

Member's Responsibilities

Title: **Part -time Board Member
Mediation and Arbitration Board of BC**

PURPOSE:

Part-time Board members report to the Chair of the Mediation and Arbitration Board and are responsible for resolving applications under the *Petroleum and Natural Gas Act*, the *Pipeline Act*, the *Mineral Tenure Act*, the *Mining Right of Way Act*, the *Coal Act*, and the *Geothermal Resources Act* by conducting mediations and arbitrations and issuing written orders and decisions. These decisions are reached in accordance with the relevant legislation, previous Court and Board decisions and the principles of natural justice and procedural fairness.

NATURE AND SCOPE:

The Mediation and Arbitration Board is established by the *Petroleum and Natural Gas Act*. It resolves conflicts between land owners (holders of surface rights) and companies or individuals (holders of subsurface rights) seeking access to land to explore for, and develop subsurface resources including oil and natural gas, mineral, coal and geothermal resources. Board authority and jurisdiction extends to all areas of the Province, although the majority of conflicts occur in the Peace River area in association with oil and gas development.

Designated by the Lieutenant Governor in Council and working within the framework of applicable legislation including the *Petroleum and Natural Gas Act*, the *Administrative Tribunals Act*, and the Board's Rules and Code of Conduct, the Part-time Board members are required to conduct mediations and arbitrations and make orders and well-reasoned decisions within a timely manner.

The Board's decisions are subject to judicial review by the Supreme Court of British Columbia pursuant to the *Judicial Review Procedure Act*.

LINKAGES:

Part-time Board members will directly interact with the following contacts in performing their responsibilities:

- Landowners and Sub-surface rights holders and/or their representatives;
- the general public;
- Board staff;
- Chair of the Board and other Board members.

ACCOUNTABILITIES:

1. Prepare for mediations and arbitrations by reviewing the case file and being conversant with the issues.
2. Conduct of pre-mediation and pre-hearing conferences in accordance with the Board's Rules.
3. For mediations, conducting mediations such that all parties have a fair opportunity to express their interests and positions, while ensuring the mediation is concluded expeditiously (by enforcing orderly and proper conduct of the parties). Demonstrate a high degree of sensitivity to issues of gender, ability, race, language, culture and religion, which may affect the conduct of a mediation. Caucus with the parties and their representatives as necessary to assist with the mediation process.

4. For mediations, if the application is not resolved, determining whether to dismiss the application, schedule further mediations, or make an order refusing further mediation. Determining whether an order should be made to enter, occupy or use land and the terms of any such order in accordance with the relevant legislation. Issue orders in writing with brief reasons within one week of mediation.
5. For arbitration hearings, conducting hearings such that all parties have a fair opportunity to present their case, while ensuring that the hearings are concluded expeditiously (by enforcing orderly and proper conduct of the parties and preventing unnecessary delays). Demonstrate a high degree of sensitivity to issues of gender, ability, race, language, culture and religion, which may affect the conduct of a hearing. Make procedural rulings as required on the admission of evidence, adjournment requests and other issues in accordance with Board rules, previous Board orders and the principles of natural justice and procedural fairness.
6. Depending on the complexity of the application, chair the hearings as the sole member on the panel or participate as one of several members on a panel.
7. Ensure that parties who are unrepresented are not unduly disadvantaged at the hearing. While a member cannot act as counsel to the unrepresented party, it is appropriate to clearly explain the procedure to be followed in the hearing. In the course of the hearing, the member must, in clear and simple language, outline for the party the relevant evidentiary and procedural rules, which have a bearing on the conduct of the hearing.
8. Ensure that the hearing process is accessible and barrier-free for all parties and their representatives in accordance with the guidelines and procedures established by the Board.
9. Decide arbitrations and issue well reasoned written decisions (including reasons) in a timely basis (within 60 – 90 days from the hearing). Ensure that the decisions are made in accordance with the relevant legislation, applicable past Court and Board decisions and the principles of natural justice and procedural fairness.
10. Adhere to the Code of Conduct for members whenever representing the Board at any stage in resolving applications. When unsure if an action may breach the spirit of the Code, discuss the issue with the Chair.
11. Be conversant with the Board's Rules and applicable sections of the legislation as they apply to conducting the above responsibilities as a member of the Board.
12. Follow the Board's and applicable government policies and procedures for submitting fee, per diem and expense claims. Ensure that all submissions meet the applicable financial guidelines and the member is entitled to the amounts in their submission.
13. Participate in Board training/education sessions to enhance professional competence and knowledge. Upgrade, develop, and maintain current knowledge.
14. Attend Board meetings as required.

I have read this profile description.

Member _____

Date _____

This profile is an accurate statement of the accountabilities for Board Members.

Board Chair _____

Date _____

Updated: September, 2007