



## **GWICH'IN LAND AND WATER BOARD**

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

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**📠 867-777-2304**

**🌐 glwb.com**

March 20, 2019

Files: **G18X005**  
**G18L8-001**

Attention: Paul Grant  
NWT Energy Corporation (03) Ltd.  
#4 Capital Drive  
Hay River, NT X0E IG2

**Re: Inuvik Wind Project - Applications for Type "A" Land Use Permit and Type "B" Water Licence  
Further Study Required**

Mr. Grant,

The Gwich'in Land and Water Board (GLWB) met on March 20, 2019 to consider the above Land Use Permit and Water Licence applications. The GLWB has determined 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 – is insufficient to make an informed preliminary screening decision.

In accordance with paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations the Board requests further studies in order to confirm that sufficient engagement has occurred with respect to the Inuvik Wind Project. The GLWB requests NTEC to either:

- a) Provide updated, detailed engagement records and plans to demonstrate that engagement has been conducted in accordance with the *MVLWB Engagement and Consultation Policy*, or
- b) Conduct further engagement with regard to the Inuvik Wind Project.

The GLWB will proceed with processing Application G18X005 upon receipt of the above-requested information

Should you have questions or comments, please do not hesitate to contact AlecSandra Macdonald by email at [amacdonald@glwb.com](mailto:amacdonald@glwb.com), or by phone at (867) 777-4954.

Sincerely,

Elizabeth Wright,  
GLWB Chair

CC: GLWB Distribution List



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### Reasons for Decision

Issued pursuant to paragraph 22(2)(b) of the *Mackenzie Valley Land Use Regulations* (MLUR)

|                |                      |       |  |
|----------------|----------------------|-------|--|
| File Number:   | G18X005<br>G18L8-001 | Type: | "A" Land Use Permit Application<br>"B" Water Licence Application |
| Applicant:     | NWT Energy (03) Ltd. |       |  |
| Activity:      | Inuvik Wind Project  |       |  |
| Board Meeting: | March 20, 2019       |       |  |

With respect to this application, notice was given in accordance with sections 63 and 64 of the *Mackenzie Valley Resource Management Act* (MVRMA). There was no public hearing held in association with this application.

#### BACKGROUND

On October 30, 2018 NWT Energy 03 Ltd. submitted application for the following:

1. Type "A" Land Use Permit to:
  - 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. Type "B" Water Licence to:
  - a) use Water for construction purposes

The proposed access road will be 6 metres wide and extend for approximately 5 kilometers, from km 255, Dempster Highway #8 (near the Mike Zubko Airport in Inuvik) to the summit of Highpoint hill. The proposed 2 to 4 MW wind turbine will have a 75 to 100 m hub height, and three blades attached to the hub, and be located on a 50 m x 50 m parcel of land. The proposed transmission line will extend from the turbine to the substation at Inuvik Airport. Upgrades to the existing power infrastructure at the airport and in Inuvik is also proposed. Water will be used primarily for dust suppression and during construction.

The applicant requests a term of 5 years for each authorization, with a proposed start date in early 2019<sup>1</sup>.

The Gwich'in Land and Water Board (GLWB) met on December 18, 2018 to consider the above Land Use Permit and Water Licence applications. The GLWB determined that, pursuant to paragraph 22(2)(b) of the Mackenzie Valley Land Use Regulations, further study and investigation needed to be conducted before a decision could be made on these applications<sup>2</sup>.

Specifically, the Board decided that additional time was required for reviewers to provide comments and recommendations on the application. During the public review period the Board received requests for extension from the Gwich'in Tribal Council (GTC), the Nihtat Gwich'in Council (NGC), the Nihtat Gwich'in Renewable Resources Council (NGRRC), the Inuvik Native Band (INB), and the Gwich'in Renewable Resources Board (GRRB).<sup>3</sup> The Board expected that the comments provided by these organizations would assist in the development of appropriate terms and conditions for both the Land Use Permit and Water Licence and re-opened the public record until February 28, 2019 to allow sufficient time for all interested parties to provide comments on the applications. At the close of the review period, responses had been received from:

- Environment and Climate Change Canada (ECCC)
- Fisheries and Oceans Canada (DFO)
- GNWT Department of Environment and Natural Resources (GNWT ENR)
- GNWT Department of Lands (GNWT DOL)
- Gwich'in Tribal Council - Department of Cultural Heritage (GTC DCH)
- Gwich'in Renewable Resources Board (GRRB)
- Nihtat Gwich'in Council (NGC)
- Inuvik Native Band (INB)
- NWT energy (03) Ltd (NTEC or Applicant)

## DECISION

After reviewing the submission of the Applicant and the written comments and submissions received by the Board, and having due regard to the facts and circumstances, the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA and the Regulations made thereunder, the Board determined that:

**Further studies, as invoked under paragraph 22(2)(b) of the MVLUR, are required before a decision on Application G18X005 can be made**

The Board's reasons for this decision are set out below:

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<sup>1</sup> See GLWB Public Register for [G18X005 - WL Application Form - Oct30\\_18](#), [G18X005 - LUP Application Form - Oct30\\_18](#), and [G18X005 - LUP WL Application Supporting Information - Oct30\\_18](#)

<sup>2</sup> See GLWB Public Register for [G18X005 - GLWB Board Decision - Dec18\\_18](#)

<sup>3</sup> See GLWB Public Register for [G18X005 – Reviewer Comment Summary Table - Dec03\\_18](#)

## 1. **Preliminary Screening and Engagement**

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."<sup>4</sup> Proposed developments that might cause a significant adverse impact on the environment – or might cause significant public concern, and which 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.<sup>5</sup> 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<sup>6</sup>.

The Board's engagement and consultation policy is:

*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 NWT Waters Act and their regulations; and*

*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<sup>7</sup>*

Engagement records and plans, along with comments received during the public review period, are the main instruments used by the Board to identify the concerns of affected parties and the public. Both an

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<sup>4</sup> See [125\(1\)\(a\) of the MVRMA](#)

<sup>5</sup> See [62, 114\(c\), and 115\(b\) and \(c\) of the MVRMA](#)

<sup>6</sup> See [60.1 of the MVRMA](#)

<sup>7</sup> [MVLWB Engagement and Consultation Policy \(2013\) \(page 10\)](#)

Engagement Record and Engagement Plan were submitted as part of Application G18X005 and G18L8-001, and after a cursory review, the application was deemed complete on November 9, 2018<sup>8</sup>.

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”, in that it failed to “satisfy any level of standard” and did not allow for the “GLWB to achieve their objective of optimum benefit”, that the engagement did not ensure that INB and NGC’s concerns “have been considered and addressed fully”.<sup>9</sup> NGC commented that the Applicant has failed to address compensation for ‘the present and future loss of income from 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.”<sup>10</sup> Both NGC and INB confirmed that meetings did take place with the proponent, but NGC commented that these meetings failed to “address social, cultural, economic, and environmental issues that should form part of any mutually developed Value Components for assessing the potential impact of a project.”<sup>11</sup> NGC also commented that engagement record indicated that a meeting took place with NGC, when instead took place with the Nihtat Corporation, a different corporate entity. <sup>12</sup> Further, both groups stated that there are “significant and ongoing social, economic, environmental and cultural impacts that may result because of the project”<sup>13</sup>.

The Board acknowledges the considerable effort that NTEC undertook to complete the Traditional Knowledge and Traditional Land Use Study, and Heritage Resource Impact Assessment, both of which suggest low traditional use and heritage resource potential.<sup>14</sup> Similarly, the biophysical assessment and proposed mitigation measures presented in the Application suggest that no significant environmental impacts are expected to result from the project. <sup>15</sup> However, during the public review period comments received by both NCG and INB commented that not all valued components were identified and addressed, and that an additional engagement is required before leaders can seek support for the project from their members. <sup>16</sup>

The Board notes that NGC and INB both requested that the GLWB require NTEC to provide funding to the affected parties to support ongoing engagement activities. There is no mechanism within the current statutory framework to fund public participation, nor does the Board have authority to direct the Applicant to provide such funding. <sup>17</sup>

Prior to completing a Preliminary Screening and making a determination on these applications, the GLWB requires that NTEC either re-engage affected parties to identify and address the concerns that were

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<sup>8</sup> See GLWB Public Register for [G18X005 - LUP WL Application Supporting Information - Oct30\\_18](#) (Appendix J)

<sup>9</sup> See GLWB Public Register for [G18X005 - Reviewer Comment Table 2 - Mar15\\_19](#) (NGC 4, INB 3)

<sup>10</sup> See GLWB Public Register for [G18X005 - Reviewer Comment Table 2 - Mar15\\_19](#) (NGC 4, INB 3)

<sup>11</sup> See GLWB Public Register for [G18X005 - Reviewer Comment Table 2 - Mar15\\_19](#) (NGC 12)

<sup>12</sup> See GLWB Public Register for [G18X005 - Reviewer Comment Table 2 - Mar15\\_19](#) (NGC 10)

<sup>13</sup> See GLWB Public Register for [G18X005 - Reviewer Comment Table 2 - Mar15\\_19](#) (NGC 16, INB 4)

<sup>14</sup> See GLWB Public Register for [G18X005 - LUP WL Application Supporting Information - Oct30\\_18](#) (Appendices E, F, G)

<sup>15</sup> See GLWB Public Register for [G18X005 - LUP WL Application Supporting Information - Oct30\\_18](#) (Appendices C and D)

<sup>16</sup> See GLWB Public Register for [G18X005 - Reviewer Comment 2 Table - Mar15\\_19](#) (NGC 14, INB 6)

<sup>17</sup> [MVLWB Engagement and Consultation Policy \(2013\) \(page 9 footnote 7\)](#)

brought forward during the application’s public review, or provide evidence in the form of detailed engagement records and plans that demonstrates that the engagement that took place in accordance with the Board’s Policy and Guidelines.

A reminder, that per the *MVLWB Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, the GLWB recommends that written notifications to affected parties be followed up with in-person meetings with designated individual of the affected party, if required, to discuss and/or resolve issues identified during written correspondence. Community public meetings are also recommended for larger projects (i.e. those that have not been previously permitted, or where new technology is used). Workshops can also be used when information needs to be shared with a large number of people or if technical issues arise during engagement that are best discussed with all the relevant parties present<sup>18</sup>.

Also, per the *MVLWB Engagement and Consultation Policy*, each engagement record should “include a summary which is a results-based report of engagement with each affected party and include a log which is a detailed account of all engagement occurrences” (including written correspondence). Each engagement plan “documents times throughout the life of the project when each affected party will be engaged and what approaches will be used; should be developed collaboratively with affected parties, and reflects the scope, scale, and context of the project”.<sup>19</sup>

Signatures from both the proponent and the engaged party on the final engagement record and engagement plan submitted to the Board can greatly assist in making a determination on the completeness of engagement. These signatures represent agreement on the contents of the log and record, but do not necessarily imply that the parties agree on the topics that were discussed<sup>20</sup>.

## CONCLUSION

The GLWB will proceed with processing Application G18X005 upon receipt of the above-requested information.

## SIGNATURE



Elizabeth Wright  
Chair, Gwich’in Land and Water Board

March 20, 2019

Date

<sup>18</sup> [MVLWB Engagement Guidelines for Applicants and Holders of Water Licences and Permits \(page 17\)](#)

<sup>19</sup> [Information for Proponents on MVLWB’s Engagement Requirements](#)

<sup>20</sup> [MVLWB Engagement Guidelines for Applicants and Holders of Water Licences and Permits](#)