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June 30, 2023

Dear Ms Rasmussen,

Re: WWF-Canada Comments on the 2022 Draft NIRB Rules of Procedure

Thank you for the opportunity to provide comments on the NIRB's 2022 draft Rules of Procedure (RoP). World Wildlife Fund – Canada staff have reviewed the draft in detail and attended the Iqaluit in-person consultation on April 28, 2023. Our comments and suggested modifications (where applicable) are summarized below, organized thematically.

Procedural fairness:

Comment	Suggestion
19 – This applies specifically to written documents. There is no guidance on how the Board will address oral comments/presentations that meet the criteria outlined.	Adopt an additional rule, or specify in rule 19, how and when the Board can refuse to accept oral submissions that meet the criteria listed.
20/24/53 – If oral submissions are deemed irrelevant during the course of proceedings, this should also be noted in the written transcript of the proceedings.	Include a clarification on how the written record of the proceedings will indicate when oral commentary has been deemed irrelevant.
33 – Regarding procedural fairness, recent public hearing processes have demonstrated inconsistent practices (including intervenors not having the opportunity to respond to comments about their materials, and changing limits on the number of questions permitted on presentations midway through a hearing session).	More clarity is needed on how the Board interprets “procedural fairness”, including some basic principles which could be included in the RoP.
42d – In some cases, redundancy of materials may be relevant to the process – for example, if multiple intervenors submit similar information, this indicates shared views among multiple intervenors, and it will be relevant to the Board to note that multiple intervenors are concerned about/aware of a particular issue.	Clarify what the criteria are for redundant or repetitious materials; and if this applies only to materials from the same intervenor, or across all submitted materials overall.
59 – There is no guidance on how soon proponents must provide relevant info to affected parties ahead of NIRB proceedings – Hunters and Trappers Organizations, and other	Include a requirement for proponents to provide information to affected community organizations along the same timelines proposed in the draft RoP – ensuring that community organizations

community organizations, can require significant time to review material, meet and formulate a position ahead of proceedings.	have a minimum of 25 days to review materials ahead of a community meeting, 60 day before a pre-hearing conference, and 60 days before a public hearing.
72 – This rule does not provide intervenors with the opportunity to ask questions of experts retained by NIRB.	Include a rule allowing intervenors the opportunity to question NIRB-retained experts rather than leaving this to the discretion of NIRB.
75 – If the Board is required to make modifications for public health and safety that may result in reduced public accessibility, there is no guidance on how the Board will address the accessibility issues in order to ensure that the public still has the opportunity to participate in the proceedings.	Adopt additional guidance on how what actions the Board will take to ensure public participation is still enabled in the event that they need to take measures that may limit participation for the purposes of health and safety.

Public accessibility, communication, and media:

Comment	Suggestion
31 – This rule includes direction on media access but there is no reference to any other means of providing public access to proceedings.	NIRB should consider additional options for providing broader access to public proceedings, not only through media access but also through social media or other means – for example, the Nunavut Planning Commission broadcasts their public hearings on YouTube to increase accessibility.
32 – This rule should also specify how the Board will share information to help affected communities better understand the NIRB process and the specific project under consideration. Under the Nunavut Agreement 12.2.27, the NIRB is responsible for taking steps to “provide and promote public awareness of and participation at hearings.”	Include guidance on how the Board will ensure communities are well-informed of projects and prepared to fully participate in NIRB proceedings.
33B - Posting on the registry is considered notice, but very few parties are constantly monitoring the registry to see if information has been posted, and this can information to be missed at key points in the assessment. Considering that this rule acknowledges the significance of the tradition of Inuit oral communications and decision-making, can the NIRB adopt additional practices to integrate oral communication into other phases of the process, beyond just in-person public hearings?	Include guidance to proponents and intervenors to communicate directly with community stakeholders and other intervenors when new information is added to the public registry.

53 – Written transcripts of the hearings should be automatically made publicly available.	
63 – Based on the practices of other Institutions of Public Government (for example, the Nunavut Planning Commission), which have taken steps to provide greater public access to their proceedings, this rule should be reversed, in order to provide broad public access to the proceedings, which are meant to be open and transparent to all Nunavummiut.	Amend this rule so that these activities, or an appropriate subset, are allowable unless the Board renders a motion that it will not be allowed during a specific hearing/portion of a hearing, with justification.
92-92 – Community information sessions can be a key part of the NIRB process. The information from these sessions should be made available on the public record so that intervenors can access it as well, in order to improve transparency.	Adopt an additional rule requiring information provided at community information sessions to also be shared via the public registry or another means of communication to intervenors.

Posters:

Comment	Suggestion
During the proceedings for the Mary River Phase II project, there were some issues regarding what information could be posted in the public hearing space. The draft RoP is lacking in guidance on what information and materials are permissible within the public hearing space. During the in-person consultation on the RoP, Board staff indicated that the intention is for the Board to issue specific guidance on a case by case basis if posters and other materials become problematic in the course of proceedings. This is not an acceptable approach to manage this issue.	The RoP should have specific guidelines on what information is acceptable within the public hearing space, and what the criteria are for distinguishing between “informational” materials and “advocacy” materials.

Inuit knowledge and elder testimony:

Comment	Suggestion
37-39 – Some clarity is required around if Inuit knowledge holders are considered equivalent to subject matter experts.	Adopt specific language indicating how expert knowledge is weighed by the Board, including from Inuit knowledge holders and elders.

Logistics:

15 – It is unclear what time zone this refers to.	Provide more clarity around timezones and business days/hours for the purposes of the RoP.
20-26 – The public registry is very difficult to navigate, especially for individuals who may not have strong computer skills.	Adopt additional measures to help improve accessibility of the public registry.

105e(viii) – This should also include considerations of accessibility requirements of participants (for example, subtitles/transcriptions being made available if hybrid/videoconferences are required to accommodate participants with hearing impairments).	Add a rule pertaining to identifying and meeting accessibility requirements for participants.
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We appreciate the opportunity to provide feedback on this process and contribute to the important work of the NIRB. We wish you well as you continue to refine the draft RoP, and would be happy to address any questions on our comments if applicable.



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