

Sahtú Renewable Resources Board

Rules for Hearings

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Comments or questions about these rules should be directed to:

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1.0 Authority

- 1.1 The Sahtú Renewable Resources Board (“the Board”) adopts these Rules pursuant to Sections 13.8.18, 13.8.19, 13.8.20, 13.8.21, 13.8.22 and 13.8.23 of the Sahtú Dene and Métis Comprehensive Land Claim Agreement (“Agreement”).
- 1.2 These Rules may be cited as the *Sahtú Renewable Resources Board Rules for Hearings*.
- 1.3 The Board may, pursuant to Section 13.8.20 of the Agreement, consult with the government, Sahtú communities, the public and Renewable Resources Councils by way of informal meetings or public Hearings.
- 1.4 The Board may, pursuant to Section 13.8.21(a) of the Agreement, hold a Hearing where the Board is satisfied that such a Hearing is desirable.
- 1.5 The Board shall, pursuant to Section 13.8.21(b) of the Agreement, hold a public Hearing when the Board intends to consider establishing a total allowable harvest and a Sahtú Needs Level in respect of a species or population of wildlife that has not been subject to a total allowable harvest level within the previous two years.
- 1.6 The Board has the powers of a commissioner under part I of the *Inquiries Act*, R.S. 1985, c. I-11, pursuant to Section 13.8.19 of the Agreement.
- 1.7 The Board Members and Board Chairperson shall not be considered to have a conflict of interest in a Hearing by reason only of being public servants, employees of a government body, members of a Sahtú Organization or employees of a Sahtú Organization.
- 1.8 The Board Members and Board Chairperson shall approach every Hearing and every issue arising at a Hearing with an open mind, and base decisions upon the submissions and evidence presented during the Hearing process.

2.0 Definitions and Interpretation

2.1 In these Rules:

“Applicant” means a person, a Sahtú Organization, or a government department or agency that is seeking an approval for a Proposal for wildlife and wildlife habitat management or protection.

“Agreement” means the Sahtú Dene and Métis Comprehensive Land Claim Agreement;

“Board” means the Sahtú Renewable Resources Board established under Chapter 13 of the Agreement.

“Document” includes any record or information in written, photographic, electronic, orally recorded or other form;

“Elder” means a member of a Sahtú community or a Sahtú Organization recognized as such in accordance with Sahtú culture, customs and traditions;

“Hearing” includes a hearing of a management proposal, the hearing of a Motion, a written Hearing, an electronic Hearing, a public Hearing and a Joint Hearing, and all the procedures related to a Hearing from the time when the Board issues a Notice of Hearing until the time when the Board issues a decision on the subject matter of the Hearing.

“Information Request” means a written request for information or particulars directed to a Party in a Hearing;

“Joint Hearing” means a Hearing conducted by the Board in collaboration with another board or organization with the authority to manage wildlife or wildlife habitat;

“Motion” means a written or oral request, including any supplementary materials supporting the request, made by a Party to the Board, for a ruling or an order in a Hearing and includes a Motion made by the Board;

“Participant” means a person enrolled in the Enrollment Register pursuant to chapter 4 of the Agreement;

“Party” means a person, organization or a department of government referred to in Rule 8.1 that is participating in a Hearing;

“Proposal” means a written plan, submitted to the Board for approval, and related to management and protection of wildlife and wildlife habitat;

“Registry” means the online registry maintained by the Board;

“Renewable Resources Council” means a Renewable Resources Council described in Section 13.9 of the Agreement;

“Rules” means the Sahtú Renewable Resources Board Rules for Hearings;

“Sahtú Organization” means:

- (a) a Renewable Resources Council established pursuant to Section 13.9.2 of the Agreement;
- (b) a corporation (Land Corporation and District Land Corporation) set forth in Schedules 4 and 8 to the Register established pursuant to Section 7.1.8 of the Agreement;
- (c) the Sahtú Secretariat Incorporated; and
- (d) any Indian Band (First Nation) located in a community in the Settlement Area.

“Settlement Area” means the area defined in Appendix A of the Agreement;

“Traditional Knowledge” means knowledge and values, which have been acquired through experience, observation, from the land or from spiritual teachings, and handed down from one generation to another.

3.0 Application and Variation of The Rules

- 3.1 In interpreting these Rules, the Board will be guided by the Objectives set out in Sections 1.1.1 and 13.1.1 of the Agreement.
- 3.2 If there is any inconsistency or conflict between these Rules and the Agreement, the Agreement prevails to the extent of any inconsistency.
- 3.3 The Board shall give these Rules such fair, large and liberal construction as best ensures just, expeditious and fair consideration of issues arising under these Rules and consistency with the principles of natural justice and procedural fairness.

- 3.4 To the extent consistent with its duty of procedural fairness, the Board will emphasize flexibility and informality in the conduct of its Hearings.
- 3.5 Where any procedural matter is not provided for in these Rules, the Board may at any time give directions governing the procedure to supplement these Rules that it considers necessary for the fair determination of an issue.
- 3.6 On its own initiative or at the written request of an individual, body or agency participating in a Board process under these Rules, the Board may dispense with, vary or supplement any part of these Rules that it considers necessary for a fair determination of an issue by way of a direction on procedure.
- 3.7 The Board may amend or vary these Rules at any time.

4.0 Hearings

- 4.1 The Board may conduct any Hearings that it considers to be desirable for the purpose of carrying out any of its functions.

Types of Hearings

- 4.2 Hearings may be conducted in in-person, in writing or electronically or by a combination of those methods, subject to the requirement of that the Board shall hold an in-person Hearing when the Board intends to consider establishing a total allowable harvest and a Sahtú Needs Level in respect of a species or population of wildlife which has not been subject to a total allowable harvest level within the previous two years.

Electronic Hearings

- 4.3 The Board may conduct an electronic Hearing by conference telephone or another form of electronic technology, with a written component if required in the Board's discretion, where one or more of the following circumstances exist:

- (a) time is of the essence in addressing the issue under consideration;

- (b) the Parties are unable to meet in person in a timely manner; or
- (c) the cost of holding an in-person Hearing is prohibitive.

Written Hearings

- 4.4 The Board may conduct a written Hearing which does not include any oral component, where three or more of the following five circumstances exist:
 - (a) the Proposal submitted to the Board is a joint initiative on the part of Government and a Sahtú Organization;
 - (b) the eventual Board decision is, in the opinion of the Board, of relatively less interest to affected Participants;
 - (c) time is of the essence in addressing the issue under consideration;
 - (d) the Parties are unable to meet in person in a timely manner; or
 - (e) the cost of holding an in-person Hearing is prohibitive.
- 4.5 Where the Board holds a Hearing in writing, it may dispose of the Hearing on the basis of the Documents filed by Parties in the Hearing or require additional information before disposing of the Hearing.

Community Workshops

- 4.6 The Board, in its discretion, may hold workshops in communities affected by the subject matter of a Hearing, in order to encourage participation in the Hearing and assist Renewable Resources Councils, Participants and the public in understanding the purpose, relevant information, and process for the Hearing.
- 4.7 A community workshop held pursuant to Rule 4.6 shall provide the Participants, Renewable Resources Council and public in that community with the information provided in the public notice of the Hearing under Rule 5.4.
- 4.8 In the event that a Renewable Resources Council, Participants or the public attending a workshop held pursuant to Rule 4.6 provide relevant information or evidence related to the subject matter of the

Hearing, this information or evidence shall be recorded in written form by the Renewable Resources Council or by Board staff and added to the Registry.

5.0 Notice of Hearings

- 5.1 For the purpose of providing Notice of a Hearing, the Board shall:
- (a) provide written notice to the Applicant, all Sahtú Organizations, relevant government departments and any relevant wildlife management authorities;
 - (b) post a Notice of a Hearing on the Registry; and
 - (c) publish the Notice of a Hearing in one or more media sources, which may include newspapers, radio, internet-based media, community posters, social media and any other media which the Board in its discretion may choose to use.
- 5.2 Notice of a Hearing will be given at least 45 days before the Hearing date.
- 5.3 All Parties intending to participate in a Hearing shall notify the Board of their intentions within the time period specified in the Notice of a Hearing.
- 5.4 A Notice of a Hearing shall contain:
- (a) a summary of the purpose of the Hearing;
 - (b) identification of the issues which the Board proposes to address at the Hearing;
 - (c) instructions for accessing any materials relating to the Hearing on the Registry;
 - (d) an invitation for interested persons to participate in the Hearing and provide submissions regarding the subject matter of the Hearing and how it may affect them;
 - (e) a schedule showing the time limits for filing and serving any written materials for the Hearing; and
 - (f) any other information and procedural requirements that the Board considers necessary.

- 5.5 The Board may, in its discretion and consistent with Rules 4.6 and 4.7, provide a Notice of a Hearing through the use of workshops in affected Sahtú communities.
- 5.6 The Board may cancel a Hearing, if no registered participants are identified or written submissions received, on or before the tenth (10th) day prior to the date of the proposed Hearing.

6.0 Location of Hearing

- 6.1 The Board will determine the place at which a Hearing will be held.
- 6.2 In its discretion, the Board may hold a Hearing in one community or in a number of communities in the Settlement Area.

7.0 Translation

- 7.1 The Board shall encourage the use of the Dene languages in its Hearings. Where practicable, the Board will receive oral evidence and conduct the oral aspects of a Hearing in the Dene dialect of the community in which a Hearing is being held.
- 7.2 The Board shall arrange for translation and interpretation services in the Dene dialect of the community in which the Hearing is being held and/or other aboriginal languages as deemed necessary by the Board.

8.0 Parties

- 8.1 Subject to Rule 8.2, the following persons, organizations and agencies may participate in a Hearing as a Party:
- (a) any Renewable Resources Council;
 - (b) any Land Corporation established pursuant to the Agreement;
 - (c) any Indian Band (First Nation) located in the Settlement Area;
 - (d) the Sahtú Secretariat Incorporated;
 - (e) any government department and agency; and

(f) any person who is granted Party status by the Board prior to or at a Hearing.

8.2 Any person that does not meet the criteria of Rule 8.1 and who wishes to be a Party in a Hearing must file with the Board a request to be a Party in writing within 14 days of the issuance of the Notice of Hearing. The request to be a Party shall contain, at a minimum:

(a) a concise statement indicating why and how the person may be directly affected by the outcome of the Hearing; or if the person will not be directly affected by the outcome of the Hearing, what the nature of the person's interest in the matter is and why the person should be permitted to participate;

(b) the nature and scope of the person's intended participation;

(c) the person's contact information; and

(d) if the person is acting on behalf of a group or association of persons, the nature of the person's membership in the group or association.

8.3 The Board will make a decision on an application for Party status in a timely fashion.

8.4 Prior to making a decision under Rule 8.3, the Board may seek the views of the Parties to the Hearing and/or direct the person making the application to provide more information to the Board.

8.5 All Parties who intend to participate in a Hearing must notify the Executive Director of their intentions within the time period specified in the Notice of Hearing to maintain their Party status for a Hearing.

8.6 The Board shall maintain a list of Parties who provided notice under Rule 8.5 on the Registry.

8.7 The Board may refuse to allow a person to participate in a Hearing as a Party if the Board is of the opinion that any of the following circumstances apply:

(a) the person's request to participate or participation is frivolous, vexatious, an abuse of process or of little merit;

(b) the person has not demonstrated that the person's participation will materially assist the Board or will not unnecessarily delay the Hearing; or

(c) the Board considers it appropriate to do so for any other reason.

8.8 Any person or organization not registered as a Party to a Hearing but who wishes to make their views known may:

(a) provide their views, in writing or by way of oral submission, 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.

9.0 Pre-Hearing Conferences

9.1 In order to facilitate the Hearing process, the Board, in its sole discretion, may hold a Pre-Hearing Conference with the Parties and interested persons seeking standing either before or after the date of a Hearing is set.

9.2 A Pre-Hearing Conference may be held in writing or orally, by teleconference or in person.

9.3 Without limiting the matters that may be addressed in a Pre-Hearing Conference, the Board may also organize a Pre-Hearing conference for one or more of the following reasons:

(a) to provide information to, and facilitate active participation of, Participants, Sahtú Organizations and interested members of the public regarding a Hearing;

(b) to identify and facilitate the incorporation of Traditional Knowledge into a Hearing; and

(c) to facilitate the exchange of technical information relevant to the Hearing.

10.0 Service and Filing of Documents

- 10.1 A Party intending to rely on a Document or evidence in a Hearing, 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 Hearing.
- 10.2 A Document may be filed with the Board by personal delivery, courier service, ordinary mail, fax, electronic means or by any other means directed by the Board.
- 10.3 Documents may be filed by electronic means if
 - (a) the electronic means is compatible with the Board's information technology, equipment, software and processes; and
 - (b) the Document is in a form acceptable to the Board.
- 10.4 A Document is deemed to have been filed with the Board when the Board receives it unless it is received after 5 p.m., in which case the Document is deemed to have been filed on the next business day of the Board.
- 10.5 Recognizing that traditional knowledge is often conveyed orally, the Board may elect to receive submissions and evidence orally rather than in writing.
- 10.6 Upon request of the Board, a Party must provide proof to the Board that Documents were delivered to the other Parties

11.0 Information Requests

- 11.1 The Board may issue an Information Request to any Party at any stage of a Hearing, from the time of a Notice of Hearing pursuant to Rule 5 to the Closure of the Record pursuant to Rule 18.
- 11.2 The Board, in its discretion, may allow a Party in a Hearing to issue an Information Request to another Party, subject to notice from the Board regarding the timing and procedure for Information Requests.
- 11.3 A Party that receives an Information Request during a Hearing shall respond within the time specified by the Board.

11.4 The response of a Party to an Information Request shall be submitted to the Board and circulated to the other Parties in the Hearing.

12.0 Submissions and Evidence

12.1 In conducting its business, the Board is not bound by the strict rules of evidence and may accept information that would not normally be admissible under the strict rules of evidence, including hearsay.

12.2 The Board may decide which issues it will consider at a Hearing and notify the Parties of such decision. The Board, in its discretion, may decline to consider submissions or evidence that are not relevant to the issues being considered by the Board at a Hearing.

12.3 The Board may request written or oral recorded submissions from Parties be filed with the Board and delivered to the other Parties within the time period established by the Board.

12.4 The Board may, in its discretion, require that Parties provide plain language summaries of Documents over 10 pages in length and which, in the view of the Board, should be publicly available in a more accessible format.

12.5 Unless the Board directs otherwise, no documentary or oral recorded evidence may be presented at an oral Hearing unless the evidence was filed with the Board and served on the Parties within the time period specified by the Board in accordance with Rule 10.1.

12.6 Failure to disclose a Document in accordance with these Rules may result in the Board ruling that it is inadmissible in the Hearing.

12.7 Where a Party wishes to have multiple individuals present at the Hearing on its behalf, the Board may permit or require evidence to be given by one or more panels in accordance with the following:

(a) questions addressed to a panel may be directed to specific members of the panel or the panel in general;

(b) unless the Board otherwise directs, members of a panel may confer among themselves;

(c) panel members shall give their views and may be directed to comment on the views of other panel members and to make concluding statements; and

(d) where a question is directed to a specific member of a panel and that member is not able to answer the question because of a lack of knowledge or qualifications, the Board may permit another member of the panel to answer the question.

- 12.8 A witness summoned by the Board may have their travel and accommodations expenses paid by the Board.
- 12.9 Any witness providing technical expertise in a Hearing shall provide a summary of his/her background, including qualifications and/or experience for the public record.
- 12.10 Any witness who will give opinion evidence in a Hearing before the Board may be required by the Board to file a statement of their qualifications on the public record before their evidence is considered.
- 12.11 A Party advancing a position to the Board shall bear the burden of introducing sufficient evidence to support its position.
- 12.12 Where there is conflicting evidence in a Hearing, the Board shall decide which evidence to accept and shall make its decisions based on the preponderance of the evidence.
- 12.13 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.
- 12.14 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.
- 12.15 Testimony in Hearings can also be presented by audio visual or video format or by teleconference.
- 12.16 The Board may, at any time during a Hearing from the time of a Notice of Hearing pursuant to Rule 5 to the Closure of the Record pursuant to Rule 18, require additional information from any Party that the Board considers necessary to permit a full and satisfactory understanding of an issue in a Hearing.
- 12.17 The Board may engage specialists to provide evidence relevant to the issues raised in any Hearing. Any evidence received from a specialist will be disclosed to all Parties who will be provided with an opportunity to provide a response to the Board.

12.18 The Board will encourage the provision of and will consider information provided by Elders and Traditional Knowledge, including oral history and local knowledge, submitted during a Hearing.

12.19 The Board may make arrangements to secure information from or hear the testimony of an Elder or the holder of Traditional Knowledge at any time during a Hearing.

12.20 The Board may modify the Rules to accommodate customary protocols with respect to sharing of Traditional Knowledge.

13.0 Order of Events at a Hearing

13.1 Unless otherwise directed by the Board, the order of events at a Hearing shall be as provided for in Schedule I: *Order of Events at a Hearing of the Sahtú Renewable Resources Board*.

14.0 Time Limits and Questions

14.1 The Board may set time limits for oral submissions and questions by any or all Parties and the public at a Hearing.

14.2 Unless the Board otherwise directs, Parties may be:

(a) questioned by or on behalf of another Party , or

(b) questioned by the Board and/or a member of the Board staff.

15.0 Motions

15.1 The Board may make any procedural decisions required for the conduct of a Hearing.

15.2 Any issue requiring a ruling or decision that arises in the course of a Hearing shall be brought to the Board's attention by way of a written Motion.

15.3 The Board may, in its discretion, waive the requirement in Rule 15.2 in order to allow a Motion to be brought orally, provided that the requirements of natural justice and procedural fairness are met.

- 15.4 A 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.
- 15.5 All Motions in writing shall be filed with the Board and copies served on all the Parties.
- 15.6 The Board may, in its discretion, set or vary any time period prescribed for the filing and hearing of a Motion or a response.
- 15.7 The Board may hear a Motion with some Board members or Parties participating via teleconference, where in the Board's opinion it is warranted.

16.0 Adjournment and Re-Opening of a Hearing

- 16.1 Subject to the requirements of natural justice, the Board may adjourn a Hearing from time to time and may for any reason reopen a Hearing, upon reasonable notice to the Parties, for the purpose of receiving further representations.
- 16.2 A 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.

17.0 Closing Arguments and Submissions

- 17.1 At the close of an in-person Hearing and upon such terms as the Board may find reasonable, any Party shall be entitled to file a written brief with proposed findings of fact and conclusions of law.
- 17.2 At the close of an in-person Hearing, the Chairperson will provide each Party with an opportunity to make brief closing remarks.
- 17.3 Any brief, proposed findings of fact and conclusions of law, and closing remarks shall be included as part of the record.

18.0 Closure of the Record

- 18.1 The Board shall set a time for the closure of the record for a Hearing and publicize this deadline on the Board's website and by notice to the Parties.

- 18.2 The Board will not accept information and evidence for consideration after the record for a Hearing has been closed, unless a Motion to reopen the record has been made and approved by the Board.
- 18.3 The Board may seek clarification of any evidence on the public record from a Party 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 Registry.

19.0 The Board's Decision

- 19.1 The Board shall base any decision or recommendation upon a consideration of the whole record of the material properly placed before the Board.

20.0 Failure to Comply with Rules

- 20.1 Where a person or body has not complied with these Rules or a direction issued by the Board, the Board may:
- (a) adjourn the Hearing until satisfied that its Rules or directions on procedure have been complied with; or
 - (b) take such other steps as it considers just and reasonable, including withdrawing the status of a Party in the Hearings.
- 20.2 A Board Hearing is not invalid because of an objection based only on a technical irregularity or a defect in form.
- 20.3 Where publication or notice of Hearing has been given by the Board in accordance with these Rules and the requirements of the Agreement, and a Party does not attend the Hearing, the Board may proceed in that Party's absence and that Party is not entitled to any further notice of that portion of the Hearing unless the Board directs otherwise.
- 20.4 Unless excused by the Board for good cause shown, failure of a Party to attend a Hearing shall, after being served with reasonable notice of the time and place, constitute a waiver of all objections to the agreements, orders or rulings reached in the Hearing.

21.0 Registry

- 21.1 The Board shall maintain a Registry as a public record for Hearings including:

(a) all Documents filed in a Hearing, including written and oral recorded submissions, evidence, and any recordings or transcripts of Hearings;

(b) all notices by the Board; and

(c) any decisions made by the Board during a Hearing.

21.2 If a Party wishes to keep confidential any information in a Document, the Party may, before filing the Document, file a request for confidentiality with the Board.

21.3 The Board may, with or without a Hearing, grant a request for confidentiality on any terms it considers appropriate.

21.4 If the Board grants a request for confidentiality under Rule 21.2, a Party may receive a copy of the Document only upon filing an undertaking stating that the Document will be held in confidence and used only for the purpose of the Hearing.

21.5 Nothing in this Rule limits the operation of any statutory provision that protects the confidentiality of information or documents.

22.0 Joint Hearings

22.1 The Board may by agreement participate jointly, or collaborate, in a Hearing with another organization responsible for the management of migratory or shared wildlife.

22.2 Where the Board participates in a joint or collaborative Hearing under Rule 22.1, the Board may in its discretion adapt these Rules for this purpose and shall provide notice of such adaptation to the Applicant and Parties.

23.0 Coming Into Force

23.1 These Rules come into force on the date they are adopted by the Board in accordance with Section 13.8.18 and 13.8.23(g) of the Agreement.

23.2 These Rules shall be published on the Board's website.

Schedule I

Order of Events at a Public Hearing of the Sahtú Renewable Resources Board

- 1) Opening Prayer
- 2) Opening Remarks by Chairperson
- 3) Introduction of Board Members, Board Staff and Technical Consultants
- 4) Introduction of the Parties
- 5) Review of Agenda for the Hearing
- 6) Preliminary and Procedural Matters (if any)
- 7) Acknowledgement of Written Submissions
- 8) Presentations by Applicant, Parties and Questions of Same
- 9) Presentations or Comments From the Public
- 10) Reply by the Applicant, if any
- 11) Closing Remarks
- 12) Adjournment of the Hearing
- 13) Closing Prayer