

TŁEGÓHŁI 2024 PUBLIC LISTENING SESSION

B E T W E E N:

FORT GOOD HOPE RENEWABLE RESOURCES COUNCIL

Participant

-and-

SAHTÚ RENEWABLE RESOURCES BOARD

Board

FORMAL OBJECTION AND REQUEST FOR REMEDIAL ACTION REGARDING PROCEDURAL IRREGULARITIES

(Rule 15 of the Sahtú Renewable Resources Board Rules for Hearings)

1. The Fort Good Hope Renewable Resources Council (“**FGH-RRC**”), in conjunction with the Fort Good Hope Panel, hereby objects to the procedural irregularities manifest in the Sahtú Renewable Resources Board (“**SRRB**”) management of the deadline extensions for final arguments and responses to Round 3 Information Requests (“**IR**”) related to the Tłegóhłi 2024 Public Listening Sessions (“**PLS**”).
2. Our objection is grounded in the principles of procedural fairness, transparency, and equitable treatment as mandated by the SRRB Rules for Hearings (the “**Rules**”), specifically Rule 15 and Rule 3.6 concerning the Board's discretion in procedural matters. The undisclosed second extension granted, coupled with the absence of timely and equal communication to all participating parties, starkly violates these principles. This selective dissemination of critical procedural information not only contravenes the spirit of transparency but also gives rise to a tangible imbalance in the participatory rights afforded to the parties involved. Such procedural irregularities, significantly undermine the integrity of the PLS, disadvantaging parties that adhered to the initially communicated deadlines and relied upon the SRRB's commitment to a fair and transparent hearing process.

RELEVANT FACTS

3. The SRRB held the Tłegóhł PLS on the topic of Climate Change and Wildfire between February 20-22, 2024.
4. The SRRB set a deadline of March 11, 2024, for all parties to submit IR responses and final submissions.
5. On March 11, 2024, the SRRB granted a deadline extension to March 18, 2024 to the Government of the Northwest Territories (“GNWT”) Environment and Climate Change (“ECC”) and the Norman Wells Renewable Resources Council (“NWRRC”). All parties were notified of this extension.
6. On March 19, 2024, GNWT-ECC requested and was granted a second extension until March 22, 2024. This critical piece of information was not disclosed to other parties. It was not properly reflected on the SRRB registry until after the acceptance of the late submission was published. SRRB advised in a Notice to Parties posted on April 3 that they erroneously posted this on the SRRB registry in the “correspondence” folder on March 19, 2024.
7. The SRRB received the final argument and response from the GNWT-ECC on March 22, 2024. The SRRB received the final argument and response from the NWRRC on March 26, 2024.
8. The late submission from the GNWT-ECC was published on the SRRB registry on March 23, 2024. The late submission from the NWRRC was published on the registry on March 27, 2024. The SRRB posted a public notice on March 28, 2024 referencing their acceptance of the late submissions. This public notice also included the decision to close the record on April 5, 2024.

GROUNDINGS FOR OBJECTION

9. ***Lack of Equitable Treatment.*** The selective communication concerning the second deadline extension granted to GNWT-ECC and failure to provide notice to all participants illustrates a departure from the equitable treatment of all parties, as required by procedural fairness, minimum standards of natural justice and the principles embedded in the Rules.

10. ***Undisclosed Second Extension.*** The GNWT-ECC missed the March 18 deadline. They submitted a second extension request after they missed the first extension deadline of March 18. SRRB never shared the second extension granted to GNWT-ECC with all parties. This act of selective disclosure and the subsequent publication decision directly undermines the procedural integrity and fairness of the PLS.

11. ***Questions Raised about Procedural Fairness.*** The SRRB's decision disadvantaged other parties who complied with the publicly stated deadline and raises questions about procedural fairness and equality of treatment amongst the parties.

12. ***Prejudicial Late Submission.*** The late submissions allowed by GNWT-ECC were harmful and prejudicial to the other registered parties. It granted GNWT-ECC additional time to respond to arguments. This additional time did not include the opportunity for the other parties to rebut or address any new information presented in the late submission.

13. The late submission by GNWT-ECC responded in part to material within FGH-RRC's submission. Specifically, this content was the responses under the heading "*IPCAs and the SRRB's authority (re: Tuyeta)*" on page 5 of the GNWT-ECC submission.

14. ***Breach of Rules for Transparency and Fairness:*** We base our objection on the Rules and requirements of procedural fairness. The Rules implicitly endorse principles of transparency and fairness, which have been violated. Moreover, Rule 3.6, while allowing for procedural flexibility, mandates such discretion to be exercised transparently and fairly – a standard not met in this instance.

REMEDIES SOUGHT

15. **Removal of GNWT-ECC March 23, 2024 Submission from the Record.** To uphold the principles of fairness and transparency, we request the removal of the GNWT-ECC's late submission from the record.
16. If not granted the full removal of the March 23 submission, we request to have the GNWT-ECC response to our legitimately filed March 11 submission removed from the record.
- That content is found on page 5 of the GNWT-ECC submission under the heading “*IPCAs and the SRRB’s authority (re: Tuyeta)*”.
 - This content includes the responses to questions 1 and 2, namely:
 - i. “*What is the GNWT-ECC’s position regarding the SRRB’s role with respect to the Ts’ude Niljine Tuyeta draft Management Plan as set out in the Ts’ude Niljine Tuyeta Establishment Agreement?*”
 - ii. “*Can you update the SRRB on the implementation of section 8.6 and 8.8 of the Ts’ude Niljine Tuyeta Establishment Agreement?*”
17. The above-noted specific sections directly responding to FGH-RRC’s timely submission should be removed to mitigate the prejudice incurred.

REASONS FOR GRANTING DECISION

18. **Violation of Procedural Fairness and Natural Justice.** The SRRB’s procedural actions have breached foundational principles of procedural fairness and natural justice, with the potential of jeopardizing the rights and interests of all other parties participating in the PLS, including the K’asho Got’ine.
19. **Necessity for Corrective Measures.** Immediate action to strike the late submissions is imperative to restoring procedural fairness within the PLS process.

20. The SRRB failed to inform other parties of the subsequent filing extension. No notice was provided to other parties regarding the second extension request by GNWT. This lack of transparency and communication to all involved parties compromises and undermines the procedural fairness of the PLS hearings.
21. All parties involved in this process must be given a fair opportunity to respond to new information and submissions. This did not happen with the lack of notice or timely publication of the second deadline extension to March 22, 2024.
22. The lack of notice of the second deadline extension disadvantages the other involved parties who adhered to the published deadlines and relied on procedural fairness.
23. ***The SRRB incorrectly relies on Rule 3.6 of the Rules.*** This provision allows the SRRB to vary the *Rules*, but only when the SRRB “considers it necessary for a fair determination of an issue by way of a direction on procedure.”¹
24. The lack of universal notice directly conflicts with the basic tenets of administrative fairness, necessitating corrective action. Such failure to notify all parties or to share basic information equally between all parties to the process, cannot be considered “necessary for a fair determination” of IR submissions because it directly contradicts the principles of basic administrative fairness.
25. The integrity of the PLS and the confidence of the Sahtú communities in the SRRB's processes hinge on adherence to the highest standards of fairness and transparency. This instance of procedural irregularity calls for urgent and immediate remedial action to restore faith in the SRRB's commitment to these principles.

¹ *SRRB Rules for Hearings*, Rule 3.6, 2024-October-23.

RULES

26. Rule 3.6 of the *Rules*:

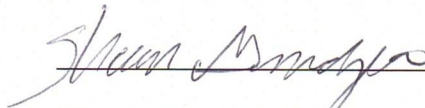
“On its own initiative or at the written or oral request of an individual, body or agency participating in a Board process under these Rules, the Board may dispense with, vary or supplement any part of these Rules that it considers necessary for a fair determination of an issue by way of a direction on procedure.”²

27. Fort Good Hope Renewable Resources Council relies on 15.2 and 15.4 of the *Rules*, and such further and other Rules and authorities as counsel may provide.

We trust the Board will consider this objection with the gravity it merits and act to rectify the procedural breaches identified herein.

Submitted by: Fort Good Hope Renewable Resources Council and the Fort Good Hope Panel, a Party to the Tłegóhłı̨ 2024 Public Listening Session.

April 9, 2024



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² SRRB Rules for Hearings, Rule 3.6, 2024-October-23.