



## **Outline of General Board Process for Considering Claims for Water Compensation**

### **Introduction**

The Mackenzie Valley Land and Water Board (the Board) is providing this outline of the general process the Board follows for considering claims for water compensation. This has been prepared to assist parties to the Giant Mine Remediation Project (GMRP) proceeding who have submitted notices of intent to file a Claim, as well as the GMRP Team, to understand the anticipated next steps as Claims are prepared.

### **General Process**

- 1) Claimants submit to the Board their completed Claims for water compensation (in accordance with the Claim Form provided, and by the due date of September 26, 2019).
  - a. If there is any information in a Claim that a Claimant wishes to have kept confidential, a Request for Ruling must be submitted to the Board with the completed Claim (see the Board's [Rules of Procedure](#)). Otherwise, all information received by the Board is posted to the [Online Public Registry](#).
- 2) Following the Claim deadline, and upon receipt of Claims, the Board will issue a Directive to set out the process and timelines for the disposition of claims.
- 3) Within a period set in the Directive, the GMRP Team will have an opportunity to review the Claims and provide comments.
- 4) Claimants will have an opportunity to respond to comments made by the GMRP Team on their Claim.
- 5) The Board will review the information gathered. If more information is required of any of the Claimants or the GMRP Team, the Board will issue Information Requests.
- 6) The Claimants and the GMRP Team will be expected to make best efforts to negotiate a settlement and advise the Board of the results of these efforts.
- 7) Where no settlement results, the Board may establish a Hearing process to aid in its decision-making on each Claim.

### **Hearing Process (if the Board determines it to be necessary)**

- 1) A Directive, including a Work Plan, will be prepared by the Board to outline the process and timelines for the hearing of claims for compensation.
- 2) Claimants and the GMRP Team may be required to submit final written submissions in preparation for the Hearing. These submissions would provide a clear summary of positions, a summary of supporting evidence, and, where applicable, the final and total claims for compensation.
- 3) Prior to a the Hearing, Board staff may schedule a brief Pre-Hearing Conference for Claimants and the GMRP Team to review the procedure to be followed at the Hearing; to get input from each party as to the estimated time required for presentations and questioning, as well as expectations of who will participate on each party's behalf; and to review the Hearing agenda. If a Pre-Hearing Conference is held, it would take place in Yellowknife, in person and by teleconference, and follow an agenda set by Board staff.
- 4) Unlike the Public Hearing that is anticipated for the Water Licence, a Hearing on a Claim for water compensation will be limited to the issue of compensation involving only the Claimant(s) and the GMRP Team and will not be open for general comment. The Hearing will be open to the public to attend and observe but there will not be opportunities for public input.





## Claim Form for Water Compensation

This Form identifies the information the Mackenzie Valley Land and Water Board (Board) requires in the event that a Claim for Compensation must be decided upon by the Board. The Board expects Claimants to attempt in good faith to negotiate a compensation agreement with a Water Licence Applicant. A Claimant must provide evidence of any attempt made to reach a compensation agreement with the Water Licence Applicant.

All submissions in water licensing proceedings are posted on the Public Registry.

The adjudication of a water compensation claim is part of a licensing proceeding. If information required for a decision on such a claim is personal, proprietary, or in some way sensitive in nature, a request for ruling to ensure confidential treatment of this information must be submitted to the Board at the same time as a completed Claim which includes this information.

Please note that Claims for Compensation must relate to the proposed licence activities and cannot include claims for past losses or damages.<sup>1</sup> Claimants must provide detailed information and evidence to support each element of the Claim. Please attach additional pages, supporting information, and references to your claim where necessary.

**For the Giant Mine Remediation Project proceeding, Claims must be received by the Board no later than September 26, 2019.**

### INFORMATION REQUIRED

**1 Information about the Application or File**

Identify the Water Licence application or file number(s) associated with this claim:	
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**2 Information about the Claimant**

Claimant's Name:			
Community:			
Prov/Terr:		Email:	

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<sup>1</sup> Such claims can be advanced but only through the Courts. See *Carter* 2014 NWTSC 72.

**3 Information about Eligibility**

Please identify the category or categories of use(s) that best describes your relationship with the land and/or waters potentially affected by the subject Licence:

Subsection 72.03(5) of the <i>Mackenzie Valley Resource Management Act</i> (MVRMA) or 26(5) of the <i>Waters Act</i>		
(b)(ii)	Domestic users	
(b)(iii)	In-stream users	
(b)(iv)	Authorized users	
(b)(v)	Authorized waste depositors	
(b)(vi)	Persons who use waters or deposit waste (without a licence) under the territorial law	
(b)(vii)	Persons referred to in paragraph 61(d) of the <i>Nunavut Waters and Nunavut Surface Rights Tribunal Act</i>	
(b)(viii)	Owners of property	
(b)(ix)	Occupiers of property	
(b)(x)	Holders of outfitting concessions, registered trapline holders, and holders of other rights of a similar nature	

**Please explain (for example, please provide information regarding the nature of use, the duration of use, and extent of use of the lands and waters in question):**

\*Attach to this Form any documentation to support the claims above (i.e. leases, licences, land titles, etc.).

**4 Information regarding your Claim for Losses and Damages**

Please identify and provide information about the relevant factors that apply to your claim for compensation (as identified in subsection 72.03(6) of the MVRMA or 26(6) of the *Waters Act*):

**Provable Losses or Damages<sup>2</sup>**

Describe the immediate losses or damages that will be caused by the proposed licensed activities.	What is the monetary value? <sup>3</sup>

\*Attach to this Form any documentation to support the claims above (i.e. estimates, receipts, technical reports, etc.).

<sup>2</sup> Provable loss or damage refers to those losses and damages that, more likely than not, will occur as a result of the proposed licensed activities.

<sup>3</sup> Compensation required to place the claimant in a position they would be in without the damages caused by the proposed licensed activities.

**Potential Losses or Damages<sup>4</sup>**

Describe the potential future losses or damages that may be caused by the proposed licensed activities. Is there increased risk that would not exist but for the proposed licensed activities?	What is the monetary value? <sup>5</sup>

\*Attach to this Form any documentation to support the claims above (i.e. estimates, receipts, technical reports, etc.).

<sup>4</sup> Potential loss or damage refers to those losses and damages that may occur as indicated through evidence or argument.

<sup>5</sup> Ibid.

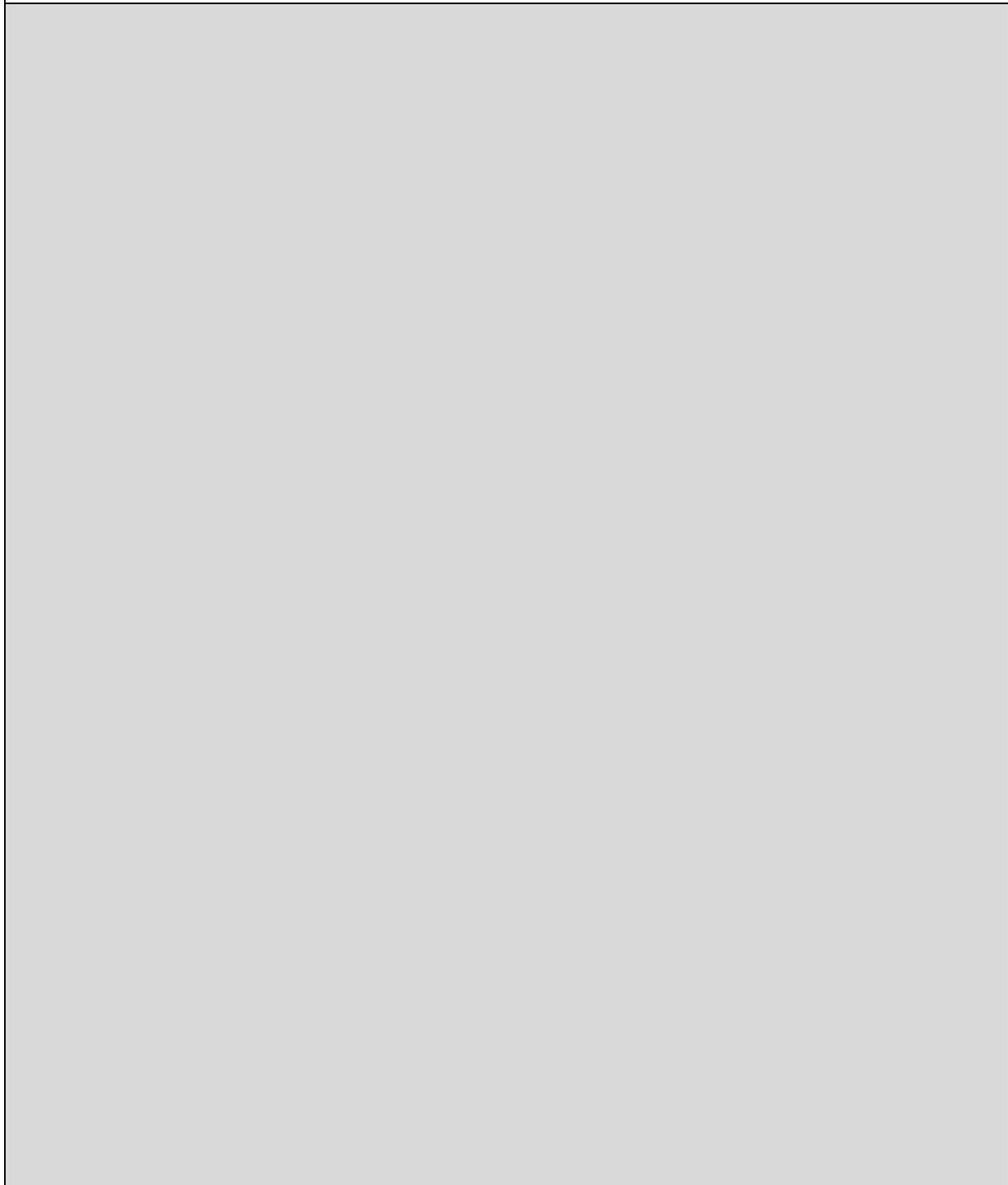
**Extent and duration of the adverse effect, including the incremental adverse effect**

<b>How widely (over what area) will potential effects of the proposed licensed activities extend?</b>
<b>How long (over part or all of the term of the Licence) will potential effects of the proposed licensed activities last?</b>
<b>What are the incremental, gradual or accumulative effects of the proposed licensed activities?</b>

\*Attach to this Form any documentation to support the claims above (i.e. estimates, receipts, technical reports, etc.).

**Extent of the use of waters by the Claimant**

**How do the proposed licensed activities affect your water use? Please outline the nature of your water use, and how your activity depends on water.**



\*Attach to this Form any documentation to support the claims above (i.e. photos, receipts, technical reports, etc.).

**Nuisance, Inconvenience and Noise Caused by the Proposed Licensed Activities**

Will there be substantial nuisance, inconvenience and/or noise that would not exist but for proposed licensed activities?	What is the monetary value? <sup>6</sup>

\*Attach to this Form any documentation to support the claims above (i.e. estimates, receipts, technical reports, etc.).

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<sup>6</sup> Compensation required to place the claimant in a position they would be in without the future nuisance caused by the proposed licensed activities or costs for avoiding or mitigating nuisance, inconvenience, and/or noise.

**5 Additional Questions**

**Mitigation**

**Please describe any steps you have taken or can take to avoid or mitigate the effects described in section 4 above.**

[Empty response area for mitigation steps]

**In your opinion, is there more that can be done by the Licence Applicant to avoid or mitigate the effects described above? If so, please describe the mitigation steps.**

[Empty response area for additional mitigation steps]

\*Attach to this Form any documentation to support the claims above (i.e. estimates, receipts, technical reports, etc.).

**Compensation**

**Have you applied for or are you collecting compensation from any other source related to the damages and costs you have claimed above? If so, please describe in detail, including payment amounts.**

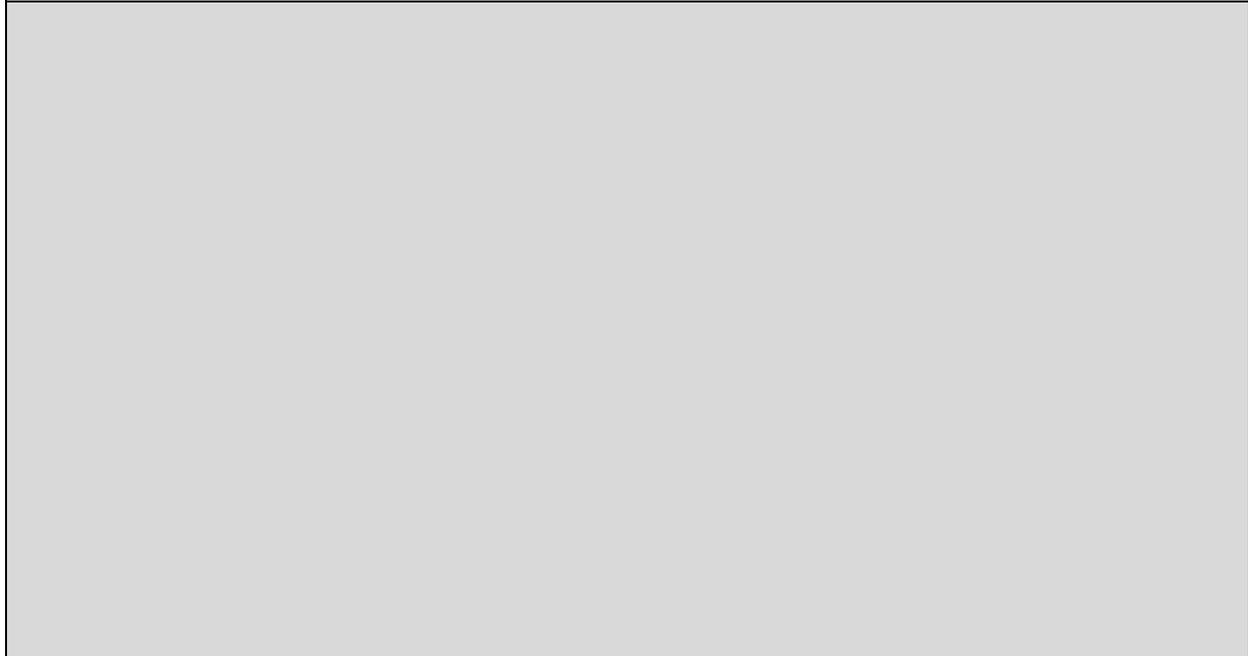
**If monetary compensation is awarded by the Board, do you have a preference for the form of payment? (i.e. lump sum, periodic payment, other).**

**Would you prefer to receive compensation in another form? If so, please explain.**

\*Attach to this Form any documentation to support the claims above (i.e. estimates, receipts, technical reports, etc.).

**Engagement**

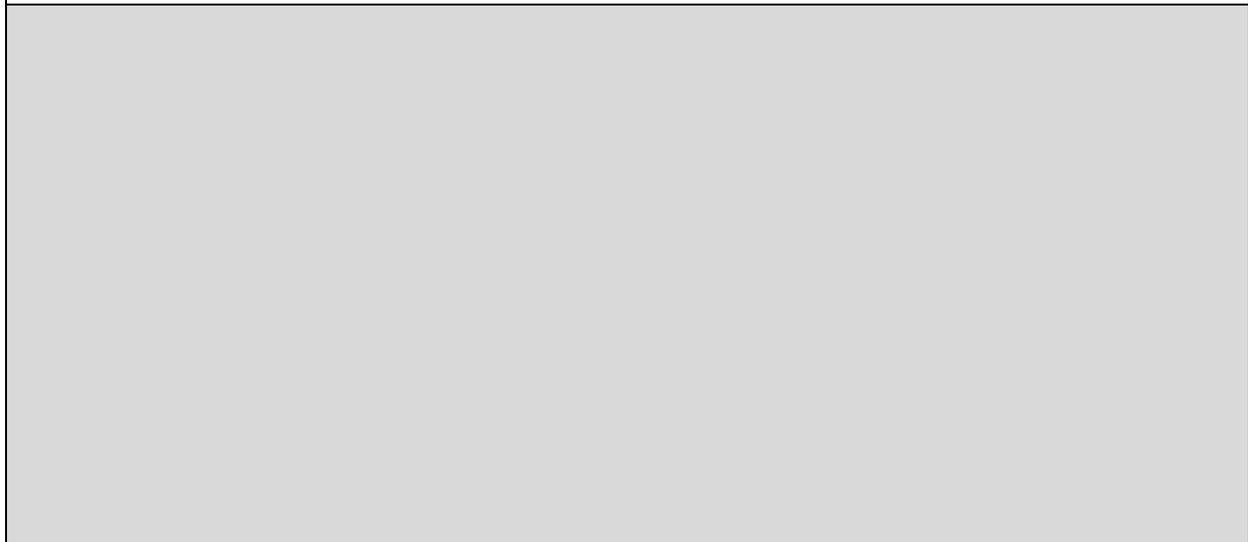
**Have you engaged with the Applicant in an attempt to resolve the compensation issues identified above? If so, please provide a detailed report on those discussions, including reasons why an agreement could not be reached. Indicate whether any offers of compensation have been made and refused and if so, why.**



\*Attach to this Form any documentation to support the claims above (i.e. communication records, etc.).

**Any Other Information**

**Is there any other information that you can provide to assist the Board in making a decision on your claim? If so, please provide it.**



\*Attach to this Form any documentation to support the claims above.