



The NWMB responded in writing to you on January 23<sup>rd</sup> 2009 as follows: “*The NWMB acknowledges its overdue commitment to establish a TAH, BNL and (potential) surplus... the Board is prepared to proceed as recommended by NTI. Accordingly, the NWMB has placed this matter on its hearing schedule as a priority matter, and expects to establish a TAH, BNL and (potential) surplus prior to the commencement of the 2009 fishing season.*”

Your May 5<sup>th</sup> 2009 letter states that, despite its receipt of the Board’s January 23<sup>rd</sup> correspondence, “...*NTI considered the issue practically moot...*” as of that date. That consideration was arrived at on the basis of a July 2008 off-the-record meeting of the Nunavut Fishery Regulations Working Group and a January 23<sup>rd</sup> 2009 conference call involving staff from the NWMB, NTI, the Government of Nunavut and Fisheries and Oceans Canada. Notwithstanding staff discussions at the meeting and the call, the fact remains that you received an official and detailed letter from the NWMB members themselves – six months after the meeting and on the same day as the conference call - pledging to proceed with the hearing as a priority matter. Significantly, the NWMB’s letter was copied to sixteen senior officials from the Governments of Canada and Nunavut, NTI, Makivik and the Pangnirtung Hunters and Trappers Organization.

The NWMB appreciates NTI’s perspective that the NWMB and all affected parties would benefit greatly from an open, exploratory discussion of various issues at a pre-hearing conference. Nevertheless, the Board is of the view that a pre-hearing conference is unnecessary in the circumstances. The hearing will be focused on one central issue: What quantitative limitation on char harvesting in Kingnait Fjord, if any, is justified under Section 5.3.3 of the *Nunavut Land Claims Agreement*?

If a quantitative limitation is justified, the NWMB has pledged – in response to repeated calls from NTI – to establish a TAH. As you know, the BNL constitutes the first demand on the TAH. In addition, should the TAH be higher than the (adjusted) BNL, a surplus is automatically established. Accordingly, the Board may be required by necessity to strike a BNL and to make decisions as to the allocation of the Surplus.

Your May 5<sup>th</sup> letter goes on to state that, “*NTI objects to the Board’s proceeding to a hearing on June 2 on the grounds that this would breach NTI’s rights to procedural fairness and consultation...*” The NWMB respectfully disagrees. The fishery in question has been continuously subject to a commercial level of harvesting of 2000 kg since 2005. NTI has repeatedly, vigorously and publicly called for the NWMB to undertake the current hearing process – most recently in July of 2008. All parties have been aware since January 23<sup>rd</sup> 2009 of the NWMB’s intention to proceed with the hearing as a priority matter. No objections were raised to that clear intention during the ensuing three months.

On April 23<sup>rd</sup>, the NWMB provided 39 days’ notice of the hearing to the parties (with public notice delivered shortly thereafter). The Board has also provided to the parties and the public the best available information related to the central issue of the hearing, and to the determination of the BNL. In addition, the parties and the public have been invited to

provide written submissions,<sup>2</sup> and the parties will also be able to deliver oral submissions. The hearing will be conducted in a procedurally fair manner, as set out in the uncontested April 23<sup>rd</sup> 2009 “*Rules for the NWMB’s Public Hearing to consider the Level of Total Allowable Harvest, the Basic Needs Level and the Surplus for the Char Fishery in Kingnait Fjord*”.

With respect to the last bullet in your May 5<sup>th</sup> letter – addressing what NTI refers to as “*an impossible workload at present*” – the NWMB is sympathetic to the tremendous demands that the Nunavut wildlife management system places on all agencies and organizations involved in it. Indeed, with a smaller number of staff than NTI’s Wildlife Department, the Board knows all too well the stresses and strains associated with meeting such demands.

The same bullet also mentions that, “... *despite NTI’s request duly made at the Board’s last regular meeting [March 24<sup>th</sup> to 26<sup>th</sup> 2009] and followed up by e-mail, the Board has not yet confirmed for NTI whether or not or on what NLCA basis the Board considers itself to have any authority relating to such a measure [that is, a Canadian export ban on polar bear products].*” In fact, the NWMB’s Director of Wildlife Management promptly responded to NTI’s request in a March 30<sup>th</sup> 2009 e-mail message, reproduced below.<sup>3</sup>

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**From:** Joe Justus [mailto:jjustus@nwmb.com]  
**Sent:** Monday, March 30, 2009 3:00 PM  
**To:** Adrienne.Sinclair@ec.gc.ca  
**Cc:** gnirlungayuk@tunngavik.ca; dgissing@gov.nu.ca; mailto:gwilliams@tunngavik.com; siuling.han@ec.gc.ca  
**Subject:** NWMB response to CWS request for recommendations for Polar Bear NDF options

Dear Adrienne,

Thank you for your presentation of 25 March 2009 to the NWMB whereby Environment Canada requests our recommendations on exporting options under CITES in the national non-detriment finding (NDF) report on polar bear. As you may recall, a NTI representative challenged the NWMB’s authority under the Nunavut Land Claims Agreement (NLCA) to provide your Minister such recommendations. The NWMB will be providing your Minister recommendations on the polar bear NDF as requested. Our Board has authority to respond to your Minister’s request under **Section 5.2.25 of the NLCA** which states:

***“Nothing in this Article will prevent a Minister, on the Minister’s own initiative, from referring a management matter to the NWMB. Where a matter is referred, the NWMB shall deal expeditiously with it. The NWMB will respond to Ministerial initiatives with decisions in time to permit Ministers to meet their national and international obligations.”***

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<sup>2</sup> In light of the letter received on May 12<sup>th</sup> 2009 from the Department of Fisheries and Oceans (copied to NTI) concerning the Lang Michener BNL opinion, the NWMB has decided to provide additional time for the delivery of written submissions with respect to the BNL opinion. The Board will soon be issuing a letter to the parties specifically addressing this matter.

<sup>3</sup> The NWMB acknowledges that the e-mail address used for Mr. Nirlungayuk was incorrect.

Can you please advise what the time-line of your Minister is to meet his national and international obligations with respect to the NDF is, so that we can arrange for a Board decision in a timely manner to assist you?

Sincerely,

Joe

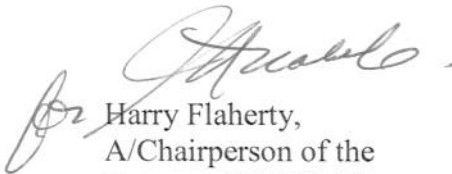
Dr. Joseph Justus  
Director of Wildlife Management  
Nunavut Wildlife Management Board

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Finally, I confirm on behalf of the NWMB that the two background letters requested by NTI to be placed on the public record for the hearing will be duly placed on the record, as will your May 5<sup>th</sup> letter and this response.

Once again, the Board regrets that it was not able to accommodate NTI's proposal to change the June 2<sup>nd</sup> 2009 public hearing for Kingnait Fjord Char into a pre-hearing conference. However, please be assured that NTI will have an opportunity at the hearing to present arguments and evidence for the removal of all quantitative limitations on char fishing in Kingnait Fjord, and to set out its position as to how this fishery should be managed.

Yours sincerely,



Harry Flaherty,  
A/Chairperson of the  
Nunavut Wildlife Management Board

c.c. Peterosie Qappik, Chairperson of the Pangnirtung Hunters and Trappers Organization;  
Manasa Evic, Chairperson of Pangnirtung Fisheries Ltd.;  
Jayko Aooloo, Vice-Chairperson of the Qikiqtaaluk Wildlife Board;  
Eric Kan, Director, Eastern Arctic, Department of Fisheries and Oceans, Government of Canada;  
Stefan Romberg, Resource Management Officer, Department of Fisheries and Oceans;  
Wayne Lynch, Director, Fisheries and Sealing, Department of Environment, Government of Nunavut;  
Gabriel Nirlungayuk, Director of Wildlife, Nunavut Tunngavik Inc.; and  
Richard Connelly, Executive Director of the Nunavut Inuit Wildlife Secretariat, for distribution to all Nunavut Hunters and Trappers Organizations, the Kivalliq Wildlife Board and the Kitikmeot Regional Wildlife Board.