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Re. Agnico Eagle Mines Limited's Upper Beaver Gold Project (Reference Number 82960)

On September 13, 2021 the Impact Assessment Agency of Canada posted a notice on its internet registry inviting the public and Indigenous groups to review the summary of the initial project description and provide feedback related to Agnico Eagle Mines Limited's Upper Beaver Gold Project, in Timiskaming District in Ontario. The notice announced a 21 day comment period, ending October 4th 2021.

According to the registry notice Reference Number 82960 the Upper Beaver Project, as is currently being proposed by Agnico Eagle Mines Limited, would include "the construction, operation, decommissioning and abandonment of an underground and open-pit gold and copper mine located 20 kilometres northeast of Kirkland Lake, in Ontario. As proposed, the Upper Beaver Gold Project includes an on-site metal mill and structures for diverting water. The maximum ore production capacity of the mine is 15,000 tonnes per day, and the maximum ore input capacity of the processing plant is approximately 10,000 tonnes per day, with a mine life of about 16 years. The project would require the diversion of over 90 million cubic metres of water per year from Beaverhouse Lake downstream to the Misema River".¹

Northwatch is a public interest organization concerned with environmental protection and social development in northeastern Ontario. Founded in 1988 to provide a representative regional voice in environmental decision-making and to address regional concerns with respect to energy, waste, mining and forestry related activities and initiatives, we have a long term and consistent interest in the mining sequence and its social and environmental costs and benefits, including mineral exploration, mine development, operation and closure, and metals processing.

Northwatch's objective in participating in this and other mining related assessment processes is to provide an independent review of mines as proposed, and to contribute to mine reviews in such a manner as to reduce environmental impacts and increase social benefits.

The questions Northwatch poses as a basis for mine reviews in which we engage include the following:

- Will the mine project, if in an area with past or active mines, result in or contribute to the remediation of past mining impacts?

- Will the mine project maximize economic / social benefits to local communities, especially communities who have previously been mine-dependent?
- Will the mine assessment be carried out in a way that adequately identifies the ecological values in the project area and adequately assesses the degree to and the manner in which the proposed mining-related activities imperils these values?
- Will the mining activities be carried out in a manner that avoids environmental harm?
- Will the mine project avoid adversely impacting recreational opportunities and pastimes in the mine's vicinity?
- Will the mine project be carried out in a manner that respects and preserves the rights, land uses and interests of Indigenous peoples?

IAA Registry Notice and Comment Period

As noted above, the Impact Assessment Agency of Canada posted a notice on its internet registry on September 13th inviting the public and Indigenous groups to review the summary of the initial project description and provide feedback related to Agnico Eagle Mines Limited's Upper Beaver Gold Project.

In Northwatch's view, a 21 day comment period is inadequate; as set out in Section 11 of the Impact Assessment Act, the Agency is to ensure that the public is provided with an opportunity to participate meaningfully in its preparations for a possible impact assessment; providing only a 21 day comment period limits the ability of public and Indigenous peoples to adequately learn about the project, consider its potential impacts and provide the Agency with their best advice with respect to the project information provided to date, and what information might be lacking; initiating the Impact Assessment process with this very limited comment period sends a very negative message about the value that the Agency places on public and Indigenous participation and could very well discourage participation throughout the review

Equally problematic is the failure of the September 13th notice to clearly and fully set out that a key decision to be made by the Agency following this early planning stage and comment period will be whether an "impact assessment is required", i.e. whether a full assessment will be carried out under the Impact Assessment Act.

As set out in Section 16 of the IAA, the Agency must decide whether an impact assessment of the designated project is required. However, the notice describes the purpose of this 21 day comment period as follows:

This feedback will help the Agency prepare a summary of issues. Once completed, the Agency will provide the summary of issues to the proponent.²

While the notice infers in the paragraph under the heading "Will there be more opportunities to participate?" that the Agency will be making such a decision by using the qualifying "if" in its statement "If the Agency determines a federal impact assessment is required", the decision point

is not adequately or clearly identified, and the indication in that same paragraph that “This is the first federal comment period for the project” creates a conflicting impression that there will be future comment periods implying that an impact assessment will be undertaken, i.e. that a federal environmental assessment is a given.

While Northwatch has a full expectation that this project will be subject to a full impact assessment review, given the high levels of public concern and the potential for adverse environmental and social impacts, we nevertheless feel strongly that the Agency has erred in not providing clear direction in the public notice that one of the key points on which comments are being sought by the Agency is on the determination as to whether or not a federal impact assessment will be carried out.

Review of the Initial Project Description

The September 13th Notice indicated that the Agency was inviting the public and Indigenous groups to review the summary of the initial project description and provide feedback related to the proposed project. Northwatch’s comments in this section are the product of our preliminary review of the Initial Project Description, rather than summary, as the limited time available did not facilitate the duplication of reviewing both documents, and the Initial Project Description provided a more detailed accounting of the project as currently proposed.

The approach taken is to use our review of the Project Information included in the Initial Project Description to identify key aspects or concerns with respect to the project and to then identify topics or issues for inclusion in the Tailored Impact Statement Guidelines and subsequent Impact Statement to be prepared by the proponent.

Project Desc. Page #	Project Aspect or Concern	Topic or Issue for TISG
1	The PD provides minimal information about the proponent and any related partnership arrangements, including the partnership announced with Kirkland Lake Gold on 28 September 2021 ³ and how it might affect the project	Clear identification of proponent, decision-maker, how liabilities are assigned with the proponent group
2, 14	The project site was the location of intermittent mining between 1912 and 1971 and periods of mineral exploration activity, all of which have generated significant mine hazards on and in the vicinity of the project site	Mining hazards generated by past mining activity and past and current mineral exploration activity must be thoroughly inventoried and the remediation included in the mine operation and closure plans
2-5	There is a lack of clarity about how AE regards / engages with	In addition to these stakeholders listed, the review – and AE’s engagement –

	shareholders and stakeholders, it is unclear in Section A3 whether text applies to one versus the other; further, they have taken an overly limited approach to identifying the list of “stakeholders” who would have an interest in the project and should be engaged	should include downstream and regional interests and interested parties, including environmental, recreational, tourism, harvesters, agricultural interests and organizations
3	The PD states that “geotechnical findings have identified a significant risk for future underground development in the Upper Beaver Gold project area, due to a stability concern related to the lack of sufficient competent bedrock under York Lake and above the existing historic underground mine workings” but provides insufficient information	A thorough assessment of alternative means of carrying out the project must include a detailed analysis of various options examined, including an evaluation of stability concerns related to bedrock competence and/or historic mine workings
9	The PD states that “In discussion with the Impact Assessment Agency, there are no other relevant regional studies / assessments. There are no regional studies or Regional Assessments close to the location of the proposed project.”	In the full project description, the proponent should provide a full description of mining activities in the area; this information should be prepared as in input into a thorough cumulative effects assessment, and to provide key information in order to determine if a regional study or assessment is required prior to or in conjunction with this impact assessment
12	AE approaches the question of “need” for the project from the perspective only of corporate “need”, as in “Based on information currently available, the Upper Beaver Gold project meets this corporate need.”	The proponent’s presentation of the “need” for the project must go beyond a corporate interest (re-labeled as “need”) and be assessed in the context of whether this is a need that is consistent with the public interest
13	AE sets out that in the current project design the rate of ore mining and processing at the Upper Beaver Gold and the volume of diversion of the Misema River at Beaverhouse Lake each singly are expected to meet the conditions listed in the Physical Activities Regulations for requiring an impact assessment.	Tailored Impact Statement Guidelines to be prepared for the Upper Beaver Gold project must incorporate the full range of anticipated issues and potential effects of the project.
14, 15	AE describes extensive past mining activities and mineral exploration	Cumulative effects must be included in the IA and include mining hazards

	activities associated with the project and / or project site	generated by past mining activity and past and current mineral exploration activity must be thoroughly inventoried and the remediation included in the mine operation and closure plans
15	The PD states that the list of the primary Upper Beaver Gold project facilities and infrastructure is based on the current preliminary design and is subject to change with additional engineering.	In describing alternative means of carrying out the project the IA must be thorough and comprehensive; mine design must be final prior to the completion of the assessment in order to ensure that all eventual activities (and associated impacts and effects) are adequately considered
16	The PD states that the underground and open pit mine are proposed to operate year-round on a continuous (24-hour) basis, that the pit will be in operation for only the first four or five years of operation, and that based on the proposed processing rate and current information regarding the ore body, the life of the mine could extend 14 years or more years.	In describing alternative means of carrying out the project the IA must consider the alternative means of operating on a 8 or 12 hour basis (versus 24 hour) with particular attention paid to the social and economic benefits for those in the area who are not mine workers (e.g. cottagers, harvesters, recreationists).
16	The PD states that the underground and open pit mine are proposed to operate year-round on a continuous (24-hour) basis, that the pit will be in operation for only the first four or five years of operation, and that based on the proposed processing rate and current information regarding the ore body, the life of the mine could extend 14 years or more years.	In describing alternative means of carrying out the project the IA must consider the alternative means of operating only underground, i.e. excluding the option of an open pit from the mine design
16	The PD states that the underground and open pit mine are proposed to operate year-round on a continuous (24-hour) basis, that the pit will be in operation for only the first four or five years of operation, and that based on the proposed processing rate and current information regarding the ore body, the life of the mine could extend 14 years or more years.	In describing alternative means of carrying out the project the IA must consider the alternative means of operating on lower volume per day / reduced time per and the social and economic effects that would have, including on the life of the mine and the relative benefits / disbenefits for local people, communities and economies of shorter versus longer mine operating periods

17	<p>The PD states that Mineral waste associated with the mine development will be re-used to backfill the mine as practical. Excess mineral waste (mine rock) that cannot be re-used underground immediately but cannot be retained underground, will be stored on surface in a stockpile.</p>	<p>The IA must give detailed consideration to waste rock management, and examine a range of options for the short to long term management of the waste rock, including surface stockpiling or underground backfill; a thorough examination of acid mine generating potential of all ore and waste rock must be undertaken, and findings incorporated into the selection of the methods for waste rock management</p>
17	<p>AE proposes to create an open pit that will partially intersect York Lake and to divert the Misema River around the proposed operation</p>	<p>In describing alternative means of carrying out the project the IA must consider the alternative means of accessing the ore located at relatively shallow depth near York Lake (which according to AE could necessitate the creation of an open pit that would intersect with York Lake, etc.); this alternative means assessment, as with others, must include the “null, do nothing” approach, i.e. carrying out the project without accessing these ores</p>
17	<p>The PD states that “In order for the open pit to be developed, channels will be created and dykes placed, so that the Misema River can be safely diverted just around York Lake maintaining the integrity of the river system once channel is stabilized.”</p>	<p>The guidelines must provide clear and detailed description of the studies that must be undertaken with respect to this part of the AE project, including the means by which channels and dykes would be placed as part of diverting the Misema River, and the social, ecological and economic risks and impacts associated with this project activity; particular detail must be provided to set out the temporal variety of impacts, including before and after the “channel is stabilized”; AE should be instructed via the guidelines to be clear in definitions and terminology, including as used in statements such as “safely diverted” and “maintaining the integrity” when used in the context of diverting a significant river</p>
18	<p>The PD states “Stockpiles will be created on the site to store ore, mine rock, overburden and organics”</p>	<p>The GL must direct a thorough examination of acid mine generating potential of all ore and waste rock to be brought to surface and placed in stockpiles or in longer term management;</p>

18	The PD states “is unknown at this time whether stockpile(s) will overprint minor creeks which may contain fish.	The GL must direct a thorough examination of anticipated and potential impacts of fish and fish habitat, including mitigation and avoidances strategies.
18	The PD provides only a very general description of the ore processing	The GL must direct a thorough description of the ore processing including alternative means of carrying out this part of the operations, and an examination of anticipated and potential impacts of the various options, particularly on the effect of mine effluent on fish and fish habitat, including mitigation and avoidances strategies.
18	The PD states that “there is also the potential that the processing plant could also process ore trucked to the site from other compatible deposits at the same time as processing the Upper Beaver Mine ore, or potentially after the on-site ore resource is depleted. “	The tailored Impact Statement Guidelines to be prepared for the Upper Beaver Gold project must direct AE to complete a full and comprehensive study of cumulative effects, including for activities which are known to be part of the project and known to be within the same watershed as the project, as well as those that are likely to take place and those that have the potential to take place. The cumulative effects study must incorporate all mining related activities, but also effects and potential effects from other activities, including forestry, infrastructure, energy projects, and other industrial activities. Effects should include forest fragmentation, and impacts on wildlife populations and health, and social and recreational values.
21	The PD states “The limited footprint and design of the project suggests that there may be limited opportunities for progressive reclamation during operation, but progressive reclamation will be pursued as reasonable.”	The guidelines must direct that AE must detail its closure planning and approach to closure planning and provide specific and detailed rationale for the timing of closure work, and outline an approach that would maximize progressive rehabilitation. In addition, closure planning must clearly outline how historic or already created mine hazards are to be remediated through implementation of the closure plan.
22	The PD discloses an intention on the part of AE to abandon mine equipment underground at the time	The guidelines must specify that closure planning includes a detailed inventory of mine equipment to be found on site at the

	of closure, to be “left in an inert state underground; or removed and managed according to regulations at the time, which may require shipment to an off-site landfill or recycling centre.”	time of closure and detailed plan for dispositioning of mine equipment.
22	In a discussion of Stockpiles and TSF at time of closure, AE state that “Preliminary geochemical investigations indicated that these materials are not potentially acid generating”. Further discussion on page 29 make similar assertions.	Acid mine drainage is one of mining’s most serious threats to water. A mine draining acid can devastate rivers, streams, and aquatic life for hundreds, and under the “right” conditions, thousands of years. The guidelines must require a detailed examination and accounting of the acid generating potential and the basis and risk factors associated with conclusions reached on behalf of or by Agnico Eagle.

General Expectations of the Tailored Impact Statement Guidelines

The following four areas of concern are similar to those which Northwatch would point to across a range of mining and other projects, and most certainly apply in the case of this mine proposal:

- Projects should be judged from the perspective not only of whether they will avoid creating harm or limitations for the future, but also as to whether it will create enhancements for the future. A dominating theme in the Guidelines should be a determination of how the mine will contribute to the long-term enhancement of the ecological, social, and economic characteristics of the community.
- The Guidelines direction with respect to how a proponent must address the need for the project, the “alternatives to” the project, and “alternative means” of carrying out the project should be of sufficient strength that these portions of the impact assessment process are the central basis of the decision-making on this project.
- The cumulative effects assessment needs to be thorough and far reaching. The cumulative impacts assessment should also include changes and additional stresses predicted for the region as a result of climate change.
- Discharges from this project will have downstream impacts, including in the important agricultural and recreational areas of the Blanche River and Lake Temiskaming; full and careful consideration needs to be given to these potential impacts

In addition, the guidelines must reflect and be consistent with the Act, and must operationalize the purposes of the Act by having them embodied as directives in the Guidelines, including and particularly to:

- to foster sustainability,
- to protect the environment,

- to ensure respect for the rights of the Indigenous peoples of Canada
- to ensure that an impact assessment takes into account scientific information, Indigenous knowledge and community knowledge;
- to ensure that an impact assessment takes into account alternative means of carrying out a designated project,
- to encourage the assessment of the cumulative effects

Areas of Concern with Respect to Upper Beaver Project

In addition to those areas and concerns identified earlier in this submission, the Upper Beaver Project raises a set of particular concerns which must be thoroughly examined and evaluated through the Impact Assessment Project. For this to be achieved, the Tailored Impact Assessment Guidelines must provide specific direction to the proponent that these areas be covered in detail in the Impact Assessment documents. The areas of concern include:

Project Proponent: Over the last decade there has been a series of mine proponents for this project / mine property, including Queenston Mining, followed by Osisko Mining Ltd., then Agnico Eagle Mines Limited; on September 28th 2021 a merger of Agnico Eagle and Kirkland Lake Gold was announced⁴; the transient nature of the mining industry overall is a concern, but the transient ownership of this mine project / property raises questions about its viability

Impacts on the Misema River: The current project configuration includes diverting the Misema River around York Lake, with the project description citing “expert studies” in determining that “it would be best to divert the water flowing from Misema River into the York Lake around the area, and remove the sediments and rock under the lake as well as the ore by an open pit”. In addition, the initial project description states that “the precise discharge location has not as yet been determined but is expected to be to the Misema River downstream of the Victoria Creek inflow to the Misema River.” A full assessment must be done specifically on the impacts of this project – and others in the area, on a cumulative basis – on the Misema River and the Blanche River into which the Misema River flows. Three points of note:

- the Misema River has also been the subject of hydroelectric development, which must be considered in the cumulative assessment
- the Misema River is a tributary of the Blanche River; the Blanche River is an important source of water for the agricultural community to the south of the proposed project
- the Blanche River flows via Lake Temiskaming to the Ottawa River to the Saint Lawrence River; Lake Temiskaming, the Montreal River, and the Ottawa River are shared by the Provinces of Ontario and Quebec, meaning that impacts on the Misema River and the Blanche River and cross-border impacts

Proximity to Residences: the project is in extremely close proximity to neighbouring residences; light, sound, dust, and odours are all of great concern in the instance of a project which lacks sufficient buffer between the industrial activity and the nearby residents; the initial project description appears to at least partially acknowledge this conflict, but then fails to give if

sufficient weight. The guidelines must require specific and detailed examination of the impacts of the mine activities on the neighbours in the immediate and general proximity of the project activity.

Project Feasibility: In our review, we found no evidence of a feasibility study having been completed since 2012 (Queenston Mining) although we did find one reference to a feasibility study by Osisko Mining in approximately 2015, but it could not be found on the securities registry.⁵ While the findings of a series of feasibility studies (including NI 43-101 Technical Reports) do not provide certainty with respect to mine viability, they do provide at least an important first indicator. At present, that indicator is wholly lacking. Making a determination about the project's feasibility or viability is important for at least two reasons: valuable public resources are being consumed through the conduct of this mine review, and those resources should be under careful stewardship, and not squandered on a project which is not viable. A second factor is that if the mine is not easily and fully demonstrated to be financially viable, it puts into question whether the mine will be appropriately closed, decommissioned, and rehabilitated. Agnico Eagle has already signaled that its approach to closure may be marginal, saying that progressive reclamation may not be possible. We strongly encourage the Agency to require some evidence of project feasibility before investing further – and asking the public and Indigenous peoples to invest further – in the review process for a project which may not be viable.

Designation for Impact Assessment

As set out by the proponent in their Initial Project Description⁶, “A federal Impact Assessment for the Upper Beaver Gold project could potentially be required under two scenarios: If the project meets the requirements under the *Impact Assessment Act*; or If the project is designated by the federal Minister of Environment and Climate Change Canada as requiring an Impact Assessment.”

Agnico Eagle further set out the conditions of the Physical Activities Regulations (SOR/2019-285) pursuant to the *Impact Assessment Act*” and stated that “Based on the current project design, the maximum rate of ore mining and processing at the Upper Beaver Gold project is expected to be between 4,000 and 10,000 tpd. The mean annual flow of the Misema River at Beaverhouse Lake near where it will require diversion, has been estimated as in the order of 90 million m³ per year (2.9 m³/second).”

They conclude:

The Upper Beaver Gold project is therefore expected to meet the conditions listed above of the Physical Activities Regulations, and Agnico Eagle is submitting an Initial Project Description for review by the Impact Assessment Agency.

We share Agnico Eagle's conclusion on this one point: the Upper Beaver Gold project is subject to federal environmental assessment.

Conclusions

The findings of our preliminary review of Upper Beaver Gold project are that:

- a) the project has the potential to cause significant environmental impacts which cannot be mitigated
- b) the project is subject to federal environmental assessment under the Impact Assessment Act (2019)
- c) the project warrants careful consideration, and a set of comprehensive and detailed requirements for the Impact Assessment must be set out in Tailored Impact Statement Guidelines in order to achieve that careful consideration
- d) the project has the potential for transboundary impacts in the provinces of Ontario and Quebec
- e) the project may not be viable, as suggested by the absence of any recent or current feasibility studies, and as such it poses additional risks to the environment and to project neighbours, for example, should the project commence without the resources to complete mine rehabilitation and closure
- f) there is a high level of public interest and concern about this project, including concerns held and expressed by close neighbours and by those with downstream and regional interests

Thank you for your consideration. We look forward to a positive decision on the part of the Agency to proceed to a federal environmental assessment of this project.

Sincerely,



Brennain Lloyd
Northwatch Project Coordinator

ENDNOTES

¹ <https://iaac-aeic.gc.ca/050/evaluations/proj/82960?culture=en-CA>

² <https://iaac-aeic.gc.ca/050/evaluations/document/141287>

³ <https://www.kl.gold/news-and-media/press-release-details/2021/Agnico-Eagle-and-Kirkland-Lake-Gold-Announce-Merger-of-Equals-To-Crete-Highest-Quality-Senior-Gold-Producer/default.aspx>

⁴ <https://www.kl.gold/news-and-media/press-release-details/2021/Agnico-Eagle-and-Kirkland-Lake-Gold-Announce-Merger-of-Equals-To-Crete-Highest-Quality-Senior-Gold-Producer/default.aspx>

⁵ Sedar.com

