



May 4, 2023

Karen Costello
Executive Director
Nunavut Impact Review Board
P.O. Box 1360 (29 Mitik)
Cambridge Bay, NU X0B 0C0

Re: Need for Development of NIRB Guidance Focused on Operating Projects / Phased Development

Dear Ms. Costello,

Agnico Eagle Mines Limited (Agnico Eagle) has been active in the Nunavut Impact Review Board (NIRB)'s initiative (underway since 2018) to update the NIRB's Rules of Procedure and to develop standardized NIRB Guidelines for Environmental Impact Statements. We will continue to participate in that process.

However, we are concerned that both documents are focused almost entirely on new projects and are not meeting the permitting needs of Nunavut's operating projects. In recent years, the majority of NIRB's major applications processed have been related to adaptive management, phased development, new infrastructure, and relatively minor changes to operating mines. Applying policy and guidelines developed for new projects to operating project modifications also increases the risk of review overlap and requirements to "re-assess" components that have already been approved and permitted. Based on current guidance, relatively minor changes to operating projects are often being drawn into lengthy NIRB processes which can confuse communities with respect to what has already been approved and can significantly delay implementation of important measures that can improve environmental protection. Participation in extensive review of these applications also comes with significant financial and non-financial costs for all parties, including Nunavut's communities.

Agnico Eagle is providing this letter to the NIRB to outline the relevance and value of providing NIRB guidance and policy addressing the unique permitting needs of operating mines and on reducing procedural uncertainty specific to phased development. To provide the benefits outlined in this letter, guidance for operating mines must be directly integrated into the NIRB's Rules of Procedure and Impact Statement guidelines; these concepts must be developed in parallel, not in sequence, as seems to be the NIRB's intent based on responses to proponent comments received to date¹.

1 Mine Development

Mines are financed and built based on proven mineral reserves. Companies continue to explore for new mineral reserves during mine operations in nearby areas to extend the mine life. The use of existing mine infrastructure requires less capital investment to exploit new mineral reserves with minimal environmental footprint as new mine facilities do not need to be developed (e.g., ore processing facilities, tailings management facilities, waste rock storage areas, administrative and equipment maintenance facilities).

¹ NIRB 2023. *NIRB Draft ROP (November 2018 version): Summary of Written Comments and the Board's Responses*. Issued March 30, 2023.

Expansion of waste management facilities (tailing and rock storage) may also occur as the life of mine is extended and mine closure and reclamation plans are iteratively updated.

Mining companies continually evaluate their mine plan to achieve higher levels of operational excellence. Technology may also change over the life of mine, for example inclusion of robotics, metal recovery and water treatment technology, and energy supply. Thus mining companies regularly propose changes to regulators and communities for these improvements. In mining it is important to learn from experience, and some optimizations cannot be identified until on the ground experience is obtained. As mining of an ore deposit progresses, the geological conditions may change necessitating changes in mineral processing. Certain aspects of geology cannot be fully understood until mining begins. As the mine progresses and conditions and engineering needs change, or new ore reserves are found nearby and brought into production, mining companies continue to adapt and invest in capital improvements. These improvements are the result of detailed and costly engineering studies, which lead to investment decisions, permitting, and procurement of new infrastructure.

Exploration and acquisition of new mineral tenures in Nunavut has sharply dropped in recent years, based on evidence shared by Canada as part of the draft Nunavut Land Use Plan (NLUP) development process. If the current draft NLUP is adopted, it would effectively prohibit (either directly, or indirectly due to prohibited activities or periods of operation) mine development across much of Nunavut, outside of existing 'grandparented' projects. This will place significant additional pressure on mine expansion through phased development of existing projects rather than greenfield areas. It is noted that, despite the observed decline in new mineral tenures, mining has displaced government as the largest contributor to Nunavut's Gross Domestic Product in the past two years, and has the potential to remain a major driver of Nunavut's growth and prosperity. However, continuing uncertainty and extended timelines to permit modifications to operating projects will seriously impact the ability of proponents to achieve optimal project design, deliver optimal benefits to Inuit and governments, signifies risk to potential investors, and forestalls capital investment.

2 Procedural Certainty

As acknowledged by NIRB, assessments applicable to already approved projects are a different type of assessment requiring their own guidance to provide clarity to all parties and investors. This guidance would build on NIRB's *Guidance re: Process for Seeking Approval for Modifications to Previously-Approved Projects*², and give full weight to the principle that modified projects must consider, and rely on, any assessment activities carried out in respect of the original project.

Extensive review requires substantial contributions from all stakeholders, intervenors, and communities and can result in consultation fatigue, resource depletion, and significant financial costs to those involved. Adoption of processes specific to operating mines and phased development can ensure these efforts are focused where they are needed, and to the extent they are needed, when adding to already assessed activities, areas, and mine components.

Reviews of modifications to approved projects typically result in some amount of re-assessment of already permitted components and activities. This can add time, result in term and condition amendments with little direct relevance to the changes being proposed, and means there is less capacity of Inuit and indigenous groups, communities, NIRB staff, and regulators to focus on other applications moving through the NIRB

² NIRB 2018. *Guidance re: Process for Seeking Approval for Modifications to Previously-Approved Projects*. Issued April 6, 2018.

process. The modification process should not be used as a substitute for, or to supersede, the NIRB's ongoing monitoring activities.

Procedural certainty will provide many benefits, including:

- Aligning all parties on the review process, information requirements and the scope of the impact assessment.
- Focusing the review on material differences, taking into account existing mitigations and monitoring plans and regulatory approvals such as project certificates and water licences.
- Streamlining review timelines and increasing predictability of the NIRB's modification processes.
- Building confidence that the NIRB monitoring process is effective and adaptive.

3 Sustainable Development

The NIRB has recently received multiple applications related to windfarm development. A shift to wind power generation supports Canada's climate policy initiatives, aligns with project certificate requirements to minimize greenhouse gas (GHG) emissions, and advances the sustainable development goals of mining companies to reduce GHG emissions. Climate change is also a major concern of Inuit, with the Arctic currently warming at twice the global average. Sustainable development initiatives, which are beneficial to all, but particularly in Canada's north where the effects of climate change are most acute, should be supported with a timely and clear process.

4 Timing

Due to the immediate relevancy and significant benefits outlined above, full consideration of operating projects should be integrated into the current development of the ROP and IS Guidelines. This could occur in parallel with the development of the supplementary guidelines scheduled to be issued in October.

5 Closure

We urge the NIRB to incorporate full consideration of operating mine development into the ROP and IS guidance materials.

To facilitate this, Agnico Eagle is providing a Phased Development Discussion Paper to the NIRB by the May 5th deadline. This framework will identify key guidance components which should be considered. We ask that the NIRB focus its efforts and bring together stakeholders to advance work in parallel with their development of the ROP, IS guideline development, as these materials will need to inform each other to realize the benefits outlined above.

If you require any further information, please contact the undersigned.

Sincerely,



Jamie Quesnel
Director, Permitting & Regulatory Affairs
Agnico Eagle Mines Limited

CC: Heather Rasmussen, NIRB Senior Policy Advisor