

(*Proposed Total Allowable Harvests and Non-quota Limitations in the Draft 2005 Wildlife Regulations and Orders*) containing one or more potential justifications (but not necessarily supporting evidence) for each harvest limitation proposed by the GN. In its April 19th correspondence, the NWMB explicitly directed the GN to review the list of limitations and proposed justifications for accuracy, and to file its written, translated response with the Board by April 26th 2006. Despite the NWMB's specific direction, no response was filed. The postponement of Special Meeting No. 12 provides a further opportunity for the GN to review the April 13th document.

What constitutes sufficient evidence to support the proposed limitation of a treaty harvesting right is dependent upon particular circumstances. Nevertheless, it must constitute the best available evidence. An important task of the NWMB is to determine the weight that should be given to particular evidence. In assessing that weight, the Board will consider the extent to which the evidence is reliable and persuasive.

In a letter dated March 31st 2006 to the GN concerning the GN's document entitled, *Recommendations on Total Allowable Harvest (TAH) Rates for Terrestrial Wildlife in Nunavut* (December 31, 2005), the NWMB set out in some detail its expectations with respect to the evidence needed to justify proposed harvest limitations - in particular, TAHs:

"...Lack of information about a population is not sufficient in and of itself. The Board will not make a decision which limits Inuit constitutionally enshrined rights without receiving adequate evidence to meet the demands of section 5.3.3 of the Nunavut Land Claims Agreement (NLCA):

5.3.3 Decisions of the NWMB or a Minister made in relation to Part 6 shall restrict or limit Inuit harvesting only to the extent necessary:

- (a) to effect a valid conservation purpose;*
- (b) to give effect to the allocation system outlined in the Article, to other provisions of this Article and to Article 40; or*
- (c) to provide for public health or public safety.*

With respect to part (a), the Board requires reliable scientific information or Inuit Qaujimajatuqangit (IQ) and where applicable both types of information addressing:

- 1. How many populations are in Nunavut?*
- 2. What are the geographic boundaries of the populations?*
- 3. What is the conservation status of the populations or species in Nunavut (e.g., not at risk; at risk, if so what is the level of risk; unknown)?*
- 4. What is the conservation status of the population or species outside of Nunavut?*

5. *What is the estimated size of the population; when was this estimate made; how was the estimate made and by whom; what is the confidence level of the estimate (e.g. standard error, confidence interval, etc.)?*
6. *What is the estimated birth rate of the population; when was this estimate made; how was the estimate made and by whom; what is the confidence level of the estimate?*
7. *What is the estimated natural mortality rate and survivorship rate for the population; when were these estimates made; how were they made and by whom; what is the confidence level of the estimates?*
8. *What are the population dynamics (is it increasing in size; decreasing in size or is it stable; what is the estimated growth rate and the error associated with this estimate)?*
9. *What is the harvest mortality rate or level for the population from Nunavut and what confidence do you have in this data (e.g. does reported harvest level accurately reflect hunting mortality)?*
10. *What is the harvest mortality rate or level for the population from other jurisdictions if applicable and what confidence do you have in this data?*
11. *If the proposed TAH is enacted, how is it expected to affect the population dynamics (will it cause population size to increase; decrease; stabilize; and how long will it take for the effect to occur)?*

With respect to part (b), information needs to be submitted reporting what consultations have been made with Aboriginal people from areas outside of Nunavut who also harvest from the population and what proportion of the proposed TAH for the population will be allocated to Article 40 Aboriginal people...

With respect to part (c), appropriate description of how the proposed TAH or NQL will provide for public health or safety needs to be provided..."

While the NWMB recognizes that full answers to all of the evidence requests set out above constitute an ideal circumstance, the Board expects as complete a set of answers in each instance as is reasonably possible. The less reliable and persuasive is evidence presented in support of a proposed TAH or NQL, the greater will be the possibility that the recommended limitation will not satisfy the requirements of NLCA S. 5.3.3. In addition, neither the GN nor NTI should proceed on the assumption that the NWMB will later request supporting research or literature documents. These should be filed with the Board as a matter of course.

The NWMB also wishes to underline that a proposed TAH for a wildlife population harvested by Inuit and one or more Aboriginal groups subject to the terms of NLCA Article 40 necessarily includes the level of harvest for the Article 40 group. Especially in the case of presumptions as to needs wildlife (birds of prey and muskox), unless the Board receives sufficient and reliable information and evidence from the GN concerning the harvesting of that wildlife population inside the Nunavut Settlement Area by a relevant Article 40 group, it will not be possible for the NWMB to determine what share of the TAH may be harvested by either Inuit or the Article 40 group(s).

In addition, the Board points out that the three polar bear NQLs set out in s.11 of the draft *Harvesting Regulations* are not harvest limitations being proposed by the GN for consideration and decision by the NWMB pursuant to the relevant terms of the NLCA. Rather, s.11 is the implementation by the GN (pursuant to NLCA S.5.3.15) of three NWMB decisions made in October of 2004. The complete NWMB reasons for those decisions are set out in a February 14th 2005 letter from the Board to NTI, copied to the GN. A copy of that letter is attached.

The NWMB is prepared to consider written and oral submissions regarding the continuation, modification or removal of the three NQLs. However, such submissions must necessarily address the NWMB's reasons for its decisions.

The Board also notes that both the GN and NTI have recently and formally indicated a willingness to find mutually-acceptable solutions to points in contention between them. The NWMB therefore urges both parties to meet prior to Special Meeting No. 12, in order to discuss - and hopefully reach agreement on - at least some of those points. For example, there appears to be a consistent disagreement over the identification of wildlife populations in the context of establishing TAHs. Other areas of disagreement would also undoubtedly benefit from a sincere attempt by the GN and NTI to work together in harmony to achieve a common purpose (*Piliriatigiingniq*).

Finally, for the convenience of both the participants at Special Meeting No. 12 and the public, the Board directs that all submissions filed with the NWMB be dated and provided with a short, descriptive title. Adherence to such measures will be of considerable assistance in both organizing and accessing the large number of documents filed with respect to Special Meeting No. 12.

Please do not hesitate to contact the NWMB if you have questions or concerns regarding any aspect of this letter.

Yours sincerely,



Joe Tigullaraq
Chairperson

c.c. Honourable Paul Okalik, Premier of Nunavut;
Phillip Kadlun, Chairperson of the Kitikmeot Hunters and Trappers Association;
David Aksawnee, Chairperson of the Kivalliq Wildlife Board;
Jayco Alooos, Vice-chairperson of the Qikiqtaaluk Wildlife Board; and
Chairpersons, Nunavut's Hunters and Trappers Organizations