



Athabasca Denesuline Né Né Land Corporation

Athabasca Denesuline Né Né Land Corporation
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July 7, 2023

Nunavut Impact Review Board
via email: info@nirb.ca; Tara Arko, tarko@nirb.ca

RE: Athabasca Denesuline comments on the NIRB Draft Rules of Procedure

Dear Nunavut Impact Review Board Members,

The Athabasca Denesuline NéNé Land Corporation (ADNLC) represents the three Athabasca Denesuline (AD) First Nations of Fond du Lac, Black Lake, and Hatchet Lake. While our modern communities are located in northern Saskatchewan, our traditional territory (Nuhenéné) includes parts of what is today known as the Northwest Territories and Nunavut. We appreciate this opportunity to review the Nunavut Impact Review Board's Draft Rules of Procedure.

Our communities have a rich and ongoing relationship with the lands, waters, and resources within Nuhenéné in what is now known as Nunavut; these territories have been used by our people for millennia. We continue to hunt, trap, fish, gather, and carry out cultural and traditional practices throughout the year. Processes for decision-making that impact Nuhenéné are of great importance to our communities and our ability to continue to practice our Rights, culture, and way of life.

We'd like to acknowledge that at this time we are in the late stages of finalizing our Settlement Agreement which, when finalized and implemented, will trigger further review and changes. At this time, our comments on the Rules of Procedure (ROP), which are outlined in Table 1 below, are largely focused on ensuring that the ROP acknowledges equal regard and weight to AD Indigenous Knowledge, oral communication, and protocols as it does to Inuit Qaujimagatuqangit.

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There are a number of items throughout the ROP where IQ or Inuit communication is mentioned, but other Indigenous Knowledge or communication systems are not. We believe both need to have equal acknowledgement to ensure fair processes that respect all Indigenous groups that are potentially impacted. That said, we'd also like to recognize with appreciation that Indigenous Knowledge is mentioned in many places throughout the document. We support the recent update to change the terminology in the ROP from "Traditional Knowledge" to "Indigenous Knowledge" and also support the inclusion of Community Knowledge in the updated ROP.

See our specific comments in Table 1 below. If you have any questions or follow-up, please contact Katie Rasmussen, who is our lead on these files.

Sincerely,



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CC:

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Table 1: Specific Review Comments on the NIRB 2023 Draft Rules of Procedure

Page Number	Section	Specific text from Draft ROP	Review Comments
2	Part 1: Functions and Primary Objectives of the Board	In carrying out its functions, the primary objectives of NIRB are at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area.	We want to ensure that the definitions of “communities and residents” of Nunavut includes the Athabasca Denesųliné communities who have territories and established Rights in Nunavut. The ecosystem integrity and the protection of the values of our lands, waters, and resource within Nuhenéné in Nunavut are of great importance to our communities.
2	Section on Inuit Qaujimajatuqangit	“The Board is committed to the application of Inuit Qaujimajatuqangit throughout the Board’s Proceedings...”	As we will comment throughout, we believe it is important to acknowledge other sources of Indigenous Knowledge equally. We would like to see this section updated to reflect that: <ol style="list-style-type: none"> 1. The Board is committed to the application of Inuit Qaujimajatuqangit <i>and Indigenous Knowledge from any potentially impacted Indigenous peoples.</i> 2. An equally thorough definition of Indigenous Knowledge
3	Part 1: Power to Make Rules of	As outlined in the <i>Nunavut Agreement</i> and the <i>NuPPAA</i> , the	We support the emphasis on flexibility and informality in order to ensure that formal

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	Procedure	Board’s Rules of Procedure in relation to Hearings must meet the requirements of natural justice and procedural fairness, but should also emphasize flexibility and informality. In addition, in the conduct of Hearings the Board is not bound by the strict rules of evidence associated with court proceedings and must also give due regard and weight to the tradition of Inuit oral communication and decision-making.	<p>processes do not overshadow the unique needs of each scenario and the community values and processes that may need to take precedence.</p> <p>The second sentence that refers to “...Inuit oral communication and decision - making...” should also include other Indigenous groups who have Territory and/or Rights and values at stake in the given process. We recommend updating this section to reflect that all involved Indigenous oral communication, decision-making, and protocols will be given regard and weight.</p>
20	Part V: Interpretation and Application of Rules in Respect of Proceedings	#33 b “...Give due regard and weight to the tradition of Inuit oral communications and decision-making.”	<p>As the Athabasca Denesųliné have Territory and Rights recognized within Nunavut, and a well-documented and long history of land use of AD territories that are within what is currently known as Nunavut, we request that AD Indigenous Knowledge, oral communications, and decision-making protocols be given equal standing, regard, and weight where Inuit oral communications are.</p> <p>Leaving Indigenous Knowledge out of</p>

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			these definitions gives the impression that is it lesser-than or does not need to be considered equally.
32	Continuing Proceedings in the Absence of a Party #79	#79 Unless the absence of a party is excused by the Board, failure of a party to attend the oral component of a Proceeding after receiving notice of the time and place of the Proceeding, in accordance with the notice requirements of the <i>Nunavut Agreement, NuPPAA</i> or a specific Board Order or Procedural Direction, shall constitute a waiver of that party's subsequent objections to the process, agreements, orders or rulings resulting from the Proceeding.	Understanding how the Board determines if a party may be excused from attendance is important here. Are there guidelines documented somewhere about what criteria are used to determine if an absence is excused? There are often many overlapping responsibilities that may prevent a party from attending, and that should not prevent ongoing participation in a process.
35	Part V: Community Information Sessions # 92	#92 These Proceedings are informal sessions conducted by the Board's staff in the communities (within and outside Nunavut)	We appreciate the clarification that communities may be inside and outside Nunavut.

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		identified by the Board as potentially affected by a project proposal or other Proceeding. .	
35	Part V: Project-specific EIS or IS Guidelines Review #97	#97 Following any revisions to the project-specific EIS or IS Guidelines required to reflect the Proceedings conducted under Rule 969686, the Board may hold an EIS or IS Guidelines Workshop to seek comments from the Proponent and interested parties regarding the <i>Draft</i> project-specific EIS or IS Guidelines.	Clarity on when workshops may be held, or if they can be requested, would be useful information. Can communities request these workshops? Or under what circumstances would the Board hold these?
44	Part V: Public Hearings Conducted in Writing # 130	# 130 Where the Board directs that it is appropriate to conduct a Public Hearing in writing, the Board may:	At this time, it is difficult to imagine a scenario where a written public hearing would be appropriate. The Athabasca Denesųliné communities' participation would be greatly impacted by the lack of a Hearing that allows parties to come

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		<p>(a) Engage in decision-making solely on the basis of the written Documents filed by the parties; Require additional Documents be submitted by the parties before engaging in decision-making; or</p>	<p>together and hear from each other.</p> <p>In person opportunities for discussion, information sharing, and providing comments are always preferred.</p>
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