



2023 draft Rules of Procedure available for public review

1. Introduction

The Mackenzie Valley Environmental Impact Review Board (Review Board) sets *Rules of Procedure* (the Rules) that guide the conduct of environmental assessments and environmental impact reviews in the Mackenzie Valley. The Review Board's authority to set rules for its processes comes from section 30 of *the Mackenzie Valley Resources Management Act* (the Act). The Rules are intended to ensure that the Review Board's processes:

- fulfill the requirements, intent, and principles of the Act and
- are fair, focused, effective, and meet the needs of Parties, members of the public and the Board.

This document summarizes the process of reviewing and updating the Rules, and the changes that the Review Board has made in response to public comments and evolving best practice. The updated draft Rules are available now on the Online Review System for a final round of public review.

2. What has the review process been to date?

The Review Board's approved Rules were finalized in May 2005. Much has changed since then, including technology such as the online public registry and review system for written comments and information requests. Environmental assessment processes and the way people and Indigenous Governments participate in them has also changed over time. This is due in part to the evolution of the Review Board's processes as well as people's familiarity with the Review Board and the resource co-management system overall. Updates to the Rules are required to reflect these changes.

Specifically, updates to the Rules are needed to:

- bring the Rules up to date and in line with current Review Board process and practices that ensure fair, inclusive, and transparent Proceedings.
- make the Rules more user-friendly through use of plain language and re-organization of some sections of the document.
- more clearly define the roles of participants in various stages of an environmental assessment process

In 2018, the Review Board began a process to update the Rules. A draft version of the updated Rules was released in the Canada Gazette to solicit public feedback and in accordance with the requirements of subsection 30(2) of the Act. Comments were received from the Canadian Northern Economic Development Agency (CanNor), the Government of the Northwest Territories and Terra X (See Appendix A for a full list of comments, recommendations, and Review Board responses). The Review Board has carefully considered these comments and recommendations and has prepared an updated draft version of the Rules for additional public review.

3. What are the key changes in this draft of the Rules?

Some of the specific changes being proposed include:

1. Updating rules for information requests to match current practice, promote free exchange of information between parties and the developer, and increase transparency through use of the Online Review System. The updates maintain the Review Board's authority to reject information requests that are outside the scope of assessment and rule on disputes about the adequacy of information request responses.
2. Updating rules about how to participate in EAs generally, and in public hearings specifically. The 2005 Rules required people and Indigenous governments to apply for party status, and then to request additional permission to intervene in hearings. The proposed amendments would remove some of this administrative burden from Indigenous Governments by granting automatic party status and increasing the flexibility for these groups to become interveners.

These changes are intended to keep the Review Board's processes open and inclusive, while maintaining Review Board control over participation, especially during the hearing phase. The Review Board would maintain its authority to limit participation at any time if a party or intervenor is not following the Rules or is participating in an irrelevant, frivolous, or vexatious way.

3. Ensuring that the Rules are clear about the Review Board's authority to stop a Proceeding at any time if the information on the record is not adequate to move forward, or if additional information is needed.
4. Removing specific timelines for some Review Board decisions or process steps (such as Requests for Ruling) to give the Review Board the flexibility it needs to give direction and maintain fair and reasonable timelines.
5. Removing rules about dispute resolution, which are not standard in Rules of Procedure for other Boards in the Mackenzie Valley. This change does not limit the Review Board's ability to resolve disputes through the Request for Ruling Process or by issuing directives.
6. Increasing the length of time for Notice of a Hearing and giving interveners and the developer more time to prepare interventions and give notice of any potential preliminary, legal, or jurisdictional issues in advance of a Hearing.
7. Clarifying the roles of independent experts and expert advisors in Review Board Proceedings.

4. Next steps

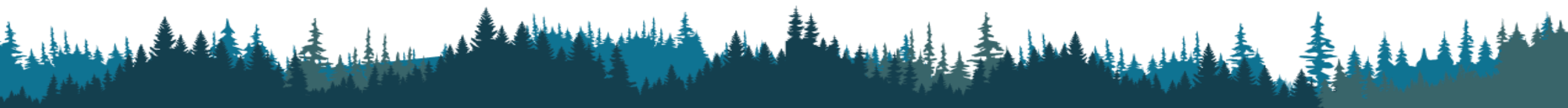
The Review Board is proposing several changes to the draft Rules of Procedure in response to the first round of public review and recognizes that a significant amount of time has passed since that review period. Accordingly, the Review Board welcomes additional public comments on the updated draft Rules. The Review Board will consider all comments and recommendations received on the draft Rules before finalizing the document.

Comments and recommendations can be submitted on the Online Review System any time before **September 30, 2023**. Please direct any questions or comments on the draft Rules to Kate Mansfield, Manager of EA Policy and Planning (kmansfield@reviewboard.ca or 867-766-7062).

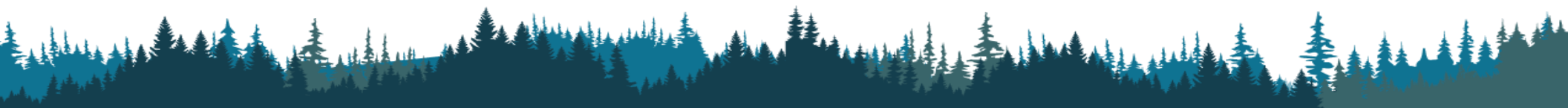
Comment ID	Topic	Comment	Recommendation	Review Board Response
GNWT-1	Definition: Aboriginal Organization	Copy edit	Change the spelling of Tłı̄chǫ and add a comma after the closed bracket.	Definition has been updated.
GNWT-2	Definition: Aboriginal Organization	The document uses the term 'Aboriginal.' Both the federal and territorial government are now using the term "Indigenous," except when referring to asserted or established Aboriginal and/or Treaty rights. The Mackenzie Valley Land and Water Board's December 2018 Rules of Procedure uses the term Indigenous Organization.	Consider using "Indigenous" instead of "Aboriginal".	Definition has been updated.
GNWT-3	Definition: Aboriginal Organization	The GNWT has concerns with the definition of 'Aboriginal Organization' as the proposed 'Aboriginal Organization' combines Indigenous parties with asserted Aboriginal and treaty rights with parties that have governance structures (e.g. Tłı̄chǫ Government, Délı̄ne Got'ine Government) that have been created pursuant to a finalized land claim, land, resources and self-government or self-	The GNWT does not have a specific recommendation at this time but is available for discussions with Review Board staff. The GNWT will also extend this offer to Land and Water Board staff.	Definition has been updated



		government agreement. The GNWT does not consider Indigenous Governments created pursuant to a settled agreement to be 'organizations' as they are 'governments' and have constitutionally protected agreements.		
GNWT-4	Definition: Clarification	Clarification: "means the process by which the Board seeks an explanation of any Document or information on a Public Record without seeking new evidence or information in a proceeding." As there are instances where Parties may wish to seek clarification from the Board (for example, regarding documents produced by the Board), the defined term and process should be extended to allow for both the Board and Parties to seek an explanation.	The definition should be expanded to include both the Board and Parties. "means the process by which the Board or Party seeks an explanation of any Document or information on a Public Record without seeking new evidence or information in a proceeding."	Definition has been removed.



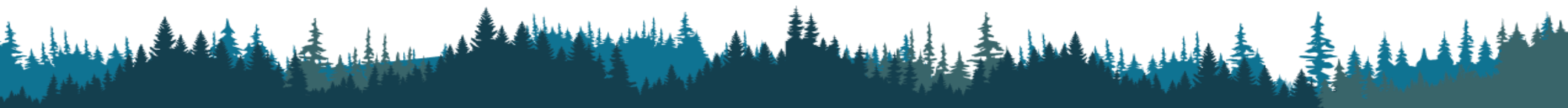
GNWT-5	Definition: Community Public Hearing	This definition is confusing as Formal Public Hearings are also held in communities. I.e. it may be unclear whether a hearing held in a community is a formal or informal public hearing	Suggest 'Community Public Hearing' is switched to a different term so as to prevent confusion when there are Formal Public Hearings in communities. It could be switched to Informal Public Hearing with a definition of: "means an oral Public Hearing held in a community to hear the views of Members of the Public, in accordance with a Directive issued by the Board."	Definition of Public Hearings has been clarified.
GNWT-6	Definition: Developer	Copy edit	Insert "impact" between "environmental review".	Suggested change made.
GNWT-7	Definition: Directive	Is it meant to be limited to work plan, ToR and a notice of proceeding? Or should it read including, but not limited to, a work plan...?	Ensure reference is to all appropriate orders.	No change required.
GNWT-8	Definition: Executive Director	The use of "may include" undermines the preciseness of the definition.	Replace "may include" with "means".	Suggested change made.
GNWT-9	Definition: Member of the Public	Striking out the words "or Intervener" would simplify this definition as any Intervener would be a Party.	Amend the definition of Member of the Public to the following: "means a person other than a Party, who, subject to these Rules, wishes to provide comments to the Board in a Proceeding."	Suggested change made.



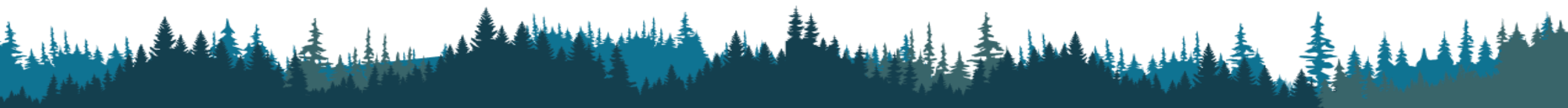
GNWT-10	Definition: Member of the Public	<p>It is unclear if this definition excludes organizations. If so, it may result in nongovernmental organizations having to become Parties to submit comments on a project. If a nongovernmental organization only has minor comments, this may be too onerous to sign up as a Party. Additionally, if a nongovernmental organization's Party status is questioned or denied, there may not be another avenue to provide comments. Currently, nongovernmental organizations can comment as members of the public. Rule 22 states that "any person or organization may, without becoming a Party, provide comments to the Board in writing or via the ORS, or in a public session or Public Hearing organized by the Board." This suggests that the current definition of "Member of the Public" should be expanded to include organizations.</p>	<p>Amend the definition of Member of the Public to the following: "means a person or organization other than a Party..."</p>	Suggested change made.
GNWT-11	Definition: Party	<p>There is a typo in the last sentence. "an Intervener" should change to "any Intervener".</p>	<p>Amend the last line of the definition of Party to: "...the Developer and any Intervener."</p>	Suggested change made.



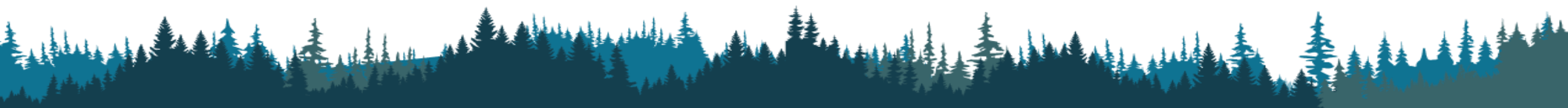
GNWT-12	Definition: Public Hearing	A Written Hearing is not defined in the Rules and should be added to the list of definitions as Rule 82 implies that they are a possibility.	Add Written Hearing to the definition list.	Definition of Public Hearing has been clarified.
GNWT-13	Definition: Public Notice	Rule 85 indicates that the notice to a Public Hearing must include a consideration of Aboriginal Organizations. It may be useful to include the language from Rule 85 ("having regard to the nature, location, and size of a development, and the affected communities, land owners and Aboriginal Organizations") in the definition of Public Notice. This additional wording provides the Board with some guidance on what factors it needs to consider when providing notice.	Amend the definition of Public Notice to the following: "means an announcement made through newspaper, radio, community poster or any other means deemed appropriate by the Board having regard to the nature, location, and size of a development, and the affected communities, land owners and Aboriginal Organizations."	Definition of Public Notice has been clarified.
GNWT-14	Definition: Public Register	Add "Board rulings" to definition.	Amend the last line of the definition of Public Register to: "...and Board rulings, notices and updates."	Definition of Public Register has been clarified.
GNWT-15	Definition: Public Register	The definition of Parties excludes Members of the Public; therefore, Members of the Public should be	Amend the definition of Public Register to: "...and other submissions by Parties,	Definition of Public Register has been clarified.



		added to the definition of Public Register.	Members of the Public, and Board rulings, notices and updates."	
GNWT-16	Definition: Request for Ruling	The term currently conflicts with some of the rules between 28-37. For example: Rule 36 "When a Request for Ruling is made in a Public Hearing, the Board may deal with it in any way that is consistent with the requirements of fairness." This implies that a Request for Ruling could be made orally during a Public Hearing, but this would conflict with the definition as the definition states that it is written.	Amend the definition of Request for Ruling to: "means a request for a ruling made under Rules 28 to 37."	Definition of Request for Ruling has been updated.
GNWT-17	Definition: Ruling	Definition does not include rulings made in relation to extension requests. This should be added.	Amend the definition of Ruling to: "means a decision or order made by the Board during a Proceeding including decisions in response to a Request for Ruling, in response to a time extension request, or made during a Public Hearing."	Suggested change made.



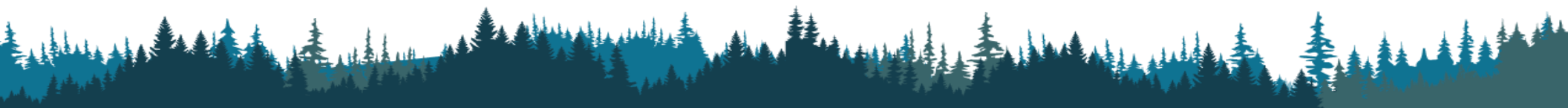
GNWT-18	Obtaining intervener status	<p>An intervener is defined in the draft Rules of Procedure for Environmental Assessment and Environmental Impact Review Proceedings as “...a person, organization, or Party that has been granted Intervener status by the Board under Rule 26.”</p> <p>Rule 26 states “Any person, organization, or Party may request Intervener status by submitting the appropriate Form to the Board within the time specified in a Directive.”</p> <p>It is unclear if the Board must make a decision when granting Intervener status or if Intervener status is automatically obtained after submitting the proper documentation. It is also not clear what options the Board has when reviewing a request for Intervener status or how the Board informs applicants of their Intervener status.</p>	<p>Clarify if intervener status is guaranteed upon submission of the appropriate Form to the Board before the set deadline, as per Rule 26, or if the Board, as stated in the definition of intervener, must grant intervener status. If the Board must grant intervener status the Rules of Procedure should reflect this and set out the actions the Board may take, such as request additional information from the applicant, dismiss the intervention request and advise the applicant for the basis for the Board’s refusal to grant intervener status, or accept the intervention request and advise all parties of that decision.</p>	<p>How to become a party in a Proceeding is described in Rule 20. Becoming an intervener in a Public Hearing is described in Rules 85-88.</p>
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GNWT-19	Rule 13: Participants bound	Refers to person but not organization	Amend Rule 13 to the following: "Any person or organization who participates in a Board Proceeding is bound by these Rules."	Clarified in Rule 13; parties include persons and organizations.
GNWT-20	Rule 14: Compliance with Rules	If any person is bound by the Rules (Rule 13), Rule 14 should be expanded to include person. For example, if a Member of the Public doesn't follow the Rules, the Board should be able to impose limits on that person's participation. If Rule 14 cannot be expanded to include any person, an additional rule that specifies what could happen to persons who do not follow the Rules and fall outside of the definition of Party should be added.	Recommend that Rule 14 be expanded to include person in addition to Party. "Where a person or Party has not complied with these Rules, a Direction on the Rules, or a Directive, the Board may: a) impose limits on a person or Party's participation; b) withdraw a Party's status in the Proceeding; c) adjourn the Proceeding until satisfied that the requirement has been complied with; or d) take such other steps as it considers just and reasonable."	Clarified in Rule 13; parties include persons and organizations.
GNWT-21	Rule 18: Timelines	The new Rules remove specified timelines that were set out in the former rules. The GNWT notes the statement in the "Summary of Proposed Amendments to the Mackenzie Valley Review Board's Rules of Procedure" that timelines were removed based on experience and to provide flexibility, and requests that the Board consider	Consider amend Rule 18 as follows: "Within 30 days of the commencement of a Proceeding, the Board will issue a Directive to set out the timing for each step in a Proceeding."	The Review Board issues a draft workplan as early as practicable in a Proceeding and updates the draft workplan whenever necessary and as more information from the developer and parties is made available.



		specifying a timeline in this Rule. A specified timeline would help to ensure that the proceedings are initiated in a timely fashion and may help reduce any initial process delays.		
GNWT-22	Rule 23: Party status	The rule does not address the possibility of an incomplete form being submitted.	Amend Rule 23 to the following: "Any person or organization will become a Party once the appropriate Form is accepted by the Board."	Becoming a party in a Proceeding is described in Rules 20 and 21 and no longer requires submission of an application.
GNWT-23	Rule 24: Rights of parties	Technical session is no longer part of the Rules (old rule 51) so should likely be removed from this section.	Amend Rule 24 to the following: "Only a Party may submit Information Requests or a Request for Ruling and participate fully in a Board Proceeding outside of the Public Hearing Phase."	The means of participation in a Proceeding for parties are described in Rules 22-24.
GNWT-24	Rule 27: Participation of Aboriginal Organizations	It is unclear how the test of "may be affected" will be applied. The process of accepting an IGO as a Party should be better defined.	Suggest clarifying. For example, a possible solution would be to amend the Rule to: "...which indicate they may be affected". This would help clarify that an Indigenous Organization will be granted Party and Intervener status in every instance where the Indigenous Organization identifies that they may be affected and the test of "may be	Rule 88 clarifies that any Indigenous Government or Organization that is a party to a Proceeding can become an intervener by notifying the Board of their intention to intervene.

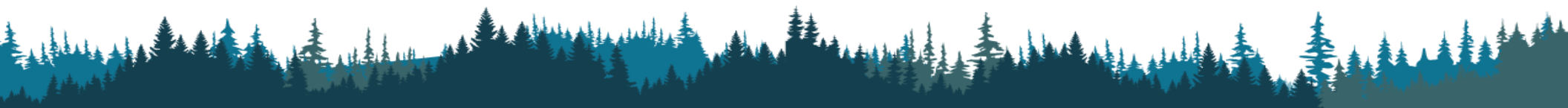


			affected" is not determined by the Board or another unidentified process.	
GNWT-25	Rule 29: Written request for ruling	It should be clear that a Request for Ruling during an oral Public Hearing can be made orally.	Amend Rule 29 to the following: "Except during an oral Public Hearing, any issue raised by a Party in the course of a Proceeding that requires a ruling from the Board must be raised by way of a written Request for Ruling. During an oral Public Hearing, a Request for Ruling can be made orally."	Rule 52 clarifies that Requests for Ruling must be made in writing. See also rule 100 which clarifies that parties may submit oral Requests for Ruling during Public Hearings at the discretion of the Chair.
GNWT-26	Rule 37: Dismissing a Request for Ruling	The new Rules do not stipulate what form the ruling would take (written or oral). Rule 35 indicates that requests must be written while Rule 36 indicates that other options may be considered if the request is made during a Public Hearing. In order to ensure that decisions of the Board can be reviewed, should it be necessary, some further text is required.	Amend Rule 37 to the following: "The Board will provide a written or oral ruling which will be placed on the Public Record or the Board may dismiss a Request for Ruling which, in its view, is frivolous, vexatious, or an abuse of process. A record of the dismissal will be placed on the Public Record."	Rule 58 clarifies that the Board's response to a Request for Ruling will be made in writing.
GNWT-27	Rule 43: Notice of removal	This provision only relates to comments and documents while Rule 42 says materials.	Amend Rule 43 to the following: "The Board will notify and provide reasons to the Parties if material is removed from the ORS or the Public Register under Rule 42."	Both rules 31 and 32 refer to the removal of "any submission" rather than materials.



GNWT-28	Rule 44: Communication must be in writing	Rule 44 "Except during an oral Public Hearing, communication in all Board Proceedings must be in writing..." seems to conflict with Rule 60 "The Board may secure evidence or comments from the Parties to a Proceeding using teleconferences or any other means of communication." It is also unclear how Rule 44 can capture what is communicated during scoping sessions, etc.	Recommend that the Rule be amended to better capture the intent that Parties are to primarily communicate with the Board (and Board staff) in writing, while also acknowledging there are instances such as Public Hearings, scoping sessions, and teleconferences, when other means of communication are allowable. Suggest Rule 44 be expanded to address the missing exceptions.	Updates to rule 34 make it clear that written submissions should be sent to ED or other designated staff person. Updates to rule 66 clarifies that the Board welcomes written and oral evidence.
GNWT-29	Rule 46: Material on Public Record	The material on the Public Record is what is used to make the decision of the Board. Comments should be included in this.	Amend Rule 46 to the following: Information, Documents, comments, evidence and argument received by the Board will be placed on the Public Record for a Proceeding."	Updates made to rule 40.
GNWT-30	Rule 52	Copy edit	Add a comma after "made".	Change no longer needed.
GNWT-31	Rule 52 - ministerial decision	The ministerial EA decision under the MVRMA is signed by a single Minister but is a collective decision of all responsible Ministers.	Change "responsible Minister's" to "responsible Ministers'."	Rules refer now to final decision-maker(s)
GNWT-32	Rule 58: Confidential information	Rules 57 and 58 do not specify what the timing is before receiving material. There should be consideration given to material	Amend Rule 57 by adding the following sentence to the end: "While such a ruling is being considered, the material in question will be kept confidential."	See updated rule 64

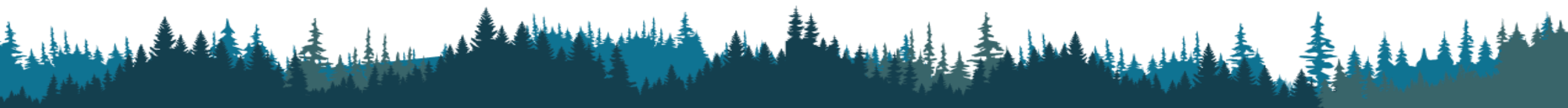
		submitted as part of the request that needs to be kept confidential.		
GNWT-33	Rule 58:	Copy edit	Change "my" to "may."	Change made as suggested.
GNWT-34	Rule 60: Teleconference	Nothing in the Rule to stipulate if the Board needs to approve this or agree to it.	Amend Rule 60 to the following: "The Board may agree to secure evidence or comments..."	No change necessary.
GNWT-35	Rule 62: Specialist	It is not clear how a specialist retained by the Board in Rule 62 is different from an Independent Expert in Rule 65.	Consider defining the term specialist or clarifying how it is different from an Independent Expert or a general expert.	See rules 70-71 for information about Independent Experts and rules 72-73 for information about Expert Advisors.
GNWT-36	Rule 66: Acceptance of late submissions	The Rule indicates that if late submissions are not accepted, they will not be placed on the Public Record. Therefore, the final sentence should clarify that "A notation will be placed on the Public Record to indicate receipt of a late submission that is accepted."	Amend Rule 66 to: "...of a late submission that is accepted."	Updated rule 74 clarifies that late submissions will only be accepted as argument or evidence at the discretion of the Board. Generally, late submissions will be placed on the public registry but not the public record. If a late submission is placed on the public record, a notation to that effect will be duly provided.



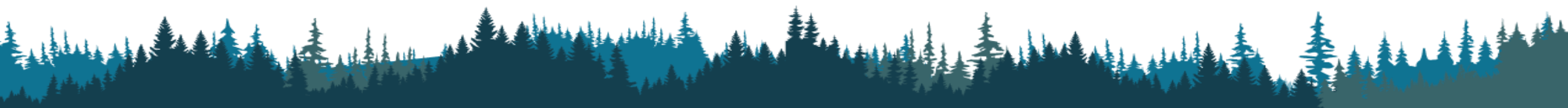
GNWT-37	Rule 69: Extension Request	There is nothing in the Rules that stipulates that the Board must provide reasons for either granting or denying a request for an extension. A rule that deals with this would help ensure that an unreasonable decision could be judicially reviewed, if necessary.	Amend Rule 69 to the following: "The Board will provide a written ruling for its decision on the extension request and if the Board grants an extension, timelines for all Parties will be adjusted accordingly and notice of the change will be provided."	See amended rule 77.
GNWT-38	Rule 74: Information request to party	It is unclear what Directive is being referred to here.	Amend Rule 74 to the following: "...for the Proceeding. All Information Requests shall be filed with the Board and the Board will issue a Directive indicating timelines for responding to the Information Request."	See amended rule 38.
GNWT-39	Rule 75: Timeline for response	It is unclear what Directive is being referred to here.	Amend Rule 75 to the following: "...within the time specified by the Directive issued by the Board under Rule 74 and provide..."	See amended rule 39.
GNWT-40	Rule 77: Rejection	Typo: IR should be Information Request. Make it clear that the Board may reject IRs either based upon a request for ruling or on its own motion. The way it is written now it is not clear that the Board can act on its own.	Recommend rewriting Rule 77 to the following: "The Board, on its own motion or in response to a Request for Ruling, may reject any Information Request, for reasons including but not limited to an Information Request that is not relevant, is offensive, or outside the scope of assessment for the Proceeding. If the Board rejects an Information Request,	See amended rule 41.



			the Board will notify affected Parties and set out its reasons.”	
GNWT-41	Rule 80: Determination of adequacy	Will the Board's determination on the adequacy of information be in the form of a written Reasons for Decision?	If the Board issues Information Requests to address adequacy of information, the Board should also assess the adequacy of the responses to ensure adequate information to enter the Public Hearing Phase.	The Board will provide written reasons for why the Proceeding can enter the Public Hearing Phase.
GNWT-42	Rule 85: Method of notice	This new rule leaves the content of the notice up to the Board and removes specified timelines that were set out in the former rules. The GNWT notes the statement in the "Summary of Proposed Amendments to the Mackenzie Valley Review Board's Rules of Procedure" that timelines were removed based on experience and to provide flexibility, and requests that the Board consider specifying a timeline in this Rule. Given the level of preparation and logistical arrangements required to participate in hearing, the GNWT requests that the Board consider including the 30 days' notice required under the former Rule 67.	Consider including timeline and direction on content for the directive issued under Rule 84 as outlined in former rules 67-68.	Rule 89 indicates that the Board will provide notice at least 90-days before holding a Public Hearing.



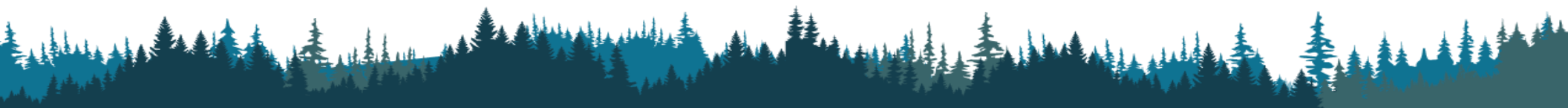
GNWT-43	Rule 86-94: Participation in the Public Hearing Phase by an Intervener	The only mention within this section of new information relates to responses by the Developer, to interventions, not including new information.	Recommend that the Board clarify 1) if any new information is allowed to be presented during the Public Hearing Phase and 2) if yes, what are the process requirements? For example, would the Intervener need to provide rationale for not filing the information earlier? Would the Board ask other Interveners and the Developer if they have any objections?	Please see updated rules 101-109 for information on how interveners can participate in a Public Hearing, and rule 107 for information on how late interventions may be considered by the Board.
GNWT-44	Rule 86: who are participants	Identical to Rule 25.	It would be preferable to refer back to the first instance of the rule, rather than to repeat the same rule. If Rule 25 and Rule 86 serve different purposes, they should be drafted differently to properly address the different purposes, not merely repeated.	Removed duplication.
GNWT-45	Rule 87: Who can intervene	Identical to Rule 26.	It would be preferable to refer back to the first instance of the rule, rather than to repeat the same rule. If Rule 26 and Rule 87 serve different purposes, they should be should be drafted differently to properly address the different purposes, not merely repeated.	Removed duplication.



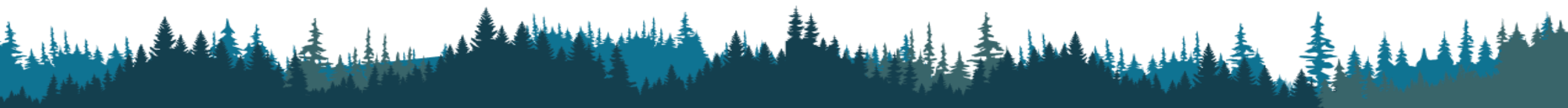
GNWT-46	Rule 90: Written intervention	This rule is already addressed in 86/25.	It would be preferable to refer back to the first instance of the rule, rather than to repeat the same rule. If Rules 25, 86, and 90 serve different purposes, they should be should be drafted differently to properly address the different purposes, not merely repeated.	Removed duplication.
GNWT-47	Rule 91: Intervention in community hearing	Uses term "community hearing" which is no longer a term. There is also no corresponding rule on the role of the Developer. Adding Developer to Rule 91 should address this issue.	Amend Rule 91 to the following: "The role of Interveners and the Developer in a Community Public Hearing will be decided by the Board on a case by case basis, and it will issue a Directive accordingly."	Please see updated rules 101-109 for information about how to participate in Community Hearings.
GNWT-48	Rule 92: Oral intervention only	Rule 92 is either inconsistent or unclear. It says the Intervener may present oral TK, not other matters, but then notes that it must file a written summary that describes what it will present.	Clarify that the "written summary" should only pertain to the Traditional Knowledge that is to be presented in order to prevent an Intervener who does not file a written Intervention from presenting on more than just Traditional Knowledge. Clarify how much written detail needs to be captured in the "written summary" identifying that oral Traditional Knowledge will be presented during a Public Hearing.	Please see updated rules 66 and 67.



GNWT-49	Rule 92: Oral intervention only	Copy edit	Insert 'Public' between 'Formal Hearing'. (multiple instances).	Change made as suggested.
GNWT-50	Rule 93: Missed deadline for written evidence	This is already addressed in Rule 66 and the process that follows (66-72). Making this a request for ruling process creates a separate process for interventions.	It would be preferable to refer back to the first instance of the rule, rather than to repeat the same rule. Recommend amending Rule 93 to the following: "After the deadline for Interventions has passed an Intervener must submit any new written evidence pursuant to the process described in Rules 66-72."	Please see updated rule 107 which describes if an intervener wishes to submit evidence after the deadline for intervention has passed, they must submit a Request for Ruling.
GNWT-51	Rule 98: Pre-hearing conferences	The Board should provide a Pre-Hearing Conference report shortly after the Pre-Hearing Conference.	Amend Rule 98 to include a new (f): "The Board shall issue a Pre-Hearing Conference report within 2 days [or other appropriate time] of the Pre-Hearing Conference."	No change made in the interest of maintaining operational flexibility.
GNWT-52	Rule 99: Preliminary issue	There is currently no timing linkage between Rules 98 and 99 to ensure that the Pre-Hearing Conference and accompanying report are complete prior to the 25 days mentioned in Rule 99. These processes should be sequential, so Rule 99 should be amended to improve clarity.	Amend Rule 99 to the following: "Notice of any preliminary, legal or jurisdictional issue to be raised in a formal hearing must be provided at least 25 days before the hearing date, with the exception that this deadline may be no earlier than 5 days after the Board issues the Pre-Hearing Conference report. Such issues will be addressed as a Request for Ruling and the Board will issue a Directive to set out the process."	No change made given extended timing for raising preliminary, legal, or jurisdictional issues.



GNWT-53	Rule 99: Preliminary issue	Copy edit	Replace "Formal hearing" with "Formal Public Hearing."	See updated definition of Public Hearing.
GNWT-54	Rule 104: Time limits	Time limits are reasonable as long as the party being cut off by the time limit has the right to file the remainder of their presentation, statement or questions in writing.	Amend Rule 104 to the following: "The Board may set time limits for presentations, questions and oral submissions for a Public Hearing. Parties affected by the time limits may file their complete presentation, questions and submissions in writing."	No change made.
GNWT-55	Rule 107-108: Transcript	Transcripts are a valuable resource for all participants in environmental assessment and environmental impact review proceedings.	Rules 107 and 108 – Transcripts should be required, not optional.	No change made.



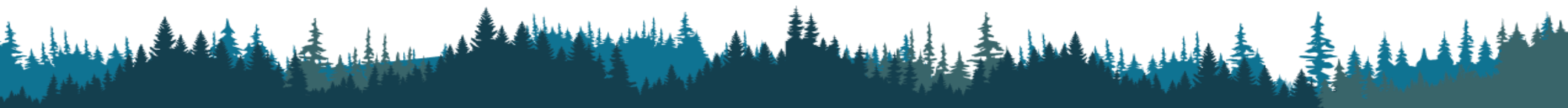
GNWT-56	Rule 113: Written closing argument	<p>The Board currently uses a model in which one party argues and the other replies. This is not a universal approach and can be changed.</p> <p>Argument and reply argument are typically features of quasi-judicial processes with all Parties allowed to participate in both steps. While the Board cannot force a proponent to file argument, they should have the opportunity do so. Similarly, an Intervener should have the opportunity to reply to argument from the developer and also to reply to another Intervener. The current process denies an Intervener the opportunity to address another Intervener’s argument through reply argument.</p> <p>While the Board should be required to provide all parties with the opportunity to file written and reply argument, it is then the Parties choice to do so or not.</p> <p>A Party choosing not to file argument should not take away or impact its right to file reply argument.</p>	<p>For future process discussions, consider the value of changing the current closing arguments model to allow for written closing reply arguments.</p>	<p>No change made.</p>
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		<p>Please consider whether there would be value in allowing for written closing reply arguments during a Proceeding. This topic could be discussed during future process discussions, such as development of the EA Initiation Guidelines.</p>		
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GNWT-57	Rule 113: Written closing argument	The closing argument should not be due for some time period after the public hearing, the timing of which should take into consideration whether undertakings are being filed after the hearing.	Suggest adding the following new Rule: "The Board shall provide a minimum of X days after the closing of a Public Hearing for the submission of argument with that minimum time being extended such that argument will not be due until at least X days after the filing of all hearing undertakings." The GNWT suggests that 14 days could be an appropriate time period.	If interveners wish to file a response, they can submit a Request for Ruling to do so as per rule 52.
GNWT-58	Rule 114: Translation of Documents	Uses both Party and Intervener (Intervener is redundant as it is captured under the Party term.)	Amend Rule 114 to the following: "The Board may require a Party to translate..."	No change made.
GNWT-59	Rule 114: Translation of Documents	Is there a need to have 'Language' capitalized?	Use lowercase L for 'language' if there is no reason for uppercase usage.	Change made as suggested
GNWT-60	Rule 117: Consult to Modify	The new Rules include provisions for the Consult to Modify Process that is set out in the MVRMA. The process provides for the Board to notify Parties (Rule 115) and allows for the Board to re-engage Interveners (Rule 117). These provisions do not include the re-engagement of the Developer, Parties or Members of the Public. It	Amend first sentence of Rule 117 to the following: "The Board may seek feedback from Interveners or the Developer before responding to a Consult to Modify Process initiated by final decision-makers."	Change made as suggested



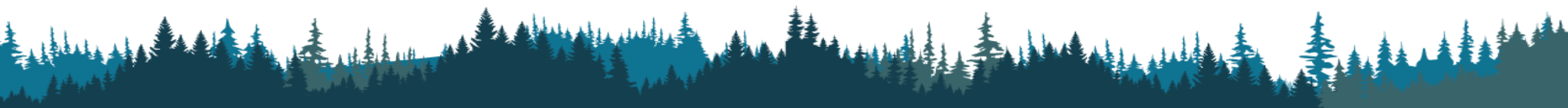
		is not clear what the rationale is for this.		
GNWT-61	Rule 117: Consult to Modify - Time frames	This section does not stipulate any time frame for responses to the decision-makers. The MVRMA sets time limits for decisions. The GNWT acknowledges that MVRMA Section 5.2 and Sub-section 115(1) address time limits and the requirement for timely and expeditious processes, and is concerned about the potential for delays during the consult-to-modify process.	Add the following sentence to Rule 117: "The Board will provide responses to the final decision-makers in a timely fashion."	Change no longer needed.
GNWT-62	No specific rule: "consult to reject"	The MVRMA provides for decision-makers to reject a Review Board or Review Panel's recommendation, after consulting the Board or Panel. The draft rules do not include procedures for this process.	Consider expanding Rules 115 to 117 to include the "consult to reject" process.	These rules apply equally to consult to modify processes that may result in referral to EIR.
GNWT-63	Spelling of intervener	Both intervenor and intervener are used throughout the document.	Consistent spelling of the term intervenor/intervener is recommended. The GNWT notes that the Mackenzie Valley Land and Water Board's rules use the spelling intervener.	Change made as suggested
GNWT-64	Traditional Knowledge	This term is capitalized but is not included in the definition list. Does	Include Traditional Knowledge in the definition list.	Refer to the Review Board's Traditional Knowledge Guidelines



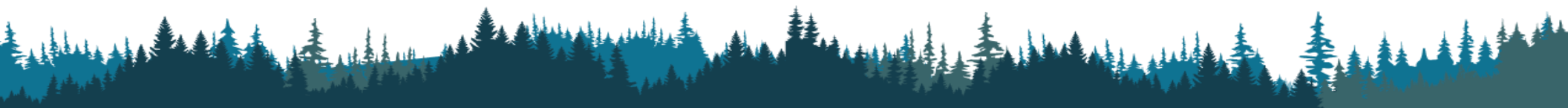
		it need to be included in the definition list?		
TerraX-1	Definitions and General Provisions		The definition of “Directive” does not specify who makes the Directives. In the Application of the Rules it appears Directives are issued solely by the Board, but this is not clearly stated in the Definitions, as it is in the “Direction on the Rules. It is recommended to clearly state who can issue Directives.	Please see updated definition of "Directive" which clarifies that only the Review Board issues Directives.
TerraX-2	Application of the Rules: Pages 7 & 8, items 7,8 and 10, 11:		These Applications to the Rules give the Board the ability to significantly impact Environmental Assessments (EA), but with no direction on how they would apply them, or what constitutes ‘fairness’. Depending upon the EA expertise available to the Board arbitrary rulings could be detrimental to a fair and progressive EA review, or in a worse case, an incorrect final decision. It is recommended that actions by the Board contemplated under 7,8 and 10, 11 have: 1) Written reference to previous Board decisions that were based on similar circumstances to support a variance or dispensation to Proceedings, a Directive, or a Direction on the Rules. 2) In cases of no previous similar	No change necessary. In cases where the Review Board varies the rules of procedure, it provides Reasons for the variation. The Board is always bound by requirements of procedural fairness.



			<p>experience a written notice be made of a precedent setting application under 7,8 and 10,11, with reasons for a variance or dispensation to Proceedings, a Directive, or a Direction on the Rules. This precedent will become a reference for future similar applications.</p> <p>The above recommendations will help ensure consistency in Board rulings.</p>	
TerraX-3	Compliance with the Rules: Page 8, item 13:		<p>It appears, based on a reading of the Application of the Rules, that the Board is not bound by its own Compliance with the Rules (13). Unless these Rules of Procedure limit the ability of the Board to issue variance or dispensation to Proceedings, a Directive, or a Direction on the Rules, then the Board has unlimited scope to do what it wants. To exacerbate the problem, any recourse by a Developer or an Intervener must go through the Boards. This lays open the potential for inconsistency and unfairness in rulings. It is recommended that rule 13 specifically state that the Board is also bound by these Rules, and that any variance or dispensation to Proceedings, a Directive, or a Direction on the Rules can only be made using recommendations 1) and 2) above.</p>	<p>These rules are intended to Guide the conduct of all Board proceedings. No change necessary.</p>



TerraX-4	Timing of process steps in a Proceeding: Page 9, items 18:		The measure and length of timing is not specified in a Proceeding. It is recommended that consistent timing be fixed into the Rules of Procedures to establish discipline in the Board's Proceedings, certainty of Procedure for Developers and Interveners, and to ensure efficiency and consistency in Board rulings. It is recommended that a flow chart of timing be provided for the Developers and Interveners, extending from initial Commencement of Proceedings to the Board's final decision.	The Review Board issues a draft workplan as early as practicable in a Proceeding and updates the draft workplan whenever necessary and as more information from the developer and parties is made available.
TerraX-5	Timing of process steps in a Proceeding: Page 9, items 19:		The ability to change the time period without any control mechanisms written into these Rules of Procedure opens the Proceeding to potential arbitrary and unfair process by the Board. It is recommended that the Rules of Procedure specify the conditions within Rule 19 under which the Board may change the timing. Any change in timing will need to reference the specific condition(s) embedded in Rule 19 that is (are) being invoked to change the timing.	The Review Board is bound by legislative timelines and these Rules operate within the scope of the timelines provided.



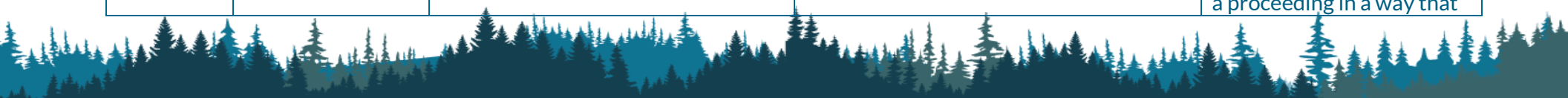
Cannor-1	Definition of Aboriginal Organization		More appropriate and in line with other documents to refer to use "Indigenous Organization". "Tlicho First Nation" is not an organization, it's a group of Tlicho citizens. [...] "or other Indigenous organization" is too broad; this potentially opens the door to any Indigenous organization. Suggest adding the qualifier "which may be affected" after "or other Indigenous organization"	See updated definition of Indigenous Government or Organization.
Cannor-2	Definition of Community Public Hearing		"The difference between "Community Public Hearing" and "Formal Public Hearing" is not clear. Should "Community Public Hearing" be named "Community Session" which is what it really is?"	See updated definition of Public Hearing.
Cannor-3	Definition of Formal Public Hearing		Shouldn't be using the word you're defining in the definition (ex: Public Hearing)	See updated definition of Public Hearing.
Cannor-4	Definition of Independent Expert		Clarify that if the Board is the only one who can hire an expert to assist in the proceedings (as per Rule 65). Suggest either referring to Rule 65 or rewording to: "means a specialist engaged by the Board to assist with Proceedings by providing the Board with opinions, evidence, and/or analysis"	See updated definition of Independent Expert and rules 70-71.



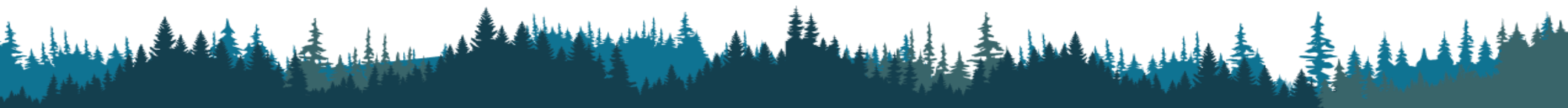
Cannor-5	Definition of Information Request		“Must the IR be limited to a written question, or can it be a request for information or further particulars as seems to be indicated by rules 73-77?”	See updated definition of Information request and rules 36-41.
Cannor-6	Definition of member of the public	It is unclear if this definition excludes organizations. If so, it may result in nongovernmental organizations having to become Parties to submit comments on a project. If a nongovernmental organization only has minor comments, this may be too onerous to sign up as a Party. Additionally, if a nongovernmental organization's Party status is questioned or denied, there may not be another avenue to provide comments. Currently, nongovernmental organizations can comment as members of the public. Rule 22 states that "any person or organization may, without becoming a Party, provide comments to the Board in writing or via the ORS, or in a public session or Public Hearing organized by the Board." This suggests that the current definition of "Member of	Amend the definition of Member of the Public to the following: "means a person or organization other than a Party..."	Change made as suggested



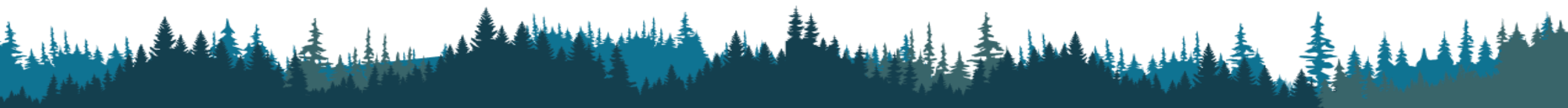
		the Public" should be expanded to include organizations.		
Cannor-7	Definition of written hearing		Suggest removing "Public Hearing" definition and adding a "Written Hearing" definition	See updated definition of Public Hearing.
Cannor-8	Definition of referral		Suggest adding another definition for referrals to EA or EIR	Change made as suggested.
Cannor-9	Editorial comment- rule 16		sentence is very difficult to read/understand"	Changes made to rule 16 to improve readability.
Cannor-10	Request for ruling	Current wording regarding "Request for Ruling" is in direct contradiction with Rule 24.	Suggest adding: "during a Formal Public Hearing" after the words "a Request for Ruling" to differentiate from a Party.	Changes made as suggested. See updated Rules 99-109.
Cannor-11	Decisions requested from the Board during a Proceeding		Rename this section "Requests for Ruling" as all the rules here are about requests for ruling	Change made as suggested.
Cannor-12	Timing of Board decision about Request for Ruling		Suggest adding the concept that the Board may reserve its Ruling to a later time or any time it sees fit.	Added clarity on timing to rule 51.
Cannor-13	Process of request for ruling		Not clear who can make a Ruling at this stage in the process given wording of Rules 25 and 26. Suggest adding: "[...] by	See updated rule 59 which clarifies that the Board may deal with Request for Rulings at any time during a proceeding in a way that



			a Developer or Intervener" after "When a Request for Ruling is made"	is consistent with the requirements of fairness.
Cannor-14	Dismissal of request for ruling		The Board should be required to explain its reasons for dismissal. Suggest adding concepts of things being in writing, on the Public Record and with reasons (for transparency and fairness throughout the process)	See updated rule 60.
Cannor-15	Verification of document receipt		Suggest adding a Rule which indicates that the onus is on the person/organization submitting the document to verify whether documents have been received.	No change made.
Cannor-16	Confidentiality exception		Suggest adding reference to exception in Rule 57.	See updated rules 63 and 64.
Cannor-17	Communication during a Board proceeding		Is this trying to ensure all communications whether they be with the Board or with others be in writing? Is this trying to ensure that there is no communication between participants other than through the Board? Suggest rewording to: "Except during an oral Public Hearing, all communications must be made in writing and addressed to the Executive Director."	See updated rule 34.



Cannor-18	Timing for placing items on the public record		Is there a timeframe for the Board to place items on the Public Record (ex: within 48 hours)? Does the Board make an assessment regarding completeness/relevance?	See updated rule 30.
Cannor-19	Exceptions for late submissions		Suggest adding reference to exceptions in Rules 66, 67 and 80	No change made.
Cannor-20	Definition of terms		Suggest defining both terms if both are kept/necessary. Suggest only using "submission" given it will also encompass "evidence".	See updated rule 46 which refers to submissions.
Cannor-21	Editorial comment- rule 50		Suggest rewording to: "The Board's decision will take into account all relevant information on the Public Record." or replace "take into account" with "take into consideration".	No change made.
Cannor-22	Editorial comment - rule 51		Suggest adding at the end of the sentence ", but not considered by the Board".	See updated rules 48 and 49.
Cannor-23	Development certificates		How will this Rule work with development certificates once they're introduced?	See updated rule 49.



Cannor-24	Traditional Knowledge		This wording sounds like the Board will be trying to coax people into giving TK. Suggest rewording to: "The Board will make every effort to facilitate the sharing of TK and must consider any information it receives related to TK, including oral history."	No change made.
Cannor-25	Exceptions for confidential information		Should expand to include reference to Rule 57. Also, what about confidential traditional knowledge? Suggest rewording to "...in accordance with the Act and the laws that protect personal and private information."	See updated rules 64 and 68.
Cannor-26	Confidentiality		Suggest adding reference to Section 30 (1)(b) of MVRMA and to hearing in private (similar to what's found in MVRMA).	See updated rule 63.
Cannor-27	Board powers		Suggest adding reference to subpoena powers: "This includes the power to subpoena witnesses."	See updated rule 61.
Cannor-28	Evidence versus submissions		Suggest adding the term "Evidence" to the section heading or defining the term submission to include evidence. If the term "submission" is defined and includes "evidence", only "submission" should be used in the Rules.	No change required based on document reorganization.



Cannor-29	Acceptance of late submissions		This rule should be reworded to provide that the Board will not accept late submissions unless an extension is granted, upon request of the party, by the Board. Suggest developing criteria to help the Board make the determination (and making that criteria public). This will make the decision transparent, simplify the Board's assessment and may in some cases discourage the late filing of documents.	See updated rule 74.
Cannor-30	Timeline for extension requests		Is there a time limit for requesting an extension or can someone for example file an extension application within hours of the deadline set by the Board? Suggest adding a timeline (ex: within 72 hours of deadline).	No change made.
Cannor-31	Extensions for answering information requests		Is there no possibility for extension if necessary? Suggest adding a possibility for extension, similar to Rule 67.	Updated rule 75 applies to information request responses.
Cannor-32	Site visits		Suggest adding wording similar to: "[...]and will notify and invite the Parties...". Clarify process for how the Board acquires consent to access sites and who will bare cost of site-visit.	See updated rule 81.



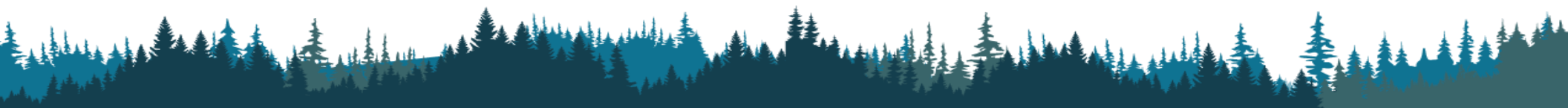
Cannor-33	Clarify how decision to hold public hearings will be made	Difficult to read. This Rule implies that the Board has total discretion to decide whether to hold a public hearing. Section 72.15(2) of the Act stipulates those situations where a public hearing is mandatory in respect of a federal area; s. 41(2) of the NWT Waters Act also provides for mandatory hearings in similar situations.	Suggest rewording to: "[...] part of a proceeding; if it does, it will issue...". Clarify how the decision to hold the public hearing is made.	See updated rule 82.
Cannor-34	Explanation of cancelling a public hearing	The Board should be required to explain the cancellation of a Public Hearing.	Suggest adding concepts: written Notice, with reasons and to be posted on the Public Record within a specified period of time of the decision being made.	See updated rule 91.
Cannor-35	Possibility of more than one directive	Shouldn't the Rule allow for more than one Directive when necessary? What's the timing for giving Public Notice and for issuing a Directive?	Suggest adding the possibility for more than one Directive if it's required by the Board. Suggest adding timeframes/timelines for Board to follow.	See updated rule 89.
Cannor-36	Repetition of rules 25 and 26	These sections seem repetitive and almost verbatim what's contained in Rules 25 and 26.	Suggest removing Rules 86 and 87 or simply making reference to Rules 25 and 26.	See updated rules 101-109.
Cannor-37	Board communication in writing		Suggest adding "in writing" or as suggested above ensuring all decisions/communications by the Board are done in writing.	No change made.



Cannor-38	Types of hearings		Confusing and introduction of not often used term leads readers to believe we're talking about yet another type of hearing. Shouldn't a Notice of what issues will be discussed/addressed be posted/shared with community members to allow them to properly prepare and ensure that comments are on point?	See updated definition of Public Hearing and rules 112-114.
Cannor-39	Editorial suggestion - time limits for questioning		Suggest rewording/beginning sentence with: " Subject to fairness, [...]". Also, similar comment to Rule 97, replace "in an" with "during an".	No change made.
Cannor-40	Requirement for transcriptions		Transcripts should be required unless technology (or other valid reasons) doesn't allow it; this leaves too much discretion to the Board. Suggest changing "may" to "will" and adding the concept that only in exceptional circumstances may the Board diverge from this requirement.	No change made.
Cannor-41	Adjournments		Suggest rewording to: "A Party, Developer or an Intervener may apply for an adjournment by submitting a Request for Ruling under Rule 29 and in compliance with Rules 24 and 25". By adding mention of compliance with Rules 24 and 25, it makes clear who can	See updated rule 121.



			apply for what type of Ruling given what they're allowed to participate in	
Cannor-42	Board adjournment in writing		Suggest adding wording which requires this to be done in writing, to provide reasons and by public Notice.	See updated rule 123.
Cannor-43	Request for written closing argument		Suggest rewording to: " The Board may where appropriate, once all the evidence is received in a Proceeding, request written closing arguments from [...]."	No change made.
Cannor-44	Cost of translating documents		If the translation is at the cost of the Party, it should be indicated explicitly. Why is there mention of Intervener in this Rule when the definition of Party includes Intervener and Developer? There should be provisions to ensure translations are received with sufficient time for consideration prior to subsequent process steps. Suggest adding wording which indicates translation is at the cost of a Party. Suggest removing Intervener given this leads to confusion.	See updated rule 126.
Cannor-45	Timeframe for consult to modify processes		Suggest adding a timeframe.	No change made.



Cannor-46	Initiating a consult to modify process		What does the Board consider to “initiate” a consult to modify process? Presumably on receipt of a letter from the Minister?	See updated rule 127.
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