

### Review Comment Table

<b>Board:</b>	WLWB
<b>Review Item:</b>	Nighthawk - Type A Land Use Permit Amendment (W2018C0007)
<b>File(s):</b>	<a href="#">W2018C0007</a>
<b>Proponent:</b>	Nighthawk Gold Corp.
<b>Document(s):</b>	<a href="#">W2018C0007 - Nighthawk - Land Use Permit - Amendment Request - Oct 15 20</a> (97 KB) <a href="#">W2018C0007 - Nighthawk - LUP Amendment - Security Estimate - Oct 15 20</a> (29 KB) <a href="#">W2018C0007 - Nighthawk - LUP Amendment - Engagement Log - Oct 15 20</a> (153 KB) <a href="#">W2018C0007 - Nighthawk - LUP Amendment - Draft Permit - Oct 15 20</a> (353 KB)
<b>Item For Review Distributed On:</b>	Oct 15 at 11:28 <a href="#">Distribution List</a>
<b>Reviewer Comments Due By:</b>	Nov 2, 2020
<b>Proponent Responses Due By:</b>	Nov 6, 2020
<b>Item Description:</b>	<p>Nighthawk Gold Corp. (the Applicant, Nighthawk) has submitted a request to amend Land Use Permit (Permit) W2018C0007. The Applicant is requesting to amend: the size of camp referenced in the complete Application; Part C, Condition 13 for additional equipment on site; and Part C, Condition 57 to increase security to reflect the proposed amendment. The Applicant has also requested an exemption from preliminary screening because the Applicant believes that the development, or a part thereof, has not been modified since it was previously permitted.</p> <p><b>Using the Online Review System (ORS), reviewers are invited to submit comments and recommendations on the documents linked below by the review comment deadline specified. Reviewers may also wish to consider providing an overarching recommendation regarding whether the Board should approve the submission, to provide context for the comments and recommendations and assist the Board with its decision. If reviewers seek clarification on the submission, they are encouraged to correspond directly with the Applicant prior to submitting comments and recommendations.</b></p> <p>Under the Preliminary Screening Requirement Regulations, the Board must conduct a preliminary screening for a proposed development, unless it is exempt from preliminary screening in accordance with the Exemption List Regulations. Reviewers are encouraged to provide comments and recommendations (e.g., on impacts and mitigation measures) to assist with the Board’s preliminary screening determination. Links to preliminary screenings conducted and approved by the Board under previous Permits are provided below:</p> <ul style="list-style-type: none"> <li>• <a href="#">W2006C0001 – February 9, 2006;</a></li> <li>• <a href="#">W2012C0002 – February 29, 2012;</a> and</li> </ul>

<b>Contact Information:</b>	<ul style="list-style-type: none"> <li><a href="#">W2012C0002 – May 28, 2014.</a></li> </ul> <p>Please be advised that comments made by reviewers regarding impacts of this proposed amendment to wildlife and wildlife habitat in this preliminary screening will inform the GNWT Minister of Environment and Natural Resources' determination regarding whether a Wildlife Management and Monitoring Plan will be required for this project as per section 95 of the <i>Wildlife Act</i>.</p> <p>All documents that have been uploaded to this review are also available on our public Registry. If you have any questions or comments about the ORS or this review, please contact Board staff identified below.</p>
<b>Contact Information:</b>	<p>Meaghan MacIntyre-Newell 867-765-4584 Meghan Schnurr 867-765-4590</p>

### Comment Summary

CIRNAC - Inspector: Tim Morton			
ID	Topic	Reviewer Comment/Recommendation	Proponent Response
1	Federal Inspector Comments	<p><b>Comment</b> The federal Inspector agrees with the recommendations of the GNWT on the proposed wording of the conditions within the land use permit.</p> <p><b>Recommendation</b> See above comment.</p>	<p><b>Nov 6:</b> Nighthawk acknowledges this comment and thanks CIRNAC for their time to review.</p>
GNWT - ENR - EAM (Environmental Assessment and Monitoring): Central Email GNWT			
ID	Topic	Reviewer Comment/Recommendation	Proponent Response
1	General File	<p><b>Comment</b> (<a href="#">doc</a>) ENR Letter with Comments and Recommendations</p> <p><b>Recommendation</b></p>	
2	Topic: Nesting Birds	<p><b>Comment</b> ENR-Wildlife is aware that Nighthawk Gold Corp. (Nighthawk) has a Wildlife Mitigation and Monitoring Plan (WMMP) for the Indin Lake Project which includes discussion of bird nests; however, we would like to reiterate the following comments and recommendations regarding nesting birds which apply when clearing vegetation or conducting earthworks between April 1st and September 24th. . Protection of nests is essential to ensuring reproductive success and survival of both adult birds and their young . Critical breeding periods for NWT raptors can start as early as the 1st week of April and last up until 3rd week of September, depending on the species and location. . Conducting activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures during the nesting season increases the risk of the disturbance or destruction of any type of occupied bird nest. This would be contravening paragraph 51(1)(a) and(b) of the</p>	<p><b>Nov 6:</b> Nighthawk will comply with this recommendation, which is already contained within the Wildlife Mitigation and Monitoring Plan (WMMP).</p>

		<p>Wildlife Act. . Activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures may also disturb the birds themselves. Section 52 of the Wildlife Act prohibits disturbance and harassment of prescribed species. Prescribed birds for the purpose of paragraph 51(1)(c) and 52 of the Wildlife Act are birds of prey (raptors) as set out in Schedule B of the Wildlife General Regulations. However while a raptor nest may not be intentionally destroyed, typically on a case-by-case basis the destruction or removal of nests may be authorized where required by General Wildlife Permit. . While compliance to the Wildlife Act and its regulations are required, the Canadian Wildlife Service of Environment and Climate Change Canada is the primary responsible management authority for migratory birds protected under the Migratory Birds Convention Act, 1994 (<a href="https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html">https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html</a>). . GNT is responsible for the management of non-migratory birds including upland game birds like ptarmigan and grouse, and raptors as indicated in the schedules of the Wildlife General Regulations.</p> <p><b>Recommendation 1)</b> ENR recommends conducting vegetation clearing, and any new ground disturbance, outside of the nesting season for birds in the project area.</p>	
3	None	<p><b>Comment</b> None</p> <p><b>Recommendation 2)</b> Information on critical breeding periods for raptors in the NWT is available at the following link: <a href="https://www.enr.gov.nt.ca/sites/enr/files/raptor_species_breeding_periods.pdf">https://www.enr.gov.nt.ca/sites/enr/files/raptor_species_breeding_periods.pdf</a></p>	<p><b>Nov 6:</b> This information is noted. Vegetation clearing for the Project is very rare, and typically limited to drill pads accessed by helicopter. Most activity is on previously disturbed ground. Note that the correct link is <a href="https://www.enr.gov.nt.ca/node/1491">https://www.enr.gov.nt.ca/node/1491</a></p>
4	None	<p><b>Comment</b> None</p> <p><b>Recommendation 3)</b> Follow the Government of Canada's Guidelines to Reduce Risk to Migratory Birds is available at the following link: <a href="https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html">https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html</a></p>	<p><b>Nov 6:</b> The relevant mitigation from these Guidelines are already contained within the WMMP.</p>
5	None	<p><b>Comment</b> None</p> <p><b>Recommendation 4)</b> Consult the Government of Canada's General Nesting Periods of Migratory Birds for current information on general nesting periods of federally protected migratory birds that occur within the NWT. Information can be found at the following link: (<a href="https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods.html">https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods.html</a>)</p>	<p><b>Nov 6:</b> Nighthawk will comply with this recommendation, which is already contained within the WMMP.</p>
6	None	<p><b>Comment</b> None</p> <p><b>Recommendation 5)</b> If active nests are encountered during project activities implement protective buffer zones described in applicable the regional land use plan, Table 6 of the</p>	<p><b>Nov 6:</b> The nearest applicable land use plan is the Tlicho Land Use Plan, which does not contain direction on setbacks</p>

		Northern Land Use Guidelines “ Northwest Territories Seismic Operations ( <a href="http://www.lands.gov.nt.ca/en/northern-land-use-guidelines">http://www.lands.gov.nt.ca/en/northern-land-use-guidelines</a> ), or the Government of Canada’s guidance on Establishing Buffer Zones and Setback Distances for Nests which can be found at the following link: <a href="https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc5">https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc5</a>	from nests or wildlife abodes. The WMMP currently states that any active nests encountered on Project infrastructure or equipment would trigger an Incident Report and would be discussed with GNWT-ENR.
7	None	<b>Comment</b> None <b>Recommendation</b> 6) If disturbance or destruction of an occupied nest or eggs of a non-migratory bird species (including raptors) cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest/eggs can be obtained.	<b>Nov 6:</b> Vegetation clearing for the project is very rare, and limited to drill pads accessed by helicopter. The WMMP already states that such an event would trigger a report to GNWT-ENR.
8	Topic: Nesting Birds	<b>Comment</b> ENR-Wildlife is aware that Nighthawk has a WMMP for the Indin Lake Project; however, the following comments and recommendations cover unoccupied bird nests, which are not discussed in the WMMP. These comments and recommendations apply when clearing vegetation or conducting earthworks between October 1st and May 1st. Activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures may disturb a bird nest that is not occupied. Paragraph 51(1), (c) of the Wildlife Act prohibits the destruction of a nest of a prescribed bird species even if it is unoccupied, and section 52 of the Wildlife Act prohibits disturbance and harassment of prescribed species. Prescribed birds for the purpose of paragraph 51(1), (c) and 52 of the Wildlife Act are birds of prey (raptors) as set out in Schedule B of the Wildlife General Regulations. However, while a raptor nest may not be intentionally destroyed, even if unoccupied, typically on a case-by-case basis the destruction or removal of nests may be authorized where required by General Wildlife Permit. <b>Recommendation</b> 1) If disturbance or destruction of an unoccupied raptor nest cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest can be obtained.	<b>Nov 6:</b> The WMMP already states that Nighthawk will report any raptor nesting activity within 1.5 km of the exploration activities to GNWT-ENR.
9	Topic: Wildlife Abodes	<b>Comment</b> ENR-Wildlife is aware that Nighthawk has a WMMP for the Indin Lake Project; however, the following comments and recommendations cover natural wildlife shelters such as bear dens, beaver dams or lodges, muskrat push-ups, or hibernaculums, which are not discussed in the WMMP. These comments and recommendations apply when clearing vegetation or conducting earthworks between October 1 and May 1. Subject to sub-section 51(2) of the Wildlife Act, it is illegal to break into, destroy or damage a den, beaver dam or lodge, muskrat push-up or hibernaculum unless you have an Aboriginal or treaty right, license or a permit to do so. Protection of dens, beaver lodges, muskrat push-ups, and hibernacula is essential to ensuring reproductive success and survival of both adults and young.	<b>Nov 6:</b> The WMMP contains the mitigation to 'not disturb beaver lodges, muskrat push-ups and hibernacula if encountered', which was added to Version 3.1 at the request of GNWT-ENR during the 2018 application phase.

		<b>Recommendation 1)</b> The Proponent should contact ENR prior to start-up of project activities to determine if there are any known dens, push-ups, lodges, beaver dams or hibernacula within the project area.	
10	None	<b>Comment</b> None <b>Recommendation 2)</b> Prior to start-up of project activities, the Proponent should conduct surveys of lakes or other water bodies proposed to be used for water withdrawal or winter access roads to determine the presence of muskrat push-ups, beaver lodges or beaver dams. If one or more of these features is found contact ENR to discuss mitigation options.	<b>Nov 6:</b> The approved Water Use Plan for W2018L2-0002 effectively excludes small shallow waterbodies as sources. The Water Use Plan follows the MVLWB Method for Determining Available Winter Water Volumes for Small-Scale Projects.
11	None	<b>Comment</b> None <b>Recommendation 3)</b> The Proponent should conduct pre-activity surveys within 800m of the project footprint to identify active bear dens between September 30 and March 30. Surveys should be conducted in the fall shortly after the first snow fall to detect freshly dug dens.	<b>Nov 6:</b> This request was made by GNWT-ENR during their review of Version 3.0 of the WMMP, and requested change was made to the WMMP in Version 3.1 (Section 3.0).
12	None	<b>Comment</b> None <b>Recommendation 4)</b> If an active bear den is detected, or suspected, implement and maintain an 800 m buffer zone until the bear emerges in spring.	<b>Nov 6:</b> See response to ID#11
13	None	<b>Comment</b> None <b>Recommendation 5)</b> If the bear den and exclusion zone would result in the halt of part or the entire program, the Proponent should contact ENR to discuss alternative mitigation options. The location of active bear dens should be kept confidential between the developer and ENR until after emergence in the spring.	<b>Nov 6:</b> See response to ID#11
14	None	<b>Comment</b> None <b>Recommendation 6)</b> Further guidance on different setback distances and timing windows for wildlife abodes are provided in Table 2-5 of the Northern Land Use Guidelines: Northwest Territories Seismic Operations found at the following link: <a href="https://www.lands.gov.nt.ca/sites/lands/files/resources/nlug_seismic_2015_english_-_16_sept_2015.pdf">https://www.lands.gov.nt.ca/sites/lands/files/resources/nlug_seismic_2015_english_-_16_sept_2015.pdf</a>	<b>Nov 6:</b> As per the WMMP, Nighthawk would contact GNWT-ENR in such a situation.
15	None	<b>Comment</b> None <b>Recommendation 7)</b> Proponents should also check whether there are setback distances and timing restrictions for wildlife abodes within the applicable regional land use plan for their project area.	<b>Nov 6:</b> See response to ID#6
16	Topic: Wildlife Attractants	<b>Comment</b> ENR-Wildlife is aware that Nighthawk Gold has a Waste Management Plan for the Indin Lake Project; however, the following comments and recommendations regarding waste are not discussed in the WMMP. These comments and recommendations apply when there is	<b>Nov 6:</b> This recommendation is already included in the Waste Management Plan.

	and Waste Management	<p>a remote camp with storage of food, food wastes or other wildlife attractants on-site. Subject to sub-section 66(1) of the Wildlife Act no person shall store food, waste, or other substances in a manner that may attract big game and put people, domestic animals or wildlife in danger. Subject to sub-section 65(1) of the Wildlife Act, it is illegal to intentionally feed big game or fur-bearers. Schedule A - Part 1 of the Wildlife General Regulations sets out the wildlife that are prescribed as big game, and Part 2 sets the wildlife that are prescribed as fur-bearers.</p> <p><b>Recommendation</b> 1) The Proponent should utilize food and garbage handling and storage procedures that will minimize the attraction of wildlife.</p>	
17	None	<p><b>Comment</b> None</p> <p><b>Recommendation</b> 2) The Proponent should store all food, waste, washed recyclables and debris that may attract wildlife within sealed animal proof containers until final disposal.</p>	<p><b>Nov 6:</b> As described in the introduction to the Incinerator Management Plan, all such waste streams are stored within a closed building. Land Use Permit condition 49 requires that all garbage and debris be kept in a secure container.</p>
18	None	<p><b>Comment</b> None</p> <p><b>Recommendation</b> 3) The Proponent should ensure that sealed animal proof containers are cleaned once emptied to minimize the attraction of wildlife.</p>	<p><b>Nov 6:</b> See response to ID#17</p>
19	None	<p><b>Comment</b> None</p> <p><b>Recommendation</b> 4) The Proponent should remove all contaminated waste, waste petroleum products including used oil filters, rags, scrap metal, discarded machinery, parts, drums, barrels, or plastics to an approved waste disposal facility.</p>	<p><b>Nov 6:</b> This approach is already used and is described in the Waste Management Plan.</p>
20	Topic: Cumulative Effects	<p><b>Comment</b> The following comments and recommendations apply to any type of development: . Keeping track of the disturbance footprint of development activities is an important component of tracking and informing the management of cumulative effects on wildlife and wildlife habitat. . To better understand cumulative effects in the NWT, ENR-NWT Cumulative Impact Monitoring Program has developed the 'Inventory of Landscape Change' (ILC). One of the layers incorporated in the ILC is derived from public registry documents and validated through satellite imagery. Submission of standardized spatial data to public registries facilitates data acquisition for this layer.</p> <p><b>Recommendation</b> 1) ENR-Wildlife is aware that Nighthawk Gold has submitted bounding coordinates for the project. However, geospatial data for the proposed project footprint and for the completed project footprint should be submitted to the Land and Water Board for placement on the public registry. The MVLWB's Standards for Geographic Information Systems (GIS) Submissions should be followed when submitting spatial data.</p>	<p><b>Nov 6:</b> The project location GIS files can be provided at the request of the WLWB.</p>

21	Topic: Species at Risk	<p><b>Comment</b> ENR-Wildlife is aware that Nighthawk Gold has a WMMP for the Indin Lake Project which includes discussion of Species at Risk; however, we would like to reiterate the following comments and recommendations regarding Species at Risk. Section 76 and 77 of the Species at Risk (NWT) Act requires the Minister of Environment and Natural Resources to make a submission to the body responsible for assessing the potential impacts of a proposed development, or for considering a land use Permit or water Licence application, respecting the potential impacts of the proposed development, Permit or Licence application on a NWT-listed or pre-listed species or its habitat. NWT-listed species are those that are on the NWT List of Species at Risk. Pre-listed species are those that have been assessed by the NWT Species at Risk Committee (SARC) but have not yet been added to the NWT List of Species at Risk. The Proponent should be aware that NWT-listed or pre-listed species at risk and their habitat may also be subject to protection under existing sections of the NWT Wildlife Act. As a best practice, ENR encourages the proponent to consider potential impacts, mitigation measures and monitoring requirements for species at risk listed under the federal Species at Risk Act, as well as those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that may occur in the project area, and the prohibitions that may apply to these species under federal legislation. The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species; information on these species is available at the following link: <a href="https://www.nwt-species-at-risk.ca/SpeciesAtRisk">https://www.nwt-species-at-risk.ca/SpeciesAtRisk</a> . Barren-ground Caribou (excluding the Porcupine herd) - Threatened in the NWT</p> <p><b>Recommendation</b> 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the nature, scale, location and timing of the proposed project are such that the likelihood of impacts to NWT-listed or pre-listed species listed above can be avoided or minimized if ENR's wildlife recommendations in this letter are implemented as necessary, as well as the application of any wildlife mitigation and monitoring measures outlined in the Proponent's Land Use Permit, Water Licence, Wildlife Mitigation and Monitoring Plan, and other supporting documents.</p>	<p><b>Nov 6:</b> Nighthawk agrees that impacts to wildlife can be avoided or minimized, as per the WMMP and the Land Use Permit conditions. The GNWT-ENR recommendations are being implemented, as shown in the above responses. Note that most Project activities occur on previously disturbed land at the Colomac mine.</p>
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**GNWT - Lands - North Slave Region: Clint Ambrose**

ID	Topic	Reviewer Comment/Recommendation	Proponent Response
1	26(1)(c) Type and Size of Equipment - Condition #13 - Only Approved Equipment	<p><b>Comment</b> Condition #13 states the following; "The Permittee shall not use any equipment except of a similar type, size, and number to that listed in the complete application dated 16 October 2018 and the amended application dated 7 October 2020."</p> <p><b>Recommendation</b> The Inspector recommends that ...dated 16 October 2018 and the amended application dated 7 October 2020 be removed from Condition #13 since it is unnecessary.</p>	<p><b>Nov 6:</b> Nighthawk agrees with the proposed change.</p>

2	26(1)(d) Methods and Techniques - Condition #16 - Refill Craters	<b>Comment</b> The draft land use permit has been reviewed. <b>Recommendation</b> Condition #16 is for seismic operations and not applicable to the authorized or proposed amendments to the land use permit.	<b>Nov 6:</b> Nighthawk agrees with the proposed change.
3	26(1)(m) Fuel Storage - Condition #60 - Check for Leaks	<b>Comment</b> Condition #60 states; The Permittee shall: a) examine all Fuel Storage Containers and Tank for leaks <strong>a</strong> <strong>minimum</strong> regularly; and b) repair all leaks immediately.&nbsp; <b>Recommendation</b> Please remove &quot;a&nbsp;  minimum&quot; from this condition.	<b>Nov 6:</b> Nighthawk agrees with the proposed change.

**Tlicho Government: LONGINUS EKWE**

ID	Topic	Reviewer Comment/Recommendation	Proponent Response
1	Waste Management	<b>Comment</b> We noticed the activities relevant to the Waste Management Plan(WMP) include the operation and maintenance of one base camp, at the Colomac site with a capacity for up to 50 people. We asked Nighthawk some questions about waste management for additional people and drills. They told us the existing waste management strategies will be adequate to handle the additional waste and that&nbsp;  they&rsquo;re planning on merging their Incinerator Management Plan with the WMP; again that the incinerator will be able to accommodate the increased waste production. <b>Recommendation</b> We recommend that Nighthawk update the waste management plan (WMP) to ensure that waste(human, food, grey water etc) resulting from the additional people on site is managed appropriately and for the Board to ensure that this new camp capacity is reflected in the updated WMP.	<b>Nov 6:</b> Nighthawk is willing to make the update to the Waste Management Plan at the direction of the WLWB.

**Wek' eezhii Renewable Resources Board: Laura Meinert**

ID	Topic	Reviewer Comment/Recommendation	Proponent Response
1	Nighthawk - Type A Land Use Permit Amendment	<b>Comment</b> The WRRB has no comments at this time. <b>Recommendation</b> The WRRB has no recommendations at this time.&nbsp;	<b>Nov 6:</b> Nighthawk thanks the WRRB for their review.

**WLWB: Meaghan MacIntyre-Newell**

ID	Topic	Reviewer Comment/Recommendation	Proponent Response
1	Camp Size	<b>Comment</b> Nighthawk has requested to increase the camp size. The Security Estimate indicates there will be 16 additional weatherhavens constructed however, this is not reflected in the Amendment Request.	<b>Nov 6:</b> Nighthawk confirms that the maximum number of new structures to be



		<p><b>Recommendation</b> Can Nighthawk confirm that the maximum number of temporary structures to be constructed is 16 weatherhavens? If no, please provide the maximum number of temporary structures that will be constructed.</p>	<p>constructed is 16, although there are no immediate plans to install this many.</p>
2	Security Estimate	<p><b>Comment</b> In the Security Estimate, Nighthawk has used the Environmental Risk Factor multiplier for a location that has been previously disturbed. Nighthawk is also requesting additional equipment in this Amendment. It is unclear if all activities resulting from the Amendment Request will be used in previously disturbed locations.</p> <p><b>Recommendation</b> Can Nighthawk clarify if all activities associated with the requested Amendment will take place on previously disturbed land? If not, please provide rationale for why the Environmental Risk Factor for a location that has been previously disturbed was selected in the Security Estimate.</p>	<p><b>Nov 6:</b> Most activities associated with this application will continue to occur at the disturbed Colomac site and previously disturbed regional prospects. It is unreasonable to increase the Environmental Risk Factor for the entire project based on the possibility that some limited activities may occur on undisturbed land when most activities will be on previously disturbed lands. Activities in undisturbed lands are limited to small drill pads that are accessed by helicopter.</p>
3	Additional Drills	<p><b>Comment</b> Nighthawk has requested to amend the Permit to allow for two additional diamond core drills. According to the Water Management Plan Version 3.1, each Water Licence (W2018L2-0002 and W2018L2-0003) can only withdraw water from approved Water Sources which have annual withdrawal limits.</p> <p><b>Recommendation</b> Can Nighthawk clarify how the total water use for seven diamond core drills will remain within the limits of the Water Licences and associated Water Management Plan?</p>	<p><b>Nov 6:</b> Monitoring of drill water to date indicates that drills would use an average of 31.04 cubic metres of water per day, if running for 24 hours per day (which is never the case). For seven drills, this equates to 217.28 cubic metres per day, which remains below the daily water withdrawal limit, even if all drills were running (which would never be the case). Nighthawk continually monitors water use at all drills. The daily water use will remain below 299 cubic metres per day, and from the sources identified in the Water Use Plan. Nighthawk will limit drilling activity if required to stay within these limits. All daily water use will be reported in the Water Licence annual report for W2018L2-0002 and W2018L2-0003.</p>



November 2, 2020

Joseph Mackenzie  
Chair  
Wekeezhii Land and Water Board  
#1-4905 48<sup>th</sup> Street  
Yellowknife, NT  
X1A 3S3

Dear Mr. Mackenzie:

**Re: Nighthawk Gold Corp.  
Land Use Permit Amendment Application – W2018C0007  
Increase in Camp Size – Additional Equipment  
Request for Comment**

The Department of Environment and Natural Resources (ENR), Government of the Northwest Territories has reviewed the amendment application at reference based on its mandated responsibilities under the *Environmental Protection Act*, the *Forest Management Act*, the *Forest Protection Act*, the *Species at Risk (NWT) Act*, the *Waters Act* and the *Wildlife Act* and provides the following comments and recommendations for the consideration of the Board and the Proponent.

### **Topic 1: Nesting Birds**

#### **Comment(s):**

ENR-Wildlife is aware that Nighthawk Gold Corp. (Nighthawk) has a Wildlife Mitigation and Monitoring Plan (WMMP) for the Indin Lake Project which includes discussion of bird nests; however, we would like to reiterate the following comments and recommendations regarding nesting birds which apply when clearing vegetation or conducting earthworks between April 1<sup>st</sup> and September 24<sup>th</sup>.

- Protection of nests is essential to ensuring reproductive success and survival of both adult birds and their young
- Critical breeding periods for NWT raptors can start as early as the 1<sup>st</sup> week of April and last up until 3<sup>rd</sup> week of September, depending on the species and location.

- Conducting activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures during the nesting season increases the risk of the disturbance or destruction of any type of occupied bird nest. This would be contravening paragraph 51(1)(a) and(b) of the *Wildlife Act*.
- Activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures may also disturb the birds themselves. Section 52 of the *Wildlife Act* prohibits disturbance and harassment of prescribed species. Prescribed birds for the purpose of paragraph 51(1)(c) and 52 of the *Wildlife Act* are birds of prey (raptors) as set out in Schedule B of the *Wildlife General Regulations*. However while a raptor nest may not be intentionally destroyed, typically on a case-by-case basis the destruction or removal of nests may be authorized where required by General Wildlife Permit.
- While compliance to the *Wildlife Act* and its regulations are required, the Canadian Wildlife Service of Environment and Climate Change Canada is the primary responsible management authority for migratory birds protected under the *Migratory Birds Convention Act, 1994* (<https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html>).
- GNWT is responsible for the management of non-migratory birds including upland game birds like ptarmigan and grouse, and raptors as indicated in the schedules of the *Wildlife General Regulations*.

### **Recommendation(s):**

- 1) ENR recommends conducting vegetation clearing, and any new ground disturbance, outside of the nesting season for birds in the project area.
- 2) Information on critical breeding periods for raptors in the NWT is available at the following link:

[https://www.enr.gov.nt.ca/sites/enr/files/raptor\\_species\\_breeding\\_periods.pdf](https://www.enr.gov.nt.ca/sites/enr/files/raptor_species_breeding_periods.pdf)

- 3) Follow the Government of Canada's *Guidelines to Reduce Risk to Migratory Birds* is available at the following link:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html>

- 4) Consult the Government of Canada's *General Nesting Periods of Migratory Birds* for current information on general nesting periods of federally protected

migratory birds that occur within the NWT. Information can be found at the following link:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/general-nesting-periods.html>)

- 5) If active nests are encountered during project activities implement protective buffer zones described in applicable the regional land use plan, Table 6 of the Northern Land Use Guidelines – Northwest Territories Seismic Operations (<http://www.lands.gov.nt.ca/en/northern-land-use-guidelines>), or the Government of Canada’s guidance on *Establishing Buffer Zones and Setback Distances for Nests* which can be found at the following link:

<https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html#toc5>

- 6) If disturbance or destruction of an occupied nest or eggs of a non-migratory bird species (including raptors) cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest/eggs can be obtained.

## **Topic 2: Nesting Birds**

### **Comment(s):**

ENR-Wildlife is aware that Nighthawk has a WMMP for the Indin Lake Project; however, the following comments and recommendations cover unoccupied bird nests, which are not discussed in the WMMP. These comments and recommendations apply when clearing vegetation or conducting earthworks between October 1<sup>st</sup> and May 1<sup>st</sup>.

Activities involving vegetation clearing, ground disturbance or demolition of buildings and other structures may disturb a bird nest that is not occupied. Paragraph 51(1), (c) of the *Wildlife Act* prohibits the destruction of a nest of a prescribed bird species even if it is unoccupied, and section 52 of the *Wildlife Act* prohibits disturbance and harassment of prescribed species. Prescribed birds for the purpose of paragraph 51(1), (c) and 52 of the *Wildlife Act* are birds of prey (raptors) as set out in Schedule B of the *Wildlife General Regulations*. However, while a raptor nest may not be intentionally destroyed, even if unoccupied, typically on a case-by-case basis the destruction or removal of nests may be authorized where required by General Wildlife Permit.

### **Recommendation(s):**

- 1) If disturbance or destruction of an unoccupied raptor nest cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest can be obtained.

### **Topic 3: Wildlife Abodes**

#### **Comment(s):**

ENR-Wildlife is aware that Nighthawk has a WMMP for the Indin Lake Project; however, the following comments and recommendations cover natural wildlife shelters such as bear dens, beaver dams or lodges, muskrat push-ups, or hibernaculums, which are not discussed in the WMMP. These comments and recommendations apply when clearing vegetation or conducting earthworks between October 1 and May 1.

Subject to sub-section 51(2) of the *Wildlife Act*, it is illegal to break into, destroy or damage a den, beaver dam or lodge, muskrat push-up or hibernaculum unless you have an Aboriginal or treaty right, license or a permit to do so.

Protection of dens, beaver lodges, muskrat push-ups, and hibernacula is essential to ensuring reproductive success and survival of both adults and young.

#### **Recommendation(s):**

- 1) The Proponent should contact ENR prior to start-up of project activities to determine if there are any known dens, push-ups, lodges, beaver dams or hibernacula within the project area.
- 2) Prior to start-up of project activities, the Proponent should conduct surveys of lakes or other water bodies proposed to be used for water withdrawal or winter access roads to determine the presence of muskrat push-ups, beaver lodges or beaver dams. If one or more of these features is found contact ENR to discuss mitigation options.
- 3) The Proponent should conduct pre-activity surveys within 800m of the project footprint to identify active bear dens between September 30 and March 30. Surveys should be conducted in the fall shortly after the first snow fall to detect freshly dug dens.
- 4) If an active bear den is detected, or suspected, implement and maintain an 800 m buffer zone until the bear emerges in spring.

- 5) If the bear den and exclusion zone would result in the halt of part or the entire program, the Proponent should contact ENR to discuss alternative mitigation options. The location of active bear dens should be kept confidential between the developer and ENR until after emergence in the spring.
- 6) Further guidance on different setback distances and timing windows for wildlife abodes are provided in Table 2-5 of the *Northern Land Use Guidelines: Northwest Territories Seismic Operations* found at the following link:

[https://www.lands.gov.nt.ca/sites/lands/files/resources/nlug\\_seismic\\_2015\\_english\\_-\\_16\\_sept\\_2015.pdf](https://www.lands.gov.nt.ca/sites/lands/files/resources/nlug_seismic_2015_english_-_16_sept_2015.pdf)

- 7) Proponents should also check whether there are setback distances and timing restrictions for wildlife abodes within the applicable regional land use plan for their project area.

#### **Topic 4: Wildlife Attractants and Waste Management**

##### **Comment(s):**

ENR-Wildlife is aware that Nighthawk Gold has a Waste Management Plan for the Indin Lake Project; however, the following comments and recommendations regarding waste are not discussed in the WMMP. These comments and recommendations apply when there is a remote camp with storage of food, food wastes or other wildlife attractants on-site.

Subject to sub-section 66(1) of the *Wildlife Act* no person shall store food, waste, or other substances in a manner that may attract big game and put people, domestic animals or wildlife in danger.

Subject to sub-section 65(1) of the *Wildlife Act*, it is illegal to intentionally feed big game or fur-bearers. Schedule A – Part 1 of the *Wildlife General Regulations* sets out the wildlife that are prescribed as big game, and Part 2 sets the wildlife that are prescribed as fur-bearers.

##### **Recommendation(s):**

- 1) The Proponent should utilize food and garbage handling and storage procedures that will minimize the attraction of wildlife.
- 2) The Proponent should store all food, waste, washed recyclables and debris that may attract wildlife within sealed animal proof containers until final disposal.

- 3) The Proponent should ensure that sealed animal proof containers are cleaned once emptied to minimize the attraction of wildlife.
- 4) The Proponent should remove all contaminated waste, waste petroleum products including used oil filters, rags, scrap metal, discarded machinery, parts, drums, barrels, or plastics to an approved waste disposal facility.

### **Topic 5: Cumulative Effects**

#### **Comment(s):**

The following comments and recommendations apply to any type of development:

- Keeping track of the disturbance footprint of development activities is an important component of tracking and informing the management of cumulative effects on wildlife and wildlife habitat.
- To better understand cumulative effects in the NWT, ENR-NWT Cumulative Impact Monitoring Program has developed the 'Inventory of Landscape Change' (ILC). One of the layers incorporated in the ILC is derived from public registry documents and validated through satellite imagery. Submission of standardized spatial data to public registries facilitates data acquisition for this layer.

#### **Recommendation(s):**

- 1) ENR-Wildlife is aware that Nighthawk Gold has submitted bounding coordinates for the project. However, geospatial data for the proposed project footprint and for the completed project footprint should be submitted to the Land and Water Board for placement on the public registry. The MVLWB's "Standards for Geographic Information Systems (GIS) Submissions" should be followed when submitting spatial data.

### **Topic 6: Species at Risk**

#### **Comment(s):**

ENR-Wildlife is aware that Nighthawk Gold has a WMMP for the Indin Lake Project which includes discussion of Species at Risk. We would like to reiterate the following comments and recommendations regarding Species at Risk.

Section 76 and 77 of the *Species at Risk (NWT) Act* requires the Minister of Environment and Natural Resources to make a submission to the body responsible for assessing the potential impacts of a proposed development, or for considering a land use Permit or water Licence application, respecting the potential impacts of the

proposed development, Permit or Licence application on a NWT-listed or pre-listed species or its habitat. NWT-listed species are those that are on the NWT List of Species at Risk. Pre-listed species are those that have been assessed by the NWT Species at Risk Committee (SARC) but have not yet been added to the NWT List of Species at Risk.

The Proponent should be aware that NWT-listed or pre-listed species at risk and their habitat may also be subject to protection under existing sections of the NWT *Wildlife Act*.

As a best practice, ENR encourages the proponent to consider potential impacts, mitigation measures and monitoring requirements for species at risk listed under the federal *Species at Risk Act*, as well as those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that may occur in the project area, and the prohibitions that may apply to these species under federal legislation.

The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species; information on these species is available at the following link:

<https://www.nwt-species-at-risk.ca/SpeciesAtRisk>

- [Barren-ground Caribou \(excluding the Porcupine herd\)](#) – Threatened in the NWT

### **Recommendation(s):**

- 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the nature, scale, location and timing of the proposed project are such that the likelihood of impacts to NWT-listed or pre-listed species listed above can be avoided or minimized if ENR's wildlife recommendations in this letter are implemented as necessary, as well as the application of any wildlife mitigation and monitoring measures outlined in the Proponent's Land Use Permit, Water Licence, Wildlife Mitigation and Monitoring Plan, and other supporting documents.

Comments and recommendations were provided by ENR technical experts in the Wildlife and Fish Management Division and the North Slave Region and were coordinated and collated by the Environmental Assessment and Monitoring Section, Environmental Stewardship and Climate Change Division.



Should you have any questions or concerns, please do not hesitate to contact Patrick Clancy, Environmental Regulatory Analyst at (867) 767-9233 Ext: 53096 or email [patrick.clancy@gov.nt.ca](mailto:patrick.clancy@gov.nt.ca).

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Clancy', written in a cursive style.

Patrick Clancy  
Environmental Regulatory Analyst  
Environmental Assessment and Monitoring Section  
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Department of Environment and Natural Resources  
Government of the Northwest Territories

## Distribution List

### Nighthawk - Type A Land Use Permit Amendment (W2018C0007)

**File(s):** W2018C0007

**Proponent:** Nighthawk Gold Corp.

**Reviewer Comments Due By:** Nov 2, 2020

**Proponent Comments Due By:** Nov 6, 2020

#### Document(s)

W2018C0007 - Nighthawk - Land Use Permit - Amendment Request - Oct 15\_20

W2018C0007 - Nighthawk - LUP Amendment - Security Estimate - Oct 15\_20

W2018C0007 - Nighthawk - LUP Amendment - Engagement Log - Oct 15\_20

W2018C0007 - Nighthawk - LUP Amendment - Draft Permit - Oct 15\_20

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