

**From:** [Shannon Allerston](#)  
**To:** [Shannon Allerston](#); [admin\\_dkfn@northwestel.net](#); [Alexis\\_Campbell@gov.nt.ca](#); [anusa\\_sivalingam@gov.nt.ca](#); [apower@ykdenec.com](#); [barryt@arcticsafaris.ca](#); [boydw@bathurstinlet.com](#); [Brandon\\_Bradbury@gov.nt.ca](#); [Carolc.lands@gmail.com](#); [Ceo.srfn@northwestel.net](#); [Charlene\\_Coe@gov.nt.ca](#); [chief.lkdfn@gmail.com](#); [chief.srfn@northwestel.net](#); [chief@slfn196.com](#); [christian.bertelsen@cannor.gc.ca](#); [Clayton\\_Lloyd@gov.nt.ca](#); [clint\\_ambrose@gov.nt.ca](#); [Colin\\_merz@gov.nt.ca](#); [darren\\_campbell@gov.nt.ca](#); [dave.white@aurorageosciences.com](#); [david.alexander@cannor.gc.ca](#); [doug\\_carr@gov.nt.ca](#); [ec.ea.nwt.ec@canada.ca](#); [esangris@ykdenec.com](#); [exec@slema.ca](#); [fieldworker.frmc53@northwestel.net](#); [fisheriesprotection@dfo-mpo.gc.ca](#); [fortsmithmetiscouncil@northwestel.net](#); [frmc@northwestel.net](#); [frmcenvironment@northwestel.net](#); [Gary.Woo@neb-one.gc.ca](#); [Glen\\_Mackay@gov.nt.ca](#); [gnwt\\_ea@gov.nt.ca](#); [Heather\\_Beck@gov.nt.ca](#); [Hilary\\_machtans@golder.com](#); [hrmc@northwestel.net](#); [ima\\_dkfn@northwestel.net](#); [Iqbal\\_Arshad@gov.nt.ca](#); [Jayda\\_Robillard@gov.nt.ca](#); [jblack@ykdenec.com](#); [Jeremy\\_Roberts@gov.nt.ca](#); [jhood@fortsmith.ca](#); [joe\\_heron@gov.nt.ca](#); [johnny\\_lennie@gov.nt.ca](#); [Jon\\_Posynick@gov.nt.ca](#); [Jen\\_Potten](#); [katie\\_rozestraten@gov.nt.ca](#); [land@wpfn.ca](#); [lands@denenation.com](#); [lands@slfn196.com](#); [landsnresources@katlodeeche.com](#); [laurie\\_mcgregor@gov.nt.ca](#); [Lindsay\\_Armer@gov.nt.ca](#); [lkdfnlands@gmail.com](#); [Matthew.Spence@cannor.gc.ca](#); [mauge@yellowknife.ca](#); [Melanie.Murphy@wscc.nt.ca](#); [melissa\\_pink@gov.nt.ca](#); [Mike\\_Vassal@gov.nt.ca](#); [monica\\_wendt@gov.nt.ca](#); [Nahum\\_Lee@gov.nt.ca](#); [Nathen\\_Richea@gov.nt.ca](#); [Norman\\_McCowan@gov.nt.ca](#); [NTCard@aandc.gc.ca](#); [Olivia\\_Lee@gov.nt.ca](#); [pat\\_knutson@gov.nt.ca](#); [patrick\\_clancy@gov.nt.ca](#); [Paul\\_Green@gov.nt.ca](#); [Paul\\_Mercredi@gov.nt.ca](#); [Pauline\\_DeJong@gov.nt.ca](#); [Permits](#); [preliminaryscreening@reviewboard.ca](#); [president.nwtmn@northwestel.net](#); [rcc.nwtmn@northwestel.net](#); [Rebecca.Leighfield@aandc.gc.ca](#); [Rick\\_Walbourne@gov.nt.ca](#); [rmakohoniuk@yellowknife.ca](#); [Robert\\_Jenkins@gov.nt.ca](#); [Russell\\_Teed@gov.nt.ca](#); [Sam.Kennedy@aandc.gc.ca](#); [sao@hayriver.com](#); [Scott\\_Stewart@gov.nt.ca](#); [screeningofficer@eastarm.com](#); [shin.shiga@nsma.net](#); [Steven\\_Shen@gov.nt.ca](#); [stu\\_niven@gov.nt.ca](#); [Tara\\_Naugler@gov.nt.ca](#); [Tasha\\_Hall@golder.com](#); [tim\\_morton@aandc.gc.ca](#); [tparker@ykdenec.com](#); [walexander@yellowknife.ca](#); [Wendy\\_Bidwell@gov.nt.ca](#); [ww.symbion@shawbiz.ca](#); [zabeynevitt@tlicho.com](#); ["Dlcarter1980@gmail.com"](#); ["Kandee6627@yahoo.com"](#); ["jccarter@northwestel.net"](#); ["mlcarter@telus.net"](#); ["devanchuk@mross.com"](#); ["SAu@mlt.com"](#); ["caroline@dragontoner.ca"](#); ["sheldon@dragontoner.ca"](#); ["eolszewski@mlt.com"](#); ["EMelnyk@mlt.com"](#); ["sparker@mross.com"](#); ["tgiroux@pagc.sk.ca"](#); ["rrobillard@pagc.sk.ca"](#)

**Subject:** MV2011L4-0002 - Taltson v Carter Family Compensation Re-Hearing Updated Workplan  
**Date:** Friday, March 3, 2017 11:28:43 AM  
**Attachments:** [UPDATED Work Plan for Taltson Hydro Compensation Rehearing - Feb 21-17.pdf](#)

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Good morning,

Attached is an updated Work Plan to outline the process and timelines for the re-hearing of the claim for compensation brought by the Carter family (the "Carters") in the context of the Northwest Territories Power Corporation (NTPC) Type A Water Licence since issued on August 31, 2012.

Pursuant to the decision of Justice Shaner in *Jean Carter et al. v. Northwest Territories Power Corporation and the Mackenzie Valley Land and Water Board* 2014 NWTSC 19 ("*Carter v. NTPC*"), the Board is now required to:

1. Provide the Carters with an opportunity to make submissions to the Board in response to NTPC's April 23, 2012 submission that was in response to the December 20, 2011 Information Request; and
2. Including consideration of the response submission contemplated in item 1, consider and decide the matter of compensation as sought by the Carters.

Notice of this re-hearing is being provided to the complete Taltson distribution list, and the entire record for the re-hearing is available on the public registry ([here](#)). Please note, however, that the re-hearing is limited to the issue of compensation involving only the NTPC and the Carters and will not be open for general comment. The re-hearing will be open to the public to attend and observe but will not incur all the legislated steps for a formal public hearing as contemplated by the *Waters Act*.

If anyone has questions on the re-hearing, the work plan, or the process identified here-in, please contact Shannon Allerston using the contact information provided below.

Thank you,

Shannon Allerston, MA, MSc  
Regulatory Officer  
Mackenzie Valley Land and Water Board  
7th Floor, 4922 48th St, PO Box 2130 | Yellowknife, NT | X1A 2P6  
ph 867.766.7458 | fax 867.873.6610  
[sallerston@mvlwb.com](mailto:sallerston@mvlwb.com) | [www.mvlwb.com](http://www.mvlwb.com)

Please note: All correspondence to the Board, including emails, letters, faxes and attachments are public documents and may be posted to the public registry.



## **Work Plan for the Re-hearing of a Claim for Compensation arising from the Northwest Territories Power Corporation's Type A Water Licence in relation to the Taltson Hydro Facility**

### **Purpose of the Work Plan**

To outline the process and timelines for the re-hearing of the claim for compensation brought by the Carter family (the "Carters") in the context of the Northwest Territories Power Corporation (NTPC) Type A Water Licence issued on August 31, 2012.

### **Background**

On June 3, 2011, the NTPC applied to renew a Type A water licence in relation to the Taltson Hydro Facility on Nonacho Lake. On September 2, 2011, the Carters filed a Notice of Intervention/Claim for Compensation for past and future economic losses. The Board initially issued reasons supporting that the NTPC pay compensation in an amount to be determined, but the Minister declined to approve the licence in advance of a specific decision on the amount of compensation. Following further proceedings, the Board ordered compensation for nuisance and inconvenience in the amount of \$62,500. The Carters brought an application for judicial review which resulted in the portion of the Board's decision and Minister's approval dealing with compensation being quashed and sent back to the Board for further consideration on the matter of compensation.

### **Scope of the Review Process**

Pursuant to the decision of Justice Shaner in *Jean Carter et al. v. Northwest Territories Power Corporation and the Mackenzie Valley Land and Water Board* 2014 NWTSC 19 ("*Carter v. NTPC*"), the Board is now required to:

1. Provide the Carters with an opportunity to respond to NTPC's April 23, 2012 submission that was in response to the December 20, 2011 Information Request from the Board; and
2. Include consideration of the response submission contemplated in item 1 and, through a re-hearing, consider and decide upon the matter of compensation as sought by the Carters.

### **Guiding Principles**

The primary guiding principle for the re-hearing is procedural fairness, keeping in mind, as well, the Board's rules and the directions of Justice Shaner in *Carter v. NTPC*.

Other general principles include:

- The re-hearing, as with all licensing and permitting processes, will be carried out in a timely manner and shall have regard to the protection of the environment in consideration of the impacts of the proposed undertaking and the importance of conservation to the wellbeing and way of life of the Aboriginal peoples of Canada (section 35 of the *Constitution Act*, 1982);
- Maintaining consistency in process and approach to compensation claims throughout the Mackenzie Valley; and
- The Board will actively continue to ensure compliance with existing Water Licence MV2011L4-0002 requirements through the process.

Specific principles are as follows:

- The re-hearing will proceed in English without formal translation services offered.
- Notice of the re-hearing will be sent to the complete Taltson distribution list. However, the re-hearing will be limited to the issue of compensation involving only the NTPC and the Carters and will not be open for general comment.

- Any requests relating to the procedure or timeline described in the Work Plan, shall be made in writing to the Board for approval. Requests relating to timelines (e.g. adjournment requests) shall be no less than 14 days prior to the date in question (exceptions may be made in extenuating circumstances at the Board's discretion).
- The re-hearing will be open to the public to attend and observe but will not incur all the legislated steps for a formal public hearing as contemplated by the *Waters Act*.

### Work Plan Objectives

The objectives of this Work Plan are to achieve the following:

- Establish a re-hearing process that is procedurally fair and meets the standard required by Justice Shaner in *Carter v. NTPC*;
- Ensure adequate information is gathered to consider the matter of compensation; and
- Conduct a re-hearing on the issue of compensation that is timely, efficient and fair to all parties.

### Work Plan Tasks and Timeline

	Task	Responsible Party	Deadlines
1	Carters provide their expert reports to the Board and NTPC	Carters	February 17, 2017
2	NTPC will advise whether cross examination of any of the Carter factual witnesses is required	NTPC	March 17, 2017
3	Board may provide a letter to all parties identifying specific issues or questions that may be raised at the hearing	MVLWB	April 7, 2017
4	Pre-Hearing Conference:  An agenda for the Pre-Hearing Conference will be distributed in advance.	All parties to the proceeding	Week of May 1 2017 (approximately one hour)
5	Re-Hearing Proceeding:  The Re-Hearing will be in accordance with the Board's Rules of Procedure including Public Hearings. A detailed agenda will be distributed in advance. The Re-Hearing will include the following steps: <ul style="list-style-type: none"> <li>- Carters will present oral arguments and respond to questions</li> <li>- NTPC will present oral arguments and respond to questions</li> <li>- Both parties will have the opportunity to present their closing arguments</li> </ul>		May 16 - May 17, 2017
	Board will deliberate and decide on the issue of compensation		TBD