

12.4.4 (a): the proposal may be processed without a review under Part 5 or 6; NIRB may recommend specific terms and conditions to be attached to any approval, reflecting the primary objectives set out in Section 12.2.5.

RECOMMENDED PROJECT-SPECIFIC TERMS AND CONDITIONS
(pursuant to Section 12.4.4(a) of the NLCA)

The Board is recommending the following or similar project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

General

1. Agnico-Eagle Mines Ltd (the Proponent) shall maintain a copy of the Project Terms and Conditions at the site of operation at all times.
2. The Proponent shall forward copies of all permits obtained and required for this project to the Nunavut Impact Review Board (NIRB) prior to the commencement of the project.
3. The Proponent shall operate in accordance with all commitments stated in correspondence provided to the NIRB.
4. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

Water

5. The Proponent shall ensure the use of containment booms and berms to control potential spills whenever fuel and or waste are transferred between a barge and the shore. The Proponent shall ensure spill kits are at hand at these locations at all times.
6. The Proponent shall not use water, including constructing or disturbing any stream, lakebed or the banks of any definable water course unless approved by the Nunavut Water Board.

Fuel and Chemical Storage

7. Once offloaded, the Proponent shall locate all fuel and other hazardous materials a minimum of thirty (30) metres away from the high water mark of any water body and in such a manner as to prevent their release into the environment.
8. The Proponent shall report all spills of fuel, or other deleterious materials immediately to both the NT/NU 24 hour Spill Line at (867) 920-8130 and to Environment Canada's 24 Hour Duty Officer at 867-766-3737.
9. The Proponent shall use self-supporting insta-berms at barreled fuel cache locations, and drip pans or other similar preventative measures when refueling equipment at the project site.
10. The Proponent shall transport and treat contaminated soils at an approved disposal site.

Regulatory Requirements

The Proponent is also advised that the following legislation may apply to the project:

1. The *Fisheries Act* (<http://laws.justice.gc.ca/en/showtdm/cs/F-14///en>).

2. The *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (<http://www.canlii.org/ca/sta/n-28.8/whole.html>).
3. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* (<http://laws.justice.gc.ca/en/showtdm/cs/M-7.01>).
4. The *Species at Risk Act* (<http://laws.justice.gc.ca/en/showtdm/cs/S-15.3>). Attached in **Appendix B** is a list of Species at Risk in Nunavut.
5. The *Nunavut Wildlife Act* which contains provisions to protect and conserve wildlife and wildlife habitat, including specific protection measures for wildlife habitat and species at risk.
6. The *Nunavut Act* (<http://laws.justice.gc.ca/en/showtdm/cs/N-28.6>). The Proponent must comply with the proposed terms and conditions listed in the attached **Appendix C**.
7. The *Navigable Waters Protection Act (NWPA)* (<http://laws.justice.gc.ca/en/N-22/index.html>).

Validity of Land Claims Agreement

Section 2.12.2

Where there is any inconsistency or conflict between any federal, territorial and local government laws, and the Agreement, the Agreement shall prevail to the extent of the inconsistency or conflict.

Dated _____ August 29, 2008 _____ at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

Appendix A

Procedural History and Project Activities

Procedural History

On July 17, 2008 the Nunavut Impact Review Board (NIRB or Board) received Agnico-Eagle Mines Ltd's (AEM or the Proponent's) application for a comprehensive land lease on Commissioner's land for their *Baker Lake Facilities* project proposal (the Project) from the Government of Nunavut, Department of Community and Government Services (GN-CGS).

On July 30, 2008, the NIRB received telephone confirmation from the Nunavut Planning Commission that a conformity determination (Keewatin Regional Land Use Plan) was not required for this project, as the activities applied for have impacts that occur solely within a municipality. NIRB assigned this project proposal file number 08CN076.

A completeness check of the project proposal as submitted was found by the NIRB to contain insufficient information to conduct a Part 4 screening, and on August 8, 2008, the NIRB requested that the necessary information be submitted on or before August 15, 2008. On August 13, 2008, the NIRB received the required information, in addition to a request from the Proponent to withdraw the originally submitted 32-person temporary camp component from the application.

This application was distributed to the Hamlet of Baker Lake and to interested Federal and Territorial Agencies, and Inuit Organizations. The Board requested that interested Parties review the application and provide the NIRB with comments by August 22, 2008 regarding:

- Whether the project proposal is likely to arouse significant public concern; and if so, why;
- Whether the project proposal is likely to cause significant adverse eco-systemic and socio-economic effects; and if so, why;
- Whether the project is of a type where the potential adverse effects are highly predictable and mitigable with known technology, (please provide any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before August 22, 2008, the NIRB received comments from the following interested Parties:

- Transport Canada

All comments provided to the NIRB regarding this project proposal can be viewed on the NIRB's ftp-site, at the following location: <http://ftp.nirb.ca/SCREENINGS/COMPLETED%20SCREENINGS/>

Project Activities

This project is located in the Kivalliq region, within the municipal bounds of the Hamlet of Baker Lake. The Proponent currently holds leases for the use of Commissioner's land within the Hamlet. The proposed consolidation of these leases would incorporate all of them into one comprehensive land lease.

Project activities to be incorporated into the proposed comprehensive land lease include:

- Dry freight storage area;
- Fuel tank storage area;

- Explosives storage;
- Access roads; and
- Floating/spud barge anchored in Baker Lake for the offloading of barges at the marshalling area (note that August 13, 2008 correspondence from AEM indicated that this spud barge was already in place and being utilized).

Please note that some of the above components, including the access roads, dry freight, fuel tank, and explosives storage areas were previously screened and subject to a Part 5 Review per the Nunavut Land Claim Agreement (NLCA) as components of the Meadowbank Gold Mine Project (NIRB File No. 03MN107). As such, those activities remain subject to the terms and conditions contained within the NIRB's Project Certificate No. 004, issued December 30, 2006 for the Meadowbank Gold Project.

The Proponent suggested in the application information, that the spud barge currently before the Board does not significantly vary from the barge unloading facilities proposed in the Final Environmental Impact Statement submitted to the NIRB in October 2005. While this may be the opinion of AEM, it is the NIRB's mandate to assess project proposals for any potential adverse effects resulting from a proposed activity, and in this case, the impacts of a spud barge were not considered during the NIRB's original Part 5 Review of the Meadowbank project. The proposed spud barge/floating dock was therefore the primary focus of this screening, and, for the purpose of this application, was considered to be a new component.

Appendix B

SPECIES AT RISK IN NUNAVUT

This list includes species listed on one of the Schedules of SARA (*Species at Risk Act*) and under consideration for listing on Schedule 1 of SARA. These species have been designated as at risk by COSEWIC (Committee on the Status of Endangered Wildlife in Canada). This list may not include all species identified as at risk by the Territorial Government.

- Schedule 1 is the official legal list of Species at Risk for SARA. SARA applies to all species on Schedule 1. The term “listed” species refers to species on Schedule 1.
- Schedule 2 and 3 of SARA identify species that were designated at risk by the COSEWIC prior to October 1999 and must be reassessed using revised criteria before they can be considered for addition to Schedule 1.
- Some species identified at risk by COSEWIC are “pending” addition to Schedule 1 of SARA. These species are under consideration for addition to Schedule 1, subject to further consultation or assessment.

Schedules of SARA are amended on a regular basis so it is important to periodically check the SARA registry (www.sararegistry.gc.ca) to get the current status of a species.

Updated: January 3, 2007

| Species at Risk | COSEWIC Designation | Schedule of SARA | Government Organization with Lead Management Responsibility ¹ |
|--|-------------------------|------------------|--|
| Eskimo Curlew | Endangered | Schedule 1 | EC |
| Ivory Gull | Endangered ² | Schedule 1 | EC |
| Peregrine Falcon (subspecies anatum) | Threatened | Schedule 1 | Government of Nunavut |
| Ross's Gull | Threatened | Schedule 1 | EC |
| Harlequin Duck (Eastern population) | Special Concern | Schedule 1 | EC |
| Felt-leaf Willow | Special Concern | Schedule 1 | Government of Nunavut |
| | | | |
| Peregrine Falcon (subspecies tundrius) | Special Concern | Schedule 3 | Government of Nunavut |
| Short-eared Owl | Special Concern | Schedule 3 | Government of Nunavut |
| Fourhorn Sculpin | Special Concern | Schedule 3 | DFO |
| | | | |
| Peary Caribou | Endangered ³ | Pending | Government of Nunavut |
| Beluga Whale (Eastern Hudson Bay population) | Endangered | Pending | DFO |
| Beluga Whale (Cumberland Sound population) | Threatened | Pending | DFO |
| Beluga Whale (Western Hudson Bay population) | Special Concern | Pending | DFO |

| | | | |
|--|------------------------------|---------|-----------------------|
| Beluga Whale (Eastern High Arctic – Baffin Bay population) | Special Concern | Pending | DFO |
| Bowhead Whale (Hudson Bay-Foxe Basin population) | Threatened ⁴ | Pending | DFO |
| Bowhead Whale (Davis Strait-Baffin Bay population) | Threatened ⁴ | Pending | DFO |
| Porsild's Bryum | Threatened | Pending | Government of Nunavut |
| Atlantic Walrus | Special Concern | Pending | DFO |
| Narwhal | Special Concern | Pending | DFO |
| Rusty Blackbird | Special Concern | Pending | Government of Nunavut |
| Barren-ground Caribou (Dolphin and Union population) | Special Concern ³ | Pending | Government of Nunavut |
| Grizzly Bear | Special Concern | Pending | Government of Nunavut |
| Polar Bear | Special Concern | Pending | Government of Nunavut |
| Wolverine (Western Population) | Special Concern | Pending | Government of Nunavut |

¹ Environment Canada has a national role to play in the conservation and recovery of Species at Risk in Canada, as well as responsibility for management of birds described in the Migratory Birds Convention Act (MBCA). Day-to-day management of terrestrial species not covered in the MBCA is the responsibility of the Territorial Government. Populations that exist in National Parks are also managed under the authority of the Parks Canada Agency. EC = Environment Canada, DFO = Department of Fisheries and Oceans

² Designated as Endangered by COSEWIC in April 2006 and it is expected that the category of concern in SARA will also be changed from Special Concern to Endangered.

³ Peary Caribou was split into three separate populations in 1991: Banks Island (Endangered), High Arctic (Endangered) and Low Arctic (Threatened) populations. The Low Arctic population also included the Barren-ground Caribou - Dolphin and Union population. In May 2004 all three population designations were de-activated, and the Peary Caribou, Rangifer tarandus pearyi, was assessed separately from the Barren-ground Caribou (Dolphin and Union population), Rangifer tarandus groenlandicus. The subspecies pearyi is composed of a portion of the former "Low Arctic population" and all of the former "High Arctic" and "Banks Island" populations, and it was designated Endangered in May 2004. Although SARA lists Peary Caribou on Schedule 2 as three separate populations, the most current designation is the COSEWIC designation of the subspecies pearyi as Endangered.

⁴ The "Eastern and Western Arctic populations" of Bowhead Whale were given a single designation of Endangered in April 1980 by COSEWIC. These were split into two populations to allow separate designations in April 1986. The Eastern population was not re-evaluated in April 1986, but retained the Endangered status of the original "Eastern and Western Arctic populations". The Eastern Arctic population was further split into two populations (Hudson Bay-Foxe Basin population and Davis Strait-Baffin Bay population) in May 2005, and both these populations were designated as Threatened. Both these populations are under consideration for addition to Schedule 1. Although SARA lists the Eastern Arctic population as Endangered (Schedule 2), the most current designation is the COSEWIC designations of the Hudson Bay-Foxe Basin and Davis Strait-Baffin Bay populations as Threatened.

Appendix C
Archaeological and Palaeontological Resources Terms and Conditions for Land Use Permit Holders



BACKGROUND: Archaeology

As stated in Article 33 of the Nunavut Land Claims Agreement:

The archaeological record of the Inuit of Nunavut is a record of Inuit use and occupancy of lands and resources through time. The evidence associated with their use and occupancy represents a cultural, historical and ethnographic heritage of Inuit society and, as such, Government recognizes that Inuit have a special relationship with such evidence, which shall be expressed in terms of special rights and responsibilities. [33.2.1]

The archaeological record of Nunavut is of spiritual, cultural, religious and educational importance to Inuit. Accordingly, the identification, protection and conservation of archaeological sites and specimens and the interpretation of the archaeological record is of primary importance to Inuit and their involvement is both desirable and necessary. [33.2.2]

In recognition of the cultural, spiritual and religious importance of certain areas in Nunavut to Inuit, Inuit have special rights and interests in these areas as defined by Article 33 of the Nunavut Land Claims Agreement. [33.2.5]

BACKGROUND: Palaeontology

Under the Nunavut Act¹, the federal Government can make regulations for the protection, care and preservation of palaeontological sites and specimens in Nunavut. Under the *Nunavut Archaeological and Palaeontological Sites Regulations*², it is illegal to alter or disturb any palaeontological site in Nunavut unless permission is first granted through the permitting process.

¹ s. 51(1)

² P.C. 2001-1111 14 June, 2001

Definitions

As defined in the *Nunavut Archaeological and Palaeontological Sites Regulations*, the following definitions apply:

“archaeological site” means a place where an archaeological artifact is found.

“archaeological artifact” means any tangible evidence of human activity that is more than 50 years old and in respect of which an unbroken chain of possession or regular pattern of usage cannot be demonstrated, and includes a Denesuline archaeological specimen referred to in section 40.4.9 of the Nunavut Land Claims Agreement.

“palaeontological site” means a site where a fossil is found.

“fossil” includes:

- (a) natural casts
- (b) preserved tracks, coprolites and plant remains; and
- (c) the preserved shells and exoskeletons of invertebrates and the eggs, teeth and bones of vertebrates.

Terms and Conditions

- 1) The permittee shall not operate any vehicle over a known or suspected archaeological or palaeontological site.
- 2) The permittee shall not remove, disturb, or displace any archaeological artifact or site, or any fossil or palaeontological site.
- 3) The permittee shall immediately contact the Department of Culture, Language, Elders and Youth (867) 934-2046 or (867) 975-5500 or 1 (866) 934-2035 should an archaeological site or specimen, or a palaeontological site or fossil be encountered or disturbed by any land use activity.
- 4) The permittee shall immediately cease any activity that disturbs an archaeological or palaeontological site encountered during the course of a land use operation, until permitted to proceed with the authorization of the Department of Culture, Language, Elders and Youth, Government of Nunavut.
- 5) The permittee shall follow the direction of the Department of Culture, Language, Elders and Youth and DIAND in restoring disturbed archaeological or palaeontological sites to an acceptable condition.
- 6) The permittee shall provide all information requested by the Department of Culture, Language, Elders and Youth concerning all archaeological sites or artifacts and all palaeontological sites and fossils encountered in the course of any land use activity.
- 7) The permittee shall make best efforts to ensure that all persons working under authority of the permit are aware of these conditions concerning archaeological sites and artifacts, and palaeontological sites and fossils.

- 8) The permittee shall avoid the known archaeological and/or palaeontological sites listed in Attachment 1.
- 9) The permittee shall have an archaeologist or palaeontologist perform the following functions, as required by the Department of Culture, Language, Elders and Youth:
 - a. survey
 - b. inventory and documentation of the archaeological or palaeontological resources of the land use area
 - c. assessment of potential for damage to archaeological or palaeontological sites
 - d. mitigation
 - e. marking boundaries of archaeological or palaeontological sites
 - f. site restoration

The Department of Culture, Language, Elders and Youth shall authorize by way of a Nunavut Archaeologist Permit or a Nunavut Palaeontologist Permit, all procedures subsumed under the above operations.