**Claim Form for Water Compensation – General**

Claimants that submitted a Notice of Intent to File a Claim for Water Compensation under subsection 72.03(5) of the MVRMA or 26(5) of the *Waters Act* will also need to fill out this Claim Form and submit it to the Land and Water Board (LWB or Board) by the deadline set by the Board (the Claim Deadline). This Form requires more detailed information about a compensation claim, so that the Board can start to gather the evidence it needs to make a decision on the claim if the claimant and the water licence applicant can’t agree. Claimants are strongly encouraged to fill out this Form with help from legal counsel if available.

The Board expects both claimants and the water licence applicant to sincerely try to negotiate a compensation agreement before applying to the Board for a compensation determination. They should also keep trying to negotiate during the proceeding. A claimant must provide evidence of the attempts made to reach a compensation agreement with the water licence applicant; however, the details of these negotiations do not need to be submitted to the Board.

Existing licensees and applicants with precedence[[1]](#footnote-2) whose water use would be significantly adversely affected by the proposed licence activities,[[2]](#footnote-3) and who cannot reach a compensation agreement with the licence applicant, should fill in this Form and also contact Board staff.

**Please note the following when filling out this Form:**

* All submissions in water licensing proceedings, including this completed Form, will be posted on the Board’s Public Registry.
  + If the information needed to support a claim is personal, proprietary, or in some way sensitive in nature, and should not be posted on the Public Registry, the claimant can ask the Board to treat the information as confidential. The claimant must do this by submitting a request for ruling before or at the same time as the confidential information.[[3]](#footnote-4)
* Claims for compensation must be about the effects of the proposed licence activities and cannot include claims for past losses or damages.[[4]](#footnote-5)
* Claimants must provide detailed information and evidence to support each part of their claim.
  + Please fill in the gray boxes in the sections below but feel free to attach additional pages, supporting information, and references to this Form as needed.

# Information about the Application or File

|  |  |
| --- | --- |
| Please identify the Water Licence Application or file number(s) associated with this Claim: |  |

# Information about the Claimant

|  |  |  |  |
| --- | --- | --- | --- |
| Claimant’s name (individual or  group/association): |  | | |
| Group or association legal entity: |  | | |
| Community and Province/Territory: |  | | |
| Email: |  | Tel.: |  |

# Information about Eligibility

This Form is only intended for compensation claims made under Paragraph 72.03(5)(b) of the MVRMA or 26(5)(b) of the *Waters Act*. Other Forms are available for claims made by designated Inuit organizations for effects on Inuit-owned lands, or Sahtú, Gwich’in, or Tłįchǫ First Nation for effects on their First Nation Lands.

|  |  |
| --- | --- |
| If you are also making a claim on a separate Claim Form as a designated Inuit organization, or Sahtú, Gwich’in, or Tłįchǫ First Nation, please indicate this here and contact Board staff for more information about submitting multiple claims. |  |

Please identify the category or categories of user(s) that best describe your relationship with the land and/or waters potentially affected by the proposed Licence activities.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Paragraph 26(5)(a) of the *Waters Act* or 72.03(5)(a) of the MVRMA | Existing licensees and applicants with precedence whose water use(s) would be significantly adversely affected | |  | |
| Contact Board staff. | |
| Paragraph 26(5)(b) of the *Waters Act* or 72.03(5)(b) of the MVRMA | (b)(i) | Existing licence users and applicants with precedence that are not eligible under paragraph 72.03(5)(a) of the MVRMA or 26(5)(a) of the *Waters Act* | |  |
| (b)(ii) | Domestic users | |  |
| (b)(iii) | In-stream users | |  |
| (b)(iv) | Authorized users | |  |
| (b)(v) | Authorized waste depositors | |  |
| (b)(vi) (MVRMA only) | Persons who use waters or deposit waste (without a licence) under the territorial law | |  |
| (b)(vi) (*Waters Act*)  or  (b)(vii) (MVRMA) | Persons referred to in paragraph 61(d) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* | |  |
| (b)(vii) (*Waters Act*)  or  (b)(viii) (MVRMA) | Owners of property | |  |
| (b)(viii) (*Waters Act*)  or  (b)(ix) (MVRMA) | Occupiers of property | |  |
| (b)(ix) (*Waters Act*)  or  (b)(x) (MVRMA) | Holders of outfitting concessions, registered trapline holders, and holders of other rights of a similar nature | |  |

The Board must be able to confirm eligibility in order to make a determination on a compensation claim. Please explain why you are eligible to make a compensation claim under the category(ies) you selected above.

|  |
| --- |
|  |

\*Attach any supporting documentation to support eligibility (i.e., water licence, lease, authorization, other statement of water use) to this Form.

Please explain the nature of your use of the waters that the proposed Licence activities could potentially affect. Include information about the duration, location(s), and extent of your use of those waters.

|  |
| --- |
|  |

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

# Information Regarding Losses or Damages for Claims Under Subsection 72.03(5)(b) of the MVRMA or 26(5)(b) of the *Waters Act*

To make a decision on a compensation claim under these subsections, the Board will consider the effects described in the following tables.[[5]](#footnote-6) Please provide information about any of these factors that apply to your compensation Claim, expanding the rows or adding additional rows to the tables as needed. For any factors that require a monetary value, state the amount of money or other type of compensation that would be needed to be in the position you would be in without the damages caused by the proposed Licence activities.

## Provable losses or damages

Provable loss or damage refers to those losses and damages that, more likely than not, will occur as a result of the proposed Licence activities.

|  |  |
| --- | --- |
| Describe the losses or damages that the proposed Licence activities will cause. | What is the monetary value (or other type of compensation)? |
|  |  |
|  |  |

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

## Potential losses or damages

Potential loss or damage refers to those losses and damages that might occur as a result of the proposed Licence activities.

|  |  |
| --- | --- |
| Describe the potential losses or damages that the proposed Licence activities may cause. | What is the monetary value (or other type of compensation)? |
|  |  |
|  |  |

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

## Extent and duration of the potential adverse effects

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| --- |
| How far (over what area) will potential effects of the proposed Licence activities extend? |
|  |
| Within the proposed term of the Licence, how long will the potential effects of the proposed Licence activities last? |
|  |
| What are the incremental, gradual, and/or cumulative effects of the proposed Licence activities? |
|  |

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

## Nuisance, Inconvenience and Noise

|  |  |
| --- | --- |
| Will the proposed Licence activities cause nuisance, inconvenience, and/or noise? | What is the monetary value (or other type of compensation)? |
|  |  |
|  |  |

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

# Additional Information

## Mitigation

|  |
| --- |
| Please describe any steps you have taken to avoid or mitigate the effects described above. |
|  |
| In your opinion, is there more that you or the Licence Applicant could do to avoid or mitigate the effects described above? If so, please describe the mitigation steps. |
|  |
| If your claim is related to a licence renewal application, please review the existing licence conditions and explain whether these conditions will or will not prevent or mitigate any or all of the damages and/or losses described in your claim. |
|  |

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

## Compensation

|  |
| --- |
| Have you applied for or are you collecting compensation from any other source for the damages and costs you have claimed above? If so, please describe in detail, including payment amounts. |
|  |
| If the Board awards monetary compensation, do you have a preference for payment? (i.e. lump sum, periodic payment, other). |
|  |
| Would you prefer to receive compensation in another form? If so, please explain. |
|  |

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

## Engagement

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| --- |
| Have you engaged with the Licence Applicant to try to resolve the compensation issues identified above? If so, please provide evidence of when and how (e.g., in person, by phone, etc.) those discussions took place, and explain why an agreement could not be reached. Indicate whether any offers of compensation have been made and refused and if so, why. It is not necessary to provide the details of the negotiations or any offers made. |
|  |

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

## Any Other Information

|  |
| --- |
| Is there any other information that could help the Board make a decision on your Claim? If so, please provide it. |
|  |

\* Attach any supporting documentation for the above to this Form.

1. This includes parties that have already applied, or are authorized in an existing licence, to use water from water sources potentially affected by the water use or deposit of waste proposed in the licence application that is the subject of the claim(s). See section 59 of the [*Waters Act*](http://www.justice.gov.nt.ca/en/files/legislation/waters/waters.a.pdf)and section 72.26 of the [MVRMA](http://laws-lois.justice.gc.ca/PDF/M-0.2.pdf) for more information. [↑](#footnote-ref-2)
2. See paragraph 26(5)(a) of the [*Waters Act*](http://www.justice.gov.nt.ca/en/files/legislation/waters/waters.a.pdf) and paragraph 72.03(5)(a) of the [MVRMA](http://laws-lois.justice.gc.ca/PDF/M-0.2.pdf). [↑](#footnote-ref-3)
3. See the LWB [*Rules of Procedure*](https://mvlwb.com/media/743/download?inline=). [↑](#footnote-ref-4)
4. Such claims can be advanced but only through the Courts. See *Carter v. Northwest Territories Power Corp*., 2014 NWTSC 19. [↑](#footnote-ref-5)
5. See subsections 26(6) of the [*Waters Act*](http://www.justice.gov.nt.ca/en/files/legislation/waters/waters.a.pdf) and 72.03(6) of the [MVRMA](http://laws-lois.justice.gc.ca/PDF/M-0.2.pdf). [↑](#footnote-ref-6)