



May 8th 2014

Honourable Johnny Mike
Minister of Environment
Government of Nunavut

Cathy Towtongie
President of Nunavut
Tungavik Incorporated.

Ross Tatty
Chairperson of the Kivalliq
Wildlife Board

James Qillaq
Chairperson of the
Qikiqtaaluk Wildlife Board

Noah Kadlak
Chairperson of the Coral
Harbour Hunters and Trappers
Organization

Quvanaqtuliaq Tapaungai
Chairperson of the Aiviq
Hunters and Trappers
Organization

Michel Akkuardjuk
Chairperson of the Arviq
Hunters and Trappers
Organization

Barney Aggark
Chairperson of Aqigiq
Hunters and Trappers
Organization

Paul Kanayok
Chairperson of Kangiqliniq
Hunters and Trappers
Organization

Dear Colleagues:

Re: Invitation to the Government of Nunavut to file additional materials, and procedural directions concerning phase 2 of the continuing Southampton Island Caribou Public Hearing of the Nunavut Wildlife Management Board

1. Introduction

As all parties are aware, phase 2 of the Southampton Island Caribou Public Hearing will take place at the Frobisher Inn (Koojesse Room) in Iqaluit, on June 3rd and 4th 2014. This correspondence from the Nunavut Wildlife Management Board (NWMB or Board) is intended to ensure that the hearing is as efficient and productive as possible, and that the NWMB is able to make its resulting decisions based upon the most reliable and persuasive evidence and arguments.

2. Initial focus of the hearing on the legal question of what types of harvests are to be included in the calculation of the basic needs level

At this stage in the proceedings, it is clear that a fundamental point of contention in the hearing is what types of harvests must be included in the calculation of the basic needs level (BNL). The NWMB wishes to ensure that the hearing process includes a thorough examination and consideration of this point. Accordingly, the Board has decided to set aside up to the whole of the first day of the hearing (June 3rd) for oral submissions, and questions and answers, addressing the question of what types of harvests must be included in the calculation of the BNL.

The NWMB anticipates that the main basis for addressing the question will be the following written hearing documents (all available on the NWMB's *Public Hearings Registry*, or by contacting the NWMB directly – see page 4 of this correspondence):

1. The NWMB's April 9th 2010 letter – and attached legal opinion - to relevant co-management partners, entitled "*Types of harvests required to be included in a Basic Needs Level determined pursuant to the terms of the Nunavut Land Claims Agreement*";¹
2. Nunavut Tunngavik Incorporated's (NTI's) November 18th 2013 submission, entitled "*Submissions on future reviews, the proposed total allowable harvest and non-quota limitations, and a basic needs level*";
3. The Government of Nunavut's Department of Environment (GN) March 31st 2014 submission, entitled "*Supplementary submission to the Nunavut Wildlife Management Board*"; and
4. NTI's May 2nd 2014 submission, entitled "*Reply to the Government of Nunavut submission*".

All parties are entitled – but are not obliged – to deliver oral submissions on day 1 of phase 2 of the hearing concerning what types of harvests are required to be included in the calculation of the BNL. In addition – and as set out in the hearing rules – any NWMB member, the NWMB's Legal Counsel, the NWMB's Director of Wildlife Management, and each hearing party may ask relevant questions of any hearing party. Members of the public will also have a reasonable opportunity to make statements and to ask questions.

3. Focus of the hearing following consideration of the types of harvests to be included in the calculation of the basic needs level

Once the examination and consideration of above-referenced BNL issue is completed, the remaining hearing time will be devoted to additional phase 2 hearing submission topics – and resulting questions and answers - from the hearing parties.

The NWMB wishes to underline to all parties that a number of valuable written and oral submissions were made during phase 1 of the hearing (pre-hearing consultation meeting in Coral Harbour held on October 23rd 2013, written materials filed on or before November 18th 2013, and 2-day in-person hearing held on December 10th and 11th 2013).

¹ Original direct recipients were the GN Minister of Environment, the Environment Canada and Fisheries and Oceans Ministers, the three Regional Wildlife Organization Chairpersons and the NTI President. Original copied recipients were the Chairpersons of Nunavut's Hunters and Trappers Organizations, via the Executive Director of the Nunavut Inuit Wildlife Secretariat.

All relevant submissions will be taken into careful account by the Board in its eventual decision-making. Unless a party wishes to modify or elaborate on its earlier submission, there is no need to repeat in phase 2 of the hearing any points made in phase 1.

4. NWMB request for the GN to file additional materials by May 21st 2014

NTI's May 2nd submission, entitled "*Reply to the Government of Nunavut Supplementary Submission*", requested the filing of helpful additional information by the GN. The NWMB is of the view that the filing of the requested information would assist the parties and the Board in their consideration of a number of the GN's arguments. Accordingly, the NWMB invites the GN to file the following materials with the Board, in English and Inuktitut or Inuinnaqtun, by no later than 5:00 p.m. (Iqaluit time) on Wednesday, May 21st 2014:²

1. True and complete copies of the licenses issued to the company responsible for "*commercial*" harvesting of Southampton Island (SHI) caribou, referred to by the GN, from and including 1996 to 2007, including all licence conditions;
2. The best documentary evidence in the GN's possession - or available to the GN - for the same period, concerning employment of the hunters, the terms of that employment, and the identity of the employer (subject to applicable privacy laws);
3. The best available evidence supporting the GN's understandings of the following facts:
 - (a) that all SHI caribou harvested for the meat plant in 2007 was for sale outside the Nunavut Settlement Area (NSA); and
 - (b) that all caribou harvested for the meat plant in the years 1996 to 2001, inclusive, was for sale outside the NSA; and
4. If the GN disputes any of the following facts asserted by NTI, the GN's best available evidence of its different understanding:
 - (a) all meat sold by the plant until approximately 1995 was sold in the Northwest Territories;
 - (b) from approximately 1996 until 2007, sales from the plant were not limited to destinations outside the NSA - in particular:

² Submissions and their supporting reasons/documentation may be filed with the Board in person, by courier or by mail. They should be clearly marked as pertaining to the *NWMB Public Hearing for Southampton Island Caribou*. Delivery of the materials may also be made through fax or electronic transmission, but only if the GN confirms by phone with the NWMB - prior to the filing deadline - that a complete and legible copy of the transmission has been received by the Board. Materials are deemed to have been filed on the actual day of receipt by the NWMB.

- i. smoked ribs, hocks and dry meat were sold in the NSA; and
 - ii. cuts packaged for export continued to be sold to Nunavut restaurants, and perhaps to other Nunavut buyers (logically inferred from the pre-1995 history); and
- (c) from 1993 until 2007:
- i. some of the skins were distributed and used locally (sleeping skins, sewing clothing etc.), and
 - ii. tongues, hearts, back fat (tuunu), leg marrow and briskets were transported back to Coral Harbour for distribution to community residents.

Additional details regarding the above-requested evidence can be found in NTI's May 2nd 2014 submission.

5. Where to access the best available Southampton Island Caribou Public Hearing information

The hearing rules and a number of additional documents comprising the best available hearing information to date – including submissions filed as of March 31st and May 2nd 2014 - are available for download from the NWMB's *Public Hearings Registry* on its website (www.nwmb.com) or by contacting the NWMB at the following coordinates:

NUNAVUT WILDLIFE MANAGEMENT BOARD

3rd Floor, Ikaluktuutiak Drive

P.O. Box 1379, Iqaluit, NU, X0A 0H0

Phone: (867) 975-7300

Fax: (888) 421-9832

E-Mail: receptionist@nwmb.com

The NWMB has also prepared a transcript of the December 10th and 11th oral submissions at the in-person hearing, available upon request to the Board.

6. The use by the NWMB of its *Inquiries Act* powers

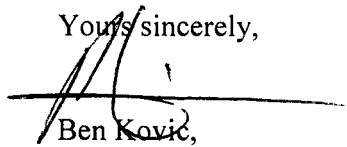
Both NTI and the GN have recently corresponded with the NWMB regarding the potential use of the Board's *Inquiries Act* powers in the context of the SHI caribou hearing. By way of background, the NWMB has the same powers as commissioners appointed pursuant to Part I of the *Inquiries Act*, R.S.C. 1970, c.I-13 (NLCA Section 5.2.30). Accordingly, the Board has the power to summon before it any witnesses, except Ministers of the Crown, and to require them to:

- (a) Give evidence on oath or solemn affirmation, orally or in writing; and
- (b) Produce such documents and things as the NWMB requires for a full investigation of the matters which it is examining.

To date, the NWMB has not relied upon its *Inquiries Act* powers because it has not had any need to do so. NWMB hearings are designed to be less formal and more collegial than many hearings conducted in other settings. The Board would prefer to continue with the cooperative, voluntary approach that has so far characterized its successful hearing process. Nevertheless, the NWMB remains open to the use of this particular authority, where advisable, in the context of any hearing. Before using the powers conferred upon it, the Board will, however, normally put the parties on notice and provide an opportunity for submissions on whether it should proceed as proposed.

If you require further information with respect to the matters addressed in this letter, please do not hesitate to visit the NWMB website or to contact the Board directly.

Yours sincerely,



Ben Kovic,
Chairperson of the
Nunavut Wildlife Management Board

- c.c. Drikus Gissing, Director of Wildlife, Government of Nunavut-Department of Environment;
- Mitch Campbell, Kivalliq Regional Biologist, Government of Nunavut-Department of Environment;
- Gabriel Nirlungayuk, Director of Wildlife, Nunavut Tunngavik Inc.;
- Bert Dean, Senior Policy Advisor, Nunavut Tunngavik Inc.;
- Glenn Williams, Wildlife Policy Advisor, Nunavut Tunngavik Inc.;
- Janet Dionne, Acting Executive Director, Nunavut Inuit Wildlife Secretariat;
- Leah Muchpah, Kivalliq Regional Liaison, Nunavut Inuit Wildlife Secretariat;
- Jackie Price, South Baffin Regional Liaison, Nunavut Inuit Wildlife Secretariat