





*"If consensus on advice to Agnico Eagle cannot be reached at the TAG for GN7... (iv), the issue will be referred to the Review Committee for a decision. Agnico Eagle shall adhere to the advice rendered by the majority of members of the Review Committee for GN7 (iv)..." (Terms of Reference, Section 4.3, emphasis added.)*

AEM's commitment associated with GN7 (iv), from exhibit 21 of the original Whale Tail Pit public hearing, states :

*"Within 1 year of Project certification, the Proponent shall revise caribou group-size thresholds for adaptive management, taking into account the frequency of monitoring effort, spatial coverage of monitoring and likelihood of detecting groups of caribou, in order to ensure a majority (70%) of caribou are subject to enhanced mitigation (i.e. levels 1 through 3 of mitigation and monitoring as illustrated in figures 6 through 9 of the Terrestrial Ecosystem Monitoring Plan (TEMP), v4.0). Thereafter, further revisions may be made annually within the TEMP, taking into account ongoing project monitoring. The revisions shall adhere to advice provided by the TAG, as per the terms of reference." [Emphasis added.]*

Section 3.4 of the Project Certificate 008 for the Whale Tail Project states that:

*"The Board expects that the Proponent will fulfill all commitments made during the Final Hearing, within its Environmental Impact Statement and supporting documentation submitted during the Review, not just those commitments that have been incorporated into the Terms and Conditions of this Project Certificate."*

To-date, the TAG's Review Committee has not contemplated the caribou group size thresholds in TEMP v.8. The GN is hopeful that its terrestrial concerns can be addressed through ongoing TAG dialogue and AEM's formal engagement of the TAG's Review Committee. In the interim, the GN recommends that TEMP v.7 remain the approved document for Whale Tail Pit Expansion Project implementation and compliance monitoring.











		<p>interested and qualified parties to better understand the presence of a ZOI, and potential barrier effects from mine infrastructure and the AWAR.”</p> <p>The above excerpt was replaced with the following text in TEMP v.8:</p> <p>“Discussions of future analysis have largely been focused on further understanding caribou-road interactions and effects to caribou movement during spring migration, paired with broader range-scale studies examining timing of caribou arrival to calving grounds and eventual calving success.”</p>	<p><b>referenced in the GN’s March 24 letter and during the November 2019 TAG meeting). Specifically, AEM should endeavor to fulfill its original commitment to estimate zone of influence (ZOI) and the effects of its roads on caribou migratory movements.</b></p>
GN6	Figures 6, 7, 8	<p>The trigger for level 2 caribou mitigation has been changed from “&gt;group size threshold (GST) within 4km” in TEMP v.7 to:</p> <p>Being triggered when “2 collared caribou are within 25km of mining infrastructure including roads, on an apparent trajectory to migrate across the relevant roads” in TEMP v.8.</p>	<p>The language added in TEMP v.8 reflects a commitment made to the GN during the Whale Tail expansion review. However, the intention of this commitment was to provide an additional trigger for level 2 not a replacement trigger. Therefore, the original language in TEMP v.7 should have been retained in TEMP v.8 and the commitment language inserted as an addition.</p> <p>Reliance on collars as the only trigger for level 2 is not appropriate since there will be many occasions when collars are not deployed on surrounding herds or the number of deployed collars is too low to guarantee the detection of approaching caribou.</p>

			<b>The GN recommends that the original language of TEMP v.7 regarding triggers for level 2 continue to be utilized.</b>
GN7	Figure 9	<p>The trigger for level 2 caribou mitigation for blasting procedures has been changed from "&gt;GST within 25km" in TEMP v.7 to:</p> <p>Level 2 caribou mitigation being trigger by "2 collared caribou within 25 km of blast location, on apparent trajectory to blast area" in TEMP v.8.</p>	<p>This change was made without consultation with the TAG and does not reflect any commitments made by AEM to intervenors during the Whale Tail or Whale Tail Expansion reviews.</p> <p>Reliance on collars as the only trigger for level 2 is not appropriate since there will be many occasions when collars are not deployed on surrounding herds or the number of deployed collars is too low to guarantee the detection of approaching caribou.</p> <p><b>The GN recommends that the original language of TEMP v.7 regarding triggers for level 2 continue to be utilized.</b></p> <p><b>The GN also recommends that the NIRB consider whether this specific TEMP v.8 revision represents a conflict with term and condition 27 of the Project Certificate.</b></p>
GN8	Figure 10	<p>Commitments 29 and 30 made by AEM to the GN during the review of the Whale Tail project were as follows (TEMP v.8, Appendix A):</p> <p>"The Project's TEMP shall be revised to include a provision for mandatory suspension of blasting when groups of muskox above the specified group size threshold are observed within 1km of blasting activities. The</p>	<p>These commitments for suspension of blasting and traffic speed limits were reflected in Figure 10 of TEMP v.7 under the level 2. In TEMP v.8 they have been removed. No justification is provided for this revision and no consultation with the TAG occurred regarding these revisions.</p> <p>This revision conflicts with term and condition 27 of the Project Certificate and with commitments made by AEM. This revision was not made in accordance with advice from the TAG, as per the Terms of reference (TOR). The process used in making this</p>



		<p>suspension of blasting shall be maintained until the animals have moved away. The no blasting buffer may be reviewed periodically throughout the life of the Project whenever relevant information becomes available. The revisions shall be completed annually within the TEMP, taking into account ongoing project monitoring, and will be consistent with advice provided by the TAG, as per the term of reference.”</p> <p>“The Project’s TEMP shall be revised to include a requirement for vehicles to slow to 30 km/hr when passing within 500m of a group of muskox above a specified group size threshold. This mitigation measure may be reviewed periodically throughout the life of the Project taking into account ongoing project monitoring. The revisions shall be consistent with advice provided by the TAG, as per the terms of reference.”</p>	<p>revision conflicts with the TAGs TOR. The TAG was not consulted on these changes prior to the development of TEMP v8.</p> <p><b>The GN recommends that AEM: (1) Reverse the changes made between v7 and v8; ie. Revert back to the language used in v7 for these items; (2) NIRB consider whether the revisions and the way they were made are in conflict with term and condition 27, the TAGs terms of reference and commitments made by AEM; (3) That AEM work with the TAG, according to its TOR and commitments made during NIRB reviews (as listed in Appendix A of the TEMP v8) to make any future changes to muskox mitigation.</b></p>
GN9	Table 13	In this table, for the potential effect “Sensory Disturbance of Caribou” the monitoring activity listed in TEMP v.7 as “ZOI and mechanistic studies”	This change conflicts with term and conditions 27 and 29 of the Project Certificate. The TAG was not consulted regarding this revision, as per the TAGs TOR. Collection of collar data to quantify project

		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><b>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.</b></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><b>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.</b></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><b>Lack of Process</b></p>



		<p>Access-Road (AWAR) have been removed and replaced with table 14 (TEMP version 8) which presents group size data for the AWAR and Haul Road for 2019 only.</p> <p>Table 17 in TEMP v.7 which presents seasonal GSTs for triggering mitigation has been replaced with Table 15 in TEMP v.8). GSTs have been increased for the spring, fall and summer periods based on 2019 data only.</p> <p>GSTs for mitigation measures such as closure of the haul and all-weather-access roads, suspension of mining operations and blasting activities (figure 6 to 9) have been increased from &gt;12 to &gt;75 and from &gt;110 to &gt;1000 for the spring and fall migration seasons, respectively. GST for the summer has been increased from &gt;25 to &gt;300.</p>	<p>These changes in GST conflict with commitment GN 7(iv) made during the Whale Tail project final hearing. They also conflict with the TOR of the Terrestrial Advisory Group established pursuant to term and condition 27 (Project Certificate 008). These changes are not supported by the majority of TAG members.</p> <p><b><u>Reliability of Data</u></b></p> <p>As presented (Table 15) and discussed in TEMP v.7, 64% of all caribou (n = 111,328 animals) observed from roadside surveys along the Meadowbank AWAR between 2007 and 2018 were in groups of 50 or more animals (when pooling all seasons). As presented in table 16 in TEMP v.7, spring, summer and fall groups size thresholds, representing protection of 75% of all caribou observed during this period, were 17, 9.6 and 68 respectively. This differs significantly from the GSTs supported by the Golder memo.</p> <p>The use of a single year of data (2019) instead of the former 10 years of data to justify increasing the GSTs leaves a large degree of uncertainty. Additionally, there are several methodological concerns about potential bias in this data set that have not been addressed (see GN letter to AEM dated March 20, 2020, for further details.) For example section xxx of the TEMP (versions 7 and 8, section 3.4.2.3) in discussing caribou group observation data states that:</p> <p>“...it is recognized that this type of survey data is limited to the sightability and detection of caribou from the survey locations. Consequently, the determination of sightability and detection functions will be</p>
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		that the amount of time the Haul Road was closed did not influence how long collared caribou moved through an 8 km corridor around the Haul Road (Golder 2019a)."	inconsistent with terms and condition 27 of the Project Certificate and the TAG's TOR.  <b>The GN recommends that reference to the draft study be removed from the TEMP and that a revised version of the study be provided to the TAG for review.</b>
GN14	Section 3.9.1 – Convoy Management	This section was added to TEMP v.8	This revision has not been reviewed by the TAG. In particular, the TAG has not rendered any advice on the section dealing with weekly convoys that include mining trucks (which are non-essential vehicles (as defined specifically in the TEMP). The caribou protection measures specified in figures 6 to 9 do not allow mining related vehicles on the closed roads since they are classified as non-essential vehicles.  <b>The GN recommends that AEM remove this new section of the TEMP and consult with the TAG regarding this addition.</b>