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QIKIQTAAALUK CORPORATION
& Group of Companies

November 9, 2018

Jason Akearok
Executive Director, Nunavut Wildlife Management Board
P.O. Box 1379
Iqaluit, Nunavut
XOA OH0

Re: Final approval of the draft revised Nunavut Wildlife Management Board Allocation Policy for Commercial Marine Fisheries

Dear Mr. Akearok:

Qikiqtaaluk Corporation (QC) thanks the NWMB for its hard work in developing revisions to its *Policy for Commercial Marine Fisheries* and is very pleased that this long-standing process is nearing completion. The revised policy is largely consistent with the views that have been outlined by QC and the other members of the Nunavut fishery. However, there do remain areas of the policy where issues have been identified and where either industry, through the Nunavut Fisheries Association (NFA), has reached consensus on a reply or where QC is requesting consideration of its own concerns in finalization of the policy.

As detailed in the submission provided by the NFA, industry members have reached a level of consensus on the following issues:

- *Linkage between scoring and allocation recommendations*
- *Culpable negligence*
- *FAC composition*
- *Verification reports*
- *Requirement for delivery of audited financial statements by July 31st*
- *Scoring inconsistencies: Scoring items 7.3.1d, 7.4.1a, 7.5.2 and 7.2.6a*

The details on each of these issues and the level of consensus reached by NFA members has been provided in a separate document.

In the following pages, comments are provided by QC on these issues and, where required, areas where consensus could not be reached. In addition, details are also provided on a couple of other issues which have been identified by QC, as follows:

- *Eligibility requirements for new entrants*
- *Scoring items 7.2.5a and 7.3.1b*

Of particular interest and concern to QC is the new clause which has been added to Section 10: New Applicants, which states that "no current allocation holder in a fishery may be a member of a new applicant for that fishery". This clause was added without QC's knowledge and directly targets the

company's recent partnership in the Qikiqtani Fisheries Association (QFA) with the communities of Igloolik, Hall Beach, Cape Dorset and Sanikiluaq. This clause only serves to discriminate against communities which to date have not participated in the offshore fishery and QC insists that it be removed immediately.

Thank you for providing the opportunity for input into the final allocation policy.

Sincerely;



Olayuk Akasuk
Chairman



Harry Flaherty,
President & CEO

QC Response to Draft Revised Allocation Policy

Linkage between scoring and allocation recommendations

The NFA members reached consensus that it is critical that scoring of enterprises be linked to allocation recommendations. However, members were unable to agree on the scoring thresholds that would be implemented in order to maintain or increase allocations.

QC is of the view that fishery allocations, as a common property resource, should be allocated to obtain the maximum benefits for Nunavut. As such, those entities that score higher in the allocations process should be the ones who benefit from maintaining and/or increasing their level of allocations. Scoring at 60%, which is barely a passing score, should not be the threshold for maintaining allocations. It is the view of QC that an entity should have to demonstrate progress and commitment, through a score of at least 75% in order to be guaranteed to maintain their current allocations. In terms of those eligible to participate in increased allocations, this should be limited only to those who are achieving very high scores, 85% or greater, that reflect their commitment and action to proper governance, business practices, and maximizing benefits.

Although QC understands the need for stability in the industry and to maintain some level of allocations for the existing players (if they are living up to their commitments), this should not mean that they are guaranteed to maintain the full allocations that were previously set. Other than QC, all of the other current players in the industry have received allocations beyond their available harvesting capacity in the north. If they cannot demonstrate through high scores that maintaining these allocations is warranted, the NWMB should not be reticent in redistributing these allocations.

Culpable negligence

The current policy outlines that culpable negligence would be applied to penalties (loss of quota) associated with the Annual Report, but it does not extend to quota losses during an application process. NFA members agreed, for transparency and understanding, that a clear definition of culpable negligence must be included in the policy, as well as how this penalty measure would be implemented throughout the policy. NFA has requested this information such that its members can provide a reasoned response to this issue.

As per QC's input on the prior section, the bar should not be set to too high a level such that entities can be penalized for non-performance. Culpable negligence should be only one of several potential reasons that could lead to reductions in allocations, including non-performance in scoring and other instances of non-performance. Examples of culpable negligence are required to ensure that in reality penalties would be possible, i.e. what would happen in instances of mis-management by the Board or Senior Management, lack of governance, and/or if no or very little returns were being provided to member communities, etc.

FAC composition

A new addition has been included in Appendix A, Section 3.1 (page 43) regarding the composition of the FAC. The appointing agencies of the FAC (i.e. NWMB, NTI and GN) may no longer appoint employees of their own organization “to avoid potential conflicts of interest and apprehensions of bias”. NFA supports this change as being consistent with the issues brought forward by the NFA and its members and the need for greater industry and business expertise on the FAC. However, a footnote to this clause states all incumbent members may fulfill the remaining length of their term (i.e. a grandfather clause).

QC strongly supports the change in composition of the FAC, which should enable the appointing agencies to add individuals with greater industry and business expertise to the FAC. In keeping with the spirit of this new stipulation and to maintain some consistency and corporate knowledge within the FAC, QC would support an approach where a minimum of 50% of the current members (where employees of the appointing agency) are replaced with external expertise in advance of the next round of allocations.

Verification reports

Under this draft Policy, allocation holders are now expected to procure their own Verification Reports from Fisheries and Oceans Canada (DFO) and Transport Canada (TC). Based on the discussions held at the July-August 2018 workshop, the intent behind this change to the Policy is to avoid potential conflicts with federal privacy regulations that may arise if the NWMB requests these reports.

NFA members are concerned that they may be penalized if DFO and TC are late in providing these documents, even though members have no control over the timing of these entities. To ensure fair and equitable treatment by all participants, NFA is requesting that the NWMB continue to request the verification reports for each entity from DFO and TC and that, as required, NFA members will provide a written release to enable these documents to be provided directly to the NWMB.

QC fully supports this request from the NFA.

Requirement for delivery of audited financial statements by July 31st

The timing for final delivery of audited financial statements for member organizations can vary based on the structure and complexity of the organization and the auditors timelines. Some NFA members have indicated that it will not be possible to have their final approved statements delivered by a July 31st deadline. All members agree that audited statements will be submitted as soon as possible after completion but want to ensure that they are not penalized due to timing circumstances beyond their control.

QC's corporate structure and governance requirements are such that it would be unable to deliver a set of completed, audited financial statements by July 31st of each year. QC does commit to provide these statements to the NWMB as soon as they are available.

Scoring inconsistencies: Scoring items 7.3.1d, 7.4.1a, 7.5.2 and 7.2.6a

7.3.1d Present plan to improve employment opportunities and promotion within your enterprise for Inuit, Nunavut, and senior employment

On the scoresheet distributed to members on August 2, guideline 7.3.1d had its total score increased from 2 to 4 points. However, in the current draft, the guideline total has reverted to 2. The highest points awarded in this Policy are currently associated with Inuit and Nunavummiut employment, and the consensus at the workshop was that if this principle is valued so highly, having a plan to improve employment figures should also be rewarded. Similarly, by increasing the score to 4 points, it would place the evaluation on the same scale as the governance plans evaluated in section 7.2, rendering the FAC's review of applications more consistent.

QC supports the NFA's proposed revision.

7.4.1a Identify degree of ownership/sponsorship by RWOs, HTOs or Nunavut Communities

The greatest disparity in scoring is guideline 7.4.1a regarding Inuit ownership. It was negotiated at the summer workshop that this guideline was significantly undervalued at 3 points, especially compared to the points available for Inuit and Nunavummiut employment (a combined total of 15).

The consensus at this workshop was that this guideline should be worth 12 points (calculated by multiplying the existing point descriptors by 4). This was reflected on the scoresheet distributed following the July-August workshop on August 2nd. Unfortunately, the current draft still uses the original total score of 3. NFA is requesting that this scoring be changed to 12 points.

QC supports the NFA's proposed revision.

7.5.2 Demonstrate other (non-cash) benefits provided to Nunavut owner(s)/community(ies)/industry(ies) in total dollars and percentage of total fisheries related profits

In scoring guideline 7.5.2a, applicants are asked to link their non-cash benefits to their audited financial statements. Based on the understanding of the discussion of the July-August workshop and the current draft Policy, scoring guideline 7.5.1a asks for cash and cash-equivalent benefits (i.e. those that can be quantified with a specific cash value) and guideline 7.5.2a asks for a list of items that have no cash-equivalent value. Because this guideline is specifically looking for a list of benefits that cannot be quantified with cash values, they are not possible to include on audited financial statements. As such, NFA is requesting a change in wording such that this non-existent link is removed.

QC supports the NFA's proposed revision.

7.2.6a Demonstrate adherence to and achievement of business plans, goals, and objectives

In this scoring guideline, applicants are asked to demonstrate their adherence to their previous business plan, with points awarded based on the percentage of goals met. While we understand this guideline is intended to ensure accountability in quota holders from one application to the next, in practice the lack

of flexibility permitted in the evaluation of this guideline will place the industry at a significant competitive disadvantage.

The allocation cycle lasts for a period of five years. Although applicants will endeavour to prepare a reasonable business plan for that time, it is well understood that business plans require revision and updating over time as projections become less accurate the further into the future they extend. This is particularly true in fisheries. Even if business plans are well-aligned with the fishing stock's health and market conditions at the time of an application's submission, those conditions will change over the course of the allocation cycle, sometimes drastically. For example, consider the Newfoundland cod fishery during the late 1980s, or more recently, the shrimp fishery in area 6.

Although applicants are instructed to explain any changes in their business plan and outline reasons for not achieving their goals, the score descriptions do not permit any judgement on whether such adjustments will be permitted. It is imperative that greater flexibility be written into this guideline, otherwise Nunavut's enterprises will be forced to choose between scoring well to maintain their future allocations or adapting in a timely and fiscally responsible manner to dynamic conditions. Requiring such a choice will constrict the ability of the fishing industry to compete with enterprises from southern Canada, to the detriment of Nunavut. Modifying this scoring guideline will bestow a degree of flexibility, allowing enterprises to take advantage of opportunities that could not have been predicted when the application was submitted.

Consequently, we suggest that the scoring descriptions be modified as follows:

0 points = no or few goals met, with no evidence of adaptation to changing business conditions if required

1 point = met 60% or more of goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved 60% of the modified goals

2 points = met 80% or more of goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved 80% of the modified goals

3 points = met 90% or more of goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved 90% of the modified goals

4 points = met all goals set out in previous application, or provided justification for modifying those goals throughout the allocation cycle to respond to changing business conditions and achieved all of the modified goals

QC supports the NFA's proposed revision.

Eligibility requirements for new entrants

As outlined in the attached letter, QC views the new clause added to this section as highly prejudicial and directly targeted at QC. The new clause under Section 10 states that: “no current allocation holder in a fishery may be a member of a new applicant for that fishery”. In its recent presentations to the NWMB, QC has outlined the partnership it has entered with the four underserved Qikiqtani communities of Igloodik, Hall Beach, Cape Dorset and Sanikiluaq in the Qikiqtani Fisheries Alliance (QFA). This clause would preclude QFA from applying for or receiving allocations through the allocation process.

QFA was formed in order to provide the four Qikiqtani communities which currently do not benefit directly from the offshore commercial fishery an opportunity to do so. The partnership with QC was put in place in order to strengthen the new entity and actually provide it with the fisheries knowledge and experience and harvesting capacity that would support and strengthen its next application to the NWMB. Feedback on prior applications by QFA have indicated this as a weakness and that a strong application would have a better chance of success the next time an increase in allocations became available (as will be the case in the next round). If QFA applied as only the four communities with no supporting knowledge or experience in the fishery it would expect to receive a very low score in the new allocation policy.

QC believes that new entrants should have the right to apply for allocations and be provided with a fair and transparent opportunity to join the fishery. The Nunavut fishery is not a closed shop that should be limited to existing players only. Our partnership with the community members of QFA will not only strengthen their application but will ensure that four new communities gain direct benefits from the fishery. It is the view of QC that the NWMB should consider this as a very positive development in expanding the benefits from the fishery and not put in place discriminatory wording in the policy that would prevent this from happening. QC would also have to question the legal grounds for inclusion of such a discriminatory provision in the policy.

QC requests that this new clause be immediately removed from the final allocation policy.

Scoring items 7.2.5a and 7.3.1b

These two scoring items were discussed by the members of NFA but no consensus could be reached.

7.2.5a Demonstrate collaboration with other industry partners to benefit the industry and maximize benefits to Nunavut

QC is of the view that the other members of the Nunavut fishery have been doing very little to live up to this requirement for collaboration as outlined in the existing and new policy. Although QC fully understands that companies do need to undertake temporary transfers of allocations with southern players in order to enable their vessel(s) to remain busy, it also believes that there should be a limit on this activity, especially when other Nunavut interests do not have enough fish available to keep their vessel(s) busy.

Despite repeated efforts to obtain allocations from other Nunavut entities to fish on the Saputi, QC's efforts have in most cases been denied, as the other players have claimed that they are using these allocations to trade-off with southern players for fish. QC is concerned on two fronts, i.e. that other Nunavut entities are making more fish available to southern entities than is required to obtain enough fish to keep their own vessel(s) busy, and that the priority should be given to supporting other Nunavut companies/vessel(s) when fish is available. QC is requesting that applicants be required to demonstrate clearly the amount of fish traded and that these trades (including the amounts) are necessary to keep their own vessel(s) busy. Scoring should be significantly lower for those not collaborating to optimize the performance of the Nunavut industry.

7.3.1b Identify employment of Nunavummiut, especially Inuit

QC supports maintaining this item at a scoring level of 5, as outlined in the revised policy.