March 12, 2022

Impact Assessment Agency of Canada
160 Elgin Street, 22nd floor
Ottawa, Ontario
K1A 0H3

Via email: UpperBeaver@iaac-aeic.gc.ca

Re: Comments on the Draft Tailored Impact Statement Guidelines & Public Participation Plan - Upper Beaver Gold Project (Reference No. 82960)

We are pleased to provide the following comments in response to the Impact Assessment Agency of Canada's ("Agency") notice inviting comments on the draft Tailored Impact Statement Guidelines ("TIS Guidelines") and the draft Public Participation Plan.[1]

I. BACKGROUND

The Canadian Environmental Law Association ("CELA") is a public interest law group founded in 1970 for the purposes of using and enhancing environmental laws to protect the environment and safeguard human health. Funded as a specialty legal aid clinic, CELA lawyers represent low-income and vulnerable communities in the courts and before tribunals on a wide variety of environmental and public health issues. CELA's mandate pertains to advancing environmental justice and protection and as a result, CELA has carefully considered the draft TIS Guidelines and Public Participation Plan provided by the Agency from a public interest perspective.

CELA previously provided comments on the project description, requesting that the Agency conduct an impact assessment ("IA") for the Upper Beaver Gold Project (the "project") given the potential for significant, adverse effects to Canada's ability to meet its climate targets and uphold environmental obligations.[2] We support the Agency's decision to commence an IA for the project given that, without an IA, there would not be an adequate forum for individuals, citizens groups

[1] Impact Assessment Agency of Canada, "Public Notice: Upper Beaver Gold Project — Comment Period on the Draft Tailored Impact Statement Guidelines and Draft Public Participation Plan" (31 Jan 2022), online: https://iaac-aeic.gc.ca/050/evaluations/document/142682?culture=en-CA [***TIS Guidelines***]
[2] Canadian Environmental Law Association, "Comments on Initial Project Description and Request for an Impact Assessment Upper Beaver Gold Project" (4 October 2021), online: https://cela.ca/wp-content/uploads/2021/10/Request_for_IA_for_Upper_Beaver_Gold_Mine.pdf

and Indigenous communities to exercise their rights to participate in environmental decision-making related to the proposed mine and mill project, and its impacts on air, lands, and water.

II. PRELIMINARY ISSUES

As a preliminary matter, CELA requests the Agency's attention to a potential violation of section 7 of the *Impact Assessment Act* ("IAA").[3] There are indications that the proponent, Agnico Eagle, is planning to undertake environmentally significant exploratory activities prior to the completion of the IA.

Section 7 of the *IAA* prohibits the proponent of a designated project from doing anything, in whole or part, if it may cause effects to federal jurisdiction prior to the completion of an impact assessment. Section 144 of the *IAA* specifically makes it an offence to contravene the prohibition set out in section 7.

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[3] Section 7 of the *IAA* provides:

Prohibitions

Proponent

7 (1) Subject to subsection (3), the proponent of a designated project must not do any act or thing in connection with the carrying out of the designated project, in whole or in part, if that act or thing may cause any of the following effects:

(a) a change to the following components of the environment that are within the legislative authority of Parliament:

(i) *fish* and *fish habitat*, as defined in subsection 2(1) of the *Fisheries Act*,

(ii) *aquatic species*, as defined in subsection 2(1) of the *Species at Risk Act*,

(iii) *migratory birds*, as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*, and

(iv) any other component of the environment that is set out in Schedule 3;

(b) a change to the environment that would occur

(i) on federal lands,

(ii) in a province other than the one in which the act or thing is done, or

(iii) outside Canada;

(c) with respect to the Indigenous peoples of Canada, an impact — occurring in Canada and resulting from any change to the environment — on

(i) physical and cultural heritage,

(ii) the current use of lands and resources for traditional purposes, or

(iii) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;

(d) any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada; or

(e) any change to a health, social or economic matter within the legislative authority of Parliament that is set out in Schedule 3.

Per section 2 of the *IAA*, the definition of a 'designated project' includes activities which are 'incidental' to the project. Early exploration activities fall within the gambit of the definition of 'designated project' as they are intended to facilitate the future implementation of the project, if approved under the *IAA* process.

Furthermore, mineral exploration activities are not low impact activities and may cause effects and pose risks to the environment which are within federal jurisdiction. The proposed advanced exploration activities present the potential for cumulative impacts which must be assessed as part of the IA before a decision is made about whether the activities can proceed. Allowing exploration activities to occur without the IA having been completed would diminish the impacts of the activities which, if considered in their entirety, could have profound impacts on the land and environment.

For a number of reasons, CELA is of the belief the proponent may be planning to undertake environmentally significant exploratory activities at the site prior to the completion of the IA. *First*, as excerpted from Agnico Eagle's *Upper Beaver Zone Advanced Exploration Project*, their tentative schedule, attached as **Appendix B** and illustrated in Figure 1 below, includes advanced exploration activities throughout 2021[4]:

Figure 1. Excerpt - Agnico Eagle Timeline[5]

FIGURE 2.4.1 TENTATIVE SCHEDULE

Activity ↓ Years →	2018				2019				2020				2021			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Confirm the project design	■	■														
Complete baseline studies		■	■	■												
Update technical information		■	■	■												
Permit requests drafting			■	■												
Consultation period				■												
Permit application review				■	■											
Submit permit application to agencies						■										
Permitting review by provincial agencies						■	■	■	■	■	■					
Advanced Exploration											■	■	■	■	■	■

[4] Agnico Eagle, "Information Document – Summary of Permits to be Submitted" (June 2019), p 6 [**Appendix B**]
[5] *Ibid*

Second, the provincial Environmental Registry of Ontario also indicates the following permits and environmental compliance approvals ("ECA") have also been granted for the exploration project:

- Permit to take water[6]
- ECA to air[7]
- An amendment to the advanced exploration project's closure plan[8]

Third, correspondence from Agnico Eagle dated December 10, 2021, to a member of the local community commented that:

> Agnico Eagle is also planning its advanced exploration program at the Upper Beaver site to validate parameters such as the mineral value, extraction methods, etc. The first step would be the construction of the exploration shaft headframe and water management facilities. This work could start in spring 2022, provided that all required permits and internal approval are obtained.[9]

Fourth, as the submission from a member of the public indicates, a number of stakes were placed in late 2021 indicating site preparation (see Figure 2 below).[10]

Figure 2. Stakes at Ava Lake

[6] Online: https://ero.ontario.ca/notice/019-0331
[7] Online: https://ero.ontario.ca/index.php/notice/019-0215
[8] Online: https://ero.ontario.ca/notice/019-1394#location-details
[9] Correspondence from Agnico Eagle (December 10, 2021)
[10] S. Jutras, "Upper Beaver Gold Project – Comments: Tailored Impact Statement Guidelines, Public Participation Plan" (March 12, 2022)

CELA recognizes that while some of these documents predate the Agency's decision to conduct an impact assessment in late 2021[11], it is critical the Agency **recommend** to the proponent that exploratory activities not proceed as previously planned. CELA **submits** the Agency ought to remind Agnico Eagle of the section 7 prohibition and that they ought to take all necessary steps to comply with this prohibition.

RECOMMENDATION NO. 1: The Agency ought to remind the proponent of the prohibition on undertaking environmental significant exploratory activities which are incidental to the project, prior to the completion of the IA on the basis that that they are activities which may cause effects to the environment which are within federal jurisdiction.

III. SPECIFIC COMMENTS AND RECOMMMENDATIONS

In response to the draft TIS Guidelines and Public Participation Plan, CELA provides the following observations and accompanying recommendations to the Agency with the aim of increasing the transparency of the IA process, including the public's access to information, and procedures which facilitate a traceable and open procedure.

A. Comments on the Draft Tailored Impact Statement Guidelines

i. Consideration of the Public Interest - Generally

In undertaking an IA, consideration of the public interest is central to the determination about whether or not a project should proceed. Section 63 of the *IAA* requires that the public interest determination be based on a consideration of the following "public interest factors"[12]:

a. the extent to which the designated project contributes to sustainability;
b. the extent to which the adverse effects within federal jurisdiction and the adverse direct or incidental effects that are indicated in the impact assessment report in respect of the designated project are significant;
c. the implementation of the mitigation measures that the Minister or the Governor in Council, as the case may be, considers appropriate;
d. the impact that the designated project may have on any Indigenous group and any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*; and

[11] Notice of Impact Assessment Decision with Reasons (20 December 2021), online: https://iaac-aeic.gc.ca/050/evaluations/document/142411
[12] *IAA*, s 63.

e. the extent to which the effects of the designated project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change.

The centrality of the public interest determination should be emphasized in the TIS Guidelines. CELA **recommends** that the TIS Guidelines require the proponent to provide a summary of how they have considered the five public interest factors in the Impact Statement ("IS") and an explanation of if and how the project will make a net contribution to the public interest.

RECOMMENDATION NO. 2: Require the proponent to provide a summary of how they have considered the five public interest factors in the Impact Statement and an explanation of if and how the project will make a net contribution to the public interest.

ii. Proponent Information (section 2)

Section 2 of the TIS Guidelines set out the required information the proponent must provide in the IS, including a description of their corporate structure and mechanisms which will be used to ensure their corporate policies will be implemented and respected for the project.

CELA **recommends** the TIS Guidelines require the proponent also provide:

- a description of all their mining operations in Canada including location, the nature and capacity of production and project timelines (ie. operations and decommissioning);
- a list of all violations and the nature of the offence under federal or provincial laws. For instance, between 2011 and 2016, Agnico Eagle's Canadian Malartic mine had more than 4000 violations of laws and regulations in Quebec[13]; and
- a list and summary of all proceedings brought against Agnico Eagle on matters of environmental concern, including the class action proceeding brought by a concerned citizens group in Quebec in response to the excessive dust, noise, and vibrations due to blasting at Agnico Eagle's Malartic mine site.[14]

RECOMMENDATION NO. 3: Require the proponent to provide information related to current and past mining operations in Canada including location, the nature and capacity of production, project timelines, a list of all violations and the nature of the offence under federal or provincial laws, and a list of all proceedings brought against Agnico Eagle on matters of environmental concern.

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[13] Trudel Johnston & Lesperance, "Nuisances in Malartic," online: https://tjl.quebec/recours-collectifs/nuisances-a-malartic/

[14] *Ibid;* MiningWatch Canada, "New Release – Largest Gold Mine in Canada Settles with Affected Citizens Out of Court" (15 October 2019), online: https://miningwatch.ca/news/2019/10/15/largest-gold-mine-canada-settles-affected-citizens-out-court

iii. Project Description (section -3)

Project Overview

Section 3.1 of the TIS Guidelines require the proponent to describe scheduling details and descriptions of timelines, including the total lifespan of the project.

CELA **recommends** that these scheduling details and timeline:

- Describe the timing of operations, their frequency and volume. For instance, during the operations phrase, what is the frequency of blasting, the duration and capacity? Similarly, during site decommissioning, what volume of material will be transferred offsite and what is the proposed frequency of traffic, volume of trucks and times of day they will be in use?

CELA submits it is critical that scheduling details span the full lifecycle of the project and also provide detailed descriptions regarding disturbances to air and land, and nuisances caused by dust and noise, as these impacts are very much linked to the frequency, size and duration of the activity.

As further described in Section VII below, CELA also **recommends** that for the lifecycle of the project the proponent be required to:

- Describe each phase of mining, from development, production and operations and decommissioning, against ecological timescales, including seasonal variation (ie. water recharge and discharge rates) and climate modelling (ie. changes to land variation, forest cover and impacts posed by extreme weather events)

Section 3.1 also requires that if the project is part of a larger sequence of projects, the IS must set out the larger context. CELA submits it is critical that IA take into account the impacts of the proposed project as a whole and ensure the proponent does not divide the project into separate entities, wherein individual elements would escape IA review for virtue of being below an IA threshold.

The Agency must ensure the TIS Guidelines prevent the potential for project splitting to occur. Project splitting should also be expressly listed and prohibited within section 3.1 of the TIS Guidelines. Project splitting can result when a project is split up into homogenous or heterogenous parts.[15] Homogenous splitting is when a project is divided into similar but smaller parts (ie. dividing one mining project into multiple, smaller mining projects) while heterogeneous splitting

[15] Álvaro Enríquez-de-Salamanca (2016) "Project splitting in environmental impact assessment, Impact Assessment and Project Appraisal," 34:2, 152-159

is when one project is separated on the basis of activity (ie. production operations at a mine site and a reprocessing facility).

In either case, it is critical that during this planning stage, the scope of the project include both strategic and detailed planning prospects. For instance, the TIS Guidelines must require the proponent set out the anticipated series of projects, including related plans, programs and future prospects to verify all activities are within the scope of the IA.

RECOMMENDATION NO. 4: Require the proponent to describe the timing of operations, their frequency and volume for the project and all incidental activities.

RECOMMENDATION NO. 5: Require the proponent to describe each phase of mining and milling, from development, production and operations and decommissioning, against ecological timescales, including seasonal variation and climate modelling.

RECOMMENDATION NO. 6: Require the proponent to set out the anticipated series of projects, including related plans, programs, and future prospects.

Project location

Section 3.2 of the TIS Guidelines require the IS set out the geographical setting and socio-ecological context in which the project is located. CELA submits that as framed, the draft TIS Guidelines more heavily reflect physical geography considerations rather than socio-ecological attributes.

Therefore, CELA **submits** the follow information be required as a part of the project location description:

- Spatial inequities which presently exist and those which may arise as a result of the project, due to differentials in growth potential and access to economic resources
- Societal vulnerabilities at the local and regional levels which may be caused by environmental hazards or environmental degradation
- Existing land uses and implications to future land use planning and diversification

Further, the TIS Guidelines should clarify what is meant by “project location” and “area”. CELA **recommends** that the biophysical and socio-ecological context must be described within a sufficiently large enough area surrounding the project itself.

RECOMMENDATION NO. 7: Require the proponent to provide information about the spatial inequities which presently exist and those which may arise as a result of the project, societal

vulnerabilities at the local and regional levels which may be caused by environmental hazards or environmental degradation, and existing land uses and implications to future land use planning and diversification.

RECOMMENDATION NO. 8: Clarify what is meant by "project location" and "area". This must be described within a sufficiently large enough area surrounding the project itself.

Project components and activities

Section 3.4 of the TIS Guidelines require the IS include information about the project components and activities, including a description of the project activities to be carried out during each project phase, with a focus on activities with the greatest potential to have environmental, health, social and economic effects, or impacts on Indigenous people and their rights.

It is unclear what is meant by activities with the "greatest potential" to have environmental, health, or other effects. As such, CELA **recommends** the TIS Guidelines also require the proponent to provide justification for which activities are selected as having the "greatest potential", as well as those considered but not included.

RECOMMENDATION NO. 9: Require the proponent to provide justification for which activities are selected as having the "greatest potential", as well as those considered but not included.

Workforce requirements

Section 3.5 requires the IS set out the anticipated labour requirements and workforce development policies. However, the following workforce opportunities which will provide for more sustainable and community-driven employment must also be detailed:

- Existing labour context including number of retires and local working age of the population
- Labour force projections which provide for the regional sustainability of the workforce, including programs to reduce youth out-migration, the re-employment of underemployed workers and incentives for locals, who have sought employment elsewhere, to return

RECOMMENDATION NO. 10: Require the proponent to provide information about the existing labour context and labour force projections which provide for the regional sustainability of the workforce.

iv. Project Purpose and Alternatives (section 4)

Generally – Sustainability and Public Interest Lens

Section 4 of the TIS Guidelines requires the proponent identify the project's purpose, need and alternatives considered. Under the *IAA*, the purpose, need, and alternatives, like other factors, must be assessed through "a sustainability and public interest lens."[16]

For each of these items (sections 4.1, 4.2, 4.3 and 4.4), CELA **submits** it is critical they incorporate the community's perspective. Further, the proponent's inclusion of community perspectives must not be limited to passive forms of engagement, such as the sharing of information and inviting comments. These one-way forms of dialogue do not reflect the concept of meaningful community participation and it is critical the IA shift to perspectives beyond the proponent.

CELA **recommends** that there be community-based control and co-drafting of these sections so that they are reflective of the community's perspective and engagement. This is necessary so that the IS does not only reflect the proponent's perspective of needs and alternatives, but those of the affected communities.

As drafted, the existing TIS Guidelines will not render the kind of information needed for the Agency to adequately assess the project's purpose, need and alternatives from a sustainability and public interest lens, as is required by the IAA.[17]

RECOMMENDATION NO. 11: The purpose, need and alternatives assessments must incorporate the community's perspective.

RECOMMENDATION NO. 12: Require the proponent to undertake community-based co-drafting of the purpose, need and alternatives sections so that they are reflective of the community's perspective and engagement.

Need for the Project

Section 4.2 of the TIS Guidelines states that the IS must describe the underlying opportunity or issue that the Project intends to seize or solve and should be described from the perspective of the proponent. The TIS Guidelines further state that "[i]n many cases, the need for the Project can be described in terms of the demand for a resource."

[16] M. Doelle & J. Sinclair (2021) "The Next Generation of Impact Assessment: A Critical Review of the Canadian *Impact Assessment Act*, Toronto: Irwin Law, p 223 [***Doelle & Sinclair***].
[17] *Impact Assessment Act*, s 6(1)(a), 63

Considering the sustainability and public interest lens required by the *IAA*, CELA **submits** that the following criteria must also be required in the TIS Guidelines:[18]

- a description of the societal or public interest need served by the project;
- supporting information about how the project is needed by surrounding communities; and
- a justification for the project in light of the *IAA*'s objective to foster sustainability.

RECOMMENDATION NO. 13: Require the proponent to provide information about the societal or public interest need served by the project; how the project is needed by surrounding communities; and how the project is needed to foster sustainability.

Alternatives to the Project

Section 4.3 states that the IS must provide a description of the alternatives to the Project that are technically and economically feasible and present a rationale for how the proposed project includes sustainability principles.

CELA **submits** that the alternative that best contributes to sustainability must be the preferred alternative because of the *IAA's* goal of assessing projects to foster sustainability. Therefore, in setting out the alternatives to the project, the following criteria must be required in the TIS Guidelines:[19]

- Preferred alternative to the project must be those which maximize overall positive benefits and minimize adverse ones
- Preferred alternative must be viewed from broader perspectives including a sustainability and a public interest lens
- Preferred alternatives should not be restricted to technically and economically feasible to options of the proponent, which have historically been the practice
- Consider the interconnectedness and interdependence of human-ecological systems, necessary for fostering sustainability
- Consider the well-being of present and future generations, necessary for fostering sustainability
- Consider overall positive benefits and minimize adverse effects of a designated project; and
- Apply the precautionary principle and consider uncertainty and risk of irreversible harm

CELA further **recommends** that the TIS Guidelines include a requirement that the IS 'describe the alternative of taking no-action, noting the baseline conditions of the valued components

[18] *Doelle & Sinclair*, p 233
[19] *Ibid*

associated with the Project, as well as changes to these baseline conditions that are likely to occur in the future if a Project was not carried out.'

RECOMMENDATION NO. 14: The alternative that best contributes to sustainability must be the preferred.

RECOMMENDATION NO. 15: Require that the IS describe the no-action alternative.

v. Description of public participation (section 5)

Summary of public engagement activities

Section 5.1 requires the IS describe the proponent's public engagement activities. However, further to CELA's general comments in Section IV above and Part II below, the role of public engagement cannot be limited to passive roles. Critical to advancing meaningful public participation the proponent must set out:

- Collaborative mechanisms which will be used to enable public participation such as:
  - identifying which perspectives will be represented and who is best able to represent those perspectives;
  - the frequency and duration of community engagement meetings; and
  - the type of information which will be collected, and level of detail shared and reported to the Agency.
- How public perspectives will be used and their role in the IS

RECOMMENDATION NO. 16: Require the proponent to provide information about collaborative mechanisms which will be used to enable public participation and how public perspectives will be used in the IS.

vi. Indigenous engagement (section 6)

Section 6 requires the proponent to engage with Indigenous communities and sets out requirements to document engagement with First Nations. In addition to Indigenous knowledge considerations set out in 6.1, CELA **submits** the proponent must also assess impacts on treaty obligations and inherent rights. As drafted, the TIS Guidelines fail to mention treaty implications and how the proponent will consider impacts to treaty and inherent rights.

CELA **submits** the TIS Guidelines must also require the proponent to detail what capacity funding will be provided to ensure First Nations and Indigenous community members have the requisite

financial supports to review draft sections and lead in the drafting – and not simply comment - on the IS.

RECOMMENDATION NO. 17: Require the proponent to assess impacts on treaty obligations and inherent rights.

RECOMMENDATION NO. 18: Require the proponent to detail what capacity funding will be provided to ensure First Nations and Indigenous community members have the requisite financial supports to review draft sections and lead in the drafting of the IS.

vii. Assessment Methodology (section 7)

Spatial and temporal boundaries

Section 7.3 requires the IS establish the spatial and temporal boundaries that will be used to describe the baseline conditions, and guide the assessment of Value Components, as detailed in sections 7.1 and 7.2.

Regarding the delineation of spatial boundaries in section 7.3.1, CELA submits that the "Local" and "Regional Study Areas" must not be set by legal boundaries (ie. at the property line) but be based at the ecosystem level. It is critical that the spatial framing be defined at the ecosystem-scale if the project's impacts are to be prevented, remediated or controlled.

CELA **submits** the following must be added to section 7.3.1 of the TIS Guidelines. The assessment methodology must:

- Adopt an ecosystem approach which takes into account landscape and watershed features, including ecological variables like species composition, habitat requirements, historical environmental conditions, and pending changes due to climate change
- Transcend artificial socio-political boundaries (ie. the fence line, the township or existing governance regimes).[20]

Regarding the description of temporal boundaries in section 7.3.2, CELA **submits** it is critical that timescales be based not on the clock, but nature. That is, the description of time must be rooted in ecological timescales. This means that it in addition to the industrial timescales that are described (ie. the timing of activities, stages of development, production and decommissioning), the IS must also describe:

[20] B Richardson (2017), "Time and Environmental Law: Telling Nature's Time" New York: Cambridge University Press, p 232, 235 [***Richardson***]

- Ecological succession and the time needed, for instance, for regeneration or mitigation measures to be effective
- Environmental response rates, for instance, to pollutants or discharges to the air, land and water
- Diurnal light/dark rhythms upon which many species' behaviours are based
- Seasonal cycles, for instance, the timing of animal migrations or when certain trees or bushes bear fruit[21]

Conceptualizing time around ecological systems and their inherent change is essential for the success of the IA and the adverse environmental effects it seeks to identify, prevent and remedy.

RECOMMENDATION NO. 19: The assessment methodology must adopt an ecosystem approach which takes into account landscape and watershed features, including ecological variables like species composition, habitat requirements, historical environmental conditions, and pending changes due to climate change.

RECOMMENDATION NO. 20: Temporal boundaries must be rooted in ecological timescales, meaning the IS must describe ecological succession and the time needed for regeneration or mitigation measures to be effective; environmental response rates; diurnal light/dark rhythms upon which many species' behaviours are based; and seasonal cycles.

Cumulative effects assessment

Section 7.6 of the TIS Guidelines states that the proponent "must assess the cumulative effects using the approach described in the Agency's guidance document."

This project will directly cause or encourage other projects and activities to occur that will have impacts on the environment. For example, Agnico Eagle is planning an advanced exploration program on the Upper Beaver property, which could include the collection of bulk samples in three areas and exploratory drilling.[22] The advanced exploration program will also require the construction and operation of several buildings and infrastructure including:

- Rock storage facilities
- Shaft
- Portal/ramp
- Access road and parking
- Mine surface opening

[21] *Ibid*, p 36 - 39
[22] *Supra* note 4, p 3.

- Transformer station
- Pump house/maintenance shop
- Industrial sewage water treatment plant and ponds
- Domestic sewage treatment plant
- Fuel tanks
- Ditches and stormwater infrastructure
- Explosives storage area[23]

CELA **recommends** the TIS Guidelines specifically require the proponent to identify advanced exploration activities and related construction in their cumulative effects assessment.

Further, in describing baseline conditions, we support the TIS Guidelines statement that the Impact Statement must provide a description of "current baseline for the environmental, health, social and economic conditions related to the Project."[24] However, in applying this methodology, we further **recommend** the project's assessment of cumulative effects take account of historical changes within the watershed that have been caused by prior human activity and industrial developments.

RECOMMENDATION NO. 21: Require the proponent to identify advanced exploration activities and related construction in their cumulative effects assessment.

RECOMMENDATION NO. 22: Ensure the project's cumulative effects assessment takes account of historical changes within the watershed that have been caused by prior human activity and industrial developments.

viii. Biophysical Environment (section 8)

Generally

Section 8 delineates the biophysical considerations such as impacts to fish, birds and terrestrial wildlife and their accompanying baseline conditions and suitable mitigation and enhancement measures. CELA **submits** that while the setting of baseline conditions is helpful in the setting of benchmarks, it limits the extent to which we can understand and document ecosystem or watershed-scale disturbances in the future. Similar to our comments in Section VII regarding spatial and temporal boundaries, the delineation of biophysical attributes separate from the land or waterscape in which they function, lessens the IS's ability to predict system wide changes and levels of disturbance.

[23] *Supra* note 4, p 6.
[24] TIS Guidelines, p 29.

Therefore, it is critical that not only species-specific baselines be set, but baselines which allow us to understand and respond to system wide change and disturbance.[25] This is particularly necessary in the context of endangered species as their survival not only depends on the removal of threats, but the integrity of their habitat.

Species at Risk and Their Habitat

In addition to the above general comment for section 8, CELA **submits** that section 8.10 of the TIS Guidelines be amended to require the IS:

- Provide up-to-date information on the listing of endangered species and their status on the International Union of Conservation of Nature's (IUCN) Red List[26]
- Indicate whether the proponent will seek exemptions under provincial endangered species law from prohibitions to harm, harass, kill or destroy a species at risk or their habitat

RECOMMENDATION NO. 23: Baseline conditions for the biophysical environment should not only be species-specific but include attributes of the land and waterscape in which they function.

RECOMMENDATION NO. 24: Require the IS to provide up-to-date information on the listing of endangered species and their status on the International Union of Conservation of Nature's Red List, and indicate whether the proponent will seek exemptions under provincial endangered species law from prohibitions to harm, harass, kill or destroy a species at risk or their habitat.

ix. Canada's Ability to Meet its Environmental Obligations and its Climate Change Commitments (section 13)

Section 13 of the TIS Guidelines states that the IS should describe the effects of the Project in the context of Canada's environmental obligations and climate change commitments. As described herein, this project will directly cause or encourage other projects and activities to occur that will have impacts on the environment, such as advanced exploration activities. CELA **recommends** that the TIS Guidelines require the proponent to include these activities in its climate change analysis.

To properly understand a project's impact on efforts to decarbonize, CELA **submits** that the following criteria must also be required in the TIS Guidelines:[27]

[25] *Doelle & Sinclair*, p 252
[26] IUCN Red List of Threatened Species, online: https://www.iucnredlist.org/
[27] *Doelle & Sinclair*, p 289

- the project's direct lifecycle GHG emissions, including emissions embedded in the goods and services used for the project, along with any emissions due to impairment of sinks;
- information to assess the credibility and impact of any proposed efforts to permanently sequester emissions or to offset emissions;
- the project's indirect emissions in Canada;
- the project's broader impact on emissions in Canada and internationally;
- the emissions of a range of alternatives (including "best" climate/sustainability options and the "no project" option) estimated in a manner that makes them comparable to the predicted project emissions.

CELA further **submits** it is critical that the proponent demonstrate how considerations of climate change have been incorporated throughout the development of the IS and not identified as a single component or as a standalone valued component ("VC"). This approach and integration of climate considerations within the development of the IA aligns with the IAA's commitment to meeting climate targets, and whether a project hinders or contributes to these goals.[28]

RECOMMENDATION NO. 25: Expand the climate change analysis in the TIS Guidelines to include related projects and activities to occur that will have impacts on the environment, such as advanced exploration activities.

RECOMMENDATION NO. 26: Expand the climate change analysis in the TIS Guidelines to include the project's direct life-cycle GHG emissions; information to assess the credibility and impact of any proposed efforts to permanently sequester emissions or to offset emissions; the project's indirect emissions in Canada; the project's broader impact on emissions in Canada and internationally; and the emissions of a range of alternatives estimated in a manner that makes them comparable to the predicted project emissions.

RECOMMENDATION NO. 27: Require the proponent to demonstrate how considerations of climate change have been incorporated throughout the development of the IS and not identified as a single component or as a standalone valued component.

x. Extent to which the Project contributes to sustainability (section 14)

Section 14 of the TIS Guidelines requires the IS to provide an analysis of the extent to which the Project contributes to sustainability.

An adequate consideration of sustainability in EA should focus on identifying the best option, achieved in part by comparative analysis of alternatives and their relative contributions to

[28] *IAA*, Preamble, s 22(1)(i), 63

sustainability.[29] The proponent must clearly demonstrate that the preferred option would contribute the greatest net social, economic, and environmental benefits to society while avoiding significant losses.

In order to clearly demonstrate that the project is the best option, CELA **submits** that the TIS Guidelines must also require consideration of the following basic requirements for progress towards sustainability:[30]

- long-term socio-ecological system integrity
- livelihood sufficiency and opportunity for everyone
- intra-generational equity
- inter-generational equity
- resource maintenance and efficiency
- socio-ecological civility and democratic governance
- precaution and adaptation
- immediate and long-term integration

The TIS Guidelines should also direct the proponent to consider sustainability trade-offs, with the basic rule being that any trade-offs that entail a backward steps or block enhancement in any category of basic requirements listed above must be avoided.[31].

In the context of a sustainability analysis, substantive trade-offs "involve choices about what purposes to serve, what alternatives to favour, what design features to incorporate, what enhancements and mitigations to consider adequate and what undertakings to approve with what conditions and implementation controls, etc. Most significantly, substantive trade-offs are about the anticipated effects resulting from these choices."[32]

RECOMMENDATION NO. 28: Require consideration of the eight basic requirements for sustainability.

RECOMMENDATION NO. 29: Direct the proponent to consider sustainability trade-offs, with the basic rule being that we must avoid any trade-offs that entail backward steps or block enhancement in any category of basic requirements.

[29] Robert B. Gibson, "Sustainability-based Assessment Criteria and Associated Frameworks for Evaluations and Decisions: Theory, Practice and Implications for the Mackenzie Gas Project Review" (2006) at 4.
[30] Robert B. Gibson, "Avoiding Sustainability Trade-Offs in Environmental Assessment" (2013) 31 Impact Assessment and Project Appraisal at 1.
[31] *Ibid.*
[32] *Ibid.*

B. Comments of the Draft Public Participation Plan

CELA submits that to support meaningful public participation, the draft Public Participation Plan should be based on the following principles[33]:

- Participation begins early in the decision process, and is meaningful, and builds public confidence
- Public input can influence or change the outcome project being considered
- Opportunities for public comment are open to all interested parties, are varied and flexible, include face-to-face discussions, and involve the public in the design of an appropriate participation program
- Formal processes for engagement, such as hearings and various for a of dispute resolution, are specified, and principles of natural justice and procedural fairness are considered in formal processes
- Adequate and appropriate notice is provided
- Ready access to the information and the decisions at hand is available and in languages spoken, read, and understood in the area
- Participant assistance and capacity building are available for informed dialogue and discussion
- Participation programs are learning oriented to ensure outcomes for all participants, governments and proponents
- Programs recognize the knowledge and acumen of the public
- Processes need to be fair and open in order for the public to be able to accept a decision

Section 5 of the draft Public Participation Plan provides a list of public participation tools that are to be used throughout the impact assessment process, most of which are online tools or virtual engagement.

While we understand that the COVID-19 pandemic has disrupted conventional public engagement, CELA submits that public participation must not be limited to passive forms of engagement. At the very least, online engagement sessions should be more than presentations by the Agency or proponent followed by a question-and-answer period.

Meaningful public participation is an iterative process, based on respect and mutual learning, and requiring flexibility, active listening and ample participant funding.[34] As such, we **recommend**

[33] *Doelle & Sinclair*, p 330-331
[34] West Coast Environmental Law et al, "Is Canada's Impact Assessment Act working?" (May 2021), online: https://www.wcel.org/sites/default/files/publications/2021-impact-assessment-act-report-en-web.pdf at p 12.

that online engagement sessions be conducted by qualified facilitators if they are to achieve deliberative discussions about issues of concern to the public.[35]

The COVID-19 pandemic has also exposed 'tech divide' wherein many rural, remote and Indigenous communities are barred from participating due to a lack of stable internet and access to a computer. This is an urgent matter and one which the Agency must address, if online means of public participation are to be relied upon. CELA **recommends** the Agency conduct a tech needs assessment, to better understand existing barriers to internet and cell services in the region. Furthermore, the Agency should allocate specific funding for public and Indigenous participants to offset the costs in setting up internet services, paying monthly fees, and ensuring they have the requisite technology supports necessary to engage online.

CELA further **recommends** if the impact assessment process is to proceed in the current context, the Agency must recognize that not everyone has access to participate and the proponent must be encouraged to extend timelines pursuant to section 2 of the *Information and Management of Time Limits Regulation* so that individuals and communities are better able to engage in the process.[36]

RECOMMENDATION NO. 30: Ensure that all assessments provide opportunities for meaningful public engagement, including facilitated reciprocal dialogue, throughout.

RECOMMENDATION NO. 31: The Agency conduct a tech needs assessment, to better understand existing barriers to internet and cell services in the region, and provide funding to offset costs for internet and technology needs.

RECOMMENDATION NO. 32: The Participation Plan should encourage the proponent to extend time limits pursuant to section 2 of the *Information and Management of Time Limits Regulation* so that individuals and communities are better able to engage in the process.

IV. CONCLUSION

Thank you for this opportunity to comment. We look forward to further engagement on this project and ask to be notified of any future steps in the impact assessment process.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

[35] *Ibid*
[36] *Information and Management of Time Limits Regulations*, SOR/2019-283

<Original signed by>

Kerrie Blaise
Northern Services Legal Counsel

<Original signed by>

Krystal-Anne Roussel
Legal Counsel

APPENDIX A – SUMMARY OF RECOMMENDATIONS

RECOMMENDATION NO. 1: The Agency ought to remind the proponent of the prohibition on undertaking environmental significant exploratory activities which are incidental to the project, prior to the completion of the IA on the basis that that they are activities which may cause effects to the environment which are within federal jurisdiction.

RECOMMENDATION NO. 2: Require the proponent to provide a summary of how they have considered the five public interest factors in the Impact Statement and an explanation of if and how the project will make a net contribution to the public interest.

RECOMMENDATION NO. 3: Require the proponent to provide information related to current and past mining operations in Canada including location, the nature and capacity of production, project timelines, a list of all violations and the nature of the offence under federal or provincial laws, and a list of all proceedings brought against Agnico Eagle on matters of environmental concern.

RECOMMENDATION NO. 4: Require the proponent to describe the timing of operations, their frequency and volume for the project and all incidental activities.

RECOMMENDATION NO. 5: Require the proponent to describe each phase of mining and milling, from development, production and operations and decommissioning, against ecological timescales, including seasonal variation and climate modelling.

RECOMMENDATION NO. 6: Require the proponent to set out the anticipated series of projects, including related plans, programs, and future prospects.

RECOMMENDATION NO. 7: Require the proponent to provide information about the spatial inequities which presently exist and those which may arise as a result of the project, societal vulnerabilities at the local and regional levels which may be caused by environmental hazards or environmental degradation, and existing land uses and implications to future land use planning and diversification.

RECOMMENDATION NO. 8: Clarify what is meant by “project location” and “area”. This must be described within a sufficiently large enough area surrounding the project itself.

RECOMMENDATION NO. 9: Require the proponent to provide justification for which activities are selected as having the “greatest potential”, as well as those considered but not included.

RECOMMENDATION NO. 10: Require the proponent to provide information about the existing labour context and labour force projections which provide for the regional sustainability of the workforce.

RECOMMENDATION NO. 11: The purpose, need and alternatives assessments must incorporate the community's perspective.

RECOMMENDATION NO. 12: Require the proponent to undertake community-based co-drafting of the purpose, need and alternatives sections so that they are reflective of the community's perspective and engagement.

RECOMMENDATION NO. 13: Require the proponent to provide information about the societal or public interest need served by the project; how the project is needed by surrounding communities; and how the project is needed to foster sustainability.

RECOMMENDATION NO. 14: The alternative that best contributes to sustainability must be the preferred.

RECOMMENDATION NO. 15: Require that the IS describe the no-action alternative.

RECOMMENDATION NO. 16: Require the proponent to provide information about collaborative mechanisms which will be used to enable public participation and how public perspectives will be used in the IS.

RECOMMENDATION NO. 17: Require the proponent to assess impacts on treaty obligations and inherent rights.

RECOMMENDATION NO. 18: Require the proponent to detail what capacity funding will be provided to ensure First Nations and Indigenous community members have the requisite financial supports to review draft sections and lead in the drafting of the IS.

RECOMMENDATION NO. 19: The assessment methodology must adopt an ecosystem approach which takes into account landscape and watershed features, including ecological variables like species composition, habitat requirements, historical environmental conditions, and pending changes due to climate change.

RECOMMENDATION NO. 20: Temporal boundaries must be rooted in ecological timescales, meaning the IS must describe ecological succession and the time needed for regeneration or mitigation measures to be effective; environmental response rates; diurnal light/dark rhythms upon which many species' behaviours are based; and seasonal cycles.

RECOMMENDATION NO. 21: Require the proponent to identify advanced exploration activities and related construction in their cumulative effects assessment.

RECOMMENDATION NO. 22: Ensure the project's cumulative effects assessment takes account of historical changes within the watershed that have been caused by prior human activity and industrial developments.

RECOMMENDATION NO. 23: Baseline conditions for the biophysical environment should not only be species-specific but include attributes of the land and waterscape in which they function.

RECOMMENDATION NO. 24: Require the IS to provide up-to-date information on the listing of endangered species and their status on the International Union of Conservation of Nature's Red List, and indicate whether the proponent will seek exemptions under provincial endangered species law from prohibitions to harm, harass, kill or destroy a species at risk or their habitat.

RECOMMENDATION NO. 25: Expand the climate change analysis in the TIS Guidelines to include related projects and activities to occur that will have impacts on the environment, such as advanced exploration activities.

RECOMMENDATION NO. 26: Expand the climate change analysis in the TIS Guidelines to include the project's direct life-cycle GHG emissions; information to assess the credibility and impact of any proposed efforts to permanently sequester emissions or to offset emissions; the project's indirect emissions in Canada; the project's broader impact on emissions in Canada and internationally; and the emissions of a range of alternatives estimated in a manner that makes them comparable to the predicted project emissions.

RECOMMENDATION NO. 27: Require the proponent to demonstrate how considerations of climate change have been incorporated throughout the development of the IS and not identified as a single component or as a standalone valued component.

RECOMMENDATION NO. 28: Require consideration of the eight basic requirements for sustainability.

RECOMMENDATION NO. 29: Direct the proponent to consider sustainability trade-offs, with the basic rule being that we must avoid any trade-offs that entail backward steps or block enhancement in any category of basic requirements.

RECOMMENDATION NO. 30: Ensure that all assessments provide opportunities for meaningful public engagement, including facilitated reciprocal dialogue, throughout.

RECOMMENDATION NO. 31: The Agency conduct a tech needs assessment, to better understand existing barriers to internet and cell services in the region, and provide funding to offset costs for internet and technology needs.

RECOMMENDATION NO. 32: The Participation Plan should encourage the proponent to extend time limits pursuant to section 2 of the *Information and Management of Time Limits Regulation* so that individuals and communities are better able to engage in the process.

AGNICO EAGLE

June 2019

INFORMATION DOCUMENT

SUMMARY OF PERMITS TO BE SUBMITTED

Upper Beaver Zone Advanced Exploration Project

Presented to
Beaverhouse Lake cottagers and Surface rights Owners near the Upper Beaver Project

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1. INTRODUCTION

In December 2017, Agnico Eagle Mines Limited (hereinafter Agnico Eagle, Agnico or the Company) announced that it had agreed to acquire all of the Ontario based exploration assets of Canadian Malartic Corporation (CMC) which included the Upper Beaver Property. CMC is a corporation 50-50 owned and operated by Agnico Eagle and Yamana Gold Inc. CMC had owned this property since June 2014.

The transaction was completed on March 28, 2018, giving Agnico Eagle 100 % ownership of CMC's interest of the Kirkland Lake properties. Since the acquisition, the Company has been working on devising the forthcoming plan for continuing the project's exploration and development.

Since April 2018, Agnico Eagle has been conducting a preliminary exploration program at the Upper Beaver and Upper Canada Zones of the Kirkland Lake properties. About twenty-five people, many of them from the Kirkland Lake region, are currently employed. For 2019, Agnico plans to continue exploration activities at the Kirkland Lake properties, pending budget approval by the Company's board of directors.

Agnico Eagle is planning an advanced exploration program on the Upper Beaver property, which could include the development of a portal, ramp, shaft, and underground workings to facilitate the collection of bulk samples in three areas and exploratory drilling at depth. Agnico is working on the permitting aspect of the Upper Beaver Zone Advanced Exploration Project to confirm the feasibility of a future mining project.

Meetings took place in summer and fall of 2018 to present the Advanced Exploration project to involved neighbouring communities and Indigenous partners, to get their input, comments and concerns related to it.

Through this document, Agnico Eagle aims to summarize the Project and give a good overview of the required permits, the potential impacts, the modelling results, and the proposed mitigation measures. Agnico Eagle hopes it will facilitate the understanding of the project and the permitting processes. This document does not replace in any way the complete application forms and supporting documents that are submitted to government agencies for permit requests.

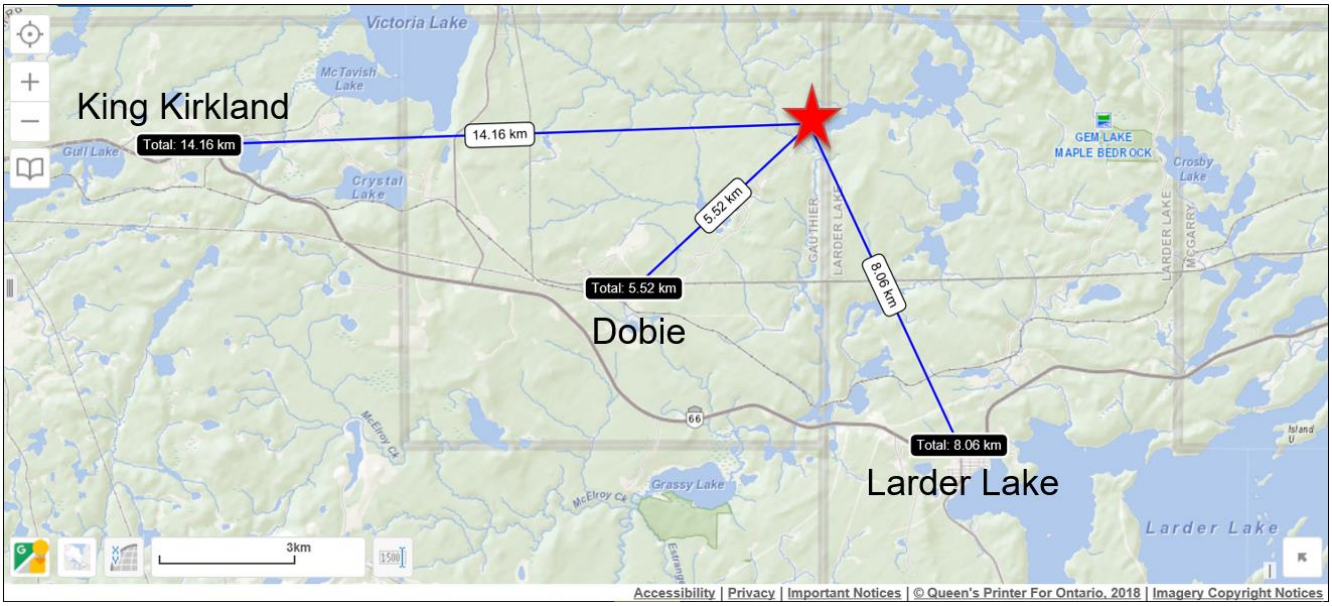
2. UPPER BEAVER ZONE ADVANCED EXPLORATION DESCRIPTION

2.1 PROJECT DESCRIPTION

Agnico intends to proceed with the Upper Beaver Zone Advanced Exploration Project ("the Project"), which is located approximately six (6) kilometers northeast of the town of Dobie in the Township of Gauthier, approximately 14 km east of the Town of Kirkland Lake and 8 km north-northwest of the community of Larder Lake in Timiskaming District in Northeastern Ontario. The site is accessed from Kirkland Lake via Ontario Highway 66, then local roads Dobie Road and Beaverhouse Road.

Agnico Eagle is planning an advanced exploration program, which will include the development of a ramp and/or a shaft and underground workings to facilitate the collection of bulk samples in three areas and exploratory drilling at depth.

FIGURE 2.1. PROJECT LOCATION



2.2 PRIMARY GOALS OF ADVANCED EXPLORATION

Results obtained from preliminary exploration activities completed on the property such as diamond drilling, geophysical survey, prospecting, and trenching, encourage us to go further in our investigations to validate the possibility of moving forward with a mining production phase.

The Project will allow the company to validate different parameters that are required to support the project evaluation and to confirm its feasibility:

- Confirm mineral value (with metallurgical tests)
- Validate mining parameters
- Confirm the model and the ore body
- Confirm the extraction methods
- Validate the preliminary cost of a possible project

2.3 HIGHLIGHTS OF THE PROJECT

- Intent to resume advanced exploration in 2020
- Project in same area than historical mining activities
- Develop a ramp and/or a shaft to take bulk samples underground: near surface, intermediate and deep zone
- Exploration shaft would be at the same location as started in 2012 by previous owner
- Develop drifts for deeper diamond drilling exploration that are not possible from surface
- Duration: 4 to 7 years (including dewatering and depending on bulk samples and drill results)
- Use the existing road to access the project (Upper Beaver Road)
- No mill on site, no tailing facilities

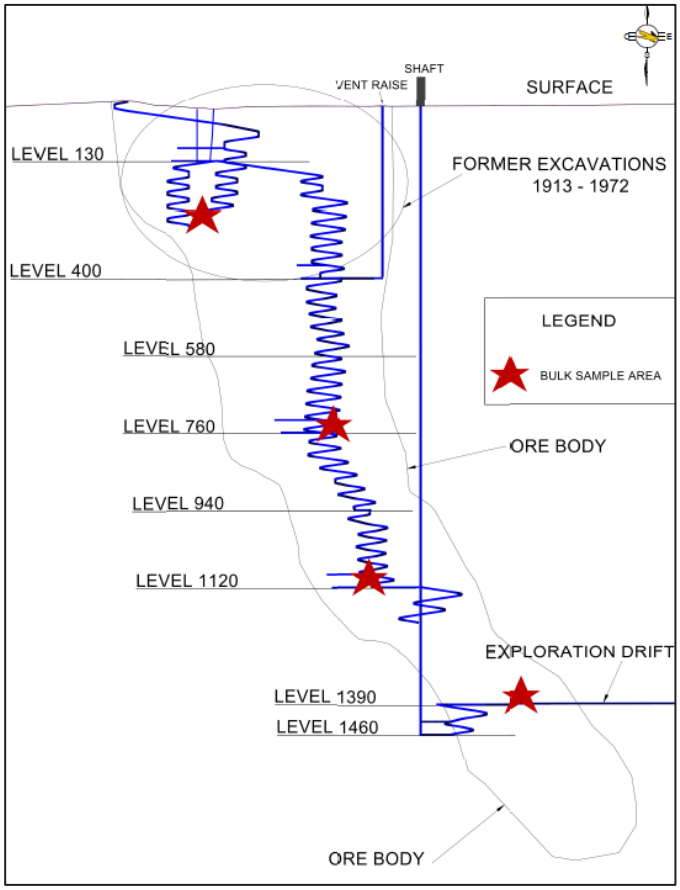
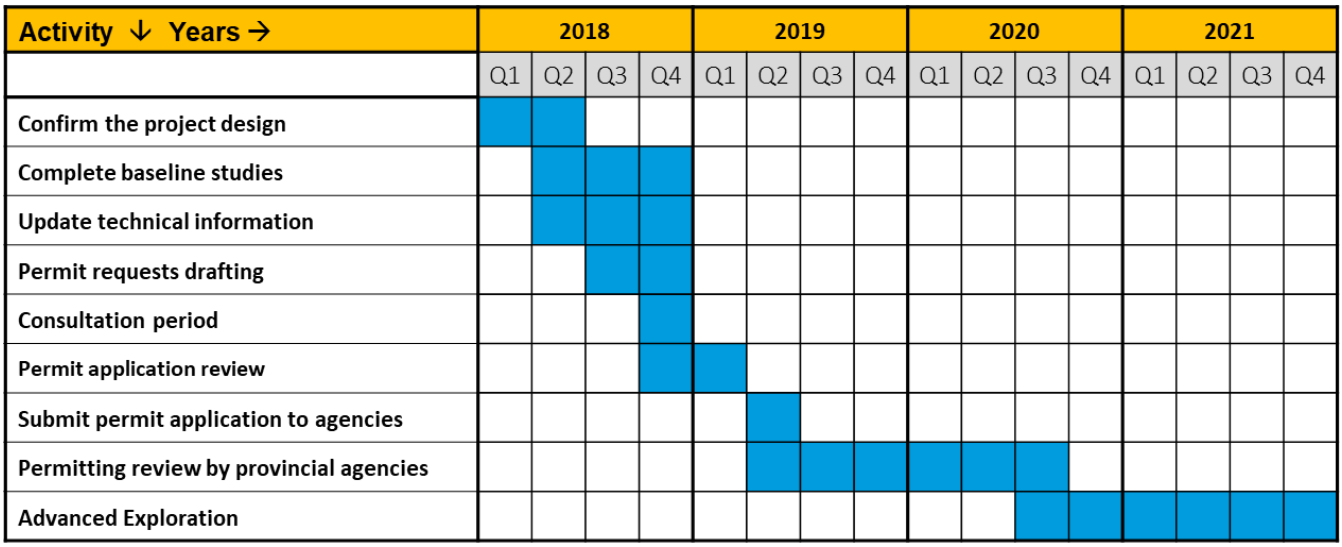


FIGURE 2.3. SCHEMATIC PROPOSED WORKING

2.4 PROJECT TENTATIVE SCHEDULE

Agnico intends to start the Project in fall 2020. The start date will depend on the date of receipt of permits and the Company's board of directors' decision.

FIGURE 2.4.1 TENTATIVE SCHEDULE



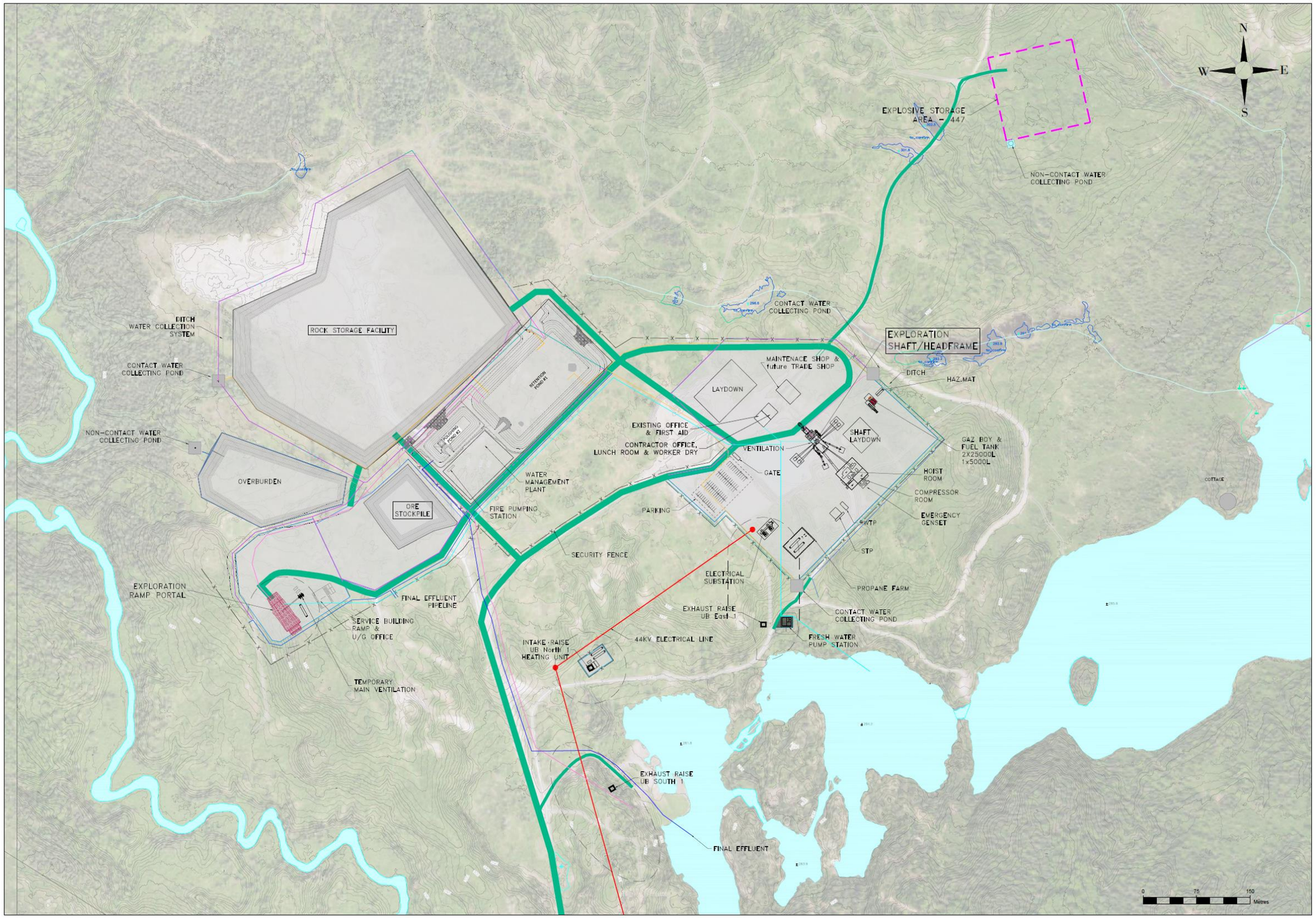
2.5 PROPOSED LAYOUT

Even though the Project is an advanced exploration phase, it will require many infrastructures and buildings. Table 2.5.1 presents a list of all buildings and infrastructures on site. Figure 2.5.1 presents the proposed layout (general arrangement).

TABLE 2.5.1 UPPER BEAVER ZONE ADVANCED EXPLORATION INFRASTRUCTURES

Buildings and infrastructures	
• Rock storage facilities and overburden pile	• Transformer station
• Shaft	• Pump house, maintenance shop
• Portal/ramp	• Industrial sewage water treatment plant (WTP) and ponds
• Access Road and Parking	• Domestic sewage treatment plant (STP)
• Offices (already there)	• Fuel tanks
• Mine surface opening (ramp/shaft)	• Ditches and storm water infrastructure
• Hydro line (already there)	• Explosives storage area

FIGURE 2.5.1. PROPOSED SURFACE ARANGMENT (layout) WITH RAMP AND SHAFT



2.6 REQUIRED PERMITS AND RELATED DOCUMENTATION

A series of permits need to be obtained to go ahead with the Project. Table 2.6.1 lists the different permits Agnico is applying for and the expected dates of submission of documentation for government review.

TABLE 2.6.1 LIST OF REQUIRED PERMITS

Permits	Activity covered	Submission schedule of permit documentation[1]
Closure Plan Amendment (ENDM)	• Rehabilitation • Closure • Monitoring program • Financial Assurance	July 2019[1]
Permit to take water Surface Water Intake (MECP)	• Water intake for domestic uses • Water intake for industrial uses	2019-04-26
Permit to take water Mine Dewatering (MECP)	• Dewater the old excavation • Remove water infiltrations in the new development area	July 2019[1]
Permit to take water Pumping Test (MECP)	• 7 days pumping tests for more long-term accuracy of our dewatering parameters	2019-04-26
Environmental Compliance Approval Industrial and Domestic Sewage (MECP)	• Surface water management • Mine effluent • Domestic sewage • Water Treatment	July 2019[1]
Environmental Compliance Approval Air, Noise and Vibrations (MECP)	• Mining Ventilation • Blasting • Haulage • Crushing • Surface activity	2019-05-07
WORK PERMIT (MNRF)	• Culvert replacement (if required) • Shoreline work (if required)	Later in 2019[1]

[1] Dates are subject to change.

A numbers of documents and reports are required to be submitted to ministries to support the permit requests to move forward with the project. Those documents contain information about the planned activities and the related studies that will allow them to do their analysis. Table 2.6.2 lists the documents that will be sent for each permit request.

TABLE 2.6.2 SUMMARY OF DOCUMENTS SUBMITTED

Permits	Documents to be sent for review	Description
3.1 Closure Plan Amendment (ENDM)	Upper Beaver Closure Plan Amendment	Standalone document that will describe proposed activities, rehabilitation measures and schedule, financial assurance, and monitoring during all stages of closure
3.2.1 Permit to Take Water Surface Water (Ava Lake) (MECP)	MECP Category 3 Application form	Form that is required by MECP for this type of permit with general information
	Scientific Report to Support Proposed Surface Water Taking	Information about proposed taking, assessment of potential impacts, monitoring program
3.2.2 Permit to Take Water Mine Dewatering (MECP)	MECP Category 3 Application form	Form that is required by MECP for this type of permit with general information
	Upper Beaver Zone Advanced Exploration Project Inflow Predictions for Existing and Proposed Underground Development	Calculation of volume of water for the dewatering of underground development
	Upper Beaver Zone Advanced Exploration Project Hydrogeological Impact Assessment	Impact Assessment of the dewatering of the underground development
	Scientific Report to Support Proposed Groundwater Taking – Surface Water Study	Evaluate the impact of dewatering on Victoria Creek
3.2.3 Permit to Take Water Pumping Test (MECP)	MECP Category 2 Application form	Form that is required by MECP for this type of permit
	Pumping Test Plan	Information about the proposed pumping test plan, water management plan, and contingency plan

Permits	Documents to be sent for review	Description
3.3 Environmental Compliance Approval Industrial and Domestic Sewage Works (MECP)	MECP ECA Application	Overview of the proposed works and link to the supporting documents (listed below) and information required to support the ECA application including a completed ECA application form
	Assimilative Capacity Study	Report documenting the baseline water quality, quantity, aquatic habitat, and biological monitoring data within the proposed receiver (Misema River) and presenting the results of modeling conducted to determine the specific receiving water based effluent requirements (limits/objectives) based on the Provincial Water Quality Objectives (PWQOs)
	Water Management Plan	Site water balance and overall water management strategy, including mine water, storm water, and freshwater.
	Water Treatment System Preliminary Engineering Design Report and Drawings	Description and design of the proposed water treatment
	Pond and Storm water Infrastructure Preliminary Engineering Design Report and Drawings	Description and design of the mine water settling pond and storm water infrastructure
	Domestic Sewage Works Preliminary Engineering Design Report and Drawings	Description and design of the mine water settling pond and storm water infrastructure
3.4 Environmental Compliance Approval Air, Noise and Vibrations (MECP)	MECP Application form	Form that is required by MECP for this type of permit with general info
	ESDM Report	Emission Summary and Dispersion Modeling for Air to evaluate the concentration of contaminates in air and ensure regulatory compliance
	Acoustic Assessment Report	Modeling Noise sources and evaluate the potential effect to the closest receptor
	Vibration Assessment Report	Modeling blast vibrations and evaluate the potential effect to closest receptor
WORK PERMIT (MERNF)	Unknown, if required only	-

3. DESCRIPTION OF PERMITS, POSSIBLE IMPACTS AND MITIGATION MEASURES

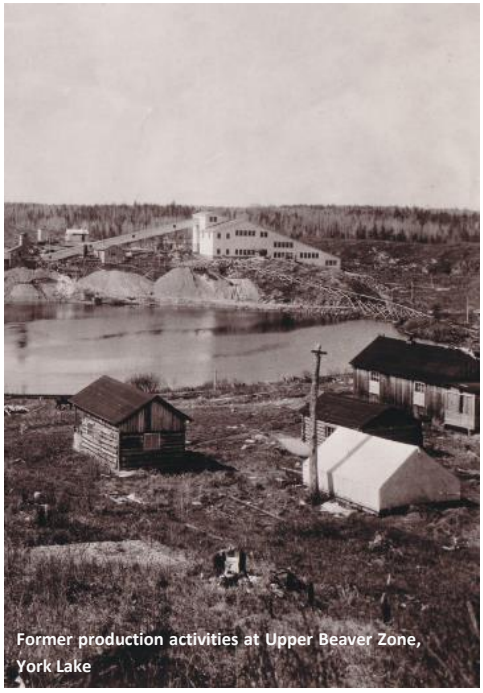
3.1 CLOSURE PLAN AMENDMENT

In 2012, when Queenston Mining intended to start Advanced Exploration, a Closure Plan was filed at the Ministry of Energy and Northern Development and Mines (ENDM). Shortly afterward the project was put in temporary suspension. A Notice of project status will be sent out to ENDM to inform them of Agnico's intention to resume the Advanced Exploration phase. This notice should be sent in July 2019.

As some changes have been made to the project description and scenario, a Notice of Material Change was submitted in July 2018 to inform ENDM of those changes. The Advanced Exploration Closure Plan filed in 2012 must be amended to include new infrastructures including: shaft, vent raise, portal, rock storage facility, buildings and water management facilities. It will also include an updated progressive rehabilitation plan and updated closure cost estimate for historic features and new infrastructures.

The progressive rehabilitation plan of historic features includes:

- Potentially instable crowns pillars
- Rock storage and tailings areas
- Openings to surface (shaft/raise)
- Adits and trenches
- Concrete foundations


Former production activities at Upper Beaver Zone, York Lake

The updated final rehabilitation measures include the following:

- Surface openings (portal, raises and shaft)
- Demolition and removal of buildings and infrastructures
- Rock, ore, and overburden storage facilities
- Water Management Infrastructure (i.e., ponds)
- Re-vegetation
- Post closure monitoring
- Updated Closure cost estimate based upon the revised rehabilitation activities

Mine hazards will be rehabilitated in accordance with the Mine Rehabilitation Code.

3.2 PERMIT TO TAKE WATER (PTTW)

Regulations:
In Ontario water taking is permitted under Ontario Regulation 387/04: Water Taking and Water Transfer. Ontario is enhancing the PTTW process to ensure water takings are managed to the standards of the Great Lakes-St. Lawrence River Basin Sustainable Water Resources Agreement. By law, you must have a permit if you plan to take 50,000+ litres of water in a day (50 m^3/day) from the environment.[1]

PTTW are categorized into three different categories based on the anticipated risk to the environment and the quantity of water to be taken.

- Category 1: is considered a low risk taking and includes renewals
- Category 2: taking has a greater potential to adversely impact the environment
- Category 3: high risk takings

3.2.1 SURFACE WATER (AVA LAKE)

Description:

For the Project, surface water taking is required for:

- Domestic uses
  - Shower, toilet, sink, etc.
- A portion of Industrial uses
  - Wash bay, underground equipment, shaft sinking

Fresh water will be pumped from Ava Lake, which is part of the Misema River system. A maximum of **366 m^3/day** will be required in the most active period of the Project. The range of water taking will range from 5.5 ^{3}/day to 366 m^3/day, with an average rate of 238 m^3/day over the life of the Project. Based on the proposed location and quantity of water to be taken, the water taking is being considered as a Category 3 PTTW.

Possible Impacts and Planned Mitigation Measures

To evaluate the effect of the surface water taking, flow data collected on site and long term flow record of stations available around the project were used and calculations were made to quantify the effect of the proposed taking on water levels and flows. It was concluded that the proposed water taking of 366 m^3/day is not expected to have an adverse effect on the water level or flow of water in the Misema River or on the aquatic ecosystems. The water taking will result in a reduction in average monthly flows of 0.05% to 0.57%. Under low flow conditions, a flow reduction of up to 4.0% will result and the water level reduction would be around 4 mm.

[1] https://www.ontario.ca/page/permits-take-water

The amount of water taken will be metered and recorded so that actual consumption can be monitored. Opportunities to reduce water use will be implemented whenever possible, such as recirculating the water. In addition, monitoring of water levels in Ava Lake and downstream flows will continue throughout the duration of the Project.

All of the water taken for domestic and industrial purposes will be directed to, and treated within, the proposed industrial sewage works that will be permitted under an Environmental Compliance Approval ("ECA") through the MECP. The treated water will be discharged back to the Misema River watershed, downstream from the water taking, in accordance with the conditions of the ECA.

3.2.2 PERMIT TO TAKE WATER – UNDERGROUND WATER (DEWATERING)

Description:
In order to be able to work safely in the underground workings, we must dry the area where we want to work. Mine water, which consists mainly of groundwater seepage into the workings, must be pumped to the surface. An initial phase will be to dewater the historic Upper Beaver mining development, which is close to the project. Then during the Project activities, the new development will need to be kept dry and pumping will be done continuously.

The proposed groundwater taking is considered as a Category 3 PTTW based on the potential for adverse effects to both groundwater and surface water resources.

Possible Impacts and Planned Mitigation Measures:

The underground dewatering requires a hydrogeological impact assessment to confirm that the proposed taking will not result in unacceptable impacts. This information is required by the ministry to issue the PTTW. The hydrogeological impact assessment was developed based on a groundwater model that was elaborated for the Project. The groundwater model was then used to estimate the expected dewatering rates for the historical and new underground workings.

<u>Preliminary Numerical Groundwater Model:</u>

The preliminary groundwater model was developed using MODFLOW (modelling software). The model was constructed using available information including surficial geology, bedrock geology, water levels, recharge, and hydraulic conductivity data. The model is considered preliminary due to the fact that there is limited calibration and hydraulic conductivity data available. As such, the model was developed on a conservative basis so that the predicted dewatering rates would more likely be overestimated than underestimated.

Once constructed, the model was utilized to develop predictions of groundwater inflow into the underground workings. Predictions were developed for the historical mine workings and the new development associated with the Project as follows:

Historical Mine Workings:

- Dewatering Rates ranging from 7 to 56 L/s
- Probable flow (Calibrated): 20 L/s

New development for the Project (including the historical mine workings):

- Dewatering Rates ranging from 10 to 90 L/s
- Probable flow (Calibrated): 35 L/s

Impact Assessment:

Based on the numerical groundwater results, a hydrogeological impact assessment was completed to provide the following:

- Potential extent of the zone of influence resulting from the dewatering of the Project
- Assessment of potential impact on nearby groundwater users (i.e., supply wells)
- Assessment of the potential impact on nearby surface water features

A zone of influence of 2.5 kilometres was assumed for the hydrogeological impact assessment, as the model predicted that the zone of influence was beyond the limits of the preliminary model (i.e., extended 800 m past the modelling boundaries in each direction). Based on the expected zone of influence and the location of the nearest supply wells (near Dobie), there are no predicted impacts to nearby supply wells.

Combined flow losses to York, Ava, and Beaverhouse Lake, based on the calibrated model, total 8.2 L/s. This reduction in flow represents 1.2% of the average monthly flow, and approximately 3 % to 7 % under lower flow conditions. However, as treated water will be returned to York Lake, where the cumulative flow loss is the largest, potential impacts to Ava, Beaverhouse, and York Lake under average and low flow conditions are expected to be minimal.

Although the water taking is expected to have negligible effects to water levels of Beaverhouse, Ava and York Lakes, monitoring of lake levels will continue throughout the duration of the project.

A total flow loss of 13.1 L/s is predicted out of Victoria Creek based on the calibrated model predictions for the fully dewatered, steady state conditions for the Project. This represents approximately 3% of the lowest average monthly flow and between 6 % to 14% under low flow conditions. As such, adverse impacts to Victoria Creek are not anticipated under average flow conditions; however, further assessment has been completed to confirm the potential effect of water taking on Victoria Creek under low flow conditions.

Monitoring of Victoria Creek will continue at the established V3F gauging Station and a flow gauging station will be re-established at or near the historical V1 site. In addition, to better understand the longitudinal flow conditions in Victoria Creek, baseflow surveys will be conducted during the summer low flow periods prior to development of the Project. Groundwater monitoring wells will also be installed along Victoria Creek to monitor for the effects of the dewatering and additional baseflow surveys.

Impacts to the Misema River are considered unlikely based on predicted flow reductions of approximately 0.5% under low flow conditions. In addition, groundwater pumped from the underground workings will be discharged back into the Misema River, which would make up for any predicted losses related to reductions in Victoria Creek inputs or mine dewatering. There is also a potential for the dewatering to impact wetlands located along the Misema River close to the project. To better understand the potential for these impacts to occur monitoring wells will be installed prior to development of the Project to determine the relationship between the Misema River stage and the groundwater elevations within the wetlands. These wells would continue to be monitored throughout the duration of the Project if required.

Based on the findings of the impact assessment, impacts to other surface water resources are expected to be negligible.

3.2.3 PERMIT TO TAKE WATER – PUMPING TEST

Description:
The pump test will be done in the historical workings to provide additional information to calibrate the hydrogeology model and get more accuracy in rates calculated for dewatering.

The pumping tests are categorized as Category 2 PTTW due to the short duration of the taking (i.e., <7 days) and relatively low potential to cause adverse impacts to the environment. The pumping tests will consist of pumping groundwater at a constant rate (~15 Litres per second) from the No.1 and No.3 Shafts to monitor the flow rate from the well and the effect on water elevation at nearby monitoring wells.

Monitoring will be done in groundwater monitoring wells, historical mine openings (i.e., raises), and in some open diamond drilling holes (DDH). Lake levels will also be monitored and hydrology data will continue to be collected. During the pumping test additional groundwater samples will be collected so that the quality of the water can be further characterized.

At surface, the groundwater will be treated and distributed overland within a designated area. The water quality will be monitored in the field using hand held instruments and the distribution location will be monitored for signs of erosion.

Some pump tests will also be done on Upper Canada property, in order to get more information for possible future works.

Possible Impacts and Planned Mitigation Measures:

The discharge of the water on land could generate erosion at the site, but the overland flow will be controlled using conventional erosion control technologies such as straw bales, sediment fence, and armour stone/riprap as necessary.

3.3 ENVIRONMENTAL COMPLIANCE APPROVAL – WASTE WATER

Regulations:
Water from dewatering, contact water on site, and domestic sewage, need to be managed properly before discharge to the environment. All discharges of wastewater to the natural environment are regulated under the Ontario Water Resources Act and the management of wastewater needs to be approved by the Ministry of Environment, Conservation and Parks (MECP) via an Environmental Compliance Approval (ECA) to make sure the wastewater is treated when required and monitored.

Description:
The project has two types of wastewater:

- Domestic sewage
  - Shower, toilet, etc.
- Industrial sewage
  - Dewatering, contact water (storm water collected)

Wastewater will be collected in two treatment ponds. The effluent discharge of the ponds is located in Misema River, downstream of Beaverhouse Lake.

Dewatering water:

Before bringing mine water to surface, efforts will be made to remove a maximum of sludge in the water. It will be done with underground sedimentation sumps or with groundwater sludge removal system (with flocculent).

The water will then be sent to the 1st pond. The pond acts as a pre-treatment to help remove suspended solids. From the first pond, water will be pumped to the industrial sewage water treatment plant (WTP). This pond is designed to store additional water in heavy rain events and snowmelt periods.

The WTP process will be composed of the following main steps to achieve the water quality required:

- Water collection in Pond 1 for water storage,
- Water pumping to the WTP with a capacity of 500 to 750 m3/h (the WTP will treat 24h/day only to manage rain events or snowmelt water).
- pH correction to precipitate metals, assisted or not by metal precipitator
- Coagulant and Flocculent addition,
- Solid-liquid separation to remove TSS and sludge thickening,
- Storage of treated water in Pond 2
- Treated water-pumping station from Pond 2 to the final discharge location.
- pH adjustment after liquid-solid separation or in line after the treated water pumping station

Contact waters will all be collected through collecting ditches on site and brought to Pond 1 before being treated with dewatering water in the WTP.

Domestic sewage water:

Specific sewage treatment plant (STP) will be used for domestic sewage. The system will combine septic tank, filtration and biological treatment to remove suspended solids, bacteria, coliforms, Biological Oxygen Demand, Phosphorus, etc.

The maximum peak of domestic sewage flows would be at 13 100 L /day. Effluent of the domestic sewage treatment plant will be discharged in Pond 1.

Possible Impacts and Planned Mitigation Measures:
Worst-case flow rates from dewatering calculation (conservative approach), storm water and water from domestic sewage were used to evaluate the total discharge rates and concentration.

The possible impact of sending wastewater to environment would be to modify the water quality of the receiver. Having a water treatment in place and good water management practices reduce this risk. Agnico Eagle will use emulsion explosive to avoid having Ammonia in the effluent. A monitoring program of effluent will be implemented and confirm the water quality before its discharge to the environment

3.4 ENVIRONMENTAL COMPLIANCE APPROVAL – AIR, NOISE & VIBRATION

Regulations:
Mining sector activities require preparing an Emission Summary and Dispersion Modelling (ESDM) report for air and a Noise & Vibration Assessment. Those assessments are attached to ECA permit submission (under Section 9 of the Ontario Environmental Protection Act) and are used by the MECP ministry to approve the project.

Air:

For Air, Emission Summary Dispersion Models (ESDM) are used to predict how a contaminant concentration is dispersed through the atmosphere from an emission source (smokestack, rock pile, vehicle, etc.) to a receptor. The ESDM will identify the maximum concentration of a contaminant at a location outside the property boundary, which is referred to as a Point of impingement (POI). The contaminant concentration at the POI is compared to air contaminant limits established by the Ministry of Environment, Conservation, and Parks (MECP) for the protection of environmental and human health.

ESDM's incorporate a variety of parameters as inputs for the modelling including: localized meteorological conditions, land elevations, source emission rates, heights and locations as well as building heights. The modelling is completed in accordance with the strict guidelines and requirements specified in Ontario Regulation 419/05: Air Pollution – Local Air Quality.

Noise:

For Noise, a three-dimensional noise prediction model was used to assess the propagation of noise of the worst case operation (i.e., from a noise perspective) of the facility to off-site Point(s) of Reception (POR(s)) to confirm the levels are adequately controlled to prevent the potential for adverse effect. The modelling algorithm is based on ISO 9613 "*Acoustics – Attenuation of Sound During Propagation Outdoors"* (ISO 9613), which incorporates a variety of parameters including; meteorological and atmospheric conditions, physical characteristics of the source and terrain, at and between both the source and receptor among other factors. The assessment was completed in accordance with requirements set out by the MECP in NPC 300 "*Environmental Noise Guideline – Stationary and Transportation Sources – Approval and Planning*" (NPC 300).

Vibration:

For Vibration-Blasting, ground and air vibration attenuation models are used to predict the vibration levels at the nearest sensitive receptor, or POR. This is done to confirm that the expected vibrations induced by the blasting are adequately controlled to prevent the potential for adverse effects at the nearest residential structure (i.e. cottages). Both ground and air vibration levels lose energy and dissipate with increasing distance from the blast source. The intensity vibration effects from any surface blasting operation are primarily governed by the distance between the receptor and the blast and the maximum weight of explosive detonated at a given instant within a blast. Other factors influencing air vibration distribution from a blast include; orientation of the blast face, local topography and vegetation, low cloud ceiling and wind direction. Only surface blasts may induce air vibrations significant level at the nearby cottages. Air vibrations induced by underground blasts are contained by the surrounding rock mass and mine infrastructure (e.g. internal mine doors).

Description:
For the Project the emission sources are:

Air emission and Noise sources:

- Ramp access and development
- Underground ventilation installation
- Crushing operation (mainly at the construction phase and during day only)
- Material stockpiles and handling
- Propane fired heating equipment
- Diesel power generation
- Transformers (noise only)
- Back-up power equipment (emergency)

Vibration source:

- Portal Blasting (beginning of construction only)
- Shaft development blasting
- Ramp development blasting
- Bulk sampling blasting

Possible Impacts and Planned Mitigation Measures:

Air Assessment (ESDM Dispersion Modelling):

For each source, the emission contaminant rates and the maximum period (duration) of emissions were determined. With that information, the worst concentration in the air at receivers around the project were predicted by the ESDM and those results were evaluated.

At 54.96% of the limit, H_2S has the highest predicted POI concentration relative to the MECP POI Limit. The results were based on the highly conservative information that was used in calculations and modelling. The results show that the project can operate with air emissions below the MECP limits outside of the site boundaries.

To reduce the air emission, Agnico planned to control dust with sprayers and having water trucks for road dust. Agnico is also planning to have good maintenance of their equipment to reduce other possible contaminant emission.

Noise and Vibration Assessment:

Golder Associates Ltd. (Golder) was retained by Agnico Eagle to prepare an Acoustic Assessment Report (AAR) in support of an application for an Environmental Compliance Approval (ECA) considering Air, Noise and Vibration emissions for the proposed advanced exploration. It was assumed that it can operate up to 24 hours per day, seven days per week. This AAR has been completed in accordance with the Ontario Ministry of the Environment, Conservation and Parks (MECP) publications NPC 233 and NPC 300. The purpose of the assessment is to evaluate the overall sound and vibration emissions of the Facility with respect to MECP guidelines.

All relevant sound levels of sources were obtained from manufacturers' data, design information and from Golder's database of similar or acoustically equivalent noise sources. Noise level predictions were generated using this data. Due to the nature of the sources, the Facility is not expected to be a significant source of mechanical vibration, but could be a source of blast air and ground vibration. A Blast Vibration Assessment was prepared for Agnico Eagle.

To reduce the potential noise levels, Agnico will install fans underground where it's possible, and has designed the portal orientation to reduce noise to receivers. Other noise control measures will be considered in the design. These include: using broadband backup signals, and scheduling work to limit surface activities during the evening period.

Seventeen (17) locations have been identified as being representative of the most sensitive Point(s) of Reception (POR(s)) in the vicinity of the Facility. Based on the results of this assessment, sound and vibration levels from

the Facility operations at the identified PORs are predicted to be at or below the MECP limits. Therefore, the Facility is predicted to be able to operate in compliance with MECP guidelines as specified in NPC 119 and NPC 300.

For each blast type, the worst-case scenario was considered. That is, the maximum explosive charge weight detonated at a given instant within the blast and the minimum proposed distance between the blast and the nearest cottage. Based on the current designs for each blast type, the proposed advanced exploration operations can readily be carried out within the current mine blasting guidelines published by the MECP. Blasts will be monitored, and if required, the blasting design will be optimized.

3.5 SUMMARY OF POSSIBLE IMPACTS AND PLANNED MITIGATION MEASURES

Table 3.5.1 on the following page summarizes topics, input and related Company responses, raised during meetings and discussions Agnico had with various stakeholders and Indigenous partners in fall 2018. It also includes additional proposed measures related to these inputs.

TABLE 3.5.1 SUMMARY OF POSSIBLE IMPACTS AND PLANNED MITIGATION MEASURES

Activity / Concern	Possible Impacts	Planned Mitigation Measures	Additional Information
Surface Water			
Surface water intake & Monitoring	• Minimal flow reduction • Erosion and tree removal along the shoreline • Sediments in water	• Reduce fresh water use as much as possible • Recycle mine water and contact water • Best practices • Limited work in shoreline	• Baseline water quality (effluent discharge) has already been evaluated in an Assimilative Capacity Study • Agnico plans to pursue monitoring and take water samples at different locations • Agnico will present results of monitoring and provide more information about water management and water quality in future meetings • There will be a water treatment plant for the Project that will reduce potential impacts related to industrial, domestic and storm water discharge from the Project.
Industrial and domestic sewage	• Erosion and sedimentation • Modify the water quality	• Use of emulsion explosives (to avoid ammonia) • Water treatment plant • Water quality monitoring	
Storm water	• Erosion and sedimentation • Modify the water quality	• Seeding of the overburden pile • Ditches to collect or divert water • Storm water management plan	
Groundwater			

Mine Dewatering	• Lower the groundwater near the project (no domestic well around the project)	• Monitoring:
		  ○ Flow measurements
		  ○ Groundwater level measurements near the site
		• Modelling & Impact Assessment
			• We completed impact assessment based on available data.
			• A pump test is planned next spring to validate the model

Air & Visual Impacts			
Surface Activity	• Dust emissions near the site • Light Pollution • Visual Impacts	• Dust management (water truck, etc.) • Limited night shifts • Good mobile equipment maintenance • Used directional lighting oriented on ground	• Try to integrate the cottager's feedback into the Project's planning

Activity / Concern	Possible Impacts	Planned Mitigation Measures	Additional Information
Noise & Vibrations			
Blasting Hauling Crushing Mining Ventilation Surface Activity	• Increased noise around the site • Noticeable vibrations near the site	• Underground fans (when possible) • Portal orientation to reduce noise • Equipment noise reduction measures • Limited night shifts • Limited blasting • Acoustic barrier if required • Good mobile equipment maintenance	• For the Project, potential ramp portal locations were rejected to reduce noise • Agnico has experience developing projects near residential areas and will apply several mitigation measures like white noise back-up alarms
Road Sharing & Cohabitation			
Traffic	• Increased traffic on local roads • Safety issues	• Safety Procedures • Awareness • Speed limit • Good road maintenance	• Will work in collaboration with land users and partners to establish safety procedures and manage traffic
Land Access	• Potential impact to local access	• N/A	• Agnico has sent the land rights information for the boat landing and the access road • Crown owns the surface rights from the shoreline up to a distance of 66 feet • The MNRF owns the shoreline and must approve any work

Activity / Concern	Possible Impacts	Planned Mitigation Measures	Additional Information
Wildlife			
Project Infrastructures	• Potential habitat loss for certain local species	• Multiple studies have been completed, particularly for Species-At-Risk (SAR) • Utilize the existing footprint • Follow published timing windows for tree removal • Avoid in-water work, and if required, work in appropriate timing windows	• Can present the results of the baseline studies on water quality and local wildlife at future meetings • Project is located on brownfield site
Economic & Employment Opportunities			
Contracting	• Project will bring opportunities for different types of contracts	• N/A	• Interest noted • Local qualified labour is an important advantage
Local Jobs	• Project could bring up to 100 jobs	• N/A	
Community Development Opportunities	• Project could benefit community development around the Project	• N/A	• Agnico agrees that these matters merit further discussions

4. CONCLUSION

This document is a summary of the various permits that are submitted to ministries for the Upper Beaver Zone Advanced Exploration Project. We hope that it is as complete and understandable as possible. As mentioned before, this document does not replace the application forms and supporting documents submitted for permit requests, which contains more details.

The meeting held in August 2018 with some of the surface/cottages owners was intended to provide you with information about the project, as well as to gather your questions, concerns and comments. This document summarizes items that could have possible impacts and gives information about planned mitigation measures.

Agnico Eagle will continue to update their neighbouring communities and partners on the project's progress and any other activities on the Kirkland Lake Properties.

For any questions about the project, our team can be contacted anytime.