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June 5, 2019

Files: W2018L2-0002 and W2018L2-0003

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Environment and Natural Resources
Government of the Northwest Territories
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Yellowknife, NT X1A 2P9

Email: Bruno_Croft@gov.nt.ca

Tim Morton
Crown-Indigenous Relations and Northern Affairs
P.O. Box 1500, 4923 52nd Avenue
Yellowknife, NT X1A 2R3

Email: Tim.morton@canada.ca

Dear Bruno Croft and Tim Morton,

Re: Information Request for Nighthawk's Water Use Plan Version 2.0 – Water Sources that Span Federal and Non-Federal Lands

The Wek'èezhìi Land and Water Board (WLWB or the Board) is requesting clarification from the Government of the Northwest Territories (GNWT) and Crown-Indigenous Relations and Northern Affairs (CIRNAC) regarding water use for Water Sources that span federal and non-federal lands.

On April 17, 2019, Nighthawk Gold Corp. (Nighthawk) submitted Version 2.0 of its Water Use Plan.¹ Version 2.0 of the Water Use Plan (the Plan) was submitted in accordance with Part D, Condition 2 of Water Licences W2018L2-0002 (federal) and W2018L2-0003 (non-federal). This version of the Plan includes 80 new water bodies which Nighthawk proposes to potentially withdraw water from during the upcoming summer. Some of these Water Sources span federal and non-federal land. The cover letter of the Plan addresses this issue by stating:

Some of the lakes identified in this Water Use Plan span federal and territorial land (see Table 1 of the Plan), and so it is not clear if water use from these lakes will fall under W2018L2-0002 or W2018L2-0003. Nighthawk suggests that in these instances the withdrawal should be licenced and inspected as territorial waters under W2018L2-0003, as most water withdrawal will occur under this licence. We expect the Wek'èezhìi Land and Water Board to make a final determination on this matter.

¹ See WLWB Online Registry (www.wlwb.ca) for [W2018L2-0002 - Nighthawk - Water Use Plan - Version 2.0 - April 17_19.pdf](#)

During the public review, the GNWT – Environment and Natural Resources (GNWT-ENR) stated it “believes water sources that span federal and territorial land should be licenced and inspected under both the federal and territorial water licence” to prevent situations that may result in over allocation.² Nighthawk responded that it “will defer to the decision of the WLWB, but would prefer that any water use discussions with Inspectors required by the Plan only involve one inspector in instances where a lake spans federal and territorial waters.”³

In consideration of Version 1.0 of the Water Use Plan, the Board confirmed that the Water Use Plan applies to both Licences (federal and non-federal) and determined that it should be clear which Water Source applies to which Water Licence.⁴ At that time, none of the proposed Water Sources spanned both federal and non-federal lands.

The WLWB is seeking input from the Inspectors regarding how water use allocation should be reported and inspected for water bodies that span both federal and non-federal lands. This includes consideration of how the Inspectors would address Part D, Condition 4 (i.e., regarding authorization of the intake location in fish-bearing Watercourse) of the Licences.

In submission of Version 2.0 of the Plan and in its response to the public review comments, Nighthawk has indicated that approval of the proposed Water Sources is required to continue with its summer exploration program. With this in mind, we would appreciate a response by end of day Wednesday, June 12, 2019.

Should you have any questions, please feel free to contact the Executive Director, Ryan Fequet, at rfequet@wlwb.ca or by phone at 867-765-4589.

Sincerely,



Ryan Fequet
Executive Director, Wek'èezhìi Land and Water Board

Copied: Rita Mueller – Assistant Deputy Minister, Operations, GNWT-ENR
Matthew Spence – Regional Director General, Northwest Territories Region, CIRNAC
Michael Byron – President & CEO, Director, Nighthawk Gold Corp.
Wek'èezhìi East Distribution List

² See WLWB Online Review System for [Nighthawk – Water Use Plan – Version 2.0 \(W2018L2-0002 and W2018L2-0003\)](#); see GNWT-ENR comment 6

³ Ibid; see response to GNWT-ENR comment 6

⁴ See WLWB Online Registry for [Nighthawk - Water Use Plan - Reasons for Decision - Mar 1_19.pdf](#)