



## GWICH'IN LAND AND WATER BOARD

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March 4, 2020

File: **G18X005**

Mr. Noel Voykin  
President & CEO  
NWT Energy Corporation (03) Ltd.  
#4 Capital Drive  
Hay River, NT X0E IG2

Mr. Conrad Baetz  
Acting Deputy Minister, Operations  
Department of Lands  
Government of the Northwest Territories  
P.O. Box 1320  
Yellowknife, NT X1A 2L9

Sent via email

Dear Noel and Conrad,

### **Re: Inuvik Wind Project - Information Request # 3 – Request for Ruling Process Regarding Eligibility**

On January 9, 2020 the Nihtat Gwich'in Council submitted to the Gwich'in Land and Water Board (GLWB or Board) a request for ruling,<sup>1</sup> outlining a number of legal concerns pertaining to NWT Energy (03) Ltd. (NTEC)'s eligibility to apply for Land Use Permit G18X005.

To ensure the necessary level of evidence is on the record prior to commencing with this request for ruling, the GLWB is requesting the following information:

1. Please confirm that the Contribution Agreement referenced in Dr. Dragon's letter of January 15, 2020<sup>2</sup> in response to IR #2 establishes binding contractual obligation between NTEC and the GNWT Department of Infrastructure within the meaning of paragraph 18(b) of the Mackenzie Valley Land Use Regulations (MVLUR). Provide a copy of the Contribution Agreement or else include all details in your answer necessary to prove that document's contractual nature.
2.
  - a) Please explain in detail the origin in law, legal nature and effect of a "reservation by notation" as referenced in the December 17, 2019 letter<sup>3</sup> found in the response to IR #1 from ADM of Lands Mr. Conrad Baetz to Mr. Noel Voykin President and CEO of NTEC.

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<sup>1</sup> See GLWB online registry for [G18X005 - Nihtat Gwich'in Council - Section 18 Request for Ruling - Jan09 20.pdf](#)

<sup>2</sup> See GLWB online registry for [G18X005 - NTEC Response to Information Request 2 - Jan15 20.pdf](#)

<sup>3</sup> See GLWB online registry for [G18X005 - NTEC Response to Information Request 1 - Dec17 19.pdf](#)

- b) Explain in detail, by reference to your answer to question 2 a), why a reservation by notation is not a disposition under the *Northwest Territories Lands Act* of an interest in GNWT lands.
- 3.
- a) Explain the GNWT's interpretation of the term "right to occupy" in paragraph 18(b) of the MVLUR.
- b) Explain in detail how a reservation by notation can be a right to occupy if it is not a disposition of a legal interest in GNWT lands or real property.
4. Explain what entities, persons or organizations to be the beneficiary of, or be granted, a reservation by notation. Must the recipient be a part of the GNWT? (e.g., like a department) Can a third party such as a separate corporation owned by GNWT be the beneficiary of a or granted a reservation by notation?
- 5.
- a) Explain in detail how the Inuvik Wind Project can take place on the lands in question in light of the withdrawal of and appropriation of lands for the Reindeer Preserve under the *Land Withdrawal Order (Reindeer Grazing Reserve)*.
- b) Explain whether the *Land Withdrawal Order (Reindeer Grazing Reserve)* binds or affects the GNWT in the use or development of the territorial lands subject to the land withdrawal order.
6. Explain how a reservation by notation granted in favour of GNWT-Infrastructure can satisfy the need for NTEC to prove that it has a right to occupy the lands upon which it proposes to carry out contractual activities.

The GLWB is requesting a single, coordinated response from NTEC and the GNWT, and will continue with this proceeding once the Board is satisfied that the necessary information has been received.

Please do not hesitate to contact me at (867) 777-4954 should you have any questions.

Sincerely,



Alec Sandra Macdonald  
Regulatory Specialist

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