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Nunavunmi Anngutighatigut Aulapkajitkut Katimajiat
Nunavut Wildlife Management Board

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Tammaqtailinahuarniriit anngutighat atughugit Inuit qaujimajatuqangillu ilihimaniillu ilitquhiannin
Conserving wildlife through the application of Inuit Qaujimajatuqangit and scientific knowledge

August 25th 2014

Honourable Johnny Mike
Minister of Environment
Government of Nunavut

Honourable Leona Aglukkaq
Minister of Environment
Government of Canada

Cathy Towtongie
President of Nunavut
Tunngavik Incorporated

David Heurtel
Minister of Sustainable
Development, Environment
Wildlife and Parks
Government of Quebec

Ross Tatty
Chairperson of the Kivalliq
Wildlife Board

James Qillaq
Chairperson of the
Qikiqtaaluk Wildlife Board

Jobie Tukkiapik
President of Makivik
Corporation

Josepi Padlayat
Chairperson of the Nunavik
Marine Region Wildlife Board

Mikidjuk Kolola
Chairperson of the Mayukalik
Hunters and Trappers
Organization

Qabaroak Qatsiya
Chairperson of the Aiviq
Hunters and Trappers
Organization

Manasie Naullaq
Chairperson of the Hall Beach
Hunters and Trappers
Organization

David Ingaut
Chairperson of the Igloodik
Hunters and Trappers
Organization

Noah Kadlak
Chairperson of the Coral
Harbour Hunters and Trappers
Organization

Michel Akkuardjuk
Chairperson of the Arviq
Hunters and Trappers
Organization

Barney Aggark
Chairperson of the Aqigiq
Hunters and Trappers
Organization

Drikus Gissing
Chairperson of the Polar Bear
Administrative Committee

David Miller
President and CEO
World Wildlife Fund Canada

Jimmy Johannes
Executive Secretary
Nunavik Hunting, Fishing and
Trapping Association

Dear Colleagues:

Re: Change in composition of hearing panel members of the Nunavut Wildlife Management Board in order to re-establish a quorum for decision-making with respect to the regional total allowable harvest for the Foxe Basin polar bear subpopulation

In the summer of 2013, the Nunavut Wildlife Management Board (NWMB or Board) commenced a public hearing process concerning the level of total allowable harvest for the Foxe

Basin polar bear subpopulation. On March 4th 2014 – following the directions set out in Article 5 of the *Nunavut Land Claims Agreement* (NLCA) - the NWMB delivered its initial decisions and recommendations to the Government of Nunavut's Minister of Environment (Minister). The Minister replied on May 29th, disallowing both of the Board's decisions. The NWMB subsequently invited additional written submissions from the hearing parties, three of whom did file further submissions in August. The Board is currently preparing to make its final decisions and recommendations on September 16th 2014 - and to forward them to the Minister shortly thereafter.

Unfortunately, the appointments of two NWMB members who sat on the original five-member hearing panel ended before the Board was able to complete its Foxe Basin polar bear decision-making. Because the NWMB is required to have a quorum of at least five members for each of its decisions, the Board's Foxe Basin polar bear hearing panel is now short by two members.

As a tribunal, the NWMB is subject to the rules of procedural fairness. Those rules include the general requirement that only those members of a tribunal who have attended a hearing of the tribunal can participate in the resulting decision-making. However, the Board is of the view that when it is making decisions about wildlife harvesting entitlements, it is acting in a broad, policy-based regulatory capacity and, as such, is not subject to the same demanding procedural fairness requirements as apply to the hearings of those tribunals which decide matters between specific parties.¹ As a consequence, the Board takes the position that it is legally permitted to assign new members to NWMB hearing panels without a quorum, on the condition that those new members carefully review the hearing record before participating in relevant decision-making. The alternative would be to start the relevant proceedings all over again – obviously an expensive and time-consuming proposition.

Accordingly, in order to re-establish a quorum for timely NLCA decision-making, the NWMB proposes to assign two new members to the hearing panel that will be making a final Board decision on September 16th 2014 concerning the level of total allowable harvest for the Foxe Basin polar bear subpopulation. If any party to the Foxe Basin polar bear public hearing is not in agreement with the NWMB's proposed way forward, the Board requests that the party inform the NWMB of its objection in writing, with supporting reasons, by no later than 5:00 pm (Iqaluit time) on September 5th 2014.

¹ See, for instance, the 2008 research report prepared by David Mullan (Professor Emeritus, Queens University) for the NWMB, entitled "*Nunavut Wildlife Management Board ('NWMB') – Change in Composition of Board Panel for Reconsideration*", available upon request from the NWMB.

Written objections may be filed with the Board in person, by courier or by mail.² They should be clearly marked as pertaining to the *NWMB Public Hearing for Foxe Basin Polar Bear*. Delivery may also be made through fax or electronic transmission, but only if your department or organization confirms by phone with the NWMB – by no later than 5:00 p.m. (Iqaluit time) on September 5th – that a complete and legible copy of the transmission has been received by the Board. All materials are deemed to have been filed on the actual day of receipt by the NWMB.

If any objections are received, the Board will carefully consider them before making a decision whether to proceed with its final decision-making meeting on September 16th.

If you require further information, please do not hesitate to contact the NWMB.

Yours sincerely,



Ben Kovic,
Chairperson of the
Nunavut Wildlife Management Board
c.c.

Bert Dean, A/Director of Wildlife, Nunavut Tunngavik Incorporated;
Drikus Gissing, Director of Wildlife, Nunavut Department of Environment;
Lisa Pirie, A/Head of Eastern Arctic, Environment Canada, Canadian Wildlife Service;
Stas Olpinski, Science and Policy Advisor, Makivik Corporation;
Mark O'Connor, Director of Wildlife Management, Nunavik Marine Region Wildlife Board;
Jackie Price, South Baffin Regional Liaison, Nunavut Inuit Wildlife Secretariat; and
Leah Muckpah, Kivalliq Regional Liaison, Nunavut Inuit Wildlife Secretariat

² Hearing parties may contact the NWMB at the following coordinates:
Nunavut Wildlife Management Board
3rd Floor, Ikaluktuutiak Road
P.O. Box 1379, Iqaluit, NU, X0A 0H0
Phone: (867) 975-7300
Fax: (888) 421-9832
E-Mail: receptionist@nwmb.com