

# WEK'ĒEZHÌ RENEWABLE RESOURCES BOARD RULES OF PROCEDURE

## TABLE OF CONTENTS

<b>INTRODUCTION AND PURPOSE</b>	2
<b>DEFINITIONS</b>	2
<b>PART ONE: GENERAL PROVISIONS</b>	5
Authority	5
Citation	5
Interpretation of the Rules	5
Application of the Rules	5
Non-Compliance with the Rules	5
Format of Submissions	5
Technical Objections	6
Communication	6
Evidence	6
Motions and Decisions Made During Board Proceedings	6
Service of Documents on Parties	7
Public Registry	7
Testimony	7
<b>PART TWO: CONDUCT OF PROCEEDINGS</b>	8
Commencement of Proceedings	8
Notification of Proceedings	8
Intervention in Board Proceedings	8
Information Requests	9
Submissions	9
Written Response to Parties' Submissions	9
Modification of an Application	9
Responses to Modified Applications	10
The Public Record and Privacy Matters	10
Viewing	10
<b>PART THREE: CONDUCT OF HEARINGS</b>	11
Hearings	11
Conduct of a Hearing	11
Public Notice of a Hearing	11
Pre-hearing Conferences	11
Formulation of Issues	12
Order of Events at a Public Hearing	12
Participation in a Hearing by the Public	12
Time Limits and Questioning	13
Hearing Language and Interpretation	13
Transcript	13
Adjournments	13
Hearings Commenced by a Board Without a Proposal	13
Joint Hearings	13

## INTRODUCTION AND PURPOSE

The Wek'èezhìi Renewable Resources Board (the Board) has made these Rules of Procedure for the conduct of proceedings before it. These Rules will help to ensure that proceedings meet the requirements of fairness and are efficient and focused.

## DEFINITIONS

- Aboriginal group** means a Métis local or organization or an Inuit organization;
- Agreement** means the Tłı̄chǫ Land Claims and Self-Government Agreement;
- applicant** means a person or organization that has filed a written application, representation or complaint with the Board under s.12.3.6 of the Tłı̄chǫ Agreement or that has submitted a proposal to the Board under s.12.5.1 of the Agreement;
- application** includes a written proposal for the management of wildlife submitted to the Board under s.12.5.1 or a written application, representation or complaint filed with the Board under s.12.3.6 of the Agreement;
- Board** means the Wek'èezhìi Renewable Resources Board established by s.12.1.2 of the Agreement;
- consultation** is defined in s.1.1.1 of the Agreement and means
- (a) the provision, to the person or group to be consulted, of notice of a matter to be decided in sufficient form and detail to allow that person or group to prepare its views on the matter;
  - (b) the provision of a reasonable period of time in which the person or group to be consulted may prepare its views on the matter, and provision of an opportunity to present such views to the person or group obliged to consult; and
  - (c) full and fair consideration by the person or group obliged to consult of any views presented
- and includes any meetings or process necessary to complete a consultation;
- Direction** means an order of the Board intended to ensure the fair and efficient management of a proceeding;
- document** includes any record in printed form, including facsimiles, and any record in electronic form, including emails and their attachments, capable of being reduced to a printed format; and includes video or audio tapes;
- Elder** means any person recognized as an elder in accordance with local culture, customs and traditions;

- First Nation** means the Gwich'in First Nation, the Sahtú First Nation or bodies representing other Dene First Nation of the North Slave, South Slave or Dehcho region of the Northwest Territories;
- hearing** includes a hearing on an application, the hearing of a motion, a written hearing, a public hearing and includes a joint hearing;
- Information Request** means a written request for information or particulars directed to a party in a proceeding;
- intervenor** means a person who has filed the information required by Rule 43 and who has been granted intervenor status by the Board under Rule 45 of these Rules;
- joint hearing** means a hearing conducted by the Board in collaboration with another board or organization with the authority to manage wildlife or natural resources;
- motion** means a written request, including any supplementary materials supporting the request, made by a party to the Board, for a ruling or an order in a proceeding and includes a motion made by the Board;
- party** means the Tłı̨chǫ Government, the Government of the Northwest Territories, the Government of Canada, the applicant or an intervenor who are involved in a proceeding before the Board;
- proposal** means a written proposal related to wildlife management submitted to the Board under s.12.5.1 which may relate to matters including: actions set out in a management plan, protection or enhancement of habitat, research, identification and reporting requirements, monitoring, total allowable harvest levels, limitations on methods of harvesting and other limitations on harvesting activities, allocations of any total allowable harvest levels, designation of species or stocks at risk and identification of lands where harvesting or access for harvesting is prohibited for safety purposes;
- proceeding** means a public meeting, consultation, a written or public hearing in which the Board makes a determination on an application or any matter over which it has authority;
- public notice** means an announcement by newspaper, radio, community poster or other public means, including internet and social media made according to such reasonable terms as are set out by the Board;
- technical consultant** means a person or firm retained to assist a party or the Board in a proceeding by analyzing and preparing evidence and making representations which will assist in a Board determination;
- Tłı̨chǫ First Nation** means the Aboriginal people comprised of all Tłı̨chǫ Citizens;

**Tłìchq Government** means the government of the Tłìchq First Nation established in accordance with chapter 7 of the Agreement;

**viewing** means a Board visit to a particular location as part of the evidence-gathering process of a proceeding;

**Wek'èezhì** means the area described in Part 2 of the Appendix to Chapter 1 of the Agreement.

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## **PART ONE: GENERAL PROVISIONS**

### **Authority**

1. The Wek'èezhì Renewable Resources Board has made these Rules pursuant to section 12.3.6 of the Tìjchq Land Claims and Self-Government Agreement.

### **Citation**

2. These Rules may be cited as the Rules of Procedure for the Wek'èezhì Renewable Resources Board.

### **Interpretation of the Rules**

3. These Rules will be interpreted liberally to achieve the most fair and efficient determination of every matter before the Board.

### **Application of the Rules**

4. These Rules apply to all proceedings of the Board.
5. Where any matter of procedure is not provided for by these Rules, the Board may, at any time, issue a Direction on procedure to deal with the matter.
6. The Board may, by its own motion, or on application by a party in any proceeding, dispense with, vary or supplement these Rules.
7. Where there is a conflict between the Rules and a specific Direction given by the Board, the Direction prevails over the Rules.
8. To address the requirements of fairness, the Board may, upon notice to the parties to a proceeding, shorten or extend the time fixed by these Rules for any action.

### **Non-Compliance with the Rules**

9. Where a party to a proceeding has not complied with these Rules or a Direction or an order issued by the Board, the Board may:
  - a) adjourn the proceeding until satisfied that the requirement has been complied with; or,
  - b) take such action as it considers just and reasonable.
10. In case of a conflict between these Rules and a provision of the Tìjchq Agreement, the Agreement shall be binding to the extent of the conflict.

### **Format of Submissions**

11. The Board may specify that any document must be submitted to the Board in a particular format in accordance with the Board's standards.

### **Technical Objections**

12. No Board proceeding is invalid because of an objection based only on a technical irregularity or a defect in form.

### **Communication**

13. Except during a public hearing, communication related to all Board proceedings must be addressed in writing to the Executive Director, or to the person designated by the Executive Director.
14. When documents, excluding video tapes, are filed in a proceeding, the Board may direct that copies be provided to other parties. At least one original printed version of the document must be sent to the Board.
15. Unless the Board has Directed otherwise, any matter to be dealt with during a proceeding shall be dealt with in writing.
16. All communication with the Board in relation to a proceeding is public and subject to disclosure.
17. Electronic mail is considered a document and will form part of the record of a proceeding, unless specifically stated otherwise by the Board.

### **Evidence**

18. The Board is not bound by the technical rules of evidence. In conducting its proceedings, the Board may accept information that would not normally be admissible under the strict rules of evidence, including hearsay.
19. Pursuant to section 12.3.7 of the Agreement, the Board has the powers, rights and privileges of a Superior Court with respect to the attendance and examination of witnesses and the production and inspection of documents.
20. A witness summoned by the Board may have their travel and accommodations expenses paid by the Board.
21. Any witness who will give opinion evidence in a proceeding may be required by the Board to file a statement of their qualifications on the public record before their evidence is heard.
22. Any party advancing a position to the Board shall bear the burden of introducing sufficient evidence to support its position.
23. Where there is conflicting evidence in a proceeding, the Board shall decide which evidence to accept and shall make its decisions based on the preponderance of the evidence.

### **Motions and Decisions Made During Board Proceedings**

24. The Board may make any procedural decisions required during a proceeding.

25. Subject to Rule 28, any issue requiring a ruling or decision that arises in the course of a proceeding shall be brought to the Board's attention by way of a written motion. The motion shall include a clear, concise statement of the relevant facts, the details of the ruling or decision being sought and the reasons why the ruling or decision should be granted.
26. All motions shall be filed with the Executive Director. The Executive Director shall ensure that a copy of the motion is provided to the parties to a proceeding.
27. The Board may, in its discretion, set or vary any time period prescribed for the filing and hearing of a motion or a response.
28. When such a matter arises during the course of a public hearing, the Board shall deal with it in any way that is consistent with the requirements of fairness.
29. A motion may be heard by the Board with some Board members or parties participating via teleconference, where in the Board's opinion it is warranted.

#### **Service of Documents on Parties**

30. A party intending to rely on a document or evidence in a proceeding, including a public hearing, shall file the document within the time specified by the Board. The Board shall post the document or evidence on its public registry and notify the parties to the proceeding.
31. Failure to disclose a document in accordance with these Rules may result in the Board ruling that it is inadmissible in the proceeding.

#### **Public Registry**

32. In accordance with s.12.3.11 of the Tìjchq Agreement, the Board shall establish and maintain, a public registry of all documents filed in a proceeding and used by the Board in its determinations and recommendations. These documents will constitute the public record for the proceeding.
33. All documents or evidence provided to the Board in a proceeding shall be made public unless suitable arrangements are made, by motion by the party providing the evidence, to protect the confidentiality of the materials.

#### **Testimony**

34. The Board may accept and enter into the public record the testimony of a witness made by an affidavit, a statutory declaration or by a suitably verified audio or video tape recording.
35. A witness whose testimony is presented by means of a sworn written statement or verified recording shall be available for questioning as may be required.
36. Testimony in proceedings can also be presented by audio visual or video format or by teleconference.

37. The Board will encourage the provision of, and will consider, information provided by Elders, traditional knowledge, including oral history and local knowledge, submitted during its proceedings.

## **PART TWO: CONDUCT OF PROCEEDINGS**

### **Commencement of Proceedings**

38. A proceeding commences once the Board receives an application and deems that it is complete or when a proceeding is initiated upon motion by the Board.
39. The Board may request additional information from an applicant before or after it deems an application to be complete.

### **Notification of Proceedings**

40. Notice of a proceeding shall be provided by the Board on its public registry in an appropriate form and it shall specify the timing for submissions or in cases where a hearing will be held, notices of intention to intervene.
41. Once a proceeding has commenced, the Board will place the application and other relevant information on the public registry and notify appropriate federal and territorial departments and agencies, land owners, communities, First Nations, Aboriginal organizations or individuals affected by the application of the proceeding.

### **Intervention in Board Proceedings**

42. Any person, organization, department, agency, affected land owner, community, First Nation or Aboriginal group wanting to intervene in a proceeding must file a notice of intention to intervene, in the appropriate form, on or before the deadline specified in the public notice.
43. The information provided by a potential intervenor must include, where applicable:
- a) a description or summary of the intervenor's interest or concern;
  - b) a clear statement of the intervenor's position listing the issues that they intend to address;
  - c) an indication of whether the intervenor intends to appear at a hearing (if any) and make representations, or rely on written submissions only;
  - d) the intervenor's name, address, telephone, fax numbers and e-mail address (if applicable); and
  - e) confirmation that a copy of the intervention form has been provided to the applicant.
44. The Board will make a timely decision on an application for intervenor status.
45. The Board may grant intervenor status, may request additional information or clarification from anyone seeking intervenor status and may direct intervenors with similar interests to present a joint intervention.

### **Information Requests**

46. The Board may issue an Information Request to any party at any stage of any proceeding.
47. The Board may, in its discretion, allow a party in a proceeding to issue an Information Request to another party, subject to Directions on timing and procedure from the Board. The party's Information Request must first be submitted to the Board for review and the Board will then send the request to the party.
48. A party that receives an Information Request during a proceeding shall respond within the time specified by the Board.
49. A party's response to an Information Request shall be submitted to the Board and circulated to the other parties in the proceeding.
50. The Board shall decide on the appropriateness of an Information Request and response to Information Requests.

### **Submissions**

51. Once the Information Request stage of a Proceeding is complete (or at the time specified by the Board if no Information Requests are authorized), the parties to the proceeding may make written submissions about the application or matter before the Board.
52. Parties' submissions will be made available on the public registry.

### **Written Response to Parties' Submissions**

53. An applicant may, submit a written response to any submissions received by the Board, in accordance with the Directions of the Board.
54. The applicant's reply must be provided to the Board within the time specified and with the number of copies determined by the Board.

### **Modification of an Application**

55. An applicant may only modify an application with leave of or under the Direction of the Board.
56. The Board may, in its sole discretion, determine that a proposed modification represents a significant change to the application and, in such instances, may issue Directions on procedure to accommodate the modification, including requiring that a new application be filed.
57. Where no public hearing has been scheduled and the applicant makes a minor modification to the application, the revised application must be submitted at least 21 days before the Board meeting at which the application is scheduled to be discussed.

58. A modified application submitted under Rule 55 in writing will be circulated by the Board to the parties for their comments. The parties' comments must be received at least 14 calendar days before the Board meeting at which the application is scheduled to be considered.
59. Where a public hearing has been scheduled, the applicant may make a minor change to the application no later than 45 calendar days before the public hearing date.
60. A modified application under Rule 59 will be circulated to the parties by the Board for their comments. The comments must be received by the Board no later than 28 calendar days before the hearing date.
61. The applicant must submit any reply to the parties' comments no later than 14 calendar days before the hearing date.

### **Responses to Modified Applications**

62. Where an applicant is allowed to modify its application, the Board may also allow the other parties to change all or part of their written submissions under conditions set by the Board.

### **The Public Record and Privacy Matters**

63. The record in a proceeding is opened when Board accepts an application as complete and so notifies the applicant. The record is closed at a time set by the Board (in a Direction on procedure) or when the Board's decision is rendered.
64. Information will not be accepted for Board consideration in a proceeding after the record has been closed, unless a motion to reopen the record has been made and approved by the Board.
65. The Board may seek clarification of any evidence on the public record from any party to a Proceeding without causing the record to be re-opened. Copies of information provided in response to a request for clarification shall be circulated to the parties and posted on the Public Registry.
66. All relevant information received from the time the record is opened until the closing of the record will be considered in the Board's decision.
67. Unless a motion to protect the confidentiality of information is filed with and approved by the Board, all information will be placed on the public record.
68. The Board will notify parties to a proceeding of any motion for the filing of confidential information and will deal with any issues that arise as a result.

### **Viewing**

69. The Board may schedule a viewing at any time during a proceeding and shall give notice to the parties in the proceeding of any proposed viewing.

70. The Board will set the parameters of a viewing and will control how the viewing proceeds.

### **PART THREE: CONDUCT OF HEARINGS**

71. Applications for which hearings are not required under the Agreement and for which the Board has not ordered a hearing will be disposed of in writing.

#### **Hearings**

72. The Board may hold a public hearing, in relation to a matter within its jurisdiction, under s. 12.3.10 of the Tłıchq Agreement, where the Board is satisfied that such a hearing is desirable.
73. Under section 12.3.10 of the Tłıchq Agreement, the Board shall hold a public hearing when it intends to recommend or determine a total allowable harvest level in respect of a population or stock of wildlife which has not been subject to a total allowable harvest level within the previous two years.
74. A public hearing may be held at such place or places in Mqwhì Gogha Dè Njittèè (NWT) as the Board may designate.

#### **Conduct of a Hearing**

75. The Chairperson of a Public Hearing shall be the Chair of the Board or any other member of the Board.
76. Subject to the Tłıchq Agreement, these Rules and the requirements of fairness, the Chairperson will direct and control the conduct of every hearing.
77. To the extent consistent with its duty of procedural fairness, the Board will emphasize flexibility and informality in its proceedings.

#### **Public Notice of a Hearing**

78. Public notice of a hearing will be given, in an approved form in accordance with these Rules, at least 30 days before the hearing date.
79. All parties to a proceeding who intend to participate in a hearing shall notify the Executive Director of their intentions within the time period specified in the public notice.
80. The Board may also use other methods to notify the public of a hearing, having regard to the nature and significance of the matter under consideration and the affected communities, land owners, First Nations, Aboriginal groups and resource users.

#### **Pre-hearing Conferences**

81. In any proceeding involving a public hearing, the Board may direct that its staff and the parties participate in a pre-hearing conference for the following purposes:

- a) to clarify and, where possible, narrow the issues;
- b) to explore possible admission of facts, the proof of facts or the use of any public documents;
- c) to review the procedure to be followed at the hearing; and,
- d) to identify the need for additional information and to determine responsibilities for the production of this information;
- e) set timelines for the parties to submit their hearing presentations to the Board.

82. After a pre-hearing conference, the Board may provide any additional Direction necessary to achieve a fair and efficient hearing.

### **Formulation of Issues**

83. The Board may decide which issues it will consider at a hearing and will notify the parties of such a decision.

### **Order of Events at a Public Hearing**

84. The order of events at a public hearing, unless the Chairperson directs otherwise, will be as follows:

- a) opening prayer at the start of the hearing
- b) opening remarks by the Chairperson
- c) introduction of Board Members, Board staff and technical consultants
- d) introduction of persons representing the applicant and other parties
- e) preliminary and procedural matters (if any)
- f) opening statements by the parties (applicant goes first)
- g) applicant's presentation
- h) questions of applicant by parties in the hearing, Board staff, technical consultants, counsel and Board Members
- i) presentations by each of the parties (order determined by the Chairperson)
- j) questions of each party
- k) presentations or comments from the public (pursuant to Rule 82)
- l) reply by the applicant
- m) closing statements
- n) parties (order determined by the Chairperson)
- o) applicant (last)
- p) closing remarks by the Chairperson
- q) adjournment of the Hearing
- r) closing prayer at end of hearing

### **Participation in a Hearing by the Public**

85. Any person or organization not registered as an intervenor to a hearing but who wishes to make their views known may:

- a) Provide their views, in writing, to the Board and the applicant in advance of the hearing; or
- b) Make an oral presentation during that portion of the hearing that has been set aside to hear the views of the public.

### **Time Limits and Questioning**

86. All intervenors making presentations at a public hearing are subject to questioning by the other parties and the Board.
87. The Board may set time limits for oral submissions and questions by any or all parties and the public at a public hearing.

### **Hearing Language and Interpretation**

88. Every public hearing will be conducted in English.
89. The Board will arrange for any interpretation services in any language(s) which it deems necessary.

### **Transcript**

90. The transcript of a public hearing shall be prepared by the Board and will be placed on the public record after the hearing.
91. The public record and final report shall be in English.

### **Adjournments**

92. The Board may adjourn a Proceeding:
  - a) where it requests further information, particulars or documents and these cannot be obtained in time for a meeting or for a public hearing;
  - b) where an application is modified and the Board determines that the modification would likely cause a significant change to the positions of the parties to the Proceeding; or
  - c) where for any reason the Board deems it necessary.
93. Any party may apply for an adjournment of a hearing. Such an application shall be made by way of motion and if made in advance of the hearing, it shall be filed and served in accordance with these Rules.

### **Hearings Commenced by the Board Without a Proposal**

94. If the Board wishes to make a recommendation or determination respecting a total allowable harvest under s.12.3.10 without waiting for a proposal it must hold a public hearing if the population or stock of wildlife has not been subject to a total allowable harvest level within the previous two years.

### **Joint Hearings**

95. The Board may by agreement conduct a hearing in collaboration with another organization responsible for the management of migratory or shared wildlife. The Board shall issue a Direction on procedure in such instances to guide the conduct of the proceeding.