



Wildlife Department Submission

NWMB June 2, 2009 Public Hearing to Consider a Total Allowable Harvest Level for Arctic Char in Kingnait Fiord.

Background:

At the request of the Pangnirtung HTO, Fishing for sale (“commercial fishing” under pre-NLCA fisheries regulations) was closed for Kingnait Fiord in 2000. Fishing for sale was reopened in 2005 with a commercial harvest level set for 2000 kilograms, but under a legal authority affirmed by the board and accepted by the Minister that in NTI’s views does not exist under the NLCA 5.6.16 and does not respect Inuit rights. NTI Challenged the NWMB’s 2005 decision in court, but withdrew its challenge when NTI and the NWMB agreed in 2006 that the Board would reconsider its decision. The NWMB’s 2005 decision has yet to be modified. Since then there has been numerous clarification letters back and forth, but none that affects the substance of how the board proceeds.

The issue of setting a TAH for Arctic Char fisheries strikes at the core of Inuit harvesting rights set out in the NLCA as per 5.6.1 (rights), 5.7.26 (licences), 5.7.30 (disposition of harvest) and the role of HTO’s (5.7.3). TAHs are quantitative harvest limitations. They must meet the decision standards for Inuit harvest limitations set by the NLCA – principally 5.3.3 to limit Inuit harvesting only to the extent necessary. Under three categories:

- (a) to effect a valid conservation purpose;
- (b) to give effect to the allocation system outlined in this Article, to other provisions of this Article and to Article 40; or
- (c) to provide for public health or public safety.

When deciding on a TAH, the Board decides on the basis of evidence and rationale whether or not a TAH is necessary for any of the three purposes stated under section 5.3.3. As outlined in NTI’s July 2008 letter proposing that the Board make a TAH decision, NTI was proposing that Inuit fishing for sale proceed either under a TAH or some other arrangement that does not involve a quantitative limit on Inuit fishing. These points have been outlined in a July 2008 Nunavut Fishery Regulation Working Group Meeting and in correspondence from NTI’s February 16, 2009 letter.

If the Kingnait Fiord fishery does not meet the 5.3.3 requirements and the board decides that a TAH is not necessary, then the NWMB should remove the harvest limit that was established in 2005. NTI has already made recommendations for a non-TAH fishery outline in the February 16, 2009 letter. This will involve the HTO managing the fishery and regulating its members outlined in 5.7.3 of the NCLA. This arrangement will require all co-management partners to reach consensus on a management solution to development the commercial char fishery that complies with the NLCA.

NTI has come to the understanding that marketing demands, rather than conservation requirements, are really the limiting factors for the management of this fishery. The driving concern for the Pangnirtung fish plant is that southern buyers need to know, by means of a reliable eco-labeling system or by management authorities, that char sold by Nunavut plants are fished sustainably. In *NLCA* terms, this suggested to NTI that if a TAH is necessary for conservation, the lesser of the TAH or BNL can serve as the basis for eco-labeling, and if a TAH is not necessary for conservation, the eco-label should reflect that fact.

Regardless of whether a TAH/BNL is set or not the co-management partners will inevitably be required to look at eco-labeling Arctic Char fisheries in a NLCA context, as the recommended BNL is anticipated to be equal to or greater than the recommended TAH. Eventually the market will demand eco-labeling to prove its sustainability. NTI feels these eco-labeling solutions to development a sustainable commercial Arctic Char fishery can work while complying with the NLCA.

Summary and Recommendation:

- NTI recommends that the NWMB revoke the Kingnait Fiord Arctic Char fishery harvest limit decision from 2005.

- NTI recommends that the NWMB recognize that either a TAH/BNL fishery for Kingnait Fiord char or a 5.6.1 fishery for Kingnait Fiord char will not establish a surplus or therefore “commercial fishery” as per the NLCA or the NWT Fisheries Regulations.

- NTI recommends that the NWMB support its co-management partners in working with the HTO to establish a sustainable fishing plan that does not require quantitative limits on Inuit harvesting and to look at its management role in the context of eco-labeling.

Prepared by
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