



May 22, 2020

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RE: 16MN056 Changes to the Whale Tail Pit Project's Terrestrial Ecosystem Management Plan, Version 8 (TEMP. v.8)

Dear Talia Maksagak,

Thank you for your distribution of Agnico Eagle Mines' (AEM) revised Terrestrial Environment management Plan (TEMP) v.8, as well as your subsequent request that the Government of Nunavut (GN) clarify how this document was developed. AEM has engaged the Terrestrial Advisory Group (TAG) twice since the Final Hearing for its Expansion Project, in November 2019, and April 2020. The TAG discussed potential TEMP revisions on both occasions.

However, the GN did not receive an advanced copy of TEMP v.8 prior to AEM submitting this document to the Nunavut Impact Review Board. Some updates in TEMP v.8 are consistent with GN recommendations put forward to the TAG, while others – such as the revised caribou group size thresholds found in Section 3.4.4.2 - have been independently developed by AEM and are contrary to TAG advice. Our detailed comments and recommendations towards TEMP v.8 are enclosed here in Appendix A.

The GN agrees with the Baker Lake Hunters and Trappers Association's assessment that TEMP v.8 group size thresholds have been altered since TEMP v.7, without appropriately consulting the TAG (April 25, 2020 letter). On March 24, 2020, the GN wrote to AEM and the TAG to recommend that additional research was needed prior to AEM alleviating its TEMP v.7 caribou protection measures. The revised caribou group size thresholds in TEMP v.8 will render these caribou protection measures largely ineffective by overly limiting the scenarios in which these mitigations are triggered.

The terms-of-reference for the TAG state:



Appendix A: GN COMMENTS TOWARDS TEMP V.8

GN Comment No.	TEMP Version 8 Reference	Change from TEMP Version 7 to Version 8	GN Comment
GN1	Page 1	AEM states in reference to TEMP v.8: "this version of the TEMP also reflects the commitments made during the Whale Tail Pit Expansion Project. These and previous commitments are included in Appendix A."	This statement is incorrect. TEMP version 8 still does not reflect all commitments made by AEM - see the concordance table included in the GN's Final Written Submission for the Whale Tail Pit Expansion Project. For example, see commitment 20 (Appendix A, TEMP v.8) made during the Whale Tail hearing regarding helicopters. This program has not been included in the TEMP yet it is reported as 'complete' within Appendix A of the TEMP under the list of commitments to GN. The GN recommends that AEM fulfill all of its commitments. The GN will submit an updated concordance table of AEM commitments in its 2019 Annual Report comments to the NIRB.
GN2	Page 5	List of related management plans	The list of related plans no longer includes a Traffic Management Program The GN recommends that AEM revise its TEMP to relist its Traffic Management Program on page 5.
GN3	Table 4, second row	In TEMP v.8 AEM states: "Inuit Qaujimagatuqangit will also be considered when determining group size thresholds."	It is unclear how IQ has been considered in the revised GST's in TEMP v.8. The GN recommends that AEM clarify how IQ has been considered in its recent TEMP revisions resulting in TEMP v.8.
GN4	Table 4,	In TEMP v.8 AEM states:	The Golder study referenced on page 47 and



		has been revised in TEMP v.8 to “Mechanistic studies”.	<p>Zone-of-influence is a requirement under term and condition 29 of the Project Certificate that has not been fulfilled and cannot be unilaterally dropped as a monitoring activity by the Proponent.</p> <p>The GN recommends that AEM continue to utilize the previous language used in TEMP v.7 of “ZOI and mechanistic studies” as per terms and conditions 27 and 29 of the Project Certificate.</p>
GN10	Section 3.4.4.2, page 47	<p>The following was added to TEMP v.8: “Monitoring in 2019 has shown that a GST of 12 for spring encompasses 98% of all caribou observed from roadside surveys during spring migration in 2019 (Table 14). As a result, the Haul Road was closed for a total of 60 days, which is considerably higher than 28 days of road closures (18 for caribou and 10 for severe weather events) for the Approved Project. The 60 days of road closure in 2019 is unsustainable for mining operations and provided a considerably greater level of protection for caribou than was intended by the GST. As well, the preliminary results of analyses of Lorillard collar data indicate that the residual effects of the Haul Road and AWAR during spring migration are unmeasurable (Golder 2019a). During spring</p>	<p>There is no approved annual limit on road closure days. The number of road closure days in a given year is determined by weather and application of the TEMP, per term and condition No. 28. AEM accounted for there being 28 days of road closure for its Expansion Project but never presented this estimated economic contingency as an annual limit.</p> <p>These revisions conflict with term and conditions 27 and 30 of the Project Certificate and with commitments made by AEM. They conflict with the TOR of the TAG established pursuant to term and condition 27 (Project Certificate 008). These changes are not supported by the majority of TAG members. There was no majority or consensus in favour of these changes, as is required under the TAG’s terms-of-reference.</p> <p>The analysis referred to as Golder (2019a) was a draft analysis that was reviewed by the TAG and found to have several significant deficiencies. In their reviews of this draft analysis, most TAG members indicated that they did not support the study’s conclusions based on the analysis provided. A revised</p>



		72,463 caribou, summer 7,836 caribou, fall 27,799 caribou and winter 55 caribou were observed from the Haul Road and AWAR, respectively. Based on 2019 monitoring results, GST values that meet the 75% protection criteria are provided in Table 15.”	<p>version of this document has not been presented to the TAG for discussion. Reference to this analysis, as justification for revisions to the TEMP does not accurately reflect the views of the TAG, and is inconsistent with terms and condition 27 of the Project Certificate and the TAG’s TOR.</p> <p>The GN recommends that: 1) The GSTs should remain the same as those in TEMPv7; (2) Any proposed changes to the GST’s should occur by a process that is consistent with PC terms and conditions, the TAG’s TOR and the specific commitments made by AEM, during NIRB reviews, regarding changes to GSTs; (3) Reference to the 28 day limit on road closures for the Approved project should be removed. NIRB should clarify whether such a limitation was part of the Approved project (and where is this limitation referenced); (4) The GN recommends that reference to the draft study (Golder 2019a) be removed from the TEMP and that a revised version of the study be provided to the TAG for review; (5) The GN also recommends that the NIRB consider whether this specific TEMP v.8 revision represents a conflict with term and condition 27 and 30 of the Project Certificate, the TAG’s TOR and the specific commitments made by AEM on this matter during review of the WT project.</p>
GN11	Section 3.4.4.2, page 48. Figure 6 to 9	Tables 15 and 16 of TEMP v.7 which present caribou group size data for the period 2007 to 2018 for observations along the All-Weather-	<p>These revisions conflict with term and condition 27 of the Project Certificate and with commitments made by AEM.</p> <p>Lack of Process</p>

