



## 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:	DIAND – GIANT – MV2007L8-0031
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**2 Information about the Claimant**

Claimant's Name:	Terry and Diane Brookes		
Community:	Yellowknife		
Prov/Terr:	NT	Email:	<a href="mailto:terryb@theedge.ca">terryb@theedge.ca</a>

<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	Yes
(b)(iii)	In-stream users	Yes
(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	Yes
(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):**

As previously submitted, myself and my wife have been members of the Great Slave Sailing Club (GSSC) since 1994. We currently store, operate and maintain our sailboat, a Windward 850 (weight 6,300 lbs, length 28', width 10', draft 5' and mast height 40 feet) from the property that the GSSC leases from the City of Yellowknife. During the summer months we moor our sailboat boat in the waters in front of the club to a mooring ball anchored to the lake bottom. During the winter the sailboat is stored ashore on a fixed cradle on the lease land of the GSSC. The mast normally remains attached to the sailboat during the winter storage months, unless maintenance is planned for the mast. The cradle remains in place year-round in its permanent location. In addition to the sailboat we have a small dinghy for access between the shore and the sailboat in the mooring field during the summer months.

Typically, the GSSC launches sailboats via a large mobile crane during the first weekend of June, with the retrieval and storage of sailboats in mid-September. As our sailboat is on a fixed cradle and the limitations of the crane's reach, the cradle must be within approximately 50 feet of the GSSC wharf. On-shore maintenance is performed in May, late September and early October. We are active members of the GSSC, and have participated in club activities, social events and racing. We also actively use our boat during the sailing season for cruising on Great Slave lake.

Currently we do not have a vehicle to transport the sailboat to an alternate location to store, launch/use during the summer and winter storage.

\*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>
<p>During the lack of access to the club property additional expenses for our Windward 850 Sailboat will be incurred. This will include:</p>	
<p>1. Trailer purchase: A trailer capable of transporting a 28’/6300lbs sailboat and legally driving on a public highway will be required. This will need to be ordered from a southern supplier and delivered in enough time to meet the lease vacancy schedule.</p>	<p>\$14,000 (one-time cost)</p>
<p>2. Lift in/out: Lift in and lift out will be required seasonally, including mast stepping/unstepping. If suitable moorage cannot be found the boat may not be launched during the period the club property is not accessible. Lift in/out and mast removal estimated at \$800 per season.</p>	<p>\$800 (yearly cost)</p>
<p>3. Secure storage. Secure storage will be required off site that provides year round access for repairs and maintenance complete with electricity and water. (winter boat storage and summer trailer storage for a 28 foot sailboat and trailer, total length approximately 35 feet). Plus, storage for a dinghy. Yearly storage \$1,700</p>	<p>\$1,600 (yearly cost)</p>
<p>4. Moorage. Suitable moorage with shore access will be required during the summer. This will require relocation or construction of a new mooring. Even if the boat is not used during the remediation the current mooring will require relocation for reuse. Estimated costs \$400</p>	<p>\$400 (one-time cost)</p>
<p>5. Loss of value for existing sailboat cradle (3 years old). Original cost, plus shipping for the cradle \$2,000</p>	<p>\$2,000 (one-time cost)</p>
<p>6. Cost to rent a vehicle to tow the trailer sailboat to and from storage location. \$250 per weekend use (assume two moves per year)</p>	<p>\$500 (yearly cost)</p>
<p>Note: Costs, such as lift in/out fees, are based on lifting several boats at in a session. Crane rental for an individual boat would be 4 to 5 times the cost.</p>	
<p>Total Cost (for one, two or three years of total costs)</p>	<p>\$19,300 (one year)                  \$22,200 (two years)                  \$25,100 (three years)</p>

<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.

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(i.e. estimates, receipts, technical reports, etc.).

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

<b>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?</b>	<b>What is the monetary value?<sup>5</sup></b>
<p>Potential future losses would be that there is no support to operate and store a sailing vessel on the shore of Great Slave Lake. As there will be no market for large format sailing boats in Yellowknife it would be consider a total loss of our investment. The current replacement value for our sailboat in Yellowknife would be the cost of a sailboat and the moving cost to get a sailboat to Yellowknife. Attached is a recently sold similar sailboat that sold for \$13,500. Estimated trucking costs would be around \$7,000, plus the cost of a cradle to place the sailboat on for sipping on a flat deck (assume similar value for the existing cradle) of \$2,000. For a total replacement cost of \$22,500.</p> <p>Loss of sailing enjoyment is a subjective amount. We pay approximately \$1,500 per year for our sailing activities. If we are willing to pay that amount each year, I will assume I lose that value of enjoyment per year.</p>	\$22,500 (Replacement Cost Value)
	<p>\$1,500 (one year)            \$3,000 (two years)            \$4,500 (three years)</p>

\*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>
The loss of the safe storage and secure launch and extraction areas. Loss of safe area to conduct repairs and annual maintenance.
<b>How long (over part or all of the term of the Licence) will potential effects of the proposed licensed activities last?</b>
From the current plans available for review, it seems the area may be under construction for at least 2 years thus impacting the club members for at least 2 seasons. There is a possibility the construction may be delayed and extend to 3 or more seasons.
<b>What are the incremental, gradual or accumulative effects of the proposed licensed activities?</b>
From a review of the plans, we can discern access to the area will be totally denied while the construction is undertaken. Once complete we are assuming the work will be accomplished to the standard expected and only periodic monitoring will be undertaken, but access will be available to the Sailing Club or others as approved.

\*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**

<p><b>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.</b></p> <p>As noted previously, the area is used for: safe storage; repairs/maintenance; lift in and outs; and mooring. The Club also uses the area to train young sailors and teach safety. If access was not permitted the Club would have to find other areas that will provide suitable access to the water. Currently no other area in Yellowknife provides access to Great Slaver Lake, and the services our size of sailboat requires so that we can enjoy the pleasures of sailing Great Slave Lake.</p>
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\*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**

<b>Will there be substantial nuisance, inconvenience and/or noise that would not exist but for proposed licensed activities?</b>	<b>What is the monetary value?<sup>6</sup></b>
We do not think noise will be an issue.	
Personal time to address this issue is subjective to value, again we will use the \$1,500 per year calculation.	\$1,500 per year

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

<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.**

Once the plan is finalized every effort will be made to reduce costs and impacts. The market prices for storage will naturally increase once news is out that over 40 plus boats will require movement and safe storage, but this is a natural reaction by the market. Prices for sailboats in the area will drastically reduce (if not drop to zero value), due to the fact that multiple sailboat owners will be looking to sell off their assets or move to other forms of recreation. The Giant Mine Remediation Team must communicate their plans well in advance to increase reaction and planning timeframes for folks affected.

**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.**

The License Applicant must be open and transparent with their plans and do all they can to mitigate impacts. Phasing the works, providing safe secure options is always available if they think about their plans and options for their work. As with all civil engineering projects - schedules are always at risk and the likelihood of the work being delayed is extremely high and the impact may be the loss of another season.

The Applicant should strive to make the area better. They should work with the City and the Club to improve the water front to a world class site. They are spending close to a billion dollars on the area so the cost of the construction of level area and a proper breakwater is minor and the spin off benefits well beyond the initial investment.

\*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.**

No other compensation source is being sought.

**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).**

Lump sum compensation would be the preference.

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

We would be open to discussing the matter if the Applicant had options in mind.

\*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.**

The Club has also met with representatives of the Project in an attempt to understand the plans and try to influence the plans. I assume the City is equally engaged and involved with the Project Team and meets on a regular basis.

The Club and various parties have met with the City of Yellowknife to determine the future and to lesson the impacts of the Project.

The discussions regarding compensation have not been conducted in earnest as the overall plan has not yet been finalized and the process for compensation is at the moment through the MV process of which this form is a major part of.

\*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.**

We have been part of the sailing world for over 25 years are seeking compensation for the impacts. We have assessed the overall impacts given the knowledge of the plan as is available at this time. We feel the costs are based on common sense and are market correct.

We feel this is a great opportunity for the Project and the City along with the sailing/boating community to work together and provide a role model for other projects around the world.

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

The screenshot shows a web browser window displaying a boat listing on the Thunderbird Marine website. The browser's address bar shows the URL <https://thunderbirdmarine.com/vh/tesa/ymhward/850/>. The page features a large background image of a boat docked at a marina. A white box with a blue border is overlaid on the image, containing the text "SOLD" in large blue letters. Below this, the listing details are shown: "Message", "Year: 1984", "Price: \$13,500 CAD", and "Listing No. 1228". To the right of the listing is a "Specifications" section with the following details:

- Price: \$13,500 CAD
- Year: 1984
- Full Name: FlyingCast
- Engine: Diesel
- LOA: 28'
- Beam: 10'
- Depth: 5'
- Capacity: 650 lbs
- Head Office: Port Moody
- Location: West Coast Marina
- Moorage: Yes

At the bottom of the specifications section, there are two buttons: "BACK TO LISTINGS" and "BACK TO HOME". Below the specifications, there is a section titled "SEE OTHER BOATS/YACHTS" with a link to view more listings. The browser's taskbar at the bottom shows the Start button, several application icons (Internet Explorer, Google Chrome, etc.), and the system tray with the date and time: 8/29/2019, 1:44 PM.