



Impact Assessment
Agency of Canada

Ontario Region
600-55 York Street
Toronto ON M5J 1R7

Agence d'évaluation
d'impact du Canada

Région de l'Ontario
600-55 rue York
Toronto ON M5J 1R7

August 17, 2022

Sent by email

Chief Lance Haymond
Kebaowek First Nation
110 Ogima Street
Kebaowek QC J0Z 3R1
<email address removed>

Dear Chief Lance Haymond:

Subject: Next Steps in the Impact Statement Phase of the Impact Assessment for the Upper Beaver Gold Project

Thank you for your participation in the planning phase of the federal impact assessment for the Upper Beaver Gold Project (the Project), proposed by Agnico Eagle Mines Limited (the Proponent). On April 20, 2022, the Impact Assessment Agency of Canada (the Agency) posted a Notice of Commencement¹ on the Canadian Impact Assessment Registry Internet site (the Registry) and contacted your Nation by way of email regarding an impact assessment pursuant to the *Impact Assessment Act* (IAA) for the Project. The Project is now in the impact statement phase of the federal impact assessment.

The objectives of this letter are to:

- provide you with updates on the Upper Beaver Gold Project;
- share the Agency's preliminary understanding of the potential adverse impacts of the Project on Kebaowek First Nation's exercise of rights (Enclosure 1);
- identify the next steps in the impact assessment process and opportunities for Kebaowek First Nation to meaningfully participate in the impact assessment for the Project (Enclosure 2); and,
- demonstrate how comments were incorporated into the finalized Tailored Impact Statement Guidelines (Guidelines) and Indigenous Engagement and Partnership Plan (IEPP) (Enclosure 3).

.../2

¹ <https://iaac-aeic.gc.ca/050/evaluations/document/143619?culture=en-CA>

The Agency acknowledges Kebaowek First Nation's request that the Proponent suspend the impact assessment process until the issues noted within Kebaowek First Nation's March 11, 2022 letter to the Agency² are addressed. The Agency does not have a mechanism to pause the time limit of a process that is underway. The power to request a time limit extension of an ongoing process is with the Proponent, as per the IAA. If a time limit extension were granted to the Proponent, the Agency would notify potentially affected Indigenous communities of the process status. The Agency encourages Kebaowek First Nation to discuss this request with the Proponent.

Updates on the Upper Beaver Gold Project

The Minister of Environment and Climate Change decided on May 26, 2022, not to refer the Project to a review panel under subsection 36(1) of the IAA. The Agency will therefore continue to conduct an Agency-led impact assessment for the Project.

Based on new information from Indigenous communities, the Agency has updated section 4 of the IEPP, which can be found on the Project's Registry page³.

Information Available to the Agency with Respect to the Potential Adverse Impacts of the Upper Beaver Gold Project on Kebaowek First Nation's Exercise of Rights

During the planning phase, the Agency received limited information on the Project's potential to cause adverse impacts on Kebaowek First Nation's exercise of rights. The information received by the Agency is summarized in Enclosure 1. In order for the Agency to direct the Proponent to adequately follow-up and characterize potential impacts to your Nation in the Proponent's Impact Statement, please review Enclosure 1 and provide the Agency with any additional information by **February 1, 2023**. This information would also inform the Agency's consultation efforts and understanding of the potential impacts of the Project on your Nation's exercise of rights.

Opportunity to meet with the Agency: The Agency would be pleased to meet with your Nation to discuss the information currently available to the Agency and gather additional information to supplement Enclosure 1. Grant funding, as noted below, can be used to support your Nation's participation at this meeting as well as for providing any additional information to supplement Enclosure 1.

The Agency will follow-up with your Nation to confirm whether you are interested in a meeting and to schedule a date and time.

.../3

² <https://iaac-aeic.gc.ca/050/evaluations/proj/82960/contributions/id/58384>

³ <https://iaac-aeic.gc.ca/050/evaluations/document/143584?culture=en-CA>

In addition, please see the Handout on How to Participate during the Federal Impact Assessment Process (Enclosure 2). This document outlines the information, including Indigenous Knowledge, that you may consider sharing with the Proponent and the Agency to inform the development of the Proponent's Impact Statement. Enclosure 2 also identifies areas of interest where Indigenous Knowledge would be helpful in assessing potential effects of the Project and potential impacts on the exercise of rights of Indigenous Peoples.

For further information on how the Agency considered your comments during the planning phase and incorporated them into the Guidelines and IEPP, please see Enclosure 3, Summary Table of Comments.

Consultation Framework Agreement

In relation to paragraph 114(1)(e) of the IAA, the Agency has indicated the intention to develop such regulations in its Forward Regulatory Plan for 2022-2024. The Agency has committed to developing the proposed regulations together with Indigenous peoples, and has commenced the co-development of a discussion paper on potential approaches with a Circle of Experts, a sub-committee of the Agency's Indigenous Advisory Committee.

In the interim, the IEPP provides information on how the Agency will be working bilaterally with your Nation during the remaining phases of the impact assessment process for the Project. However, during the previous comment period, Kebaowek First Nation expressed interest in working with the Agency to develop a consultation framework agreement that is reflective of your Nation's culture, traditions, customary laws and protocols.

The Agency is available to meet with your Nation to understand the specific issues that could be characterized in the consultation framework to supplement the IEPP. During the meeting scheduled to discuss Enclosure 1, the Agency will also be pleased to discuss the potential consultation framework agreement.

Funding Program Grants

The Agency is able to offer grant funding under the Participant Funding Program to support Kebaowek First Nation's participation in the impact assessment process for the Project, as we transition from the planning phase to the impact statement phase.

Eligible expenses for these grants would include:

- providing additional information to supplement information available to the Agency in Enclosure 1;
- meeting with the Agency to provide additional information, and to discuss and develop a consultation framework agreement; and,
- establishing a common understanding of next steps for collaboratively assessing impacts on the exercise of rights.

Upon confirmation of your Nation's interest, a \$10,000 grant will be distributed to you. The Agency will offer additional funding during the impact statement phase to support the continued participation of Kebaowek First Nation. Further information on participant funding during the impact assessment process can be found on the Agency's website⁴. If you have any additional questions or concerns, please contact Marjolaine Maisonneuve, Funding Officer, at 613-295-5365 or *Marjolaine.Maisonneuve@iaac-aeic.gc.ca*.

IMPORTANT NOTE: Any information submitted to the Agency to inform this project assessment will be made publicly available as part of the project file, and may be posted online via the Canadian Impact Assessment Registry (Reference #82960) subject to certain exceptions related to privacy, security or confidentiality. The Agency's Submission Policy⁵ describes what submitted information can be shared publicly, and what should remain private. For further information on how we protect your privacy, please refer to the Privacy Notice⁶.

Indigenous Knowledge shared in confidence is protected from disclosure under section 119 of the *Impact Assessment Act* (IAA), except if written consent is provided, or if the information is publicly available. In addition, Indigenous Knowledge shared in confidence could be shared with certain parties if disclosure is necessary for procedural fairness and natural justice or for use in legal proceedings. This ensures that interested persons have a fair opportunity to participate in decision-making processes that may affect their interests, and that they have access to all necessary information and evidence relied on by the decision-maker.

.../5

⁴ <https://www.canada.ca/en/impact-assessment-agency/services/public-participation/funding-programs/participant-funding-program.html>

⁵ <https://iaac-aeic.gc.ca/050/evaluations/participation/conditions>

⁶ <https://www.iaac-aeic.gc.ca/050/evaluations/protection?culture=en-CA>

Should you wish to provide any comments or documents that contain confidential or sensitive information that should be protected from release to the public, please contact Spencer Roth at upperbeaver@iaac-aeic.gc.ca or at 647-355-7318 **before** submitting the information. This will ensure that your submission is handled appropriately. Note that the Agency will consult with you prior to disclosing Indigenous Knowledge shared in confidence under an exception.

Commitment to Meaningful Engagement and Consultation

The Agency is committed to undertaking meaningful public engagement and Indigenous consultation. Our current practices, in light of the COVID-19 pandemic, are summarized in Enclosure 4.

While the Agency continues to hold meetings through virtual means, on a case-by-case basis, the Agency may consider requests for in-person meetings, in accordance with public health circumstances and Agency policies.

The Agency has shared your Nation's comments regarding activities related to advanced exploration on site with the Proponent. Please feel free to contact the Proponent at:

Sarah Morin
Superintendent, Sustainable Development
Agnico Eagle Mines Limited
10200, route de Preissac
Rouyn-Noranda QC J0Y 1C0
<email address removed>

Please feel free to contact me at *upperbeaver@iaac-aeic.gc.ca* or by phone at 647-355-7318 if you have any questions. I welcome the opportunity to work collaboratively with your Nation.

Sincerely,

<original signed by>

Spencer Roth
Project Analyst

Enclosures:

1. Summary of information available to the Crown with respect to the potential adverse impacts of the Upper Beaver Gold Project on Kebaowek First Nation's Exercise of Rights
2. Guide on How to Participate During the Federal Impact Assessment Process
3. Summary Table of Comments
4. Agency's commitments regarding consultation during COVID-19 pandemic

c.c.: Councillor Justin Roy, Kebaowek First Nation
Karen Young, Kebaowek First Nation
Rosanne Van Schie
Sarah Morin, Agnico Eagle Mines Limited