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May 13, 2024

File: MV2023L2-0001

The Honourable Daniel Vandal
Minister of Northern Affairs, Canada
Crown-Indigenous Relations and Northern Affairs

Sent via email

Dear Minister Daniel Vandal,

RE: Time Limit Extension – Type B Water Licence Renewal Application – North American Tungsten Corporation Ltd. – MV2023L2-0001

In accordance with subsection 72.24(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), I am writing on behalf of the Mackenzie Valley Land and Water Board (the Board) to request a 2-month extension to the time limit for the Board's proceeding for North American Tungsten Corporation Ltd.'s (NATCL) type B Water Licence (MV2023L2-0001) Renewal Application to conduct care and maintenance activities at the Cantung Mine site.

The Board requires a time limit extension for this proceeding because of:

- delays in this and all the Board's proceedings due to the months-long evacuation of much of the NWT during the extraordinary wildfire season of 2023, and
- the need for the Board to make a ruling on the legal interpretation and application of parts of the *Mackenzie Valley Federal Areas Waters Regulations* (the Regulations) before the proceeding can continue.

The Board initiated the regulatory process on March 24, 2023, after the Renewal Application was received. The timelines followed those of a typical type B water licence proceeding until parties in the process brought forward contradictory opinions on whether the scope of activities proposed by NATCL fit the criteria for a type B water licence or whether the application should be processed as a type A water licence. The three parties that disagreed on this issue were Crown Indigenous Relations and Northern Affairs Canada (CIRNAC), the Government of the Northwest Territories – Department of Environment and Climate Change (GNWT-ECC), and NATCL. Our legal counsel advised us that the Board would have decide on the correct interpretation of the Regulations before continuing the regulatory process for this application.

That legal issue arose just before the NWT evacuations. Only after all parties to the proceeding were back home could we begin the process of gathering sufficient evidence for the Board to decide on the type B/type A question for this application.

On November 20, 2023, Board staff issued an Information Request (IR#3) to CIRNAC, GNWT-ECC, and NATCL to seek more information on their rationale for their respective interpretations of the Regulations. This, and the subsequent requests from several parties for additional time to add their opinions on this issue, impacted the timeline for the remainder of the Work Plan and will put the Board over the 9-month window for a decision which ends on June 3, 2024. Due to the time required to gather the evidence for the legal ruling, and the resulting impacts on the Work Plan, we are requesting additional time to ensure that this proceeding can continue and allow for adequate participation of all potentially affected parties.

The Board's goal is to make this process as efficient as possible while ensuring it meets the needs of the Applicant and Parties and the Board's obligations with respect to procedural fairness. We believe that an extension to the legislated timeline would ensure this goal can be met. While the Board is seeking a 2-month extension at this time, the Board will keep the Minister apprised of the situation and may possibly seek another extension under subsection 72.24(2) of the MVRMA. We appreciate your attention to this matter and would be happy to discuss it further as needed.

Sincerely,



Kathy Racher, Executive Director
Mackenzie Valley Land and Water Board

Copied to: The Honourable Jay Macdonald – Minister, GNWT - ECC
Christopher Morton – CIRNAC
Kim Pawley - CIRNAC
Erin Kelly – Deputy Minister, GNWT - ECC
Nathan Richea – Assistant Deputy Minister, GNWT - ECC
Todd Martin – NATCL, Court-Appointed Monitor
NATCL/Cantung Distribution List