



Water Resources Division  
Resource Management Directorate  
Nunavut Regional Office  
P.O. Box 100  
Iqaluit, NU, X0A 0H0

Your file - Votre référence  
2AM-WTP1830  
Our file - Notre référence  
CIDM#1292739

February 22, 2021

Mr. Richard Dwyer  
Manager of Licensing  
Nunavut Water Board  
P.O. Box 119  
Gjoa Haven, NU, X0B 1J0  
E-mail: [licensing@nwb-oen.ca](mailto:licensing@nwb-oen.ca)

**Re: Crown-Indigenous Relations and Northern Affairs Canada comments on the Adaptive Management Plan for the Whale Tail Project, Submitted by Agnico Eagle Limited for Water Licence 2AM-WTP1830**

Dear Mr. Dwyer,

Thank you for your February 2, 2021 invitation for review and comment on the above-referenced management plan.

Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) reviewed the application pursuant to its mandated responsibilities under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Department of Crown-Indigenous Relations and Northern Affairs Act*. CIRNAC provides the following comments and recommendations for consideration:

1. It is stated on page one of the adaptive management plan (AMP) that:

All mitigation measures described in this Plan have undergone a self assessment by Agnico Eagle in accordance with the "NIRB Guidance Re Process for Seeking Approval for Modifications to Previously Approved Projects" (April 27, 2018) (the NIRB Guidance), which references Section 90 of the Nunavut Waters and Nunavut Surface Rights Tribunal Act (NuPPAA) *[sic]* and the measure are not considered a "significant modification" under the Nunavut Agreement or NuPPAA.

CIRNAC has not independently verified the above statement. CIRNAC recommends that the licensee obtain confirmation from the Nunavut Impact Review Board (NIRB)



to make sure that all mitigation measures described in the AMP are not considered a “significant modification” under NuPPAA prior to the final approval of the AMP.

2. It is stated on page two of the AMP that:

In the event of a conflict or inconsistency between this Adaptive Management Plan and any other Plan approved under the Type A Water Licence, the Adaptive Management Plan shall prevail to the extent of the conflict or inconsistency.

Inconsistencies between plans could lead to potential confusions. CIRNAC recommends that in the event that inconsistencies between the AMP and other plans are found, that the affected or associated plans be revised in the next annual report.

3. Thermal monitoring is a critical aspect of the adaptive management for the waste rock. CIRNAC notes there is an absence of mitigation measures in the AMP regarding the issue of thermal probe malfunction, a difficulty that has been encountered in the past. CIRNAC recommends that the AMP be revised to include mitigation measures to address thermal probe malfunctions, including what measures or steps will be taken in a case in which no monitoring data or insufficient data is available due to thermal probe malfunction.
4. Table 2 of the AMP assumes that the depth of the thermal active layer is seven meters. CIRNAC notes that 4.2 meters of thermal active layer were previously predicted or assumed in the design of the waste rock facility cover by the Agnico Eagle. CIRNAC recommends that Agnico Eagle explain why two different depths of the thermal active layer have been applied or assumed.
5. The AMP has identified both arsenic and phosphorus as the parameters of concern. Figure 2 of the AMP provided the receiver water quality adaptive management chart for phosphorus only. CIRNAC recommends that the receiver water quality adaptive management chart for arsenic be provided or included in the AMP.
6. Table 3 of the AMP summarizes the strategy for receiver water quality adaptive management. Four levels of concerns are identified. CIRNAC notes that at level three, Agnico Eagle proposes to continue implementing the level two strategy which entails discharging to the receivers (i.e., Mammoth or Whale Tail South Basin) even though the receiver water quality has already exceeded the Canadian Council of Ministers of the Environment (CCME) Water Quality Guidelines for the Protection of Aquatic Life criteria or site-specific water quality objectives. CIRNAC also notes that the site-specific water quality objectives are not defined in the AMP. CIRNAC recommends that Agnico Eagle define its site-specific water quality objectives in the AMP and clarify whether discharge will continue to a receiver after its water quality criteria or water quality objectives have been exceeded prior to the final approval of the AMP.



7. It is stated on page 13 of the AMP that:

As presented by the 1:10 and 1:100 wet year scenario sensitivity analysis of the water balance (Agnico Eagle 2019b), the main driver of this risk is the high recurrence precipitation. Under such event, Agnico Eagle is assuming that the resulting water quality could potentially meet discharge criteria.

It is not clear what exactly Agnico Eagle will do prior to discharge under such event. CIRNAC recommends that the licensee clarify if and how water quality will be confirmed or validated by sampling and measurement data prior to discharge under such event. CIRNAC also recommends that Agnico Eagle clarify if the effluent water quality discharge criteria stipulated in the 2AM-WTP1830 Water Licence will be met under such event. The AMP should be revised prior to approval, should any specific measures or steps be required.

8. CIRNAC would also like to know: 1) whether the AMP will go to the Nunavut Impact Review Board, as per Terms and Conditions in the Project Certificate; 2) the proposed effective date for implementation of the AMP; and 3) the frequency of review of the AMP being proposed by Agnico Eagle.

CIRNAC appreciates the opportunity to participate in this review. If there are any questions, please contact me at (867) 975-4555 or [david.zhong@canada.ca](mailto:david.zhong@canada.ca), or Bridget Campbell at (867) 975-4282 or [bridget.campbell@canada.ca](mailto:bridget.campbell@canada.ca).

Sincerely,

David Zhong  
Regulatory and Science Advisor