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ECCC Files: 6100 000 010/030&024
NIRB Files: 12MN001&05MN047



July 4, 2024

via email at: info@nirb.ca

Brittany Hogaluk
Public Registry Coordinator
Nunavut Impact Review Board
29 Mitik Street
P.O. Box 1360
Cambridge Bay, NU X0B 0C0

Dear Brittany Hogaluk:

RE: 12MN001 and 05MN047– Agnico Eagle Mines Ltd – Hope Bay / Doris North Gold Mine Project – 2023 NIRB Annual Reports

Environment and Climate Change Canada (ECCC) has reviewed the information submitted to the Nunavut Impact Review Board (NIRB) regarding the above-mentioned 2023 Annual Reports.

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. Recovery Rate of Total Suspended Particulate (TSP) Monitoring Equipment

Reference(s)

- Section 4.3.1: TSP, Q1-Q3 Atmospheric Compliance Monitoring Program Report, Doris and Madrid Projects, Final Report, March 2024
- Table 4-8: Summary of Data Recovery Rates for Continuous Particulate Sampling (Jan - Sep 2023), Q1-Q3 Atmospheric Compliance Monitoring Program Report, Doris and Madrid Projects, Final Report, March 2024



Comment

Section 4.3.1 of the Atmospheric Compliance Monitoring Program Report references a Total Suspended Particulate (TSP) monitoring data recovery rate of 70%, which is below the 75% required to calculate an annual average. Moreover, Table 4-8 of the Report indicates that the monthly recovery rates for the continuous TSP monitoring are below the target (75%) for 4 out of the 9 months considered, with August having the lowest recovery rate at 26%.

Section 4.3.1 states that the lower recovery rates are “due to intermittent downtimes as operational complications were addressed by Agnico Eagle”, and that “Agnico Eagle is reviewing the monitoring data and instrument logs to assess potential causes and will implement remedial measures.”

ECCC acknowledges the Proponent’s efforts to resolve issues with TSP monitoring data collection; however, a timeline for anticipated resolution of these issues should be provided.

ECCC Recommendation(s)

ECCC recommends that the Proponent update the 2023 Atmospheric Compliance Monitoring Program Report to include information on follow-up, with an approximate timeline, for the anticipated resolution of TSP monitoring data collection issues that have prevented the calculation of an annual average.

2. Reporting Incidents Involving Migratory Birds

Reference(s)

- Section 7.5: Terrestrial Wildlife and Wildlife Habitat, Agnico Eagle, Hope Bay, 2023 Annual Report, April 2024

Comment

ECCC has management responsibilities for migratory birds under the *Migratory Birds Convention Act* (MBCA). ECCC should be contacted when interactions and incidents involving the potential disturbance of individuals or nests and any mortality events of these species occur. Reports should identify cause of death, any corrective measures taken following wildlife mortalities, and whether any further mitigations are being proposed, considered, or implemented to reduce further mortality events.

Under the subheading ‘Waterbirds and Shorebirds’, in Section 7.5 of the 2023 Annual Report, it states that “One mortality involving waterbirds was recorded in 2023. An unidentified shearwater was located unable to move and was later found deceased. The individual died of natural causes due to exposure to the elements and was scavenged by raven.”

Under the subheading ‘Breeding Birds’, in Section 7.5 of the 2023 Annual Report, it states that “One interaction involving upland breeding birds was recorded in July 2023. The interaction involved a single unknown species of ptarmigan flushed from their nest by site personnel. The nest contained four eggs and was left for the bird to return to undisturbed.”

ECCC would like to note that these interactions were not reported directly to ECCC's Canadian Wildlife Service. Further, it is not clear where on site these incidents occurred. Reports should include maps and/or descriptions.

ECCC Recommendation(s)

ECCC recommends that the Proponent notify ECCC's Canadian Wildlife Service (cwsnorth-scfnorth@ec.gc.ca) when any mortality events, incidents, and/or interactions with migratory bird species occur.

3. Post-Closure Monitoring of Wildlife

Reference(s)

- Section 5.2: Madrid-Boston Project Certificate No. 009, Agnico Eagle, Hope Bay, 2023 Annual Report, April 2024
- Agnico Eagle's Response to Comments on ICRP 2AM-DOH1335, February 20, 2024

Comment

'New Term & Condition No. 19' in Section 5.2 of the Annual Report, states that "The Proponent is expected to develop an audit process with relevant parties to identify updates to the WMMP that may be required, particularly to address significant changes ...that might subject wildlife to unexpected impacts, or as otherwise necessary."

In February 2024, as part of the preliminary review of Hope Bay Doris-Madrid Interim Closure and Reclamation Plan (ICRP), ECCC provided a comment (ECCC-R-04), which was acknowledged by the Proponent, indicating that post-closure monitoring would be beneficial in determining wildlife movements and rehabilitation success in the area after remediation activities are complete.

It is not clear from the information in the 2023 Annual Report, whether this advice has been integrated into any of the project's updated management plans.

ECCC Recommendation(s)

ECCC recommends that the Proponent clarify if post-closure wildlife monitoring has been integrated into project management plans. If so, please indicate which plan; if not, please clarify the timeline for integration of post-closure wildlife monitoring into project management plans.

4. Scenario Addition in the Spill Contingency Plan

Reference(s)

- Table 6.3-1. Summary of Reportable Spills in 2023, Agnico Eagle, Hope Bay, 2023 Annual Report, April 2024
- Section 4: Spill Management and Mitigation, Spill Contingency Plan, Agnico Eagle, Hope Bay, Version 17, March 2024

Comment

Section 4 of the Spill Contingency Plan (SCP) details a spill on July 24, 2023, resulting in 3776 m³ of salt-impacted area on the tundra. The cause of the spill was determined to be due to vibration from the spinning rods, which was creating leakages in the casing seal, as well as the utilization of brine to wash drills.

This scenario, and associated mitigation measures, should be included in Section 4 of the SCP, as it is now known as a possible incident that could result from project activities, and will provide a more-thorough representation of the risks associated with the activities of the Project.

ECCC Recommendation(s)

ECCC recommends that the Proponent include the possibility of a 'salty water leak' as an 'issue' in Section 4 of the Spill Contingency Plan, and include appropriate mitigation measures to prevent the situation from occurring.

5. Use of Emergency Response Guidebook to Respond to a Chemical Release

Reference(s)

- Section 7.5: Toxic Gas Release, Agnico Eagle, Hope Bay Project, Emergency Response and Crisis Management Plan, Version 6, March 2024
- Section 7.9: Reagents and Other Chemicals, Agnico Eagle, Hope Bay Project, Emergency Response and Crisis Management Plan, Version 6, March 2024
- Emergency Response Guidebook, 2024 (link: <https://tc.canada.ca/en/dangerous-goods/canutec/emergency-response-guidebook>)

Comment

Section 7.9 of the Emergency Response and Crisis Management Plan states that "First responders might address emergencies involving reagents, by using EMERGENCY RESPONSE GUIDEBOOK [ERG]". This is also detailed as a response in Section 7.5, for "how to respond to specific gasses."

The ERG is a great resource for the initial phase of an emergency and provides general guidelines to deal with classes of hazardous materials; however, the ERG is intended to deal with transportation emergencies, and is not aimed at a fixed facility emergency.

The cover of the ERG indicates that it is "A guidebook intended for use by first responders during the initial phase of a transportation incident involving hazardous materials/dangerous goods". Evacuation distances proposed in the book are for transportation events and may not be applicable to an event happening within a fixed facility.

A safety data sheet (SDS), referencing the Canadian Transport Emergency Centre (CANUTEC), which possess chemical specific information, or a specific hazardous material plan, like the ones found in the Spill Contingency Plan, would be more appropriate in the event of a spill or release of toxic gas.

ECCC Recommendation(s)

ECCC recommends that the Proponent provide appropriate updates to 'Emergency Measures' described in Sections 7.5 and 7.9 of the Emergency Response and Crisis Management Plan, to be reflective of these scenarios occurring in a fixed facility.

6. Toxic Gas Release Event

Reference(s)

- Section 7.5: Toxic Gas Release, Agnico Eagle, Hope Bay Project, Emergency Response and Crisis Management Plan, Version 6, March 2024

Comment

Section 7.5 of the Emergency Response and Crisis Management Plan does not specify the types of 'toxic gases' that are at risk of being released from the site and does not indicate whether there is a communication plan in place to disseminate information to neighboring communities affected by a potential 'toxic gas' release scenario. Given the presence of numerous hazardous substances on-site, it would be beneficial to identify credible and realistic scenarios under which toxic gas substances might be released in large quantities.

The 'toxic gas release scenario' for emergency measures, should also include information on if the Proponent possess any means to monitor air quality that could result from a toxic gas release, and if there is any air monitoring equipment available onsite for workers to use (e.g., 4-gas detectors, fixed/portable detectors, LEL (Lower Explosive Limit) detectors, or PIDs (Photoionization Detectors)). The scenario should also detail alternate muster points, for a situation where the wind direction is blowing toxic gas in the direction of the assigned muster point. Clarity on these matters is important to help ensure effective risk management and emergency response protocols.

ECCC Recommendation(s)

ECCC recommends that the Proponent update Section 7.5 of the Emergency Response and Crisis Management Plan, to indicate which toxic gases are at risk of being released and include a description of preparedness measures to address toxic gas releases, including any air quality monitoring practices, communication plans, and equipment available.

7. In-Situ Burning (ISB) as a Response Method for Spills

Reference(s)

- Section 2.4.9: Burning Spills, Spill Contingency Plan, Agnico Eagle, Hope Bay, Version 17, March 2024

Comment

Section 2.4.9 of the Spill Contingency Plan, proposes the utilization of in-situ burning (ISB) for spills below 100 L on unlined pad areas, and for larger spills upon approval of “ECCC [Environment and Climate Change Canada], the KIA [Kivalliq Inuit Association], the CIRNAC [Crown–Indigenous Relations and Northern Affairs Canada] Inspector and any other associated regulatory agencies.” While ECCC appreciates the reduction in waste production resulting from the utilization of this method, ECCC would like the inclusion of further details on how the residue subsequent from the burn will be handled. It is essential to ensure that no legislative or regulatory prohibitions are triggered as a result of the utilization of ISB.

ECCC would like to highlight that a smoke plume could potentially trigger prohibitions in the *Migratory Birds Convention Act* (MBCA) and *Migratory Bird Sanctuary Regulations* (MBSR), particularly subsections 5.1(1) or 5.1(2) of the MBCA.

ECCC Recommendation(s)

ECCC recommends that the Proponent elaborate on the cleanup process for the residue left following the utilization of in-situ burning (ISB) for hydrocarbon spills. It is crucial to ensure that these cleanup efforts do not contravene prohibitions outlined in the *Migratory Birds Convention Act* (MBCA) and *Migratory Bird Sanctuary Regulations* (MBSR).

8. Environmental Emergencies (E2) Regulated Commodities

Reference(s)

- Environmental Emergency Regulations, 2019 (link: <https://laws.justice.gc.ca/PDF/SOR-2019-51.pdf>)
- Appendix 1: Hazardous Materials and Product Specific Emergency Response Plans, Spill Contingency Plan, Agnico Eagle, Hope Bay, Version 17, March 2024

Comment

The Proponent acknowledges that certain commodities stored on-site are subject to the *Environmental Emergency Regulations* (E2 Regulations). However, given the various containment methods used throughout the project and potential eligibility for exclusions outlined in the E2 Regulations, it remains unclear which commodities are currently captured under these regulations.

ECCC would like to bring to the attention of the Proponent, that a ‘notice of change’ may be required as stipulated in subsection 3(5) of the *Environmental Emergency Regulations*, 2019, which state:

“A responsible person must, within 60 days after the day on which any of the following situations occurs, submit an updated notice to the Minister that contains the information referred to in Schedule 2:

(a) the information that was reported under section 1 or 2 of Schedule 2 has changed;

(b) the maximum expected quantity that was most recently reported under paragraph 3(d) of Schedule 2 in respect of a substance has increased by 10% or more; or

(c) the maximum capacity that was most recently reported under paragraph 3(f) of Schedule 2 in respect of a container system, in which a quantity of a substance is contained, has increased by 10% or more.”

ECCC Recommendation(s)

ECCC recommends that the Proponent add a table in the Spill Contingency Plan, summarizing the commodities subject to the E2 Regulations. This will ensure that the Proponent is fully aware of its responsibilities under the E2 Regulations.

Additionally, ECCC recommends that the Proponent include an acknowledgment that a notice under the E2 Regulations will be required if any stored commodities exceed the thresholds identified in Part 1 and 2 of Schedule 1 of the E2 Regulations in the section “Additional E2 Regulations Schedule 2 Materials to be Stored Onsite” on p.16 of the Appendix 1: Hazardous Materials and Product Specific Emergency Response Plans.

9. Hazardous Materials Storage Practices

Reference(s)

- Water licence inspection forms: 2022-KIT-JKM10-2AM-DOH, 2022-KIT-JKM04-2AM-DOH and 2023-KIT-JKM01-2AM-DOH
- Section 4.1.1: Management Response, Spill Contingency Plan, Agnico Eagle, Hope Bay, Version 17, March 2024

Comment

Inspections completed by a CIRNAC inspector on November 16, 2022, June 20, 2022, and February 28, 2023, have revealed many instances of hazardous materials being stored without appropriate secondary containment. Totes have been found on top of seacans, as reported in water licence inspection form 2023-KIT-JKM01-2AM-DOH, and without appropriate secondary containment in water licence inspection forms 2022-KIT-JKM10-2AM-DOH, 2022-KIT-JKM04-2AM-DOH, and 2023-KIT-JKM01-2AM-DOH. In the event of an accident or malfunction, the release of these hazardous materials could have a negative and lasting impact on the environment.

Section 4.1.1 of the Spill Contingency Plan states, “It is industry practice not to use secondary containment in the case of inventory seacans received from a sealift operation. Since the inventory seacans are not in use, the probability of a spill is minimized as the containers inside the seacans are protected from the elements and from collision. These would be the primary causes of a spill from a container.”

ECCC requests that the Proponent substantiate this claim by providing an industry standard or guideline that supports this practice. While reduced traffic and interactions, due to long-term storage, may reduce the probability of an accident or malfunction, means of containment are still at risk of failure due to unforeseen circumstances, inclement weather, weathering, faulty means of containment, etc.

ECCC would like to point out that Section 4.3.7 of the Environmental Code of Practice for Metal Mines: Chapter 4 states the following: R 326:

“The chemical storage and containment facilities used at each mine should be designed and constructed to meet the appropriate standards, regulations, and guidelines of pertinent regulatory agencies and the owner/operator's environmental policy, objectives, and targets. As a minimum, chemical storage and containment facilities should:

- be managed to minimize the potential for spills;
- provide containment in the event of spillage and be managed to minimize opportunities for spillage;
- comply with Workplace Hazardous Materials Information System (WHMIS) standards;
- ensure that incompatible materials are stored in ways to prevent accidental contact and chemical reactions with other materials; and
- minimize the probability that a spill could have a significant impact on the environment.”

ECCC Recommendation(s)

ECCC recommends that the Proponent clarify the origin of the industry practice of not storing hazardous materials with appropriate secondary containment, as mentioned in Section 4.1.1 of the Spill Contingency Plan.

ECCC recommends that the Proponent commit to installing a lined and bermed area, or other appropriate secondary containment method, for the storage of hazardous chemicals at the sealift location and wherever appropriate secondary containment is not currently available. This measure would minimize the potential release of hazardous chemicals from storage areas into the environment.

10. Interim Dike and Aquadam

Reference(s)

- Section 3.1: Doris, Agnico Eagle, Hope Bay, 2023 Annual Report, April 2024

Comment

Section 3.1 of the 2023 Annual Report states that, “the construction of an interim dike began in fall 2022 and was mainly completed before freshet in 2023 allowing the segregation of saline and non-saline water”. A brief description of the Aquadam, that was installed in 2022 as a temporary measure for segregation of saline and non-saline water, is also included.

It is unclear from the information in the report, whether the Aquadam was decommissioned after the construction of the interim dike was completed, or whether it continues to be utilized to segregate water.

ECCC Recommendation(s)

ECCC recommends that the Proponent clarify whether the Aquadam was decommissioned after the completion of the interim dike or whether it continues to be utilized for water segregation, and update the Annual Report with this information.

11. Federal Environment Quality Guidelines

Reference(s)

- Federal Environmental Quality Guidelines (link: <https://www.canada.ca/en/health-canada/services/chemical-substances/fact-sheets/federal-environmental-quality-guidelines.html>)
- Table 2.2-2: Water Quality Benchmarks, Hope Bay Project, 2023 Aquatic Effects Monitoring Program - Annual Report, March 2024

Comment

The water quality benchmarks used for assessment in the Aquatic Effects Monitoring Program (AEMP) are listed in Table 2.2-2 and reference the Canadian Council of Ministers of the Environment (CCME) Canadian Water Quality Guidelines for the Protection of Aquatic Life

ECCC notes that in addition to the CCME guidelines, the Federal Environmental Quality Guidelines (FEQG) are another resource for water quality guidelines. The FEQG have been developed for substances for which CCME guidelines do not exist or are not reasonably expected to be updated in the near future.

Some of the CCME guidelines referenced in Table 2.2-2 are from 1987, and the FEQGs provide an updated guideline that is reflective of the current state of science and understanding of potential toxicity for substances (e.g. aluminum, copper, iron, lead). In addition, the FEQG also include guidelines for substances for which there are no CCME guidelines (e.g. cobalt, strontium, vanadium).

ECCC Recommendation(s)

ECCC recommends that the Proponent review the FEQG and consider updating the water quality benchmarks for the AEMP to include FEQG.

12. Saline Water Management

Reference(s)

- Agnico Eagle, Hope Bay Project, Doris-Madrid Water Management Plan, Version 18, January 2024

Comment

As noted in the Revisions Table of the Water Management Plan, the updated version of the plan includes revisions to clarify management of saline and freshwater at site. ECCC notes that while some sections of the plan include updates to clarify the change in water management strategy, other sections could benefit from further detail on the changes to saline/freshwater management. These include but are not limited to:

- Section 2.2: Water Classification - this section provides five categories of water, but does not explicitly include saline water.
- Sections 3.1: Management Approach, and Section 4.1: Management Approach - these sections provide details on water management approach by water category type. Saline water would likely be classified under “mine water” however, a detailed description of saline water management, including Tailings Impoundment Area (TIA) segregation, is not provided.
- Section 3.2.5: Tailings Impoundment Area - this section acknowledges the segregation of saline and non-saline water in the TIA, however, under the subheading “operation” only contact water management is described, and no detail is provided on saline water management.
- Section 3.2.6: Mine Water - this section acknowledges that saline mine water may be directed to the TIA but does not describe the segregation within the TIA.

ECCC Recommendation(s)

ECCC recommends that the Proponent thoroughly review the Water Management Plan and update the plan to capture the changes to saline water management in all relevant sections.

13. Monitoring Saline Water in the TIA

Reference(s)

- Table 5-1: Water Monitoring at Doris Site, Agnico Eagle, Hope Bay Project, Doris-Madrid Water Management Plan, Version 18, January 2024

Comment

Table 5-1 of the Water Management Plan lists the various Surveillance Network Program (SNP) stations for the Project and includes several stations associated with the TIA. Given the changes to water management within the TIA and the segregation of saline water from freshwater, additional SNP stations may be warranted to further understand overall water quality on site.

ECCC Recommendation(s)

ECCC recommends that the Proponent clarify whether any changes to TIA water quality monitoring are proposed as a result in changes to saline water management, specifically, whether separate monitoring of the saline and freshwater sections of the TIA is proposed.

14. Water Management Schematic

Reference(s)

- Figure 1: Water Management Schematic – Doris, Agnico Eagle, Hope Bay Project, Doris-Madrid Water Management Plan, Version 18, January 2024
- Figure 2: Water Management Schematic – Madrid, Agnico Eagle, Hope Bay Project, Doris-Madrid Water Management Plan, Version 18, January 2024

Comment

As noted in the Revisions Table of the Water Management Plan, the updated version of the plan includes revisions to clarify management of saline and freshwater at site. ECCC notes that Figure 1 and Figure 2 do not appear to have been updated to include the changes to saline water management and the segregation of saline and freshwater within the TIA.

ECCC Recommendation(s)

ECCC recommends that the Proponent update Figures 1 and 2 to reflect the current mine water management strategy.

15. 2023 Compliance Monitoring

Comment

No authorizations from ECCC have been issued.

The Agnico Eagle Mines (AEM), Hope Bay Project, is captured under several pieces of ECCC legislation, such as subsection 36(3) of the *Fisheries Act* (FA), *Metal and Diamond Mining Effluent Regulations* (MDMER), *Canadian Environmental Protection Act* (CEPA), *Environmental Emergency Regulations* (E2 Regs), *Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations* (XBR), *Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations* (STSR), and *Greenhouse Gas Pollution Pricing Act/Output-Based Pricing System Regulations*.

In 2023, one on-site inspection was planned, but due to issues trying to get a charter due to wildfires, it was cancelled.

MDMER:

The Project is subject to the MDMER. The purpose of the MDMER is to authorize a deposit of certain deleterious substance(s) into water frequented by fish while monitoring the environmental effects of those deposits to ensure that deleterious substances are not

released in quantities or concentrations that could result in harmful effects on waters frequented by fish. To do this certain effluent deposit conditions (concentrations, limits and parameters) apply so that regulates are exempted and protected from the more stringent prohibition of subsection 36(3) under the FA. Samples of the effluent by the Proponent must be taken and tested at the identified Final Discharge Point (FDP) to ensure the above conditions are met on a scheduled basis and reported. The one current FDP is as follows:

1. FDP Roberts Bay Discharge -1 (RBD-1): intermediately effluent discharge from Tailings Impoundment Area by 710 pump house and or Water Treatment Plant 720 pump house 8KM overland to 730 pump house then to Roberts Bay, Arctic Ocean diffuser. The effluent consists of water collected from 3 sources:

- a) Contact water ponds;
- b) Saline water from underground; and
- c) Excess water in the reclaim pond of the Tailings Impoundment Area.

The MDMER requires reports to be submitted in ECCC's online database (Mine Effluent Reporting System - MERS) which are reviewed by an assigned Enforcement Officer on a quarterly basis. The quarterly administrative regular report verifications are conducted to ensure that the sampling and testing has been conducted in accordance with the MDMER and ensuring the reports are submitted on time. Each Enforcement Activity includes an administrative report verification of each quarterly report, which are due 45 days at the end of each quarter: 1st Quarter (due May 15), 2nd Quarter (due Aug 14), 3rd Quarter (due Nov 14), and 4th Quarter (due Feb 14), as well as an administrative report regular verification of the 2023 Annual Effluent Monitoring Summary Report (due March 31). Furthermore, an administrative report regular verification was completed on the Environmental Effects Monitoring (EEM) 2023 Annual Report (information related to effluent and water quality monitoring studies) and as part of this verification the officer submitted a copy of the report to the EEM Coordinator for review to also confirm compliance.

In 2023, the Proponent submitted all required MDMER reports:

1. First Quarter:

- Report submitted on time.
- FDP RBD-1: Effluent was discharged in Q1. No non-compliance was determined.

2. Second Quarter:

- Report submitted late.
- FDP RBD-1: Effluent was discharged in Q2.
- The following non-compliance was determined, and a Warning Letter was issued for the below violations:
 - a) The Proponent, at or near the Hope Bay Project, failed to conduct in the 2023 second quarter an *Acartia tonsa* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method STB 1/RM/60 which was collected in a grab sample on April 4, 2023 from the Roberts Bay (RBD-1) FDP, contrary to amended paragraph 14.4 of the MDMER.

- b) The Proponent, at or near the Hope Bay Project, failed to conduct in the 2023 second quarter a *Threespine stickleback* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method EPS 1/RM/10 which was collected in a grab sample on April 4, 2023 from the Roberts Bay (RBD-1) FDP, contrary to amended paragraph 14.2 of the MDMER.
- c) The Proponent, at or near the Hope Bay Project, , failed to conduct in the 2023 second quarter an *Acartia tonsa* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method STB 1/RM/60 which was collected in a grab sample on May 2, 2023 from the Roberts Bay (RBD-1) FDP, contrary to amended paragraph 14.4 of the MDMER.
- d) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 second quarter a *Threespine stickleback* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method EPS 1/RM/10 which was collected in a grab sample on May 2, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.2 of the MDMER.
- e) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 second quarter a *Acartia tonsa* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method STB 1/RM/60 which was collected in a grab sample on June 2, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.4 of the MDMER.
- f) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 second quarter a *Threespine stickleback* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method EPS 1/RM/10 which was collected in a grab sample on June 2, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.2 of the MDMER.
- g) Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, did unlawfully fail to submit the 2023 second quarter effluent monitoring report that included results of *Acartia tonsa* acute lethality test not later than 45 days after the end of the 2023 second quarter (August 14, 2023), contrary to subsection 21(1) of the MDMER.

3. Third Quarter:

- Report submitted on time.
- FDP RBD-1: Effluent was discharged in Q3.
- The following non-compliance was determined, and a Warning Letter was issued for the below violations:
- a) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 third quarter an *Acartia tonsa* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method STB 1/RM/60 of effluent which was collected in a grab sample

on July 4, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.4 of the MDMER.

- b) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 third quarter an *Acartia tonsa* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method STB 1/RM/60 of effluent which was collected in a grab sample on July 15, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.4 of the MDMER.
- c) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 third quarter a *Rainbow trout* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method EPS 1/RM/13 of effluent which was collected in a grab sample on July 15, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.1 of the MDMER.
- d) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 third quarter an *Acartia tonsa* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method STB 1/RM/60 of effluent which was collected in a grab sample on August 1, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.4 of the MDMER.
- e) That Agnico Eagle Mines Limited, at or near the Hope Bay Project, in the Territory of Nunavut, failed to conduct in the 2023 third quarter a *Rainbow trout* acute lethality test in accordance with the procedures set out in section 5 or 6 of Reference Method EPS 1/RM/13 of effluent which was collected in a grab sample on September 5, 2023 from the Roberts Bay (RBD-1) final discharge point, contrary to amended paragraph 14.1 of the MDMER.
- In summary, the Proponent is required to conduct tests of samples of effluent for acute lethality, in accordance with prescribed methods, as a condition of the authorization to deposit effluent into Roberts Bay. In the third quarter of 2023, the Proponent failed to commence testing of a sample for acute lethality, within the time stipulated, as a condition of the general procedure for determining acute lethality of effluent contained in Section 4 of the Reference Methods STB 1/RM/60 and EPS 1/RM/13, and adopted by reference in Sections 5 and 6 of each of those Reference Methods.

4. Fourth Quarter:

- Report submitted on time.
- FDP RBD-1: Effluent was discharged in Q4. No non-compliance was determined.

5. 2023 Annual Effluent Monitoring Report:

- Report was submitted on time, and no compliance issues were noted.

6. 2023 Annual EEM Report:

- Report was submitted on time, and no compliance issues were noted.

ECCC Files Regarding Reported 2023 Spills:

1. 2023-106 – Lead agency CIRNAC – Drill Cuttings & Recirculation Water Release onto Patch Lake Ice - File closed – No Enforcement Action Taken under Fisheries Act 36(3)
2. 2023-078 – Lead agency CIRNAC – Drill Cuttings Release onto Patch Lake Ice - File closed – No Enforcement Action Taken under Fisheries Act 36(3)
3. 2023-301 – Lead agency CIRNAC - 3rd Quarter Effluent Toxicity Test Failure from MDMER FDP RBD-1 into Roberts Bay, Arctic Ocean – Warning Letter Issued.

If you need more information, please contact Stephinie Mallon at Stephinie.Mallon@ec.gc.ca.

Sincerely,

[original signed by]

Stephinie Mallon
Environmental Assessment Officer

cc: Melissa Pinto, Acting Head, Environmental Assessment North (NT and NU)