



**PROJECT:** NIRB 125253/03MN107 & 125418/16MN056

**DATE:** May 21, 2020

**SUBJECT:** Review of Kivalliq Inuit Association's involvement in the development of the Meadowbank Terrestrial Ecosystem Management Plan Version 8, April 2020

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### SUMMARY

On 22 April 2020 the Nunavut Impact Review Board (NIRB) distributed Agnico Eagle Mines Limited – Meadowbank Division (Agnico Eagle) Terrestrial Ecosystem Management Plan (TEMP) Version 8<sup>1</sup>. Version 8 modifies and updates Version 7 which had been developed in consultation with the Terrestrial Advisory Group (TAG) and was released in June 2019 in time for public and final hearings for the Whale Tail Expansion Project.

Changes to monitoring and mitigation were made between TEMP Versions 7 and 8, but TAG members, especially the Baker Lake Hunters and Trappers Organization (BLHTO)<sup>2</sup>, have concerns that many of the changes were not adequately discussed or based on consensus within the TAG. To address this concern, NIRB has requested that parties “*provide comment regarding the development of the TEMP Version 8 and whether any updates were developed with the TAG*” (NIRB letter of 6 May 2020).

The Kivalliq Inuit Association (KivIA) appreciates this opportunity to provide comments on the development of the TEMP Version 8. In summary, the KivIA does not believe that changes to the TEMP Version 8 were developed with sufficient discussion with and input from the TAG. The details related to KivIA's responses to the request from NIRB are provided on pages 2 to 4 of this memo. An annotated chronology of pertinent meetings and documents is provided in the Background development leading to TEMP Version 8 section on pages 5 to 7.

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<sup>1</sup> Agnico Eagle (Agnico Eagle Mines Limited). 2020. Meadowbank Division – Terrestrial Ecosystem Management Plan. Prepared by Agnico Eagle Mines Limited – Meadowbank Division. Submitted to the Nunavut Impact Review Board. Version 8, April 2020.

<sup>2</sup> Letter from Baker Lake Hunters and Trappers Organization to Nunavut Impact Review Board, RE: Changes to Agnico Eagle's Terrestrial Management Plan. 30 April 2020.



### **KIVIA RESPONSE TO DEVELOPMENT OF THE TEMP VERSION 8**

KivIA has been consistent in recommending that updates to the TEMP should be conducted in discussion and consultation with the TAG. KivIA made this point in its recommendations for Terms and Conditions during the August 2019 public hearings for Whale Tail Expansion Project: *(i) [Agnico Eagle] shall work through the Terrestrial Advisory Group to update the Terrestrial Ecosystem Management Plan to integrate information on the timing and locations of the caribou crossings relative to traffic frequency and road closures..., and (ii) [Agnico Eagle] shall work through the Terrestrial Advisory Group to update the Terrestrial Ecosystem Management Plan to increase the frequency and efficacy of road monitoring to implement mitigation.*

To address NIRB's request about KivIA's role in the development of the TEMP Version 8 through the TAG, KivIA describes (1) our involvement through the TAG in updating TEMP Version 8; (2) our understanding of the changes in TEMP Version 8 and our concerns relative to project Terms and Conditions, and (3) our suggestions about how the TAG can more effectively contribute to subsequent TEMP versions. These comments were prepared with the assistance of Aurora Wildlife Research (Kim Poole and Anne Gunn).

#### **1) KivIA's involvement with developing TEMP Version 8**

KivIA had only indirect involvement with developing the TEMP Version 8. KivIA was present for presentations and discussion in relevant TAG meetings, but at no time was consensus on primary changes to the TEMP obtained. KivIA was present at the two most recent TAG meetings (November 2019 and April 2020) when we reviewed and commented on Agnico Eagle's analyses and reports as provided to the TAG. The TEMP Version 8 was distributed after the most recent April 2020 TAG meeting and the TAG did not see a draft of TEMP Version 8 prior to finalization. Main points in KivIA's involvement in the TEMP revision process are noted here, with additional details presented on pages 5 to 7:

- KivIA attended the November 2019 TAG workshop which included a half day to discuss the TEMP mitigation hierarchy and operational flexibility. Agnico Eagle was clear that they see the current thresholds based on caribou group size as causing an unacceptable number of road closure days in 2019. The discussion focused on various analyses and draft reports and did not reach consensus for changes to thresholds. The meeting included an Agnico Eagle presentation suggesting that the roads were not having effects on caribou at the herd scale. Subsequently, Agnico Eagle provided a draft report version of the presentation (Golder 2019<sup>3</sup>) to TAG in

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<sup>3</sup> Golder. 2019. Lorillard Collared Caribou Movements; Implications from Interacting with the Whale Tail Haul Project Road and All-Weather Access Road. Prepared for Agnico Eagle Mines Ltd. by Golder Associates Ltd. 27 November 2019.



December 2019 which was found to have several significant deficiencies (e.g., Memo from Aurora Wildlife Research on behalf of the KivIA<sup>4</sup>).

- In February 2020, Agnico Eagle provided to TAG an additional analysis (Caribou Road Crossing Mitigation Technical memo from EDI<sup>5</sup>) which used observations from 2019 Whale Tail haul road spring migration to present alternative solutions for allocating a 12-day spring cap on closure days. KivIA is in support of the Government of Nunavut (GN) review which concluded that there was insufficient evidence to support capping Whale Tail project spring road closures to 12 days<sup>6</sup>.
- On 20 April 2020, KivIA joined a TAG meeting by conference call. The 12-day cap on road closure for spring migration and updated group size to trigger closure were discussed but consensus was absent. Agnico Eagle stated that the revised TEMP would be distributed later in the week, and that changes would include the group size thresholds, addition of a snow study and inclusion of road side surveys to replace height of land surveys.

### **2) Changes in TEMP Version 8 and KivIA's concerns**

The KivIA has a number of concerns with changes to the TEMP Version 8. These are highlighted below and will be provided in greater detail in a subsequent memo from KivIA to Agnico Eagle.

- KivIA is concerned that Agnico Eagle did not provide TAG with an opportunity to work through Agnico Eagle's changes to the TEMP and to reconcile the different views. The KivIA believes this is contrary to the intent of Whale Tail Pit Project Certificate No.008 (Amendment 001) Terms and Conditions 27 and 30 (TEMP Version 8, Appendix A). Working together on draft TEMPs happened with previous TEMP versions such as at the June 2017 TAG meeting.
- The degree to which Inuit Qaujimagatugangit was incorporated to change thresholds to trigger implementation of mitigation measures in the updated TEMP Version 8 is unclear, again not aligning with Term and Condition 30.
- The thresholds have been changed for triggering Level 2 from short to mid-distant observations of caribou to only collared caribou for mine operations, roads and blast locations (Figs. 6 to 9) despite the risk of small sample size for the number of collars (contingent upon future collaring).
- Changes in the thresholds for group size have been increased based on a single year (2019) rather than all the existing data from 2007, which may reduce protection if 2019 was an unusual year (Section 3.4.4.2, page 48; Figs. 6 to 9).

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<sup>4</sup> Aurora Wildlife Research. 2020. Technical memo: Kivalliq Inuit Association technical review of Golder 2019. Lorillard Collared Caribou Movements; Implications from Interacting with the Whale Tail Haul Project Road and All-Weather Access Road. 27 November 2019 draft. 6 January 2020.

<sup>5</sup> Environmental Dynamics Inc. 2020. Caribou Road Crossing Mitigation — Technical Memorandum. 10 February 2020.

<sup>6</sup> Letter from Government of Nunavut to Agnico Eagle Mines Limited, RE: Effectiveness of existing Whale Tail Pit Project Caribou Protection Measures. 24 March 2020.



- Even though Agnico Eagle is proposing to use convoys (Section 3.9.1) the use of convoys is vague with no adaptive management or explanation of how convoys fit in with tiered mitigation.
- Agnico Eagle refers to its reports and analyses in the TEMP Version 8 without clarifying that TAG members were critical of the inferences drawn in those reports (p. 49).
- The TEMP Version 8 identifies (p. 48) that Agnico Eagle is working with the TAG to develop, through adaptive management, alternative monitoring triggers which will be included in a future revision of the TEMP. These discussions have not yet taken place.

### **3) KivA's suggestions about how the TAG can more effectively contribute to the TEMP**

As Agnico Eagle notes (TEMP Version 8, pg 4), the TEMP is subject to annual review and changes through adaptive management. Although KivA is disappointed not to have been directly involved in the 2020 TEMP Version 8, KivA does acknowledge Agnico Eagle's efforts which include analyses as a result of Technical Meeting commitments (e.g., Crossing Analysis Report, Snow Study design report, and Roadside Monitoring and Viewshed Report).

With more information the TAG will be better placed to develop options for integrated thresholds and possible alternative monitoring besides seasonal group size, as well as reaching as close to consensus as possible on group size thresholds and other triggers for mitigation. For example, the KivA requires clarity about the relationships between road closures, restricted traffic and convoys. More information on relaxation of downstream measures once caribou have passed the road is required.

The KivA stresses that more collaboration and transparency are required to effectively implement changes to the Meadowbank TEMP and ensure that all relevant parties have been consulted and are in agreement. Discussions should be held with the TAG during the initial stages of development of both research and analyses of data by any of the parties to the TAG. For example, the KivA is in support of a study to examine the efficacy of various options to complete closure of the haul road to non-essential traffic. These could include testing the impact to caribou crossing success, deflections, delays in crossing, etc., of various scenarios of length and predictability of road closure (e.g., 6, 12, or 18 hours, at night versus during the day, etc.). Reports and memos should be provided to TAG members ensuring adequate time for review prior to discussion. Changes to monitoring and mitigation should be presented as options for input.

In conclusion, the KivA does not believe that updates to the TEMP Version 8 were developed with adequate discussion and input of the TAG. The KivA reiterates that they are open to continuing dialogue within the TAG for updates to the TEMP.

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### BACKGROUND DEVELOPMENT LEADING TO TEMP VERSION 8

To address NIRB's request we have provided an annotated chronology of pertinent meetings and documents:

#### 26-27 November 2019 TAG meeting, Winnipeg, MB

- Discussion of changes in caribou group size thresholds (GST) and limiting the number of road closure days. No consensus obtained.
- Presentation of the effects of the roads on caribou migration (Lorillard collared caribou movements; Golder, 27 November 2019).
- Presentation of TEMP Mitigation Hierarchy and Operational Flexibility by Dan Coulton (Golder) and proposed trigger alternatives to limit number of days of road closure: *"Max. no. days mine can sustain shutdowns is 18 days (recommend 12 in spring and 6 in fall), beyond this will use 2 convoys of haul trucks per day"* (from TAG meeting minutes).

#### 13 December 2019 Lorillard Collared Caribou Movements report<sup>7</sup>

- Report provided to TAG members for further input and comments.

#### 27 January 2020 Letter from BLHTO to Agnico Eagle

- The BLHTO was concerned that the BLHTO was not was not consulted about the Lorillard collared caribou movements study early in the process, that the TAG was not provided with the report prior to the presentation at the November 2019 TAG meeting, and that the BLHTO was provided with very short deadlines for feedback.

#### 10 February 2020 Caribou Road Crossing Mitigation Technical memo from EDI<sup>8</sup>

- To quote the overview: *"This memorandum provides background on road-based caribou protection measures associated with the Whale Tail Expansion Project, including a summary of the development, implementation and outcomes of caribou group-size thresholds (GST) as triggers for road-closures. EDI has used the Whale Tail Haul Road observation data to visualize patterns (timing and count) present in the spring 2019 migration, and generated alternative road-closure options that account for a 12-day cap in spring road closures, whilst acknowledging input provided by traditional knowledge holders that distinguishes the lead and main herd. **The objective of this technical memorandum is to present alternate solutions for allocating the 12-day cap on closure days**"* (emphasis added).

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<sup>7</sup> Golder. 2019a. Lorillard Collared Caribou Movements; Implications from Interacting with the Whale Tail Haul Project Road and All-Weather Access Road. Prepared for Agnico Eagle Mines Ltd. by Golder Associates Ltd.

<sup>8</sup> Environmental Dynamics Inc. 2020. Caribou Road Crossing Mitigation — Technical Memorandum. 10 February 2020.



### 24 February 2020 Letter from BLHTO to Agnico Eagle

- The BLHTO indicated that the cover letter by Agnico Eagle staff and the Caribou Road Crossing Mitigation memo implied that a 12-day cap on road closures will proceed, and that this violates the TAG terms of reference.
- The BLHTO further stated that Agnico Eagle did not make a meaningful attempt to reach consensus of all members of the TAG.

### 24 March 2020 Letter and technical comments from Government of Nunavut on Caribou Road Crossing Mitigation memo (EDI)

- The GN stated that there was insufficient evidence to support capping Whale Tail project spring road closures to 12 days.
- Citing Term and Condition No. 30 and the TAG terms of reference, the GN letter reiterated that no TAG party can unilaterally approve permanent or single-year revisions to caribou mitigations, and that consensus among TAG members is required.
- GN considers the 12 day cap to be a proposal from Agnico Eagle.

### 26 March 2020 Letter from Agnico Eagle to BLHTO responding to letter of 24 February 2020

- Agnico Eagle stated that the 12-day cap on road closure days was a proposal leading from their data analysis, and that the *“stated goal was to meet with TAG members to discuss these options prior to any implementation”*.
- Lorillard Collared Caribou Movements report is currently being revised by Golder.
- Citing Term and Condition 27 of NIRB Project Certificate No.008, Agnico Eagle stated *“Agnico Eagle is allowed to modify the TEMP in collaboration with TAG members”* (emphasis added).

### 10 April 2020 Letter from BLHTO to Agnico Eagle responding to letter of 26 March 2020

- BLHTO clarified their role in resource management.
- The letter also requested an economic analysis justifying the need for a 12-day limit on spring migration road closures, and requesting a public meeting to present Agnico Eagle’s proposed changes to caribou protection measures.

### 20 April 2020 Agnico Eagle minutes of conference call with TAG members

- Agnico Eagle provided further background and scenarios proposed for capping road closure days in spring to 12 days.
- The minutes from the conference call state: *“60 days of road closure is not sustainable economically for the Project nor does it is aligned with the Project as presented (28 days of road closure – 18 for caribou)”* and *“We have had discussions with GN, KIA and letters from HTO on this topic but were hoping to organize a formal TAG group discussion on this”*.
- KivIA stated they were not in favour of the 12-day spring cap on road closures.



- Agnico Eagle summarized in the meeting minutes: *“we don’t have consensus on relaxation of downstream measures once caribou have passed the road, on the 12-day road closure cap nor on the initiation of studies of impact on caribou vs haul truck passage”*.

### **22 April 2020 Terrestrial Ecosystem Management Plan Version 8, April 2020<sup>9</sup>**

- Distributed by NIRB on 22 April 2020.
- Document control states that this version was a *“Revision per additional comments from TAG members, annual report outcomes, Whale Tail Pit Expansion Project NIRB Review Process, and Project Certificate No.008 [Amendment 001]”*.
- Compared to TEMP Version 7, Version 8 (Figs. 6–9) shows an increase in GST during spring from 12 to 75 caribou, during summer from 25 to 300, and during fall from 110 to 1,000, with analysis based on 2019 observations (Table 15).
- Changes to decision tree charts (Figs. 7 and 8 for the roads) include removal of mid-distance triggers for changes to mitigation, and consensus/no consensus options between Level 2 and Level 3 mitigation and monitoring.
- Limits to the number of days of road closure and initiation of daily and weekly convoys have been added.

### **30 April 2020 Letter from BLHTO to NIRB, KivIA, and GN regarding concerns over changes to Agnico Eagle’s TEMP**

- The letter expressed concerns from TEMP Version 8 regarding changes to spring and fall GST required to trigger road closures, and that these changes may have been made without the involvement of the TAG.
- The BLHTO requested that NIRB provide guidance on whether Agnico Eagle can make changes to the TEMP without involving the TAG.

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<sup>9</sup> Agnico Eagle (Agnico Eagle Mines Limited). 2020. Meadowbank Division – Terrestrial Ecosystem Management Plan. Prepared by Agnico Eagle Mines Limited – Meadowbank Division. Submitted to the Nunavut Impact Review Board. Version 8, April 2020.