



October 27, 2017

Sophia Granchinho  
Manager, Impact Assessment  
Nunavut Impact Review Board  
PO Box 534  
Arviat, NU  
X0C 0E0

**Re: NIRB Exception Determination Report (NIRB File No. 16MN056), released  
October 10, 2017**

Dear Ms. Granchinho,

Thank you for providing us with the Nunavut Impact Review Board's (NIRB) Determination Report (the Exception Determination Report) for the Whale Tail Pit Project Type B Predevelopment Application (the Predevelopment Application) in accordance with 12.10.2(b) of the Nunavut Agreement and s. 155 of the *Nunavut Planning and Project Assessment Act*.

Agnico Eagle appreciates the NIRB's exception of certain activities from NIRB's Review of the Whale Tail Pit Project proposal, including redelivery of material, fuel and equipment, construction of concrete pads and upgrading/widening of the Whale Tail Pit haul road (the Approved Activities). However, Agnico Eagle notes that several activities, including construction of a temporary bridge crossing, development of Quarry 2 and various service roads, were rejected for pre-development (the Rejected Activities). As outlined in this letter, Agnico Eagle has several comments and concerns with respect to the Exception Determination Report.

### ***1. The Exception Determination Report is Premature***

The timing of the Exception Determination Report was surprising to us. Based on discussions with NIRB staff and as communicated during the Final Hearing, it was Agnico Eagle's understanding that the Exception Determination Report would be issued at the same time as or following the NIRB Final Hearing Report on the Whale Tail Pit Project to the Minister (see Day 3 Transcript, NIRB Final Hearing, page 380):

*We actually acknowledge that permission to proceed with predevelopment is not an indicator of the Board's ultimate decision on the Whale Tail Pit Project itself,*

*and we are asking for the predevelopment decision by the end of November or mid-November and might be issued simultaneously with the Nunavut Impact Review Board's final hearing report for the Whale Tail Pit Project.*

The Government of Nunavut (GN) also recommended that the Exception Determination Report should be rendered when, or shortly after, the NIRB makes its recommendation to the Minister with respect to the Whale Tail Project.

## ***2. Most of the Rejected Activities Fall within Schedule 12-1 of the Nunavut Agreement***

With the exception of the construction of the waste rock berm, the Rejected Activities do not trigger any significant operational permitting requirements and would ordinarily fall within Schedule 12-1 of the Nunavut Agreement. This means the potential for impact for these activities are considered sufficiently understood to regularly proceed without NIRB screening or review.

For example, quarries and exploration roads located on Inuit Owned Lands are generally permitted under Kivalliq Inuit Association (KivIA) land use licences and do not trigger NIRB screening. On August 17, 2017 the KivIA submitted a letter of support for the Predevelopment Application to the NIRB, and indicated that they would issue the necessary surface approvals in accordance with their applicable policies and requirements.

Similarly, the temporary bridge crossing would not trigger an authorization or any other approval under the *Fisheries Act* from Fisheries and Oceans Canada, and would be built in accordance with all applicable Fisheries and Oceans Canada policies. The same infrastructure has been used at the Meadowbank site on multiple occasions as well as other sites in Nunavut without triggering NIRB screening or review. These types of crossings were used for the construction of the Amaruq exploration road during approved timelines as per DFO guidance documents and approvals.

## ***3. Perceived "Data Gaps" Associated with the Rejected Activities were Fully Addressed in the NIRB Review***

Because the Exception Determination Report was released prior to the Project Report, the NIRB did not have the full benefit of the additional information that was provided during the NIRB review of the Whale Tail Pit Project from August 2017 onwards. Instead, the Board focused primarily on the information supplied with the Exception Request.

The "data gaps associated with the request in relation to these specific activities" were addressed in the NIRB review of the Whale Tail Pit Project. Notably, no party indicated there were any outstanding information requirements relating to the Predevelopment Application during the NIRB Final Hearing.

It was anticipated that monitoring and mitigations associated with the Predevelopment Application would be informed by the outcome of the Final Hearing. In particular,

significant additional commitments were made by Agnico Eagle regarding terrestrial wildlife during the NIRB Final Hearings. These were outlined in detail in Exhibit 21 (Agnico Eagle Commitments re Terrestrial Environment with Reference to KivIA Final Written Submission Comments), Exhibit 22 (Agnico Eagle Terrestrial Environment Commitments with Reference to GN Final Written Submission Comments)<sup>1</sup>, and Exhibit 51 (the Draft Terms of Reference for the Technical Advisory Group).

Based on the commitments and mitigations included in these documents and agreed among Agnico Eagle, KivIA, GN and the Baker Lake HTO, the issues respecting terrestrial wildlife that were outstanding as of August 2017 were all resolved to the satisfaction of the parties during the NIRB Final Hearing. This was confirmed by each of these parties during and at the end of the NIRB Final Hearing. As an example, see the closing statements made by the GN (Day 4 NIRB Final Hearing Transcript, page 762):

*When we entered this process, we had a number of outstanding concerns surrounding wildlife and, in particular, caribou. We are pleased to say that in discussions with Agnico Eagle and the Kivalliq Inuit Association and the Baker Lake Hunters and Trappers Organization, these concerns have been addressed. Agnico Eagle has committed to a series of terms and conditions that we believe will ensure that impacts on wildlife, especially caribou, are minimized. Agnico Eagle has also committed to a monitoring program to ensure that any effects on wildlife are identified and addressed. Lastly, Agnico Eagle has agreed, as the Hunters and Trappers Organization mentioned, to the establishment of a terrestrial advisory group, a multi-agency group to ensure ongoing cooperation and communication on monitoring and mitigation of wildlife and environmental impacts. This is an important step and a framework for the future. On balance, the Government of Nunavut feels that the benefits far outweigh the impacts.*

The commitments made by us which addressed the GN concerns are set out in Exhibits 22 and 51 which we submitted at the Final Hearing.

## **Conclusion**

Agnico Eagle included all of the activities in the Predevelopment Application in order to support timely and efficient construction and operation of the Whale Tail Pit Project. We would be very pleased if the Board would be prepared to give further consideration to pre-development of the Rejected Activities as part of the Project Report if that would be appropriate. The key areas for consideration are related to road construction to Quarry 2 and Nemo Lake plus the development of Quarry 2, including a stockpile location. Quarry 2 is required to develop construction material for the Whale Tail Dike and stockpile this NPAG material on the western side of Whale Tail Lake.

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<sup>1</sup> It is noted that the commitments set out in Exhibit 22 were developed jointly by Agnico with the GN and are intended by the parties to supersede the GN's recommendations relating to wildlife set out in Exhibits 28, 29, 30 (which were prepared by GN prior to the beginning of the NIRB public hearing and based on the GN Final Written Submission).

Should you have any questions or require additional clarification, please contact the undersigned directly at [Jamie.quesnel@agnicoeagle.com](mailto:Jamie.quesnel@agnicoeagle.com) or by phone at 819-856-0821.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Quesnel', with a stylized, cursive script.

Jamie Quesnel

[Jamie.quesnel@agnicoeagle.com](mailto:Jamie.quesnel@agnicoeagle.com)

819-759-3555 x6838

Environment Superintendent-Nunavut