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Agnico Eagle has the following comments on Sections 1.0 - 5.0 of draft Amended NIRB Project Certificate No. 08, for consideration by NIRB staff.

Agnico Eagle's comments on Section 6.0 (Project Specific Terms and Conditions) are not summarized in this document but remain as Agnico Eagle described during the Project Certificate Workshop held by NIRB on February 5, 2020.

Reference	Note	Suggested Revision for Consideration by NIRB
Page 5 Page 8 Page 9 Page 10 Page 11	<ul style="list-style-type: none"> All references to Whale Tail Pit Expansion Proposal throughout document (other than the first) should simply refer to "Expansion Proposal" 	Replace references to Whale Tail Pit Expansion Proposal with Expansion Proposal.
See 2.0 PROJECT HISTORY AND OVERVIEW, page 5	<p>References to underground missing in this first description of the project, but is included later in the document at page 7.</p> <p>To avoid potential for confusion, suggest that the project components be described more fully at page 7 rather than partially described on page 5.</p>	On October 16, 2018 the NIRB received a referral from the Nunavut Planning Commission to assess an amendment to Agnico Eagle's Whale Tail Project; specifically to expand the previously approved Whale Tail Pit as well as adding a new IVR mine pit , referred to as the Whale Tail Pit Expansion Proposal (Expansion Proposal). As the <u>Expansion Proposal</u> components were not part of the scope of the previously assessed Whale Tail Pit Project, but were amending and adding on to the previously-approved Project, the NIRB determined that, as established under Article 12, Section 12.8.2(b) and 12.8.2(c) of the Nunavut Agreement and s. 112(1)(b) and 112(1)(c) of NuPPAA, a reconsideration of the Terms and Conditions of Project Certificate No. 008 was required. Once the NIRB received a Final Environmental Impact Statement Addendum from Agnico Eagle, parties were provided a technical review period, the NIRB held community information sessions in each of the (7) Kivalliq communities, before holding an in-person Technical Meeting June 11-13, 2019, and Public Hearing August 26-29, 2019 both in Baker Lake, NU.
See 2.1 PROJECT OVERVIEW, page 7	Suggest adding specific reference to underground infrastructure, and update construction schedule referenced. Note Agnico Eagle plans to start pump out/fish out in July 2020.	The Whale Tail Pit Expansion Proposal (the Expansion Proposal) encompasses development activities which would overlap the physical footprint of the approved Whale Tail Pit Project and extend further onto the Amaruq exploration area. The Expansion Proposal will extend the extraction of ore over an approximate four-year period specifically: expansion of the Whale Tail Pit



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		<p>and construction of IVR and underground infrastructure occurring as early as mid-2020, construction of IVR infrastructure occurring late 2020, operation of the expanded Whale Tail Pit, IVR Pit and underground occurring from 2021-2025, ore processing ending in 2026, and site closure/remediation occurring between 2026-2051.</p>
See PROJECT OVERVIEW, page 7	2.1 At site, Agnico Eagle does not refer to the facility as the "In Pit Tailings Storage Facility". Suggest revision to avoid potential for confusion.	<p>The Expansion Proposal includes expanded development of the Whale Tail open pit; development of an additional open pit (IVR pit); underground mining operations at both the Whale Tail and IVR deposits; and development of associated infrastructure including the IVR Waste Rock Storage Facility and IVR Attenuation Pond. The Expansion Proposal also includes expansion of the existing Whale Tail haul road from 9.5 metres (m) to 15 metres wide, which as with the Whale Tail Pit Project, would be used to transport ore to the Meadowbank Gold Mine for milling. The Expansion Proposal is expected to generate approximately 15.2 million tonnes (Mt) of tailings produced from the milling process in addition to the 8.3 Mt of tailings produced from the Whale Tail Pit Project for a total of 23.5 Mt to be stored within the existing Meadowbank Gold Mine's tailings storage facility(ies) as described in the Tailings Management Plan Tailings Storage Facility and the In-Pit Tailings Storage Facility.</p>
See 3.2 Format of Terms and Conditions, page 9	Suggested revision for clarity.	<p>Project Phase: Identifies the phase(s) of Project development to which the term and condition is applicable. Project phase may include any one or more of the following:</p> <ul style="list-style-type: none"> • Pre-Construction - includes site preparation and staging of materials and equipment in advance of construction • Construction • Operations • Temporary Closure /Care and Maintenance • Closure - includes reclamation and decommissioning and • Post-Closure - includes abandonment, decommissioning and reclamation
See Sections 3.3 Flexibility, pages 10-11	Monitoring Officer and NIRB are not "designated persons" to verify	It is acknowledged that the NIRB's monitoring program will have varying requirements over the course of the Project lifecycle, and that monitoring requirements will



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	<p>compliance under NUPPAA. With present wording, there may be confusion about mandate given that the word "direction" has a unique meaning with respect to regulatory compliance.</p> <p>Suggest revisions to enhance understanding of role of NIRB and Monitoring Officer.</p>	<p>apply from construction to eventual reclamation and abandonment. In areas where there may be a need for flexibility in relation to the terms and conditions of the Project Certificate or their application, the NIRB has endeavoured to reflect this in the associated language and/or acknowledge that objectives may be achieved through various means.</p> <p>The NIRB retains the ability to give additional clarification or direction on an ongoing basis through its Monitoring Officer, with respect to compliance requirements for the Project. Upon request by the Proponent or other parties, the NIRB can provide additional clarification or <u>direction recommendations</u> regarding implementation of Project Certificate terms and conditions.</p> <p>Where the objective of a Project Certificate term or condition can be achieved through more efficient alternate means, the Proponent is encouraged to consult with the NIRB (and other parties as required) to seek acceptance of proposed alternatives.</p> <p>The NIRB has the authority to reconsider the terms and conditions of the Project Certificate to ensure that the terms and conditions are achieving their purpose. Clearly, the NIRB expects the Proponent to meet its obligations under this Project Certificate; however, the NIRB may revisit the Project Certificate if the NIRB determines that the terms and conditions are not achieving their purpose. In the event that the monitoring program needs to be modified to better achieve its purpose, the Board, the Proponent, the Designated Inuit Organization or other interested parties may cause the Board, under Section 12.8.2 of the Nunavut Agreement and s. 112(1) of the NuPPAA to revisit the monitoring program, or any other terms and conditions in the Project Certificate.</p>
<p>See 4.0 Overview of NIRB Monitoring Program, page 11</p>	<p>Suggested wording changes to better track specific wording of s. 135(3) of NuPPAA:</p> <p>135(3) The purpose of a monitoring program is to</p> <p>(a) measure the impact of</p>	<p>As set out in Article 12, Sections 12.7.1 and 12.7.2 of the Nunavut Agreement and s. 135 of the NuPPAA, the NIRB has the jurisdiction to establish a project-specific monitoring program to: measure the <u>impact of the project on the</u> ecosystemic and socioeconomic <u>environments of the designated area; effects of a project; assess-determine</u> whether the project is <u>carried out in compliance-accordance</u> with the prescribed project terms and conditions; <u>share provide</u></p>



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	<p>the project on the ecosystemic and socio-economic environments of the designated area;</p> <p>(b) determine whether the project is carried out in accordance with the terms and conditions imposed under subsection 152(6) or set out in the original or amended project certificate;</p> <p>(c) provide the information necessary for regulatory authorities to enforce the terms and conditions of licences, permits or other authorizations that they issue in relation to the project; and</p> <p>(d) assess the accuracy of the predictions contained in the project impact statement</p>	<p>the information necessary for with regulatory authorities to support the enforcement enforce the terms and conditions of licences, permits or other authorizations that they issue in relation to the Project of land, water or resource use approvals and agreements; and to assess the accuracy of predictions contained in the environmental impact statements. Given the Board’s application of the precautionary approach to several aspects of the assessment for this Project, in the Board’s view project-specific monitoring will play a crucial role in addressing the uncertainty regarding project effects and enabling all parties to adapt mitigation measures on an ongoing basis to ensure the Project’s negative effects are prevented or limited to the extent possible.</p>
<p>4.0 Overview of NIRB Monitoring Program, p 11</p>	<p>The intent of the first sentence of this paragraph is not clear and is not included in NuPPAA or Nunavut Agreement. Suggest removal.</p>	<p>The role of the Board with respect to the establishment of monitoring programs is to focus the terms and conditions in relation to the Project. With respect to existing or future general regional and territorial monitoring programs that may include some of the same monitoring parameters/indicators as the project-specific monitoring program, the Nunavut Agreement and NuPPAA also directs the NIRB to avoid duplication but facilitate co-ordination and integration between the project-specific monitoring programs required by the NIRB and more general programs such as the Nunavut General Monitoring Program. Where the requirements of regional or territorial programs are more extensive or substantively different from those established through the Project Certificate, at all times the Proponent must ensure compliance with the project certificate terms and conditions.</p>



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<p>4.0 Overview of NIRB Monitoring Program, p. 12</p>	<p>Suggested wording as failure to follow a draft framework should not be considered a "non-compliance"</p>	<p>In order to co-ordinate, integrate and avoid duplication with other monitoring programs, but also to ensure that the NIRB's project-specific monitoring program yields the information required to measure effects and adequately assess compliance with terms, conditions, regulatory instruments and agreements, the NIRB's monitoring program will continue to be developed through consultation with Responsible Authorities, the resource and land owners, and the Proponent as the remaining regulatory instruments for the Project are developed. Following the issuance of the Project Certificate by the NIRB, the framework for a project-specific monitoring program will be developed and will be provided in draft form as Appendix A to the Project Certificate. As noted in the Preamble, this framework cannot be issued in final form until key regulatory authorizations, including land use permits, water licences, mineral leases, etc. are issued so that the monitoring program supplements and supports, but does not duplicate, the monitoring requirements in regulatory and land use instruments. Prior to finalization, the Proponent will be expected required to comply with <u>follow</u> all aspects of the draft framework as directed by the NIRB.</p>
<p>4.1 Board Guidance on General Regulatory and Administrative Responsibilities, page 12</p>	<p>Per note above, suggested changes based on the enforcement implications of the word "direction" - replace the word direction with "request"</p> <p>Add e) For clarification the Monitoring Officer doesn't have delegated authority under NuPPAA to enforce</p>	<p>Both the NIRB and the Proponent have various administrative and regulatory obligations that support the efficient and effective implementation of the Project Certificate, including responsibilities to ensure interested members of the public have reasonable access to information about the Project as it progresses. The NIRB provides the following guidance regarding the regulatory and administrative responsibilities of the NIRB and the Proponent.</p> <p>1. The NIRB will appoint Monitoring Officers as required to monitor the Project in accordance with the purpose of a monitoring program as set out in Article 12, Section 12.7.2 of the Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement), and s. 135 of the Nunavut Planning and Project Assessment Act, S.C. 2013, c. 14, s. 2 (NuPPAA), for the full life of the Project, including closure and reclamation. Subject to direction from the NIRB, the responsibilities of the NIRB Monitoring Officers will include:</p>



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		<p>a. Providing requests direction to the Proponent, the Project’s advisory groups, regulatory authorities, and the Kivalliq Socio-Economic Monitoring Committee to provide the NIRB with information respecting the activities relating to the Project, its impacts and the implementation of any mitigative measures;</p> <p>...</p> <p><u>e. For greater clarity, the Monitoring Officer is not a person who is designated under NuPPAA to verify compliance or prevent non-compliance with NuPPAA, including enforcement of the Project Certificate.</u></p>
<p>4.1 Board Guidance on General Regulatory and Administrative Responsibilities, p. 13</p>	<p>Per the above, Monitoring Officer is not a designated person under NuPPAA, suggest change more consistent with NIRB monitoring mandate.</p>	<p>4. The NIRB Monitoring Officer(s) will schedule periodic site visits inspections at the Project, coordinating with other regulatory agencies to the extent possible.</p>
<p>4.1 Board Guidance on General Regulatory and Administrative Responsibilities, page 13</p>	<p>Suggested revision for clarity - "performance bonding" is not a commonly used phrase and is less general than "reclamation security", or "security" (per the NWNSRA)</p>	<p>7. The Proponent shall meet with respective licensing authorities prior to the commencement of construction to discuss the posting of adequate <u>reclamation security performance</u> bonding. Licensing authorities are encouraged to take every measure to require that sufficient security is posted before construction begins.</p>
<p>4.1 Board Guidance on General Regulatory and Administrative Responsibilities, page 14</p>	<p>This would require significant resources, and duplicates the NIRB public registry.</p>	<p>The Proponent <u>is encouraged to</u> shall establish a publically-accessible Project-specific web portal or web page to make available in a central location all significant non-confidential monitoring and reporting information submitted to regulatory authorities pursuant to the Project Certificate and other territorial or federal permits issued for the Project. For clarity, posting on the Project-specific site does not replace any reporting obligation of the Proponent pursuant to the Project Certificate or any territorial or federal permit.</p>