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April 25, 2022

W2021L2-0004, W2021L2-0005, W2021C0009

Denise Lockett
Manager, Stakeholder Relations, Licensing and Permitting
Nighthawk Gold Corp.
#301 – 141 Adelaide St. W.
Toronto, ON, M5H 3L5

Sent via email

Dear Denise Lockett,

Re: Nighthawk – Water Licence Amendment Applications and Land Use Permit Application – Request for Information – Scope of Authorizations

On November 4, Nighthawk Gold Corp (Nighthawk) submitted two Type A Water Licence Amendment Applications (W2015L2-0005 and W2021L2-0004) and a Land Use Permit Application (W2021C0009) for the Indin Lake Project. In accordance with subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Wek'èezhii Land and Water Board (WLWB or Board) is required to make a preliminary screening determination on any part of the proposed development that is not exempt from screening. The WLWB made a preliminary screening determination on the Applications on February 9, 2022.¹ In the recent Public Hearing, the scope of Nighthawk's proposed activities came under question and resulted in two Undertakings by Nighthawk to provide further information. On review of Nighthawk's response to Undertakings, it is unclear whether all activities and locations described by the Applicant have been subject to Part 5 of the MVRMA.

In an effort to ensure the necessary evidence is on the record, the WLWB is requesting additional information from Nighthawk at this time. The details of the requested information and resulting changes to the current Work Plan are described below.

Background

In the covering letter to its Applications, Nighthawk indicated that no activities were proposed that were not already within the scope of previous authorization.² Nighthawk's Applications only identified

¹ See WLWB Online Registry at www.wlwb.ca for [Nighthawk - Preliminary Screening Determination and RFD - Feb 9 22.pdf](#)

² See WLWB Online Registry for [Nighthawk - Federal WL Application - Cover Letter - Nov 4 21.pdf](#)

proposed changes to the equipment, facilities, and volume of water intake. All of these proposed changes were considered in Board's February 9, 2022 Preliminary Screening.³

Throughout the proceeding Board staff have sought clarity regarding the scope of the Applications. In response to questions at the Technical Workshop, Nighthawk described plans to reduce the scope of the Applications to exclude bulk sampling and the use of the settling pond. However, in response to IR #3, Nighthawk did not subsequently reduce the scope of its Applications.⁴ Nighthawk proposed that the following activities be part of the scope of all three authorizations:

- a) advanced mineral exploration, including diamond drilling, use of water and deposit of waste for a camp, use of satellite camps, occupied by more than 50 persons and use of water for drilling;
- b) maintenance, reclamation, and closure, including management of waste rock, ore, and the underground portal, and associated seepage or discharge of water;
- c) use and storage of explosives for trenching and bulk sampling, closure and reclamation, if required;
- d) construction, operation, and maintenance of winter roads and spur roads; and
- e) use and storage of fuel; and
- f) use of vehicles and equipment

At the Public Hearing, Nighthawk maintained its position that the federal and non-federal authorizations should both include all proposed activities.⁵ In questions to Nighthawk, Board staff indicated that the requested scope of Applications includes bulk sampling, trenching, satellite camps, management of waste rock, and the underground portal, and discharge of water, however, details regarding these activities beyond the Damoti site had not been provided.⁶ In response, Nighthawk advised that an underground portal would not be required on federal land.⁷ Board staff understand this to mean an underground portal is not proposed beyond the Damoti site and therefore have not requested further information on this activity. Board staff understand the only Discharges beyond the Damoti site to be grey water at the Colomac and satellite camps and therefore those discharges are not discussed in this Information Request.

Undertakings #3 and #5 were agreed to by Nighthawk to further explain plans for bulk sampling, management of waste rock, management of ore, and satellite camps. On April 20, 2022, Nighthawk provided its Response to these Undertakings.⁸ These responses and associated requests for additional information are discussed below.

³ See WLWB Online Registry for [Nighthawk - Preliminary Screening Determination and RFD - Feb 9 22.pdf](#)

⁴ See WLWB Online Registry for [Nighthawk - Federal WL - Technical Workshop - Repsonse to Information Requests - Feb 28 22.pdf](#)

⁵ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 1 Transcript - Apr 14 22.pdf](#); pg. 80

⁶ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 2 Transcript - Apr 14 22.pdf](#); pg. 138

⁷ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 2 Transcript - Apr 14 22.pdf](#); pg. 138

⁸

Bulk Sampling, Trenching, and Rock Management

In response to Undertaking #5, Nighthawk stated that it believes bulk sampling, management of waste rock, and management of ore, beyond the Damoti site, were previously subject to Part 5 of the MVRMA. Nighthawk provided links to three previous decisions that it believes support this position.⁹

Subsection 115(2) of the MVRMA requires the WLWB to consider previous Preliminary Screenings. To assist Nighthawk and Parties in its consideration of the history of this Project, Board staff have compiled a list of relevant documents linked below:

Table 1: Relevant Documents

Authorization(s)	Applications	Preliminary Screening
W2006C0001 W2006L2-0001	Initial Applications: LUP , WL Application materials state: “bulk sample from underground and existing surface ore stock piles” (PDF pg. 233).	Preliminary Screening
W2010C0008 W2010L2-0001	Initial Applications: LUP , WL Application materials state “bulk sample from underground and existing surface ore stock piles;” (see PDF pg. 16) Amendment Application: WL , (to include Colomac camp became application for W2012L1-0002, see below)	
W2012C002 W2012L1-0002	Initial Applications: LUP , WL Amendment Application: LUP (to include Kim/Cass site)	Preliminary Screening of Permit W2012C002 Preliminary Screening of Licence W2012L1-0002 Preliminary screening of an amendment to W2012C0002 (May 28, 2014)
W2012X0003	Initial Application: LUP	Preliminary Screening of Permit W2012X0003
W2018C0007 (exploration) W2018X0006 (remediation) W2018L2-0002 (federal) W2018L2-0003 (nonfederal)	Initial Applications: WLs (W2018L2-0002 , W2018L2-0003); LUP (W2018C0007 , W2018X0006) Amendment Applications: LUP W2018C0007 change in camp size and equipment ,	Determined to be exempt from Screening (see Reasons for Decision) Preliminary Screening for W2018C0007 Amendment (November 19, 2020)

⁹ See WLWB Online Registry for [Nighthawk - Federal WL Application - Nighthawk Response to Undertakings - Apr 20 22.pdf](#)

	WLs (to increase water use); Federal Licence and LUP (to add additional mineral leases); LUP W2018C0007 (to increase fuel storage)	Amendment determined to be exempt from Screening (see Reasons for Decision) Preliminary Screening of Amendment Application (April 22, 2021) Amendment determined to be exempt from Screening (see Reasons for Decision)
W2021L2-0004 (non-federal) W2021L2-0005 (federal) W2021C0009 [Current Applications]	Initial Applications: Non-federal WL , Federal WL , LUP	Preliminary Screening Determination

Possible Confusion about Scope of Project

At the recent Public Hearing, Interveners indicated that they had not considered bulk sampling beyond the Damoti site. In its submissions through the current proceeding¹⁰ the GNWT also raised concerns with lack of information provided.¹¹ In review of previous decisions related to Nighthawk, Board staff have identified that similar concerns were raised with the issuance of the W2012C0002 Land Use Permit.¹² At that time, the WLWB included a permit condition to address Parties' concerns with the lack of information provided on bulk sampling beyond the Damoti site.

In their review of the documents referenced by Nighthawk, Board staff have not identified a preliminary screening that explicitly considered the impacts and mitigations associated with bulk sampling and trenching beyond the Damoti site. In addition, it is not clear how the Board could have screened bulk sampling and trenching activities without further information regarding how and where bulk sampling was to be completed. Board staff note that the scope of the application and screening for the 2014 Amendment to Permit W2012C0002 (to include the Kim/Cass site) did include the use and storage of explosives for trenching and bulk sampling activities within the Kim/Cass site area. No details regarding these activities, potential impacts, or mitigations appear to have been discussed. In addition, and as discussed below, it is unclear whether Nighthawk still has the mineral rights to these locations (i.e., Kim/Cass site).

Nighthawk did state at the Public Hearing that to the extent necessary, relevant management plans could be updated prior to bulk sampling.¹³ At the Public Hearing, the GNWT identified some initial thoughts

¹⁰ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 2 Transcript - Apr 14 22.pdf](#); pg. 141-147

¹¹ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 2 Transcript - Apr 14 22.pdf](#); pg. 72-73 and 143-144

¹² See WLWB Online Registry for [W2012C0002 - Merc - LUP - Staff Report and Review Comment Table - Feb 29 12.pdf](#)

¹³ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 1 Transcript - Apr 14 22.pdf](#); pg. 83

regarding information that may be required, however, all Interveners stated they would need more time to consider what should be submitted prior to bulk sampling.¹⁴

At this time, the Board has not made a determination on whether bulk sampling, trenching, waste rock management, and ore management, beyond the Damoti site, have previously been subject to Part 5 of the MVRMA. To ensure it has sufficient information when it deliberates on these Applications, and in the event the Board determines a preliminary screening is necessary, the WLWB is requesting Nighthawk provide the following information:

- 1. Additional information regarding the mechanism by which bulk sampling would be completed beyond the Damoti site. This information should be consistent with the equipment, machinery, water use, and deposits of waste included in the current Applications.**
- 2. Additional information regarding waste rock and ore management beyond the Damoti site. Including clarification of whether any waste rock and/or ore would be stockpiled on site.**
- 3. Additional information regarding proposed trenching beyond the Damoti site.**
- 4. Identification of potential impacts and associated mitigations associated with bulk sampling, waste rock management, ore management, and trenching, beyond the Damoti site;**
- 5. A detailed list of the additional information that would be provided by the Applicant prior bulk sampling, waste rock management, ore management, and trenching beyond the Damoti site (e.g., location, updated to management plans, new management plans, details regarding volumes of rock, geochemistry of rock etc.); and
A detailed list of the additional information that would be provided by the Applicant prior bulk sampling, waste rock management, ore management, and trenching at the Damoti site (e.g., location, updated to management plans, new management plans, details regarding volumes of rock, geochemistry of rock etc.).**

Mineral Rights

As per section 18 of the *Mackenzie Valley Land Use Regulations*, eligibility must be determined before the Board can issue a permit. With its Application, Nighthawk provided a list of active Mineral Leases and Claims for the Indin Lake Project. Board staff note that the [NWT Mineral Tenure Map](#) indicates that the following 14 mineral claims/leases are not registered in Nighthawk's name.

Table 2: Identified Mineral Claims/Leases

Mineral Claim	Mineral Lease
• NT-3380	• NT-3380
• NT-3446	• NT-3446
• NT-3462	• NT-3462
• NT-3463	• NT-3463
• NT-3538	• NT-3538
• NT-3655	• NT-3655
• NT-3656	• NT-3656

¹⁴ See WLWB Online Registry for [Nighthawk - Federal WL Application - Public Hearing - Day 2 Transcript - Apr 14 22.pdf](#); pg. 141-147

6. ***Nighthawk is to provide to demonstration of eligibility under paragraph 18 of the MVLUR for areas identified in Table 2 above.***

Satellite Camps

Nighthawk included the establishment of satellite camps in the scope of its Applications. Satellite camps were included in previous applications and were subject to screening. It is noted that the 2018 Application specified satellite camps would “house up to 15 people”,¹⁵ while Nighthawk’s response to Undertaking #3 stated that the camps typically consist of about 20-30 persons. The WLWB requests that Nighthawk clarify whether this discrepancy has previously been subject to Part 5 of the MVRMA.

7. ***Nighthawk to provide clarification of whether it believes satellite camps greater than 15 persons have been subject to Part 5 of the MVRMA If so, provide documentation. If not, identify any potential impacts or mitigations associated with the addition 5-15 people.***

Next Steps

The WLWB has requested that Nighthawk respond to the seven items above as additional evidence to be added to the record of this proceeding on or before **May 5, 2022**. To ensure that all Interveners have an opportunity to consider this new evidence, the Work Plan has been updated to include the necessary review steps.¹⁶ The record in this proceeding will not close until all the required information is in the Board’s hands.

Once deemed complete, WLWB staff will distribute the Response to this IR via the Public Review System.

- Deadline for Reviewers to provide comments/recommendations: **May 19, 2022**
- Deadline for Nighthawk to respond: **May 27, 2022**

The deadlines for all subsequent steps of the proceeding have been influenced by this change in Work Plan. The WLWB notes that all documents referenced within this Information Request, will form part of the record of this proceeding.

Sincerely,



Ryan Fequet
Executive Director, Wek’èezhii Land and Water Board

Bcc: Nighthawk Distribution List

¹⁵ See WLWB Online Registry for [W2018C0007 - Land Use Permit Application - Oct 16 18](#)

¹⁶ See WLWB Online Registry for [Nighthawk – Federal WL – Work Plan - Apr 25 22](#)