



Arctic Regions
Fish and Fish Habitat Protection Program
301 – 5204 50th Ave. (Franklin)
Yellowknife, Northwest Territories
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Régions de l'Arctique
Programme de protection du poisson et de son habitat
301 – 5204 50th Ave. (Franklin)
Yellowknife, Territoires du Nord-Ouest
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June 27, 2024

Your file *Votre référence*
05MN047, 12MN001

Our file *Notre référence*
02-HCAA-CA-00117,
12-HCAA-CA7-00012

Nunavut Impact Review Board
Attn: Leah Klaassen
Impact Assessment Officer
PO Box 1360 (29 Mitik Str.)
Cambridge Bay, NU X0B 0C0

Via email to : info@nirb.ca

Subject: 05MN047 & 12MN001 – Agnico Eagle – Hope Bay 2023 Annual Report

Dear Leah Klaassen,

The Fish and Fish Habitat Protection Program of Fisheries and Oceans Canada (DFO) received your request for comments on May 9, 2024. DFO has reviewed the above 2023 Annual Monitoring Report in regards to its mandate, i.e. the management, protection and conservation of fish and their habitats. The Nunavut Impact Review Board (NIRB) invited parties to respond to the following topics:

1. Effects monitoring
 - a. Whether the conclusions reached by Agnico Eagle in the 2023 Annual Report are valid; and
 - b. Any areas of significance requiring further supporting information or any changes to the monitoring program which may be required.
2. Compliance Monitoring
 - a. Provide a summary of any compliance monitoring and/or site inspections undertaken in association with the Project, including specifically
 - i. Identify the Terms and Conditions from the Project Certificate which have been incorporated into any permits, certificates, licences or other approvals issued for the Project, where applicable;
 - ii. A summary of any inspections conducted during the 2023 reporting period, and the results of these inspections; and
 - iii. A summary of Agnico Eagle's compliance status with regard to authorizations that have been issued for the Project.

Specifically, DFO has reviewed the Hope Bay 2023 Annual Report (Performance on Project Certificate Terms and Conditions) and Appendices A through G.

DFO provides the following comments for the NIRB’s consideration

1. Effects Monitoring

- a. Whether the conclusions reached by Agnico Eagle in the 2023 Annual Report are valid

DFO is generally agreeable with Agnico Eagle’s reporting

- b. Any areas of significance requiring further supporting information or any changes to the monitoring program which may be required.

DFO has the following comments and concerns related to effects monitoring:

Comment Number:	DFO-1
Subject/Topic:	Underwater Noise
References:	Shipping Management Plan – Section 4; Appendix D.2 2023 Wildlife Mitigation and Monitoring Program Compliance Report
Comment:	<p>Gap/Issue: Underwater noise from shipping vessels has the potential to elicit disturbance effects on marine mammals by reducing their ability to travel, communicate, and find food.</p> <p>Condition 33 of the Project Certificate 009 highlights the actions to be undertaken by the proponent. However, underwater noise monitoring and mitigation measures have not yet been developed.</p> <p>The Shipping Management Pan was updated in 2024 to address T&C 33 for Project Certificate No 009, to assess potential disturbance to marine wildlife during shipping activity, but did not include monitoring requirement for underwater noise. Data collected in 2023 were included in the 2023 WMMP Compliance Report, and included data on marine mammal sightings but did not include data on noise monitoring.</p> <p>According to TC 33 “The Proponent is expected to work with Fisheries and Oceans Canada to determine appropriate indicators and thresholds that can be used to determine if negative impacts on marine wildlife are</p>

	<p>occurring, and adaptive management measures to mitigate adverse impacts of project-related noise”. At this time, DFO was not consulted prior to the development of this plan and the collection of the above mentioned data.</p>
Conclusion/Request:	<p>Proponent to monitor and model their noise footprint. This model should be developed in consultation with DFO and evaluate noise levels and the impact(s) of shipping noise on marine mammals present in the shipping route. DFO requests that they be consulted for the design of the noise monitoring plan to ensure that adequate data is being collected to develop appropriate indicators and thresholds. DFO reiterates, that underwater noise modelling, including baseline studies, is an essential component of the monitoring protocol for underwater noise.</p> <p>The Shipping Management Plan should be updated to include noise level monitoring with appropriate indicators and thresholds.</p> <p>DFO looks forward to collaborating with AEM on the marine mammal monitoring plan and for input on indicators and thresholds, mitigation measures, including considerations for underwater noise monitoring.</p>

Comment Number:	DFO-2
Subject/Topic:	Marine Mammal Monitoring Program
References:	Shipping Management Plan
Comment:	<p>Gap/Issue: Insufficient Marine Mammal Monitoring protocol aboard shipping vessels. The proponent noted that a “SOP would be developed prior to the shipping season.”</p>
Conclusion/Request:	<p>Proponent to implement a more substantial marine mammal monitoring protocol for shipping vessels. The protocol should be reviewed and approved by DFO and aim at effectively detecting and avoiding marine mammals during shipping.</p> <p>An updated marine mammal monitoring protocol must be implemented for all vessels, regardless of the operational status of the mine. The avoidance of sensitive habitat(s) and incidental mammal sightings are not sufficient protocols, to effectively detect and avoid marine mammals during shipping.</p>

	<p>Current monitoring does not ensure that marine shipping activities avoid adversely impacting marine mammals (Project Certificate No. 009, T&C No.31), and does not “assess the environmental impact of the Project on Wildlife..” (Project Certificate No.003, T&C No. 27), nor adequately “ensure that that marine shipping activities avoid seabirds and marine mammals” (Project Certificate No. 009, T&C No.32)</p> <p>The proponent to work with DFO to develop a updated Shipping Management Plan that includes increased monitoring measures for marine mammals.</p>
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Comment Number:	DFO-3
Subject/Topic:	Aquatic Invasive Species
References:	Shipping Management Plan
Comment:	<p>Gap/Issue: Current shipping management plan does not include a monitoring program for aquatic invasive species.</p> <p>There is a risk of introducing aquatic invasive species through haul contamination from ships coming from. The Shipping Management Plan requires the shipping companies contracted to supply the project though the annual sea-lift operations to comply with the Ballast Water Regulations, which reduces the risk of invasive species being introduced as a result of shipping activities, but does not eliminate this risk so that monitoring for the occurrence of aquatic invasive species is would be required to confirm this. Ballast water exchange is not 100% effective at preventing the introduction of invasive species.</p> <p>Additionally, both the Ballast Water Regulations and Shipping Management Plans do not address the potential for invasive species introduction via other mechanisms/pathways – ship hull, smaller crafts etc. DFO currently has no information that the current measures in place are effective at preventing invasive/non-native species from entering the environment. A non-Indigenous Species/Aquatic Invasive Species Monitoring Program for Roberts Bay around zones of higher risk, should be developed in collaboration with subject matter experts and DFO.</p>

Conclusion/Request:	<p>Proponent to consider a non-Indigenous Species/Aquatic Invasive Species Monitoring Program around zones of higher risk.</p> <p>Proponent to provide specific monitoring and mitigation measure that are being conducted, including but not limited to any ballast water treatment, monitoring for aquatic invasive species, and any haul clean-up and maintenance protocols.</p>
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Comment Number:	DFO-5
Subject/Topic:	Appendix on fish and fish habitat
References:	NA
Comment:	<p>Gap/Issue: The Hope Bay Project reporting would benefit from the inclusion of an appendix specific to fish and fish habitat, similar to that provided by AEM for the Meadowbank complex. This allows Fisheries and Oceans Canada to more efficiently review relevant information in the annual report, including compliance with the <i>Fisheries Act</i>.</p>
Conclusion/Request:	<p>Proponent to provide an appendix including, but not limited to:</p> <ul style="list-style-type: none"> • Report on death of fish; • Report on Harmful Alteration, Disruption and Destruction of fish habitat; • Report on fish passage issues; • Fish-out activities; • Measures implemented to avoid and mitigate impacts to fish or fish habitat; and • Offsetting activities. <p>Specifically, this request relates to the format in which it is presented and DFO wishes to see all information consolidated into one document for ease of review. This document should report on all elements listed and state if there is nothing to report for each e.g. no fish out activity was conducted in the reporting year.</p> <ul style="list-style-type: none"> • Report on death of fish (003, Revised T&C 1, 17); • Report on Harmful Alteration, Disruption and Destruction of fish habitat (009, New T&C 11); • Report on fish passage issues (003, Revised T&C 1, 009, New T&C 13); • Fish-out activities (003, Revised T&C 1);

	<ul style="list-style-type: none">• Measures implemented to avoid and mitigate impacts to fish or fish habitat (003, Revised T&C 1); and• Offsetting activities (003, Revised T&C 1)
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2. Compliance Monitoring

- a. Provide a summary of any compliance monitoring and/or site inspections undertaken in association with the Project, including specifically
 - i. Identify the Terms and Conditions from the Project Certificate which have been incorporated into any permits, certificates, licenses or other approvals issued for the Project, where applicable;

For Project Certificate No. 003, Doris North, Terms and Conditions 29 and 36 were incorporated into Fisheries Act Authorizations
For Project Certificate No. 009 Madrid Boston, Terms and Conditions 4, 11, 12, 13, 14, 15, 16, and 43 were incorporated into Fisheries Act Authorizations
 - ii. A summary of any inspections conducted during the 2022 reporting period, and the results of these inspections

No compliance monitoring or site visits/inspections were conducted by DFO in 2023.
 - iii. A summary of Agnico Eagle's compliance status with regard to authorizations that have been issued for the Project.

The proponent is largely compliant with the terms and conditions that pertain to DFO's mandate. DFO will continue to work with the proponent to ensure compliance.

If you have any questions with the content of this letter, please contact Derek Donald by email at Derek.Donald@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Sincerely,



Chris Shapka
Senior Biologist
Fish and Fish Habitat Protection Program
Fisheries and Oceans Canada

CC:

Chris Shapka, Fisheries and Oceans Canada
Derek Donald, Fisheries and Oceans Canada