



NWMB PRE-HEARING TELECONFERENCE

Nunavut Wildlife Management Board Pre-Hearing Teleconference Western Hudson Bay Polar Bears Tuesday, October 3rd, 2017

NWMB Members and Staff

Staff

- Jason Akearok Executive Director
- Patricia Pearson Director, Finance and Administration
- Sarah Spencer A/Director of Wildlife Management
- Denis Ndeloh Wildlife Management Biologist
- Michael d'Eça Legal Advisor

Other participants/ Observers

- Paul Irngaut Nunavut Tunngavik Incorporated
- Cheryl Wray Nunavut Tunngavik Incorporated
- Bert Dean Nunavut Tunngavik Incorporated
- Raymond Mercer Nunavut Tunngavik Incorporated
- Janice Aggark Chesterfield Inlet HTO, Manager
- Harry Aggark Chesterfield Inlet HTO, Chair
- Drikus Gissing Government of Nunavut, Department of Environment
- Robert Enuapik Whale Cove HTO, Chair
- Chris Jones Whale Cove HTO, Board of Director
- Lisa Jones Manager, Whale Cove HTO
- Stanley Adjuk Kivalliq Wildlife Board, Chair
- Sam Iverson Environment and Climate Change Canada
- Brian Sigardson Rankin Inlet HTO, Vice Chair
- Clayton Tartak Manager, Rankin Inlet HTO
- Ezra Greens Consultant for Kivalliq Wildlife Board
- Mary Issumatardjuak Arviat, A/Manager Arviat HTO

Introduction and Opening Remarks

Jason Akearok, the Nunavut Wildlife Management Board (NWMB) Executive Director welcomed participants to the call and introduced the Iqaluit NWMB participants.

The remaining participants, those in attendance in Iqaluit and those that called introduced themselves, stating who they were and who they were representing.

The Executive Director reminded those in attendance of the letter sent out by NWMB on September 25th outlining the items to be discussed on the conference call.



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Location and Dates of Meeting

The Executive Director stated that, considering the logistical challenges of holding an in-person public hearing, the NWMB went ahead and tentatively booked The Siniktarvik Hotel and Conference Centre located in Rankin Inlet for the Western Hudson Bay Polar Bear Public Hearing. Dates of January 9 and 10 of 2018 have been selected as the optimal dates for the Public Hearing. The Conference Centre has been tentatively booked for these dates.

Paul Irrngaut from Nunavut Tunngavik Incorporated (NTI) said that NTI was ok with the proposed dates and he will confirm with NTI's executive. The NWMB Executive Director informed the participants that the Government of Nunavut – Department of Environment (GN-DOE) did make a decision on Western Hudson Bay Polar Bear Total Allowable Harvest levels, increasing the number to 34 bears.

Drikus Gissing, Director of Wildlife Management, from the GN-DOE stated that the Minister has accepted and will implement the Board's decision.

Adequacy of consultations carried out by the Nunavut Department of Environment

Michael d'Eça, the NWMB Legal Advisor stated that the NWMB has the legal authority – and responsibility - to assess the adequacy of Government consultations carried out pursuant to the Crown's duty to consult Inuit when considering limitations on their harvesting rights. He underlined that the NWMB is not saying Government consultations regarding the Western Hudson Bay polar bear *Proposal for Decision* were inadequate. The NWMB acknowledges that the consultations were conducted in-person (Government travelled to almost all of the communities and made arrangements for Baker Lake HTO to participate) – which is very good. However, the NWMB noted during its September quarterly meeting that those consultations were sparsely attended, and the Consultation Report devoted little space to the discussions between Government and affected Inuit regarding the proposed level of regional total allowable harvest. The NWMB is raising this issue now to provide an opportunity for participants on the conference call to comment on those consultations. The NWMB wants to avoid potential complications later in the hearing process: If there are any concerns, it would be best to address them prior to the commencement of the hearing. However, if there are no concerns, the NWMB is satisfied to move on to the next agenda item.

Drikus Gissing (GN, DOE) asks for clarification as to where the NWMB legal authority comes from.

The NWMB Legal Advisor stated that the authority is grounded in case law - particularly at the Supreme Court of Canada (SCC) - developed over the last 10-15 years. The NWMB has formally maintained this position since 2012 (see *NWMB Governance Manual*). The 2 most recent examples are the *Clyde River* and *Chippewas of the Thames* cases, in which the SCC addressed questions concerning the role of regulatory agencies with respect to the Crown's duty to consult.

The NWMB was an intervenor in both SCC cases, and the resulting judgments have reinforced the NWMB's interpretation of the law.



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Drikus Gissing (GN-DOE) reminded everyone that there is a need for the Board and management authorities in Nunavut to have a discussion on this specific issue. He said the government of Nunavut does take their responsibility to consult very seriously. He argued that NWMB criticism of government consultation often fail to take into account the difficulties in achieving “adequate” consultations especially in cases where people do not want to attend consultation meetings. He added the NWMB should provide the government with a consultation guideline that it will consider adequate. Referring to the 2017 Western Hudson Bay consultations, he said adequate notice was given. He agreed that the timing was not the best and GN-DOE could probably have done more. Generally, the GN-DOE tries not to have summer consultations. However, the problem GN-DOE ran into was that the pressure from the communities on the government to make a decision in time for the 2017-2018 harvest season was enormous. Communities did not want to lose out on the entire hunting season.

NWMB Legal Advisor stated that he agrees with Drikus, co-management partners should meet to discuss this matter. He said all parties have a stake in ensuring effective consultations, and we all want to keep in line with the developing law. NTI, the NWMB and GN were going to meet last spring, that was put off until the *Clyde River case* was settled. It was assumed that this winter or coming spring that that meeting will happen.

Paul Irngaut (NTI) supported Drikus’s point that it can be very hard to conduct effective or adequate consultations when communities do not attend consultation meetings. He asked if adequate notice was provided? He further said it is probably time to think outside the box and consider new ways to reach more people in the communities. He said community radio-based consultations could be one of the ways by which the government could reach a more representative audience.

Stanley Adjuk from the Kivalliq Wildlife Board stated that when we talk about consultations, they are done at the wrong time. Summer is a busy season; no one is around. Best time would be winter months. More on radio, social media. People will see the social media items immediately.

The NWMB Executive Director stated that when a proposal comes in for the NWMB to make a decision, there are NWMB procedures that are to be followed, which can take time, as per the NWMB Governance Manual.

The NWMB Executive Director also reminded everyone that the Board made an interim decision in September which was accepted by the GN-DOE. In that decision, the Board also decided to hold the public hearing as soon as possible.

Towards the end of the discussion of this agenda item, the Executive Director asked the teleconference participants if anyone had concerns with the adequacy of the Department’s 2017 consultations concerning Western Hudson polar bears. No party raised any concerns. As a result, the NWMB Legal Advisor suggested that – with everyone reasonably satisfied with the adequacy of the consultations - the participants could move on to the next agenda topic. No objections were raised to that suggestion.



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Participant Funding to Attend the Hearing

The NWMB Executive Director spoke to the participants about funding to attend the Public Hearing. The NWMB position is that there is no legal obligation on the NWMB to fund travel and accommodation costs for parties attending NWMB hearings. However, for this hearing, due to the circumstances, the NWMB will cover travel and accommodation costs as well as per diems. No honoraria will be provided to the hearing delegates. The NWMB will cover expenses for ten (10) participants, chosen by the Kivalliq Wildlife Board.

Paul Irgaut (NTI) inquired if these participants would be Hunter and Trapper Organization members, or elders?

The NWMB Executive Director stated it would be up to Kivalliq Wildlife Board to make those decisions.

Harry Aggark, the Chair of the Chesterfield Inlet HTO asks whether they can send HTO representatives, HTO chairperson and HTO manager?

The NWMB Executive Director restated it would be up to you and the Kivalliq Wildlife Board to make that decision.

Harry Aggark asked for if the elder has to be an HTO member?

The NWMB Executive Director stated that in previous hearings each community sent one delegate (1) was the HTO Chair and the other one (1) was an elder but that the elder wasn't necessarily an HTO Board member. It is up to the Kivalliq Wildlife Board, in consultations with the Kivalliq HTOs, to make that decision.

Paul Irgaut (NTI) clarified that the HTO would have the option of inviting someone else at their own expense?

The NWMB Executive Director stated that the invitation is extended to anyone from the communities. Beyond the ten (10) delegates funded by the NWMB, the HTO's and RWO would be responsible for funding any additional participants.

Other Relevant Issues

Drikus Gissing (GN-DOE) said that the Minister's decision regarding the Western Hudson Bay polar bear Total Allowable Harvest can now be made public. He further stated that the Minister does not consider the current decision as an "interim" decision meaning that the decision is final and will stay in place until a new NWMB decision is made. It could be 2-3 years or it could be in 6-months time. It's not an interim decision from our perspective, it's going to go into Regulations.

We have run into this problem in the past with interim decision. When there is no new information coming forward. This decision is not viewed by GN-DOE as an interim decision. It creates difficulty and misunderstanding when you use the word interim. To avoid that, this decision will stay in place until the Board makes another decision.



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NWMB Legal Advisor agreed with Drikus that this NWMB decision – duly accepted and implemented by the Minister - will remain the legal harvesting limit for Western Hudson Bay polar bears until such time as the next *Nunavut Agreement* Article 5 decision-making process for Western Hudson Bay polar bears is completed. He went on to suggest that – in order to avoid confusion - the term “*interim*” should, in future, only be used in connection with *Nunavut Agreement* S.5.3.24 “*Interim Decisions*”.

Ezra Greens wanted to know if participant funding will be distributed equally among HTO.

The NWMB Executive Director stated that the Kivalliq Wildlife Board will be responsible for the selection of participants and will decide how many participants will be invited from each community. He said NWMB’s rationale for the ten (10) delegates is that it would be two (2) participants from each of the communities that harvest from the Western Hudson Bay Polar Bear population.

Chris Jones asked why Chesterfield Inlet and Baker Lake are included in harvesting from the Western Hudson Bay Polar Bear subpopulation given that there are outside the Western Hudson Bay boundaries.

Drikus Gissing (GN-DOE) stated that the HTO should have an answer to his question and that the information could be forwarded to him.

Drikus Gissing (GN-DOE) also said that the RWO’s are the ones that decide which communities harvest from which subpopulation and that the GN-DOE tries to stay out of those decisions. On the allocation, he said the RWOs will decide how the TAH is allocated between communities, probably during their next Board meeting.

The NWMB Executive Director states the GN has accepted the NWMB decision of 34. As part of the implementation process, the Kivalliq Wildlife Board decides on the allocation of the regional total allowable harvest among those communities that harvest Western Hudson Bay polar bears. It could be an opportunity for KWB and the HTOs to discuss how the allocation can be distributed amongst the five communities.

Next Steps and Closing Remarks

The NWMB Executive Director mentions that the NWMB will send out a letter summarizing the information discussed.

Conference call ended at 3:25 pm.