

Environmental Protection Operations Directorate  
Prairie & Northern Region  
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P.O. Box 2310  
Yellowknife, NT X1A 2P7

ECCC File: 6100 000 010/033  
NWB File: 2BE-HOP2232



September 25, 2024

via email at: [licensing@nwb-oen.ca](mailto:licensing@nwb-oen.ca)

Richard Dwyer  
Manager of Licensing  
Nunavut Water Board  
P.O. Box 119  
Gjoa Haven, NU X0B 1J0

Dear Richard Dwyer:

**RE: 2BE-HOP2232– Agnico Eagle Mines Limited – Hope Bay Project – Modification  
Request Gravel track**

Environment and Climate Change Canada (ECCC) has reviewed the information submitted to the Nunavut Water Board (NWB) regarding the above-mentioned modification request.

ECCC provides expert information and knowledge to project assessments on subjects within the department's mandate, including climate change, air quality, water quality, biodiversity, environmental preparedness and emergencies. This work includes reviewing proponent characterization of environmental effects and proposed mitigation measures. We provide advice to decision-makers regarding a proponent's characterization of environmental effects, the efficacy of their proposed mitigation activities, and may suggest additional mitigation measures. Any comments received from ECCC in this context does not relieve the proponent of its obligations to respect all applicable federal legislation.

The following comments are provided:

**1. Topic: Project activities within Migratory Bird Habitat and Project activities during nesting season**

Reference(s)

- Licence Modification Scope description

Comment

It is unclear to ECCC Canadian Wildlife Service (CWS) from the brief Scope Description of the water license modification request when in the calendar-year the gravel-track construction activity(ies) will take place.



ECCC-CWS would reiterate as it has in its review of the Hope Bay Interim Closure and Reclamation Plan (ICRP) ver. 7.1 (February 2020) that the proponent of the project avoid habitat disturbance during the nesting period for migratory bird species.

The Migratory Birds Regulations (MBR) prohibit the disturbance or destruction of migratory birds and their nests or eggs. The nests of all migratory birds are protected when they contain a live bird or viable egg. The nests of 18 species, listed in Schedule 1 of MBR 2022, whose nests are reused by migratory birds, are protected year-round, unless they have been shown to be abandoned. Additional protections may apply to Species at Risk Act (SARA) listed migratory bird species.

The project activities may occur during the nesting season for migratory birds which extends from Mid-May to Mid-August for this region.

Migratory birds, their nests and their eggs can be inadvertently harmed, killed, disturbed or destroyed because of many activities including, but not limited to, clearing of shrubs and other vegetation, draining or flooding land, sensory disturbances from blasting and high noise activities, or using fishing gear.

Harming of individual birds, nests or eggs, can have long-term consequences for migratory bird populations in Canada, especially through the cumulative effects of many different incidences.

#### ECCC Recommendation(s)

ECCC recommends the Proponent carry out all phases of the project in a manner that reduces risk to migratory birds and to avoid harming, killing or disturbing migratory birds or destroying, disturbing or taking their nests and eggs.

Proponents should not conduct potentially destructive or disruptive activities at key locations or during key periods to avoid negative impacts to migratory birds.

In this regard, the Proponent should take into account ECCC's [Guidelines to Avoid Harm to Migratory Birds](#) and visit [Fact Sheet Nest Protection Under the Migratory Birds Regulations, 2022](#) and [Frequently Asked Question, Migratory Birds Regulations, 2022](#) for more information on the amended Migratory Bird Regulations and updates to nest protections

## **2. Topic: Project activities disturbing migratory bird nesting habitat during nesting season**

#### Reference(s)

- Licence Modification Scope description

#### Comment

It is unclear to ECCC-CWS from the brief Scope Description of the water license modification request when in the calendar-year the gravel-track construction activity(ies) will take place.

ECCC-CWS would reiterate as it has in its review of the ICRP ver. 7.1 (February 2024) that the proponent of the project avoid habitat disturbance during the nesting period for migratory bird species.

Vegetation clearing or brushing may be required during the general nesting period as part of project activities, which could lead to migratory bird habitat alteration and/or disturbance. The Migratory Birds Regulations prohibit the disturbance or destruction of migratory birds and their nests or eggs.

The Project is located in Nesting Zone N9. In this area, migratory birds may be found nesting from Mid-May to Mid-August.

During this period, vegetation clearing, brushing, excavation, progressive reclamation, and material contouring activities may disturb or alter nesting habitat along with blasting and other sensory disturbances that may increase the risk of destruction or abandonment of the nests and eggs of migratory birds. It is important to note that nesting periods may vary from year to year due to climatic conditions and some species may nest outside the dates provided if conditions are favourable.

If there are occupied migratory bird nests where work is planned, activities that could disturb or destroy nests should be avoided, adapted, rescheduled or relocated. The best way to avoid disturbing or destroying active nests is to avoid conducting harmful activities during the nesting season.

#### ECCC Recommendation(s)

ECCC recommends the Proponent adequately avoid vegetation clearing, brushing, excavation, material contouring, blasting, sensory/infrastructure disturbance and/or other forms of habitat disturbance during the general nesting period, which extends from Mid-May to Mid-August for this region.

The Proponent must consider options such as avoiding, adapting, rescheduling or relocating activities. If a nest containing a migratory bird or egg is discovered/disturbed, the Proponent must:

- A) Halt all disruptive activities in the nesting area until nesting is complete and the young have fledged; and
- B) Establish a protective buffer zone around the nests. The buffer zone must be determined by a setback distance appropriate for the species, the intensity of the disturbance, and the surrounding habitat until the young have naturally and permanently left the vicinity of the nest. Proponents are encouraged to follow the guidance on ECCC's Guidelines to Avoid Harm to Migratory Birds.

For further questions or technical information, please contact ECCC ([cwsnorth-scfncord@ec.gc.ca](mailto:cwsnorth-scfncord@ec.gc.ca) and [Russell.Wykes@ec.gc.ca](mailto:Russell.Wykes@ec.gc.ca)).

### 3. Topic: Engine Emissions Standards for Heavy Equipment

#### Reference(s)

- NWB Modification Gravel Track, Section 1.2 Gravel Track Description

#### Comment

Section 1.2 states that construction of the road will require the use of heavy machinery such as a backhoe (Caterpillar 330 or similar), grader, dump truck, and/or crane. It is not evident what equipment will be sourced externally, nor the engine emission standards for the equipment being used.

#### ECCC Recommendation(s)

ECCC requests that any heavy equipment sourced externally for the gravel track construction be equipped with engines meeting Tier 4 emission standards.

If you need more information, please contact Russell Wykes at (867) 446-1263 or [Russell.Wykes@ec.gc.ca](mailto:Russell.Wykes@ec.gc.ca).

Sincerely,

Russell Wykes  
Senior Environmental Assessment Officer

cc: Eva Walker, Head, Environmental Assessment North (NT and NU)