



Tłıchǫ Government

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March 21, 2021

Meghan Schnurr
Wek'èezhìi Land and Water Board
#1-4905 48th Street
Yellowknife, NT
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**Re: Tłıchǫ Government Intervention for Nighthawk Gold Corp. Water Licences and Land Use Permit
Indin Lake Project Public Hearings**

This is the Tłıchǫ Government's (TG's) intervention for the Nighthawk – Type A Water Licence Application (federal and non-federal) and Type A Land Use Permit Application public hearings being held by the Wek'èezhìi Land and Water Board (WLWB).

The TG has participated in the review, engagement sessions and technical workshop related to Nighthawk's applications and will continue to do so through the remainder of the proceeding.

The TG's focus in the WLWB proceedings for this application is to ensure that the water, land, wildlife, and environment are protected now, during any future activities, during closure, and in the long-term after closure.

We appreciate Nighthawk's engagement and we are ready for future engagements with Nighthawk.

Our recommendations are in *bold italics* throughout the document below.

In Tłıchǫ Unity,

Tammy Steinwand-Deschambeault, Director
Department of Culture & Lands Protection
Tłıchǫ Government



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1 INTRODUCTION

The Nighthawk Indin Lake project is located in the Wek'eezhii region of the Northwest Territories (NWT). Though the Nighthawk project is outside Tłıchǫ lands, it is within the Wek'eezhii Co-management Area and adjacent to Tłıchǫ Lands, and activities or operations at the project location may have direct and indirect impacts on Tłıchǫ lands.

We trust the Board will provide the regulatory oversight required to protect Tłıchǫ land which is located adjacent to Nighthawk's Project and we also trust that Nighthawk will remain in compliance with all regulatory requirements, and follow all applicable policies and guidelines. We have fully participated in this proceeding and believe that the public hearing, site visits and ongoing engagement will offer TG the opportunity to continue to share our thoughts.

2 WILDLIFE

As mentioned in TG's public review comment (TG #10), this project is in the Bathurst Caribou (Kokèti Ekwò) Range. The Kokèti Ekwò population is extremely low and total allowable harvest has been at zero for over a decade. All projects in the range must take measures to minimize habitat disturbance, restore disturbed habitat, and not occupy habitat or carry out activities in caribou habitat in a way that creates barriers to caribou migration through the habitat.

Nighthawk mentioned that they have only seen a few herds of at most four caribou in a long while, but has committed to including trained Tłıchǫ citizens in the monitoring going forward. We look forward to being a part of this monitoring.

3 ARCHAEOLOGY

Based on the project location in relation to Tłıchǫ land, TG is reiterating the recommendation made in TG comment #17 that in addition to standard permit conditions for archaeological overviews, assessments, etc., the Permittee should notify the Manager of Research Operations of Tłıchǫ Government by phone and email of the discovery of any artifacts, heritage sites, or burial sites and consult with the TG Manager prior to moving any artifacts or disturbing any ground within 150 m of a burial site. In addition, any archaeological overview carried out under the land use permit must also include consultation with TG so that Tłıchǫ Traditional Knowledge can inform the identification of areas with high-potential for cultural heritage resources or artifacts.

TG recommends that this information can be required as a Land Use Permit (LUP) condition or as part of the engagement plan.



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4 WATER QUALITY

4.1 Location of Compliance Point

Nighthawk's Type B water licence regulates the discharge of contaminated seepage and runoff from the site. This seepage and runoff come mainly from small piles of potentially acid-generating waste rock, and can be acidic and contain metals. This waste rock was disposed on-site during bulk sampling in the late 1990s. The licence sets effluent quality criteria (EQC) that must be met in the receiving environment and in the mine water settling pond. EQC are numeric limits for chemicals in wastewater. Chemical concentrations cannot go above these limits.

Nighthawk is unable to meet EQC in one of the pools near the waste rock piles. Therefore, Nighthawk has been required to treat pool water with lime, so that it can meet EQC. We understand that adding lime may not be very effective and has its own shortcomings.

TG understands that Nighthawk is proposing a Water Licence amendment to clarify that EQC do not need to be met in the pools in the disturbed area around the waste rock piles. Nighthawk proposes that EQC must be met where water that has contacted waste rock leaves the disturbed area. This location is called Surveillance Network Program (SNP) station 5-6. Nighthawk believes it can meet EQC at this location. After this location, water drains through wetlands to Lardass Lake. On that path, chemical concentrations are reduced. **We agree that EQC should be met at SNP station 5-6, and that EQC don't need to be met in every small pool near the waste rock piles.** These small pools are part of the disturbed area and do not have fish.

4.2 Effluent Quality Criteria

In addition to the issue of where EQC should be met, in our comments on Nighthawk's proposed amendment, we addressed whether the EQC in the licence should be revised. We suggested that EQC should be set to achieve water quality objectives in Lardass Lake. The existing EQC are not based on meeting water quality objectives. They are based on Metal and Diamond Mining Effluent Regulations (MDMER). It is our understanding that MDMER limits are meant for operating mines with an environmental effects monitoring plan, which Nighthawk does not have. Also, it is not clear to us that MDMER limits protect water quality to the same standard as the Board's Water and Effluent Quality Policy.

The EQC were discussed at length during the technical sessions. After the technical session, in response to information request #10, Nighthawk did some calculations to see what EQC would have to be in order to meet water quality objectives in the lake. As a result, Nighthawk is now proposing lower EQC for four metals. TG appreciates Nighthawk's efforts to re-estimate EQC to ensure they protect the receiving environment. We note also that there are other existing or proposed conditions in the water licence that will work together with the EQC to protect the downstream environment. For example, Nighthawk proposes to set triggers for action in the Water Management Plan, so that actions are taken if the water



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quality is poor. We are also aware that Nighthawk's historical data show that Nighthawk has been meeting CCME Guidelines at the lakeshore (except for total suspended solids (TSS), which Nighthawk says is due to disturbing the lake bottom during sampling). ***With all this in mind, we have no further comments or recommendations on EQC at this time***, although we may have questions about Nighthawk's methodology or other issues related to the EQC at the public hearing.

4.3 Possible New Conditions

We agree with Nighthawk's proposal to set action levels in the Water Management Plan that would trigger responses to protect the lake. This may include for example, chronic toxicity testing. Ultimately, if water quality in Lardass Lake is poor, Nighthawk may need to implement its approved closure activity for the waste rock piles. The approved closure activity is to move all the rock into one pile and cover it with a geosynthetic membrane, which Nighthawk predicts will improve seepage and runoff quality. ***The Board may wish to consider a new water licence condition that would require Nighthawk to implement the approved closure plan if directed by the Board or if certain action levels are reached.*** This would strengthen the Board's oversight and support the GNWT's inspection and enforcement of this matter.

Nighthawk has proposed to add a requirement for acute toxicity testing. We agree with this requirement. Water from the site that enters Lardass Lake must not be acutely toxic. Nighthawk also proposed a new condition that says what Nighthawk must do if the tested water is acutely toxic. This would include notification, reporting, and response actions. This requirement is on the Board's list of standard conditions. Nighthawk did not propose a condition that actually prohibits acute toxicity. In other words, there is nothing in the proposed licence that would say that Nighthawk cannot discharge acutely toxic water. ***The Board has a standard condition for this and we recommend the Board consider it for Nighthawk's licence:***

The Licensee shall ensure that Discharge to [enter receiving waterbody name] shall not be acutely toxic to aquatic life as determined at SNP station X by the test methods referenced in Part B of the Surveillance Network Program.