



Mr. Jason Akearok  
Executive Director  
Nunavut Wildlife Management Board  
Box 1379  
Iqaluit, NU X0A 0H0

January 23, 2015

Dear Mr. Akearok;

RE: Prehearing Disclosure and Process for Southampton Island Caribou BNL Proceeding

I corresponded with you on the captioned topic on January 2, 2015. I was unaware at the time of my letter that the Chairman of the Nunavut Wildlife Management Board (NWMB) had corresponded with the Minister of the Environment, on December 24, 2014. That letter will be answered by the Minister's office. In the meanwhile, I would like to address the procedural issues arising from Nunavut Tunngavik Incorporated's (NTI) letter of October 28, 2014.

This letter supplements the information and explanation provided in my January 2nd letter. In the time since that letter, the Government of Nunavut (GN) has completed distribution of electronic copies of the new documents, found in the fall of 2014, which we consider relevant to the position advanced by the GN in the captioned proceeding. Attached is a table listing the number of redacted documents already provided to NTI, categorized by year. The GN selected 36 of them to disclose in this proceeding.

The GN has in addition committed to forwarding paper copies of these documents (a Book of Documents) to the Board and NTI in the near future and then to ensure that translations, completed in accordance with the NWMB "Public Hearings – Rules of Practice", are filed with the Board. We anticipate that Book of Documents will be provided by the end of January, 2015, and the translations provided as soon as they can be completed.

The GN also committed to identifying the witnesses that it could call at the continuation of the hearing of this matter, whenever scheduled by the Board. Those witnesses include myself, Mr. Steven Pinksen, Assistant Deputy Minister Department of Environment, Mr. Robert Connelly, Manager, Community Economic Development Department of Economic Development and Transportation, and Mr. Mitch Campbell, Kivalliq Regional Biologist Department of Environment. There are no other witnesses from the GN, but the Board should understand that we will determine which ones to call at a time closer to the actual hearing. As indicated earlier, counsel for the GN will soon prepare and distribute summaries of the evidence which these witnesses might provide .

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As I indicated in my January 2 letter, the GN considers the procedures set out in the attachment to the October 28, 2014 NTI letter to be unnecessarily complex, even onerous. In our view, they go beyond the

level of detail that would be required in civil litigation. It is the GN's view that it would be inappropriate for the NWMB to issue a Direction on Procedure which demands this level of commitment from the parties in advance of the hearing.

I would also like you to be aware that in order to facilitate an efficient and effective conclusion to this proceeding, the GN has instructed its counsel to make all reasonable efforts to collaborate with counsel from NTI and the Board. GN counsel will call for a teleconference with other counsel and parties in order to achieve this goal, shortly after the Books of Documents are distributed.

To further assist the Board, we also attach a more detailed response to the attachment to the October 28, 2014 NTI letter. We trust that this information and our response will assist the Board in formulating its Direction on Procedure.

If there are any questions, do not hesitate to contact me or GN counsel.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Pinksen', with a stylized flourish extending to the right.

Steve Pinksen  
Assistant Deputy Minister

Attach: (1) Numbers of GN documents by year  
(2) GN detailed response to Oct. 28, 2014 NTI Attachment

c. Director of Wildlife NTI  
Board Counsel  
NTI Counsel

**Number of Southampton Island TAH/BNL Related Documents  
provided by the Government of Nunavut**

<b>Year</b>	<b>Amount in Folder</b>
1994	18
1995	17
1996	194
1997	6
1998	29
1999	34
2000	80
2001	55
2002	8
2006	12
2007	16
2008	4
2009	1
2014	1
Unknown dates	13
<b>Total</b>	<b>488</b>

## ATTACHMENT #2

### **Detailed Response to the Attachment to the Nunavut Tunngavik Inc Oct. 28, 2014 Letter**

Our responses are set out below under the headings used in the October 28, 2014 letter. Note that we have left the actual timing for these steps to be determined subsequent to discussion among Counsel and the parties.

#### Facts not in dispute between GN and NTI

1. The GN will communicate with NTI in an attempt to develop a list of “Agreed Facts” for the proceeding.
2. The GN will discuss this process with NTI and Board counsel in order to set reasonable timelines for this initiative.

#### Document copies, lists, explanations and Statement

3. NTI has been provided with redacted electronic copies of all the newly discovered documents in the GN’s possession.
4. NTI and the Board have been provided with redacted electronic copies of all documents considered to be relevant to the GN position in this proceeding.
5. NTI and the Board will soon be provided with a Book of Documents which includes all of the documents considered to be relevant to the GN position in this proceeding.
6. The GN has provided redacted copies of all new documents to NTI. NTI has a complete set of the documents found by GN. We do not anticipate finding any new documents.

#### By December 1, 2014, the GN is to

7. NTI has electronic redacted versions of all new GN documents. NTI and the Board have the list a description and redacted copies of the new documents which GN considers relevant to this proceeding.
8. In the GN’s view, it is unnecessary and inappropriate to require a “written explanation how in the context of the written argument already filed or added at this time, each document supports the GN’s position regarding the BNL”. Such a requirement goes beyond anything required in civil litigation. We suggest NTI should be responsible for reading the new documents, GN argument, and making this determination for itself.
9. GN sees no purpose in the filing of a “Statement of Documents” with the Board as requested by NTI.



By January 15, 2014, NTI is to provide the GN and file with the Board

10. GN suggests that if NTI identifies and wishes to file new documents in response to those filed by GN, it should be subject to requirements similar to those imposed on the GN.
11. GN has not claimed privilege for any of the new documents discovered in the fall of 2014. NTI has been provided with copies of all these documents.
12. GN agrees that once the deadline is passed for NTI document disclosure that any new documents identified by either NTI or GN should be filed only with permission of the Board.

Witness lists, statements and fact specific directions

13. The GN has provided its proposed list of witnesses to the Board.
14. The GN will prepare a summary of the oral evidence which might be provided by each of these witnesses and will file that summary with the Board and copy NTI on a day to be determined.
15. These summaries will set out the major points which may be made by these witnesses in examination in chief.
16. If NTI decides to call witnesses it should provide a list and a summary of the major points of evidence to be provided by its witnesses to the Board and the GN on a date to be determined.

Ongoing disclosure

17. GN is aware of its obligations for disclosure and of the requirements fairness with respect to this NWMB proceeding. These obligations are of a continuing nature. We see no reason for the Board to issue specific directions in this respect.

Further written argument concerning facts and law

18. NTI has yet to reply to the GN's August 29, 2014 submission and new documents. That reply should be filed by NTI on a date to be determined.
19. NTI suggests that the "other parties may file their written reply to NTI's reply by March 31, 2015". The GN disagrees with this suggestion. If we characterize the GN as the applicant or proponent for the TAH required for Southampton Island Caribou, then all other parties are respondents. In that case, they should reply to the GN's position and arguments, if at all. We are unaware of any rationale for requesting the other respondents to reply to NTI's position as a "co-respondent".