

QIKIQTANI INUIT ASSOCIATION



GUIDELINES FOR APPLICANTS

WILDLIFE COMPENSATION FUND

MARY RIVER INUIT IMPACT AND BENEFIT AGREEMENT

Mary River Wildlife Compensation Fund: Guidelines for Applicants



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Introduction

Article 17 of the Mary River Project Inuit Impact and Benefit Agreement (IIBA) requires the creation of a Wildlife Compensation Fund (WCF). Under the IIBA, Qikiqtani Inuit Association (QIA) is responsible for the management, establishment and administration of the WCF. The *Guideline for Applicants* and the *Claim Application Form* are documents that guide the implementation of the WCF.

The WCF is intended to compensate for losses experienced by Inuit in cases where a specific incident related to the Mary River Project happened that could not be reasonably avoided. This incident must in some way be caused by work or activities at the Mary River Project and have resulted in to a loss or damage of wildlife and equipment or interference with harvesting activities.

The *Guideline for Applicants* describes the process QIA will use to administer the WCF.

The *Claim Application Form* presents information QIA will request when a claim is brought forward.

If you require assistance or have any questions please contact your local HTO, or, QIA Community Liaison Officer (QIA CLO). The Baffinland Community Liaison Officer (BCLO) can also be contacted for assistance. Alternatively, you can also contact QIA's main office.

Eligibility and When to Apply

The WCF is intended to compensate for losses only in cases where a specific incident happened that could not be reasonably avoided. If this incident is believed to have been caused by the operation of the Mary River Project and led to a loss or damage of wildlife, or, inconvenience then Beneficiaries are encouraged to file a claim.

Any Nunavut Land Claims Agreement (NLCA) Beneficiary or HTO may apply to the WCF.

Every Applicant will be asked to provide some basic information. Once information collection is complete the claim will then be evaluated. All claims must include the following 3 items:

1. An accurate description of the incident;
2. A description which demonstrates loss or damage of wildlife and equipment, or, interference with harvesting activities; and
3. A description of how the loss, damage or interference was caused by the Mary River Project and could not be reasonably avoided.

The WCF is not designed to provide compensation for "Major Event". Under the IIBA a "Major Event" is defined as:

1. Introduction of Invasive species by the company;
2. Significant adverse impact on existing commercial fisheries;
3. Long term or catastrophic decline of wildlife that can be attributed to the Project; or
4. Any incident or activity that is identified as a significant adverse impact as set forth in the Final Environmental Impact Statement.

Any "major event" will be addressed through the right established under the NLCA and not within the WCF.

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The Nunavut Land Claims Agreement and the Wildlife Compensation Fund

The WCF will not diminish or otherwise limit the rights of QIA, an HTO or an Inuk to file a claim for compensation with the Nunavut Surface Rights Tribunal pursuant to Article 6 of the NLCA.

Claims under the WCF are an additional remedy to an NLCA claim for wildlife compensation, in accordance with Section 6.6.2 of the NLCA.

Where an HTO, an Inuk or Inuit receives compensation through the WCF, the compensation to which such claimant would otherwise be entitled pursuant to Article 6 of the NLCA shall be reduced by that same amount.

The rights of Inuit available under the Mary River Project IIBA shall be in addition to rights available pursuant to Article 6 of the NLCA. However, this does not mean that a claimant is entitled to double compensation for the same event.

How to Apply

To apply, an Applicant must make sure a *Claim Application Form* is filled out.

Claims can be submitted by sending your completed *Claim Application Form* using any one of the following methods:

- By e-mail at info@qia.ca
- By fax to (867) 979-3238, Attention Department of Major Projects
- In person with a QIA Community Liaison Officer
- In person at QIA office in Iqaluit
- In person at your local HTO
- By mail to: **Department of Major Projects**
Qikiqtani Inuit Association
Igluvut Building, 2nd floor
P.O. Box 1340 Iqaluit, NU X0A 0H0

Information provided will be recorded to the *Claim Application Form*. Applicants may also fill out their own *Claim Application Form*.

The information provided in the *Claim Application Form* is considered a sworn statement, each claimant will be asked to confirm this by adding their signature at the end of the document.

Required Information

1. Your **name and contact information**, QIA will need to contact you to inform you of the decision or to ask for more information.
2. Your **community of residence** for tracking and evaluation purposes.
3. **The date, time and place** will help determine the basic facts surrounding the incident.
4. The **type of wildlife involved** this will help determine the amount of compensation due to the claimant is directly related to the type of animal that was lost.

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5. **A detailed description of the incident** must be provided. This is the most important aspect of your claim. The incident will be related to the HTO for an initial community review and then to QIA to determine if the facts detailing what happened meet the substantive criteria (see below). Your account should contain a step by step description that establishes that a wildlife loss actually occurred and how it is related to the Mary River project. It should also describe what steps were taken to try to avoid the loss.

➤ **NLCA 6.3.3**

“Claimants shall make all reasonable attempts to mitigate against any loss or damage”. A description of any actions that were taken to avoid the loss, was established in Article 6 of the Nunavut Land Claims Agreement is important. Showing that the loss could not be avoided and was not caused on purpose, is an essential part of each claim.

If the Basic required information is not available your claim will not go forward. All claimants will be notified as soon as the Claim has been assigned a file number.

Additional Information

Any of the following additional information provided will strengthen your claim and speed up the assessment process:

- Pictures,
- Video,
- Witness statement(s), or
- Any other information that supports your description of the incident.

Hunters and Trappers Organization - Role

Once the claim template is filled out the review process can begin.

The HTO will review the claim first. The HTO will set a date to review claims to determine if the claim is valid or if additional information is required to clarify the claim. Meetings of the HTO will be prescheduled to as to ensure a regular response time.

If desired, Applicants may ask to present information in-person, likewise, the HTO may ask Applicants to answer questions in-person during their evaluation.

The HTOs will use their own rules of governance, code of conduct, and conflict of interest. The full HTO is not required to meet on each claim.

The HTO will review the claim to determine if the claim is valid by determining if:

1. The incident could have happened in the way that is described, and
2. The description of the event is true and accurate to the best knowledge of the HTO.

The HTO may invite the claimant for a hearing if further information/clarification is needed.

If the HTO determines that the claim is not valid, the claim will not undergo further assessment unless the claimant would like to use the *Appeal Process*.

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Qikiqtani Inuit Association - Role

QIA is responsible to determine the type of loss, damage or interference that occurred. QIA is also responsible to determine the value of the claim.

Once the claim has been validated by the HTO it is automatically sent to QIA for an assessment.

Claimants will be compensated if:

1. The claim has been determined to be valid by the HTO, and
2. The claim clearly satisfies the requirements outlined in the *WCF Criteria*.

Wildlife Compensation Fund Criteria

In coming to a decision on a claim QIA will be guided by the use of *WCF Criteria* which are:

1. **Loss, damage or interference occurred,**
2. **The loss, damage or interference was due to the Mary River Project, and**
3. **The loss, damage or interference could not be reasonably avoided.**

Wildlife Losses and Determining the Value of a Claim

Using information presented, QIA will review the claim to make a decision whether the claim will be paid and what the value of such a claim will be based upon the type of loss that occurred.

There are 3 types of loss:

1. loss reduced into possession,
2. damage or destruction of property, and
3. interference.

Loss Reduced into Possession

Definition:

This occurs when wildlife harvested was lost due to Mary River Project activities.

Protocol:

The assessment value will be determined by using an *Animal Values Chart*. This chart will be developed and maintained with assistance from the Qikiqtaluk Wildlife Board.

Each animal lost can only be claimed once.

Damage or Destruction of Property

Definition:

Compensation will be granted in cases where equipment and belongings have been damaged or destroyed as a result of the Mary River Project activities.

Protocol:

The assessment value will consider the cost of repairs or replacement. The value is determined by factoring for local costs. An estimate of cost may be solicited from the Applicant and will be reviewed for accuracy.

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Interference

Definition:

Compensation will be granted in cases where the Mary River Project prevented or interfered with harvesting activities.

Protocol:

The assessment of value will consider compensation for the costs of the hunt itself but not for the value of the animals that were not harvested.

The compensation is based on the cost to return to where the loss took place. The monetary value will be determined by using the following values:

- **Food and Incidentals:** A reimbursement of \$100 per vessel or per hunting party is based on the estimated costs to purchase food and other materials needed to return to the place where the incident took place.
- **Fuel:** Fuel reimbursement is based on local fuel costs. Fuel consumption is estimated upon the equipment with the higher fuel consumption (e.g., larger motors). Fuel costs are applied equally to all types of equipment. Values are not further assessed relative to specific equipment used.

A value chart has been developed to help determine fuel reimbursements. This value chart will be maintained by QIA and updates may be considered during regularly scheduled updates to the WCF.

Appeal Process

QIA recognizes there may be instances where an Applicant may wish to appeal a decision made during review of a claim.

QIA believes an appeal may take place where decisions are made on claims for compensation. There are three main decision points for the WCF;

1. HTO review of the claim;
2. QIA assessment of type of loss, damage or interference; and
3. QIA review for connection to the Mary River Project.

If a claim is denied at any of these decision points Applicants have the opportunity to appeal the decision.

For all appeals the claimant must notify QIA that they wish to appeal and provide their reasons for appeal.

Once an appeal is requested the claim will be presented to the QIA Executive Committee for review and further decision. The QIA Executive Committee can only receive appeals related to the three decision points.

The possible outcomes of an appeal are:

1. If the QIA Executive Committee agrees with the claimant, the claim is processed as usual.
2. If the QIA Executive Committee disagrees with the claimant, the claim is denied.

The amount of compensation that is granted by QIA cannot be appealed through the WCF.

In the event the *WCF Appeal Process* does not provide a satisfactory outcome, the claimant retains the ability to file a claim under the NLCA. In these circumstances the claimant must first work directly with the Company to settle the claim. If working with the Company does result in a settlement the claimants may take their claim to the Nunavut Surface Rights Tribunal.