
5		Coordinator
6	A. Sexton	VP Project Management,
7		GeoVector Management
8	R. Nesbitt	Senior Aquatic Scientist,
9		Hutchinson Environment
10	J. Kataluk	Senior Environmental
11		Technician
12	J. King	Legal Counsel for Kivalliq
13		Inuit Association
14		
15	CROWN-INDIGENOUS RELATIO	ONS AND NORTHERN AFFAIRS CANADA
16	S. Dewar	Director of Resources
17		Management
18	G. Okonkwo	Manager of Water Resources
19	D. Zhong	Regulatory and Science Advisor
20		
21	FISHERIES AND OCEANS CAN	JADA
22	A. Beattie	Team lead with the Mining,
23		Oil, and Gas Division
24	E. Ratajczyk	Fish and Fish Habitat
25		Protection Biologist
26	J. Audet-Lecouffe	Fish and Fish Habitat

1		Protection Biologist
2		
3	ENVIRONMENT AND CLIMATE	CHANGE CANADA
4	A. Wilson	Senior Water Quality
5		Specialist
6	E. Walker	Environmental Assessment
7	(Via Teleconference)	Coordinator
8		
9	INTERPRETERS/TRANSLATORS	
10	B. Kogvik	Language Translator
11	A. Alooq	Language Translator
12		
13	C. Longacre, RPR, CSR(A)	Official Court Reporter
14		
15	R. Dempster	Sound Technician
16		
17	(PROCEEDINGS COMMENCED AT 8:59 AM)	
18	Discussion	
19	THE CHAIR:	Okay. Thank you. Okay.
20	Before we go into questioning questioning period, I	
21	would like to have the -	- I think the Applicant had
22	continue with somebody t	here. Go ahead.
23	MS. KOWBEL:	Thank you, Mr. Chair. Good
24	morning. Christine Kowb	el for Agnico Eagle.
25	We just wanted to c	clarify one thing before we go
26	into questions. We thin	k it was made quite clear

- 1 yesterday, but just to confirm one more time, we want
- 2 to confirm the status of the water compensation
- 3 agreement is as Kivallig Inuit Association said during
- 4 their presentation. Thank you, Mr. Chair.
- 5 THE CHAIR: Thank you.
- 6 Now, on the agenda, question -- going to Item 9 in
- 7 the agenda, questioning the Applicant. Start with --
- 8 we want to start with the Kivalliq Inuit Association.
- 9 If you have some questions, you may do so now.
- 10 Kivalliq Inuit Association Questions Agnico Eagle Mines
- 11 Limited
- 12 MR. MANZO: Thank you, Mr. Chairman. Luis
- 13 Manzo, Kivalliq Inuit Association.
- I would like to -- to confirm some of the concerns
- of Kivallig Inuit Association for the records. It's in
- 16 regard to adaptive management. And we do [sic] have a
- 17 conversation with -- with the proponent during the
- 18 break yesterday, and I just want a confirmation about
- 19 the -- the adaptive management component in what we're
- 20 referring to the 90 percent and -- and the capacity for
- 21 the -- for the capacity for the storage. We do -- we
- 22 do mention if there's going to be changes in Table 4 to
- 23 address the concerns of KIA and if that is correct so
- 24 we can have it in record.
- 25 MR. GROLEAU: Thank you, Mr. Chair. Michel
- 26 Groleau, Agnico Eagle.

- So, yes, we'll apply the proposed change to the
- 2 adaptive management 60 days following water licence
- 3 amendment. So the change, if I summarize them, are to
- 4 the Level 1 threshold; we going to apply the 90 percent
- 5 on the maximum operational capacity. And for Level 2,
- 6 we're changing the wording of the threshold for a
- 7 maximum operational capacity instead of maximum
- 8 capacity. Thank you.
- 9 THE CHAIR: Thank you.
- 10 Continue if you have something.
- 11 MR. MANZO: Thank you, Mr. Chairman. Luis
- 12 Manzo. Thank you very much. That's the only question
- 13 I have.
- 14 THE CHAIR: Turn off your microphone if
- 15 you're done.
- 16 Okay. Next, Crown-Indigenous Relations and
- 17 Northern Affairs.
- 18 MR. DEWAR: (OTHER LANGUAGE SPOKEN),
- 19 Mr. Chair. No questions.
- 20 THE CHAIR: Thank you.
- 21 And then Environment and Climate Change Canada.
- 22 MS. WILSON: Anne Wilson with Environment
- 23 and Climate Change Canada.
- No questions. Thank you.
- 25 THE CHAIR: Thank you.
- 26 And then Fisheries and Oceans Canada.

- 1 MR. BEATTIE: Alasdair Beattie with DFO.
- No questions. Thank you, Mr. Chair.
- 3 THE CHAIR: Thank you. Is there a member
- 4 of public have any questions?
- 5 Okay. There's none.
- 6 On Item 10 in the agenda, the Board staff, if you
- 7 have questions, go ahead.
- 8 Nunavut Water Board Staff Questions Agnico Eagle Mines
- 9 Limited
- 10 MR. KHARATYAN: Thank you, Mr. Chair.
- 11 We have a few questions and comments starting with
- 12 Slide 18. In the Slide 18, Agnico Eagle stated that --
- 13 about -- this was about discharge of effluent into
- 14 Lakes D1, D5. The statement was the NWB will grant
- 15 authorization to discharge.
- To make sure that we are all on the same page,
- 17 this is not automatic approval between the Nunavut
- 18 Impact Review Board recommendation to Minister --
- 19 Minister agreement or recommendation to NWB. There is
- 20 a process for this approval and there are -- based on
- 21 the additional assessment and the additional
- 22 information provided with respect to these lakes, D1,
- 23 D5. Just confirming with Agnico Eagle whether the
- 24 understanding is the same.
- 25 MR. QUESNEL: Jamie Quesnel, Agnico Eagle.
- 26 Our understanding is that the conditions that were

- 1 provided by the Nunavut Impact Review Board would --
- 2 once we complete those and provide that to the Water
- 3 Board, then a decision would be made, but it -- there
- 4 would be no need for an amendment of the licence. It's
- 5 just that we would have to provide that information to
- 6 the Water Board prior to utilizing Lakes D1 and D5.
- 7 So the criteria provided by the Nunavut Impact
- 8 Review Board has to be completed by Agnico, provided to
- 9 the Water Board, and then a decision would be made to
- 10 use that -- those Lakes D1 and D5. However, no
- 11 additional amendment to the water licence is required.
- 12 That's our understanding.
- 13 MR. KHARATYAN: Thank you, Mr. Chair.
- And based -- based on my memory, this Term 67 from
- 15 NIRB recommendation recognized also the option or the
- 16 possibility that the NWB may say no, no approval.
- 17 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 18 Quesnel, Agnico Eagle.
- 19 Yes. That's our understanding. But we expect --
- 20 anyway. That's our understanding.
- 21 MR. KHARATYAN: Thank you.
- On the Slide 27, I have one question or comment
- 23 regarding the adaptive management plan, just to clarify
- 24 that the wording -- yes, the last bullet. In the
- 25 approved adaptive management plan are included in the
- 26 scope. To clarify, that -- the adaptive management

- 1 plan is not approved still.
- 2 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 3 Quesnel, Agnico Eagle.
- 4 Yes. We've submitted that -- our adaptive
- 5 management plan. We understand if our licence is
- 6 approved, then the adaptive management plan would be
- 7 approved at that time.
- 8 MR. KHARATYAN: Thank you.
- 9 Again, this is Karén Kharatyan, Water Board. One
- 10 comment about Slide 38, just a statement. Agnico Eagle
- 11 mentioned that they hope that Water Board will be
- 12 looking closely to -- at the draft water licence
- 13 framework. I can confirm that absolutely we will be
- 14 looking very closely at the draft framework because I
- 15 can -- again, also statement. There were many
- 16 alteration of conditions, including standard terms and
- 17 conditions. So just for your information, there is no
- 18 any guarantee that these alteration will be
- 19 incorporated should the licence be issued. Everything
- 20 is up to the Board to accept or reject the proposed
- 21 terms and conditions.
- One more comment regarding Slide 40, please. This
- 23 was, I think, about 20-day notice for a number of
- 24 construction activities. Based on my memory from
- 25 technical meeting, we advised very clearly, Agnico
- 26 Eagle, that if, for construction reports/drawings are

- 1 submitted before potential licence issuance, this will
- 2 make the process a little more efficient and allow
- 3 Agnico Eagle to save some time. This is not -- I
- 4 understanding from this condition, 20-day notice,
- 5 20-day notice means 20 days early the -- the
- 6 information is submitted, and there is no any -- there
- 7 is no any guarantee that 20 days' notice will allow
- 8 parties to look at these drawings/reports and provide
- 9 their feedback and the Water Board to provide its own
- 10 feedback.
- 11 Agnico Eagle mentioned about -- there was a
- 12 reference to Meliadine Lake -- Meliadine licence. I
- 13 can maybe clarify that this is the only licence with
- 14 30 days' submission, 30 days prior to construction for
- 15 construction drawings or report submission; however,
- 16 this 30 days was incorporated at the time of Meliadine
- 17 licence process as per Agnico Eagle request because at
- 18 that time, Agnico Eagle was planning to have very
- 19 aggressive construction phase. So once -- while the
- 20 Board accepted 30 days, the Board also made it for
- 21 Board approval. This is not general case
- 22 for construction. Reports are not for board approval;
- 23 are for board review. However, the standard condition,
- 24 if you remember, is 60 days. It doesn't mean you will
- 25 hear about acceptance between 60 day -- or in 60 days.
- 26 This -- the -- if all the information is

- 1 provided, no concern are raised, the company will hear
- 2 earlier than 60 days. Just for your information that
- 3 20 days' notice wouldn't be likely acceptable because
- 4 this is creating a lot of pressure on parties to -- to
- 5 review, and this is creating also pressure for company
- 6 if there are additional information to be provided to
- 7 get this information collected.
- 8 If -- if Agnico Eagle doesn't have anything to say
- 9 right now, I will ask NWB legal counsel to speak about
- 10 regulatory -- or implication between adaptive
- 11 management plan. Then we continue our questions.
- 12 MS. MEADOWS: Thank you, Mr. Chair. Thank
- 13 you, Karén. Teresa Meadows, legal counsel for the
- 14 Nunavut Water Board.
- So we have, as Karén said, sort of a regulatory
- 16 question, and I'm going to preface my question with the
- 17 observation -- a number of parties have raised the same
- 18 question with us -- and that is: What is the effect of
- 19 the draft water licence framework that is proposed by
- 20 Agnico Eagle? The way the Board treats that submission
- 21 is the same as any other submission. So the fact that
- 22 there are terms or conditions proposed by Agnico Eagle
- 23 in the draft water licence framework is not binding on
- 24 the Board. It is a submission the same as any other
- 25 submission.
- And the reason and the rationale for the Board

- 1 encouraging and allowing the draft water licence
- 2 frameworks to be submitted is so that we can focus some
- 3 of the discussions on the key amendments that Agnico
- 4 Eagle may think are necessary in the draft water
- 5 licence. And so that helps focus the discussion, but
- 6 it does not mean that the Board is bound to follow the
- 7 wording that is provided, nor does the Board expect
- 8 intervenors to be providing detailed wordsmithing
- 9 suggestions to the draft terms and conditions that have
- 10 been proposed by the Applicant.
- 11 So with that said, I do have a general overarching
- 12 question about the regulatory process that Agnico Eagle
- is proposing for dealing with adaptive management
- 14 measures. I will not list the very substantial
- 15 revisions that are suggested to accommodate that
- 16 process, but I do want Agnico Eagle to kind of walk me
- 17 through their understanding of what they're proposing
- in terms of the process because it seems to me, upon a
- 19 reading of the revisions to definitions and several
- 20 additional sections in the general conditions and then
- 21 in the conditions applying to construction and
- 22 operation, that Agnico Eagle's perception is adaptive
- 23 management measures will be dealt with in a unique way
- 24 under the regulatory system that is not reflecting the
- 25 way that modifications and amendments are typically
- 26 dealt with by the Board.

- 1 So my question is really if maybe you can walk me
- 2 through the implementation process for what seems to be
- 3 two types of adaptive management measures. So the
- 4 first are adaptive management actions that are
- 5 currently included in the adaptive management plan that
- 6 Agnico Eagle has filed with the Board, and the second
- 7 route is the adaptive management actions that are
- 8 characterized by Agnico Eagle and described as new
- 9 adaptive management actions, both of which are -- or
- 10 the latter of which is not included in the current
- 11 adaptive management plan.
- 12 So if you can start with how you envision the
- 13 adaptive management actions playing out in a regulatory
- 14 way for those that are currently included in the plan.
- 15 Thank you, Mr. Chair.
- 16 THE CHAIR: Thank you.
- 17 Applicant.
- 18 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 19 Quesnel, Agnico Eagle.
- 20 Thank you for the question. Based on the first
- 21 part of your question, the actions that we have in the
- 22 adaptive management plan that we provided to the
- 23 Nunavut Water Board which was collectively developed
- 24 working with the Kivalliq Inuit Association,
- 25 Environment Climate Change Canada, and -- and CIRNAC,
- 26 we developed this -- this adaptive management plan.

- 1 And I just want to back up to why we developed
- 2 this adaptive management plan 'cause we had discussions
- 3 with the Kivallig Inuit Association based on some
- 4 activities at the Whale Tail site to implement some
- 5 mitigation measures related to unforeseen events with
- 6 additional rainfall. And we spoke to the Nunavut Water
- 7 Board, the Nunavut Impact Review Board on implement --
- 8 implementation of measures to mitigate the situation
- 9 that we were in that was unforeseen within our
- 10 footprint. However, the existing process restricted us
- 11 from being proactive. In addition, a lot of our
- 12 discussions with the regulatory bodies is adaptive
- 13 management, mitigation, what if this occurs, what if
- 14 this other item occurs, how do you guys deal with it in
- 15 an operation. And we've had many discussions that we
- 16 like to have flexibility within our footprint but also
- 17 provide certainty to the regulatory bodies.
- So as we work through this process and within, I
- 19 think, the last meeting that we had with the collective
- 20 group, the Nunavut Water Board was -- was part of that
- 21 discussion. It was very collaborative, a lot of good
- 22 discussion. Some -- some of the discussions were not
- 23 easy. But we came to a conclusion that this is a way
- 24 to provide the certainty that the regulatory agencies
- 25 are asking us but also their understanding of the
- 26 challenges that we have in the north and some of the

- 1 events that we have to manage within our footprint.
- 2 And the key objective is -- is to protect the
- 3 environment in a timely way.
- 4 So we developed these action plans with different
- 5 thresholds. You just heard from the Kivalliq Inuit
- 6 Association referencing a low change to a table with an
- 7 adaptive management plan dealing with capacity in some
- 8 of our ponds at an operation. So we made that final
- 9 adjustment to adaptive management plan. So the plan is
- 10 built on if a certain event happens dealing with water
- 11 volume or water quality and certain thresholds are
- 12 made -- are met, we have an agreed-upon mitigation. It
- 13 may be looking at analyzing this a little bit further.
- 14 It may be increasing some of the existing assets we
- 15 have on the site. It's like a water treatment plant;
- 16 maybe we have to increase capacity through-put through
- 17 our treatment plant, or maybe we have to hold more
- 18 water on the site by constructing another pond. So
- 19 based on the existing actions that we have within our
- 20 adaptive management plan, we hit those triggers, we
- 21 have a -- a set action plan which has been agreed upon,
- 22 we implement those based on the approval of this
- 23 adaptive management plan.
- We've spoken with the key stakeholders on these
- 25 actions, what's the best. It provides them -- provides
- 26 the regulatory bodies, like I'm saying, certainty and

- 1 hopefully to the Board. It provides that certainty
- 2 that within our footprint we have that flexibility to
- 3 manage certain situations. And then we implement those
- 4 in a timely way to ensure that we protect the
- 5 environment, the receiving environment. We have our
- 6 footprint assessed through the Nunavut Impact Review
- 7 Board. We assessed the effects of our -- our -- our
- 8 operation, this -- and in particular, this application,
- 9 and also we discussed a mitigation. But sometimes
- 10 things do happen that we have to act quickly. And
- 11 sometimes we feel the process is -- is -- will handcuff
- 12 us where we cannot react in a timely fashion. So this
- is why we developed this adaptive management plan. And
- 14 I think some -- some of the regulatory agencies -- they
- 15 can speak to this on their own. But I think it was
- 16 complimentary to Agnico Eagle, and we will also
- 17 compliment the regulatory agencies to developing a plan
- 18 that we're working together. We all want the same
- 19 thing: To protect the environment in a timely way and
- 20 be -- have that flexibility. That's what we're all
- 21 about, and that's what we're trying to exhibit here.
- 22 So that's the first piece. We want to implement those
- 23 mitigation action items when the thresholds are met in
- that decision tree in our adaptive management plan.
- 25 The second piece is for items that are not
- 26 included in the adaptive management plan. So there may

- 1 be something that we don't have as an action plan right
- 2 now in the adaptive management plan. We hit a trigger.
- 3 This is our mitigation. But maybe there's another
- 4 opportunity, a better way, new technology, something
- 5 that can help us. So this is where we -- we proposed a
- 6 way to evaluate, assess that change that's not included
- 7 in our adaptive management plan right now. And that's
- 8 what we proposed in the -- in the draft water
- 9 licence that we submitted to -- to the Board just to
- 10 ensure that we have a process to react quickly.
- 11 We feel some of these items are not a significant
- 12 modification when we have to go through a full
- 13 amendment for six to eight months. We feel this
- 14 process, based on our footprint -- we can implement
- 15 these as per the proposed language that we have in the
- 16 draft water licence submission. So I -- hopefully that
- 17 clarifies our approach to this. I know it's something
- 18 new, but also I think it's -- it's a -- it's a
- 19 requirement just based on some of the optimization
- 20 opportunities that we have in the north. We've been
- 21 operating here for a while. Hopefully we're seen as a
- 22 good operator. We're transparent. We do have
- 23 challenges, but we're looking at a way that we can work
- 24 together to protect the environment, have the
- 25 flexibility in our footprint to ensure that we can be
- 26 effective and proactive to react to situations that we

- 1 have to deal with in the north as it is -- as a
- 2 challenging environment. Things do change. We just
- 3 want to be proactive, transparent, and working
- 4 together, and this -- this tool that we developed, I
- 5 feel and I think some of the regulatory agencies feel,
- 6 provides that certainty to implement key mitigations
- 7 within our footprint. So hopefully that provides a
- 8 little bit more clarity. Thank you.
- 9 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 10 Meadows, legal counsel for the Nunavut Water Board.
- I guess maybe I will give a very practical example
- 12 from the -- the existing adaptive management plan to
- 13 see whether or not I'm actually completely grasping the
- 14 concept here.
- So on page 17 of the adaptive -- the existing
- 16 adaptive management plan, for a Level 3 action, so
- 17 high-risk situation, we have the addition of a deep
- 18 well injection for high total dissolved solids water
- 19 and/or a meromictic pit lake disposal approach
- 20 following approval from the NWB.
- 21 So my question is -- when I look at the way that
- 22 adaptive management actions under the approved plan are
- 23 defined, it says that these will not be -- expressly
- 24 will not be an amendment or a modification to the
- 25 licence. And so my question is I'm not sure that
- 26 you're -- I don't see what the approval process is

- 1 that's being referenced there. Is it the approval of
- 2 this plan that is what's necessary or what Agnico Eagle
- 3 perceives to be necessary to approve this, or is it
- 4 something else? Because if it's not a modification or
- 5 it's not an amendment and that's expressly what the
- 6 amendments that are being proposed by Agnico Eagle to
- 7 the licence would say, I'm not sure what approval
- 8 process you're referring to.
- 9 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 10 Quesnel, Agnico Eagle.
- 11 Yes. So you refer to page 17, and based on the
- 12 example dealing with the deep well injection, if we go
- 13 to Level 2, there's an evaluation of that option. So
- 14 it's an intuitive process where Level 1 would trigger
- 15 some activities, Level 2 we're looking at a valuation
- 16 of that -- of that action, and Level 3 is -- is
- 17 performing that injection if it -- if it does -- if it
- 18 does occur. So we're looking at the plan is approved
- 19 as per the licence with that mitigation, and we're not
- 20 going to do this by ourselves. There's going to be
- 21 communication with -- with all parties related to that
- 22 mitigation. So the evaluation of deep well injection
- 23 for high TDS water would be communicated to -- to all
- 24 the parties. And then Level 3, in the high-risk
- 25 situation, we would look at implementing that -- that
- 26 action.

- 1 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 2 Meadows, legal counsel for the Nunavut Water Board.
- But I guess that doesn't actually answer the
- 4 question, which is: What is the approval process? I
- 5 mean, you're speaking to communication. When I look at
- 6 the wording that is currently proposed for how adaptive
- 7 management actions under the plan are approved, it
- 8 looks to me as though the process that's being proposed
- 9 is approval of the plan is approval of the potential
- 10 actions under the plan.
- 11 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 12 Quesnel, Agnico Eagle.
- 13 Yes. That's -- that's our -- that's our
- 14 interpretation. This is the -- this is what we're
- 15 proposing.
- 16 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 17 Meadows, legal counsel for the Nunavut Water Board.
- I guess my question, then, becomes the Nunavut
- 19 Impact Review Board and the assessment process with
- 20 respect to the Nunavut Planning And Project Assessment
- 21 Act with respect to significant modifications, based on
- 22 my understanding of what Agnico Eagle is saying is that
- 23 their decision as to whether or not something is a
- 24 significant modification is what is captured in the
- 25 plan. The Nunavut Impact Review Board, as far as I am
- 26 aware, has not been consulted with respect to whether

- 1 or not the scope of the actions that are being proposed
- 2 at this -- especially at the high-risk areas, are
- 3 within the scope of what was previously assessed. Is
- 4 that -- is that understanding correct?
- 5 MS. KOWBEL: Thank you, Mr. Chair.
- 6 Christine Kowbel for Agnico Eagle.
- 7 Thank you for that question. So -- so just for
- 8 clarity, Agnico Eagle did take into consideration the
- 9 Nunavut Impact Review Board's guidance on these things.
- 10 One thing we think that's -- that's very important to
- 11 note for the -- for the Water Board and for everyone in
- 12 the room is that adaptive management is -- is part of
- 13 the guidance from the Nunavut Impact Review Board.
- 14 It's part of NuPPAA. Companies are asked to adaptively
- 15 manage their operations in order to protect the
- 16 environment, and we think that's a very important
- 17 fundamental part of operating a mine in Nunavut, and
- 18 Agnico Eagle's very proud to do that.
- 19 In -- in taking the time and care to have all of
- 20 these conversations about adaptive management, getting
- 21 very specific in the conversations about what steps
- 22 will be taken in terms of the management strategy,
- 23 things like identifying something like a Level 3
- 24 action, the reason -- one of the -- one of the things
- 25 that Agnico Eagle has done is -- is considered the
- 26 Nunavut Impact Review Board's guidance on

- 1 self-assessment of significant modifications. And so
- 2 they've considered each of these in their assessment,
- 3 taking into account the NIRB's guidance, is that none
- 4 of the actions in the approved project are -- are
- 5 significant modifications. They're all within
- 6 footprint. They're all within the mine site area and
- 7 the haul road. So when we say "footprint", we mean
- 8 that -- that whole area. And -- and -- and as we said,
- 9 the -- the goal of the adaptive management actions --
- 10 the primary goal would be to take actions that are
- 11 protective. And so in Agnico Eagle's evaluation, those
- 12 would not be considered significant modifications under
- 13 NuPPAA or under the NIRB quidance. And -- and we think
- 14 that's one of the important reasons why it was
- 15 important to get very specific and detailed about
- 16 recommending these actions for approval of the -- of
- 17 the Nunavut Water Board.
- Just one moment, Mr. Chair. I just want to check
- 19 in with Agnico Eagle.
- 20 Thank you, Mr. Chair. I think that's -- that's
- 21 our answer to that question. Thank you.
- 22 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 23 Meadows, legal counsel for the Nunavut Water Board.
- Thank you for that response. I do have a question
- 25 arising out of sort of the response from -- from
- 26 Mr. Quesnel about the communication piece with respect

- 1 to Level 3 actions that are currently included in the
- 2 plan. And my question basically is: It looks from the

- 3 draft water licence framework when reading the plan
- 4 together -- the potentially approved plan together with
- 5 the suggested amendments, there is no obligation,
- 6 actually. There -- there is nothing in the current
- 7 wording of the draft water licence framework that would
- 8 suggest that there is any kind of specific route for
- 9 approval or communication -- formal communication with
- 10 the Board with respect to the implementation of the
- 11 plan. It is only with respect to new adaptive
- 12 management actions that the suggested revisions to the
- 13 draft wording are that there would be 21 days' notice
- 14 provided to the Board with respect to implementation of
- 15 new adaptive management measures. And so there's a
- 16 little bit of concern there that it's -- it's not clear
- 17 to us exactly how that approval process is expected to
- 18 go under the approved adaptive management plan. And,
- 19 specifically, I am referring to Item 25 of the Part D
- 20 of the amended draft water licence framework.
- 21 MR. QUESNEL: Thank you, Mr. Chair.
- 22 We just need a couple of minutes. There was
- 23 reference for a few different plans, so we're just
- 24 trying to find electronic and -- and hard copies. So
- 25 we just need a few minutes. Thank you.
- 26 MS. MEADOWS: Mr. Chair --

- I don't mean to interrupt your thought process, so
- 2 just ignore me.
- But, Mr. Chair, it's -- I've just been advised
- 4 that legal counsel for the Department of Justice has
- 5 just been able to join the call and is now online, if
- 6 there are any questions or responses to him over time.
- 7 Thank you, Mr. Chair.
- 8 THE CHAIR: Thank you.
- 9 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 10 Quesnel, Agnico Eagle.
- 11 So related to the comments for communication,
- 12 under Part D, Section 27, based on we have the approval
- of the adaptive management plan -- so we -- we just --
- 14 the -- what we put in Section 27 is the licencee shall
- 15 apply the principles of adaptive management in
- 16 construction and operations. For greater clarity,
- 17 adaptive management strategy actions identified in an
- 18 approved adaptive management plan may be implemented by
- 19 the licencee upon notice to the Board and do not
- 20 require modification or amendment to this licence prior
- 21 to implementation.
- 22 So there's -- there's a communication piece there
- 23 in -- in -- in that Section 27 as part of Part D.
- 24 Thank you.
- 25 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 26 Meadows, legal counsel for the Nunavut Water Board.

- I realize that, but the -- the notice provisions
- 2 have no time frame with respect to approved actions, so
- 3 actions that are approved under the plan. It's only
- 4 with respect to new adaptive management actions that
- 5 there is a 21-day notice period. So -- but I will move
- 6 on from that.
- 7 Those are -- those are primarily my questions. I
- 8 think I have an understanding of what Agnico Eagle
- 9 envisions for -- for the process applicable to adaptive
- 10 management. Thank you, Mr. Chair. I believe that my
- 11 colleague, the director of technical services, Karén,
- 12 has a follow-up question.
- 13 MR. KHARATYAN: Karén Kharatyan, Water Board.
- 14 Thank you, Mr. Chair.
- Agnico Eagle just stated that this was kind of
- 16 encouraged by even Nunavut Impact Review Board to
- 17 develop adaptive management actions or approach. Just
- 18 for your information, this is encouraged by Water Board
- 19 as well. The question is: Was there any specific
- 20 reason this adaptive management plan wasn't developed
- 21 during the environmental assessment process or not?
- 22 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 23 Quesnel, Agnico Eagle.
- We've always worked under adaptive management.
- 25 It's been communicated in different means historically,
- 26 but based on optimization and some of the challenges we

- 1 see, I thought -- we thought it was a good opportunity
- 2 to develop this with a little bit more detail to ensure
- 3 that we can move quickly to be proactive to mitigate
- 4 certain environmental effects by protecting the
- 5 environment. So this process has been developed over
- 6 time based on our experience operating in the north,
- 7 and it's -- we have this document right now that
- 8 provides a little bit more detail.
- 9 If we look back, maybe it would've been better to
- 10 have this in the early days of the Meadowbank licence,
- 11 but things are -- are growing. We're looking at
- 12 continuous improvement, we're looking at optimization,
- 13 we're looking at collaboration with our regulatory
- 14 agencies to ensure that we're transparent to be
- 15 effective with proactive measures. So this is the --
- 16 we -- we're here now with this document, and we're
- 17 ready to move forward with it.
- 18 And I -- we do have some comments just with the
- 19 20-day notice, if I may -- if I can respond to that.
- 20 Would that be okay?
- 21 We understand, you know, dealing with some of
- 22 the -- some of the items we listed in the licence for
- 23 the 20-day notice -- it's related to dewatering, some
- 24 of the infrastructure related to attenuation ponds. We
- 25 feel some of these could be done in -- in a shorter
- 26 time period. We understand certain modification -- or

- 1 not modifications, but certain drawings may take longer
- 2 to -- to review. But we feel -- based on the notice
- 3 we've provided related to some of the infrastructure
- 4 based on the construction window that we have, we feel
- 5 that a shorter time period -- we proposed the 20 days
- 6 based on some discussions -- we -- we would like to
- 7 have those approvals in the shorter period of time just
- 8 based on the -- if we do receive our approval, to
- 9 ensure that we can meet our construction window related
- 10 to some of the assets that we're building within our --
- 11 our approved project.
- So we do have already existing infrastructure
- managing that footprint, and majority of what we're
- 14 proposing is within that footprint, within a controlled
- 15 area. So this is where we feel this can be implemented
- 16 in a shorter period of time. So this is why we propose
- 17 the 20 days for the list of items that we provided in
- 18 the water licence. Thank you.
- 19 MR. KHARATYAN: Thank you, Mr. Chair. Karén
- 20 Kharatyan, Water Board.
- One small follow-up again, Jamie, just to confirm
- 22 whether or not this adaptive management plan was
- 23 communicated at some type of -- or some -- some ways
- 24 with Nunavut Impact Review Board or not. When saying
- 25 "communicated", I mean different ways of communication,
- 26 not necessarily a formal approval process, but

- 1 communication just.
- 2 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 3 Quesnel, Agnico Eagle.
- 4 We've had informal discussions with the Nunavut --
- 5 with Nunavut Impact Review Board regarding adaptive
- 6 management. Thank you.
- 7 MR. KHARATYAN: I think -- Karén Kharatyan,
- 8 Water Board.
- 9 I think I should ask maybe very -- a little more
- 10 clear. I don't mean adaptive management generally. I
- 11 mean just this adaptive management plan, whether or not
- in the scope of this adaptive management plan,
- 13 including the actions -- if different level of actions
- 14 were communicated.
- 15 MR. QUESNEL: Thank you, Mr. Chair, Jamie
- 16 Quesnel, Agnico Eagle.
- 17 This plan has not been submitted to NIRB, but
- 18 we've had -- there were discussions during the Nunavut
- 19 Impact Review Board's reconsideration process about
- 20 water management and decision trees related to that
- 21 component, so there was some initial discussions. And
- 22 we had some informal discussions with the Nunavut
- 23 Impact Review Board, but this plan has not been
- 24 submitted to Nunavut Impact Review Board.
- 25 However, as our colleague Christine has mentioned
- that we've completed a self-assessment as per guidance

- 1 by the Nunavut Impact Review Board on developing this
- 2 plan that's in front of the Board at this time. Thank
- 3 you.
- 4 MR. KHARATYAN: Thank you, Jamie. Karén
- 5 Kharatyan, Water Board. Thank you, Mr. Chair.
- 6 Just another small comments that -- to be clear
- 7 that the understanding is the same. We are in one
- 8 window regulatory system, and Water Board is the end of
- 9 process or regulatory process. So while I am not
- 10 saying that the action included within this adaptive
- 11 management plan are not acceptable necessarily, I am
- 12 just trying to make clear that the Water Board doesn't
- 13 and wouldn't try to fetter any of -- discretion of
- 14 other regulatory organizations. Thank you.
- 15 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 16 Quesnel, Agnico Eagle.
- 17 Maybe just to provide a little bit more clarity.
- 18 The concept in this plan came from a decision tree
- 19 discussion that was during the Nunavut Impact Review
- 20 Board process. So that concept has been discussed, and
- 21 this is a little bit more refinement of that concept
- 22 related to activities within our footprint. So this is
- 23 the way we're looking at it. It's a little bit more
- 24 refinement just like a typical process where you look
- 25 at environmental effects and environmental assessments.
- 26 Once we get to the water licence stage, there's a

- 1 little bit more refinement of -- of the -- the
- 2 structures, the mitigation. So we feel we follow the
- 3 typical process to refine a concept that was discussed
- 4 during the environmental assessment stage. Thank you.
- 5 MR. KHARATYAN: Thank you, Jamie. Karén
- 6 Kharatyan, Water Board.
- 7 One clarification, Jamie. For example, there is
- 8 one item, like meromictic lake formation related to
- 9 underground water disposal in pit. So I am not really
- 10 sure without any type of approval -- or maybe not
- 11 approval, but notification process because the -- this
- 12 is the Level 3 action after evaluation. So I am not
- 13 sure this stage that -- whether meromictic lake will be
- 14 formed or no. Meromictic lake may be formed, and,
- 15 again, there may be some mixing of water. So this
- 16 should be assessed and evaluated before going forward
- 17 with -- and this is one of these items that I do have a
- 18 little bit concern without seeing additional
- 19 information.
- 20 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 21 Quesnel, Agnico Eagle.
- 22 Like, earlier we mentioned that that would be part
- 23 of an evaluation in Level 2 related to those details to
- 24 see if that mitigation would have to be triggered or
- 25 implemented. So there's an evaluation piece before a
- 26 decision is made. So there is -- we're using all the

- 1 tools to understand and assess at that time in the
- 2 Level 2 before we get to a Level 3 situation. So
- 3 there's -- there are mechanisms within the -- the
- 4 decision tree before we go into full implementation to
- 5 evaluate that. We -- so that's the process just to
- 6 understand what's going on, and that's the Level 3
- 7 mitigation that's listed there, maybe one of the
- 8 situations where we would have to implement. So
- 9 there's assessment at Level 2 and then possible
- 10 implementation of what we have in that mitigation in
- 11 Level 3.
- 12 MS. KUBEISINOVA: Thank you, Mr. Chair. Assol
- 13 Kubeisinova, Nunavut Water Board.
- In regards to the safety margin requested on water
- 15 withdrawal rates -- I'll just clarify. That's
- 16 approximately 117,000 cubic metres per year during
- 17 operations and approximately 2-and-a-half million cubic
- 18 metres per year during closure. Is Agnico Eagle
- 19 requesting that to come from all sources
- 20 proportionately?
- 21 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 22 Quesnel, Agnico Eagle.
- We're looking at that as a global number. We have
- 24 other conditions and restrictions with -- for withdraws
- 25 from different sources, different lakes. So we'll be
- 26 complying with that. But it's not proportional, just

- 1 depending where we can draw the water from based on
- 2 complying with the conditions we have and the licence
- 3 with the other agencies.
- 4 MS. KUBEISINOVA: Thank you, Mr. Chair. Assol
- 5 Kubeisinova, Nunavut Water Board.
- 6 No more questions.
- 7 THE CHAIR: Thank you.
- 8 So staff is done? Staff questioning done?
- 9 MR. KHARATYAN: It's done, yes.
- 10 THE CHAIR: Okay. Now, Panel members?
- No? Okay.
- 12 Thank you, Applicant, for your presentation.
- 13 Let's take a ten-minute break before going to
- 14 intervenors.
- 15 (ADJOURNMENT)
- 16 THE CHAIR: Okay. Reconvene. So, Luis,
- 17 are you ready for your presentation or just ready for
- 18 answering some questions?
- 19 MR. MANZO: Thank you, Mr. Chairman. Luis
- 20 Manzo, Kivalliq Inuit Association.
- I just want to ask a question if the proponent
- 22 want me to go over the whole entire presentation or the
- 23 Board want me to go over the whole entire presentation,
- 24 or I can just focus any concerns of KIA to respond to
- 25 any questions. I will -- I will ask the Board if --
- 26 which is the approach you want to take.

- 1 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 2 Meadows, legal counsel for the Nunavut Water Board.
- 3 So thank you very much to the Kivallig Inuit
- 4 Association for being so flexible. We would appreciate
- 5 it, given the time constraints that we have, if you
- 6 focus now our time on questions to the Kivalliq Inuit
- 7 Association, and if there is any follow-up that you
- 8 would like to do with respect to your submissions, if
- 9 you want to start with that, and then we can go to
- 10 questions.
- 11 Presentation by Kivalliq Inuit Association
- 12 MR. MANZO: Thank you, Mr. Chairman. Luis
- 13 Manzo, Kivalliq Inuit Association.
- 14 As I mentioned in my presentation, Kivalliq Inuit
- 15 Association still have some concern in regard to the
- 16 Technical Comments Number 4 and 7 as mentioned in my
- 17 presentation. Technical Comment 4 and 7 in regard to
- 18 the seepage for the waste rock pile and -- and climate
- 19 change and project timelines. Just to make sure we get
- 20 it in record and clear for the proponent responses
- 21 and -- and KIA satisfaction, I will read those two
- 22 slides.
- 23 Agnico Eagle provide additional evidence to
- 24 support the water balance model. Agnico Eagle has also
- 25 demonstrated that the Quarry 1 and groundwater storage
- 26 pond can provide the requirement capacity to manage

- 1 excess contact water in the first year of the expansion
- 2 project.
- 3 So we have some discussions in regard to -- those
- 4 two items I mention are linked to the adaptive
- 5 management in regard of the 90 percent capacity of
- 6 measures, and -- and we have some understanding that
- 7 the wording will be changed for the satisfaction of the
- 8 KIA. So if the proponent can confirm that, I think KIA
- 9 have all our issues resolved at this point.
- 10 Agnico Eagle Mines Limited Questions Kivalliq Inuit
- 11 Association
- 12 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 13 Quesnel, Agnico Eagle.
- 14 Based on Slide 10, which is on the screen right --
- 15 I think it's -- no, that's not Slide 10. Just dealing
- 16 with the 90 percent, we will -- as we mentioned
- 17 earlier, we will provide those changes to the adaptive
- 18 management plan related to Table 4 based on the changed
- 19 wording. So we'll provide that if we do receive
- 20 approval of our water licence 60 days after.
- 21 But I just want to go back just to confirm, Luis,
- 22 based on Slide 8 dealing with Term and Condition 4 and
- 23 Term and Condition 7, that those are resolved now, plus
- the change related to the adaptive management plan.
- 25 MR. MANZO: Yes. That's related to the
- 26 seepage and the capacity of hauling the seepage into

- 1 the pond, and if that wording can change, we
- 2 comfortable with it, and those two items, 4 and 7, will
- 3 be now resolved.
- 4 THE CHAIR: Okay. Thank you.
- 5 Any further questions?
- 6 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 7 Quesnel, Agnico Eagle.
- 8 No further questions.
- 9 THE CHAIR: Thank you.
- 10 Now I'd like to ask the Crown-Indigenous Relations
- 11 Northern Affairs. If you have questions to Kivalliq
- 12 Inuit Association, you may go ahead.
- 13 MR. DEWAR: Matna, Mr. Chair. Spencer
- 14 Dewar, Crown-Indigenous Relations Northern Affairs
- 15 Canada.
- No questions.
- 17 THE CHAIR: Thank you.
- Now I'd like to ask the Environment and Climate
- 19 Change Canada. Go ahead.
- 20 MS. WILSON: Anne Wilson. Thank you.
- 21 And we have no questions.
- 22 THE CHAIR: Now Fisheries and Oceans
- 23 Canada.
- 24 MR. BEATTIE: Alasdair Beattie with DFO.
- We have no questions, Mr. Chair.
- 26 THE CHAIR: Thank you.

- 1 Is there questions from members of public to
- 2 Kivalliq Association?
- 3 Okay. I think that there is none.
- 4 Board staff.
- 5 MR. KHARATYAN: Karén Kharatyan, Water Board.
- No guestion for Kivallig Inuit Association,
- 7 Mr. Chair. Thank you.
- 8 THE CHAIR: Thank you.
- 9 And Panel members? Ross? Makabe?
- 10 Okay. Thank you.
- 11 Thank you, Kivalliq Inuit Association, for your
- 12 presentation from last night.
- 13 Are you wanting to continue or ...
- 14 MR. MANZO: That will be all for me.
- 15 Thank you very much.
- 16 THE CHAIR: Okay.
- 17 Teresa, do you want to take over for a minute?
- 18 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 19 Meadows, legal counsel for the Nunavut Water Board.
- 20 So, Mr. Chair, similarly, Crown-Indigenous
- 21 Relations and Northern Affairs Canada -- their
- 22 presentation -- their technical presentation was the
- 23 same as the community presentation provided yesterday.
- 24 So, subject to any follow-up that Crown-Indigenous
- 25 Relations Northern Affairs Canada has today, we would
- 26 then suggest that we go into questioning after CIRNAC

- 1 has had an opportunity to provide any follow-up.
- 2 THE CHAIR: Thank you, Teresa.
- 3 CIRNAC, if you have some follow-up, go ahead.
- 4 MR. DEWAR: Matna, Mr. Chair. Spencer
- 5 Dewar, Crown-Indigenous Relations and Northern Affairs
- 6 Canada.
- We don't have any follow-up, but we're open for
- 8 questions.
- 9 THE CHAIR: Thank you.
- 10 I'd like to start with the Applicants. If you
- 11 have questions, you may go ahead.
- 12 Agnico Eagle Mines Limited Questions Crown-Indigenous
- 13 Relations and Northern Affairs Canada
- 14 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 15 Quesnel, Agnico Eagle.
- 16 We just have one clarification on Slide 6 just
- 17 dealing with the cover designs being approved in
- 18 concept only. It is our understanding that we will be
- 19 submitting our designs for the waste rock storage
- 20 facility, and those are to be considered final -- final
- 21 design as per that submission. And so I'm just
- 22 wondering if CIRNAC -- Crown-Indigenous Relations and
- 23 Northern Affairs could confirm that's their
- 24 understanding.
- 25 MR. DEWAR: Matna, Mr. Chair. Spencer
- 26 Dewar, Crown-Indigenous Relations Northern Affairs

- 1 Canada.
- 2 To be clear, we do support the waste rock storage
- 3 facility design. I -- I do believe "conceptual" is
- 4 probably a poor choice of words. What we were trying
- 5 to convey there is that we realize the construction of
- 6 the waste rock storage facility will be subject to
- 7 ongoing monitoring, and we're -- what we're -- we just
- 8 want to make sure that that's considered as the waste
- 9 rock design is developed. So it's probably best that
- 10 there's a -- there's a view to apply adaptive
- 11 management if it needs it as -- as the waste rock
- 12 storage facility's being constructed. I hope that
- 13 clarifies our slide.
- 14 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 15 Quesnel, Agnico Eagle.
- 16 Thanks for that clarification. And also our
- 17 adaptive management plan has been designed that way to
- 18 include mitigation measures related to the monitoring
- 19 results from the waste rock storage facility, so that's
- 20 all part of the adaptive management plan that's been
- 21 submitted to the Board. Thank you.
- 22 THE CHAIR: Thank you.
- Now I'd like to call on Environment and Climate
- 24 Change Canada.
- 25 MS. WILSON: Thank you. Anne Wilson, ECCC.
- No questions.

- 1 THE CHAIR: I've skipped the Inuit
- 2 Kivalliq Association. If you have a question, you may
- 3 go ahead.
- 4 MR. MANZO: Luis Manzo, Kivalliq Inuit
- 5 Association.
- 6 No questions at this time. Thank you.
- 7 THE CHAIR: Thank you.
- 8 DFO, if you have a question, go ahead.
- 9 MR. BEATTIE: Hi. Alasdair Beattie with
- 10 DFO, Mr. Chair.
- 11 We have no questions at this time.
- 12 THE CHAIR: Thank you.
- 13 I'd like to call on members of the public if you
- 14 have questions to CIRNAC presentation.
- Okay. I think that there's none.
- So, staff -- Water Board staff, do you have
- 17 questions?
- 18 MR. KHARATYAN: Karén Kharatyan, Water Board.
- 19 Thank you, Mr. Chair.
- 20 No -- no question for Crown-Indigenous Relations
- 21 and Northern Affair. Thank you.
- 22 THE CHAIR: Thank you.
- 23 Panel members, do you have questions?
- Okay. There's none.
- Thank you, CIRNAC, for your presentation.
- Now I'd like to call Environment and Climate

- 1 Change Canada for your presentation.
- 2 Teresa, go ahead.
- 3 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 4 Meadows, legal counsel for the Nunavut Water Board.
- 5 Mr. Chair, I have a hard copy of the presentation
- 6 that Environment and Climate Change Canada is about to
- 7 provide, and it is in English and Inuktitut, and I will
- 8 be filing that as the next exhibit in the public
- 9 hearing. Those are my procedural matters. Thank you,
- 10 Mr. Chair.
- 11 EXHIBIT 13 Hard Copy PowerPoint
- 12 Presentation Whale Tail Pit Expansion Project
- Presentation to the Nunavut Water Board by
- 14 Environment and Climate Change Canada
- 15 (Community Session) (English/Inuktitut)
- 16 THE CHAIR: Thank you.
- 17 Climate Change Canada, go ahead with your
- 18 presentation.
- 19 Presentation by Environment and Climate Change Canada
- 20 MS. WILSON: Thank you, Mr. Chair, members
- 21 of the Board, Elders, other community members, Board
- 22 staff, and parties here today. Just to set your mind
- 23 at ease, I'm not going to give my full presentation.
- 24 You heard the front end of it last night. I'm going to
- 25 skip over those concerns that have been resolved with
- the proponent, and basically I will just speak to about

- 1 four slides. So you're going to get the short version.
- I did want to comment that Agnico Eagle has been
- 3 very proactive in working to resolve the issues that
- 4 have been raised, and the first topic that I'm going to
- 5 mention is fairly minor. It is more of a wording
- 6 issue, as there seems to be a common understanding.
- 7 I'll just flip over to our FC7.
- 8 Okay. So Agnico Eagle has proposed a post-closure
- 9 monitoring period of three years. This is reasonable
- 10 based on the fact that they'll have years of closure
- 11 period monitoring leading up to that. This should
- 12 provide a good understanding of the water quality as
- 13 they go along. However, setting the three years as
- 14 cast in stone may or may not be appropriate, depending
- on conditions at the time. This should be contingent
- 16 on having stable water quality and meeting predictions
- 17 and objectives at that time.
- 18 So while ECCC does not take issue with the
- 19 three-year period proposed, we would recommend that the
- 20 wording be an estimated period consistent with water
- 21 quality and in line with predictions and objectives.
- 22 ECCC has reviewed the draft licence frameworks
- 23 that were provided by Agnico Eagle, both the version
- 24 that came out December 20th, 2019, as well as the
- 25 response to proponent's versions which were included
- 26 with the January 30th submission and had minor

- differences. There are three main areas that I would
 like to highlight for further consideration, and I will
 avoid wordsmithing as these are more broad-brush areas.
- 4 The first one deals with a proposed removal of total
- 5 dissolved solids as a regulated parameter from both of
- 6 the Type "A" licences.
- 7 The Agnico Eagle response document provided some
- 8 text as rationale for removal of TDS as a regulated
- 9 parameter in Licence Items F3 and F4 between the two
- 10 licences. I'll just quote what they had written.
- 11 (as read)
- 12 ECCC has not identified TDS as a parameter of
- potential concern, a deleterious substance,
- in Schedule 4 of the Metal and Diamond Mining
- 15 Effluent Regulations. Further, the only
- 16 mining Type "A" water licences that include
- 17 TDS or total dissolved solids as a regulated
- 18 parameter in Nunavut are the Whale Tail,
- 19 Meadowbank, and Meliadine Type "A" water
- 20 licences. Therefore, total dissolved solids
- 21 is not considered a parameter of particular
- 22 concern. Acute toxicity testing of effluent
- 23 required by the water licence and the MDMER
- 24 would ensure that discharges are protective
- of Nunavut waters, and continuing monitoring
- of TDS would ensure that any trends of

interest are appropriately considered. 1 2 also noted that several of the parameters 3 listed in Part F, Item 4 include more stringent discharge requirements than ECCC 5 has included in Schedule 4 of the MDMER. 6 In response to that, ECCC notes that whether or not a 7 parameter is listed in the MDMER is not relevant to 8 whether it should be regulated under a water licence. 9 The MDMER represent a minimum national standard for effluent discharge quality. It does not preclude 10 11 setting more stringent standards where warranted on the basis of protection for pristine or sensitive receiving 12 environments, which is the case in Nunavut here. 13 14 other mines in Nunavut and the NWT do have limits for 15 TDS in their water licences or, alternatively, have limits on the individual constituents that make up the 16 17 TDS. ECC [sic] does agree with Agnico Eagle that 18 bioassay testing and ongoing monitoring of TDS will be 19 important. 20 Going specifically to the Whale Tail project, the predictions in the effluent quality report for Whale 21 22 Tail appear to indicate the TDS concentrations will be 23 under about 500 milligrams per litre. Similarly, discharges from the Vault attenuation pond at ST10 on 24 25 the Meadowbank site should have also very low levels of 26 TDS, as that pit did not intercept saline groundwater.

- 1 In discussions with Agnico Eagle, it was stated that,
- 2 given these concentrations, there is no need to
- 3 regulate TDS at Whale Tail or Vault. ECCC agrees.
- 4 Looking now at the Meadowbank site, discharges
- 5 from the Meadowbank mine site from the tailings
- 6 facility plus the mill effluent are to be discharged
- 7 into the mined-out Goose and Portage pits until closure
- 8 when the pits will be filled. Predictions from the
- 9 in-pit deposition licence amendment showed total
- 10 dissolved solids levels will be above current licence
- 11 limits, and the main constituent will be sulphate.
- 12 ECC had flagged this issue in the environmental
- 13 assessment and in the licence amendment processes, and
- 14 Agnico Eagle has stated that there would be further
- 15 work done -- done leading up to the final closure and
- 16 reclamation plan to address high sulphate and high TDS.
- 17 This leads me to the concern with the request for
- 18 extending the Meadowbank licence to 2033. It had been
- 19 initially contemplated that review of the water quality
- 20 for TDS and sulphate would be done in a renewal process
- 21 in 2025 initially, then 2026. Going past this initial
- 22 period, there would be the potential within this
- 23 current water licence, if amended to 2033, for
- 24 discharge of treated effluent to the lakes. And at the
- 25 predicted levels of total dissolved solids and
- 26 sulphate, there could be concern if there was no

- 1 regulatory criteria set for this parameter.
- 2 Agnico Eagle correctly notes that all such
- 3 discharges do have to be non-acutely toxic, and ECC
- 4 notes that there should also be an evaluation of
- 5 loadings and the receiving environment capacity to
- 6 assimilate discharges. So it's not just the end of
- 7 pipe effects of toxicity; it's also what's going to
- 8 happen when it goes into the lakes and how much that
- 9 lake can assimilate. And that evaluation has not been
- 10 done yet.
- 11 Okay. The second item I was going to touch on is
- 12 the proposed process for the approval of plans.
- 13 Initially in the first draft, Agnico Eagle had
- 14 introduced the idea of plans being considered as
- 15 approved after a certain period of time unless
- 16 otherwise advised by the Board. Initially, this was in
- 17 Item B11 and had a 45-day period after which they would
- 18 be deemed approved.
- 19 In the response provided January 30th, the deemed
- 20 approval clause was removed from B11 and put into B15
- 21 with the statement that: (as read)
- Unless the Board otherwise advises, plans and
- 23 amendments submitted under this licence shall
- be deemed to be approved by the Board within
- 25 15 days of submission by the licence.
- 26 Not only is this wording broader than the plans which

- 1 are specified in that particular section, but it
- 2 attaches what we feel is an unreasonably short time
- 3 frame for approval by default to happen. And we
- 4 suggest that approval should continue to be explicit
- 5 with practical time frames specified that work for
- 6 everyone.
- Okay. And the last item I have is regarding the
- 8 proposed extension of the Meadowbank licence. While we
- 9 have done a thorough review of the proposed draft
- 10 licence terms for Whale Tail and a reasonably in-depth
- 11 look of the Meadowbank ones, it has not been done with
- 12 a view to it being renewed in 2033. Questions will
- 13 arise on the activities associated with the in-pit
- 14 disposal and water treatment if the licence period
- 15 spans that and development of any closure site-specific
- 16 water quality objectives that are brought forward.
- 17 While there's the opportunity to review items in the
- 18 normal Water Board processes, it would seem unusual to
- 19 have a licence that bridges closure without thoroughly
- 20 reviewing such an amendment. Just thinking of the
- 21 timing as outlined in the ICRP for Meadowbank, the dike
- 22 opening or reconnection is currently scheduled for
- 23 about 2030. So that would be three years before the
- 24 end of licence, and active closure and closure
- 25 monitoring also ends in -- goes to 2030. So I think
- 26 there should be further review of any changes to the

- 1 licence term.
- Okay. And, with that, I will be happy to try and
- 3 answer any questions. Thank you.
- 4 THE CHAIR: Thank you, Environment and
- 5 Climate Change Canada, for the presentation, and I'll
- 6 open for questions, comments.
- 7 I'd like to start with the Applicant.
- 8 Agnico Eagle Mines Limited Questions Environment and
- 9 Climate Change Canada
- 10 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 11 Quesnel, Agnico Eagle.
- 12 There may be -- mostly it's going to be
- 13 clarification. There may be a few questions. But just
- 14 based on the first comment related to the post-closure
- of three years. In our approved water licence, we do
- 16 have three years' post-closure monitoring in the
- 17 approved water licence for Whale Tail. And also part
- 18 of that, we have eight years of monitoring within the
- 19 closure window.
- 20 For the expansion project, the application that's
- 21 in front of us right now, we do have 18 years during
- 22 the closure window primarily for the re-flood of the
- 23 Whale Tail and IVR pits. So we feel confident that
- 24 during that -- those 18 years and as communicated with
- 25 the intervenors, our monitoring program will exhibit
- 26 stability related to the water quality during that

- 1 time.
- In addition, in the water licence, we have a
- 3 condition that we cannot reconnect or breach the dikes
- 4 until the water quality meets those objectives at that
- 5 time. So there's another level of control related to
- 6 that. So it's possible, most unlikely, that the water
- 7 quality would not meet those objectives in the 18 years
- 8 windows -- in the 18-year window, but if it does, we
- 9 would not be able to reconnect or breach the regional
- 10 watershed into the pit lake, and then that window would
- 11 extend until we have stability and then we breach.
- 12 Then we just have the three years' post-closure
- 13 monitoring. And as per our agreed upon security right
- 14 now for the Whale Tail Expansion Project, this is all
- 15 based on the three years' post-closure monitoring. So
- 16 I think we exhibit that we have enough -- we have a
- 17 duration of monitoring that would provide us confidence
- 18 with the stability of the water quality within the --
- 19 the pit lake prior to breaching. So we feel the three
- 20 years' post-closure based on the design of this
- 21 operation is sufficient.
- Dealing with the total dissolved solids,
- 23 appreciate the comments related to Whale Tail and Vault
- 24 regarding the total dissolved solids. However, I just
- 25 want to provide a little bit more clarity from Agnico
- 26 Eagle's point of view related to total dissolved solids

- 1 and related to Meadowbank comments from Environment
- 2 Climate Change -- Change and Canada [sic].
- 3 Agnico Eagle's been assessing total dissolved
- 4 solids. We do see that we have measured data that
- 5 highlights a higher number than the regulated number
- 6 than we have right now. So we're assessing the
- 7 approach to develop this number, which we think it can
- 8 be incorporated at Meadowbank. We always stated that
- 9 we would monitor total dissolved solids, but we feel it
- 10 should not be regulated as per the licence. As all
- 11 operations are a little bit different, we always
- 12 started with a number for a total dissolved solids at
- 13 1,400 at the three operations. So we feel -- we're
- 14 establishing an approach to develop a number related to
- 15 total dissolved solids.
- 16 In addition, as mentioned with Meadowbank, we are
- 17 retaining this water within the pits right now as that
- is our primary tailings deposition, and we will not be
- 19 discharging any water until we get into a final closure
- 20 plan. So we feel the removal of TDS is still
- 21 applicable for Meadowbank based on the conditions that
- 22 we have right now within the operation at Meadowbank,
- 23 and we -- and an approach can establish a more relevant
- 24 number for total dissolved solids. We've been -- as
- 25 I've been saying, we've been assessing this. We do
- 26 have measured data with -- with acute toxicity, which

- 1 is primarily within the footprint, and chronic
- 2 toxicity, which is in -- within the receiver. So we're
- 3 seeing numbers much higher which is showing no
- 4 environmental effect related to total dissolved solids.
- 5 So I -- we feel our request for removing total
- 6 dissolved solids on the Meadowbank licence is relevant.
- 7 In addition, just for additional clarity, based on
- 8 the comments related to the projected sulphate
- 9 concentrations and also total dissolved solids related
- 10 to the water quality within the pit at Meadowbank for
- 11 our tailings deposition, that was based on an 8-metre
- 12 water head for a full capacity of tailings within the
- 13 pits, which we do not have right now. We don't have
- 14 that volume of material to process under any licence
- 15 right now. Even if we do receive approval to go ahead
- 16 with the Whale Tail expansion, we will not meet the
- 17 full capacity. So the projection related to the volume
- 18 of water, the head of water -- if we do receive
- 19 approval for the Whale Tail project, we would have
- 20 double the water volume as a water column above the
- 21 tailings. So the projections that was referred to was
- 22 an 8-metre water head. If we receive approval for the
- 23 expansion, that ore goes through the mill; we produce
- 24 tailings; we deposit in the pit. At the end of that
- 25 day, we would have approximately 20 metres of water
- 26 over the -- the tailings. So, basically, the numbers

- 1 that we've -- has been presented or commented on is
- 2 very -- is kind of a -- is a conservative approach
- 3 based on the predictions.
- I just wanted to comment on the duration of the
- 5 licence. I just have to confer with my colleague. One
- 6 second -- one minute, please.
- 7 MR. GROLEAU: Thank you, Mr. Chair. Michel
- 8 Groleau from Agnico Eagle.
- 9 So just to clarify the date for the closure of the
- 10 Meadowbank project. So the sequence is that we are
- 11 completing the end of deposition in 2026. Flooding
- 12 will occur from 2026 to 2028. And then the monitoring
- 13 period will be extended until 2033. So we can find the
- 14 detail of those date within the tailings management
- 15 plan that was issued as part of the project certificate
- 16 reconsideration for the Whale Tail Expansion Project on
- 17 December 2018 on the Nunavut Impact Review Board
- 18 website. Thank you.
- 19 MR. QUESNEL: Thank you, Michel.
- Thank you, Mr. Chair. Jamie Quesnel, Agnico
- 21 Eagle.
- 22 And also part of that for -- for closure, like we
- 23 know, we would have to submit a final closure plan one
- 24 year prior to the closure that would have to be
- 25 reviewed by all parties. And so there would be more
- 26 details related to the -- the final closure objectives

- 1 and criteria for the Meadowbank licence.
- 2 Thank you, Mr. Chair. Jamie Quesnel, Agnico
- 3 Eagle. We're just going to ask Gary Lawrence just to
- 4 add a few things regarding total dissolved solids.
- 5 MR. LAWRENCE: Thank you, Mr. Chair. Gary
- 6 Lawrence, Golder Associates, representing Agnico.
- 7 Thank you, ECC [sic], as well for the thoughtful
- 8 comments. I just wanted to clarify one thing. We do
- 9 understand the concern about not having any regulatory
- 10 oversight over the TDS. However, I also wanted to
- 11 emphasize that the plan that Jamie Quesnel set forth
- 12 effectively replaces a -- a simplistic numerical
- 13 management of TDS with something that we think is
- 14 better, and it has three main components, all of which
- 15 are intended to protect the receiving environment water
- 16 quality. The first of those is protection against
- 17 acute toxicity at the point of release, which was
- 18 mentioned, and everyone, I think, would agree to that.
- 19 The second component is a demonstration that discharges
- 20 would not result in chronic toxicity at the edge of the
- 21 mixing zone. The data that have been collected to date
- 22 are informative in that regard. Additional data could
- 23 be collected on a site-specific basis to strengthen
- 24 that case. The third component is to provide evidence
- 25 that the assimilative capacity of the receiver would
- 26 not be threatened by the release.

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1 So, effectively, what is being proposed is to
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- 2 replace a simplistic numerical approach to management
- 3 of TDS with a process that is site-specific and that
- 4 protects the three main components of the receiving
- 5 environment that we believe are the basis for effective
- 6 protection of the aquatic environment.
- 7 THE CHAIR: Thank you, Applicant.
- 8 Go ahead, ECCC.
- 9 MS. WILSON: Thank you, Mr. Chair. It's
- 10 Anne Wilson, ECCC.
- 11 Thank you for those clarifications, and if I may,
- 12 I -- they give rise to a few questions in my mind, if I
- 13 can just ask those. And I'll do them one at a time.
- 14 With respect to the Meadowbank site, you've stated
- 15 that the water is going to be retained in the pits
- 16 until reconnection; however, the plan currently is for
- 17 treatment of metals, and will there be any discharge of
- 18 treated effluent anywhere other than the pits?
- 19 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 20 Quesnel, Agnico Eagle.
- 21 So the -- the only discharge that could occur
- 22 would be from the pit footprint. Like, the treatment
- 23 would be primarily in situ prior to any reconnection if
- 24 required. But if we reach -- if we're treating water
- 25 and we meet the requirements, we may -- we may
- 26 discharge that water to the environment before the

- 1 reconnection; however, there -- at this time, based on
- 2 the existing plan at Meadowbank, that would be the only
- 3 location of any -- any potential discharge. So
- 4 hopefully I answered your question.
- 5 MS. WILSON: Thank you for that. Anne
- 6 Wilson, ECCC.
- 7 The treated effluent would not be treated for
- 8 total dissolved solids so conceivably could be quite
- 9 high in both sulphate and TDS, the -- which could be
- 10 parameters for concern, acknowledging, as has been
- 11 pointed out, that it would not be acutely toxic.
- So I was interested in the plan that Gary
- 13 referenced there -- that sounds like an interesting
- 14 approach -- and was just curious as to the timing for
- 15 this plan. And if I understand correctly, it's
- 16 separate from the adaptive management plan and
- 17 wondering if this is going to be proposed as a
- 18 standalone for -- for Meadowbank as well.
- 19 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 20 Quesnel, Agnico Eagle.
- Yes. Like, we do have some time in front of us.
- 22 That's why we still feel our proposal to remove the TDS
- 23 regulated limit is -- is a preferred approach, and we
- 24 do have time in front of us to implement this -- this
- 25 plan based on Gary's comments. The approach would be
- 26 independent of the adaptive management plan. And,

- 1 again, we are assessing TDS with measured data. So we
- 2 have a good understanding of the -- of the approach and
- 3 what the results are showing us, and we would like to
- 4 develop that for -- for Meadowbank. So it would be an
- 5 independent study related to the Meadowbank situation.
- 6 But we do have time in front of us based on our
- 7 discussion of the timeline up to closure. So we feel
- 8 we still can remove this TDS regulated limit. We would
- 9 monitor it, plus we would develop this new approach to
- 10 come up with a more reasonable limit for total
- 11 dissolved solids.
- 12 MS. WILSON: Thank you, Mr. Chair. Anne
- 13 Wilson, ECCC.
- 14 I'll just go on to my last two questions. Thank
- 15 you for clarifying that the predictions for the pit
- 16 water quality are likely to be better than originally
- 17 put out there. Can you advise whether there will be
- 18 new predictions based on the 20-metre water cover
- 19 provided.
- 20 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 21 Quesnel, Agnico Eagle.
- The updated water quality forecast will be
- 23 provided in the annual report, which is due end of
- 24 March, early April. Thank you.
- 25 MS. WILSON: Thank you, Mr. Chair. Anne
- 26 Wilson, ECCC.

- 1 And just a question on the ICRP. Will this be
- 2 updated to reflect the dates that you have provided?
- 3 The dates that I mentioned came from the most current
- 4 version that's been approved and just wondering if
- 5 that's going to be updated as well.
- 6 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 7 Quesnel, Agnico Eagle.
- Just to confirm, you're referring to the
- 9 Meadowbank ICRP? Yes, that will be updated.
- 10 MS. WILSON: Thank you. Anne Wilson, ECCC.
- 11 And that was all my points of clarification asked.
- 12 Thanks.
- 13 THE CHAIR: Thank you.
- 14 I'd like to move on to Kivalliq Inuit Association.
- 15 If you have a question to ECCC, you may go ahead.
- 16 MR. MANZO: Thank you, Mr. Chairman.
- I have no questions at this time.
- 18 THE CHAIR: Thank you.
- 19 Crown-Indigenous Relations and Northern Affairs
- 20 Canada.
- 21 MR. DEWAR: Thank you, Mr. Chair. Spencer
- 22 Dewar, Crown-Indigenous Relations and Northern Affairs
- 23 Canada.
- No questions.
- 25 THE CHAIR: Fisheries and Oceans Canada.
- 26 MR. BEATTIE: Thank you, Mr. Chair.

- 1 Alasdair Beattie with Fisheries and Oceans Canada.
- We have no questions.
- 3 THE CHAIR: Thank you.
- 4 Is there questions from members of public?
- 5 Okay. I think that there's none.
- 6 Board staff, you have questions?
- 7 Nunavut Water Board Staff Questions Environment and
- 8 Climate Change Canada
- 9 MR. KHARATYAN: Karén Kharatyan, Water Board.
- 10 Thank you, Mr. Chair.
- 11 A couple of additional clarification from ECCC.
- 12 Anne, could -- could you confirm the Environment and
- 13 Climate Change Canada position that TDS could be
- 14 removed from Whale Tail Pit as regulated parameter and
- 15 from Vault discharge -- effluent discharge list or
- 16 criteria list but keeping with Meadowbank because we
- 17 have two tables -- yes, we have two, yes, for Portage,
- 18 yes, discharge -- until closure of Meadowbank sites.
- 19 MS. WILSON: Anne Wilson, ECCC.
- I can confirm that there are no concerns with
- 21 removing TDS as a regulated parameter from the Whale
- 22 Tail site or from the Vault site, but I feel that there
- 23 needs to be further discussion of the Portage
- 24 discharge, ST10, I believe it is.
- 25 MR. KHARATYAN: Thank you.
- One more question to ECCC. Karén Kharatyan, Water

- 1 Board. From my understanding in -- 2021st [sic] will
- 2 be new or updated numbers of effluent criteria under
- 3 MDMER, whether -- whether or not these will be
- 4 applicable to Whale Tail Pit licence, for example, and
- 5 whether or not, if it's applicable, ECCC thinks that
- 6 unionized ammonia should be included as regulated
- 7 parameter.
- 8 MS. WILSON: Thank you for that. It's Anne
- 9 Wilson, ECCC.
- 10 In June of 2021, the parameters will change for
- 11 this mine under the MDMER, and that will be an included
- 12 parameter, unionized ammonia. Yeah.
- 13 MR. KHARATYAN: Karén Kharatyan, Water Board.
- 14 Thank you, Anne.
- One more clarification for -- maybe from Agnico
- 16 Eagle. You provided new numbers for closure related to
- 17 the closure of Meadowbank site. So just to confirm
- 18 whether 2028 was the closure date, yes? And whether
- 19 you -- Agnico Eagle is planning to submit the final
- 20 closure reclamation plan -- so one year prior will be
- 21 2027.
- 22 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 23 Quesnel, Agnico Eagle.
- 24 The closure -- the final closure plan for
- 25 Meadowbank would be the end of -- we would have to
- 26 submit that in 2025. The end of production through the

- 1 through-put -- through the mill will be 2026, and then
- 2 the flooding would occur from '26 to '28. Thank you.
- 3 MR. KHARATYAN: Thank you. Karén Kharatyan.
- 4 Thank you, Mr. Chair.
- 5 Maybe one for clarification from ECCC. Anne,
- 6 could you confirm that unionized ammonia that we
- 7 mentioned for Whale Tail Pit will be applicable to be
- 8 added to Meadowbank licence as well.
- 9 MS. WILSON: Anne Wilson, ECCC.
- 10 That is my understanding, that by 2021 all mines
- 11 will be subject to be regulated for unionized ammonia.
- 12 MR. KHARATYAN: Thank you. Karén Kharatyan
- 13 for Water Board. Mr. Chair, Assol has a question for
- 14 Environment and Climate Change Canada.
- 15 MS. KUBEISINOVA: Thank you, Mr. Chair. Assol
- 16 Kubeisinova, Nunavut Water Board.
- 17 Could ECC [sic] please clarify if it has a
- 18 position on the potential of Lake D5 for effluent
- 19 discharge considering the initial data that Agnico
- 20 provided? Thank you.
- 21 MS. WILSON: Anne Wilson, ECCC.
- We had initially requested that new watersheds not
- 23 be used for waste disposal unless they have no other
- 24 options to do so, and Agnico Eagle was requested to do
- 25 the biological and baseline work to be able to monitor
- 26 change in the event that it was used for effluent

- 1 disposal at some point. So I think that it is a
- 2 reasonable contingency, but we hope they don't have to
- 3 use it.
- 4 MS. KUBEISINOVA: Thank you. Assol Kubeisinova,
- 5 Nunavut Water Board.
- What is ECCC's view in regards to the proponent's
- 7 suggestion and discussion of pH as a monitored
- 8 parameter in effluent from dewatering? I'm just going
- 9 to quote Agnico Eagle's response in that regard.
- 10 (as read)
- 11 For pH, Agnico Eagle recommends that it is
- 12 retained as a monitored parameter because
- dewatering to the receiving environment
- represents the transfer of water. That would
- be considered a like-for-like water transfer.
- 16 MS. WILSON: Thank you, Mr. Chair. Anne
- 17 Wilson, ECCC.
- We don't have concerns with removing pH as a
- 19 regulated parameter. It's a reasonable basis to do so,
- 20 and some of the other licences for dewatering do simply
- 21 just have TDS as the regulated parameter -- I'm sorry,
- 22 'T' -- TSS, total suspended solids.
- 23 MS. KUBEISINOVA: Thank you, Mr. Chair.
- No more questions.
- 25 THE CHAIR: Thank you.
- 26 Panel members, do you have questions? Okay.

- 1 Thank you.
- 2 Thank you, ECCC, for your presentation.
- Move on. Now, Fisheries -- Fisheries and Oceans
- 4 Canada will have -- I'll ask them to have presentation.
- 5 Before -- before doing so, Teresa, take the floor.
- 6 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 7 Meadows, legal counsel for the Nunavut Water Board.
- 8 So, Mr. Chair, I have the hard copies of the
- 9 PowerPoint presentation for the technical session that
- 10 are -- that is about to be presented by Fisheries and
- 11 Oceans Canada, and I have a copy in English and
- 12 Inuktitut, and I will be marking those as the next two
- 13 exhibits in this public hearing. And those are my
- 14 procedural matters, Mr. Chair.
- 15 EXHIBIT 14 Hard Copy PowerPoint
- 16 Presentation Agnico Eagle Mines Limited's
- 17 "Whale Tail Expansion" Project Presentation
- to the Nunavut Water Board by Fisheries and
- Oceans Canada (DFO) (English)
- 20 EXHIBIT 15 Hard Copy PowerPoint
- 21 Presentation Agnico Eagle Mines Limited's
- "Whale Tail Expansion" Project Presentation
- 23 to the Nunavut Water Board by Fisheries and
- Oceans Canada (DFO) (Inuktitut)
- 25 THE CHAIR: Thank you.
- Okay. Thank you. You may go ahead, DFO.

- 1 Presentation by Fisheries and Oceans Canada
- 2 MR. BEATTIE: Thank you, Mr. Chair. This is
- 3 Alasdair Beattie with DFO.
- 4 I'm wondering as a -- maybe a question to the
- 5 Chair. Before I proceed through this entire
- 6 presentation, we had put a lot of this together prior
- 7 to some additional information being provided by the
- 8 proponent since we had to file this with the Board.
- 9 Having said that, I think we could say that last night
- 10 the presentation that I provided at the community
- 11 meeting more accurately represents DFO's current
- 12 position. If it please the Board, we could let that
- 13 stand and move directly to questions, or I could
- 14 continue to go through.
- 15 THE CHAIR: Yeah. Legal counsel.
- 16 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 17 Meadows, legal counsel for the Nunavut Water Board.
- Mr. Chair, I think we do have time for you to
- 19 present your presentation, if you just want to
- 20 highlight where there are changes to your presentation
- 21 because we do have this as a hard copy on the -- on the
- 22 record, and it's helpful for people following along in
- 23 the transcript, as we know people are wont to do, to be
- 24 able to tell where there may have been changes to your
- 25 presentation and updates in terms of items that have
- 26 been resolved. It also helps the Board be able to

- 1 track through the resolution of issues as -- as you're
- 2 going through. So if you wouldn't mind presenting this
- 3 and just flagging where you -- where you've resolved
- 4 issues since.
- 5 MR. BEATTIE: Well, good morning, then,
- 6 Mr. Chairman. Thank you. And members of the Board and
- 7 the staff of the Board. And thank you to the community
- 8 of Baker Lake. My name is Alasdair Beattie. I'm the
- 9 acting team lead with Fisheries and Oceans Canada, the
- 10 Fish and Fish Habitat Protection Program. And
- 11 accompanying me in the back here are Edyta Ratajczyk
- 12 and José Audet-Lecouffe, biologists with Fisheries and
- 13 Oceans Canada and the Fish and Fish Habitat Protection
- 14 Program.
- Just a quick overview again of what we'll be going
- 16 through, a little bit of our mandate, legislation and
- 17 policy; final comments, submission, and
- 18 recommendations; conclusions; questions and comments.
- 19 If it pleases everybody, I will spare us going
- 20 through most of the legislation and policy pieces since
- 21 a lot of that was covered over last night and move
- 22 directly to the recommendations and what may or may not
- 23 have changed.
- 24 Similar -- similar to last night, we were focusing
- 25 our review at this stage on these three critical areas:
- 26 Fish passage where -- the impact of the road

- 1 widening -- the haul road widening to water crossings;
- 2 water use within the pit during the operations and
- 3 closure; and impacts -- potential impacts to downstream
- 4 environments and accounting for changes in fish habitat
- 5 there.
- 6 Regarding the fish passage issue, we acknowledge
- 7 that the proponent has submitted information related to
- 8 fish passage as part of the current NIRB and NWB
- 9 processes, and we'd acknowledge that they have
- 10 committed to ensuring fish passage requirements are met
- 11 and that discussions regarding fish passage will
- 12 continue during the permitting stage. DFO notes that
- 13 the proponent has provided the request for review for
- 14 the proposed -- in particular, a culvert of concern in
- 15 this haul road and for the widening of that particular
- 16 area and along with the estimated velocities for fish
- 17 passage.
- Our recommendation to the Board has not changed,
- 19 but we recognize that we have had additional
- 20 information and work with Agnico -- with the proponent
- 21 and will continue to do so. So our recommendation is
- 22 that the proponent continue to work with DFO to ensure
- 23 that all watercourse crossings over fish-bearing
- 24 watercourses are able to adequately enable fish
- 25 passage.
- Regarding water use, the issue is that the

- 1 calculation of available volumes, monitoring of
- 2 withdrawal from water bodies, and accounting of volumes
- 3 taken from all potential water sources remains
- 4 important to DFO. DFO is open to continued discussion
- 5 regarding the approaches to calculations consistent
- 6 with approaches and reporting. DFO will continue
- 7 discussions with the proponent regarding the fish-out
- 8 methodology and data requirements notably given the
- 9 benefits to increasing the knowledge of the northern
- 10 aquatic ecosystems.
- I'd also like to note that currently this week, I
- 12 believe, the MacKenzie Valley Environmental Impact
- 13 Review Board has convened a meeting that DFO is also
- 14 participating in where they will be discussing water
- 15 withdrawal among other issues and potentially different
- 16 approaches from the current quidance that DFO does
- 17 provide; however, our guidance still stands at this
- 18 time.
- 19 Our first recommendation is that the proponent
- 20 commit to meeting with DFO prior to the water
- 21 withdrawals to discuss expectations regarding under-ice
- 22 volume calculations, monitoring withdrawals, and
- 23 communications prior to reporting as part of the
- 24 Fisheries Act authorizations. I believe they have
- 25 committed to such a meeting.
- 26 We also -- I believe most of the information in

- 1 this recommendation here has been provided by the
- 2 proponent since we've put this together. So this one
- 3 is no longer -- we consider this one resolved.
- 4 The final recommendation is that they -- the
- 5 proponent commit to meeting with DFO to discuss
- 6 requirements related to fish-outs, including collection
- of data to support the research, for example, conducted
- 8 under the existing Fisheries Act authorization for the
- 9 approved project as well as future initiatives.
- 10 Moving to the downstream -- moving to the
- 11 downstream environment. DFO's requested quantitative
- 12 information regarding the changes to water levels and
- 13 surface area for downstream water bodies. Some of that
- 14 information's been provided. DFO notes adequate
- monitoring is key to verifying the proponent's
- 16 predictions and that impacts will fall within natural
- 17 variation. DFO is open to continued discussion
- 18 regarding the approaches to calculations, monitoring,
- 19 and reporting, and DFO is supportive of discussions
- 20 related to Fisheries Act authorizations approval
- 21 process.
- We believe that this recommendation in
- 23 particular -- the information has been provided. We
- 24 consider this resolved. That's Recommendation 3.3.1.
- 25 We have had ongoing discussions and some other
- 26 information has been provided by the proponent

- 1 regarding 3.3.2 and 3.3.3, and we consider this
- 2 resolved for the purpose of this hearing.
- 3.3.4, provide examples of what approaches to
- 4 monitoring are being included in the final offsetting
- 5 plan with regards to verifying predictions in
- 6 downstream percent changes and water levels, surface
- 7 area, and volumes. We have recently received an
- 8 updated offsetting plan. After this was submitted, it
- 9 does contain some information, and there are at least
- 10 discussion in there of downstream monitoring. So for
- 11 the purpose of this, we would like to have that --
- 12 discussions continue but consider this to be resolved
- 13 for the purpose of this hearing.
- 3.3.5. We would like the proponent to clarify
- 15 where the information on the natural variation on
- 16 the surface area and the volume for the lakes listed in
- 17 3.4.7 other than A16 -- Lakes A16, A15, A12 and A67 can
- 18 be located within their submissions.
- 19 However, overall, I think the same message that we
- 20 gave last night would continue. We've had positive and
- 21 ongoing discussions with the proponent. We expect the
- 22 ongoing discussions to continue going forward. We feel
- 23 that should the project be approved, we have a good
- 24 basis for us to continue in our own regulatory process
- 25 following the hearings. Thank you. Matna.
- 26 THE CHAIR: Thank you. Thank you, DFO,

- 1 for your presentation.
- 2 Open up for questions, comments. I'd like to
- 3 start with Applicants. If you have questions, you will
- 4 do so.
- 5 MR. QUESNEL: Thank you, Mr. Chair. Jamie
- 6 Quesnel, Agnico Eagle.
- 7 We have no questions to Department of Fisheries
- 8 and Oceans, and we'd just like to thank DFO with the
- 9 communication to date, and we look forward to have
- 10 further discussions regarding the offsetting plans and
- 11 the other guidance that is required as per your
- 12 recommendations. So the conversations have been very
- 13 helpful to date, and we plan to continue with that
- 14 collaboration. Thank you.
- 15 THE CHAIR: Thank you.
- 16 I'd like to ask Kivalliq Inuit Association if you
- 17 have questions.
- 18 Kivalliq Inuit Association Questions Fisheries and
- 19 Oceans Canada
- 20 MR. MANZO: Thank you, Mr. Chairman. Luis
- 21 Manzo, Kivalliq Inuit Association.
- 22 I -- I have -- I have one comment to DFO in
- 23 respect to the complementary measures in the offsetting
- 24 plans. I know in the last version of the expansion of
- 25 the Whale Tail project the eDNA research was not
- 26 considered, and I would like some -- some clarification

- 1 from DFO and the conversation with AEM -- I don't know
- 2 whether it's necessary to continue or not with the eDNA
- 3 program. I know that's not probably, but I wanted to
- 4 make sure we have some -- some clarification with DFO
- 5 in regard to the research. Thank you.
- 6 MR. BEATTIE: Thank you, Mr. Chair. It's
- 7 Alasdair Beattie with DFO.
- 8 The eDNA monitoring program is -- is something
- 9 that we could continue to have ongoing discussions with
- 10 both the KIA and the proponent going forward as we move
- 11 into the regulatory phase and discuss what conditions
- 12 may or may not be attached to the authorization should
- 13 the project be approved.
- 14 THE CHAIR: Thank you.
- 15 Go ahead, Kivalliq Inuit Association.
- 16 MR. MANZO: Thank you, Mr. Chairman.
- 17 Thank you, DFO, for responding. Thank you.
- 18 THE CHAIR: Now I'd like to ask the
- 19 Crown-Indigenous Relations and Northern Affairs Canada.
- 20 If you have questions, go ahead.
- 21 MR. DEWAR: Matna, Mr. Chair. Spencer
- 22 Dewar, Crown-Indigenous Relations and Northern Affairs
- 23 Canada.
- No questions for Fisheries and Oceans Canada.
- 25 THE CHAIR: Environment and Climate Change
- 26 Canada, if you have questions, go ahead.

- 1 MS. WILSON: Thank you. Anne Wilson, ECCC.
- 2 No questions.
- 3 THE CHAIR: Thank you.
- 4 I'd like to ask the members of public if you have
- 5 any questions or comments.
- 6 Okay. I think that there's none.
- 7 Board staff, go ahead.
- 8 Nunavut Water Board Staff Questions Fisheries and
- 9 Oceans Canada
- 10 MR. KHARATYAN: Karén Kharatyan, Water Board.
- 11 Thank you, Mr. Chair.
- Just confirmation for our records. Could DFO
- 13 confirm that they do not have any unresolved question
- or concern associated with the licencing process.
- 15 MR. BEATTIE: We have no further questions
- or concerns associated with the licencing process, no.
- 17 MR. KHARATYAN: No more question, Mr. Chair.
- 18 Thank you. Karén Kharatyan.
- 19 THE CHAIR: Thank you.
- 20 Panel members?
- Okay. I take that as there's none.
- Okay. Now we are turning to an opportunity for
- 23 each of the parties to provide us with brief closing
- 24 remarks, but before doing that -- so I'd like to take a
- 25 break now for lunch, and then -- so you have an
- 26 opportunity -- enough opportunity to make your closing

- 1 remarks put in place during the break. So we'll come
- 2 back here at 1:30 to do our closing remarks then.
- 3
- 4 PROCEEDINGS ADJOURNED UNTIL 1:30 PM
- 5 _____
- 6 (PROCEEDINGS RECOMMENCED AT 1:46 PM)
- 7 Discussion
- 8 THE CHAIR: Good afternoon. Before we go
- 9 into closing remarks, I think there's some house --
- 10 procedural matters we need to deal with.
- 11 Teresa, take the floor.
- 12 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 13 Meadows, legal counsel for the Nunavut Water Board.
- So, Mr. Chair, there are a few exhibits that
- 15 remain outstanding to be filed that have been provided
- 16 to me in electronic form and circulated to the parties
- 17 here, and so we will go into those procedural matters.
- 18 But, first, there is a follow-up, I understand, with
- 19 respect to the presentation from Environment and
- 20 Climate Change Canada that Agnico Eagle and Environment
- 21 and Climate Change Canada wish to speak to. Thank you,
- 22 Mr. Chair.
- 23 THE CHAIR: Thank you.
- Go ahead. Go ahead, Applicant.
- 25 Submissions by Agnico Eagle Mines Limited
- 26 MS. KOWBEL: Thank you, Mr. Chair.

- 1 Christine Kowbel for Agnico Eagle.
- Yes, Mr. Chair, we would just like to give an
- 3 update to the Board. Over the lunch break, Environment
- 4 and Climate Change Canada and Agnico Eagle have had
- 5 some further discussions about the outstanding concern
- 6 that Environment and Climate Change Canada talked about
- 7 this morning about removing total dissolved solid [sic]
- 8 from the Meadowbank licence, and -- and I'm pleased to
- 9 report that -- that they've found a path forward that
- 10 would see the total dissolved solid discharge limit
- 11 removed from the Meadowbank licence based on additional
- 12 commitments Agnico has made, as well as some additional
- 13 studies that would be, we would hope, incorporated in
- 14 the water licence. And so I'll ask Michel Groleau
- 15 to -- to read in those discussions between Environment
- 16 and Climate Change Canada and Agnico Eagle and then
- 17 perhaps give Environment Canada a chance to respond and
- 18 confirm. Thank you, Mr. Chair.
- 19 THE CHAIR: Thank you.
- 20 Any further?
- 21 MR. GROLEAU: Michel Groleau, Agnico Eagle.
- 22 Thank you, Mr. Chair.
- 23 So we'll read the email we sent to Environment and
- 24 Climate Change Canada during lunchtime. So Environment
- 25 and Climate Change Canada has agreed to the removal of
- 26 total dissolved solid as a regulated parameters in the

- 1 Whale Tail licence and also to remove all of the total
- 2 dissolved solid in the Vault component of the
- 3 Meadowbank water licence. However, Agnico Eagle also
- 4 remains committed to their request for removal of total
- 5 dissolved solid as a regulated parameter in general
- 6 from the Meadowbank licence. Agnico Eagle has
- 7 indicated that there's no planned discharge for the
- 8 mine to the receiving environment until the pits are
- 9 reconnected to the receiving environment.
- 10 In this morning discussion, Environment and
- 11 Climate Change Canada expressed interest in application
- 12 of an alternative process for total dissolved solid
- 13 management for Meadowbank which would be apply in the
- 14 post-closure phase by which a single numerical limit is
- 15 replaced with a site-specific and scientifically based
- 16 process intended to achieve three components of aquatic
- 17 life protection: 1, no acute toxicity at the point of
- 18 discharge; 2, no unacceptable chronic toxicity at the
- 19 edge of mixing zone; and 3, evaluation of assimilation
- 20 capacity in receiving environment.
- Given the schedule for release at Meadowbank,
- 22 there is ample time, at least six to eight years, to
- 23 better understand the chemical composition of the
- 24 discharge effluent, continue research in the total
- 25 dissolved solid toxicity to relevant test organism, and
- 26 to develop a more scientifically defencible discharge

- 1 limit and corresponding site-specific water quality
- 2 objective. This approach would be consistent with what
- 3 is currently underway for the Meliadine operation.
- 4 It is Agnico intent to continue engagement with
- 5 Environment Climate Change Canada and communicate with
- 6 other regulators and the Board on the design and
- 7 outcomes of these programs. Would Environment and
- 8 Climate Change Canada now support the removal of total
- 9 dissolved solid from the Meadowbank licence if the
- 10 Board includes licence wording that require Agnico
- 11 Eagle to provide a report which address Items 1 to 3
- 12 above as part of the final closure plan for Meadowbank
- 13 or before?
- So in response to that, Environment Climate Change
- 15 Canada ask the imposition of the discharge limit for
- 16 total dissolved solid is not a concern for effluent
- 17 going into the pits, as the water quality will have to
- 18 meet objective prior to reconnection. Is Agnico Eagle
- 19 able to commit to no discharge to the receiving
- 20 environment prior to development and approval of the
- 21 described plan?
- 22 And in response to Environment and Climate Change
- 23 Canada, Agnico Eagle commit to not discharge to the
- 24 receiving environment prior to the development and
- 25 approval of the described plan.
- 26 Agnico Eagle would recommend the Nunavut Water

- 1 Board to capture this agreed approach on the definition
- 2 of new total dissolved solid criteria as part of the
- 3 updated water licence. Thank you.
- 4 THE CHAIR: Thank you.
- 5 Any comments? Climate Change -- Environment and
- 6 Climate Change Canada.
- 7 Submissions by Environment and Climate Change Canada
- 8 MS. WILSON: Thank you, Mr. Chair. Anne
- 9 Wilson with Environment and Climate Change Canada.
- 10 As alluded to earlier, our concern with the
- 11 removal of the TDS limit pertained to potential
- 12 discharges with the higher sulphate limits and the
- 13 higher TDS that are predicted to exceed the licence
- 14 limits as they stand now. That had never been assessed
- in the previous water licence or in the environmental
- 16 assessment before.
- 17 So when the proposal was made to switch to a
- 18 site-specific approach, I would support the use of the
- 19 acute and chronic toxicity and, equally importantly,
- 20 the evaluation of effects in the receiving environment.
- 21 And my understanding or hope would be that this plan
- 22 will have to be approved by the Board with review by
- 23 everybody prior to any implementation. And if there is
- 24 no discharge to the receiving environment between now
- 25 and then, that would alleviate our concerns with the
- 26 removal of the limit. So if there's any questions on

- 1 that, I'd be happy to answer them.
- 2 THE CHAIR: Thank you.
- 3 Any questions?
- 4 MR. GROLEAU: Michel Groleau, Agnico Eagle.
- 5 Thank you, Mr. Chair.
- 6 We don't have further comment, and we want to
- 7 thanks -- thanks Environment and Climate Change Canada
- 8 for the good discussion we have on that topic. Thank
- 9 you.
- 10 THE CHAIR: Thank you.
- 11 So I think we are ready to moving into closing
- 12 statements.
- 13 Discussion
- 14 MS. MEADOWS: Mr. Chair? Thank you,
- 15 Mr. Chair. Teresa Meadows, legal counsel for the
- 16 Nunavut Water Board.
- 17 Mr. Chair, I still have some -- a few more
- 18 housekeeping procedural matters to address before we go
- 19 into closing remarks, so with your permission.
- 20 So we've received several documents for filing
- 21 proposed to be filed as exhibits in the public hearing.
- 22 The first five documents are electronic copies of the
- 23 resumes or curriculum vitae of Agnico Eagle's experts.
- 24 So that would be CVs for Cameron Stevens, Gary
- 25 Lawrence, John Faithful, Gillian Allen, and Nicola
- 26 Lower, and I have received those electronic copies.

- 1 They have also been circulated amongst legal counsel
- 2 for the parties, and I just ask now if there are any
- 3 objections on the part of any of the parties here to
- 4 filing those electronic copies as the electronic
- 5 exhibits in the public hearing.
- 6 So if I can ask counsel for the KIA whether or not
- 7 you have any objections to filing those exhibits.
- 8 MS. KING: It's Jennifer King, legal
- 9 counsel for Kivalliq Inuit Association. I have no
- 10 objection.
- 11 MS. MEADOWS: And, Mr. Dewar, I don't know
- 12 if you can speak on behalf of the quiet Mr. Kohlenberg,
- 13 who is on the phone, but whether or not the federal
- 14 family would have any objections to filing those
- 15 exhibits.
- 16 MR. DEWAR: Thank you. Spencer Dewar,
- 17 Crown-Indigenous Relations and Northern Affairs Canada.
- We have no objections.
- 19 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 20 Meadows, legal counsel for the Nunavut Water Board.
- 21 So, Mr. Chair, those exhibits I propose to file as
- 22 the next five exhibits in the public hearing.
- 23 EXHIBIT 16 Electronic Copy Only Resume of
- 24 Cameron Stevens (English)
- 25 EXHIBIT 17 Electronic Copy Only Resume of
- 26 Gary Lawrence (English)

- 1 EXHIBIT 18 Electronic Copy Only Resume of
- John Faithful (English)
- 3 EXHIBIT 19 Electronic Copy Only Resume of
- 4 Gillian Allen (English)
- 5 EXHIBIT 20 Electronic Copy Only Resume of
- 6 Nicola Lower (English)
- 7 MS. MEADOWS: Moving on, this morning, the
- 8 Kivalliq Inuit Association provided a document that
- 9 provides commentary on some terms and conditions of the
- 10 draft water licence. It was also circulated to
- 11 counsel, and I have an email confirmation from counsel
- 12 for the Department of Justice that the Department has
- 13 no objections to the filing of that material, but
- 14 perhaps if I can get counsel for the Kivalliq Inuit
- 15 Association to just set the table for what that exhibit
- 16 is and -- and then we'll move to Agnico Eagle. Thank
- 17 you, Mr. Chair.
- 18 MS. KING: Thank you. Thank you,
- 19 Mr. Chair. Jennifer King, legal counsel -- counsel for
- 20 Kivalliq Inuit Association.
- 21 Agnico Eagle's response package dated
- 22 January 30th, 2020, enclosed revised recommended drafts
- 23 of the water licences as we've heard which included
- 24 additional revisions to the drafts that they filed on
- 25 December 20th, 2019. The Kivallig Inuit Association
- 26 provided some comments to the Board on Agnico Eagle's

- 1 December 20th, 2019, drafts. KIA has not
- 2 comprehensively reviewed Agnico Eagle's January 30th
- 3 draft licences. And, to be clear, whether or not KIA
- 4 has commented on a particular provision in Agnico
- 5 Eagle's draft licences should not be taken to indicate
- 6 support or not support. That said, we also expect that
- 7 the Board will exercise its discretion in issuing its
- 8 licences and in reviewing the proposed drafts from
- 9 Agnico Eagle.
- 10 KIA does wish to make additional general comments
- 11 regarding Agnico's January 30th drafts which it
- 12 outlines in its proposed exhibit that we have sent to
- 13 the Board legal counsel and to Department of Justice
- 14 and legal counsel for Agnico Eagle. Having no
- 15 objections to submitting it, we ask that the electronic
- 16 document be marked as the next exhibit. I won't read
- 17 out the comments in it, and I have seen some responding
- 18 comments from Agnico Eagle, but perhaps we can deal
- 19 with that -- any comments we have on that next.
- 20 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 21 Meadows, legal counsel for the Nunavut Water Board.
- 22 So perhaps if I can turn to Agnico Eagle, if you
- 23 have any objections to the proposed exhibit being
- 24 entered in the public hearing record, being the
- 25 comments provided by the Kivalliq Inuit Association
- 26 this morning and circulated to legal counsel.

- 1 Thank you, Mr. Chair.
- 2 THE CHAIR: Thank you.
- 3 Go ahead, Applicant.
- 4 MS. KOWBEL: My apologies, Mr. Chair.
- 5 Thank you, Mr. Chair. Christine Kowbel, legal counsel
- 6 for Agnico Eagle.
- 7 Assuming it is the same document that was
- 8 circulated by email this morning by KIA's legal
- 9 counsel, Agnico Eagle has no concerns with KIA's
- 10 comments being marked as an exhibit in this proceeding.
- 11 Thank you.
- 12 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 13 Meadows, legal counsel for the Nunavut Water Board.
- So, Mr. Chair, with that, we will enter that
- 15 document that was indeed circulated this morning at
- 16 8:11 AM amongst legal counsel and copying
- 17 Crown-Indigenous Relations and Northern Affairs Canada
- 18 as the next exhibit in the public hearing.
- 19 EXHIBIT 21 Electronic Copy Only Kivalliq
- 20 Inuit Association Comments on Agnico Eagle
- 21 Mines Limited, January 30, 2010 Draft Water
- 22 Licence Framework (English)
- 23 MS. MEADOWS: And in response to that
- 24 submission, it's my understanding that Agnico Eagle
- 25 also has a document that they wish to offer to also be
- 26 filed on the public hearing record. It was also

- 1 circulated just after lunchtime amongst the -- amongst
- 2 legal counsel for the parties, and if I can have
- 3 Ms. Kowbel address what that document is and what's
- 4 being offered for filing. We will then turn to the
- 5 parties after that.
- 6 MS. KOWBEL: Thank you, Mr. Chair.
- 7 Christine Kowbel, legal counsel. I would just like one
- 8 moment to confer with my client. Thank you.
- 9 Thank you, Mr. Chair. Christine Kowbel, legal
- 10 counsel for Agnico Eagle.
- 11 So what Agnico Eagle has done -- Kitikmeot
- 12 Inuit -- or, sorry, Kivalliq Inuit Association had
- 13 given their comments in a -- in a document this
- 14 morning, and just for convenience of everybody, what
- 15 Agnico's done in the interest of time is inserted just
- 16 into that same document in bold and underline their
- 17 comments on -- on those submissions of the Kivalliq
- 18 Inuit Association. We've tried to be constructive in
- 19 those comments. In some cases we've -- we've agreed
- 20 with the Kivalliq Inuit Association's suggestions,
- 21 and -- and we've tried to be clear about that. And
- 22 where we don't agree, we've tried to find
- 23 commonplace -- common ground. But -- but we do want to
- 24 emphasize to the Board that -- that, just as the
- 25 Kivallig Inuit Association's legal counsel has said, we
- 26 know that the -- the wording of the licence, the final

- 1 wording on the licence is a decision for the Board and
- 2 not for the proponent or -- or any of the parties.
- 3 The -- the important thing for -- for the company is
- 4 that -- I just want to emphasize that timeline is very
- 5 important, that they do want to start work on this
- 6 project if approved and -- in -- as early as May 2020.
- 7 And so -- and so if there are disagreements with how
- 8 the licence should be worded, we -- we don't want that
- 9 to cause any delay. We'd like the Board to make the
- 10 decision about those things. So those are my prefacing
- 11 remarks, and -- and thank you very much to the Kivalliq
- 12 Inuit Association for giving their input. Thank you.
- 13 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 14 Meadows, legal counsel for the Nunavut Water Board.
- So perhaps we'll turn to the Kivallig Inuit
- 16 Association first to comment on whether or not you have
- 17 any objections to this material being filed and entered
- 18 as the next exhibit. And then as a heads-up for
- 19 Crown-Indigenous Relations and Northern Affairs Canada,
- 20 I don't know if Dale is on the phone right now. No?
- 21 So I don't have from him a response to filing this, so
- 22 I'm not sure if he's -- if he's got any objection. So
- 23 maybe if you can just email him, and perhaps we'll just
- 24 mark it as an exhibit if you can't get ahold of him in
- 25 the short term until after the closing remarks. Thank
- 26 you, Mr. Chair.

- 1 MS. KING: Thank you. Jennifer King,
- 2 legal counsel for Kivalliq Inuit Association. Thank
- 3 you, Mr. Chair.
- 4 The Kivalliq Inuit Association appreciates Agnico
- 5 Eagle's efforts to discuss KIA's comments over the past
- 6 few days. I have briefly reviewed Agnico Eagle's
- 7 responding comments to KIA's comments. The document
- 8 comments on Agnico Eagle's beliefs regarding the
- 9 Kivalliq Inuit Association's positions on certain
- 10 matters. I have not had the opportunity to review
- 11 these responses with my client, and I'm not in a
- 12 position to support Agnico Eagle's characterization of
- 13 KIA's position with regards to a couple of issues
- 14 there. On that understanding, we do not object to
- 15 these comments being marked as an exhibit at this
- 16 public hearing.
- 17 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 18 Meadows, legal counsel for the Nunavut Water Board.
- 19 So for the benefit of the parties who have not
- 20 been able to either see these documents or, sort of,
- 21 hear the tone and tenor, there are some statements that
- 22 say "We believe that the Kivalliq Inuit Association is
- 23 aligned with" -- and then -- and then there's a
- 24 response from Agnico Eagle. So the Board hears that --
- 25 that limitation or notes that that limitation -- that
- 26 there's not necessarily time and ability to confirm or

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1 deny that at this point. So we will take that under
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2 advisement for any limitations that might be contained

- 3 in the document. But -- and we will, for now, mark
- 4 this as an exhibit, and then I will follow up with --
- 5 with Mr. Dewar if Dale has not been able to get back to
- 6 you yet.
- 7 So with that, Mr. Chair, I will mark it as an
- 8 exhibit, and we'll defer the entry of that exhibit
- 9 until -- until we've been able to confirm with
- 10 Mr. Kohlenberg.
- 11 EXHIBIT 22 Electronic Copy Only Agnico
- 12 Eagle Mines Limited Response to Exhibit 21
- 13 (Kivallig Inuit Association Comments on
- 14 Agnico Eagle Mines Limited, January 30, 2010,
- Draft Water Licence Framework) (English)
- 16 MS. MEADOWS: And so, Mr. Chair, with that,
- 17 those are the final procedural matters before we go
- 18 into closing remarks.
- 19 THE CHAIR: Okay. We'll now turn to
- 20 opportunity for each of the parties to provide us with
- 21 brief closing remarks starting with intervenors and
- 22 ending with Applicant. So start with Kivalliq Inuit
- 23 Association.
- 24 Closing Remarks by Kivalliq Inuit Association
- 25 MR. MANZO: Thank you, Mr. Chairman. My
- 26 name is Luis Manzo, Kivalliq Inuit Association.

1 First of all, I would like to thank the Board.

- 2 Also, I would like to thank the staff and the
- 3 translators for the perfect work in these two -- two
- 4 days. It's very impressive how we went through all
- 5 these hearings in very short period of time. I also
- 6 would like to thanks AEM for all their contribution
- 7 in -- in exhaustive meetings that we cooperate. Also,
- 8 to the -- to the intervenors. They also were flexible
- 9 to KIA for any meaningful concerns that we may have and
- 10 issues in which the federal government has
- 11 responsibilities under the specific Acts.
- 12 I would like to say that the Kivalliq Inuit
- 13 Association is pleased at the results of the shared
- 14 efforts and -- during this water licence process. The
- 15 KIA has worked hard along with the other intervenors
- 16 and parties in this table and, more -- and, more
- 17 importantly, with the community -- with the community
- 18 members to ensure that the expansion of the Whale Tail
- 19 project comply with the existing -- with the -- with
- 20 the existing regulations and mandates.
- 21 KIA will also like to remind AEM the important
- 22 role KIA has as a landowner and in that role, also
- 23 encompasses the comanagement component and
- 24 responsibilities in regard to water.
- 25 And, with that, I would like to rest -- ensure
- 26 that the KIA primary concern is and will always be the

- 1 protection of the people of the Kivalliq, its
- 2 communities, its lands, its waters, and its wildlife.
- 3 Thank you, Mr. Chairman.
- 4 THE CHAIR: Thank you.
- Next to have a closing statement, Crown-Indigenous
- 6 Relations and Northern Affairs.
- 7 Closing Remarks by Crown-Indigenous Relations and
- 8 Northern Affairs Canada
- 9 MR. DEWAR: Thank you, Mr. Chair. Spencer
- 10 Dewar, Crown-Indigenous Relations and Northern Affairs
- 11 Canada.
- 12 Thank you to the Water Board and the Board members
- 13 for hearing us. Thank you to the hamlet of Baker Lake,
- 14 my fellow intervenors, and to Agnico Eagle. I'd also
- 15 like to thank the translators and the transcriber.
- 16 CIRNAC is satisfied with the information provided
- 17 by Agnico Eagle, and we have no further concerns to be
- 18 addressed within the water licencing process. We would
- 19 be remiss if we didn't speak to the draft water licence
- 20 provided by Agnico Eagle.
- 21 While CIRNAC has not provided detailed comments,
- 22 we would like to speak broadly to a few highlighted
- 23 areas. We -- we have no objections for what was filed
- 24 by the Kivalliq Inuit Association, and we broadly agree
- 25 with what was provided today.
- The areas I would like to talk to are the

- 1 provisions related to adaptive management. I just want
- 2 to be clear that CIRNAC believes that this adaptive
- 3 management program should be providing flexibility to
- 4 AEM. The primary purpose of it is for environmental
- 5 protection; therefore, it should provide as much
- 6 clarity as it can, recognizing it would be limited to
- 7 only allowing them to do things that have been assessed
- 8 or reviewed by the Nunavut Water Board.
- 9 The second thing I'd like to talk about is we just
- 10 want to be cognizant that provisions of the water
- 11 licence must not constrain or fetter the Minister of
- 12 Northern Affairs or the Nunavut Water Board's
- 13 decision-making powers or authority.
- And the third provision I'd like to speak to is
- 15 related to security. The Nunavut Water Board sets
- 16 security, and it's the Minister that's responsible for
- 17 holding it. As such, the Minister of Northern Affairs
- 18 takes this role very seriously when considering any
- 19 reductions. Therefore, in most cases, reductions in
- 20 security would be subject to a water licence amendment.
- 21 However, we would be open for future amendments to
- 22 discuss schedules that were based on milestones to
- 23 either ramp up the security or schedules that reflect
- 24 progressive reclamation to reduce security. These
- 25 could be incorporated in a water licence for the
- 26 consideration of a Minister. Thank you.

- 1 THE CHAIR: Thank you.
- Next to have a closing statement, Environment and
- 3 Climate Change Canada.
- 4 Closing Remarks by Environment and Climate Change
- 5 Canada
- 6 MS. WILSON: Thank you, it's Anne Wilson
- 7 with Environment and Climate Change Canada.
- 8 And I would like to thank the Nunavut Water Board
- 9 and the Panel for the opportunity to present our
- 10 intervention on the expansion of the Whale Tail mine.
- 11 This has been a constructive and productive process
- 12 with good information exchange and discussion of
- 13 concerns. Thank you to the Board staff and, as always,
- 14 to the translators and to PIDO for keeping our
- 15 communications going.
- 16 I would like to summarize our main recommendations
- 17 on the few outstanding issues. Those include basing
- 18 the post-closure monitoring period on confirming stable
- 19 water quality at the time and no unexpected conditions,
- 20 noting that the three years as proposed is expected to
- 21 be appropriate. Next, retaining explicit approval of
- 22 plans on a time frame that is reasonable all around.
- 23 And, lastly, just to wrap up the discussion on the
- 24 removal of the total dissolved solids limits, as
- 25 mentioned earlier, our concern has been that there
- 26 could be discharges to the receiving environment of

- 1 effluent with high levels of TDS and/or sulphate, and
- 2 that has never been assessed. AEM has now proposed to
- 3 develop the described site-specific approach to TDS
- 4 discharge management and had asked whether this could
- 5 be a condition of the licence in lieu of regulated
- 6 discharge standards for TDS.
- 7 If there are no discharges going to the receiving
- 8 environment until an alternative approved approach has
- 9 been developed, ECCC does not have concerns with
- 10 removing the TDS limit for that time frame. Agnico
- 11 Eagle has committed to not discharging to the receiving
- 12 environment and to developing the TDS approach
- described earlier as part of or before the submission
- 14 of the final closure and reclamation plan. Development
- of this approach will address the concern with
- 16 unassessed TDS inputs into the lakes. It is also our
- 17 expectation that there will be further information on
- 18 the pit water quality and proposed treatment methods
- 19 for the major ions by that time.
- 20 We hope that ECCC's submissions and presentation
- 21 can be helpful to the Board in drafting the amended
- 22 water licence, recognizing that all the decisions rest
- 23 with the Board. And in closing, I would like to
- 24 commend the Board on a well-run hearing, as always, and
- 25 particularly for the outstanding hospitality. Thank
- 26 you.

- 1 THE CHAIR: Thank you.
- 2 And, next, Fisheries and Oceans Canada to have its
- 3 closing statement.
- 4 Closing Remarks by Fisheries and Oceans Canada
- 5 MR. BEATTIE: Thank you. It's Alasdair
- 6 Beattie with Fisheries and Oceans Canada.
- 7 Mr. Chairman and the Panel members, thank you for
- 8 the opportunity for DFO to present its intervention to
- 9 the Water Board's review of Whale Tail Pit Expansion
- 10 Project as proposed by Agnico Eagle, and we hope our
- 11 interventions have been useful and informative for the
- 12 Board.
- In summary, if the project's approved, DFO will
- 14 work with the proponent to address remaining technical
- 15 aspects of fish and fish habitat protection in detail
- 16 during the Fisheries Act authorization process. In
- 17 particular, we'll work with the proponent to finalize
- 18 the offsetting plans, mitigate the potential for the
- 19 death or -- of fish or the harmful alteration,
- 20 disruption, or destruction of fish habitat from
- 21 watercourse crossings, water withdrawals, and
- 22 downstream effects. DFO anticipates this can be done
- 23 including -- by including clear monitoring, reporting,
- 24 and adaptive management of the proposed activities.
- 25 DFO would like to emphasize that we will also
- 26 undertake additional consultations with Indigenous

1 groups and take into account their recommendations

- 2 during our regulatory process, including the
- 3 development of Fisheries Act authorizations and the
- 4 associated offsetting plans during our regulatory
- 5 process.
- 6 DFO hopes to continue collaboration and
- 7 communications with the proponent to ensure DFO
- 8 understands the details of the project and that the
- 9 proponent understands the requirement to the Fisheries
- 10 Act authorization process. We recognize that the
- 11 introduction of a new Fisheries Act can cause confusion
- 12 for regulators and proponents alike; however, DFO hopes
- 13 that new offsetting guidelines and other available
- 14 policies, including those in development now, will
- 15 provide clarity to the proponent in order to ensure the
- 16 proponent can provide DFO the necessary information in
- 17 a timely manner in order to avoid delays in Fisheries
- 18 Act authorization processes.
- 19 Again, we'd like to thank our hosts, the community
- 20 of Baker Lake, the Chairman, the Board members and the
- 21 Panel members, staff, especially the stenographer, and
- 22 the translators. Thank you. Matna.
- 23 THE CHAIR: Thank you.
- Next Agnico Eagle to have a closing statement.
- 25 Closing Remarks by Agnico Eagle Mines Limited
- 26 MR. QUESNEL: Thank you, Mr. Chair. Excuse

- 1 me. Jamie Quesnel, Agnico Eagle.
- We want to thank the community of Baker Lake for
- 3 hosting us and for participating in these hearings,
- 4 especially given the delayed start. We appreciate the
- 5 Mayor's warm remarks and welcome. Baker Lake is a key
- 6 partner to us in the continuing operation of the Whale
- 7 Tail project. We would not be where we are today
- 8 without your continuing support. Thank you for the
- 9 opportunity to present to you on the changes to the
- 10 water licence that are needed to proceed with the Whale
- 11 Tail Expansion Project, and we look forward to
- 12 continuing to work with you for many years to come.
- 13 Agnico Eagle also wishes to thank the Nunavut
- 14 Water Board, the Kivalliq Inuit Association,
- 15 Crown-Indigenous Relations and Northern Affairs,
- 16 Environment and Climate Change Canada, and Fisheries
- 17 and Oceans Canada for your consideration of this water
- 18 licence amendment application.
- 19 Agnico Eagle has listened carefully to the
- 20 recommendations made by all parties. Where possible,
- 21 we have incorporated those recommendations into this
- 22 application, and where recommendations are not
- 23 appropriate, Agnico Eagle has provided detailed
- 24 technical rationale for the intervenor and the Board's
- 25 consideration. We are pleased that we have now reached
- 26 agreement with the intervenors on all of the technical

- 1 issues that were raised by intervenors during -- during
- 2 the amendment process.
- 3 As confirmed by the Kivalliq Inuit Association and
- 4 Crown-Indigenous Relations and Northern Affairs, we
- 5 have reached full agreement and are pleased to jointly
- 6 recommend to the Board a global security amount of
- 7 50,663,508 Canadian dollars for inclusion in the
- 8 amended Whale Tail water licence and 1,200,000 Canadian
- 9 dollars in the amended Type "B" water licence.
- 10 The only remaining areas of disagreement that
- 11 relate to this amendment are different views on the
- 12 wording on some of the amendments to the water
- 13 licences. We encourage the Board to review the draft
- 14 water licence submitted in January 2020 in detail
- 15 together with the additional updated language we
- 16 suggested during these hearings, as that reflects
- 17 Agnico Eagle's view on the appropriate wording changes.
- In addition, Agnico Eagle has proposed a deemed
- 19 approval clause for consideration in the amended
- 20 licences. Our proposal is that unless the Board
- 21 advises otherwise, plans submitted to the Board would
- 22 be deemed to be approved 15 days after submission. We
- 23 anticipate that plans of particular interest would have
- longer review periods, but this would enable routine
- 25 updates and revisions made in response to direction to
- 26 the Board to be approved in a timely way.

1 Currently, the Board's timeline for approval plans

- 2 is uncertain, and extended approval timelines for even
- 3 routine updates can mean that Agnico Eagle is not
- 4 operating under the most up-to-date plans possible.
- 5 This is not best practice for site management. We
- 6 believe a deemed plan approval clause is a procedural
- 7 tool that could significantly improve the current plan
- 8 review process and support all parties in focusing on
- 9 more significant planned amendments.
- 10 Finally, we request that the current total
- 11 dissolved solids discharge limits be removed from the
- 12 Whale Tail, Meadowbank Type "A" water licences as we
- 13 have discussed today. And as per our discussion with
- 14 Environment Climate Change Canada, we feel we have an
- 15 agreed path forward that would be best suited for this
- 16 parameter.
- 17 Thank you very much to you, Mr. Chair, and to the
- 18 Board and Board staff for holding a well-run,
- 19 productive meeting in challenging circumstances.
- 20 Also, I want to thank the Agnico Eagle team and
- 21 our consultants plus all the intervenors spending
- 22 additional time from their family. We've sacrificed
- 23 some of the challenges related to weather, but also our
- 24 families at home sacrifice for us to -- with our
- 25 passion in these type of discussions in these hearings.
- 26 So I appreciate the extra efforts by everybody.

- 1 We look forward to your decision and
- 2 recommendations on the final terms and conditions of
- 3 our amended water licence. Thank you and safe travels
- 4 to those who are travelling home from Baker Lake today.
- 5 Thank you.
- 6 THE CHAIR: Thank you.
- 7 Before going, I'd like to have legal counsel --
- 8 yeah. Yeah. Take at least five minutes' break.
- 9 MS. MEADOWS: Thank you, Mr. Chair. Teresa
- 10 Meadows, legal counsel for the Nunavut Water Board.
- 11 So, Mr. Chair, we're just going to take a
- 12 five-minute break while I try and follow up with Dale.
- 13 Thank you, Mr. Chair.
- 14 (ADJOURNMENT)
- 15 Closing Remarks
- 16 THE CHAIR: Okay. As we bring this public
- 17 hearing to a close, on behalf of the Board and my
- 18 fellow Panel members, I would like to thank all the
- 19 parties who contributed to make this public hearing and
- 20 community session a success, especially the Applicant,
- 21 Agnico Eagle Mines Limited; intervenors, Kivalliq Inuit
- 22 Association, Crown-Indigenous Relations Northern
- 23 Affairs, Environment and Climate Change Canada, and
- 24 Fisheries and Oceans Canada; NWB staff and legal
- 25 counsel; interpreters, Ben Kogvik, Alexander Aloog;
- 26 court reporter, Christy Longacre, if I'm pronouncing it

- 1 properly; audio facilitator, Ryan Dempster; and the
- 2 community members and the Elders for their valued
- 3 participation in this hearing.
- 4 MS. MEADOWS: Mr. Chair.
- 5 THE CHAIR: Yeah. Go ahead.
- 6 MS. MEADOWS: Sorry to interrupt, Mr. Chair.
- 7 I just wanted to confirm before we close the public
- 8 hearing record that we have confirmed from legal
- 9 counsel for the Department of Justice that they have no
- 10 objection to Agnico Eagle's final exhibit --
- 11 THE CHAIR: Okay.
- 12 MS. MEADOWS: -- being entered onto the
- 13 record. And so we will enter that final exhibit onto
- 14 the record, and that will be the final exhibit filed in
- 15 this public hearing. Thank you, Mr. Chair.
- 16 THE CHAIR: Yeah. Now my fingers are
- 17 folded off. Thank you.
- Thanks also to the caterers and the hamlet of
- 19 Baker Lake for their outstanding hospitality and
- 20 patience with the Board.
- 21 As we are at the end of the hearing, I will make
- 22 some comments to let parties know what happens next for
- 23 the amendment applications.
- The Board will now close the public hearing. What
- 25 this means is that all evidence with regards to these
- 26 amendment applications is now before the Board, and no

1	further information will be considered by the Panel
2	before they make their decision about the amendment
3	applications. Now that the record is closed, the Board
4	will remit the file to the Panel to decide whether or
5	not to grant the amendments to the three water licences
6	as requested by Agnico Eagle.
7	Within 30 days to 45 days after the public hearing
8	closes, NWB will issue its record of proceedings and
9	decision to the Minister of Northern Affairs. If the
10	Board's decision is to grant the amendment
11	applications, drafts of the amended Type "A" water
12	licence and Type "B" water licence will be attached to
13	the Board's decision for the Minister's approval.
14	That concludes the public hearing component of the
15	Nunavut Water Board's consideration of Agnico Eagle
16	Mines Limited applications to amend their existing
17	Water Licence Number 2AM-WTP1826, 2AM-MEA1526, and
18	2BB-MEA1828. (UNREPORTABLE SOUND) I just hit it once.
19	Thank you all. Good afternoon and everybody have
20	safe travel. Thank you all. Let's have a closing
21	prayer.
22	Closing Prayer
23	
24	PROCEEDINGS CONCLUDED
25	
26	

1	CERTIFICATE OF TRANSCRIPT:
2	
3	I, Christy Longacre, certify that the foregoing
4	pages are a complete and accurate transcript of the
5	proceedings, taken down by me in shorthand and
6	transcribed from my shorthand notes to the best of my
7	skill and ability.
8	Dated at the City of Calgary, Province of Alberta,
9	this 23rd day of February 2020.
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13	Clotudigocu
14	Christy Longacre, RPR, CSR(A)
15	Official Court Reporter
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