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May 24, 2017

Daniel Shewchuk
Acting Chairperson
Nunavut Wildlife Management Board
P.O. Box 1379,
Iqaluit, NU
X0A 0H0

Dear Mr. Shewchuk:

Re: Public Hearing of the Nunavut Wildlife Management Board (NWMB) to consider the revised Nunavut Polar Bear Co-Management Plan, Iqaluit, Nunavut, June 6-8, 2017

Nunavut Tunngavik Incorporated (NTI) appreciates this opportunity to provide comments on the Nunavut polar bear co-management plan.

A. GENERAL COMMENTS

These comments are based on the consultations conducted by the Government of Nunavut.

- 1) Several HTOs especially in the Baffin and Kitikmeot region expressed concern over the male sex selective harvest. For example, during consultations in the Baffin and Kitikmeot region, communities expressed problems with the 2:1 sex ratio for at least two major reasons. Firstly, for some areas, there are fewer females available. Secondly, the high penalties that communities experience in quota reductions the following year(s) when females are overharvested. A 1:1 ratio was provided as a solution but the response by Government to this change remains uncertain. For example, we suspect that the communities would be very surprised to learn that their total TAH would be lowered. This would result if the Government response was not to increase the number of available females but instead lower the number of available males to meet the 1:1 sex ratio.
- 2) Inuit have repeatedly expressed that bears move between the current subpopulation boundaries. For example, affected communities have expressed that Gulf of Boothia and M'Clintock Channel subpopulations share polar bears. Inuit have also expressed that

bears move and mix within Hudson Bay. A recent study provides evidence for fine-scale structure, but there remains varying levels of gene flow between clusters within the Hudson Bay region (Viengkone et al. 2016¹).

- 3) Inuit and NTI have also expressed concerns over the management and application of the flexible quota system. For example, when there has been application for credits, the release of tags by the Government has sometimes been forwarded to the NWMB for approval. This is considered an unnecessary administrative step. It is expected that the TAH will continue to be provided to the RWOs for allocation to communities and that credit requests will be satisfied in a reasonable amount of time.

B. DETAILED RECOMMENDATIONS

NTI's detailed recommendations are made in order to

- improve the plan's descriptions of *Nunavut Agreement* requirements,
- clarify responsibility for the plan,
- clarify the intent of the plan, and
- add a recommendation regarding the federal government's implementation of the *Convention on International Trade in Endangered Species* (CITES).

Author

On the title page, identify the Government of Nunavut as the plan's author.

Proponent, and approval process

In the Preface or Executive Summary, note that the Government of Nunavut is proposing that the NWMB approve this management plan. In addition, note that the plan will be adopted upon the NWMB's decision being accepted or varied by Nunavut's Minister of Environment.

References to the *Nunavut Agreement*

Throughout the document, replace "Nunavut Land Claims Agreement" or "NLCA" by "*Nunavut Agreement*" or "Agreement".

PREFACE – page 1

In the first paragraph, fourth sentence, add the following underlined words:

¹ Viengkone M., A.E. Derocher, E.S. Richardson, R.M. Malenfant, J.M. Miller, M.E. Obbard, M.G. Dyck, N.J. Lunn, V. Sahanatien, and C. Davis. 2016. Assessing Polar Bear (*Ursus maritimus*) population structure in the Hudson Bay region using SNPs. *Ecology and Evolution* 6(23): 8474-8484.

“The *Nunavut Agreement* recognises Inuit harvesting rights and requires that Inuit play an effective role in all aspects of wildlife management.”

In the second paragraph, second sentence, add the following underlined words:

The NWMB has the discretionary responsibility of approving management plans (Article 5 section 5.2.34 d(i))

In the second paragraph, reword the last sentence as follows:

(from) This plan has been prepared in cooperation with Nunavut Tunngavik Inc., the Department of Environment, Regional Wildlife Organizations, Hunters and Trappers Organizations, and Inuit community members from throughout Nunavut.

(to) This plan has been prepared by the Department of Environment in cooperation with Nunavut Tunngavik Inc., Regional Wildlife Organizations, Hunters and Trappers Organizations, and Inuit community members from throughout Nunavut.

EXECUTIVE SUMMARY – page 2

In the second paragraph, reword the first sentence as follows:

(from) This intent of this plan is: 1) to provide guidance and direction to co-management partners for decision-making;

(to) [same as above, except delete “and direction”]

Note: NTI does not understand this management plan as intended to trigger the Government’s duty to implement NWMB decisions, or to give mandatory instruction to the Government, NWMB, RWOs or HTOs. The Preface, for example, states that “[i]mplementation of this management plan is subject to ...priorities ... of the participating jurisdictions and organizations.”

TABLE OF CONTENTS – pages 3-5

Add the following new subheadings:

6.1 Decision criteria

6.2 Principles of Conservation

Add a new sub-heading, “**6.3 Co-Management Partners**”, and re-number the current sections 6.1-6.6, **6.3.1-6.3.6**.

ACKNOWLEDGEMENTS – page 5

Place the acknowledgements at the end of the document.

1. INTRODUCTION – page 6

In the first paragraph, reword the second sentence as follows:

(from) Restrictions (e.g., limiting the number of polar bears harvested per year per subpopulation) were the primary means of population recovery in regions where abundance was reduced as the result of unsustainable harvest.

(to) Restrictions (e.g., limiting the number of polar bears harvested per year per subpopulation) were the primary means of population recovery in regions where abundance had been reduced [].

2. GUIDING PRINCIPLES – page 7

Reword the last guiding principle as follows:

(from) Where there are threats of serious or irreparable damage to polar bear populations or habitat, lack of certainty will not be a reason for postponing reasonable or precautionary conservation measures.

(to) Inuit harvesting will be limited for conservation reasons only to the extent that a limitation is necessary and only according to the Principles of Conservation. Subject to those requirements of the *Nunavut Agreement*, lack of certainty will not be a reason for postponing [] conservation measures where there is a sound and credible case, based on evidence, that a risk of serious or irreparable damage to polar bear populations or habitat exists,

Note: This recommendation reflects s. 5.3.3 of the *Nunavut Agreement*, the Principles of Conservation, and the following statements in the Government of Canada’s policy on application of the precautionary approach to resource management:

[the precautionary principle] “cannot be applied without an appropriate assessment of risks.” (page 3). ...“Sound scientific information and its evaluation must be the basis for applying precaution” (page 7). “The emphasis should be on providing a sound and credible case that a risk of serious or irreversible harm exists” (page 7).

Government of Canada, *A Framework for the Application of Precaution in Science-based Decision Making about Risk* (Privy Council Office, 2003).

3. GOAL OF THE POLAR BEAR MANAGEMENT PLAN – page 8

Re-word the goal as follows:

(from) To maintain viable and healthy polar bear subpopulations for current and future generations, and to ensure that polar bears remain an integrated and functioning part of the ecosystem while monitored and appropriate harvests are allowed.

(to) To maintain vital and healthy polar bear subpopulations capable of sustaining harvesting needs for current and future generations, and to ensure that polar bears remain

an integrated and functioning part of the ecosystem while monitored, sustainable harvests occur.

Note: This recommendation takes into account the Principles of Conservation and Inuit harvesting rights in the *Nunavut Agreement*.

4. SPECIES DESCRIPTION - page 8

Under 4.3.1, Global range, second last line, add “according to Canada’s Polar Bear Technical Advisory Group” after “current status”.

Under 4.3.2, Nunavut range, reword the last sentence as follows:

(from) A more detailed background and description of Nunavut’s polar bear subpopulations is provided in Appendix B.

(to) A more detailed background and description of Nunavut’s polar bear subpopulations, together with management recommendations for each subpopulation, are provided in Appendix B.

5.3 Legislative frameworks and agreements – page 13

In the first sentence, add the words underlined below:

In Nunavut, wildlife is managed according to Article 5 of the *Nunavut Agreement*. Article 5 recognizes the right of Inuit to harvest polar bears and trade in polar bear products. It also sets out the creation of the Nunavut Wildlife Management Board (NWMB), which is the primary instrument of wildlife management in Nunavut, and defines the roles of the NWMB, government, Hunters and Trappers Organizations (HTOs), and Regional Wildlife Organizations (RWOs)

6. POLAR BEAR CO-MANAGEMENT IN NUNAVUT – page 14

Immediately after the title, add the following:

The *Nunavut Agreement* and *Wildlife Act* provide the overarching criteria and principles under which Inuit harvesting of polar bears is managed.

6.1 Decision criteria

Conservation, public health and public safety are among the purposes for which Inuit harvesting of polar bears may be limited. Decisions made by the NWMB and Minister must limit Inuit harvesting only to the extent necessary.

6.2 Principles of Conservation

Decisions made by the NWMB and Minister for conservation reasons must apply the following principles:

(a) the maintenance of the natural balance of ecological systems within the Nunavut Settlement Area;

- (b) the protection of wildlife habitat;
- (c) the maintenance of vital, healthy, wildlife populations capable of sustaining harvesting needs as defined in this Article; and
- (d) the restoration and revitalization of depleted populations of wildlife and wildlife habitat.

Insert a new sub-heading, “ **6.3 Co-Management Partners**”, immediately before the sentence commencing with “The following co-management partners participate”. Re-number the current sections 6.1-6.6 sections **6.3.1-6.3.6**.

6.1 – page 14

Re-word the last sentence follows:

The Nunavut Agreement is paramount over legislation, and is constitutionally protected under Canada’s Constitution Act, 1982.

6.2 NWMB – page 14

Re-word the second sentence as follows:

(from) In addition, it approves management plans and the designation of rare species.

(to) In addition, it may approve management plans and the designation of rare species.

6.6 Government of Canada – page 15

Add the underlined sentence below:

Canada signs international agreements on behalf of all jurisdictions and has responsibilities to coordinate international management actions for polar bears, with the advice of the co-management boards and jurisdictions. It is involved in international polar bear management including the Convention on International Trade in Endangered Species (CITES) and the 1973 *Agreement on the Conservation of Polar Bears*. When developing positions that relate to international agreements affecting Inuit harvesting rights in the Nunavut Settlement Area, the Government of Canada is required under the Nunavut Agreement to include Inuit in discussions.

Figure 2 The Co-Management Framework in Nunavut - page 16

Give NTI and similar organizations their own oval named “NTI and other representative Aboriginal Organizations”.

Distinguish between the proposal for decision and recommendations made by other parties.

Delete reference to polar bear MOUs.

Give “hearings” its own box and rename this box “NWMB hearings”.

In the box following the NWMB’s first decision, add the following: “Government accepts, is deemed to accept, or rejects”. In the next oval, replace “Accepts” with “Accepted”.

Replace “Government” with “Minister” in the boxes.

Remove the components referring to judicial challenges of NWMB decisions.

Note: The Minister’s duty to implement final NWMB decisions forthwith applies as soon as the decision is accepted or varied.

Rename the last box as follows:

(from) Responsible Minister implements Management Action

(to) Responsible Minister implements accepted or varied NWMB final decision.

7.5 Population boundaries – page 18

In the first paragraph, reword the last sentence as follows:

(from) It is important to recognize that these boundaries have formed the basis for management actions for over four decades, and have been beneficial to managers for setting harvest levels and for researchers focusing their population assessment studies.

(to) It is important to recognize that these boundaries have formed the basis for management actions for over four decades, and have been relied on by managers to set harvest levels and by researchers focusing their population assessment studies.

7.8 Trade – page 20

At the conclusion of this section, add the following:

Under the Nunavut Agreement, Inuit have the right to sell polar bear hides outside the Nunavut Settlement Area and to receive an export permit for this purpose on demand unless there is good cause for refusal. It is a recommendation of this plan that, when making and reviewing non-detriment findings under CITES, Canada’s Scientific Authority should presume that final decisions of the NWMB respecting TAHs reflect the sustainable harvest level of polar bear subpopulations in Nunavut.

8.1.1 Harvest Management – page 21

In the first paragraph, reword the second sentence as follows:

(from) As new information becomes available, co-management partners work together to establish a Total Allowable Harvest (TAH) for each polar bear population.

(to) As new information becomes available, co-management partners work together to consider or review a Total Allowable Harvest (TAH) for each polar bear population.

In the second paragraph, reword the first sentence as follows:

(from) Once the TAH is established, local communities are given the choice whether they wish to harvest the set number of bears for their own needs or to allocate a portion of the total for sport hunts

(to) Where a TAH is established, HTOs have the choice whether they wish to harvest the set number of bears [] or to allocate a portion of the total for sport hunts.

In the third paragraph, reword the first sentence as follows:

(from) While the TAH for each polar bear population is subject to change, the following harvest restrictions are legislated in the Nunavut Wildlife Act and do not vary according to population dynamics or annual removals.

(to) While the TAH for each polar bear population is subject to change, the following harvest restrictions have been established by the NWMB for enactment in the Nunavut *Wildlife Act*, and do not vary according to population dynamics or annual removals.

8.1.3 Harvest Reporting and Monitoring – page 22

Re-word the last sentence on page 23 as follows:

(from) DOE will consider these requests on a case-by-case basis, and only as new information becomes available;

(to) The NWMB will consider these requests on a case-by-case basis, and only as new information becomes available.

8.3 Habitat management and environmental stewardship (Avatitinnik Kamatsiarniq) objectives – page 26

Add, following the objectives already listed, the following:

- Generally, assist Canada to meet its obligation under Article II of the *International Agreement on Conservation of Polar Bears* to “take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patterns.”

9. IMPLEMENTATION OF THE PLAN – page 29

Throughout this section, clarify where in the document the reader may find “the management objective for the subpopulation”.

In the first paragraph:

- delete the following statement: “No changes to existing TAH will occur until new information becomes available.”
- reword the last sentence as follows:

(from) At that time, a new TAH will be recommended that is consistent with the subpopulation management objective and the objectives of this plan.

(to) At that time, a change to the TAH will be recommended that is consistent with the subpopulation management objective and the objectives of this plan.

- add as the closing sentence: “Otherwise, changes to TAHs may be considered according to the NWMB decision process”.

In the second paragraph:

- reword the first sentence as follows:

(from) The co-management structure in Nunavut requires an NWMB decision for any change to TAH, management objectives, or NQL.

(to) The co-management structure in Nunavut requires an NWMB decision for any change to TAH [] or NQL.

Note: As stated above, NTI does not understand this plan as intended to be mandatory. Therefore a community, government, or any affected party should be free to seek NWMB review of a subpopulation management objective at any time. The NWMB should change such an objective on review if persuaded that the objective adopted in this plan should be revised.

- reword the following phrase as per the reworded goal of the plan:

(from) The goal of the management plan is “*To maintain viable and healthy polar bear subpopulations for current and future generations, and to ensure that polar bears remain an integrated and functioning part of the ecosystem while monitored and appropriate harvests are allowed.*”

(to) The goal of the management plan is “*To maintain vital and healthy polar bear subpopulations capable of sustaining harvesting needs for current and future generations, and to ensure that polar bears remain an integrated and functioning part of the ecosystem while monitored, sustainable harvests occur.*”

Appendix A – page 33

Use the most up-to- date Polar Bear Technical Committee figures at the public hearing and in the plan submitted for approval.

Appendix B – page 41

Clarify throughout this Appendix whether “current ... abundance” is intended to be based on the most recent survey results available, the figure for “current status” shown, or a different source.

At the public hearing, after seeking the views of the HTOs, the NWMB should consider adopting a management objective of decreasing current abundance for the Baffin Bay and Davis Strait subpopulations.

Note: NTI understands the NWMB and Government to be managing the Davis Strait subpopulation, in particular, for decrease.

Thank you again for this opportunity and NTI looks forward to taking part in the upcoming public hearing.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by the name 'ARREAK' in capital letters.

James T. Arreak

Chief Executive Officer