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March 26, 2024

File: MV2023L2-0001

Todd Martin  
Court-Appointed Monitor  
North American Tungsten Corporation Ltd.  
902-925 West Georgia St.  
Vancouver BC V6C 3L2

Sent by e-mail

Dear Todd Martin,

**Re: Response to Information Request Number Three – Care and Maintenance Water Licence Application**

Thank you for your letter, dated February 23, 2024, with North American Tungsten Corporation Ltd.'s (NATCL) response to Information Request Number Three (IR#3). In addition to NATCL's specific responses to IR#3, NATCL also raised two issues that this letter will address. NATCL's substantive response to IR#3 will, of course, remain part of the ongoing MV2023L2-0001<sup>1</sup> proceeding.

***Issue 1: MVLWB's legal advice and the competing interests of procedural fairness.***

In your letter, you stated that NATCL understood that the MVLWB has obtained a legal opinion with respect to the "MVLWB's ability to issue a type B water licence to an undertaking which has previously been issued a type A water licence." Based on that understanding, NATCL has requested that the MVLWB provide NATCL with any facts or legal issues raised in the legal opinion.

Although Board staff have discussed this issue with our legal counsel, we have not asked for or received a legal opinion on this topic. Instead, the MVLWB decided to first seek additional information and argument from all parties, including NATCL, on the question of transitioning from a type A to a type B water licence for a project. Therefore, we can confirm that we have not withheld any facts or issues that would impair NATCL's ability to present their case fairly in response to IR#3 or otherwise in this proceeding.

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<sup>1</sup> See the MVLWB Online Registry [www.mvlwb.com](http://www.mvlwb.com) for [MV2023L2-0001](#).

***Issue 2: Restrictions on who is permitted to make submissions in connection with NATC's water licence application.***

As noted in your letter, the MVLWB must make a ruling on whether a type B water licence can be issued to NATCL for a project that previously held a type A water licence. Although this issue has been raised as part of this specific proceeding, the MVLWB recognizes that because the ruling requires a legal interpretation of the *Mackenzie Valley Resources Management Act* (MVRMA), it may set a precedent for similar situations that arise in other areas of the Mackenzie Valley. For this reason, the MVLWB plans to distribute all of the IR#3 response to parties across the Mackenzie Valley for review and comment.

NATCL has objected to the MVLWB's use of a "broader distribution list of reviewers" on the basis that doing so contravenes the LWB *Rules of Procedure*. We disagree with NATCL's opinion for the following reasons:

- Rule 24 states that the Executive Director will ensure that a Request for Ruling will be circulated to the Parties; however, it does not state that such a Request will only be circulated to the Parties.
- To become a "Party to the Proceeding," any member of the public from any location in the Mackenzie Valley only has to ask or just submit a comment to the MVLWB. Parties do not have to be on a distribution list to become Parties to a proceeding. For example, Items for Review on the Online Review System are public.
- The opportunity to become a Party is not limited to the initial stages of a proceeding. For example, there is always an opportunity for members of the general public to speak at public hearings.
- One of the MVLWB's most important responsibilities is to run inclusive and transparent processes to ensure all potentially affected parties are consulted. In this case, parties outside of the region immediately surrounding the CanTung Mine may be affected by the ruling, since the interpretation of the MVRMA in the ruling may be relevant to other water licence proceedings in the Mackenzie Valley.

Please contact Kathy Racher via [email](#) or at (867) 766-7457 with any questions or concerns regarding this letter.

Yours sincerely,



Kathy Racher  
Executive Director

BCC'd to:        Distribution List – All Users