



WRITTEN WARNING

NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL ACT

File: [2017-KIV03-CW]

April 13th, 2017

Registered with acknowledgement of receipt

The purpose of this warning is to inform:

Agnico Eagle Mines Limited
Meliadine Division
11600, Rue Louise-Bisson
Mirabel, Quebec
J7N 1G9

c/o Jamie Quesnel
Environment Superintendent
Nunavut Service Group
Agnico Eagle Mines Limited
Meadowbank Division
Baker Lake, Nunavut, Canada
X0C 0A0

c/o Manon Turmel
Environmental Compliance Counselor
Agnico Eagle Mines Limited- Meliadine Division
11600, Rue Louise-Bisson
Mirabel, Quebec
J7N 1G9

c/o Jeffrey Pratt
Senior Environmental Coordinator
Agnico Eagle Mines Limited
Meliadine Project
Rankin Inlet, Nunavut, Canada
X0C 0G0



That information collected during an inspection of your facility at the Meliadine Advance Exploration Project on March 23rd, 2017 as well as information received from Agnico Eagle Mines Limited, Environment Division by the undersigned Inspector designated by the Minister of Indigenous and Northern Affairs Canada under the *Nunavut Waters Nunavut Surface Rights Tribunal Act*, gives me reasonable grounds to believe that Agnico Eagle Mines Limited was in contravention of part D item 11 of their Nunavut Water Board issued water licence no. 2BB-MEL1424 and section 12(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*.

ALLEGED FACTS

February 3rd, 2017 I received information from the NT-NU Spill Line regarding a sewage release from the Meliadine Exploration Camp's Sewage Treatment Plant (STP). Details received from Agnico Eagle Mines Ltd. (AEM) indicated that a release of 2.13KG of oil and grease occurred on December 5th, 2016, and was deposited into Meliadine Lake.

The oil and grease sample collected at sampling station MEL-7 (Mel-7) on December 5th, 2016 were 75mg/L which exceeds the permitted water licence thresholds found in part d, item 11 of water licence no. 2BB-MEL1424 of 5mg/L. The cause of the release was never determined but human error leading to improper disposal of waste was suspected.

On March 23rd, 2017, I received information from the NT-NU Spill Line regarding a sewage release from the Meliadine Exploration Camp's STP. Details received from AEM indicated that a release of effluent with elevated levels of fecal coliforms had occurred on March 13th, 2017 and was deposited into Meliadine Lake.

The samples collected on March 13th, 2017, Mel-7 were 7000CFU/100ml, which exceeds the permitted water licence thresholds of 1000CFU/100ml. The exact volume was not determined however, the average discharge rate from the STP between the two last known compliant samples (March 6th, 2017 and March 23rd, 2017), was 35.72 cubic meters per day.

On March 23rd, 2017 at 14:00 I attended the Meliadine exploration camp with Jeff Tulugak, Kivalliq Inuit Association to gather a duplicate set of grab samples from MEL-7. The following parameters were collected; fecal coliforms, oil and grease, total suspended solids, pH and BOD. The samples were collected and preserved in accordance with the requirements of the methodology for analysis. All samples were collected with gloves, within a plastic bag, placed in a cooler to maintain proper storage temperatures, and shipped to ALS Laboratories (ALS), Winnipeg, Manitoba, using chain of custody form, for analysis.

On March 28th, 2017 I received an emergency draft laboratory analysis report from ALS regarding the Mel-7 March 23rd, 2017 samples. The lab analysis report indicated the duplicate oil and grease samples collected on March 23rd, 2017 had returned results of 12.9mg/L and 13 mg/L which exceed the



permitted water licence threshold of 5mg/L as outlined in part d item 11 of water licence no. 2BB-MEL1424.

On March 29th, 2017 I sent an email copy of the emergency draft laboratory analysis report from ALS regarding the results of samples collected on March 23rd, 2017 at Mel-7 to AEM, Environment Division. Alexandre Gauthier, Environmental Technician confirmed receipt of the report.

Following the e-Mail on March 29th, 2017, I requested a review of the AEM's December 5th, 2016 and March 13th, 2017 laboratory analysis results for Mel-7; and the draft INAC's March 23rd, 2017 laboratory analysis results for Mel-7 by Anne Wilson, Water Quality Specialist, Environment Climate Change Canada. I was provided the following information:

- Most of the parameters measured are not of concern
- The ammonia levels in the samples from March 13th were elevated
- STP-Final Sample EAD681, the total NH₃-N was 40 mg/L, and for STP-Final Sample EBC476 the total NH₃-N was 64; at these levels and at the sample pH measurements of 7.29 and 7.54, acute toxicity in a rainbow trout bioassay test would be likely.
- Based on the March 13, 2017 ammonia levels, in Anne Wilson's opinion, the effluent would be considered as a waste, i.e. a substance that when added to water meets the definition of a waste under the legislation (e.g. *Nunavut Waters and Nunavut Surface Rights Tribunal Act* or the *Canada Water Act*).

On March 30th, 2017 I received the final laboratory analysis report from ALS for samples collected by me on March 23rd at the STP. The lab analysis report indicated the duplicate oil and grease sample were 12.9mg/L and 13 mg/L which exceeds permitted water licence threshold of 5mg/L.

April 12th, 2017 I received AEM laboratory analysis report for the samples they collected on March 23rd at 06:00 from the STP. The lab analysis report indicated that all samples were within the permitted water licence thresholds.

I am aware that Meliadine Lake is generally located at 63° 01'40.0"N, 92° 10'06.3" in the Kivalliq Region of Nunavut. Meliadine Lake is considered inland waters as defined by the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*.

Based on the opinion of Anne Wilson, ECCC, Water Quality Expert, the information that I have collected and that which has been provided to me, I believe that the ammonia levels found in the March 13th, 2017 sample would meet the definition of a waste found in the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*.

Based on my experience as a Water Resource Officer and as an INAC Inspector, I am aware that except in accordance with the conditions of a licence, no person shall permit the deposit of waste into waters, in Nunavut or in any place that may enter water. I am also aware that compliance with the terms and



conditions of a licence does not absolve a person from responsibilities for compliance with requirements of all applicable Federal, Territorial, Municipal legislation.

Based on the aforementioned facts, I have reasonable grounds to believe that Agnico Eagle Mines Limited has contravened part d item 11 of their water licence no. 2BB-MEL1425, furthermore Agnico Eagle Mines Limited deposited or allowed to be deposited, a waste in Nunavut in contravention of subsection 12(1) of the *Nunavut Waters Nunavut Surface Rights Tribunal Act*.

THE LAW

Nunavut Waters and Nunavut Surface Rights Tribunal Act

Deposit of waste

12. (1) Subject to subsection (2) and except in accordance with the conditions of a licence, no person shall deposit or permit the deposit of waste
- (a) in waters in Nunavut; or
 - (b) in any other place in Nunavut under conditions in which the waste, or any other waste that results from the deposit of that waste, may enter waters in Nunavut.

Exceptions

- (2) Subsection (1) does not apply in respect of
- (a) any unlicensed deposit of waste that is authorized by the regulations; or
 - (b) the deposit of waste in a national park.

Duty to report deposits

- (3) Where waste is deposited in contravention of this section, every person who owns or has the charge, management or control of the waste, or who caused or contributed to the deposit, shall, subject to the regulations, without delay report the deposit to an inspector.

Principal offences

90. (1) Any person who contravenes subsection 11(1) or section 12, or fails to comply with subsection 11(3) or with a direction given by an inspector under subsection 87(1), is guilty of an offence and liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding one year, or to both.

Type A licences

- (2) A licensee holding a type A licence who
- (a) contravenes any condition of the licence, where the contravention does not constitute an offence under section 91, or
 - (b) fails, without reasonable excuse, to furnish or maintain security as required under subsection 76(1)
- is guilty of an offence and liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding one year, or to both.



Type B licences

- (3) A licensee holding a type B licence who
- (a) contravenes any condition of the licence, where the contravention does not constitute an offence under section 91, or
 - (b) fails, without reasonable excuse, to furnish or maintain security as required under subsection 76(1)
- is guilty of an offence and liable on summary conviction to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding six months, or to both.

Continuing offences

- (4) Where an offence under this section is committed on or continued for more than one day, it is deemed to be a separate offence for each day on which it is committed or continued.

Other offences

91. Any person is guilty of an offence punishable on summary conviction who
- (a) contravenes subsection 86(4) or section 88, or any regulations made under paragraph 82(1)(o), (p) or (q); or
 - (b) wilfully obstructs or otherwise interferes with a licensee or any person acting on behalf of a licensee in the exercise of the licensee's rights under this Part, except as authorized under this or any other Act of Parliament.

CONCLUSION

This warning alleges a contravention of section 12(1) of the *Nunavut Waters Nunavut Surface Rights Tribunal Act*. It is intended to bring this matter to your attention in order for you to take the necessary corrective action to ensure compliance with the *Nunavut Waters Nunavut Surface Rights Tribunal Act* or in order for you to exercise due diligence in the future. This document is not finding of guilt or civil liability, and is not an administrative adjudication.

This warning and the circumstances to which it refers will form part of Indigenous and Northern Affairs Canada's (INAC) records of the Agnico Eagle Mines Limited, and will be taken into account in future responses to alleged violations and for internal purposes such as setting the frequency of inspections. INAC will consider taking further action if you do not take all necessary corrective steps to comply or if you do not exercise due diligence in the future.

The complete text of the *Nunavut Waters Nunavut Surface Rights Tribunal Act* is available on canlii website: <https://www.canlii.org/en/ca/laws/stat/sc-2002-c-10/latest/sc-2002-c-10.html>

For more information or to respond to the alleged facts contained in the warning, please call or write the undersigned. Your comments will be considered, and where appropriate, a response provided. Any



comments you make, as well as INAC response will be maintained on file with this warning in INAC's records.

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