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May 27th, 2019

Your files *Votre référence*
03MN107 / 16MN056

Our file(s) *Notre référence(s)*
NU-03-190/ NU-03-191/NU-14-1046/
16-HCAA-00370

Nunavut Impact Review Board
29 Mitik Street, P.O. Box 1360
Cambridge Bay, NU, X0B 0C0

Dear NIRB,

Subject: Comment Request for Agnico Eagle Mines Limited's *Meadowbank Gold Mine Project and Whale Tail Pit Project 2018 Annual Monitoring Report*

The Fish and Fish Habitat Protection Program of Fisheries and Oceans Canada (DFO-FFHPP) would like to thank the Nunavut Impact Review Board (NIRB or the Board) for the opportunity to review Agnico Eagle Mines Limited's (Agnico's) "*Meadowbank Gold Mine Project and Whale Tail Pit Project 2018 Annual Monitoring Report (2018 Annual Report)*".

As outlined in your request from April 12, 2019, and update provided April 30, 2019, reviewers are invited to submit comments to the NIRB by May 27, 2019.

DFO-FFHPP has conducted a preliminary review of the *Annual Report* and has provided comments below. However, DFO-FFHPP notes that Agnico has been issued and operates under several *Fisheries Act* Authorizations which requires Agnico to submit annual stand-alone reports to DFO for review. DFO-FFHPP will continue to review the requisite reports to determine Agnico's compliance with the conditions set out in the issued *Fisheries Act* Authorizations (see comment under section 2.iii; p.4 of 5).

DFO-FFHPP understands that the NIRB would like parties to provide comments regarding:

1) Effects Monitoring

- a) Whether the conclusions reached by Agnico Eagle in the *2018 Annual Report* are valid**

DFO-FFHPP has completed a preliminary review of the Annual Report, and provides comments specific to Project certificate 008 Terms and Conditions 21, 22, 23, 24, and 40, with reference to *Fisheries Act* Authorization 16-HCAA-00370 as needed.

Section: 3.5.2.1 Design Report and Construction Drawings (p. 28)

Under this section the proponent references *Fisheries Act* Authorization 16-HCAA-00370 Condition 2.3.5 and 2.4.1 and NIRB Project Certificate No. 008 Condition 21, stating: *“As-built reports for culvert construction, including photographs, will be provided to NWB 90 days after the construction completion, as required according to the Project’s Type A Water License (2AM-WTP1826) Part D Item 15. DFO will have the opportunity to comment on all design reports submitted to the NWB for approval. Agnico will continue to construct infrastructures in such a manner that it does not unduly prevent or limit the movement of water or fish species in fish streams and rivers.”*

DFO-FFHPP acknowledges Agnico’s commitment to submitting detailed as-built design reports. DFO-FFHPP will review those reports to determine whether potential impacts to fish passage have been mitigated and avoided. DFO-FFHPP has no further comments at this time.

Section 8.6.2 Whale Tail Site (p. 182)

Under this section the proponent references *Fisheries Act* Authorization 16-HCAA-00370 Condition 2.3.3 and NIRB Project Certificate No.008, Condition 22 stating: *“In 2018, 45 blasts were monitored at Whale Tail. There were two (2) PPV concentrations that exceeded the DFO limit of 13 mm/s....The two exceedances were recorded in 2018 and occurred during period of egg incubation (egg incubation period is from August 15 to June 30).”* With regards to preventing exceedances, Agnico states explosives quantity and blast delays were implemented (with reference to the Blast Monitoring Plan). In addition Agnico states two exceedances were recorded on a Whale Tail Haul Road quarry, though investigation indicated improper instrument installation was the cause (i.e. placement next to the blast and not next to the closest fish bearing waterbody for both of the events). Agnico states: *“Going forward, it will be imperative to develop a proper blast monitoring plan for every blasting activity outside of the areas covered in the current blast monitoring plan (for Portage, Vault and Whale Tail Pit).”*

DFO-FFHPP notes the egg incubation period during which exceedances occurred, and acknowledges that mitigation measures were implemented to prevent future exceedances at Whale Tail Station #1. DFO-FFHPP also notes that Agnico indicates that after reduction of explosives quantity, no exceedances were observed for preshear holes. Regarding improper installation of instrumentation, DFO agrees that *“it will be imperative to develop a proper blast monitoring plan for every blasting activity outside of the areas covered in the current blast monitoring plan (for Portage, Vault and Whale Tail Pit)”*. DFO-FFHPP further notes that exceedances of

blasting thresholds (PPV and Peak Pressure) have the potential to cause serious harm to fish, particularly during incubation. DFO-FFHPP reminds Agnico that adherence to blasting thresholds are required for all blasting activities near, or in fish bearing waterbodies and watercourses. Blasting activities that occur outside of areas covered in a blast monitoring plan, are still required to adhere to blasting thresholds. As such, DFO-FFHPP should be notified when exceedances have occurred.

Section 8.11 Fishout Program Summary, 8.11.2 Whale Tail Site (p. 202)

In this section it states: “*Overall, the objectives of the Whale Tail Lake fishout were met:*

- *the local community was engaged;*
- *a large proportion of the fish in the area to be dewatered were either rescued and released or fully utilized by traditional resource users; and*
- *ecological information (biological, limnological, and habitat) was collected to contribute to our understanding of productivity in Arctic lakes in the Northwest Territories and Nunavut.*”

DFO- FFHPP notes that Agnico has conducted it’s Whale Tail Lake fishout program. However, DFO-FFHPP notes concerns were raised respecting the completion of fishout and sufficiency of fish out target end-point being met. DFO-FFHPP will be engaging Agnico with regards to fulfillment of obligations and the validity of their conclusions.

Section 11.8.2 Wildlife Monitoring on Vessel (p. 297)

DFO-FFHPP notes that Agnico states that no marine mammal sightings or mammal – vessel interactions were recorded in 2018. DFO-FFHPP acknowledges that Appendix 51 provides the Marine Mammal Management and Monitoring Plan and that Appendix 55 provides the Marine Mammal and Seabird Observer (MMSO) Report for the 2018 shipping season. DFO-FFHPP also notes that in the 2018 MMSO Report under section 3.1.2 it states : “*Dedicated marine mammal observer effort included 29 hours and 1,155.7 km in 2018 onboard the Acadia Desgagnés. An additional 153 hours of incidental marine mammal observations were collected onboard the Dara Desgagnés (see Table A-3, Appendix A). Spatial effort could not be calculated for the incidental effort because start and end coordinates were not recorded.*”

DFO-FFHPP notes that lack of marine mammal observations may have resulted from issues with survey protocols, implementations of protocols, and/or training of observers. DFO-FFHPP echoes comments provided by ECCC regarding adequacy of training and adherence to survey protocols. DFO-FFHPP suggests that opportunity to discuss the protocols, implementation of protocols and adequacy of training could be beneficial to interested parties and the success of the marine mammal monitoring program overall.

1) Effects Monitoring**b) Any areas of significance requiring further supporting information.**

DFO-FFHPP has no comments at this time.

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;**

DFO has incorporated NIRB Project Certificate No. 008 Term and Condition 21 into to *Fisheries Act* Authorization 16-HCAA-00370 Condition 2.3.5, and NIRB Project Certificate N0. 008 Term and Condition 22 into *Fisheries Act* Authorization 16-HCAA-00370 Condition 2.3.3.

ii. A summary of any inspections conducted during the 2018 reporting period, and the results of these inspections; and

DFO-FFHPP has not conducted any site inspections in 2018

iii. A summary of Agnico Eagle's compliance status with regard to authorizations that have been issued for the Project

DFO-FFHPP notes that Agnico is operating under several *Fisheries Act* Authorizations for the Whale Tail Pit and Meadowbank projects. As a general condition of *Fisheries Act* Authorizations, Agnico is required to report on their compliance with the *Fisheries Act* Authorizations through annual reporting that includes (but is not limited to):

- stand-alone reports to DFO annually that indicate whether the measures and standards to avoid and mitigate serious harm to fish were conducted according to the conditions of this authorization; and,
- an annual Whale Tail Pit Fish Habitat Offset Monitoring report to DFO (and interested parties) following the construction of the offsetting habitat which summarizes the effectiveness of the offsetting measures. Agnico Eagle are required to provide the Whale Tail Pit Fish Habitat Monitoring Report until DFO indicates the requirement has been met;

DFO-FFHPP will determine Agnico's compliance status once the reviews of the requisite *Fisheries Act* reports have been completed.

If you have any questions, please contact Boyan Tracz at (867) 669-4928, or by email at Boyan.Tracz@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.



Sincerely,

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Fish and Fish Habitat Protection Program

cc
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