



YUKON WATER BOARD

**POLICY REGARDING THE SCOPE OF A PUBLIC HEARING
TO DISPOSE OF AN APPLICATION FOR AMENDMENT OF A TYPE A
LICENCE WHERE THE APPLICATION HAS BEEN INITIATED BY THE
LICENSEE**

Where a licensee submits an application to amend an existing licence, and where the *Waters Act* requires that the Yukon Water Board (“Board”) convene a public hearing to consider that application for amendment, then the following policy shall apply:

1. The licensee must clearly identify and describe the proposed amendments in the application and must refer to specific licence clauses. Licensees are encouraged to consult with enforcement agencies, First Nations and other interested parties prior to submitting an application for amendment.
2. The Board will immediately circulate the application to GY, DFO/EP, the First Nation(s) who’s Traditional Territory encompasses, or is likely to be affected by, the project, and the list of interveners from the most recent application for licence or amendment for that project. The Board will provide these parties with 10 calendar days in which to recommend any apparently unrelated amendments for consideration at the same hearing.
3. Any party requesting that the Board should expand the scope of the public hearing to include amendments that are apparently unrelated to the amendments proposed by the Licensee must indicate to the Board the specific amendments that are being proposed and provide a rationale for why those amendments should be considered concurrent to the application at hand.

The party must indicate in the letter that a copy of the proposed amendments, as well as the rationale, have been forwarded to the Licensee. Proposed additional amendments may require an environmental assessment under YESAA and a Decision Document must be provided to the Board prior to the Board making licensing decisions.

4. The public hearing notice will summarize the issues to be discussed at the public hearing and, if necessary, further elaboration or clarification will be included in the water use register, prior to public notice.
5. Nothing in this policy prevents the Board, when circumstances warrant, from expanding the scope of a public hearing to include additional apparently unrelated amendments providing that the Board is first satisfied that consideration, at that time, of the apparently unrelated proposed amendments would be consistent with the objects of the Board and with the principles of procedural fairness.

This policy was approved by the Board and signed by Ron Johnson, Chairperson on November 3, 1997.

This policy was amended by the Yukon Water Board on December 10, 2008.
Bruce Willis, Chairperson

RATIONALE FOR YWB POLICY REGARDING THE SCOPE OF A PUBLIC HEARING TO DISPOSE OF AN APPLICATION FOR AMENDMENT OF A TYPE A LICENCE WHERE THE APPLICATION HAS BEEN INITIATED BY THE LICENSEE

The Yukon Water Board has adopted a policy pertaining to the scope of a public hearing that is held to consider the amendment of a water use licence. In developing this policy, the Board took into consideration the requirements of the *Waters Act* (“the Act”), the Umbrella Final Agreement (“UFA”) and generally accepted rules of procedural fairness.

The objects of the Yukon Water Board, as set out in the Act, are to provide for the conservation, development and utilization of waters in a manner that will provide the optimum benefit therefrom for all Canadians and for residents of the Yukon in particular. The Board is also guided by the objective of Chapter 14 of the UFA, to maintain the water of the Yukon in a natural condition while providing for its sustainable use.

The Board may amend a water use licence:

- upon application of a licensee, or
- where the amendment is necessary to deal with a water shortage, or
- where the amendment appears to be in the public interest, or
- upon application by a Yukon First Nation, under chapter 14 of the UFA.

Where the Board is considering an application to amend a type A water use licence, and where approval of that amendment would result in an alteration to the use, flow or quality of waters, and where the application is not required on an emergency basis, the Board must hold a public hearing. Where the Board is considering a renewal of a type A licence, and where the renewal (or the aggregate of renewals) exceeds sixty days, then the Board must hold a public hearing.

The Act requires that the Board must give notice of public hearing.

The Yukon Water Board is a quasi-judicial body that is bound by the principles of procedural fairness. Procedural fairness requires that parties that would be affected by the Board’s decisions must be given adequate notice of the case to be met and must be given an opportunity to present a response.

The water licensing process must remain an open and transparent process and the participation of the public is a vital component of that process. The public must have reasonable notice of the purpose of a public hearing, so as to determine if they want to participate in the hearing and make representations to the Board.