



## APPENDIX 1

GN AR # 01	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Helicopter Traffic Monitoring and Reporting
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Limited. (2020a). Agnico Eagle's response to Meadowbank (03MN107) and Whale Tail (16MN056) 2019 Annual Report comments.</li> <li>• Agnico Eagle Mines (AEM) Ltd. (2020b). Meadowbank Mine 2019 Wildlife Monitoring Summary Report. Final. Appendix 52 of the Meadowbank Mine Annual Report.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> <li>• Government of Nunavut (GN). (2017). Final written submission for Agnico Eagle Mines' environmental impact statement for the proposed Whale Tail Pit project.</li> <li>• Government of Nunavut (GN). (2017). Final written submission for Agnico Eagle Mines' environmental impact statement for the proposed Whale Tail Pit project.</li> <li>• Government of Nunavut (GN). (2020). Comments on Agnico Eagle Mines Limited's Meadowbank Gold Mine Project and Whale Tail Pit Project 2019 Annual Report (03MN107 &amp; 16MN056).</li> <li>• Nunavut Impact Review Board (NIRB). (2017) Final hearing report, Agnico Eagle Mines Ltd. Whale Tail project. NIRB File No. 16MN056.</li> <li>• Nunavut Impact Review Board (NIRB). (2020). 2019-2020 Annual Monitoring Report Meadowbank Gold Mine and Whale Tail Pit Projects</li> </ul>
IDENTIFICATION OF ISSUE	
<p>During the NIRB's review of the Whale Tail Project, the Proponent made a commitment to the Government of Nunavut (GN) that helicopter traffic would be monitored and reported. This commitment was not fulfilled during 2018 and 2019, as evidenced by the absence of relevant revisions to the Terrestrial Ecosystem Management Plan (TEMP) and lack of information regarding helicopter traffic in the Proponent's 2018 and 2019 Annual Reports. In 2020, the NIRB</p>	

directed the Proponent to work with the GN and Terrestrial Advisory Group (TAG) to revise the TEMP to incorporate the requirements of this commitment (NIRB 2020).

In the Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report (AEM 2021), the Proponent has provided information on helicopter traffic. The GN appreciates the Proponent's efforts to fulfill this outstanding commitment. However, the limited scope and format of this information is not consistent with the commitment made to the GN and does not reflect input provided by the GN or other members of the TAG. Given the limitations of the information provided, the GN is unable to determine whether there are potential impacts to wildlife from Project-related helicopter traffic; a concern expressed by local community members during NIRB hearings on the Project.

Helicopters are a potential source of disturbance for caribou and other wildlife. The intensity and distribution of helicopter traffic should be monitored and properly reported in-order for reviewers to understand the disturbance footprint of the Project and associated exploration activities.

#### **IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE**

During the NIRB's review of the Whale Tail Project, the GN noted concerns about the potential for helicopters to disturb wildlife such as caribou (GN 2017, Comment GN-10). Similar concerns were expressed by community members from Baker Lake (e.g. Whale Tail Final Hearing Transcripts, 2019, page 561)

In response to these concerns, one of the commitments made by the Proponent to the GN during the NIRB's review of the Project was:

"The Proponent shall revise the Project's TEMP to include a program to monitor and report helicopter traffic associated with the Whale Tail project (including existing Meadowbank infrastructure) and all associated exploration activities so that the spatial scale and intensity of this activity can be documented. This should include the collection and analysis of GPS track logs for all helicopter flights contracted by the Proponent." (NIRB 2017, Appendix B, Commitment #20)

In its reviews of the 2018 and 2019 Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Reports, the GN expressed concerns that the TEMP had not been revised to include a helicopter monitoring program and that helicopter traffic was not being reported as per commitment #20 (e.g. GN 2020). In response to the GN's concerns, and pursuant to terms and conditions 27 and 28 of the Project Certificate (008), the NIRB provided the following direction to the Proponent:

"The Board recommends the Proponent work with the Government of Nunavut and the Terrestrial Advisory Group, as per Term and Condition 27 and 28, of the Project Certificate No. 008 to revise its Terrestrial Ecosystem Management Plan to incorporate

the requirements of Commitment #20. The Board expects that the revisions will include the program to monitor and report helicopter traffic associated with the Whale Tail Pit Project, and that this information will be reported as part of future Wildlife Monitoring Summary Reports." (NIRB 2020)

In the 2020, Wildlife Monitoring Summary Report, the Proponent has provided information on helicopter traffic including the number of helicopter flights that occurred in 2020, mean duration and altitudes of flights, total flight hours and total distances flown (AEM 2021, Section 3.5.7). While this summary information is useful, it does not fully address the commitment made to the GN and does not allow reviewers to fully understand the potential impacts of helicopter traffic on wildlife. Four concerns are noted:

**1. Frequency of Helicopter Traffic** - As a rationale for not monitoring and reporting helicopter traffic, the Proponent has previously asserted that helicopter traffic is "infrequent, sporadic and on an as-needed basis" (AEM 2020a). It is the GN's opinion that the level of helicopter traffic reported for 2020 is neither infrequent nor sporadic. During the summer of 2020, helicopters were operating daily for a period of 3 months with average total daily flying hours of 5.4 hours. Similarly, during the fall caribou migration period, helicopters were operating daily for 22 days (up to October 19<sup>th</sup>) with average total daily flying hours of 5.4 hours (AEM 2021, Table 21). Dependent on the altitude and distribution of this traffic, the GN is concerned there are potential effects on wildlife but cannot make this determination without further information. The GN also notes that the report does not indicate whether the COVID-19 pandemic influenced helicopter traffic levels; specifically whether levels were lower or higher in 2020 than in previous years.

In the 2019 Wildlife Monitoring Summary Report, the Proponent suggested that 3 days of helicopter traffic associated with the deployment of caribou satellite collars in the spring of 2018 may have affected the migration of caribou through the Project's regional study area (AEM 2020b, Section 17). Although the report does not provide any evidence to substantiate this assertion, it seems to suggest that the Proponent is of the view that helicopter traffic is potentially a significant source of disturbance to wildlife. In light of the Proponent's view in the 2019 report, the GN would have expected more rigorous monitoring in the following year.

**2. Flight Altitude** – The reported average daily flight altitude was 247.2 metres above ground level (AEM 2021, Section 3.5.7). This means that for most of the 5.4 hours of total daily flying time helicopters were operating well below the minimum flight altitude of 300m set in the TEMP to avoid disturbance of wildlife.

**2. Spatial Distribution of Flights** - The commitment made to the GN was for monitoring and reporting of helicopter traffic in such a manner that the "spatial scale and intensity of this activity can be document" (NIRB 2017, Appendix B, Commitment #20). The information provided in the 2020 Wildlife Monitoring Summary Report, does not contain any spatial information (e.g. flight routes) and therefore does not document the spatial scale and intensity of helicopter traffic.

**4. Consultation with GN and the TAG** - The Proponent has not worked with the GN and the TAG, as per Term and Condition 27 and 28, of the Project Certificate No. 008 to revise its TEMP to incorporate the requirements of Commitment #20. To date, there has been no consultation with the GN or TAG regarding the helicopter monitoring program's design, the data being collected and the format in which it should be analysed and reported.

**Conclusion:**

Based on the limited information provided in the 2020 Wildlife Monitoring Summary Report, the GN characterizes the Project's helicopter traffic as frequent, low-level and potentially disturbing to wildlife. Dependent on spatial distribution, this traffic may pose a significant source of disturbance to wildlife. More comprehensive monitoring and reporting is warranted.

Commitment #20 has not been fulfilled by the Proponent due to a lack of consultation with the TAG regarding revision of the TEMP (to include a helicopter traffic program) as well as failure to report information on the spatial distribution of helicopter flights. In the GN's view, the Proponent is not in compliance with minimum flight altitudes set in the TEMP for avoiding disturbance of wildlife. Failure to do address these deficiencies constitutes non-compliance with term and condition 28 of the Project certificate (008).

**RECOMMENDATION(S)**

The GN offers the following recommendations with respect to this issue:

1. That the Board direct the Proponent to immediately revise the TEMP to include the helicopter traffic monitoring and reporting program per commitment #20. This revision should be based on consultation with the TAG and should include details of the type of information collected and the manner in which it will be analysed and presented in annual reports.
2. That the Proponent clarify whether 2020 was a normal year for helicopter operations or whether traffic levels were reduced as a result of COVID-related restrictions or logistical constraints.
3. That the Proponent provide a comparison of 2020 helicopter traffic (levels and distribution) with that of the previous 5 years of Project operations.
4. That the Board direct the Proponent to include, in future annual reports, maps showing the GPS tracks of all helicopter flights. Maps to be presented according to the seasons defined for caribou in the TEMP v. 7.
5. That the Board direct the Proponent to include, in future annual reports, tables and maps showing the seasonal frequency and distribution of all flights with cruising altitudes under 300 m; the mandatory minimum specified in the TEMP for avoidance of caribou (AEM 2019, Table 6).

GN AR # 02	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Snow Study
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Limited. (2019). Commitments from the NIRB technical meeting for the Whale Tail expansion project.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> <li>• Government of Nunavut (GN). (2019). Technical review comments on the FEIS Addendum for the Whale Tail Expansion Project.</li> <li>• Nunavut Impact Review Board (NIRB). (2019). Reconsideration Report and Recommendations Whale Tail Pit Expansion Project Proposal.</li> <li>• Golder. (2019). Technical Memorandum re: Whale Tail Expansion Project Commitment 9: Proposed Haul Road Snow Study. October, 2019.</li> </ul>
IDENTIFICATION OF ISSUE	
<p>During the NIRB's review of the Whale Tail expansion project, the GN expressed concern for the potential for snow accumulation alongside, and the management of snow along, a widened Whale Tail haul road. This snow accumulation has the potential to act as a barrier to the movement of wildlife, in particular migrating caribou (GN 2019, GN-TRC-02). In response, the Proponent made the following commitment:</p> <p>“Agnico Eagle will conduct a study designed to monitor snow berm height and depth of snow along the sides of the haul road in representative areas. The purpose of the study is to determine how snow accumulation influences road permeability for caribou and other wildlife along the proposed widened Haul Road. Study design will be consistent with advice provided by the Terrestrial Advisory Group. The study will be conducted over three years in an attempt to capture annual variability in conditions.” (AEM 2019)</p> <p>After reviewing the 2020 Wildlife Monitoring Summary Report for the Project (AEM 2021, section 17), the GN is concerned that the Proponent is not implementing the snow study as originally agreed to by the members of the TAG including AEM. The GN appreciates that the first year of</p>	

the study was conducted during the COVID pandemic and sampling may have been limited as a result. However, future years of sampling should adhere to the study design agreed to; consistent with advice provided by the TAG in 2019.

### IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE

Based on the information reported in the 2020 Wildlife Monitoring Summary Report, the GN has identified the following concerns with the snow study:

1) **Study objectives** – The purpose, goal and/or objectives of the snow study appear to have deviated from the original commitment which states that:

“The purpose of the study is to determine how snow accumulation influences road permeability for caribou and other wildlife along the proposed widened Haul Road.” (AEM 2019)

Snow accumulation may occur either naturally during snow falls, and drifting of snow, on or against the road or during snow management activities such as plowing that occur during road management. In contrast, the annual report indicates that the study is focused on the effects of snow removal activities stating that:

“The goal of the snow monitoring is to determine whether changes to snow resulting from snow removal along the WTHR result in conditions that potentially inhibit caribou movements.” (AEM 2021, Section 17.1.1)

2) **Sample size**– The number of sites along the haul road at which snow sampling has, or will, occur is less than the number reviewed by the TAG in 2019. The design for the snow study, developed by the Proponent and reviewed by the TAG in 2019, involved monitoring at 15 sites along the haul road divided equally across 3 road elevation categories (< 1.5 m, 1.5m to 3 m, > 3m) (Golder, 2019). In contrast the Proponent only collected data at five survey locations along the road in 2020 with no indication of how these were allocated amongst road elevation categories (AEM 2021, Section 17.1.2). Additionally, the Proponent indicates that in 2021 sampling will occur from at least 10 sites along the road.

3) **Sampling schedule** – The Proponent is employing a reduced sampling schedule relative to that agreed with the TAG in 2019. The design for the snow study, developed by the Proponent and reviewed by the TAG in 2019, involved two rounds of sampling at each site along the road. Sampling was to occur on April 15 and again on May 10 in-order to capture changes in snow conditions as the caribou migration proceeds (Golder 2019). Sampling in 2020 occurred only once (May 27-28) and this was outside the established (and observed) spring migratory period for caribou. In addition, plans for future snow monitoring outlined in the 2020 Wildlife Monitoring Report indicate that sampling will only occur once at each site along the road in 2021.

4) **Measured parameters** – The snow study as implemented in 2020 measured a smaller set of snow parameters relative to that agreed with the TAG in 2019. The design of the snow study, developed by the Proponent and reviewed by the TAG in 2019, stated the following:

“Fifteen sites on the lee side of the Haul Road will be surveyed by two staff to collect height, width and slope of snow berms, snow depth of deposited snow and snow density measurements (Figure 3).” (Golder 2019)

The snow study conducted in 2020 did not distinguish between the berms of piled snow created by snow management versus the naturally accumulated snow at the roadside. The study in 2020, did not measure the height or width of snow berms above the road surface and the slope of these snow berms. The study in 2020 did not measure the depth of naturally accumulated snow on the road’s embankment nor did it measure snow depth at sites away from the road (i.e. “the unmanaged control sites”). Stated plans for 2021 suggest that the Proponent will not be collecting full suite of parameters agreed to with the TAG.

#### 5) Duration of study

The snow study was intended to be conducted over a 3-year period to capture some of the variability in snow fall conditions. However, it was assumed that this 3-year period would involve 3 years of complete data collection as per the study design developed by the Proponent and reviewed by the TAG in 2019. It is unclear from the 2020 Wildlife Monitoring Report whether the Proponent intends to complete 3 full years of data collection as per the original study design.

#### Conclusion:

The Proponent has not implemented the snow as committed to during the review of the Project and as agreed to with the TAG. The GN is concerned that Proponent has implemented a study with altered objectives, smaller sample sizes, unspecified allocation of sampling effort across road height classes, measurement of fewer parameters, and a more limited sampling schedule. This altered study may not provide the data necessary to complete the study to “determine how snow accumulation influences road permeability for caribou and other wildlife along the proposed widened Haul Road” as committed to during the NIRB review of the Project (AEM 2019).

### RECOMMENDATION(S)

The GN offers the following recommendations with respect to this issue:

1. That the Proponent clarify whether the snow study will in all future years will be conducted as discussed above and agreed to with the TAG in 2019, including:



- a. Data collection at 15 sites (6 plots per site) along the haul road, allocated equally across road elevation categories.
  - b. The collection of a full suite of parameters including height, width and slope of snow berms, snow depth of deposited snow and snow density measurements.
  - c. The collection of snow measurements during two sampling periods within the spring caribou migratory season; specifically around April 15 and again May 10th.
2. That the Proponent clarify whether, with 2020 acting as a pilot study year, 2021 will be considered year 1 of the 3-year study assuming the full study design is implemented, as developed by the Proponent and agreed to with the TAG in 2019.

<b>GN AR # 03</b>	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Use of Deterrents on Wildlife
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Ltd. (2019). Meadowbank Division Terrestrial Ecosystem Management Plan, Version 7.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> </ul>
<b>IDENTIFICATION OF ISSUE</b>	
<p>In 2020, incidents in which wildlife were actively deterred away from Project sites increased by 35 to 100% relative to the previous 3 years (AEM 2021, section 3.5.2). The Proponent suggests this increase is the result of more proactive deterrence actions or more thorough reporting of minor deterrence events in 2020 relative to previous years. However, the 2020 Wildlife Monitoring Summary Report does not contain copies of the Wildlife Incident Reports for these deterrence events; reports that are supposed to be filed for each event, as per the Project's Wildlife Protection and Response Plan (AEM 2019, Appendix C). Consequently, reviewers are unable to evaluate the Proponent's suggestion. Additionally, wildlife deterrents are to be used only when habituated or problematic wildlife pose a threat to the wildlife or Mine personnel through human-wildlife conflict. Without access to copies of the Wildlife Incident Reports, reviewers are unable to assess whether use of deterrents was justified or reflected poor project management practices requiring other remedies.</p>	
<b>IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE</b>	
<p>In 2020, incidents of wildlife deterrent use were substantially higher relative to previous years. Wolverine and caribou accounted for 72% of deterrence events (AEM 2020, tables 16 to 18). Wolverine incidents remained relatively high and seemed to be largely associated with waste management sites (e.g. incinerator and landfills). The number of caribou incidents was the highest in 4 years.</p> <p>The Proponent states that:</p>	

“A total of 43 deterrence activities were reported from interactions with four species: Arctic fox, caribou, wolf, and wolverine (Table 16). The total number of deterrence actions was substantially higher in 2020 than in previous years (2019 – 31, 2018 – 32, 2017 – 21); however, this is the result of more proactive deterrence actions or more thorough reporting of minor deterrence events (e.g., honking a truck horn). The increase in deterrence actions reported does not indicate of an increase in problematic or habituated wildlife at the Project.” (AEM 2021, section 3.5.2)

The GN notes that the Proponent does not provide evidence in the 2020 Wildlife Monitoring Summary Report to support the claim that the increase in wildlife deterrence events is due to more proactive use of deterrents and improved reporting of incidents as opposed to increased levels of humans-wildlife conflict around the Project.

The Project’s Wildlife Protection and Response Plan Wildlife indicates that deterrents are implemented when habituated or problematic wildlife pose a threat to the wildlife or mine personnel through human-wildlife conflict (AEM 2019, Appendix C). Following the use of deterrents, a Wildlife Incident Report is filed which must be responsive to the following questions:

“Describe the incident or accident that occurred. Was there a threat to wildlife or human safety? What was the situation that caused it? Describe any use of deterrent. What measures are recommended to prevent future occurrences?” (AEM 2019, Appendix D)

This information is important in determining whether use of deterrents was justified and whether other management/mitigation measures were required in-order to avoid similar human-wildlife conflicts. Copies of the Wildlife Incident Report forms have not been provided in the 2020 Wildlife Monitoring Summary Report. This prevents the GN from assessing the Proponent’s conclusion regarding wildlife deterrence events in 2020 and whether further mitigation actions are required to reduce future human-wildlife conflicts.

Given this information gap, the GN is concerned about on-going conflicts resulting from potentially poor Project management practices that could be remedied. For example, the GN wishes to receive more information regarding the continued use of deterrents on wolverine and wolf around landfills and incinerators. Additionally, the GN notes an incident on April 29<sup>th</sup> during which 5 caribou grazing 150m west of the Whale Tail Haul Road were deterred. It is unclear why or how these caribou were deterred (AEM 2021, Table 16).

#### **RECOMMENDATION(S)**

The GN offers the following recommendations with respect to this issue:

1. That the Board direct the Proponent to append copies of all Wildlife Incident Reports to the annual Wildlife Monitoring Summary Report.
2. That the Proponent explain why and how caribou near the haul road on April 29<sup>th</sup>, 2020, were deterred. What was the threat to human or wildlife safety?
3. That the Proponent provide copies of Wildlife Incident Report forms for the deterrence events reported in the 2020 Wildlife Monitoring Summary Report.

GN AR # 04	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Pits and Mine Site Ground Surveys for Wildlife
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Ltd. (2019a). Meadowbank Division Terrestrial Ecosystem Management Plan, Version 7.</li> <li>• Agnico Eagle Mines (AEM) Ltd. (2019b). Commitment list from NIRB technical meetings on the Whale Tail Expansion proposal, Baker Lake, June 11-13, 2019.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> </ul>
IDENTIFICATION OF ISSUE	
<p>In the 2020 Wildlife Monitoring Summary Report, the Proponent states that pit and mine site ground surveys took place in 2020 (AEM 2021, Section 3.4). However, the report does not indicate how many of these surveys occurred, when they occurred, what was observed during each and what actions, if any, were initiated in response to sightings of caribou or muskox above the Group Size Thresholds (GST) and within the distance thresholds specified in the Terrestrial Environment Management Plan (TEMP). Instead, the report provides an appendix of wildlife observations that appears to be a consolidation of formal pit and mine site surveys plus incidental observations made by mine employees while performing activities other than wildlife surveying (AEM 2021 – Appendix A).</p> <p>From the information provided, the GN cannot determine if pit and mine site surveys were conducted with the required frequency in 2020 and whether the observations made during these surveys were used consistently to trigger the automatic measures prescribed in the Project's TEMP for the protection of caribou and muskox. A previous commitment by the Proponent to revise the format for reporting caribou observations and the mitigation/adaptive management actions taken in response to those observations has not been fulfilled.</p>	
IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE	

As part of the Project's caribou protection measures, the Proponent is supposed to conduct wildlife surveys of pits and mine sites at least once weekly but increasing to as much as twice daily during caribou migration periods (AEM 2019a, Table 12 and Figure 6). As stated in the 2020 Wildlife Monitoring Summary Report, one of the primary objectives of these surveys is to:

"Use Decisions Trees when caribou are seen near Project facilities to determine the level of adaptive management (e.g., suspending activities) required." (AEM 2021, Section 3.2)

When caribou are seen in groups above the specified GST and within a specified distance of mining operations, decision trees in the TEMP indicate that certain mitigation actions are supposed to be automatically implemented including the suspension of operation of all non-essential vehicles and cessation of blasting activities (AEM 2019a, Figures 6 and 9). Similar measures are also specified for muskox (AEM 2019a, Figure 10).

Non-essential vehicles and heavy equipment are defined in the TEMP as:

"[A]ll vehicles or heavy equipment except those operated for the purpose of maintaining the safety of personnel. For clarity, non-essential vehicles shall include vehicles and equipment used to continue mining operations or hauling of ore." (AEM 2019a)

The 2020 Wildlife Monitoring Summary Report states that pit and mine site surveys were conducted in 2020 but does not provide any further information on these surveys (AEM 2021, Section 3.4). In particular, the report contains no information on the number of surveys conducted, the timing of surveys, the wildlife observed, or the mitigation measures taken (if any) in response to observations of caribou and muskox. Instead, the report provides a summary of the total number of caribou observed during pit and mine site surveys, combined with incidental observations made by mine employees engaged in other activities besides formal surveys (AEM 2021, Section 3.5.1). The report refers the reader to Appendix A that contains a table of wildlife observations made in 2020. This table is a consolidation of wildlife observations from formal surveys and incidental observations.

Several concerns are noted with respect to this part of the Annual Wildlife Summary Report, as follows:

- Neither the main body of the report nor Appendix A provides information on the number of pit and mine surveys conducted in 2020 and their timing.
- From the observation records in Appendix A, it is not possible to distinguish between observations made during formal surveys versus incidental observations.
- From the observation records in Appendix A, it is not possible to determine how far from pits or mine sites these observations occurred. This is important for determining whether mitigation measures in the TEMPs decision trees should have been triggered.
- Neither the report nor Appendix A links individual observations of caribou or muskox to the automatic mitigation actions, such as cessation of mine operations, that are specified

in the Project's TEMP. The GN has previously raised concerns about AEM's reporting on the implementation of caribou decision trees (GN 2019, GN-10). During the NIRB's review of the Whale Tail Project expansion proposal, AEM committed to the following:

"All observations of caribou will be reported in future Meadowbank and Whale Tail Wildlife Monitoring Summary Reports using the format presented in Table GN-TRC-#4-1 of AEM's response to technical comments on the Expansion Project." (AEM 2019b, Commitment 11)

Tables 9 and 10 of the 2020 Annual Wildlife Summary Report uses the format for reporting that was committed to by the Proponent but these tables only account for observations resulting in closures of the AWAR and haul road, not cessation of mine operations. Additionally, as discussed elsewhere in the submission (see GN Comment 07 *Road Closures for Migrating Caribou*), these tables are incomplete because they do not contain information on all the caribou observations in 2020 that should have triggered road closures.

Due to these information gaps, the GN cannot determine if pit and mine site surveys were conducted with the required frequency in 2020 and whether the observations made during these surveys were used appropriately and consistently to trigger the automatic measures prescribed in the Project's TEMP for the protection of caribou and muskox. The Proponent provides that the decision trees were followed when caribou were seen near mine facilities in 2020 (AEM 2021, Table 22). However, no evidence to support this claim is provided in the 2020 report. Further, the GN notes that despite recording more than 48,000 caribou and 2,500 muskoxen, either incidentally or during formal surveys, including observations at the Whale Tail mine site, the Proponent does not report having taken any mitigation actions to reduce mining operations, such as the cessation of non-essential vehicles and heavy equipment at the Whale Tail site, as per Figure 6 of the TEMP. The GN feels that with so many observations of caribou and muskoxen around mining operations in 2020, there should have been instances when the TEMP's automatic measures, such as suspension of non-essential vehicles, should have been triggered.

In summary, the GN is concerned that the Proponent is not reporting all caribou (and muskox) observations alongside the corresponding mitigation actions (if any) that were taken in response to each observation; the format previously committed to. The GN reiterates its position that this commitment must be fulfilled in-order for the GN and other reviewers to assess whether the caribou and muskox protection measures in the Proponent's TEMP are being fully and consistently implemented.

Despite the noted gaps in information provided in the 2020 Wildlife Monitoring Summary Report, the GN concludes that the Proponent is not fully and consistently implementing the caribou protection measures in the TEMP, as detailed in the decision trees in Figures 6 to 9 (AEM 2019a). A review of the information provided in the report regarding mine site ground surveys and incidental wildlife observations (AEM 2021 - Appendix A), tolerant caribou observations

(AEM, 2021 - Appendix B; see also GN Comment 06 *Project Tolerant Caribou*), and road survey data (GN Comment 07 *Road Closures for Migrating Caribou*), show that there were numerous instances in 2020 when caribou and muskoxen above the GSTs and within distance thresholds specified in the TEMP were observed near the Project but the automatic mitigation actions prescribed in the TEMPs decision trees (Figure 6 to 10) were not implemented. This leads the GN to conclude that the Proponent is not compliant with Term and Condition 28 of the Project Certificate (008).

This is the third consecutive annual report for which the GN has expressed concern about non-compliance with the Project Certificate due to incomplete reporting and incomplete/inconsistent application of the TEMP's caribou and muskox protection measures; measures that were submitted by the Proponent during NIRB's review of the Project and which were integral to intervenors' reviews of the Project's FEIS. The GN urges the NIRB to take immediate action to enforce term and condition 28 of the Project Certificate with respect to these matters.

### **RECOMMENDATION(S)**

The GN offers the following recommendations with respect to this issue:

1. That the Board direct the Proponent to immediately implement the Project's caribou and muskox protection measures fully and consistently, in accordance with the approved TEMP's Group Size Thresholds, Distance Thresholds and decision trees; including the automatic measures specified in these decision trees (AEM 2019a, Figures 6 to 10).
2. That the Board direct the Proponent to report, in its annual reports, **all** observations of caribou and muskox, alongside any corresponding mitigation actions that were taken in response to each of these observations, in the format previously committed to by the Proponent and as used in Tables 9 and 10 of the 2020 Annual Wildlife Summary Report.
3. That in reporting wildlife observations in its annual reports to the Board, the Proponent distinguish between observations made by different methods including incidentally, during formal road surveys, viewshed surveys or pit and mine site ground surveys.
4. That in reporting wildlife observations in its annual reports to the Board, the Proponent provide tables summarizing the number of each type of wildlife survey conducted and the date of each of these surveys.
5. The GN requests that the Proponent provide information on the number of pit and mine site surveys conducted in 2020 including the date of each survey.
6. The GN requests that the Proponent provide a detailed explanation, with supporting evidence, as to why observations of caribou and muskox made near the Whale Tail (Amaruq) mine site in 2020 (AEM 2021 – Appendix A) did not trigger mitigation measures such as speed restrictions or cessation of non-essential vehicles.

GN AR # 05	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Viewshed Surveys for Wildlife
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 27 and 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Ltd. (2019). Meadowbank Division Terrestrial Ecosystem Management Plan, Version 7.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> <li>• Nunavut Impact Review Board (NIRB). (2017) Final hearing report, Agnico Eagle Mines Ltd. Whale Tail project. NIRB File No. 16MN056.</li> <li>• TAG (2018). Terms of Reference for the Terrestrial Advisory Group. NIRB Exhibit 51, Whale Tail Expansion Project Review, Final Hearing.</li> </ul>
IDENTIFICATION OF ISSUE	
<p>In 2020, the Proponent began to evaluate the use of viewshed surveys as a replacement for Height-of-Land (HOL) surveys for the purpose of detecting caribou approaching the Project. A small number of viewshed surveys were conducted. Based on the results of these surveys, the Proponent concludes that viewshed surveys improve long-distance monitoring of caribou.</p> <p>In its management recommendations in the 2020 Wildlife Monitoring Summary Report, the Proponent recommends that future road surveys along the Whale Tail Haul Road should be scaled back in favour of increased frequencies of viewshed surveys (AEM 2021, Sections 2.8 and 6.7).</p> <p>While the GN supports the use of viewshed surveys as a monitoring tool, there several concerns with the recommendation to increase the use of this survey method whilst scaling back road surveys along the Whale Tail Haul Road, as follows.</p>	



- The number and distribution of viewshed surveys conducted in 2020 did not yield sufficient data to draw definitive conclusions regarding the effectiveness of this monitoring method.
- The 2020 Annual Monitoring Report does not present a statistical analysis demonstrating that this method detects caribou with greater effectiveness at long-range than road surveys.
- Use of viewshed surveys was discussed with the Terrestrial Advisory Group (TAG), and is introduced in the 2020 Wildlife Monitoring Summary Report, as a replacement for HOL surveys and not a replacement for road surveys.
- In accordance with the Project's approved TEMP (AEM 2019), viewshed surveys and their predecessor, HOL surveys, are intended to be a supplementary monitoring method the frequency of which is specified in decision trees and unrelated to the frequency of road surveys (AEM 2019, Figure 6 to 10).
- During the final hearing for NIRB's review of the Project, the Proponent committed to revise the TEMP to adjust the frequencies of HOL and road surveys and in so doing adhere to the advice of the TAG, as per the TAG's terms-of-reference (TOR). With respect to this matter, the Terms of Reference (TOR) specifically indicate that the TAG shall render advice by consensus or by a majority vote of its members. To date, the TAG has not received the recommendation from the Proponent to increase use of viewshed surveys and reduce the frequency of road surveys. Consequently, the TAG has not rendered advice on this matter.

The GN supports increasing the frequency of viewshed surveys to match the frequency of HOL surveys specified in the approved TEMP (AEM 2019) and further evaluation of this method of monitoring. The GN does not support a reduction in the frequency of road surveys below the levels specified in the TEMP.

## **IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE**

Concerns regarding the Proponent's reporting of viewshed surveying conducted in 2020 centre on two topics; (1) Evaluation of this survey method; (2) the proposal to increase use of this method whilst reducing the frequency of road survey along the Whale Tail Haul Road.

### **1) Evaluation of Viewshed Survey Method for Detecting Caribou**

In 2020, 19 days of viewshed survey efforts occurred at the 12 identified survey points along the Whale Tail Haul Road (the Haul Road) (AEM 2021, Figure 10). Based on the results of this survey effort the Proponent concludes that:

“[V]iewshed surveys were also implemented to improve long-distance monitoring of caribou, which was also accomplished.” (Section 6.7)

It is premature to draw this conclusion for several reasons including:

- The Proponent does not provide quantitative evidence to support this claim in the form of viewshed data analyses.
- Survey effort during key caribou migration periods was limited. Of the 19 days of viewshed survey effort in 2020, only 5 days occurred during the spring caribou migration period (AEM 2021, Table 26), the main period when use of viewshed surveying is most important for supporting road management measures in the TEMP (AEM 2019).
- The distribution of surveys along the road were limited (AEM 2021, Table 27). Of these 5 survey days in the spring, only 1 day involved surveys at all 12 locations along the road. A further 2 involved survey at only 1 of the 12 locations. The remaining 2 days of survey effort involved survey at 6 of the 12 locations.
- Noting the limited number of days and limited distribution of survey effort during the spring migration, it is further noted that there were only 10 groups of caribou observed via viewshed surveys in 2020, eight of which were observed during the spring (AEM 2021, Table 28).

Overall, the limited data set obtained from viewshed surveys in 2020 is insufficient for statistical analysis and a thorough evaluation of this survey method (including the effectiveness of the survey locations selected as viewshed monitoring points). Further data collection is required in order to evaluate this method.

## **2) Increased Use of Viewshed Surveys and Reduced Frequency of Road Surveys**

As noted in the 2020 Wildlife Monitoring Summary Report:

“In 2019, Agnico Eagle advanced the idea of using viewshed survey points instead of HOL locations because of safety and logistical concerns.” (AEM 2021, Section 6.1)

However, elsewhere in the report the Proponent states that:

“Road surveys should continue to be used along the AWAR and the WTHR, but increasing the frequency of viewshed surveys in 2021 should be a primary objective, particularly during spring migration.” (AEM 2021, Section 6.7)

“It is recommended that road surveys along the WTHR are scaled back in favour of increased frequency of viewshed surveys (Section 6.7).” (AEM 2021, Section 2.8)  
[Emphasis added by reviewer]

Considering the limited viewshed survey effort and distribution achieved in 2020 (as discussed above), increasing the frequency of viewshed survey in 2021 is a logical next step that will allow

more thorough evaluation of this method. However, scaling back the frequency of road surveys is not an appropriate step for the following reasons:

- As noted by the Proponent:  
“[R]oad surveys are important for documenting sensitive periods when the area near the road is utilized by various wildlife species and for evaluating the need, if any, to adaptively manage mitigation (e.g., temporary road closures and radio announcements).” (AEM 2021, Section 2.8)

As an important and proven monitoring tool for triggering road mitigation measures such as closures when migrating caribou are nearby, it is not appropriate to scale back this method of monitoring in favour of a method that has not been properly evaluated.

- As noted by the Proponent in the 2020 Wildlife Monitoring Summary Report, and as discussed with the TAG in 2019, viewshed surveys were being evaluated as a replacement for HOL surveys, **not** as a replacement for road surveys.
- In the Project's approved TEMP, the minimum frequency of road surveys is specified and is independent of the frequency of other survey methods (AEM 2019, Figures 6-10). Reducing the frequency of road surveys along the haul road in favour of increased viewshed surveys is inconsistent with the approved TEMP.
- During the NIRB public hearing for the approved Project, the Proponent made the following commitment:

"Within 1 year of Project certification, the Proponent shall revise the TEMP to increase the frequencies of height-of-land, road and ground surveys for caribou compared to the current levels in the TEMP (v.4.0). 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." (NIRB 2017 – Appendix B, Commitment 5).

- On the matter of road survey frequency, the TAG's terms of reference specifically indicate that the TAG shall render advice by consensus or by a majority vote of its members (TAG 2018). To date, the TAG has not received the recommendation from the Proponent to increase use of viewshed surveys and reduce the frequency of road surveys. Consequently, the TAG has not rendered advice on this matter.

In summary scaling back the frequency of road surveys in favour of viewshed surveys, is inappropriate given the limited extent to which the viewshed method has been evaluated. Further, reducing the frequency of road surveys is inconsistent with the approved TEMP and commitments made by the Proponent thereby being non-compliant with term and condition 27 and 28 of the Project Certificate.

#### **RECOMMENDATION(S)**

The GN offers the following recommendations with respect to this issue:

1. That the Proponent increase viewshed survey effort in 2021 at all 12 locations along the Haul Road, in particular during spring migration period April 1- May 25.
2. That the Proponent, in future annual reports, present quantitative analysis of the data collected via viewshed surveys to evaluate the effectiveness of this method in detecting migrating caribou near the Project and triggering mitigation actions specified in the approved TEMP.
3. That the NIRB direct the Proponent to comply with Project Certificate terms and conditions 27 and 28 by:
  - a. Continuing to conduct road surveys along all Project roads at frequencies specified in the approved TEMP.
  - b. Adhering to advice rendered by the TAG regarding changes in the frequency of road surveys, as per the TAG's TOR and commitment #5 made during the NIRB public hearing (NIRB 2017 – Appendix B).

GN AR # 06	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Project Tolerant Caribou
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Ltd. (2019). Meadowbank Division Terrestrial Ecosystem Management Plan, Version 7.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> <li>• Nunavut Impact Review Board (NIRB). (2017) Final hearing report, Agnico Eagle Mines Ltd. Whale Tail project. NIRB File No. 16MN056.</li> </ul>
IDENTIFICATION OF ISSUE	
<p>In 2020, the Proponent appears to have designated more than 22,000 caribou, most of them migrating, as being ‘Project Tolerant’. The term ‘Project Tolerant’ has significance with respect to the caribou protection measures specified in the Project’s Terrestrial Environment Monitoring Plan (TEMP).</p> <p>As a result of this designation, and through incorrect application of the TEMP, mitigation measures such as road closures, that are supposed to be automatically triggered in-order to reduce disruption of the spring and fall migrations, were not implemented. Instead, Project roads such as the heavily used Whale Tail Haul Road (WTHR) remained open during key periods of the migration when caribou interactions with the Project reached their annual peak.</p> <p>The GN considers this to be a misuse and abuse of the provisions of the TEMP relating to Project Tolerant Caribou. The GN concludes for the 3rd consecutive year that the Proponent is not consistently and fully implementing the caribou decision trees in the Project’s approved TEMP despite claiming to do so in its annual reports. It is the GN’s position that the Proponent is non-compliant with term and condition 28 of the Project Certificate (008). The GN requests that the NIRB remedy this on-going problem.</p>	

## IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE

Project Tolerant caribou are defined in the TEMP as:

“An animal or group of animals (i) observed within a mitigation distance buffer for greater than 72 hours during the winter or 48 hours during other season; and (ii) not visibility disturbed by the Project” (AEM 2019, Section 3.4.2)

As also noted in the TEMP, Project Tolerant caribou are defined in this way to:

“[P]rovide additional clarity and support to the decision trees.” (AEM 2019, Section 3.4.2)

The decision trees themselves specify, that during spring or fall migration periods, when caribou are present within 1.5km of the Whale Tail Haul road or All-Weather-Access Road (AWAR) in groups exceeding a specified Group Size Threshold (GST), the corresponding road will be automatically closed to all non-essential traffic (AEM 2019, Figures 8 and 9). This is referred to as level 3 of monitoring and mitigation. The decision trees also indicate that roads can be:

“[R]eopened if Project tolerant caribou are grazing next to road and not migrating”

The process for designating caribou as Project Tolerant involves the following steps:

- Initially closing roads to observed caribou that are within distance thresholds and above GSTs.
- After subsequently, monitoring the observed groups for at least 48 hours, they can be designated a Project Tolerant if they have not moved outside the distance threshold, as migrating caribou would be expected to do, and they are not being visibly disturbed by the Project (thereby being prevented from migrating).
- Upon designation as Project Tolerant, mitigation measures for these groups can be relaxed. For example, roads can be reopened, when the only animals present within distance thresholds and above GSTs are Project Tolerant individuals. (AEM 2019, Section 3.4.2 and figures 8 and 9)

The provision for Project Tolerant caribou was originally added to the TEMP to account for the handful of caribou that sometimes become habituated to development projects and choose to reside near them over the long term. The intention was to ensure these animals did not unnecessarily restrict Project operations.

In the 2020 Wildlife Monitoring Summary Report, the Proponent states that:

“Project tolerant animals are defined in the TEMP Version 7 as an animal or group of animals observed within a mitigation distance buffer for greater than 72 hours during the winter or 48 hours during other seasons; and not visibly disturbed by the Project... A total

of 10,167 tolerant caribou were recorded along the AWAR, and 12,173 tolerant caribou were recorded along the WTHR in 2020.” (AEM 2021 Section 9.5)

It appears that tens of thousands of migrating caribou interacting with the AWAR and WTHR were designated as Project Tolerant in 2020. This constitutes an incorrect application of the Project’s approved TEMP and is concerning for several reasons, as follows:

- **Intent of Project Tolerant Designation:** The intent of the Project Tolerant provisions in the TEMP was to be able to relax mitigation measures for a handful of caribou that were expected to habituate to the Project and reside long-term in the vicinity, not to reduce protection for tens of thousands of migrating caribou.
- **Evidence of Observation to Confirm Project Tolerant Status:** In-order to designate caribou as Project tolerant, by definition, they must first be observed for at least 48 hours to determine whether or not they move beyond the distance thresholds that trigger actions such as road closures and whether they are visibly disturbed. In the 2020 Wildlife Monitoring Summary Report, the Proponent provides no evidence that each of these hundreds of groups of caribou were observed for this length of time. The Proponent also does not provide an explanation as to how observers were able to distinguish between different groups over time to ensure they were still observing the same groups of caribou rather than newly arriving groups.
- **Initial Closing of Roads followed by Re-opening:** Upon initially observing caribou, within distance thresholds and above the GST, automatic mitigation measures such as road closures are supposed to be implemented. In accordance with the TEMP, these measures can only be relaxed (i.e the road reopened) if, after at least 48 hours of monitoring, the observed caribou meet the definition of Project Tolerant. In other words, for thousands of migrating caribou designated by the Proponent as Project Tolerant in 2020 (AEM 2021, Appendix B), road closures should first have been implemented and only relaxed after confirming the animals were Project Tolerant (which requires a minimum of 48 hours of monitoring).

This initial closure of roads did not occur in 2020. For example, during the period April 8<sup>th</sup> to 26<sup>th</sup> , Appendix B of the report shows that 121 groups of caribou, totalling 6,333 individuals were observed along the WTHR and designated as Project Tolerant. All of these groups were above the GST and within 1.5km distance threshold specified in the TEMP for triggering automatic road closure. The groups ranged in size from 13 to 275 individuals. Groups were observed along the road almost every day during this period. An average of 6 groups per day were seen and on some days as many as 17 different groups were observed. However, every day of this 19-day period, during the peak of spring migration, the road remained open. The closures of the road that should have been automatically triggered in response to these observations, in accordance with TEMP’s decision trees, were not implemented (Tables 9 and 10).

The same situation occurred between May 5 and 16, where multiple daily observations of caribou above the GST and within 1.5km of the road did not result in any road closures during this 2-week window (AEM 2021, Appendix B).

- **Consultation and Reporting** – The relaxation of mitigation measures for caribou deemed Project tolerant, such as reopening of roads, is supposed to be conducted following consultation and subsequently reported in the Proponent’s annual report. During the final hearing for the NIRB’s review of the Whale Tail Project, the Proponent made the following commitments:

“Where mitigation measures are to be relaxed for project tolerant animals, the Proponent shall consult with the TAG prior to reducing/removing mitigation.”

and

“The Proponent shall document all cases where mitigation measures are relaxed for project tolerant animals and shall report these cases in the annual project monitoring report.”

(NIRB 2017, Appendix B, Commitments 26 and 27)

Consultation with the Terrestrial Advisory Group (TAG) regarding the relaxation of mitigation measures for Project Tolerant caribou did not occur in 2020. Additionally, in the 2020 Wildlife Monitoring Summary report, the Proponent does not report on the relaxation of mitigation measures, such as reopening of roads, for caribou identified as project tolerant (such as those listed in the examples above) because the initial mitigation measures specified in the TEMP, were not implemented and thus could not have been relaxed.

In summary, in the 2020 Wildlife Monitoring Summary Report, the Proponent provides that the caribou decision trees in the approved TEMP were implemented in 2020 (AEM 2021, Tables 14 and 37) and that:

“The use of decision trees for managing disturbance to ungulates is an ongoing and continuous monitoring and mitigation strategy for the life of the Project. Monitoring and mitigation intensity is increased as ungulates approach the Project.” (AEM 2021, Section 9.3)

However, based on the evidence provided to the GN, the GN concludes that these decision trees were not fully and consistently implemented in 2020. An exceptionally large number of caribou were classified as Project Tolerant without evidence that these caribou were properly monitored and met the definition of Project Tolerant. The required initial mitigation measures for these caribou (i.e. road closures) were not implemented and thus thousands of migrating caribou, during the peak of their interaction with the Project, encountered Project roads that were open,



in particular the heavily used WTHR. The required consultation with the TAG and required reporting regarding relaxation of mitigation measures for these Project Tolerant caribou did not occur.

The GN feels that the Proponent is non-compliant with term and condition 28 of the Project Certificate (008) as a result of not fully and consistently implementing the TEMP with respect to caribou and not fulfilling implementing commitments 27 and 28 made during the Whale Tail hearing. Also see GN-07 *Road Closures for Migrating Caribou*.

This is the third consecutive annual report for which the GN has expressed concern about non-compliance with the Project Certificate due to incomplete reporting and incomplete/inconsistent application of the TEMP's caribou protection measures; measures that were submitted by the Proponent during NIRB's review of the Project and which were integral to intervenors' reviews of the Project's Final Environmental Impact Statement (FEIS). The GN urges the NIRB to take immediate action to enforce term and condition 28 of the Project Certificate with respect to these matters.

#### **RECOMMENDATION(S)**

The GN offers the following recommendations with respect to this issue:

1. That the Proponent provide details on the 48 hours of monitoring that occurred to assess each groups listed as Project Tolerant in Appendix B of the 2020 Wildlife Monitoring Summary Report including:
  - a. The method of monitoring, duration and frequency of monitoring for each group.
  - b. The data collected which led to the determination each of these groups was Project Tolerant.
  - c. The data collected which shows that each of these groups remained within 1.5km of the Haul Road for more than 48 hours.
2. That the Proponent explain why road closures were not initially implemented on the Whale Tail Haul Road between April 8<sup>th</sup> to 26<sup>th</sup> and May 5<sup>th</sup> to 16<sup>th</sup>, when caribou in multiple groups above the GST listed in the TEMP v. 7 were observed within 1.5km of the road each day.
3. That the Proponent explain what consultation occurred with the TAG regarding the caribou listed as tolerant in Appendix B of the 2020 Wildlife Monitoring Summary Report.
4. That the Board direct the Proponent to immediately implement the Project's caribou protection measures fully and consistently, in accordance with the approved TEMP's v. 7 GSTs, Distance Thresholds and decision trees; including the automatic measures specified in these decision trees (AEM 2019a, Figures 6 to 10).

5. That the Board direct the Proponent to report, in its annual reports, all observations of caribou, alongside any corresponding mitigation actions that were taken in response to each of these observations, in the format previously committed to by the Proponent and as used in Tables 9 and 10 of the 2020 Annual Wildlife Summary Report.
6. That the Board direct the Proponent to fulfill commitments 26 and 27 made during the NIRB's final hearing for the Whale Tail Project (NIRB 2017, Appendix B, Commitments 26 and 27).

<b>GN AR # 07</b>	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Road closures for migrating caribou
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 28
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Ltd. (2019a). Meadowbank Division Terrestrial Ecosystem Management Plan, Version 7.</li> <li>• Agnico Eagle Mines (AEM) Ltd. (2019b). Commitment list from NIRB technical meetings on the Whale Tail Expansion proposal, Baker Lake, June 11-13, 2019.</li> <li>• Agnico Eagle Mines (AEM) Ltd. (2020). Meadowbank Mine 2019 Wildlife Monitoring Summary Report. Final. Appendix 52 of the Meadowbank Mine Annual Report.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> <li>• Boulanger, J., R. Kite, M. Campbell, J. Shaw and D.S. Lee. 2020. Analysis of Caribou Movements Relative to the Meadowbank Mine and Roads During Spring Migration. Government of Nunavut, Department of Environment, Technical Report Series – No:01-2020. 31 July 2020.</li> </ul>
<b>IDENTIFICATION OF ISSUE</b>	
<p>Throughout the 2020 Wildlife Monitoring Summary Report (AEM 2021), the Proponent states that the Project's caribou protection measures, as specified in the decision trees presented in the Terrestrial Environment Monitoring Plan (TEMP) (AEM 2019a, Figures 6-10) were implemented in 2020. However, evidence presented in the report demonstrates the decision trees were not applied in most cases.</p> <p>Road surveys along the Whale Tail haul road (WTHR) during the spring migration period observed between 3 to 5 times as many caribou per survey in 2020 compared to 2019. Despite observing many more caribou, the haul road was only closed (or partially closed) for a total of 10 days in the spring of 2020 compared 34 days of closure (or partial closure) in 2019.</p>	

This discrepancy between caribou observations and road closures is explained by looking at the data provided in the report. During the spring of 2020, there were numerous days on which multiple groups of migrating caribou were observed near the WTHR; groups that as a result of being within the distance threshold and above the Group Size Threshold (GST) should have triggered automatic road closure in accordance with the TEMP. However, despite these observations, the road remained open. Had the road been closed on these days (as required under the TEMP), there would have been at least 31 (and potentially up to 41) days of haul road closure in spring 2020; similar to 34 days in 2019.

The GN feels for the 3rd consecutive year that the Proponent is not consistently and fully implementing the caribou decision trees in the Project's approved TEMP despite claiming to do so in its annual reports. This is concerning given recent evidence demonstrating that road closures increase the probability that migrating caribou will cross Project roads. It is the GN's position that the Proponent is non-compliant with term and condition 28 of the Project Certificate (008). The GN requests that the NIRB remedy this on-going problem.

### **IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE**

In the 2020 Wildlife Monitoring Summary Report, the Proponent states that the caribou decision trees in the approved TEMP were implemented in 2020 (AEM 2021, Tables 14 and 37) and that:

"The use of decision trees for managing disturbance to ungulates is an ongoing and continuous monitoring and mitigation strategy for the life of the Project. Monitoring and mitigation intensity is increased as ungulates approach the Project." (AEM 2021, Section 9.3)

and

"Road-related monitoring and mitigation is implemented according to Figures 7 and 8 of the TEMP (Agnico Eagle 2019)." (AEM 2021, Section 2.6.5)

However, a review of the reports indicates that these statements are incorrect. Road surveys conducted along the Whale Tail haul road during the spring caribou migration of 2020 observed between 3 to 5 times as many caribou per trip compared to similar surveys in 2019 (AEM 2021, table 5). Despite seeing more caribou, the haul road was closed (or partially closed) for 10 days in the spring (April 1 to May 25) compared to 34 days in 2019 (AEM 2020; AEM 2021, Table 10).

This inconsistency between rates of caribou observation and road closure days in 2020 compared to 2019 can be explained by examining data provided in the 2020 report. The report provides a table showing caribou observations made along the haul road in 2020 and the mitigation action(s) taken in response to the observations (Table 10). However, this table only present caribou observations that led to road closures. A review of caribou observation data provided in Appendices A and B of the report shows there were many days during the spring

migration when multiple groups of caribou, observed along the haul road, were above the Group Size Threshold (GST) and within the distance threshold specified in the TEMP (AEM 2019a) for triggering road closures yet the road remained open. These data, summarized in Table 1 (below), show that during the periods April 8 to 29 and May 5 to 16, there were numerous days on which the “automatic” road closure specified in the TEMP should have been triggered (see also GN Comment 06 – *Project tolerant Caribou*). The 2020, road survey data provided to the Terrestrial Advisory Group, also corroborate these findings. Had road closures been implemented, as required under the TEMP’s decision trees, there would have been at least 31 (and potentially up to 41) days of haul road closure in spring 2020; similar to 34 days in 2019.

The GN has previously raised concerns about AEM’s reporting on the implementation of caribou decisions trees (GN 2019, GN-10). During the NIRB’s review of the Whale Tail Project expansion proposal, AEM committed to the following:

“All observations of caribou will be reported in future Meadowbank and Whale Tail Wildlife Monitoring Summary Reports using the format presented in Table GN-TRC- #4-1 of AEM’s response to technical comments on the Expansion Project.” (AEM 2019b, Commitment 11)

Tables 9 and 10 of the 2020 Annual Wildlife Summary Report uses the format for reporting that was committed to by the Proponent but these tables only account for observations resulting in closures of the All-weather-Access Road (AWAR) and haul road. These tables are incomplete because they do not contain information on all the caribou observations in 2020 that should have triggered road closures.

(Note: Data for the fall migration and for the AWAR were not reviewed by the GN so it is unclear whether similar problems with road management occurred.)

## **Conclusion**

Contrary to the Proponent’s claim that the caribou decision trees were implemented in 2020, in-order to reduce sensory disturbance of migrating caribou by Project traffic, data in the 2020 report indicate this statement is incorrect. On numerous occasions, the Project’s haul road should have been closed, in accordance with the TEMP, to allow migrating caribou to cross. This is particularly concerning given recent research by the GN demonstrating that road closures significantly increase the probability that migrating caribou will cross the Project’s roads (Boulanger et al. 2021). In addition, preliminary results from the Proponent’s motion-triggered camera study of caribou crossing the haul road found that:

“All crossing events were documented during road closures, with the exception of one event where speed was limited on a portion of the road away from the camera (Table 32).” (AEM 2021, Section 7.5)

This is the third consecutive annual report for which the GN has expressed concern about non-compliance with the Project Certificate due to incomplete reporting and incomplete/inconsistent application of the TEMP's caribou protection measures; measures that were submitted by the Proponent during NIRB's review of the Project and which were integral to intervenors' reviews of the Project's FEIS. The GN urges the NIRB to take immediate action to enforce term and condition 28 of the Project Certificate with respect to these matters.

Table 1. Days in 2020, on which groups of caribou above the Group Size Threshold were observed within 1.5km of the Whale Tail Haul Road

Month	Day	Number of Caribou Groups		Road Status
		Incidental Sightings (AEM 2021, Appendix A)	Tolerant Caribou Observations (AEM 2021, Appendix B)	
April	8	-	18	Open
	9	6	13	Open
	10	10	14	Open
	11	6	14	Open
	13	-	8	Open
	14	5	-	Open
	15	1	4	Open
	16	7	7	Open
	17	1	4	Open
	19	6	9	Open
	20	-	4	Open
	21	-	2	Open
	22	2	1	Open
	23	4	7	Open
	24	3	6	Open
	25	5	5	Open

	26	2	10	Open
	27	9	-	Open
	28	5	-	Open
	29	3	-	Open
May				
	5	4	7	Open
	6	6	9	Open
	7	1	4	Open
	8	1	2	Open
	9	1	1	Open
	10	1	1	Open
	11	2	3	Open
	12	4	11	Open
	13	1	1	Open
	14	1	1	Open
	16	1	1	Open

### RECOMMENDATION(S)

The GN offers the following recommendations with respect to this issue:

1. That the Board direct the Proponent to immediately implement the Project's caribou protection measures fully and consistently, in accordance with the approved TEMP's v. 7 GSTs, Distance Thresholds and decision trees; including the automatic measures such as road closures specified in these decision trees (AEM 2019a, Figures 6 to 10).
2. That the Board direct the Proponent to report, in its annual reports, all observations of caribou, alongside any corresponding mitigation actions that were taken in response to each of these observations, in the format previously committed to by the Proponent and as used in Tables 9 and 10 of the 2020 Annual Wildlife Summary Report.

GN AR # 08	
<b>Department</b>	Environment
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Non-native Plants
<b>Terms and Conditions</b>	NIRB Project Certificate 008 T&C 25
<b>References</b>	<ul style="list-style-type: none"> <li>• Agnico Eagle Mines (AEM) Ltd. (2020). Meadowbank Mine 2019 Wildlife Monitoring Summary Report. Final. Appendix 52 of the Meadowbank Mine Annual Report.</li> <li>• AEM 2020b. Response to Meadowbank (03MN107) and Whale Tail (16MN056) 2019 Annual Report comments Part 2.</li> <li>• Agnico Eagle Mines (AEM) Limited. (2021). Meadowbank Complex 2020 Annual Report, Appendix 47 – Meadowbank and Whale Tail 2020 Wildlife Monitoring Summary Report.</li> <li>• Government of Nunavut (GN). (2003). Wildlife Act, SNu 2003, c 26, &lt;<a href="http://canlii.ca/t/51x1n">http://canlii.ca/t/51x1n</a>&gt; retrieved on 2020-06-02</li> <li>• Government of Nunavut (GN). (2020). Comments on the Meadowbank Gold Mine Project and Whale Tail Pit Project 2019 Annual Report (03MN107 &amp; 16MN056).</li> </ul>
IDENTIFICATION OF ISSUE	
<p>In 2020, the Project's Non-Native Plant Study detected 4 species that are non-native to Nunavut at multiple sites around the Project footprint. Two of these species is classified as noxious weeds in Canada and another as a noxious weed in Manitoba. These non-native plants pose potential risks to wildlife and wildlife habitat in Nunavut.</p> <p>Although only 2 years of plant sampling has occurred, the GN is concerned that the number of non-native species detected by the study, as well as the size and distribution of the populations of some species, was considerably larger in 2020 compared to 2019. While sampling differences between the 2 years make interpretation of the results challenging, which itself is a concern, evidence of increasing numbers and distribution of non-native species around the Project warrants more intensive monitoring, assessment, and management action. In this regard, the GN is concerned by the Proponent's minimal response to recommendations made by the GN in response to the 2019 Non-Native Plant Study Report.</p>	



The GN also notes a concern that the Non-Native Plant Study, and the Proponent's response to the study's results, is focused on species listed by the Canadian Endangered Species Conservation Council (CESCC) as 'not normally found in Nunavut and with a potential for becoming established'. The GN wishes to remind the Proponent that Section 91 of the *Wildlife Act*, S.Nu. 2003, c 26, prohibits the release of any species into a habitat in which it does not belong or never naturally occurred. The Proponent thus has an obligation to monitor and manage all species of non-native plants introduced to Nunavut as result of the Project. This is the second consecutive year in which the GN has provided the Proponent with notification of requirements under the *Wildlife Act* pertaining to non-native plants.

### IMPORTANCE TO REVIEW AND SUPPORTING RATIONALE

Based on review of the Non-native Plant Study report (AEM 2021, Appendix N), the following concerns and questions are identified:

#### **Response to GN's 2019 Recommendations**

GN concerns regarding Flixweed (*Descurainia sophia*) and other non-native species, introduced as a result of the Project, remain the same as those detailed in comments provided to the NIRB on the 2019 Annual Report (GN 2020, Comment GN-05). As summarized in the attached table (Appendix A), the Proponent has been minimally responsive to the GN's 2019 recommendations. For example:

- The Proponent continues to state in the 2020 report that:

"Observed flixweed populations have not encroached onto the tundra, and all observations were limited to disturbed areas (see representative photographs in Appendix B)."

(AEM 2021, Appendix H, Section 3.0)

However, all survey sites in 2020 were within the Project's footprint. No survey effort was conducted beyond the footprint to validate the conclusion that non-native plants have not spread to undisturbed habitat.

- The risk assessment recommended by the GN and committed to by the Proponent has not been provided.
- The Proponent continues to focus on monitoring and management of non-native species listed by the CESCC. However, the GN advises the Proponent that its obligation extends to all species that "do not belong or never naturally occurred in Nunavut", pursuant to Section 91 of the Nunavut Wildlife Act (GN 2003).

- The Proponent has not provided the recommended review of cleaning and control measures to prevent non-native species introductions.

### **Number and Distribution of Non-native Species**

The number of non-native species detected, as well as the population sizes and distribution of these species, has increased between 2019 and 2020. For example, in 2019 and 2020, 107 and 175 sites were surveyed for non-native species, respectively. Results show that:

- In 2019, two non-native species were detected versus four in 2020.
- For the two most prevalent non-native species, the percentage of survey sites at which the species was detected increased, between 2019 to 2020, from 1% to 4% and from 26% to 52%, for Flixweed and Scentless Chamomile (*Tripleurospermum inodorum*), respectively (AEM 2020, Appendix N; AEM 2021, Appendix H). This suggests an of expansion of range for each species within the Project footprint.
- For the two most prevalent non-native species, the average number of plants detected per sites surveyed increased from 0.009 plants/site to 67 plants/site and from 153 plants/site to 4,670 plants per site for Scentless Chamomile and Flixweed, respectively (AEM 2020, Appendix N; AEM 2021, Appendix H). This suggests an of expansion of range for each species within the Project footprint.
- For the two most prevalent non-native species, the average area covered by populations of these plants at each survey site increased from 0.25m<sup>2</sup>/survey site to 268m<sup>2</sup>/survey site and from 258m<sup>2</sup>/survey site to 6,097 m<sup>2</sup>/survey site for Scentless Chamomile and Flixweed, respectively (AEM 2020, Appendix N; AEM 2021, Appendix H). This suggests an of expansion of range for each species within the Project footprint.

Overall, when accounting for differences in sampling effort between 2019 and 2020 (i.e. number of sampling sites), the available evidence suggests that both of these species are expanding significantly in terms of range and population sizes.

### **Sampling Design**

The sampling design employed during the Non-native Plant Survey appears to be unsystematic and subject to potential bias and/or lack of precision thereby confounding interpretation of results. For example:

- There is no indication whether the “targeted” sites surveyed in 2020 included the same sites sampled in 2019. This makes it hard to determine if non-native species such as Flixweed and Scentless Chamomile are occurring at the same locations or expanding their range to other sites within the Project footprint. This also makes it difficult to assess the success of control measures.

- There is no information about whether populations sampled at sites in 2019 are growing in number of plants or area covered. This makes it difficult to assess the success of control measures.
- The 2020 Non-native Plant Study Report states, for Flixweed, that:

“Although it has not yet been observed at the Whale Tail mine site, it is probable that it will migrate along the Whale Tail haul road and into the Whale Tail mine site.” (AEM 2021, Appendix H, Section 4).

However, the 2019 study report indicates that Flixweed was found at the Whale Tail mine site (AEM 2020, Appendix 52 (N), Table A-1, Survey Plot MB19DMW026). It is unclear whether the site at which Flixweed was detected in 2019 was surveyed in 2020.

### **CESCC Listed Species**

The 2019 and 2020, Non-native Plant Species Study, and the Proponent’s response to the study’s results, has been focused on species listed by the Canadian Endangered Species Conservation Council (CESCC) as ‘not normally found in Nunavut and with a potential for becoming established’. For example, the Proponent states that:

“As part of the existing Non-Native and Invasive Plant Monitoring Program, Agnico Eagle remains committed to monitoring changes in abundance and distribution of species identified by the CESCC as Non-Native/Invasive – which does not include flixweed.” (AEM 2020b)

As noted above, Section 91 of the *Wildlife Act* prohibits the release of any species into a habitat in which it does not belong or never naturally occurred. The Proponent thus has an obligation to monitor and manage all species of non-native plants introduced to Nunavut as result of the Project, including Flixweed and Scentless Chamomile.

### **Adaptive Management**

In the 2020 Wildlife Monitoring Summary Report (AEM 2021a), the Proponent demonstrates no adaptive management in response to the 2020 Non-native Plant Study’s recommendations. For example, the report (AEM 2021, Appendix N, Section 4.0) recommends:

- For Scentless Chamomile – “Although the populations were reduced by hand pulling, the plants had already gone to seed and will likely return next year. Areas that were known to have populations of scentless chamomile should be continually monitored and controlled to prevent further infestations.”
- For Flixweed – “It should be controlled to contain the infestation to the Meadowbank Mine site and AWAR and prevent spread north to new locations. Mature plants reproduce by

seeds. Because of its large populations, mowing early in the growing season prior to the plants going to seed, would be the best action to manage flixweed populations at the Meadowbank Complex.”

The Proponent does not present plans to implement either of these recommendations, despite evidence of growth in population size and range for these species.

### **Management Plan for Non-Native Species**

The report states that:

“A management plan for non-native plant species employing adaptive management may be implemented if the non-endemic and other non-native plant species continue to be observed and/or are observed to spread further within the Meadowbank Complex area. A non-native plant management plan would describe the methods for the eradication, control and/or minimization of the encroachment of non-native plant species into new areas, and outline additional measures such as on-boarding and training in the identification of non-native plant species for the area. (AEM 2021, Section 16.4)

Evidence in the report suggests non-native plants continue to be observed and have been observed to spread further in the Meadowbank complex. These are the conditions that should trigger the development of a management plan.

### **RECOMMENDATION(S)**

The GN offers the following recommendations with respect to this issue:

1. That the Proponent fully implement recommendations made by the Government of Nunavut in response to the 2019 annual report (GN 2020).
2. That the NIRB direct the Proponent to develop a non-native plant species management plan based upon advice provided by the Terrestrial Advisory Group (TAG). The plan should include strategies for the control/eradication of all non-native plant species detected through monitoring, schedules for implementation and monitoring programs to track success.
3. Pursuant to the *Wildlife Act*, the GN is requesting the Proponent:

“[M]ake reasonable efforts to recover” the plant species found around the Project that:

“ [Does] not belong or never naturally occurred in Nunavut. ....” (GN 2003)

This should begin by working with the GN on recommendations made in 2019.

4. That the NIRB direct the Proponent to adjust monitoring and management of introduced plant species to include any and all species that “does not belong or never naturally occurred” in Nunavut per the *Nunavut Wildlife Act* (Section 91(2)).
5. That the Proponent clarify whether the 175 non-native plant sampling sites used in 2020 included the 107 sites sampled in 2019.
6. That in future, non-native plant sampling should be conducted at the same sites year-to-year so that changes in population numbers and area covered at each site can be monitored and reported in the annual reports. This information is useful for monitoring the effectiveness of control measures.

Appendix 2. Status of GN recommendations regarding non-native plants at the Meadowbank-Whale Tail Mine, 2019 (per GN 2020, GN-comment-05)

GN Recommendation	AEM Response	Current Status (May 2021)
<p>1) The Proponent should enlist a botanist to confirm that the species identified on site is in fact Flixweed (<i>Descurainia sophia</i>) and not Northern Tansy Mustard (<i>Descurainia sopheroides</i>). Should the identification of Flixweed be confirmed, then the Proponent should undertake the following recommendations pertaining to tracking and containment.</p>	<p>Plant species confirmed to be <i>Descurainia sophia</i>.</p>	<p>Complete</p>
<p>2) That the Proponent thoroughly survey and create a map showing the current distribution of Flixweed at the Meadowbank-Whale Tail complex. This map should be provided to the NIRB for placement on the public registry, along with being provide to all members of the Terrestrial Advisory Group (TAG).</p>	<p>A figure showing targeted survey locations at the Meadowbank Complex, including the site, All-weather Access Road section (AWAR) and Whale Tail Haul Road, was included in the report (Agnico Eagle 2020, Appendix N, Figure 1). This figure has been reproduced and updated to identify which survey locations recorded non-native plant occurrences, as presented in Table A-1 of Appendix 52 of the Meadowbank Mine Annual Report.</p>	<p>In 2020, the Proponent increased the number of targeted survey locations from 107 to 175. However, all locations were within the disturbed footprint of the Project. Therefore, the presence or absence of non-native species in undisturbed habitats near the Project has not been evaluated.</p> <p>Due to the increased number of survey sites in 2020 (compared to 2019) it is unclear whether the wider distribution of Flixweed and Scentless Chamomile, as recorded in 2020 vs 2019, reflects spreading of the species or is a result of increased survey effort. This makes</p>

		monitoring of trends in distribution challenging.
<p>3) Produce a risk assessment examining:</p> <ul style="list-style-type: none"> <li>• The potential for the species to colonise undisturbed habitats beyond the disturbed areas of the Meadowbank-Whale Tail complex;</li> <li>• The impact of this species on efforts to revegetate disturbed areas of the complex with species and plant communities endemic to Nunavut, as required under term and condition 26; and</li> <li>• The risk of this species to wildlife such as caribou.</li> </ul>	<p>GN Agnico Eagle will undertake the development of a risk assessment that will focus on the potential for Flixweed establishment in undisturbed tundra, and its potential to affect revegetated disturbed areas. The results of this assessment will be shared with regulators and stakeholders, including the TAG.</p> <p>Agnico Eagle will explore control options for Flixweed occurrences in order to reduce the potential spread to undisturbed habitats.</p>	<p>Risk assessment not provided.</p> <p>No control options were committed to by the Proponent in the 2020 Wildlife Monitoring Summary Report, although the Appendix H (Section 4.0) of this report recommends mowing in the early growing season for Flixweed, before plants seed, to manage populations.</p>
<p>4) Develop a monitoring program with study designs and demonstrated statistical power to:</p> <ul style="list-style-type: none"> <li>• Determine the full extent of this species' current abundance and distribution at the Meadowbank-Whale Tail complex;</li> <li>• Monitor changes in abundance and distribution;</li> <li>• Measure the effectiveness of eradication/control programs;</li> </ul>	<p>As part of the existing Non-Native and Invasive Plant Monitoring Program, Agnico Eagle remains committed to monitoring changes in abundance and distribution of species identified by the CESSC as Non-Native/Invasive – which does not include Flixweed. Given the large footprint size of the Meadowbank Complex, a comprehensive monitoring of the full extent of Flixweed abundance and distribution is not possible. Although not the main focus of the Non-Native and Invasive Plant Monitoring Program,</p>	<p>A monitoring program with the recommended design has not been developed or implemented.</p> <p>Project Certificate (008) Term and Condition #25 does not specify limiting monitoring to CESSC listed species. Introduction of any non-native species is subject to Section 92 of the Nunavut Wildlife Act.</p>

<ul style="list-style-type: none"> <li>• Detect the colonization of undisturbed tundra habitats by this species.</li> </ul>	<p>Flixweed populations will continue to be documented.</p>	
<p>5) The Proponent should conduct a review of cleaning and control measures employed at the Meadowbank-Whale Tail complex to prevent non-native species introductions. This review should be conducted in collaboration with subject matter expert(s) in the field of invasive species introduction. The results of this review should be provided to both NIRB and TAG.</p>	<p>Mitigation measures for non-native plants outlined in the Terrestrial Environmental Monitoring Plan (TEMP) (Section 3.3.3) are per best practice measures being implemented for the Project. These will be reviewed and may be expanded upon – recommendations will be considered for inclusion in the next iteration of the TEMP, which is anticipated in early 2021 per NIRB Project Certificate No. 008 (Amendment 001) Terms and Conditions.</p>	<p>Review not provided.</p> <p>The 2020 Wildlife Monitoring Summary Report (Section 16.4), states that: “added diligence should be undertaken with regards to areas of high traffic.” No details of what the added diligence will be are provided.</p>