

YUKON WATER BOARD  
CONFLICT OF INTEREST RULES

Definitions

“Act” means the *Waters Act* and Regulation.

“Applicant” means any person who makes an application to the Board other than a claimant or an intervener.

“Application” means any written request to the Board that requires the Board to make a decision about any matter.

“Board” means the Yukon Water Board.

“Chairperson” means the chairperson of the Yukon Water Board or, in the absence of the chairperson, the vice chairperson.

“Claimant” means a person seeking compensation under the *Act* or under Chapter 14 of the Umbrella Final Agreement.

“Intervener” means a person who has made a written submission to the Board regarding an Application.

“Member” means a person duly appointed to the Yukon Water Board.

“Party” means a person who is an applicant, a claimant, an intervener or a Licensee.

“Person” includes an individual, association, partnership, society, board, committee, council, organization, corporation, a government (including municipal, territorial, first nation and federal government), and an agency of a government.

Introduction

1. The Yukon Water Board is an administrative tribunal. An administrative tribunal is bound by the principles of natural justice and the constraints of administrative law.
2. The objects of the Yukon Water Board are to provide for the conservation, development and utilization of waters in a manner that will provide for the optimum benefit therefrom for all Canadians and for residents of the Yukon Territory in particular.
3. The Umbrella Final Agreement requires the Yukon Water Board to respect the rights of Yukon First Nations to have water flowing through or adjacent to their settlement land remain substantially unaltered as to quantity, quality and rate of flow.

### Purpose

4. The purpose of these rules is to provide guidance to the members of the Yukon Water Board in determining and resolving conflict of interest and real or apparent bias. The guidelines will assist Members to fulfil their duties in a manner that is fair and unbiased and, that clearly appears to be fair and unbiased.

### Principles

5. Members will take all reasonable steps to avoid any real or perceived conflict of interest or bias.
6. The test to determine whether there is a real or apparent conflict of interest or bias is whether a reasonably informed and right-minded person would reasonably conclude that a Member, whether consciously or unconsciously, may not decide a question fairly.
7. A determination of real or perceived conflict of interest or bias is not a negative statement about a Member; rather, it is a recognition of the Board's diligence in maintaining the highest level of both real and perceived impartiality.
8. It is not possible to predict with any degree of certainty whether a particular situation will constitute a real or perceived conflict of interest or bias. A precautionary approach will be taken when deciding a specific situation.

### Rules

9. Members will not accept gifts from any Party appearing before the Board on any matter.
10. Members will not assist a Party in their dealings with the Board.
11. Members will not knowingly take advantage of information obtained in the course of their duties as a Member, if that information is not available to the general public.
12. Members will not participate in any decision where the Member has a direct or indirect private interest in the outcome of that decision.
13. A Member who is employed by, or working for, a Party will not participate in discussion of that application, regardless of the nature, location, or level of influence of the Member's employment or work circumstances, and will not discuss the application with any other Members.
14. A Member who is affiliated, through membership, with any association, partnership, society, board, committee, council, or organization that is a Party will not participate in discussion of that application, and will not discuss the application with any other Members.

Procedure

15. A Member who believes that they have a real, perceived or potential conflict of interest or bias will immediately advise the Chairperson and the Chairperson will accept this declaration without further consideration. The Member will not participate any further in Board deliberations for that application.
16. A Member who is unsure about whether they may have a real, perceived, or potential conflict of interest or bias must disclose that to the Chairperson at the first opportunity. The Chairperson will determine if a real or perceived conflict of interest or bias exists or is likely to exist.
17. Where a Member disagrees with the Chairperson's determination, the Member may request that the Chairperson consult with the Board, and the Chairperson will do so at the first available opportunity. In making a decision, the Chairperson will be guided by the recommendations of the Board.
18. If the Chairperson determines that legal advice will be helpful in determining a question of real or perceived or potential conflict of interest or bias, then any legal advice that is obtained on that matter will be in writing and will be copied to the Member.
19. The Chairperson will meet with any new Members, and will consult with legal counsel as necessary, in order to explore any potential for conflict of interest or bias and to advise the Member of their responsibilities.
20. Where the Board determines under these rules that there has been wilful failure by a member to disclose a material conflict of interest, the board may, by resolution, recommend to the Minister that the member be removed for cause.
21. The Board may repeal, replace, amend or alter these rules.

These rules were adopted by the Yukon Water Board December 6, 2005

Bruce Willis, Chairperson