



Fisheries and Oceans Pêches et Océans
Canada Canada

Fish and Fish Habitat Protection Program
Fisheries and Oceans Canada
Central and Arctic Region
Suit 301, 5204 50th Avenue
Yellowknife, NT, X1A 1E2

July 27, 2020

Your file *Votre référence*
03MN107/16MN056

Our file *Notre référence*
16-HCAA-00370

Richard Dwyer
Manager Licencing
Nunavut Impact Review Board
P.O. Box 119
Goja Haven, NU X0B 1J0

Karen Costello
Executive Director
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, NU X0B 0C0

**Subject: [03MN107/16MN056] – Agnico Eagle Mines Ltd. – Meadowbank
Gold Mine and WhaleTail Pit Projects- 2019 Annual Report**

Dear Richard Dwyer and Karen Costello:

The Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO) would like to thank the Nunavut Impact Review Board (NIRB or the Board) for the opportunity to review Agnico Eagle Mines Limited's (Agnico) 2019 Annual Report for the Meadowbank Complex, including both the Meadowbank Complex and Whale Tail Pit sites.

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 continues to review the requisite reports to determine Agnico's compliance with the conditions set out in the issued *Fisheries Act* Authorizations.

MeadowBank Gold Project

DFO-FFHPP notes that discussion are currently being undertaken surrounding modifications to *Fisheries Act* Authorization: 03-HCAA-CA7-00191.

Section 8.5.1 Meadowbank Site (p.212)

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* Authorization, 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 that indicate whether the measures and standards to avoid and mitigate serious harm to fish were conducted according to the conditions of the authorization; and,
- An 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 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.

DFO-FFHPP notes that discussion are currently being undertaken surrounding modifications to this Authorization.

Section 8.5.6.1 and 8.8.1 Meadowbank Site Habitat Compensation Monitoring Program (p.302 & 397) reference Appendix 40 (Habitat Compensation Monitoring Report)

Under this section the proponent references *Fisheries Act* Authorization NU-0191.2, NU-03-0191.3, NU-03-0191.4 and 14-HCAA-01046 stating: "*Monitoring was conducted in 2019 for the constructed spawning pad, located at stream crossing R02 along the all-weather access road... as well as onsite habitat compensation features constructed to date (East Dike exterior, Bay-Goose Dike exterior, Dogleg Ponds)*"

DFO-FFHPP acknowledges Agnico's commitment to conducting monitoring and acknowledges the submission of the 2019 HCMP report (Appendix 40). DFO will review those reports, and has no further comments at this time.

Section 8.16 Creel Survey Results (p.463) reference Appendix 52 (2019 Wildlife Monitoring Report)

Under this section the proponent references *Fisheries Act* Authorization NU-03-0190 Condition 5.2.4. The proponent states that:

- The number of fisherman reporting successful fishing trips in 2019 was 26, which is higher than the average of 22 fishermen between 2007 and 2015;
- Three fish species were reported as being caught in 2019: Arctic Char, Lake Trout, and Lake Whitefish;
- Most common fish species captured, Lake Whitefish, represented 58% of the total catch in 2019.

DFO-FFHPP acknowledges Agnico's commitment to engage local Hunter Trapper Organizations (HTO) in the development, implementation and reporting of annual creel surveys within the water bodies affected by the Plan. DFO recommends that Agnico continues to engage local HTO with annual creel surveys and associated reporting.

Whale Tail Pit Project

Section 3.5.2.1 Design Report and Construction Drawings (p. 54)

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, and state: "*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 has the opportunity to comment all design reports submitted to the NWB for approval. Agnico will continue to construct infrastructure 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 and will review those reports to determine whether potential impacts to fish passage have been mitigated and avoided. DFO-FFHPP recommends that Agnico undertake to complete the reporting to DFO-FFHPP as described in their *Fisheries Act* authorization conditions.

Section 8.5.1.2 Whale Tail Site (p. 213) reference Appendix 20 (2019 Technical Memorandum on Avoidance of Serious Harm to Fish and Fish Habitat- Whale Tail Project)

Under this section the proponent references *Fisheries Act* Authorization 16-HCAA-00370 Condition 3.1 stating that the 2019 Technical Memorandum of Avoidance of Serious Harm to Fish and Fish Habitat- Whale Tail Project was submitted to DFO on April 21st, 2020.

DFO-FFHPP acknowledges Agnico's submission and will review the report to determine whether potential impacts to fish and fish habitat have been mitigated and avoided. DFO-FFHPP has no further comments at this time.

Section 8.6 Blast Monitoring (p.390) reference Appendix 45 (2019 Meadowbank and Whale Tail Blast Monitoring Report for the Protection of Nearby Fish Habitat)

Under this section the proponent references *Fisheries Act* Authorization 16-HCAA-00370 Condition 2.3.3 and state: "*There were eight (8) PPV concentrations exceeded the DFO limit of 13 mm/s... The eight exceedances were recorded in 1029 and occurred during period of egg incubation.*"

DFO-FFHPP notes the egg incubation period during which exceedance occurred, and acknowledge that mitigation measures were implements to prevent future exceedances at

Mammoth Stations: 5137PSW01, 5144MSW32, 5130PSW04 SEQ1, 5130PSW06 SEQ1. DFO-FFHPP further notes that exceedance of blasting thresholds (PPV and Peak Pressure) have the potential to cause serious harm to fish, particularly during incubation. 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.

Under the *Fisheries Act*, there is a Duty to Notify DFO when they have caused, or are about to cause, mortality or HADD to fish or fish habitat that is not authorized. Moreover, the *Fisheries Act* imposes a duty to take corrective measures and to provide written reports when there are occurrences that may result in a mortality or HADD to fish or fish habitat. Failure to notify, take corrective measures or report in such situations may result in penalties.

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

Fisheries and Oceans Canada appreciates the opportunity to review and provide comments regarding the 2019 Annual Report for the Meadowbank Complex, including both the Meadowbank and Whale Tail Pit sites. If you have any questions with the content of this letter, please contact Edyta Ratajczyk at our Yellowknife office at 867-445-3924 or by email at edyta.ratajczyk@dfo-mpo.gc.ca.

Yours sincerely,



Alasdair Beattie

A/Team Lead

Fish and Fish Habitat Protection Program | Programme de Protection du poisson et de son habitat

Fisheries and Oceans Canada | Pêches et Océans Canada

Arctic Region | Région de l'Arctique