



***APPLICATION FOR INTERLOCUTORY  
ORDER***

***(INSUFFICIENT  
NEGOTIATION/MEDIATION)***

## **Introduction**

Welcome to the Northwest Territories Surface Rights Board (NWT SRB) *Application for Interlocutory Order (Insufficient Negotiation/Mediation) Form*. The purpose of this *Application for Interlocutory Order (Insufficient Negotiation/Mediation) Form* is to provide persons involved in an NWT SRB Application for Access Order process to challenge the jurisdiction of the NWT SRB to hold a hearing for an Order involving non-Tlicho and Tlicho lands on the grounds that the negotiation/mediation requirements set out in section 29.(1)(2) of the *Northwest Territories Surface Rights Board Act* (S.N.W.T. 2014, c.17) and Rule 8.0 or 9.0 of the *NWT SRB Rules of Procedure* have not been met:

“29.(1) Subject to subsection (2), the Board is not authorized to consider an application for an order unless, in accordance with rules made under paragraph 90(a), the applicant has attempted in good faith to resolve the matter in dispute by negotiation and is unable to bring about a resolution of the dispute within a reasonable period.

(2) In the case of an application in respect of Tlicho lands, the Board is not authorized to consider the application unless the applicant has attempted in good faith to resolve the matter in dispute by mediation in accordance with 6.4 of the Tlicho Agreement and is unable to bring about a resolution of the dispute.”

### “8.0 Negotiation to Resolve Disputes Involving Non-Tlicho Lands

8.1 The NWT SRB is not authorized to consider an Application for an Order involving non-Tlicho lands unless, in accordance with these *Rules of Procedure*, an Applicant has attempted in good faith to resolve a matter in dispute by negotiation and is unable to bring about a resolution of the dispute within a reasonable period.

8.3 All communications (including documents) within the scope of negotiations for the purpose of attempting to resolve a matter in dispute shall be considered to be ‘confidential’ and cannot be provided to third parties without the written agreement of the parties.

8.4 When determining whether an Applicant has attempted in good faith to resolve a matter in dispute by negotiation within a reasonable period, the NWT SRB may take account of activities of the Applicant which include (but are not limited to):

- a) In-person meeting(s) between an Applicant and other parties to a matter in dispute for the purpose of resolving the dispute.

- b) Telephone discussion(s) between an Applicant and other parties to a matter in dispute for the purpose of resolving the dispute.
- c) Correspondence between an Applicant and other parties to a matter in dispute for the purpose of resolving the dispute.
- d) Formal offer(s) of settlement between an Applicant and other parties to a matter in dispute.”

“9.0 Mediation to Resolve Disputes Involving Tlicheo Lands

9.1 *The NWT SRB is not authorized to consider an Application for an Order involving Tlicheo lands unless the Applicant has attempted in good faith to resolve the matter in dispute by mediation in accordance with Part 6 of the Tlicheo Agreement and is unable to bring about a resolution of the dispute.”*

## Instructions

Rule 11.1 of the NWT SRB *Rules of Procedure (ROP)* provides:

“11.1 In the event that one or more Parties to any NWT SRB proceedings wish to raise an issue relating primarily to matters of process or procedure, any Party may bring an Interlocutory Application to address the issue. Matters relating primarily to the substance of an Application for Access, Application for Compensation, Application to Review an NWT SRB Order or Application to Terminate an NWT SRB Order shall not be dealt with by the NWT SRB by way of Interlocutory Application.”

Rule 11.2 of the NWT SRB *Rules of Procedure (ROP)* provides:

“11.2 Interlocutory Applications are to be commenced by the Applicant(s):

- a) filing with the NWT SRB a completed Interlocutory Application Form available on request from the SRB, and
- b) serving upon all Parties a copy of the Interlocutory Application Form filed with the NWT SRB in accordance with the Service provisions set out in these *Rules of Procedure*.”

Please note that NWT SRB *Interlocutory Application Forms* are available for the following:

- Application for Interlocutory Order (General) Form
- Application for Interlocutory Order (Insufficient Negotiation Mediation) Form
- Application for Interlocutory Order (Substitutional Service) Form
- Application for Interlocutory Order (Costs) Form
- Application for Interlocutory Order (Enforcement) Form
- Application for Interlocutory Order (Failure to Comply with Rules of Procedure/Practice Direction) Form

NWT SRB *Interlocutory Application Forms* may be obtained by contacting the NWT SRB online at <https://nwtsrb.ca/contact-us>, by postal mail at P.O. Box 2580 Yellowknife, NT, X1A 2P9, via telephone at (867) 766-2822 or via fax at (867) 766-2823 and requesting a copy of the required Form. Upon completion, the Form may be submitted to the NWT SRB via any of the above methods.

When submitting an *Interlocutory Application Form* Applicants are encouraged to complete the *Interlocutory Application Form* in as much detail as possible. Upon receiving the *Interlocutory Application Form*, the NWT SRB will review the *Form* for completeness. In the event that the NWT SRB determines that it requires additional information, the Board will contact the Applicant using the contact information which provided on the *Interlocutory Application Form*, and request

such information. The Interlocutory Application Form will not be considered complete until the Board is satisfied that it has received all required information.

Once the NWT SRB determines that the *Interlocutory Application Form* is complete, it will provide the Applicant with stamped copies (paper and electronic) of the filed *Interlocutory Application Form* and post a copy of the filed *Interlocutory Application Form* on the NWT SRB website. **Pursuant to the NWT SRB Rules of Procedure, the Applicant is required to personally serve a filed and stamped copy of the Interlocutory Application Form on all persons from which the Applicant is making a claim, and any persons directly affected by such an Application, and to provide proof of service to the NWT SRB.** (*ROP* Rule 3.0). In the event that the Applicant is unable to effect personal service of the filed and stamped *Interlocutory Application Form*, the Applicant may make an application to the NWT SRB for an *Interlocutory Order of Substitutional Service* of the document. (*ROP* Rule 3.1.1).

The NWT SRB will advertise receipt of the *Interlocutory Application Form* in a newspaper of general circulation in the NWT, advising the general public that a formal Interlocutory Application has been made, that the NWT SRB will be formally considering the Application, and that all future information with respect to the Application will be posted on the NWT SRB website.

Once the NWT SRB determines that the *Interlocutory Application Form* is complete and has been properly served, it may, in its discretion, choose to hear the matter by way of Interlocutory Hearing, or may deal with the matter by any other means deemed appropriate by the NWT SRB. (*ROP* Rule 11.2). In the event that the NWT SRB decides to hold an Interlocutory Hearing it will provide notice of the Hearing to all Parties to the Application. (*ROP* Rule 11.4) The Interlocutory Hearing may be in-person, or via electronic means, or in writing, or by any combination of the three at such time and location as directed by the NWT SRB, which may set out the process to be followed for that Interlocutory Hearing. (*ROP* Rule 11.5). Upon hearing an *Interlocutory Application* the NWT SRB will render a decision in writing, which will include reasons for the decision (*ROP* Rule 11.6). A copy of the decision will be provided by the NWT SRB to every person participating in the Interlocutory Application and will also be published on the NWT SRB website. (*ROP* Rule 11.7).

**NWT SRB Application No.:** \_\_\_\_\_

**1. Interlocutory Application - Applicant Information**

*(Applicant is person making application for Interlocutory Order – Insufficient Negotiation/Mediation)*

**Name:** \_\_\_\_\_  
*(If a corporation please include full corporate name and attach current Certificate of Incorporation)*

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

**Website:** \_\_\_\_\_

**Contact:** \_\_\_\_\_

**2. Interlocutory Application - Respondent Information**

*(Respondent is person for which Interlocutory Order – Insufficient Negotiation/Mediation is being sought)*

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

**Website:** \_\_\_\_\_

**Contact:** \_\_\_\_\_

**3. Interlocutory Application – 3<sup>rd</sup> Parties**

*(3<sup>rd</sup> Party is any person directly affected by this application for an Interlocutory Order – Insufficient Negotiation/Mediation)*

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

**Website:** \_\_\_\_\_

**Contact:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

**Website:** \_\_\_\_\_

**Contact:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

**Website:** \_\_\_\_\_

**Contact:** \_\_\_\_\_

**4. Interlocutory Application – Nature of Order Sought**

Please specify what Order you wish the NWT SRB to make with respect to your *Interlocutory Application – Insufficient Negotiation/Mediation*.

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**5. Interlocutory Application - Grounds for Application**

Please specify the grounds for your *Interlocutory Application – Insufficient Negotiation/Mediation*. Please see Introduction and Instructions (above) and be as detailed as possible.

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*Print Name of Applicant*

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*Signature of Applicant*

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Date