

Appendix 46

Whale Tail TAG Term of reference

**TERRESTRIAL ADVISORY GROUP
October 24th, 2018**

These Terms of Reference (TOR) are developed pursuant to a Memorandum of Understanding (MOU) dated XX, 2017, and:

1. provide the framework under which the Terrestrial Advisory Group (TAG) and its members will operate;
2. outline the purpose of the TAG; and
3. describe the main functions by which the TAG will fulfill its purpose.

These TOR are subject always to the terms and conditions of any project certificate issued by the Nunavut Impact Review Board (NIRB) for the Whale Tail Project (the Project).

1. Purpose of the TAG

1.1. The TAG acts as an advisory group to Agnico Eagle and a forum for ongoing cooperation and communication in the review and consideration of environmental effects monitoring, mitigation measures and fulfillment, by Agnico Eagle, of the TEMP and the project certificate terms and conditions, as applicable, relating to the interaction between the Project and the terrestrial environment.

2. Functions of the TAG

2.1. Agnico Eagle will seek advice from the TAG with respect to monitoring programs and mitigation measures that will be developed by Agnico Eagle and its experts to collect baseline data, monitor potential effects of the Project, and determine any adaptive management measures that may be required during the construction, operations, closure and reclamation of the Project.

2.2. In fulfilling its role in accordance with these TOR, the TAG may:

- 2.2.1. make recommendations and provide advice to Agnico Eagle on any aspects of the TEMP for the adoption of monitoring programs and mitigation measures in order to comply with applicable regulatory requirements or to help to mitigate adverse Project effects;
- 2.2.2. establish cooperative arrangements between, or amongst, members of the TAG, and the Inuit of the Kivalliq Region, to protect the environment, as well as the traditional relationship of the Inuit with the terrestrial environment, with some of the objectives of these arrangements being to:
 - a) develop sufficient baseline data from which the Project can be effectively monitored and managed;

- b) incorporate an ecosystem-based approach for monitoring and management of Project-related environmental effects;
 - c) include the meaningful participation of members of the TAG and local Inuit in all aspects of environmental monitoring programs in all phases of the Project and development of mitigation measures; and
 - d) integrate Inuit Qaujimagatuqangit (IQ) and traditional knowledge into the development and implementation of environmental monitoring programs and mitigation measures;
- 2.2.3. collaborate on research programs, activities, or initiatives relating to the terrestrial environment;
- 2.2.4. review of the TEMP from time to time to determine whether to recommend changes in relation to the terrestrial environment;
- 2.2.5. review the implementation of the TEMP in relation to the terrestrial environment;
- 2.2.6. review monitoring reports and results provided to the TAG by Agnico Eagle;
- 2.2.7. review the assessment of potential impacts of the Project on terrestrial wildlife;
- 2.2.8. review the effectiveness of mitigation measures implemented by Agnico Eagle; and
- 2.2.9. review action plans for the development and implementation by Agnico Eagle of mitigation measures.

3. Review Committee

- 3.1. The Review Committee shall consist of one (1) member from each of the Parties to the MOU. Each Review Committee member shall be a senior employee or official of the respective Party, except that the Baker Lake HTO Review Committee member may be a senior employee or HTO Board member.

4. Decision Making

- 4.1. Any advice, decisions and recommendations made by the TAG or Review Committee must be officially designated¹ as such and clearly stated in writing and must be evidence based.

¹ For the purposes of s4.1 "officially designated" means each of the Parties has affixed its signature to the advice, decision or recommendation. The signature may be provided by: an employee of the Party; or has been given authority on behalf of the Party, as stated in writing by the party they represent, to provide advice, decisions or recommendations.

Consistent with the methods used in preparing the Project's environmental impact statement, professional judgement or experienced opinion must be based on evidence, including Inuit Qaujimajatuqangit, monitoring data, and relevant scientific literature.

- 4.2. The intention of all the Parties is that the TAG will operate by consensus.
- 4.3. If consensus on advice to Agnico Eagle cannot be reached at the TAG for GN7(i), (ii), (iv) and GN 9 (see Exhibit 21 filed in the NIRB Public Hearing), the issue will be referred to the Review Committee, as described in s 3.1, for a decision. Agnico Eagle shall adhere to the advice rendered by the majority of members of the Review Committee for GN7(i), (ii), (iv) and GN 9.
- 4.4. For all other issues, Agnico Eagle shall adhere to advice rendered by consensus of members of the TAG.
- 4.5. Agnico Eagle reserves the right to request that NIRB give consideration to any advice, decisions and recommendations of the TAG or Review Committee which Agnico Eagle considers to be unreasonable, provided that Agnico Eagle shall refer advice, decision or recommendation made by the majority of other parties to NIRB expeditiously and in any event within sixty (60) days of receipt of any such advice, decision or recommendation.

5. Composition of the TAG

- 5.1. The TAG shall consist of one (1) member and no more than two (2) representative(s) of each of the Parties to the MOU. The Parties to the TAG will be Agnico Eagle, the Government of Nunavut (Department of Environment), Kivalliq Inuit Association, Baker Lake Hunters and Trappers Organization and additional parties, added as appropriate.
- 5.2. The Parties must consent to the addition or removal of a Party to the TAG. In the event of the addition or removal of a Party, the MOU will be amended accordingly.
- 5.3. Each Party will appoint an alternate member or representative and may send experts, staff, legal counsel, or observers to any meeting of the TAG.
- 5.4. Upon the consent of the Parties, the TAG may grant observer status to members or representatives of other organizations from time to time.
- 5.5. In the first year of the term of the MOU, a member or representative appointed by Agnico Eagle will act as the chair of the TAG and thereafter, on an annual basis, the members or representatives of the TAG will choose a chair from amongst themselves by consensus.
- 5.6. When the chair is absent for any reason, the alternate member or representative of the Party to which the chair belongs will act as chair.



- 5.7. Quorum, unless otherwise agreed to by the Parties, requires the participation of a member or representative of each Party to the MOU whose mandate relates to an item on the meeting agenda.

6. Meetings of the TAG

- 6.1. The first meeting of the TAG will be held within three (3) months of NIRB's issuance of a project certificate for the Project, unless otherwise agreed to by the Parties to the MOU.
- 6.2. During the first year of the term of the MOU, the TAG will meet by conference call to determine and establish the objectives and priorities for that year.
- 6.3. The TAG will meet at least once a year and more frequently based on need and consensus of the members or representatives of the TAG. Meetings could be held jointly with other working groups to coordinate efforts.
- 6.4. Meeting locations and dates will be determined by the TAG on an annual basis and may be in person or by way of conference call.
- 6.5. The operations of the TAG, including correspondence, documentation, and meeting, will be conducted in English. On a case by case basis as necessary, meetings may require simultaneous translation into and from Inuktitut.

7. Minutes of TAG Meetings

- 7.1. Agnico Eagle will provide a summary of activities and outcomes official minutes of TAG meetings, as agreed to by all the Parties, to NIRB for release on the NIRB public registry.

8. Materials to Support the TAG

- 8.1. When required, Agnico Eagle will make best efforts to provide the TAG with:
- 8.1.1. copies of the TEMP and associated documentation;
 - 8.1.2. copies of operational management plans associated with the project certificate and license issued by the Nunavut Water Board;
 - 8.1.3. copies of monitoring reports produced by Agnico Eagle relating to the TEMP in relation to the terrestrial environment;
 - 8.1.4. copies of other reports relating to interactions between the Project and terrestrial wildlife; and
 - 8.1.5. any other documentation, information or data reasonably required by the TAG relating to the interaction between the Project and terrestrial wildlife.
- 8.2. A summary of the work and activities of the TAG will be prepared by the member or representative of Agnico Eagle and will be included in its annual report provided to NIRB on the Project.



9. Costs

- 9.1. Except as may be provided by any other agreement, each Party to the MOU will be responsible for its own costs, including travel and member remuneration costs, relating to participation in the TAG, but Agnico Eagle will be responsible for the costs related to the conduct of meetings such as venue costs, simultaneous translation services, preparation of materials as required, and providing meeting notices.
- 9.2. Government and regulatory agencies will continue to be responsible for the costs of research and regional resource management studies in accordance with legislative mandates. Agnico Eagle may continue to provide in-kind and financial support for research or studies, on a case by case basis, and any such in-kind or financial support will be set out in an agreement directly related to the proposed research or study.

10. Community Participation

- 10.1. Agnico Eagle and Kivalliq Inuit Association will, in consultation with the HTO, make reasonable efforts to coordinate the work of the TAG with programs for community participation and collection of IQ and traditional knowledge.
- 10.2. Kivalliq Inuit Association will work with Agnico Eagle to ensure that communities affected by the Project receive reports prepared by the TAG on the TEMP in a timely manner and are communicated in ways meaningful to Inuit people.