



105 Veterans Way,
P.O. Box 2018, Inuvik, NT X0E 0T0

Tel: 867-777-4954 Fax: 867-777-2304
www.glwb.com

November 27, 2020

G18L8-001

Noel Voykin
President
NWT Energy Corporation (03) Ltd.
4 Capital Drive
Hay River, NT X0E 1G2

Sent via email

Mr Voykin,

RE: Issuance of Type B Water Licence – Inuvik Wind Project

Attached is Water Licence G18L8-001 granted by the Gwich'in Land and Water Board (GLWB or the Board) in accordance with the *Mackenzie Valley Resource Management Act* and *Waters Act*. This Licence has been approved for a period of five (5) years effective November 27, 2020 and expiring November 26, 2025.

Conditions and General Procedures

Also attached is a copy of the General Procedures for the Administration of Licences in the Northwest Territories. Please review the Licence conditions and procedures carefully and address any questions to the Board's office.

Management Plans – Resubmission Required

The Board hereby requires that NTEC resubmit the below Management Plans in accordance with comments made during this review, as summarized in Table 2. These plans will be considered to be approved, upon receipt of this information and written confirmation from Board Staff that requirements have been satisfied.

Public Registry

A copy of this Permit and all related correspondence and documents has been filed on the [Public Registry](#) at the GVLWB office. Please be advised that this letter, with its attached procedures, inspection reports, and related correspondence is part of the Public Registry and is intended to keep all interested parties informed of the manner in which the Permit requirements are being met. All Public Registry material will be considered if an amendment to the Permit is requested.

Table 2: Plans Requiring Resubmission

Condition Number	Title	Date Received	Requirement
28	Waste Management Plan	October 30, 2018	Please update plan to reflect commitments made during the public review period.
37	Spill Contingency Plan	October 30, 2018	Please update plan to reflect commitments made during the public review period.

Please also note the requirement for annual reporting under G18L8-001, which is to include a summary of engagement activities undertaken during the previous calendar year. The Board encourages NTEC to work closely with GTC and NGC/INB to continue engagement efforts over the life of the Inuvik Wind Project.

The full cooperation of NTEC with the terms and conditions of this Licence is anticipated and appreciated. If you have any questions or concerns, please contact AlecSandra Macdonald at (867) 777-4954.

Sincerely,



Elizabeth Wright
GLWB Chair

Copied to: Gwich'in Distribution List
Andrew Stewart – Director of Energy, GNWT INF

Attached: Water Licence G18L8-001
Reasons for Decision for G18X005 and G18L8-001



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WATER LICENCE

Pursuant to the *Mackenzie Valley Resource Management Act* and Regulations, the Gwich'in Land and Water Board, hereinafter referred to as the Board, hereby grants to:

NWT Energy Corporation (03) Ltd.

(Licensee)

of 4 Capital Drive, Hay River, NT X0E 1G2

(Mailing Address)

hereinafter called the Licensee, the right to alter, divert or otherwise use water subject to the restrictions and conditions contained in the *Waters Act* and Regulations made thereunder and subject to and in accordance with the conditions specified in this Licence.

Licence Number:	<u>G18L8-001</u>
Licence Type:	<u>B</u>
Water Management Area:	<u>Northwest Territories 03</u>
Location:	<u>Dolomite Lake, Campbell Creek</u>
Purpose:	<u>Water Use</u>
Description:	<u>Inuvik Wind Project</u>
Quantity of water <u>not to be exceeded</u> :	<u>110 m³ per day, combined from all sources</u>
Effective Date of Licence:	<u>November 27, 2020</u>
Expiry Date of Licence:	<u>November 26, 2025</u>

This Licence issued and recorded at Inuvik includes and is subject to the annexed conditions.

Signed the 27th day of November 2020 on behalf of the Gwich'in Land and Water Board

Chair – Elizabeth Wright

Witness – Alec Sandra Macdonald

Type B Water Licence G18L8-001
NWT Energy Corporation (03) Ltd. – Inuvik Wind Project

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Part A: Scope and Definitions

1. Scope

- a) This Licence entitles the Licensee to use Water and dispose of Waste for the Inuvik Wind Project, near Inuvik, Northwest Territories. This undertaking is described in the Application and includes the following:
 - i. Water withdrawal for Wind turbine installation, road construction, and dust suppression
- b) This Licence is issued subject to the conditions contained herein with respect to the taking of Water and the depositing of Waste of any type in any Waters or in any place under any conditions where such Waste or any other Waste that results from the deposit of such Waste may enter any Waters. Whenever new Regulations are made, or existing Regulations are amended by the Governor in Council under the Act, or other statutes imposing more stringent conditions relating to the quantity or type of Waste that may be so deposited or under which any such Waste may be so deposited this Licence shall be deemed, upon promulgation of such Regulations, to be automatically amended to conform with such Regulations.
- c) Compliance with the terms and conditions of this Licence does not relieve the Licensee from responsibility for compliance with the requirements of all applicable Federal, Territorial or municipal legislation.

2. Definitions

Act - the *Waters Act* S. N.W.T. 2014, C.18.

Analyst - an Analyst designated by the Minister in accordance with subsection 65(1) of the Act.

Board - the Gwich'in Land and Water Board, established under subsection 99(1) of the *Mackenzie Valley Resource Management Act*.

Construction - any activities undertaken to construct or build any components of, or associated with, the Project.

Discharge - the direct or indirect release of any Water or Waste to the Receiving Environment.

Engagement Plan - a document, developed in accordance with the Board's *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits* that clearly describes engagement activities during the life of the Project.

Inspector - an Inspector designated by the Minister under subsection 65(1) of the Act.

Licensee - the holder of this Licence.

Minister - a duly appointed member of the Executive Council who is responsible for the *Waters Act* or the department responsible for administering that Act.

Project - the Inuvik Wind Project as described in Part A, item 1 of this Licence.

Receiving Environment - the natural environment that receives any Water or Waste released from the Project.

Reclamation - activities which facilitate the return of areas affected by the Project to viable and, wherever practicable, self-sustaining ecosystems that are compatible with a healthy environment, human activities, and the surrounding environment.

Regulations - the *Waters Regulations*, promulgated under section 63 of the Act.

Spill Contingency Plan - a document, developed in accordance with this Licence and Indian and Northern Affairs Canada's *Guidelines for Spill Contingency Planning*, that clearly describes the activities required when <https://jobs.raytheon.com/location/inuvik-northwest-territories-canada-jobs/4679/6251999-6091069-5983607/4a> spill or Unauthorized Discharge occurs during the life of the Project.

Traditional Knowledge - the cumulative collective body of knowledge, experience and values built up by a group of people through generations of living in close contact with nature. It builds upon the historic experiences of a people, and adapts to social, economic, environmental, spiritual and political change.

Toxic Material - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Unauthorized Discharge - the release, Discharge or spill of any Water or Waste not authorized under this Licence.

Waste - any Waste as defined in section 1 of the Act.

Wastewater - the Water that is generated by Project activities or originates on-site and contains Waste and includes, but is not limited to, runoff, Seepage, or Minewater.

Waste Management Plan - a document, developed in accordance with the Board's *Guidelines for the Development of a Waste Management Plan* which describes the methods of Waste management from Waste generation to final disposal.

Water(s) - any Water as defined by section 1 of the Act.

Water Use - a use of Water as defined by section 1 of the Act.

Part B: General Conditions

1. The Licensee shall ensure a copy of this Licence is maintained on-site at all times.
2. All references to policies, guidelines, codes of practice, statutes, Regulations or other authorities shall be read as a reference to the most recent versions, unless otherwise denoted.
3. All information submitted to the Board, as required by this Licence, shall:
 - a) Be submitted in a form acceptable to the Board;
 - b) Be in accordance with the Board's *Document Submission Standards*; and
 - c) Include a section within each submission which identifies where the pertinent requirements of the Licence are addressed.
4. The Licensee shall operate in accordance with any approved plans, programs, studies and manuals referred to in this Licence, including such revisions as may be made to these documents pursuant to the conditions of this Licence and as approved by the Board.
5. The Licensee shall review the plans, programs, studies and manuals referred to in Item 4 annually, or as directed by the Board, and make any necessary revisions to reflect changes in operations. All revised plans, programs, studies and manuals shall be submitted to the Board, for approval, at least 60 days prior to the commencement of revised activities, unless otherwise specified, prior to implementing any proposed updates or changes in the approved plan, program, study or manual, and shall be accompanied by a brief summary of the changes made. All revised plans, programs, studies, and manuals shall be presented in a format consistent with the Board's *Standard Outline for Management Plans*.
6. If any submission is not approved by the Board, the Licensee shall revise the submission according to the Board's direction and resubmit it for approval.
7. The Licensee shall comply with the Schedules, which are annexed to and form part of this Licence, and any changes to the Schedules as may be made from time to time by the Board.
8. The Licensee shall comply with the **Engagement Plan**, once approved.
9. Beginning March 31, 2021, and no later than every March 31 thereafter, the Licensee shall submit an **Annual Water Licence Report** to the Board. The Report shall be in accordance with Schedule 1, item 1.
10. In conducting its activities under this Licence, the Licensee shall make best efforts to consider and incorporate any scientific and Traditional Knowledge that is made available to the Licensee.

Part C: Security

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Part D: Water Use

1. The Licensee shall obtain all Water from Dolomite Lake and Campbell Creek.
2. The maximum daily allowable quantity of fresh Water withdrawn from the sources referred to in Part D Condition 1, when combined, shall not exceed 110 m³.
3. The Licensee shall ensure that the withdrawal of water from Campbell Creek does not exceed 10% of its instantaneous flow.
4. In any single ice-covered season, the Licensee shall not withdraw greater than 10% of the available Water volume of any Watercourse, as calculated using the appropriate maximum expected ice thickness.
5. Meters, devices, or other such methods used for measuring the volumes of Water used shall be installed, operated, and maintained by the Licensee to the satisfaction of an Inspector.
6. The Licensee shall maintain a record of Water withdrawals, which is to be made available to the Inspector on request.
7. The Licensee shall construct and maintain the Water intake(s) with a fish screen designed to prevent impingement and/or entrainment of fish, to the satisfaction of an Inspector.

Part E: Construction

1. The Licensee shall ensure that all structures intended to contain, withhold, divert, or retain Water or Waste are designed, constructed, and maintained to prevent impacts to the Receiving Environment.
2. Fill material used must be clean and free of contaminants, and from a source that has been approved in writing by an Inspector.

Part F: Water and Waste Management

1. The Licensee shall manage Water and Waste with the objective of minimizing the impacts of the Project on the quantity and quality of Water in the Receiving Environment through the use of appropriate mitigation measures, monitoring, and follow-up actions.
2. The Licensee shall operate in accordance with the **Waste Management Plan** once approved.
3. Prior to the commencement of Construction, the Licensee shall submit to the Board for approval a **Sediment and Erosion Control Plan**.
4. The Licensee shall minimize erosion by implementing suitable erosion control measures that shall be in accordance with the Sediment and Erosion Control Plan, as described in Part E, Condition 3. These measures shall be located and maintained to the satisfaction of an Inspector.
5. Prior to the commencement of activities, the Licensee shall submit to the Board, written authorization from the Town of Inuvik and an Inspector, approving the disposal of Waste at the Town of Inuvik Municipal Solid Waste Disposal Facilities.
6. Waste not authorized for disposal at the Town of Inuvik Municipal Solid Waste Disposal Facilities shall be hauled out for disposed of at an approved facility.

Part G : Contingency Planning

1. The Licensee shall operate in accordance with the **Spill Contingency Plan**, once approved.
2. If, during the period of this Licence, an Unauthorized Discharge occurs or is foreseeable, the Licensee shall:
 - a) Implement the Spill Contingency Plan;
 - b) Report the incident immediately via the 24-Hour Spill Reporting Line (867) 920-8130 in accordance with the instructions contained in the Spill Report Form NWT 1752/0593 or subsequent editions;
 - c) Report each spill and Unauthorized Discharge to an Inspector and the Board within 24 hours; and
 - d) Submit a detailed report on each spill and Unauthorized Discharge, including descriptions of root causes, response actions and any changes to procedures to prevent similar occurrences in the future, to the Board within 30 days.
3. All spills and Unauthorized Discharges of Water or Waste shall be reclaimed to the satisfaction of an Inspector.

Part H: Closure and Reclamation

1. A minimum of 12 months prior to the end of operations, the Licensee shall submit a **Closure and Reclamation Plan** to the Board for approval.

Schedule 1
Attached to Water Licence G18L8-001
NWT Energy Corporation (03) Ltd. - Inuvik Wind Project

Part B: General Conditions – Annual Water Licence Report

1. The **Annual Water Licence Report** referred to in Part B of this Licence shall include, but not be limited to, the following information:
 - a) The monthly and annual quantities in cubic metres of fresh Water obtained from each source;
 - b) A summary of engagement undertaken under Engagement Plan;
 - c) A summary of any updates or revisions to the Engagement Plan, Spill Contingency Plan, Waste Management Plan, or Closure and Reclamation Plan; and
 - d) A summary of any studies requested by the Board that relate to Waste management or Water Use, and a brief description of any future studies planned by the Licensee;
 - e) A list and description of all Unauthorized Discharges that occurred during the previous calendar year, including the date, NWT spill number, volume, location, and summary of the circumstances and follow-up actions taken, and the status (i.e. open or closed), in accordance with the reporting requirements referred to in Part H of this Licence;
 - f) A summary of the calibration and status of the meters and devices referred to in Part D of this Licence;
 - g) A summary of actions taken to address concerns, non-conformances, or deficiencies in any reports filed by an Inspector;
 - h) An updated schedule of activities for the Project; and
 - i) Any other details on Waste management or Water Use requested by the Board.

**GENERAL PROCEDURES FOR THE ADMINISTRATION OF LICENCES
ISSUED UNDER THE *WATERS ACT* IN THE NORTHWEST TERRITORIES**

1. At the time of issuance, a copy of the Licence is placed on the Public Registry in the office of the Gwich'in Land And Water Board (GLWB) in Inuvik, and is then available to the public.
2. To enforce the terms and conditions of the Licence, the Minister has appointed Inspectors in accordance with Section 65 (1) of the *Waters Act*. The Inspectors coordinate their activities with the staff of the GLWB.
3. To keep the GLWB and members of the Public informed of the Licensee's conformity to the Licence conditions, the Inspectors prepare reports which detail observations on how each item in the Licence has been met. These reports are forwarded to the Licensee with a covering letter indicating what action, if any, should be taken. The Inspection reports and covering letters are placed on the Public Registry, as are any responses received from the Licensee, pertaining to the inspection reports. It is therefore of prime importance that the Licensee react in all areas of concern regarding all inspection reports so that these concerns may be clarified.
4. Licence G18L8-001 will expire on November 26, 2025. If required, it is the responsibility of the Licensee to apply to the GLWB for a new licence. The past performance of the Licensee, new documentation and information, and points raised during any public hearing, if required, will be used to determine the terms and conditions of any Licence Renewal. Please note that if the Licence expires and another has not been issued, then activities must cease, or the Licensee would be in contravention of the *Waters Act*. It is suggested that an application for renewal of this Licence be made at least nine months in advance of the Licence expiry date.
5. If for some reason, Licence G18L8-001 requires an amendment, a public hearing may be required. You are reminded that applications for amendments should be submitted as soon as possible to provide the Board with ample time complete the amendment process.
6. For the timelines required for the completion of a renewal or an amendment to the Water Licence, please refer to the *Waters Act*.
7. Specific clauses of the Licence may make reference to the Board, Inspector, or Analyst. The contact person, address, phone and fax number of each is:

BOARD Leonard DeBastien, Executive Director
Gwich'in Land and Water Board
P.O. Box 2018
Inuvik, NT X0E 0T0
Phone: (867) 777-4954 Fax: (867) 777-2304

INSPECTOR Lloyd Gruben, Water Resource Officer
GNWT, Environment and Natural Resources
P.O. Box 2749
Inuvik, NT X0E 0T0
Phone: (867) 678-6650 Fax: (867) 678-6699

ANALYST Analyst
Taiga Environmental Laboratory
GNWT Environment and Natural Resources
4601 - 52nd Avenue
Yellowknife, NT X1A 2L9
Phone: (867) 765-6645 Fax: (867) 920-8740



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P.O. Box 2018, Inuvik, NT X0E 0T0

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November 27, 2020

G18X005

Noel Voykin
President
NWT Energy Corporation (03) Ltd.
4 Capital Drive
Hay River, NT X0E 1G2

Sent via email

Mr Voykin,

RE: Issuance of Type A Land Use Permit – Inuvik Wind Project

Attached is Type A Land Use Permit G18X005 granted to NWT Energy Corporation (03) Ltd. (NTEC) by the Gwich'in Land and Water Board (GLWB or the Board) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA). This Permit has been approved for a period five (5) years effective November 27, 2020 and expiring November 26, 2025.

Management Plans – Resubmission Required

The Board hereby requires that NTEC resubmit the below Management Plans in accordance with comments made during this review, as summarized in Table 2. These plans will be considered to be approved, upon receipt of this information and written confirmation from Board Staff that requirements have been satisfied.

Table 2: Plans Requiring Resubmission

Condition Number	Title	Date Received	Requirement
28	Waste Management Plan	October 30, 2018	Please update plan to reflect commitments made during the public review period.
37	Spill Contingency Plan	October 30, 2018	Please update plan to reflect commitments made during the public review period.

Discontinuance

Should you wish to discontinue your land-use operation at any time prior to the expiry date set out in the Permit, a written notice of discontinuance is required as per section 37 of the MVLUR, in addition to the submission of a final plan.

Public Registry

A copy of this Permit and all related correspondence and documents has been filed on the [Public Registry](#) at the GVLWB office. Please be advised that this letter, with its attached procedures, inspection reports, and related correspondence is part of the Public Registry and is intended to keep all interested parties informed of the manner in which the Permit requirements are being met. All Public Registry material will be considered if an amendment to the Permit is requested.

The full cooperation of NTEC with the terms and conditions of the Permit is anticipated and appreciated. If you have any questions or concerns, please contact AlecSandra Macdonald at (867) 777-4954.

Sincerely,



Elizabeth Wright
GLWB Chair

Copied to: Gwich'in Distribution List
Andrew Stewart – Director of Energy, GNWT INF

Attached: Land Use Permit G18X005
Reasons for Decision for G18X005 and G18L8-001



105 Veterans Way,
P.O. Box 2018, Inuvik, NT X0E 0T0

Tel: 867-777-4954 Fax: 867-777-2304
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LAND USE PERMIT

Permit Class	Permit No	Amendment No
A	G18X005	-

Subject to the Mackenzie Valley Resource Management Act, the Mackenzie Valley Land Use Regulations and the terms and conditions in this Permit, authority is hereby granted to:

NWT Energy Corporation (03) Ltd.

(Permittee)

to proceed with the land use operation described in application of:

Signature Jay Grewal	Date October 29, 2018
Type of Land use Operation Inuvik Wind Project (Road construction, construction and maintenance of turbine and related infrastructure, installation and maintenance of powerline)	
Location Inuvik, NT	

This permit may be assigned, extended, discontinued, suspended or cancelled pursuant to the Mackenzie Valley Land Use Regulations.

Dated at Inuvik this 27 day of November, 2020

Chair – Elizabeth Wright

Witness – Alec Sandra Macdonald

Commencement Date

November 27, 2020

Expiry Date

November 26, 2025

Note: It is a condition of this Permit that the Permittee comply with the provisions of the *Mackenzie Valley Resource Management Act* and Regulations and the terms and conditions set out herein. A failure to comply may result in suspension or cancellation of this Permit.

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use activities:
 - a) construct and maintain an all-season access road;
 - b) construct and maintain a wind turbine and associated infrastructure; and
 - c) install and maintain a powerline.
2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial, or Municipal laws.

Part B: Definitions (defined terms are capitalized throughout the Permit)

Act - the *Mackenzie Valley Resource Management Act*.

Board - the Mackenzie Valley Land and Water Board established under Part 4 of the Act, or the [INSERT NAME OF REGIONAL PANEL] Board established under Part 3 of the Act, as the case may be.

Borehole - a hole that is made in the surface of the ground by drilling or boring.

Drilling Fluids - any liquid mixture of water, sediment, drilling muds, chemical additives or other wastes that are pumped down hole while drilling and are specifically related to drilling activity.

Drilling Waste - all materials or chemicals, solid or liquid, associated with drilling, including drill cuttings and Drilling Fluids.

Engagement Plan - a document, developed in accordance with the Board's *Engagement and Consultation Policy* and the *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the project.

Flowing Artesian Well - a well in which water:

- a) Naturally rises above the ground surface or the top of any casing; and
- b) Flows naturally, either intermittently or continuously.

Fuel Storage Container - a container for the storage of petroleum or allied petroleum products with a capacity of less than 230 litres.

Fuel Storage Tank - a closed container for the storage of petroleum or allied petroleum products with a capacity of more than 230 litres.

Habitat - the area or type of site where a species or an individual of a species of wildlife naturally occurs or on which it depends, directly or indirectly, to carry out its life processes.

Inspector - an Inspector designated by the Minister under the *Act*.

Minister - the Minister of Indian Affairs and Northern Development Canada or the Minister of the Government of the Northwest Territories – Department of Lands, as the case may be.

Ordinary High Water Mark - the usual or average level to which a body of water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. In flowing waters (rivers, streams) this refers to the “active channel/bank-full level” which is often the 1:2 year flood flow return level. In inland lakes, wetlands, or marine environments, it refers to those parts of the Watercourse bed and banks that are frequently flooded by water so as to leave a mark on the land and where the natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation (excepting water tolerant species). For reservoirs, this refers to normal high operating levels (full supply level).

Permittee - the holder of this permit.

Permafrost - ground (soil or rock) that remains at or below 0°C for at least two consecutive years.

Secondary Containment - containment that prevents liquids that leak from Fuel Storage Tanks or containers from reaching outside the containment area and includes double-walled Tanks, piping, liners, and impermeable barriers.

Spill Contingency Plan - a document, developed in accordance with Aboriginal Affairs and Northern Development Canada’s *Guidelines for Spill Contingency Planning* (April 2007, that describes the set of procedures to be implemented to minimize the effects of a spill.

Sump - a man-made pit or natural depression in the earth's surface used for the purpose of depositing Waste that does not contain Toxic Material, such as non-toxic Drilling Waste or Sewage, therein.

Toxic Material - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Waste - any garbage, debris, chemical, or Toxic Material to be used, stored, disposed of, or handled on land, and also as defined in section 51 of the *Act*.

Waste Management Plan - a document, developed in accordance with the Board’s *Guidelines for Developing a Waste Management Plan*, that describes the methods of Waste management from Waste generation to final disposal.

Watercourse - a natural body of flowing or standing water or an area occupied by water during part of the year, and includes streams, springs, swamps and gulches but does not include groundwater.

Part C: Conditions Applying to All Activities (headings correspond to subsection 26(1) of the Mackenzie Valley Land Use Regulations)

Condition	Category
26(1)(a) Location and Area	
1. The Permittee shall not conduct this land-use operation on any lands not designated in the complete application.	LOCATION OF ACTIVITIES
2. The Permittee shall confine the width of the right of way to a maximum of forty(40 0) metres, unless otherwise authorized in writing by a Land Use Inspector.	WIDTH RIGHT-OF-WAY
26(1)(b) Time	
3. At least 48 hours prior to the commencement of the land-use operation, the Permittee's Field Supervisor shall contact an Inspector at (867777-8900	CONTACT INSPECTOR
4. At least 48 hours prior to commencement of the land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector: a) the name(s) of the person(s) in charge of the field operation; b) alternates; and c) all methods for contacting the above person(s).	IDENTIFY AGENT
5. At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of: a) the plan for removal or storage of equipment and materials; and b) when final cleanup and reclamation of the land used will be completed.	REPORTS BEFORE REMOVAL
26(1)(c) Type and Size of Equipment	
6. The Permittee shall not use any equipment except of a similar type, size, and number to that listed in the complete application.	ONLY APPROVED EQUIPMENT
26(1)(d) Methods and Techniques	
7. Prior to the movement of any vehicle that exerts pressure on the ground in excess of 35 kPa, the Permittee shall scout proposed lines and routes to select the best location for crossing streams and avoiding terrain obstacles.	DETOURS AND CROSSINGS
26(1)(e) Type, Location, Capacity, and Operation of All Facilities	
8. The Permittee shall ensure that the land use area is kept clean at all times.	CLEAN WORK AREA

26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

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| 9. | The Permittee shall insulate the ground surface beneath all structures associated with this land-use operation to prevent: | PERMAFROST PROTECTION |
| | a) vegetation present from being removed; | |
| | b) the melting of Permafrost; and | |
| | c) the ground settling and/or eroding. | |
| 10. | The land-use operation shall not cause obstruction to any natural drainage. | NATURAL DRAINAGE |
| 11. | The Permittee shall install and maintain culverts such that scouring does not occur. | CULVERT SIZE |
| 12. | The Permittee shall minimize erosion by installing erosion control structures as the land-use operation progresses. | PROGRESSIVE EROSION CONTROL |
| 13. | The Permittee shall, where flowing water from a Borehole is encountered: | FLOWING ARTESIAN WELL |
| | a) plug the Borehole in such a manner as to permanently prevent any further outflow of water; and | |
| | b) immediately report the occurrence to the Board and an Inspector. | |
| 14. | The Permittee shall prepare the site in such a manner as to prevent rutting of the ground surface. | PREVENTION OF RUTTING |
| 15. | The Permittee shall suspend overland travel of equipment or vehicles at the first sign of rutting. | SUSPEND OVERLAND TRAVEL |
| 16. | The Permittee shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging. | VEHICLE MOVEMENT FREEZE-UP |
| 17. | The Permittee shall not cut any stream bank, unless otherwise authorized in writing by an Inspector. | STREAM BANKS |
| 18. | The Permittee shall not excavate land within 100 metres of the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | EXCAVATE NEAR WATERCOURSE |

26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material

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| 19. | The Permittee shall not, in any circumstances, deposit or allow the deposit of any deleterious substances (including but not limited to fuels, lubricants, hydraulics, and coolants) of any type into any waters, or in any place under any conditions where the deleterious substances may enter any waters. | DEPOSITING DELETERIOUS SUBSTANCES |
|-----|---|--|

- | | | |
|---|--|---------------------------------------|
| 20. | At least seven days prior to the use of any chemicals that were not identified in the complete application, the MSDS sheets must be provided to the Board and an Inspector. | CHEMICALS |
| 21. | The Permittee may deposit Drilling Waste that does not contain Toxic Material in a Sump or natural depression. Any Sumps or natural depressions used to deposit Drilling Waste must be located at least 100 metres from the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | DRILLING WASTE |
| 22. | The Permittee shall remove all Drilling Waste containing Toxic Material to an approved disposal facility. | DRILLING WASTE
DISPOSAL |
| 23. | The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses. | DRILLING WASTE
CONTAINMENT |
| 26(1)(h) Wildlife and Fish Habitat | | |
| 24. | The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation. | HABITAT DAMAGE |
| 25. | The Permittee shall suspend construction activities temporarily if one or more caribou are spotted within five hundred (500) metres of the work site. | CARIBOU
DISTURBANCE |
| 26. | If migratory birds or their nesting areas, or any species at risk are encountered during the course of operations, the Permittee shall minimize all activity so as to not disturb these animals. | MIGRATORY BIRD
DISTURBANCE |
| 26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage | | |
| 27. | The Permittee shall adhere to the Waste Management Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | WASTE
MANAGEMENT |
| 28. | The Permittee shall dispose of all garbage, Waste, and debris as described in the approved Waste Management Plan, unless otherwise authorized in writing by an Inspector. | REMOVE GARBAGE |

26(1)(j) Protection of Historical, Archaeological, and Burial Sites

- | | | |
|-----|---|--|
| 29. | The Permittee shall not operate any vehicle or equipment within 150 metres of a known or suspected historical or archaeological site or burial ground. | ARCHAEOLOGICAL
BUFFER |
| 30. | The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site. | SITE DISTURBANCE |
| 31. | The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered:

a) immediately suspend operations on the site; and
b) notify the Board at (867) 777-4954 and an Inspector at (867)777-8900 and the Prince of Wales Northern Heritage Centre at 767-9347 ext. 71250 or ext. 71251. | SITE DISCOVERY AND
NOTIFICATION |

26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value

- | | | |
|-----|---|------------------------|
| 32. | The Permittee shall take all reasonable precautions to avoid impacts to traditional harvest activities. | TRADITIONAL USE |
|-----|---|------------------------|

26(1)(l) Security Deposit

- | | | |
|-----|--|--|
| 33. | All costs to remediate the area under this Permit are the responsibility of the Permittee. | RESPONSIBILITY FOR
REMEDICATION
COSTS |
|-----|--|--|

26(1)(m) Fuel Storage

- | | | |
|-----|--|--|
| 34. | The Permittee shall set up all refueling points with Secondary Containment. | SECONDARY
CONTAINMENT –
REFUELING |
| 35. | The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses. | FUEL CONTAINMENT |
| 36. | The Permittee shall adhere to the Spill Contingency Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | SPILL CONTINGENCY
PLAN |
| 37. | Prior to commencement of the land-use operation the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills. | SPILL RESPONSE |

<p>38. During the period of this Permit, if a spill occurs or is foreseeable, the Permittee shall:</p> <p>a) implement the approved Spill Contingency Plan;</p> <p>b) report it-immediately using the NU-NT Spill Report Form by one of the following methods:</p> <ul style="list-style-type: none"> • Telephone: (867) 920-8130 • Fax: (867) 873-6924 • E-mail: spills@gov.nt.ca • Online: Spill Reporting and Tracking Database <p>c) within 24 hours, notify the Board and an Inspector; and</p> <p>d) within 30 days of initially reporting the incident, submit a detailed report to the Board and an Inspector, including descriptions of causes, response actions, and any changes to procedures to prevent similar occurrences in the future. Any updates to this report shall be provided to the Board and an Inspector in writing as changes occur.</p>	<p>REPORT SPILLS</p>
<p>39. All equipment that may be parked for two hours or more, shall have a haz-mat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately.</p>	<p>DRIP TRAYS</p>
<p>40. The Permittee shall clean up all leaks, spills, and contaminated material.</p>	<p>CLEAN UP SPILLS</p>
<p>26(1)(n) Methods and Techniques for Debris and Brush Disposal</p>	
<p>41. The Permittee shall not clear areas larger than identified in the complete application.</p>	<p>MINIMIZE AREA CLEARED</p>
<p>26(1)(o) Restoration of the Lands</p>	
<p>42. The Permittee shall dispose of all overburden as instructed by an Inspector.</p>	<p>DISPOSAL OF OVERBURDEN</p>
<p>43. Prior to the expiry date of this Permit, the Permittee shall complete all cleanup and restoration of the lands used.</p>	<p>FINAL CLEANUP AND RESTORATION</p>
<p>44. Prior to the expiry date of this Permit, the Permittee shall prepare the site in such a manner as to facilitate natural revegetation.</p>	<p>NATURAL VEGETATION</p>
<p>45. The Permittee shall carry out progressive reclamation of disturbed areas as soon as it is practical to do so.</p>	<p>PROGRESSIVE RECLAMATION</p>
<p>26(1)(p) Display of Permits and Permit Numbers</p>	
<p>46. The Permittee shall keep a copy of this Permit on hand at all times during this land-use operation.</p>	<p>COPY OF PERMIT</p>

26(1)(q) Biological and Physical Protection of the Land

- | | |
|--|---------------------------|
| 47. If any plan is not approved by the Board, the Permittee shall revise the plan according to the Board's direction and re-submit it to the Board for approval. | RESUBMIT PLAN |
| 48. The Permittee shall act in accordance with the Engagement Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | ENGAGEMENT PLAN |
| 49. All revised plans submitted to the Board shall include a brief summary of the changes made to the plan. | SUMMARY OF CHANGES |



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www.glwb.com

Reasons for Decision

File Number:	G18X005 (Type "A" Land Use Permit Application) G18L8-001 (Type "B" Water Licence Application)
Applicant:	NWT Energy (03) Corporation Ltd. (NTEC)
Project:	Inuvik Wind Project
Subject:	Water Licence and Land Use Permit
Meeting Date:	November 16, 2020

Issued pursuant to paragraph 40(2)(c) of the Mackenzie Valley Land Use Regulations (MVLUR) and Sections 72.25 and 121 of the *Mackenzie Valley Resource Management Act* (MVRMA) and sections 36 and 54 of the *Waters Act*

1.0 DECISION

On November 16, 2020, the Gwich'in Land and Water Board (GLWB or the Board) met and considered a Land Use Permit Application and a Water Licence Application made by NWT Energy (03) Corporation Ltd. (NTEC) for the Inuvik Wind Project (Project). In consideration of the Applications, reviewer comments, and proponent responses, the Board has decided the following:

1. To issue Type A Land Use Permit G18X005 for a period of five years;
2. To issue Type B Water Licence G18L8-001 for a period of five years;
3. To approve Version 1.0 of the Waste Management Plan;
4. To approve Version 1.0 of the Spill Contingency Plan; and
5. To approve Version 2.0 of the Engagement Plan.

2.0 BACKGROUND

2.1 Summary of Applications

On October 30, 2018, NTEC applied to the GLWB for:

- a) A Type "A" Land Use Permit to:
 - construct and maintain an all-season access road;
 - construct and maintain a wind turbine and associated infrastructure; and
 - install and maintain a powerline¹

- b) A Type "B" Water Licence to:
 - use Water for construction purposes²

2.2 Description of Project

NTEC proposes the construction of the Project on lands approximately 12 km east of the town of Inuvik and 6.5 km north of the Mike Zubko Airport, at what is know locally as Highpoint.

The following activities are described in the Applications:

1. *Access road construction*

This phase involves removal of vegetation and placement of roadbed material and the compaction of the material, but does not include excavation or ground cutting. Once complete, Vehicle traffic and transportation of turbine components will take place on the road for the rest of the construction phase. NTEC has applied for a 40 m right of way, to allow for safe passage of materials, and the safe installation and maintenance of transmission lines. The road will be approximately 5 km long.

2. *Wind turbine construction*

The proposed turbine will be a 2 to 4 MW generator with a 75 to 100 m hub height, and three blades attached to the hub. Construction includes foundation pier drilling, crane pad preparation, material placement (including concrete for the foundation and aggregate for preparation of construction areas), as well as vegetation clearing for heavy equipment laydowns and staging areas. Materials to be shipped by barge and/or road.

¹ See GLWB Public Register at www.glwb.com for [G18X005 – Permit Application – Oct30_18](#) and [G18X005 G18L8-001 - LUP WL Application Supporting Information - Oct30_18.pdf](#)

² See [G18L8-001 – Licence Application – Oct30_18](#) and [G18X005 G18L8-001 - LUP WL Application Supporting Information - Oct30_18.pdf](#)

3. *Installation of electrical line*

The line construction from the turbine to the airport substation involves drilling for wooden poles and grounding and stringing of conductor lines on poles.

4. *Airport substation upgrades*

Substation upgrades include placement of aggregate to expand pad, expansion of existing fence, build support structures for protection equipment and place equipment.

5. *Battery and feeder breaker installation*

The Inuvik power plant upgrades involve drilling for foundation piers, and placement of aggregate and other construction material.

6. *Water use*

Water withdrawal will take place during the construction phase for concrete mixing, drilling, dust management, roadbed compaction and rinsing construction equipment to prevent transfer of invasive plant species, and possibly other construction related activities. Water will be sourced from either Dolomite Lake or Campbell Creek, to a combined maximum of 110m³ per day.

7. *Operation and maintenance*

Operational activities are generally restricted to turbine and infrastructure maintenance works. Activities will likely include: Pickup truck access, Occasional crane mobilization, and Replacement of operating components.

8. *Closure and reclamation*

Available best practices will be followed at the time of decommissioning.

The Project is anticipated to be operational for as long as the turbine remains productive, with the typical lifespan of a turbine being 20-25 years. At the end of the Project's operational life, it will either be decommissioned or refurbished.

2.3 Regulatory Process

Table 1 Presents a tabular summary of the Regulatory Process for Applications G18X005 and G18L8-001. Details are discussed below.

Table 1 – Regulatory Process Overview: G18X005 and G18L8 -001

Date	Step in Proceeding
Oct 30, 2018	Water Licence and Land Use Permit Applications Received
Nov 09, 2018	Applications deemed complete
Nov 09, 2018	Applications circulated for public review Draft Permit circulated for public review
Nov 19, 2018	Draft Licence circulated for public review
Nov 30, 2018	Deadline for reviewer comments (Comments received, including several requests to extension to comment period)
Dec 7, 2018	Deadline for proponent response deadline (Response received)
Dec 18, 2018	Board Meeting # 1: Decision made to pause Permit Application under paragraph 22(2)(b) of the MVLUR to allow additional time for reviewer comments - deadline extended to February 28, 2019
Feb 28, 2019	Updated Reviewer Comment Deadline (Comments received by deadline)
Mar 14, 2019	Updated Proponent Deadline (Responses received by deadline)
Mar 20, 2019	Board Meeting # 2: Decision made to require additional study under paragraph 22(2)(b) of the MVLUR. Direction given to NTEC to conduct additional engagement and/or provide updated Engagement Record and Plan.
Oct 25, 2019	Engagement Plan and Record V 2.0 received
Oct 29, 2019	Engagement Plan and Record V 2.0 circulated for public review
Nov 12, 2020	Deadline for reviewer comments (Comments received by deadline)
Dec 2, 2019	Deadline for proponent response (Responses received by deadline)
Dec 4, 2019	NGC Request for Ruling (Request #1) received
Dec 10, 2019	Information Request (IR #1) issued to NTEC
Dec 17, 2019	NTEC Response to IR #1 received

Jan 7, 2020	Information Request (IR #2) issued to NTEC
Jan 9, 2020	NGC Request for Ruling (Request #2) received
Jan 15, 2020	NTEC Response to IR #2 received
Mar 04, 2020	Information Request (IR #3) issued to NTEC/GNWT
May 26, 2020	NTEC/GNWT Response to IR #3 Received
June 4, 2020	Notice of next step in request for ruling circulated to parties
June 18, 2020	Deadline for parties wishing to provide evidence in response to NGC's Request #2 (No parties submitted evidence)
July 2, 2020	Deadline for NGC to respond to evidence on record (No response received)
July 16, 2020	Deadline for NTEC/GNWT to file argument (Argument received)
July 30, 2020	Deadline for NGC to file Closing Argument: (Argument received)
Oct 7, 2020 Oct 29, 2020	Board Meeting #3: Decision on Requests # 1 and #2
Nov 16, 2020	Board Meeting #4: Decision on Preliminary Screening, Water Licence and Land Use Permit Applications
Nov 27, 2020	Issuance of Permit and Licence following ten day pause period for Preliminary Screening

On October 30, 2018, NWT Energy corporation (03) Ltd. submitted Applications for a new Water Licence (Licence) and Land Use Permit (Permit) for the Project.³⁴ The Applications were found to contain the information required by paragraph 19 of the MVLUR, section 72.1 of the MVRMA, and section 34 of the *Waters Act*; they were deemed complete on November 9, 2018 and circulated - along with a Draft Permit and Draft Licence – for public review to the GLWB distribution list. Members of the GLWB distribution list are identified in Table 2, below.

³ See [G18X005 – Permit Application – Oct30 18](#)

⁴ See [G18L8-001 – Licence Application – Oct30 18](#)

Table 2 – Distribution List for the Inuvik Wind Project

Aklavik Indian Band
Canadian Northern Economic Development Agency
Charter Community of Tsiigehtchic
Ehdiitat Gwich'in Renewable Resources Council (Aklavik)
Ehdiitat Gwich'in Council (Aklavik)
Environment and Climate Change Canada
Fisheries and Oceans Canada
GNWT Department of Environment and Natural Resources
GNWT Department of Executive and Indigenous Affairs
GNWT Department of Health and Social Services
GNWT Department of Infrastructure
GNWT Department of Lands
GNWT Department of Municipal and Community Affairs
GNWT Prince of Wales Northern Heritage Centre
Government of Canada – Department of Infrastructure
Gwich'in Tribal Council
Gwich'in Tribal Council – Department of Cultural Heritage
Gwich'in Land Use Planning Board
Gwich'in Renewable Resources Board
Gwichya Gwich'in Band (Tsiigehtchic)
Gwichya Gwich'in Council (Tsiigehtchic)
Gwichya Gwich'in Renewable Resources Council (Tsiigehtchic)
Hamlet of Aklavik
Hamlet of Fort McPherson
Inuvialuit Environmental Impact Screening Committee
Inuvik Native Band
Mackenzie Valley Environmental Impact Review Board
National Energy Board
Nihtat Gwich'in Council (Inuvik)
Nihtat Gwich'in Renewable Resources Council (Inuvik)
Tetlit Gwich'in Band
Tetlit Gwich'in Council (Fort McPherson)
Tetlit Gwich'in Council (Fort McPherson)
Tetlit Gwich'in Renewable Resource Council (Fort McPherson)
Town of Inuvik
Transport Canada

By November 30, 2018, requests to extend the review period were received from the Nihtat Gwich'in Council (NGC) Nihtat Renewable Resources Council (NGRRC), Gwich'in Tribal Council (GTC), Inuvik Native Band (INB), and Gwich'in Renewable Resources Board (GRRB).⁵ Each Party requested additional time to review the and provide comments and recommendations.

On December 18, 2018, the Board invoked paragraph 22(2)(b) of the MVLUR for the Application for Permit G18X005, to allow for additional study of application materials by reviewers.⁶ The reviewer comment deadline was extended to February 28, 2019, with proponent responses due March 14, 2019.

By February 28 comments and recommendations regarding the Applications were received by the Board from the following parties:

- Environment and Climate Change Canada (ECCC)
- Fisheries and Oceans Canada (DFO)
- Government of the Northwest Territories – Prince of Wales Northern Heritage Centre (POWNHC)
- Government of the Northwest Territories Department of Environment and Natural Resources (GNWT ENR)
- Government of the Northwest Territories Department of Lands (GNWT Lands)
- Gwich'in Tribal Council - Department of Cultural Heritage (GTC DCH)
- Gwich'in Renewable Resources (GRRB)
- Nihtat Gwich'in Council (NGC)
- Inuvik Native Band (INB)

By March 14, NTEC had responded to all comments and recommendations⁷.

The GLWB met on March 20, 2019, to consider the Permit and Licence Application materials, and comments submitted during the public review period. The Board decided, under MVLUR 22(2)(b), that additional study pertaining to engagement was required. The Board directed NTEC to either provide updated engagement records and plans which demonstrate that engagement has been

⁵ See [G18X005 G18L8-001 - Reviewer Comment Table 1 – Dec18_18](#)

⁶ See [G18X005 G18L8-001 – Board Decision – Dec18_18](#)

⁷ See [G18X005 G18L8-001 – Reviewer Comment Summary Table 2 – Mar15_19](#)

conducted in accordance with the MVLWB engagement and consultation policy or conduct further engagement with regard to the Inuvik wind project.⁸

NTEC submitted Engagement Plan and Record Version 2.0 (ERP 2.0) on October 25, 2019.⁹ The document was circulated for public review on October 29, 2019. By November 12, 2019 submissions had been received from the following parties:

- Gwich'in Tribal Council - Department of Intergovernmental Affairs (GTC DIA)
- Gwich'in Tribal Council - Department of Cultural Heritage (GTC DCH) - no comments
- Gwich'in Renewable Resources (GRRB) - no comments
- Nihtat Gwich'in Council (NGC)
- Inuvik Native Band (INB)

On December 4, 2019, NGC Submitted to the GLWB a Request for Ruling (Request #1) made pursuant to Rule 22 and Rule 61 of the MVLWB Rules of Procedure (MVLWB Rules).¹⁰ Request #1 sought a Directive from the Board to require NTEC to provide evidence in respect of their claim to have a right to occupy land and to be eligible to receive permits in accordance with paragraph 18(b) of the MVLUR.

The GLWB issued Information Request # 1 (IR#1) on December 10, 2019, directing NTEC to provide the requested information.¹¹ NTEC responded on December 17, 2019 (IR#1 Response).¹² Board staff issued Information Request #2 (IR#2) on January 7, 2020, requesting NTEC provide additional information in support of its right to occupy, including evidence of a contractual relationship with the GNWT.¹³ NTEC submitted its response (IR#2 Response) on January 20, 2020.¹⁴

On January 9, 2020, NGC submitted to the GLWB a second Request for Ruling (Request #2) made pursuant to Rule 22 of the MVLWB Rules.¹⁵ Request #2 alleged that NTEC failed to establish a lawful right to occupy lands affected by the proposed project, as required by MVLUR paragraph 18(b), and asked the GLWB to rule that NTEC was not eligible for a permit.

⁸ See [G18X005 G18L8-001 – Board Decision and Reasons for Decision – Mar20 19](#)

⁹ See [G18X005 G18L8-001 – Engagement Plan and Record V 2.0 – Oct25 19](#)

¹⁰ See [G18X005 – NGC Request for Ruling #1 – Dec04 19](#)

¹¹ See [G18X005 – Information Request #1 – Dec10 19](#)

¹² See [G18X005 – NTEC Response to IR #1 – Dec17 19](#)

¹³ See [G18X005 – Information Request #2 – Jan07 20](#)

¹⁴ See [G18X005 – NTEC Response to IR #2 – Jan15 20](#)

¹⁵ See [G18X005 – NGC Request for Ruling #2 – Jan09 20](#)

To ensure the necessary information was on the record prior to ruling on the NGC Request, on March 3, 2020, the GLWB issued a joint Information Request (IR #3) to NTEC and GNWT Lands, requesting further details pertaining to NTEC's right to occupy the lands in question;¹⁶ on May 26, 2020 NTEC/GNWT filed a response (IR#3 - Response).¹⁷ The Board then proceeded through Request #2 in accordance with the MVLWB Rules: Parties wishing to provide evidence in response to NGC's Request were required to do so by June 18, 2020 (No Submissions were received). NGC was given a July 2, 2020 deadline to respond to the GNWT/NTEC IR #3 Response, and to any additional evidence submitted (NGC did not provide a submission). Parties wishing to file arguments were directed to do so by July 16, 2020; by the deadline NTEC had provided argument.¹⁸ NGC was given the opportunity to reply and provide closing arguments by July 30, 2020, which it did.¹⁹

The Board met on October 29, 2020 to rule on Request #2 and decided that NTEC does hold a right to occupy the land applied for under G18X005 and is thus eligible to be issued a land use permit for the Project. The Board's reasons for this decision can be found on the GLWB online public registry.²⁰

On November 16, 2020 the Board met to make decisions regarding the Applications. These decisions and related reasons are described in detail below.

2.4 Legislative Requirements

In conducting the review process for the Applications as described in Sections 2.3 above, the Board has ensured that all applicable legal and procedural requirements have been satisfied, as required by section 62 of the MVRMA and as outlined below.

2.4.1 General

The use of land and water proposed is on non-federal land and is of a nature contemplated by the MVRMA and the *Waters Act*.

2.4.2 Land Use Planning

The Board's referral obligations to the Gwich'in and Use Planning Board are outlined in section 61 of the MVRMA. The Lands proposed by the Project are classified as a being in a General Use Zone.²¹ In this zone,

¹⁶ See [G18X005 – Information Request #3 – Mar03 20](#)

¹⁷ See [G18X005 – NTEC Response to IR #3 – May26 20](#)

¹⁸ See [G18X005 – Request for Ruling – NTEC Argument – July16 20](#)

¹⁹ See [G18X005 – Request for Ruling – NCG Closing Argument – Jul30 20](#)

²⁰ See [G18X005 – Request for Ruling – GLWB Ruling on Permit Eligibility – Reasons For Decision - Oct29 20](#)

²¹ See Gwich'in Land Use Plan at pg. 44. Retrieved from:

https://www.gwichinplanning.nt.ca/publications/lupd/final%202003/Gwichin_Plan_2003.pdf

the Gwich'in Land Use Plan imposes no conditions for proposed uses, and all land uses are possible provided necessary approvals from the current regulatory system are obtained. The Board has determined that the Project is in conformity with the Gwich'in Land Use Plan.

2.4.3 Eligibility

As per section 18 of the MVLUR, eligibility must be determined before the Board can issue a permit.

The Project crosses both GNWT Territorial and Commissioners Land: The turbine site and northernmost portion of the road and transmission line will be on Territorial lands, while the southernmost part of the road and line will be on Commissioner's lands. The lands in question are all located within a Reindeer Reserve established by GNWT Land Withdrawal Order R-065-2014.

As evidence of eligibility, NTEC included in its Application a letter from the GNWT Deputy Minister of Lands confirming that a 50 m by 50 m parcel of land had been set aside by Reserve 107B07-172 (Wind Reserve) for the GNWT Department of Infrastructure (GNWT INF). The letter explained that further amendments to the Wind Reserve were being considered, to account for the proposed access road and transmission line. Board staff confirmed the application for the Project was complete, and then proceeded with the regulatory process.

On December 4, 2019 NGC submitted to the GLWB a Request for Ruling (Request #1), requesting that the Board direct NTEC to provide details in respect of its claim to have a right to occupy land and to be eligible to receive a permit in accordance with paragraph 18(b) of the MVLUR.

The Board completed the regulatory proceeding for Request #1 as described in Section 2.3, above.

On January 9, 2020 NGC submitted to the GLWB a second Request for Ruling (Request #2) asking the GLWB to rule that NTEC had failed to establish a lawful right to occupy land in order to be eligible to receive a Permit in accordance with paragraph 18(b) of the MVLUR.

The Board completed the proceeding for Request #2 as described in section 2.3. The Board met on October 29, 2020 and ruled that NTEC has a right to occupy the lands proposed for the Project and is thus eligible to receive a Permit. The Board's reasons for this decision can be found on the GLWB online public registry.²²

²² See [G18X005 – Request for Ruling – GLWB Ruling on Permit Eligibility – Reasons For Decision - Oct29 20](#)

2.4.4 Consultation and Engagement

In exercising its authority under the MVRMA, generally, the Board must ensure that the importance of conservation to the well-being and way of life of Aboriginal peoples of Canada, as per paragraph 60.1(a) of the MVRMA. The Board works with applicants, affected parties (including Aboriginal organizations/governments), and other parties (such as other boards and regulators) to ensure that potential impacts of proposed projects are understood and carefully considered before decisions are made with respect to the issuance of Permits and Licences.

The Board's Engagement and Consultation Policy (Engagement Policy) has three objectives:²³

1. To require proponents to initiate dialogue and engagement planning with affected parties, particularly affected Aboriginal organizations/governments, in advance of an application with the goal of:
 - explaining the project;
 - identifying concerns and potential environmental impacts (including any potential for impacts to Aboriginal and treaty rights);
 - addressing concerns raised; and
 - ensuring appropriate levels and types of engagement are carried out over the life of an authorization or project.
2. To apply consultative approaches throughout a proceeding, which assists affected parties to contribute meaningfully towards the assessment of impacts on the environment and the establishment of appropriate mitigations in order for the Boards to meet statutory responsibilities pursuant to the MVRMA and the Waters Act and their regulations.
3. To assess and rule on, if necessary, the adequacy of Crown consultation before making a final decision or recommendation, taking into account information gathered during proponent engagement and through its consultative processes.

Notifications and Initial Engagement

Regarding the objective of proactive engagement, the Board has determined that the level of engagement by NTEC was adequate. In accordance with the Engagement Policy and the Engagement Guidelines, NTEC initiated dialogue with Aboriginal organizations and governments starting in July 2016 through to October 2018, prior to filing its Applications with the Board on October 30, 2018.

²³S See www.glwb.com → Resources → Policies and Guidelines: [Engagement and Consultation Policy](#)

An Engagement Record (ERP 1.0) summarizing these activities was submitted to the Board. ERP 1.0 highlighted multiple face to face meetings with each of the GTC, GRRB, INB, Inuvik Community Corporation (ICC), Inuvialuit Development Corporation (IDC), Inuvialuit Regional Corporation – Traditional Knowledge Department (IRC), and Town of Inuvik. These records show general support for the project, an interest in economic opportunities for local businesses, and did not identify any areas of particular concern.²⁴

When the Board received comments from NGC and INB suggesting that engagement had been insufficient, it required NTEC to conduct additional engagement and resubmit its engagement record and plan. Upon review of updated ERP V 2.0 and associated reviewer comments, the Board believes that the project was well-explained, that there was opportunity for concerns to be identified and addressed, and that NTEC has proposed life-of-project engagement that is appropriate for the scope and scale of the project.

The Board's Role in Consultation

Regarding the second objective of the Engagement Policy, namely facilitating the effective contribution of all parties in the process, the Board has determined its process was sufficiently robust.

The regulatory process provided opportunities for review of the Application materials and draft Permit and Licence conditions. Requests to extend the initial review period beyond the November 30, 2018 deadline were submitted to the Board (GRRB requested to extend the deadline to Dec 14, 2018; NGRRC requested until “after the holidays”; NGC and INB requested until Jan 30, 2019; and GTC requested until February 28, 2019). On December 4, 2018, the Board decided to pause the proceeding under paragraph 22(2)(b) of the MVLUR, to allow for additional study of the applications by reviewers and set a new review deadline to February 28, 2019.²⁵

During the public review of the applications, parties were given the opportunity to comment on the adequacy of the engagement record and engagement plan. NCG and INB both commented that engagement “has not been adequate”, that it failed to “satisfy any level of standard”, did not allow for the “GLWB to achieve their objective of optimum benefit”, and that the engagement process had not ensured that INB and NGC’s concerns had been “been considered and addressed fully.”²⁶ NGC commented that the Applicant has failed to address compensation for “the present and future loss of income from

²⁴ See [G18X005 G18L8-001 - LUP WL Application Supporting Information - Oct30 18.pdf](#)

²⁵ See [G18X005 G18L8-001 - Board Decision - Dec18 18](#)

²⁶ See [G18X005 G18L8-001 - Reviewer Comment Table 2 - Mar15 19 \(NGC 4, INB 3\)](#)

wildlife harvesting and other losses or damages suffered as a result of the project, while INB suggested compensation for “infringement of our aboriginal rights and title interests.”²⁷

Both NGC and INB confirmed that meetings took place with NTEC, but NGC commented that these meetings failed to “address social, cultural, economic, and environmental issues that should form part of any mutually developed Valued Components for assessing the potential impact of a project.”²⁸ Further, both groups stated that there are “significant and ongoing social, economic, environmental and cultural impacts that may result because of the project.”²⁹ NTEC responded that engagement efforts were ongoing and comprehensive, and that the two organizations did not provide specific information on what impacts they were referring to or what rights were being infringed upon.³⁰ The Board notes that GTC did not submit any comments to the Board, despite its request for an extension to the review period.

The GLWB met on March 20, 2019, to consider the Permit and Licence applications. The Board determined that the concerns brought forward by INB/NGC suggested that the information pertaining to social, cultural and economic impacts, as well as impacts to Aboriginal and treaty rights – as presented in the Inuvik Wind Project application and provided during the review process – were insufficient to make an informed preliminary screening decision. The Board directed NTEC to either provide updated, detailed engagement records and plans to demonstrate that engagement had been conducted in accordance with the Engagement Policy or conduct further engagement with regard to the Project and re-submit its ERP.³¹

NTEC conducted additional engagement submitted Engagement Plan and Record V 2.0 (EPR 2.0), which was circulated on for public review as a stand-alone item.³² During the public review of EPR 2.0, NGC commented that there had been “a lack of substantial action by the GNWT and NTEC to address our outstanding environmental concerns, and to enter a mutually agreed to engagement process to learn of our concerns and/or to address concerns or the issues directed by the GLWB.” NGC expressed concerns that NTEC has discontinued engagement with INB/NGC to focus on engaging GTC and suggested that NTEC “appears to have engaged in a deliberate and divisive strategy of sharp-dealing and sought to play off the different Gwich'in organizations against each other.”³³

²⁷ See [G18X005 G18L8-001 - Reviewer Comment Table 2 - Mar15 19 \(NGC 4, INB 3\)](#)

²⁸ See [G18X005 G18L8-001 - Reviewer Comment Table 2 - Mar15 19 \(NGC 12\)](#)

²⁹ See [G18X005 G18L8-001 - Reviewer Comment Table 2 - Mar15 19 \(NGC 16, INB 4\)](#)

³⁰ See [G18X005 G18L8-001 - NTEC - Proponent Response - Mar14 19](#)

³¹ See [G18X005 G18L8-001 - Board Direction and Reasons for Decision - Mar20 19](#)

³² See [G18X005 G18L8-001 – Engagement Record and Plan V 2.0 – Oct25 19](#)

³³ See [G18X005 - Nihtat Gwich'in Council Comments on Engagement Plan and Record v 2.0 - Nov12 19](#)

NGC commented that “engagement about the Wind Turbine Project and the adequacy of planned actions and decisions must incorporate, to the fullest extent, all the impacts that may result if the project were to proceed recognizing the potential environmental impacts and impacts on Nihtat Gwich'in and INB rights and interests.” NGC recommended that the GLWB require NTEC to complete additional engagement and provide updated Engagement Plan and Record, or alternatively refer the project to the Review Board for Environmental Assessment, because the project is “likely to have a significant adverse impact on the environment and [is] clearly a cause of public concern.”³⁴

GTC commented “that It is important that all consultation and engagement outlines not only the potential harms to community and environmental resources but also the potential for economic opportunity and benefits for Gwich'in. Moreover, it is the opinion of the GTC that significant aspects of this particular project need to be further developed. These include: Reconciliation, the implementation of the United Nations Declaration on Indigenous Peoples (UNDRIP), and nation-to-nation relationship development” The GTC further noted that “all impacted stakeholders [should] be included. This does not only mean the Renewable Resource Councils (RRCs), but also all four of the Gwich'in community Designated Gwich'in Organizations (DGOs). To date, the Ehdiitat Gwich'in Council (EGC), Gwichya Gwich'in Council (GGC), and Tetlit Gwich'in Council (TGC) have been excluded from the secondary stakeholders list. This is an inadvertent oversight that we would like to see corrected.” GTC stated that “there should be further engagement with Gwich'in, through the GTC as the treaty rights holder” and that they “look forward to continuing to work and engage with the GNWT to facilitate the completion of the Inuvik Wind Project.”³⁵

NTEC responded that it had performed a detailed assessment to identify and mitigate potential environmental impacts in its application and had further committed to the recommendations made by reviewers during the public review process. NTEC highlighted the engagement that it undertook over a three year period, both with co-management partners, RRCs and DGOs, and the GTC. NTEC noted that GTC has clarified that “GTC is the rights-bearing organization for the Gwich'in and only they can speak to Aboriginal or Treaty rights related issues.” NTEC stated that while they “were pleased to meet with certain Renewable Resource Councils (RRCs) and DGOs over the course of our engagement activities, we note that neither the RRCs nor the DGOs have been delegated engagement responsibilities related to Aboriginal or Treaty Rights. We trust that the GTC is disseminating information and canvassing opinions from their membership as the body representing that membership. This is also consistent with the approach set out in the Gwich'in Comprehensive Land Claim Agreement. We remain interested in ongoing engagement activities with the GTC, as the Aboriginal and Treaty rights-bearing body, to further develop

³⁴ See [G18X005 G18L8-001 – Nihtat Gwich'in Council Comments on ERP V2.0 – Nov12_19](#)

³⁵ See [G18X005 G18L8-001 – Gwich'in Tribal Council Comments on ERP V2.0 – Nov12_20](#)

and finalize a collaborative partnership approach to the construction phase of this Project for the benefit of all residents in the Town of Inuvik.”³⁶

NTEC responded to comments regarding economic opportunity by stating “that requests for local and economic benefits from the Project have been raised by Gwich’in organizations numerous times. Since the outset of this process, we have offered a guaranteed investment opportunity for any Gwich’in parties interested in investing up to 10 million dollars. We have also outlined options for ensuring that proposed construction activities and economic opportunities are tailored, to the extent possible, to attract local and Indigenous participation in the Project. For example, we have identified the potential to bundle small contracts so that local organizations are in a better position to deliver the work. We also intend to continue this dialogue with the GTC and local and Indigenous groups if the Project is approved for permitting.”³⁷

NTEC also commented that “the Nihtat Corporation, an Indigenous owned organization based in Inuvik and 100-percent owned by the NGC, was hired through an open and competitive bid process to support this proposed Project. Since that time, NC has successfully secured \$1.5 million dollars of feasibility work to guide and inform the Project in all areas of work, including baseline environmental work, business case development and community engagement. With our input and support, NC relied on best practice approaches including a Land Use and Traditional Knowledge Workshop, with parties identified using local and Indigenous knowledge of the people and the area.”³⁸

NTEC noted that “the primary objectives of the Project are to displace diesel used for power generation, reduce greenhouse gas emissions, and help stabilize electricity rates for communities in the NWT thermal zone.” Further, that “the scope of this Project is a small... community-scale energy project with minimal impacts on the local environment,” and that as the organization representing the Gwich’in, “the GTC has not raised any specific concerns with the Project’s impacts on the environment or their Aboriginal or Treaty rights.”³⁹

In assessing NGCs concerns regarding engagement for the Project, the Board first reviewed the timing of the organization’s engagement and participation with the Project. The Board notes that in the public review of ERP 1.0 NGC commented that Nihtat Corporation was not the same organization as NGC but merely “a firm retained by the GNWT to conduct a study in the area” ... “whose representatives happened

³⁶ See [G18X005 - NTEC Response - Engagement Plan and Record v 2.0 - Dec02_19](#)

³⁷ *ibid*

³⁸ *ibid*

³⁹ *ibid*

to be members of NGC”.⁴⁰ However, the Board understands that Nihtat Corporation is wholly owned by NGC; that both organizations were represented by the same individual; and much as how NTEC is an agent of GNWT, Nihtat Corporation is an agent of NGC. The Board thus makes no distinction between the two organizations for the purposes of these analyses.

NTEC’s ERP 2.0 highlights thirteen instances of engagement between NGC and NTEC. The early record indicates that in 2016 “Nihtat is supportive of the work done to date and they would like to be active participants in the project going forward.” In 2017, they “expressed interest in supporting environmental assessment permitting, geotechnical study and community engagement on the project.” In May 2018, an NGC letter confirmed “Gwich'in Development Corporation and Nihtat Corporation's interest in a potential investment in the Inuvik Wind Project.” ERP 2.0 also shows that in November 2018, just after the submission of NTECs applications to the Board, an agreement in principle for this investment opportunity was presented to NGC and GDC.⁴¹

In February 2019, NGC submitted comments to the GLWB that engagement for the Project has been inadequate. Upon direction from the Board, NTEC re-engaged. The record of recent engagement identifies two unresolved concerns: “engagement funding for costs to review and consider proponent submissions to the GLWB” and “defined participation opportunities in the Inuvik Wind Project for approved Gwich'in Business and other local businesses to encourage local project benefits.”⁴²

When reviewing ERP 2.0, NGC commented that “a comprehensive environmental assessment addressing appropriate NGC and INB engagement, environmental mitigation, and related management and monitoring plans, and Indigenous accommodations to address potentially adverse impacts over the life of the proposed project” was required. This includes the consideration of impacts to NCG/INB rights; the incorporation of Indigenous Knowledge; baseline information pertaining to wildlife and wildlife habitat; impacts to reindeer and caribou; the interaction of project components and detailed turbine siting assessment, including noise, visual and health impacts. NGC further commented that NTEC had not considered a full range of Valued Components, including bat and avian mortality, impacts to soil, waterbodies, and archeological resources.⁴³

In considering these comments, the Board reflects on NGC’s significant involvement with the Project to date: Two stages of the feasibility assessment were taken between 2016 and 2018 as part of the planning for the Project. For each feasibility assessment, a competitive tender was issued, and in each case the

⁴⁰See [G18X005 G18L8-001 - Reviewer Comment Table 2 - Mar15 19 \(NGC #10\)](#)

⁴¹ See [G18X005 G18L8-001 – Engagement Record and Plan V 2.0 – Oct25 19](#)

⁴² Ibid

⁴³ See [G18X005 G18L8-001 – Nihtat Gwich'in Council Comments on ERP V2.0 – Nov12 19](#)

Nihtat Corporation bid on the work and won. As part of these contracts, Nihtat Corporation completed the Inuvik Wind Project Pre-feasibility Study,⁴⁴ and it also produced the environmental baseline study, the heritage resource assessment, the traditional knowledge and traditional land use study, the geotechnical study, the waste management plan, and the spill contingency plan that formed the bulk of the application materials submitted by NTEC to the GLWB.⁴⁵

It is the Board's view that NGC had ample opportunity to contribute to the development of an appropriate social and environmental impact assessment, in part because Nihtat Corporation was contracted to lead this work for NTEC. Similarly, given NGC's intimate knowledge of the Project, it is reasonable to expect that any impacts to Gwich'in rights and interests would have been identified earlier in the planning process had they been of significant concern. Instead, these concerns appear to have materialized upon breakdown of discussions related to investment opportunity, with NGC describing NTECs proposals as "totally unworkable."⁴⁶

In respect to Gwich'in rights and interests, the Board notes that NGC/INB did not clarify what rights were being impacted by the project in its review of ERP 1.0. Following NTEC's additional engagement, the record in ERP 2.0 did not identify concerns regarding impacts to rights. NGC/INB also did not point to any specific rights that were being impacted in the Review of ERP 2.0. The GTC did not provide comments or concerns regarding impacts to Gwich'in Rights, other than to clarify its role as the treaty rights holder.

The Board notes NGCs concern regarding compensation for "present and future loss of income from wildlife harvesting." The Board understands that under the GCLCA, the Gwich'in have guaranteed wildlife harvesting rights, including the exclusive right to harvest fur bearers throughout the Gwich'in Settlement Area. Although the TK/TLU study suggested that there are few traditional harvesting activities taking place near the project area, the GCLCA does provides mechanisms, through the Gwich'in Arbitration Panel, for affected participants "to seek harvesting compensation for losses and damage suffered by as a result of development activity."⁴⁷

Regarding Gwich'in business opportunities, the Board notes that this is an important area of focus for both GTC and NGC; indeed, the majority of discussion points in ERP 2.0 pertain to business development and logistics. In the review of ERP 2.0, NGC commented that it had submitted "a detailed proposal to the GNWT and the Proponent for engagement and participation, which included proposals for technical reviews by independent experts, discussions of mitigation measures, and negotiations

⁴⁴ See www.inf.gov.nt.ca for [Inuvik Wind Project Feasibility Study](#)

⁴⁵ See [G18X005 G18L8-001 - LUP WL Application Supporting Information - Oct30 18.pdf](#)

⁴⁶ See [G18X005 G18L8-001 – Nihtat Gwich'in Council Comments on ERP V2.0 – Nov12 19](#)

⁴⁷ See [www. https://www.rcaanc-cirnac.gc.ca](https://www.rcaanc-cirnac.gc.ca) for [the Gwich'in Comprehensive Land Claim Agreement](#) (s.17)

towards participation in economic opportunities in respect of the Project”, and that NTEC ceased engaging with NGC after receiving this submission.⁴⁸

The Board reiterates that the goal of engagement is to explain the project, identify impacts, address concerns raised, and develop life-of-project relationships. Sometimes engagement does not result in the resolution of all outstanding issues. In this case, the record indicates that the outstanding issue of concern is not an adverse environmental impact that requires mitigation, but a potential for benefits to the local economy. NGC’s comments suggest that the current structure of federal/territorial bilateral funding agreements do not provide the benefits or partnership opportunities that the Gwich’in envision for major projects occurring within the Settlement Area.

The Board notes that the MVRMA does not provide for the development of benefits agreements in its regulatory process. And while the Board encourages involved parties to continue these discussions, ultimately, they fall outside the scope of the GLWB’s regulatory authority.

Ultimately, the Board notes GTC’s willingness to “continuing to work with and engage with the GNWT to facilitate the completion of the Inuvik Wind Project” and its emphasis on collaboration and nation-to-nation relationship building.⁴⁹ The Board also acknowledges NTECs commitment to “continue to work with the GTC on alternative investment approaches for potential investment in the project” and to “look at ways to structure the procurement to ensure Indigenous and local participation in the construction phase of the project is maximized.”⁵⁰

The Board encourages NTEC to work closely with the Gwich’in to continue engagement through life-of-project strategies that meet the need of all parties involved. To some degree, the lack of early participation by the GTC in this proceeding contributed to an uncertainty regarding each of the different Gwich’in organizations’ roles in the engagement and consultation process. The Board suggests that GTC collaborate with its DGOs and RRCs to develop additional guidance in this area, so that all involved parties have a sound understanding of how the Gwich’in would like to be engaged, and a clear path forward to do so in the future.

In conclusion, the Board is satisfied that its proceeding has achieved the second Engagement Policy objective of meeting statutory responsibilities pursuant to the MVRMA and the NWT Waters Act. The Board provided reviewers with additional time to review the Application when requested to so; it required NTEC to conduct additional engagement when questions of adequacy were raised; it provided an

⁴⁸ Ibid

⁴⁹ See [G18X005 G18L8-001 - Gwich'in Tribal Council - Comments on Engagement Plan and Record v 2.0 - Nov12 19](#)

⁵⁰ See [G18X005 - NTEC Response - Engagement Plan and Record v 2.0 - Dec02 19](#)

opportunity for commenting on draft Licence and Permit conditions; it provided an opportunity to request the Board to make rulings within its jurisdiction; and it provided an opportunity for affected parties to request a public hearing. No public hearing held, as no parties requested a hearing, and the Board determined that the concerns that were brought forward during the proceeding were mitigable through developer commitments, standard Permit and Licence conditions, and life-of-project engagement.

Crown Consultation

Regarding the final policy objective, namely the adequacy of Crown consultation, the Board has determined that the duty to consult in relation to matters within its jurisdiction has been satisfied.

The Engagement Policy lists four tools in its procedure for ruling on the adequacy of Crown consultation:

1. Tracking issues raised by potentially impacted Aboriginal organization/government: which was done by Board staff;
2. Addressing request for rulings: no motions were filed for a ruling on the adequacy of Crown consultation;
3. Ruling on adequacy of consultation within its own process: affected parties were given the opportunity to contribute meaningfully towards the assessment of impacts on the environment and the establishment of appropriate mitigations; and
4. Ruling on project coming out of environmental assessment or environmental impact review: this project was not referred to environmental assessment.

2.4.5 Preliminary Screening

Preliminary Screening is the first level of Environmental Impact Assessment in the Mackenzie Valley; it is an initial examination of a proposed development's potential to cause significant adverse impacts on the environment and/or public concern. Section 125 of the MVRMA governs how a preliminary screener makes decisions. In most cases, the preliminary screener must "determine and report to the Review Board whether, in its opinion, the development might have a significant adverse impact on the environment or might be a cause of public concern."⁵¹ Proposed developments that might cause a significant adverse impact on the environment – or might cause significant public concern, and which

⁵¹ See [125\(1\)\(a\) of the MVRMA](#)

cannot be mitigated through further studies or public hearings – must be referred to the Mackenzie Valley Environmental Review Board for an Environmental Assessment.

The GLWB may not issue a licence or permit for the carrying out of a proposed development unless the requirements of Part 5 of the MVRMA have been met.⁵² As a screener, the Board must ensure that the concerns of Aboriginal people and the general public are taken into account, and must consider the protection of the social, cultural, and economic well-being of residents of the Mackenzie Valley. In exercising its powers, the Board must also consider the importance of conservation to the well-being and way of life of the Aboriginal peoples of Canada to whom section 35 of the Constitution Act, 1982 applies.⁵³

To fulfill subsection 124(1) of the MVRMA, the Board met on November 16, 2020, to consider the preliminary screening of activities identified in the Permit and Licence Application. As per paragraph 125(1)(a) of the MVRMA, the Board determined that these activities would not have a significant adverse impact on the environment and would not be a cause of public concern. The Board's Preliminary Screening Report includes its reasons for that decision and is available on the Board's Public Registry.⁵⁴

3.0 REASONS

3.1 Decision – Water Licence G18L8-001

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The comments and recommendations made during the regulatory processes;
- 2) The evidence and submissions from NTEC received by the Board;
- 3) The written comments and submissions from parties received by the Board; and
- 4) Staff Reports prepared for the Board.

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA and the *Waters Act*, the Board has determined that Licence G18L8-001 should be issued, subject to the scope, definitions, conditions, and term contained therein.

The scope, definitions, conditions, and term set forth in the Licence have been developed to address the Board's statutory responsibilities and the concerns that arose during the regulatory process. The Reasons for Decision set out below focus on the major concerns and issues raised by parties, including those that were the subject of substantive argument submitted by one or more parties.

⁵² See [62, 114\(c\), and 115\(b\) and \(c\) of the MVRMA](#)

⁵³ See [60.1 of the MVRMA](#)

⁵⁴ See [G18X005 G18L8-001 - Preliminary Screening Report - Nov16 20](#)

Term of Licence

NTEC did not specify a requested term for the Licence. NTEC estimates a construction time of approximately 18 months but acknowledges that because of the highly specialized nature of the undertaking, delays in supply and logistics can be expected.⁵⁵

Subsection 26(2) of the *Waters Act* allows for a Licence term of not more than 25 years or the duration of the undertaking.

After reviewing the submissions made during this regulatory process, and taking into consideration the closely linked Permit, the Board has determined an appropriate term for this undertaking is 5 years.

Part A: Scope and Definitions

Part A of the Licence contains the scope and definitions for terms used throughout.

Scope

The scope of the Licence ensures the Licensee is entitled to conduct activities which have been applied for and screened by the Board. In setting out the scope of the Licence, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without be unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Permit.

Draft Licence Part A, condition 1(a)(ii) describing “Watercourse training for the purpose of culvert installation” was removed from the final Licence. The application described the installation of culverts as part of the road construction phase, so the condition was added to the Draft Licence; however during the public review, ENR recommended NTEC clarify the size of streams, as the training of streams less than 5 metres in width does not require a licence.⁵⁶ NTEC confirmed in the proponent response that the streams being trained were all less than 5 metres wide.

Part A, conditions 1(b) through 1(c) are consistent with previous Licences issued by the Board. These conditions ensure that the scope of the authorization includes all water uses and deposits of waste associated with the Project, reflect and comply with all applicable legislation for the life of the authorization, and consider and incorporate scientific and Traditional Knowledge where available in the Licensee’s effort to protect the environment.

⁵⁵ See [G18X005 G18L8-001 – Water Licence Application Form Oct30 19](#)

⁵⁶ See ENR comment 31 [G18X005 G18L8-001 – Reviewer Comment Summary Table 2 Mar15 20](#)

Definitions

The Board defined items in the Licence to ensure a common understanding of conditions, to avoid future differences in interpretation, and to use wording similar to that found in previously issued Licences. Where appropriate, the Board created new definitions, changed standard wording, or used specific definitions to describe specific facilities related to this Project as described below:

Part B: General Conditions and Schedule 1

Part B and Schedule 1 of the Licence contain general administrative conditions regarding compliance and conformity with the *MVRMA* and *Waters Act* and is consistent with standard conditions found in previous Licences issued by the Board.

Draft Licence Part B, condition 2 was removed from the final Licence, as was the definition of Water Use Fees, in response to ENR comment clarifying that as a subsidiary of the GNWT, NTEC is not required to pay Water Use Fees.⁵⁷

Part B, condition 9 and Schedule 1: Annual Water Licence Report

The requirements for the Annual Water Licence Report are outlined in Part B, condition 9, and Schedule 1, condition 1. The purpose of the Annual Water Licence Report is to provide the Board and all stakeholders the opportunity to be annually updated on project components and activities, and to provide a platform for stakeholders to submit comments, observations, feedback, and questions as necessary. The requirements are intended to provide clarity and summarize information already captured through existing submissions; they are not meant to be onerous. The Board organized these requirements to coincide with the layout of the Licence and to be consistent with recently issued licences.

Part B, condition 8: Engagement

The Board assesses the adequacy of an Applicant's engagement using the Board's *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*,⁵⁸ and the Board's *Engagement and Consultation Policy*.⁵⁹

⁵⁷ See ENR comment 29 [G18X005 G18L8-001 – Reviewer Comment Summary Table 2 Mar15_20](#)

⁵⁸ See www.mvlwb.com → Resources → Policies and Guidelines: [Engagement Guidelines for Applicants and Holders of Water Licences](#)

⁵⁹ See www.mvlwb.com → Resources → Policies and Guidelines: [Engagement and Consultation Policy](#)

The Board has approved the Engagement Plan because it meets the Board’s Engagement Guidelines and Policy, and sufficiently reflects the scope of the proposed activities.

Please see Section 2.4.2 of this document for the Board’s reasons for this Decision.

Part C: Security

Part C of this Licence has been intentionally left blank, as NTEC was determined to be exempt from posting security requirements.

Note that this section had not been included in the Draft Licence but has been added so to be consistent with the *2019 MVLWB Water Licence Standard Template*.⁶⁰

Part D: Water Use

Part D of the Licence contains conditions related to water use for the Project. These are consistent with standard conditions found in previous Licences issued by the Board.

Water may be sourced from Dolomite Lake and Campbell Creek during the construction phase, to a combined maximum total of 110 cubic metres per day.

During the public review, ENR recommended that water sources not be approved until additional information is provided including: Requested maximum annual quantities of water to be withdrawn from each source lake; bathymetric information on Dolomite Lake including depths and available water under-ice; a comparison of total water volumes requested from the source against total water available under-ice; and the potential impacts to the rate of flow of Campbell Creek. ENR suggested if the above is not available to the applicant, the applicant should at the very least provide a tabletop assessment of the size, depth and volume of water available in each source. ENR recommended the Board identify in Part C of the Water Licence each water source that may be used for water withdrawal and the maximum quantity that may be withdrawn annually from each source.⁶¹

NTEC clarified that water use would be used almost exclusively in the summer, when dust suppression was required.⁶²

⁶⁰ See www.mvlwb.com → Resources → Policies and Guidelines: [MVLWB Water Licence Standard Template](#)

⁶¹ See ENR comment 21 & 22, [G18X005 G18L8-001 – Reviewer Comment Summary Table 2 Mar15 20](#)

⁶² *ibid*

The Board notes that Dolomite Lake has an area of 507 hectares and reaches depths up to 20 meters⁶³.

The Board added Conditions 3 and 4 to Part D of the Licence.

D3. The Licensee shall ensure that the withdrawal of water from Campbell Creek does not exceed 10% of its instantaneous flow

D4. In any single ice-covered season, the Licensee shall not withdraw greater than 10% of the available Water volume of any Watercourse, as calculated using the appropriate maximum expected ice thickness.

The Board decided that these conditions, which have been used in recent Water Licences, adequately mitigate concerns regarding impacts to flow rate and under ice withdraw volumes, given the relatively short duration of water use contemplated by the project.

Part E: Construction

Part E of the Licence contains conditions applying to construction activities for the Project and is consistent with standard conditions found in previous Licences issued by the Board. These conditions ensure that engineered structures are built to appropriate standards and require the submission of design and engineering reports. The Board notes NTECs commitment to provide final design drawings to the GLWB.

Part F: Waste and Water Management

Part F of the Licence contains conditions applying to waste and water management activities for the Project and is consistent with standard conditions included in previous Licences issued by the Board. Site-specific conditions were developed where necessary.

Part F, Condition 1 sets out the objectives for the management of water and waste for the Project. This condition is consistent with the principles of objective-based regulation: it essentially defines the objectives of any required management actions, plans or reports. This condition is standard for Licences issued by the Board and reminds the Licensee of the need to manage water and waste with the goal of minimizing impacts on the receiving environment.

Part F, Condition 2, Waste Management Plan

⁶³See Dolomite Lake Recreation Management Plan: Public Engagements retrieved from <https://www.lands.gov.nt.ca/en/previous-public-engagements>

The Boards' authority to regulate the management of waste is described in subsection 26(1) of the MVLUR and sections 11 and 27 of the *Waters Act*. As such, the Board developed, and approved, *Guidelines for Developing a Waste Management Plan*.⁶⁴ These guidelines can be applied to a wide range of projects and is intended to ensure that all waste management activities specific to each project are carried out in a way that is consistent with best practices and applicable guidelines to minimize waste released from the Project. Waste Management Plan is a defined term in the Licence, ensuring that the required Plan adheres to the Board's Guidelines.

NTEC included a Waste Management Plan in its Applications.

The Board has approved the Waste Management Plan because it meets the Board's Guidelines, and sufficiently reflects the scope of the proposed activities. During the public review minor revisions were recommended, and NTEC committed to making these updates. These revisions should be addressed. The revised Plan will be considered to be approved upon written confirmation of conformity from Board staff.

Part F, Condition 3, Erosion and Sediment Control Plan

Part F, Condition 3 requires the submission of a Sediment and Erosion Plan prior to the commencement of Project activities. This is consistent with the recent Licences issued for road construction activities.

Part G: Aquatics Effects Monitoring

Not applicable to this project. Section is intentionally left blank.

Part H: Spill Contingency Planning

Part H of the Licence contain conditions related to spill contingency planning and reporting, reclamation of spills and unauthorized discharges, and emergency response for the Project. The purpose of this part is to ensure that NTEC is fully prepared to respond to spills and unauthorized discharges. The planning and reporting requirements in this part ensure that NTEC has identified the lines of authority and responsibility, has an action plan(s) for responses to spills and unauthorized discharges, and has established reliable reporting and communication procedures. This will ensure that any spills or unauthorized discharges are effectively controlled and cleaned up, with the goal of preventing or limiting damage to the receiving environment. The conditions in Part H are consistent with standard conditions found in previous Licences issued by the Board.

⁶⁴ See www.mvlwb.com → Resources → Policies and Guidelines: [MVLWB Guidelines for Developing a Waste Management Plan](#)

Part H Condition 1: Spill Contingency Plan

Spill Contingency Plan is a defined term in the Licence, referencing the Indian and Northern Affairs Canada's *Guidelines for Spill Contingency Planning*.⁶⁵ NTEC included a Spill Contingency Plan in the Applications.

The Board has approved the Spill Contingency Plan because it meets the Board's Guidelines, and sufficiently reflects the scope of the proposed activities. During the public review minor revisions were recommended, and NTEC committed to making these updates. These revisions should be addressed in a revised plan, which is to be submitted to the Board. The revised Plan will be considered to be approved upon written confirmation of conformity from Board staff OR the Board.

Part I: Closure and Reclamation

Part I of the Licence contains conditions applying to closure and reclamation of the Project. Condition 1 requires NTEC to submit a Closure and Reclamation Plan a minimum of 12 months prior to the end of operations. This is a standard requirement of Licences issued by the Board and will ensure the Project is reclaimed in accordance with guidelines and expectations of reviewers and the Board at the time of decommissioning.

3.2 Decision – Land Use Permit G18X005

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The comments and recommendations made during the regulatory processes;
- 2) The evidence and submissions from NTEC received by the Board;
- 3) The written comments and submissions from parties received by the Board; and
- 4) The Staff Reports prepared for the Board.

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA, the Board has determined that Permit G18X005 should be issued subject to the scope, definitions, conditions, and term contained therein. The Board's determinations and reasons for this decision are set out below.

⁶⁵ See www.mvlwb.com → Resources → Policies and Guidelines: [INAC Guidelines for Spill Contingency Planning](#)

The scope, definitions, conditions, and term set forth in the Permit have been developed to address the Board's statutory responsibilities and the concerns that arose during the regulatory processes. The Reasons for Decision set out below focus on the major concerns and issues raised by parties, including those that were the subject of substantive argument submitted by one or more parties.

Term of Permit

NTEC has applied for a term of 5 years for the Permit, with a desire for an extension. Subsections 26(5) of the MVLUR allows for a Permit term of not more than five years. After reviewing the submissions made during this regulatory process, the Board has determined an appropriate term for this land use operation is 5 years.

Part A: Scope

The scope of the Permit ensures the Permittee is entitled to conduct activities which have been applied for and screened by the Board. In setting out the scope of the Licence, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without be unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Permit.

Part B: Definitions

The Board defined items in the Permit to ensure a common understanding of conditions, to avoid future differences in interpretation, and to use wording similar to that found in previously issued Permits. For the most part, the definitions used wording from the Board's *Standard Land Use Permit Conditions Template* (Standard Template).

Part C: Conditions Applying to All Activities

The subheadings below correspond to the headings in the conditions section of the Permit, as outlined in section 26(1) of the MVLUR. Most conditions in the Permit are from the Board's Standard Template and are not discussed in detail in these Reasons for Decision unless notable due to recommendations or concerns raised during the public review. Where applicable, the Board's reasons for including non-standard conditions are discussed.

26(1)(a) Location and Area

The conditions included in this section are all consistent with the Board's Standard Template.

The Standard WIDTH OF RIGHT OF WAY Condition was included on the Draft Permit. During the public review, NTEC emphasized that has applied for, and would require up to 40 m to allow for the safe

transport of turbine components and transmission line installation. The condition was updated to reflect these constraints.⁶⁶

26(1)(b) Time

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(c) Type and Size of Equipment

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(d) Methods and Techniques

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(e) Type, Location, Operation of All Facilities

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

The conditions included in this section are all consistent with the Board's Standard Template.

During the Public Review, NTEC requested that the following Permit conditions be removed or amended to allow for summer road construction:⁶⁷

14 - PREVENTION OF RUTTING

15 - SUSPEND OVERLAND TRAVEL

16 - VEHICLE MOVEMENT FREEZE-UP

The Board has decided not to remove these conditions. In its application NTEC states that "the access road will be developed by INF and will follow best practices for design, construction, and operation as specified in the Northern Land Use Guidelines (NLUG) for Access: Roads and Trails (GNWT 2015), as well as any other internal best practice measures."⁶⁸ The Board notes that the NLUG recommends that "to avoid rutting and erosion in permafrost terrain, overland travel is not permitted during summer months and road construction should only take place during late fall or winter when the active layer is well frozen."⁶⁹

⁶⁶ See NTEC Comments on Draft Permit in [G18X005 G18L8-001 – Reviewer Comment Summary Table 2 Mar15 20](#)

⁶⁷ Ibid.

⁶⁸ See [G18X005 G18L8-001 - LUP WL Application Supporting Information - Oct30 18.pdf](#) at page 36

⁶⁹ See [www.lands.gov.nt.ca](#) for [Northern Land Use Guidelines for Roads and Trails](#)

Further, NTEC's Application indicates that slope percent along the access road corridor ranges from 0 – 20%,⁷⁰ while the Project's Geotechnical report states: "The proposed road alignment is underlain by organic-rich / ice-rich overburden found at widely varying thicknesses, between depths of 1.5 and 7.9 m below ground surface...[and] traverses an area with ice-rich permafrost."⁷¹ The Board suggests that particular care and attention will be required during construction and operation of the access road, so to prevent erosion, rutting, and thaw-induced settlement, particularly in those "areas along the road alignment with polygonal ground, low drainage, and/or deep overburden."⁷²

26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(h) Wildlife and Fish Habitat

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage;

A Waste Management Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure that all waste management activities are carried out in a way that is consistent with best practices and applicable guidelines to minimize waste released from the Project. This Plan is also required under Part F of the Licence and the Board's reasons for including this Plan, and requiring revisions and re-submittals, are described above in Section 3.1. The Board mirrored these conditions to the extent possible with the Licence requirements to ensure one submission will satisfy conditions of both the Licence and Permit.

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(j) Protection of Historical, Archaeological, and Burial Sites;

An archeological Impact Assessment was undertaken in advance of application, results were negative, and no concerns identified during public review.

The conditions included in this section are all consistent with the Board's Standard Template.

⁷⁰ See [G18X005 G18L8-001 - LUP WL Application Supporting Information - Oct30 18.pdf](#) at page 64

⁷¹ See [G18X005 - LUP Application - Draft Geotechnical Report - Nov05 18](#) at page 21

⁷² See [G18X005 - LUP Application - Draft Geotechnical Report - Nov05 18](#) at page 17

26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value

The condition included in this section is consistent with other Permits issued in the Gwich'in Settlement Area. It requires NTEC to take all reasonable precautions to avoid impacts to traditional use activities.

26(1)(l) Security Deposit

The Board is authorized to require the Permittee to provide security to the Minister by subsection 32(1) of the MVLUR. Subsection 32(2) of the MVRMA specifies how the security may be applied.

The Board has not included a requirement for security in the Permit; GNWT confirmed during the review period that because NTEC is an agent of the GNWT, it is exempt from security deposits.

26(1)(m) Fuel Storage

A Spill Contingency Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure that an action plan(s) for responses to spills and Unauthorized Discharges and has established to effectively control and clean up spills and Unauthorized Discharges, with the goal of preventing or limiting damage to the receiving environment. This Plan is also required under Part G of the Licence and the Board's reasons for including this Plan, and requiring revisions and re-submittals, are described above in Section 3.1. The Board mirrored these conditions to the extent possible with the Licence requirements to ensure one submission will satisfy conditions of both the Licence and Permit.

26(1)(n) Methods and Techniques for Debris and Brush Disposal

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(o) Restoration of the Lands

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(p) Display of Permits and Permit Numbers

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(q) Biological and Physical Protection of the Land

An Engagement Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure adequate and effective engagement with potentially affected parties has occurred prior to the submission of the Applications (in the form of the Engagement Log) and is planned for throughout the life of the Project. This Plan is also required under Part B of the Licence and the Board's

reasons for including this Plan, and requiring revisions and re-submittals, are described above in Section 3.0. The Board mirrored these conditions to the extent possible with the Licence requirements to ensure one submission will satisfy conditions of both the Licence and Permit.

The remaining conditions included in this section are all consistent with the Board's Standard Template.

4.0 CONCLUSION

Subject to the scopes, definitions, conditions, and terms set out in the Licence and Permit, and for the reasons expressed herein, the GLWB is of the opinion that the land-use activities, water use, and waste disposal associated with the Inuvik Wind Project can be completed by NWT Energy (03) Corporation Ltd. while providing for the conservation, development, and utilization of waters in a manner that will provide the optimum benefit for all Canadians and in particular for the residents of the Mackenzie Valley's Gwich'in Settlement Area.

Water Licence G18L8-001 and Land Use Permit G18X005 contain provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA, *Waters Act*, and the Regulations made thereunder, and to provide appropriate safeguards in respect of NTEC'S use of the land and water affected by the Licence.

SIGNATURE



Elizabeth Wright, Chair
Gwich'in Land and Water Board

November 27, 2020

Date