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March 1, 2024

File: W2021L2-0004 and W2021L2-0005

John McBride, Vice President Exploration
Nighthawk Gold Corp.
Suite 301 – 141 Adelaide St. W.
Toronto, ON, M5H 3L5

Sent by email

Dear John,

Re: Water Management Plan, Version 1 – Not Approved – Indin Lake Project – Indin Lake, NT

The Wek'èezhì Land and Water Board (Board) met on February 29, 2024 and considered the Water Management Plan, Version 1¹ submitted by Nighthawk Gold Corporation on June 9, 2023 as required by Water Licences W2021L2-0004, and W2021L2-0005.

As explained in the attached Reasons for Decision, the Board has decided not to approve Version 1.0 of the Water Management Plan and has provided direction for submission of Version 1.1. As discussed in the Reasons for Decision, Schedule 4, Condition 1 requires that Nighthawk provide “a description of the response and actions that will be implemented by the Licensee to link the results of monitoring to those corrective actions necessary to ensure that the objectives referred to in Part F, Condition 1 of the Licence are met”. Based on parties’ comments during the public review and the expectations detailed in the Board’s Reasons for Decision on the Amendment Applications,² a different approach to the response framework is needed than the approach provided in Version 1.0.

Please direct questions or concerns regarding this letter to Ryan Fequet in writing.

¹ See WLWB Online Registry (www.wlwb.ca/) for [Nighthawk - Water Management Plan - Version 1.0 - Jun 16 23](#)

² See WLWB Online Registry for [Nighthawk - Non-federal Licence - Recommendation to the Minister and RFD - Nov 30 22.pdf \(mvlwb.ca\)](#) and [Nighthawk - Federal Licence - Recommendation to the Minister and RFD - Nov 30 22](#)

Yours sincerely,

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

Mason Mantla
Chair, Wek'èezhì Land and Water Board

BCC'd to: Wek'èezhì Distribution List

Attached: Reasons for Decision



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Reasons for Decision

File Numbers:	W2021L2-0004 and W2021L2-0005 (Type "A" Water Licences)
Licensee:	Nighthawk Gold Corp.
Subject:	Water Management Plan, Version 1.0

Decision from the Wek'èezhì Land and Water Board Meeting of February 29, 2024

1.0 Decision

On February 29, 2024, the Wek'èezhì Land and Water Board (the Board) met to consider Nighthawk Gold Corp.'s (Nighthawk's) Water Management Plan, Version 1.0.¹ In consideration of the submission, reviewer comments, and proponent responses, the Board has decided the following:

1. To not approve Version 1.0 of the Water Management Plan;
2. To submit Version 1.1 of the Water Management Plan with Revisions #1 to 5. Nighthawk should work with Board staff to determine a date of submission of Version 1.1;
3. To require Nighthawk to contact Board staff to discuss a process for updating the Licences to remove the following water sources: Unnamed Lakes 13788, 13234, 13259, 13944, 14270, and 13159; and Spanner Lake;
4. To require Nighthawk to engage with CIRNAC-CARD on the use of Steeves Lake and Baton Lake as water sources and report back to the Board as soon as possible; and
5. To require Nighthawk to include information on the management of the core sediment bags in the next versions of the Waste Management Plan and the Interim Closure and Reclamation Plan.

¹ See WLWB Online Registry (www.wlwb.ca/) for [Indin Lake - Water Management Plan - Version 1.0 - Jun 16 23](#)

2.0 Background

On January 13, 2023, Type A Water Licences W2021L2-0004 (on non-federal land) and W2021L2-0005 (on federal land) (the Licences), and Land Use Permit W2021C0009 were issued to Nighthawk for activities associated with advanced mineral exploration at the Indin Lake gold property.² During the review of the Application, parties asked Nighthawk about management strategies to avoid the exceedance of effluent quality criteria at the Damoti site and what actions might be taken if water quality objectives were exceeded in Lardass Lake, which receives runoff from waste rock piles. As a result of the proceeding, the Board included a requirement for a Water Management Plan in the Licences (i.e., Part F, Condition 3; Schedule 4, Condition 1). The Schedule requires the Water Management Plan to include a description of the responses and actions that will be implemented to ensure that the impacts from the project on the quantity and quality of the water in the Receiving Environment are minimized.

Version 1 of the Water Management Plan was submitted on April 24, 2023. Following conformity correspondence with Board staff, an updated version of the Plan was received on June 9, 2023. The Plan was distributed for public review on July 11, 2023. Comments and recommendations were received by the deadline of August 8, 2023 from the Tłıchǫ Government, Government of the Northwest Territories Department of Environment and Climate Change (GNWT-ECC), Crown-Indigenous Relations and Northern Affairs Canada – Contaminants and Remediation Division (CIRNAC-CARD), and Environment and Climate Change Canada (ECCC). The Department of Fisheries and Ocean (DFO) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) indicated that it had no comments or recommendations at this time. Board staff submitted questions. Nighthawk requested an extension to the proponent response deadline from August 15 to August 22, 2023 which was granted. The review summary is available on the WLWB Online Review System.³

3.0 Reasons for Decision

The Board has reviewed the Water Management Plan for conformity to Part F, Condition 3, and Schedule 4, Condition 1 of the Licences. The Board also reviewed all reviewer comments and proponent responses submitted during the public review period. Based on the review, the Board has decided that Schedule 4, Condition 1d of W2021L2-0004, and Schedule 4, Condition 1e of W2021L2-0005 were not adequately addressed. These conditions require that Nighthawk provide “a description of the response and actions that will be implemented by the Licensee to link the results of monitoring to those corrective actions necessary to ensure that the objectives referred to in Part F, Condition 1 of the Licence are met” (i.e., impacts on the quality and quantity of Water in the Receiving Environment are minimized). As described in section 3.1 below, based on parties’ comments during the public review and the expectations detailed in the Board’s Reasons for Decision on the Application, a different approach to the response framework

² See WLWB Online Registry for [Nighthawk - Federal Licence - Issuance Letter and Licence - Jan 13 23.pdf](#); [Nighthawk - Non-federal Licence - Issuance letter and Licence - Jan 13 23.pdf](#); [Nighthawk - Indin Lake Project - Issuance Letter and Permit - Jan 13 23.pdf](#)

³ See WLWB Online Review System (ORS) for [Nighthawk - Indin Lake Project - Water Management Plan - Public Review - Aug 22 23](#)

is needed. Therefore, the Board has not approved Version 1 of the Water Management Plan and requires Nighthawk submit Version 1.1 with Revisions 1 through 5 as detailed in sections below.

- ***Decision # 1: The Board has not approved Version 1.0 of the Water Management Plan.***
- ***Decision #2: The Board directs Nighthawk to submit version 1.1 of the Water Management Plan with Revisions #1 to 5. Nighthawk should work with Board staff to determine a date of submission of Version 1.1.***

3.1 Response Framework

In the Reasons for Decision on the Type A Water Licences, the Board stated the following:

In its Intervention, the GNWT recommended that a Water Management [Plan] include a response framework to ensure EQC are not exceeded. In addition, the GNWT clarified that exceeding an EQC means that the licensee is out of compliance. Therefore, it is standard practice for a response framework to trigger actions to be completed prior to an EQC being exceeded. The Board agrees with the GNWT and believes this is reflected in the Schedule 4, Condition 1 requirements for the Water Management Plan.⁴

In the Licences, Schedule 4, Condition 1d and 1e (W2021L2-0004 and W2021L2-0005, respectively) require “a description of the response and actions that will be implemented by the Licensee to link the results of monitoring to those corrective actions necessary to ensure that the objectives referred to in Part F, Condition 1 of the Licence are met”. Part F, Condition 1 requires that the “Licensee shall manage Waste and Water 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”.

In section 5.1.2 of the Plan, Table 9 details actions in response to water quality concentrations at greater than 75% of EQC, at EQC, and exceeding EQC. During the public review, parties provided comments on Table 9. Both ECCC and the Tłıchǵ Government commented that the Action Levels and responses should be revised to prevent an EQC exceedance (ECCC comment 2; TG comment 2). In response to a question during the public review, Nighthawk indicated that it understood the response framework is to trigger actions prior to an EQC exceedance and indicated that the low action level in Table 9 would be triggered for a parameter approaching an EQC (i.e., greater than 75% of an EQC) (response to WLWB staff comment 10). Nighthawk also indicated that this “approach allows for an early warning of potential water quality concerns and implementation of response actions” (response to staff comment 10).

As described in the Reasons for Decision for the Application, the Response Framework is meant to trigger actions prior to an EQC being exceeded so that Nighthawk remains in compliance with the Licence. Part F, Condition 14 in Licence W2021L2-0004 details the actions to take if water quality data from SNP 5-6

⁴ See WLWB Online Registry for [Nighthawk - Non-federal Licence - Recommendation to the Minister and RFD - Nov 30 22](#).

and/or 5-2 equals or exceeds the EQCs (i.e. notifying the Board and an Inspector, reporting the spill immediately in accordance with the Spill Contingency Plan, complying with applicable procedures and contingencies outlined in the Water Management Plan, submitting a detailed report). Given the current framework is mainly for water quality concentrations at or greater than EQC, and Parties did not agree with Nighthawk's approach, the Board requires Nighthawk to consider a different approach to the framework. In Version 1.1 of the Plan, Nighthawk must consider parties' comments and recommendations from the Public Review (i.e., TG comment 2, GNWT-ECC comments 3 and 4, ECCC comment 2, and WLWB staff comment 10). As the Tłıchǫ Government commented, the Board's Guideline for Aquatic Effects Monitoring Programs (AEMPs) has information on how to develop a framework with action levels and responses that could be useful for this particular response framework (TG comment 2).

- ***Revision #1: The Board requires Nighthawk to update the response framework in Version 1.1 in consideration of the comments from the Public Review on Version 1 of the Water Management Plan and the Board's Reasons for Decision on the Type A Water Licences.***

3.2 Water Sources

When Nighthawk was granted the mineral claims and leases for the Colomac property from Aboriginal Affairs and Northern Development Canada (AANDC; now referred to as Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)), AANDC issued a conveyance agreement⁵ that included restrictions related to the Colomac Site (known as the Colomac Site Restrictions). As part of the Colomac Site Restrictions (the Restrictions), Nighthawk is restricted from accessing areas at the Colomac site and altering water quality in particular water sources, among other restrictions. Nighthawk is required by its Land Use Permit (the Permit; W2021C0009) to "operate in accordance with the requirements of the Colomac Site Restrictions annexed to this permit, and any revisions to the Colomac Site Restrictions as and when approved by the Board" (Part C, Condition 1).⁶

CIRNAC-CARD commented that there were water sources included in the Plan that contradict the Colomac Site Restrictions (comments 1 and 2). CIRNAC-CARD indicated that these water sources are regulated under CIRNAC-CARD's Colomac Licence (W2021L8-0003) and require water quality/water level monitoring. CIRNAC-CARD noted that Nighthawk's use of these water bodies "could potentially impact CARD's ability to demonstrate long-term stability/equilibrium as endpoints" (comment 1). These waterbodies were identified as potential water sources in the Water Management Plan (Appendix A) and within Annex B of the Licences (i.e., the list of authorized water sources).

Nighthawk agreed Unnamed Lakes 13788, 13234, 13259, 13944, 14270, 13159, and Spanner Lake could be removed from the water sources annexed in the Licences; Nighthawk did not comment on whether these water sources should be removed from the Plan. Appendix A in the back of the Plan lists "Proposed Water Sources" which mirrors the water sources annexed in the Licences. At this time, given Nighthawk responded that Unnamed Lakes 13788, 13234, 13259, 13944, 14270, 13159, and Spanner Lake could be

⁵ See WLWB Online Registry for [W2012C0002 - Merc - LUP Application - Appendix K - AANDC Agreement - Feb 2 12](#)

⁶ See WLWB Online Registry for [Nighthawk - Indin Lake Project - Issuance Letter and Permit - Jan 13 23](#)

removed as water sources, the Board requires Nighthawk to update the Plan to remove the potential water sources that it agreed to in response to CIRNAC-CARD's comments (comment 1 and 2). The Board also recommends that Nighthawk reach out to Board staff to discuss a process for updating the Licences to address this issue.

- ***Revision #2: The Board requires Nighthawk to remove the following water sources from Version 1.1 of the Water Management Plan: Unnamed Lakes 13788, 13234, 13259, 13944, 14270, and 13159; and Spanner Lake.***

- ***Decision #3: The Board requires Nighthawk to reach out to Board staff to discuss a process for updating the Licences to remove the following water sources: Unnamed Lakes 13788, 13234, 13259, 13944, 14270, and 13159; and Spanner Lake.***

CIRNAC-CARD also commented that Steeves Lake and Baton Lake fall under the Restrictions (comments 1 and 2). CIRNAC-CARD did not specify which site restriction(s) would apply to Nighthawk's use of Baton and Steeves Lake. CIRNAC-CARD commented that one of the Restrictions states "the Permittee shall not alter or disturb the tailings water repository in Zone 2.0 Pit, the historic Duck Lake tailings Remediation area, Tailings Lake, Dam 2 Discharge Channel and the Tailings Containment Area" (comment 1); it's not clear how this restriction relates to Steeves Lake or Baton Lake. The Board notes that one of the restrictions in Annex A of the Permit includes "the Permittee shall not access the Tailings Containment Facility, Tailings Containment Area access road, Open Pit Area, or Main Mine Complex areas for any purpose" and Baton Lake is listed under the Open Pit Area.⁷

Nighthawk responded that it did not agree that Baton and Steeves Lakes should be removed as water sources: Steeves is used for the operation of Colomac Camp and emergency fire prevention; and Baton may be needed for exploration drilling or other purposes (response to CIRNAC-CARD comments 1 and 2). For both lakes, Nighthawk indicated that the potential volume of water that would be needed from each lake would be low relative to the total volume of the lakes.

Both lakes were included as potential Water Sources in the 2021 Application for the new Water Licences. During the proceeding, CIRNAC-CARD did comment that there is an agreement between Canada and Nighthawk and indicated that Nighthawk's "activities have the potential to impact CARD's ability to demonstrate long-term stability/equilibrium such as the hydrology within... Steeves Lake [and] Baton Lake" (amongst other lakes).⁸ CIRNAC-CARD did not specifically recommend that Nighthawk not use these lakes. In response to CIRNAC-CARD's comments during the proceeding, Nighthawk committed to continued communication with CIRNAC-CARD and to providing "weekly reports summarizing exploration activities including the volume of water sourced from lakes within the Colomac footprint". CIRNAC-CARD

⁷ See WLWB Online Registry for [Nighthawk - Indin Lake Project - Issuance Letter and Permit - Jan 13 23, Annex A](#)

⁸ See WLWB ORS for [Indin Lake Gold Project - Type A Water Licence Applications and Type A Land Use Permit Application - Dec 23 21](#), CIRNAC-CARD comments 2, 3, 4

did not raise any concerns with the potential water sources at the public hearing,⁹ nor did CIRNAC-CARD provide any comments on the Draft Water Licence, which included Baton and Steeves Lakes as potential water sources.¹⁰ The Board decided on the water sources based on the evidence provided during the proceeding, and given CIRNAC-CARD did not raise a concern with Baton and Steeves Lake specifically during the proceeding, the Board included these as water sources as proposed by Nighthawk in its Water Licence Application.¹¹ The Board directs Nighthawk to engage with CIRNAC-CARD on this issue as soon as possible and report back to the Board once it has done so.

- ***Decision #4: The Board directs Nighthawk to engage with CIRNAC-CARD on the use of Steeves Lake and Baton Lake as water sources and report back to the Board as soon as possible.***

3.3 Storage Locations

Section 4.3.1 of the Plan describes that sediments collected from the use of the core saw are contained within bags which are then stored in a historical quarry at the airstrip. ECCC commented that the bagged sediment could be a source of metal leaching or acid rock drainage (ARD) depending on the type of core that was cut (comment 3). ECCC noted that it was “not clear if water is ponding in the quarry due to the slope and berm”. ECCC recommended that Nighthawk provide additional information on water management in the quarry including the following: approximate quantity of water ponding in the quarry and its quality; a description of water management necessary to keep levels below the berm; and where bagged sediment from core saw is placed relative to water. Nighthawk indicated that there is no active water storage or water management in the quarry area, and the only water that is in contact with stored waste in the quarry is from local snowmelt and precipitation, which evaporates or infiltrates to the ground. Nighthawk also indicated that there has never been an overflow of surface water from the quarry and that the Inspectors have confirmed that the storage area and containment is acceptable. Nighthawk did not address whether there is potential for ARD or metal leaching from runoff/infiltration from the sediment bags.

Despite Nighthawk’s response, it remains unclear if there is any potential for water that comes in contact with the sediment bags to enter the Receiving Environment (either as runoff or through infiltration), and whether the contents of the bags are a potential source of ARD or metal leaching. It is also unclear where the historical quarry is located at the site (the quarry was not included on any figures in the Plan) and how many bags are stored here. Additional information on what types of mitigations (if any) for water in the quarry should be included in the next version of the Plan. If Nighthawk believes no mitigations are required, then rationale should be provided.

- ***Revision #3: The Board requires Nighthawk to include additional information in Version 1.1 of the Water Management Plan, including but not limited to the following:***

⁹ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 1 Transcript - Apr 14 22](#) and [Nighthawk - Federal WL Application - Public Hearing - Day 2 Transcript - Apr 14 22](#)

¹⁰ See WLWB ORS for [Indin Lake Project - Draft Water Licences and Land Use Permit - Jun 29 22](#)

¹¹ See WLWB Online Registry for [Nighthawk - Water Use Plan - Version 5.0 - Oct 14 21](#)

a) comment on any risks to the Receiving Environment from runoff/infiltration of water that has been in contact with the core sediment bags, including rationale;

b) any mitigations for water that has been in contact with the core sediment bags, including rationale; and

c) a figure that includes the location of the historical quarry and where the bags are stored within the quarry.

In addition, the core saw bags do not appear to be included as a waste stream in the Waste Management Plan.¹² As well, the Interim Closure and Reclamation Plan includes management of waste rock but there was no discussion on the core sediment.¹³ It is currently unclear when and how the bagged sediment is eventually disposed of, for example, whether it is removed annually via the winter road or stockpiled until closure. This information should be included in the next versions of the Waste Management Plan and the Interim Closure and Reclamation Plan.

- ***Decision #5: The Board requires Nighthawk to include information on the management of the core sediment bags in the next versions of the Waste Management Plan and the Interim Closure and Reclamation Plan.***

3.4 Water Management Strategies

In Section 4.1 of the Plan, Nighthawk lists two main strategies to achieve the water management objective of reducing adverse impacts on water quantity and quality of the Receiving Environment at the Project. The strategies include following regulatory and permitting requirements and managing contact water and non-contact water separately to the extent practicable. Nighthawk indicated that it would prevent contact water from entering the Receiving Environment by using approved disposal methods, best management practices, and/or proper containment.

During the public review, Nighthawk was asked whether runoff from the waste rock piles would be classified as contact water (WLWB staff comment 6). Nighthawk indicated that “Management of runoff from the rock piles at Damoti is not separately undertaken from non-contact water due to the low volume of runoff relative to the total catchment yield, the consequent low potential risk of any impacts to the Lardass Lake receiving environment, and low-level Project activities at the site (i.e., no active operations or reclamation activities” (response to WLWB staff comment 6). Nighthawk further indicated that the response framework in the Plan would provide the specific actions to be implemented if water quality of runoff approaches EQC at the point of discharge. Given the response framework would be considered another water management strategy, the response framework should be mentioned in section 4.1 for clarity.

¹² See WLWB Online Registry for [Nighthawk - Waste Management Plan - Version 4.1 - Jun 9 23](#)

¹³

- **Revision #4: The Board requires Nighthawk to include the response framework for the waste rock pile runoff as a water management strategy in the bulleted list in section 4.1 of Version 1.1 of the Water Management Plan.**

3.5 Additional Revisions

In response to comments during the public review, Nighthawk committed to updating the Plan with specific information. Nighthawk also provided additional information that would be helpful to readers of the Plan. The Board requires Nighthawk include the following revisions based on Nighthawk's response to comments:

- Update section 4.3.2 with a description of how Nighthawk might choose a location for a sump within 100 m of the ordinary high-water mark, with an emphasis that the location must first be approved in writing by the Inspector prior to use (as per Condition 44 in Nighthawk's Land Use Permit) (response to GNWT-ECC comment 2);
- Remove reference to SNP station 5-10 from the Plan given this station is inactive (infilled in September 2022) (response to WLWB staff comment 1);
- Remove Table 3 from the Plan given water quality data is provided in bi-annual SNP reports (response to WLWB staff comment 3);
- Update section 3.0 with additional information on how climate change will be considered in future versions of the Plan based on the work at site (response to WLWB staff comment 4); and
- In section 4.4 of the Plan, include how the water balance was developed and include the water used for project activities in the water balance (response to WWB staff comments 8 and 9).

- **Revision #5: The Board requires Nighthawk to include the information outlined in section 3.5 of these Reasons for Decision.**

3.6 Other Review Comments

Other comments submitted during the public review are not discussed because the Board is of the view that the responses provided by Nighthawk adequately addressed the reviewers' comments or were identified as not requiring a response. These comments include the following: ECCC comment 4; and WLWB staff comments 2, 5 and 11.

Signed the 29 Day of February, 2024, on behalf of the Wek'èezhìi Land and Water Board



Witness



Name
Chair, Wek'èezhìi Land and Water Board