



**YUKON WATER BOARD SUPPLEMENTARY RULES OF PROCEDURE**  
**relative to**  
**Little Salmon Carmacks First Nation**  
**Application QZ23-015**

These Rules are made under the authority of Section 22 of the *Waters Act* and section 2.12.2.10 of the Yukon First Nations Final Agreements. These Rules must be read in conjunction with the Yukon Water Board Rules of Procedure (2021).

**PART 1 Parties and Participants**

---

**Request**

- 1.1 Any person seeking to be named as a Participant must submit to the Board a written request setting out,
- (a) a statement of the issues and material facts relevant to the subject matter of the proceeding that the person intends to present during the proceeding;
  - (b) whether
    - (i) the person's participation is likely to make a relevant contribution to the Board's determination under 14.11.1.1 – 14.11.1.5;
    - (ii) the person's interests may be directly and substantially affected by the proceeding or its result;
    - (iii) the person has a genuine interest, whether public or private, in the subject matter of the proceeding.

**Naming of a Participant**

- 1.2 The Board may name persons to be Participants in a public hearing on such conditions as the Board considers appropriate. A Participant to a public hearing is not a Party to the proceeding.

**Role of a Participant**

- 1.3 A Participant in a public hearing may:
- (a) be a witness at the hearing;
  - (b) be questioned by the Parties;
  - (c) make oral and written submissions to the Board during the public hearing; and
  - (d) upon request, receive a copy of documents exchanged by the Parties that are relevant to the Participant's interests.
- 1.4 A Participant in a public hearing may not:

- (a) raise issues that have not already been raised by a Party;
- (b) call witnesses;
- (c) cross-examine witnesses;
- (d) bring motions; and
- (e) claim costs or be liable for costs.

## **PART 2 Motions**

---

### **Notice of Motion**

- 2.1 A motion must be made by a written Notice of Motion.
- 2.2 Every Notice of Motion must:
  - (a) state the precise relief sought;
  - (b) state the grounds to be argued, including a reference to the Chapter 14 provision to be relied on; and
  - (c) list the documentary evidence to be relied upon.

### **Hearing of Motions**

- 2.3 The Board may hear a motion made at a hearing in accordance with any procedural orders of the Board.
- 2.4 The Board may determine when a motion at a hearing will be heard.

### **Service and Filing of Notice of Motion**

- 2.5 A Party making a motion must:
  - (a) serve upon all other Parties and submit to the Board the Notice of Motion and supporting materials by the deadline date determined by the Board; and
  - (b) file with the Board proof of service of the Notice of Motion.

### **Response to Notice of Motion**

- 2.6 Any Party responding to a motion must serve upon all other Parties and submit to the Board any materials intended to be relied upon by the deadline date determined by the Board.

### **Reply**

- 2.7 The Party making the motion may reply to the response to the Notice of Motion by the date permitted by the Board.

### **Evidence for Use on Motions**

- 2.8 Unless the Board permits oral evidence, the evidence in motion hearings must be in the form of affidavits.

## **Motions for Adjournment**

- 2.9 A Party seeking an adjournment must provide evidence and submissions in support of the motion respecting:
- (a) whether the other Parties consent to the request and the date suggested for the commencement or continuation of the hearing;
  - (b) detailed reasons for the request, including, if appropriate, affidavit evidence;
  - (c) evidence that the Party made all reasonable efforts to avoid the need for the adjournment request;
  - (d) any urgency for the request because of the public interest; and
  - (e) any inconvenience to other Parties, Participants and Presenters due to the adjournment.
- 2.10 In deciding whether or not to grant a request for an adjournment, the Board may consider:
- (a) the interests of the Parties in a full and fair hearing;
  - (b) the interests of others potentially affected by the matters before the Board who, after notification of the hearing, may have arranged their affairs in the expectation of observing or participating in the hearing;
  - (c) the integrity of the Board's process;
  - (d) the circumstances giving rise to the need for an adjournment;
  - (e) the timeliness of the request for the adjournment;
  - (f) the position of the other Parties on the adjournment request;
  - (g) the consequences of an adjournment, including expenses to other Parties;
  - (h) the effect of an adjournment on Participants and Presenters; and
  - (i) the public interest in the delivery of the Board's services in a just, timely and cost effective manner.
- 2.11 In granting an adjournment, the Board may impose such conditions as it considers appropriate.

## **Motion for Dismissal**

- 2.12 A Party bringing a motion to dismiss a proceeding must specify the basis for the motion, which may include that:
- (a) the proceeding is frivolous, vexatious or is commenced in bad faith;
  - (b) the proceeding relates to matters that are outside the jurisdiction of the Board;
  - (c) some aspect of the statutory requirements or the Chapter 14 requirements for bringing the proceeding have not been met; or
  - (d) another Party has caused undue delay or has not complied with orders, undertakings, written requests from the Board or these Rules.

### **Motion Seeking an Interim Order (14.11.3)**

- 2.13 A Party seeking an interim order must submit a Notice of Motion to the Board and include the necessary supporting materials, including affidavit materials.
- 2.14 The Party must provide evidence and submissions in support of its motion respecting:
- (a) the rights the Party believes should be restrained;
  - (b) the basis on which the Party is seeking the interim order;
  - (c) whether irreparable harm will ensue if the relief is not granted; and
  - (d) whether the balance of convenience, including effects on the public interest, favours granting the relief requested.

## **PART 3 Applications**

---

### **Application for Costs (Interim or Final)**

- 3.1 Any Party may make an application in writing to the Board for an award of costs on an interim or final basis.
- 3.2 A Party may make an application for all costs that are reasonable and are directly and primarily related to the preparation and presentation of the Party's submission in relation to the matters contained in the Application.
- 3.3 In addition to costs that are reasonable and directly and primarily related to the preparation and presentation of a Party's submission in relation to the matters contained in the Application, the Board may award costs in special circumstances, including:
- (a) where the action of a Party, or the failure of a Party to act in a timely manner, results in prejudice to any of the other parties;
  - (b) where a Party, without prior notice to the Board, fails to attend a hearing or send a representative to a hearing;
  - (c) where a Party unreasonably delays the proceeding;
  - (d) where a Party's failure to comply with an order or directive of the Board, has resulted in prejudice to another Party;
  - (e) where a Party continues to address issues which the Board has advised are irrelevant.
- 3.4 The Board will not order a Party to pay costs unless the Board has first given that Party an opportunity to make submissions on the application.

### **Interim costs**

- 3.5 A Party may make an application for an award of interim costs at any time prior to the conclusion of the proceeding or the close of the hearing, as the case may be.

3.6 A Party making an application for an award of interim costs must provide sufficient information to demonstrate to the Board that interim costs are necessary in order to assist the Party in effectively preparing its submission with respect to the proceeding.

3.7 An award of interim costs is subject to a redetermination in an award of final costs.

#### **Final costs**

3.8 An application for an award of final costs must be made at the conclusion of the proceeding or the hearing, at a time, if any, determined by the Board.

3.9 The Board may make an award of costs subject to the terms and conditions that it considers appropriate.