

7, 2012

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 K1A 0E6

ГҮС ДИДЭД

[illegible]

1.  $\Delta L \ll r_{\text{L}} \ll r_{\text{D}}$   $\Lambda^{\text{e}} \mu \gg \omega_{\text{pe}}$

[illegible]

<sup>11</sup> ᐱᑦᓂᕈᕋᑦ ᐃᒪᑦ ᐅᑦᑲᑦ 5.2.34 (d)(i) ᐅᐅᐅ ᓄᓇᓂᕈᕋᑦ ᓄᓇᖁᐅᕐᓂᑦᐅᑦ  
ᐱᑦᓂᕈᕋᑦ (ᓄᓇᖁᐅᕐᓂᑦ), ᐅᐅᑦᑲᑦᐅᑦ ᐱᑦᓂᕈᕋᑦ ᐅᑦᑲᑦ Confederation  
ᐱᑦᓂᕈᕋᑦ ᐅᑦᑲᑦᐅᑦ ᐃᑦᓂᕈᕋᑦ ᐅᑦᑲᑦ ᐅᐅᐅ ᐅᑦᑲᑦᐅᑦ:

- [illegible]

[illegible][illegible]

[illegible][illegible][illegible]

3.1 የጠቅላይ ልማት ሚኒስቴር፡ 2006 እስከ 2010

[illegible]

3.2 ስብረት-ፅሁፍ 2011 በጥቅም ላይ የዋለው የጥያቄ ማረጋገጫ

2

[illegible]

3.3 ከፍተኛ-ወጪ ልማት-አጠቃላይ ልዩ ርዕዮ ስራ ለማሳካት ልማት-አጠቃላይ

[illegible]

3.4  $\Delta L \ll c \tau_{\text{rel}} \ll \Delta D \ll c \tau_{\text{rel}}^2$

[illegible]

- [illegible]

[illegible][illegible]
$$\Delta C^a \cdot \mathcal{C}^c \quad \mathcal{A}C \rightarrow \Gamma^b,$$

Ab. del. 8

 $\Delta b$   $d\mu^{\text{eq}}$ 

$\Delta^C \rho \leq \Delta^C \rho_{\text{max}}$

[illegible]

**Re: NWMB approval of the *Confederation Fiord Area Emerging Char Fishery Plan*, and related concerns with respect to the implementation of the allocation system under Article 5 of the *Nunavut Land Claims Agreement***

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*conditional upon achievement of significant progress by the NWMB and the NLCA parties in determining what harvests are included in basic needs levels.”*

## **2. Reasons for the Plan and Mesh-size Approvals**

With respect to the *Confederation Fiord Char Fishery Plan* (Plan) approval, the NWMB is satisfied that the Plan, following the precedent set in a number of earlier char fish plans approved by the Board, reflects a collaborative, voluntary and conservation-based approach to sustainable commercial char fishing - in this case, agreed to by the Nattivak Hunters and Trappers Organization and the Department of Fisheries and Oceans (DFO).

With respect to the approval of the minimum gillnet mesh-size of 5½ inches, the NWMB has repeatedly approved this particular non-quota limitation (NQL) for other commercial/exploratory char fisheries. In the interests of efficiency and consistency – and in compliance with the principles of conservation - the Board has decided to approve this mesh size for all commercial or exploratory sea-run char fisheries. This NQL does not apply to char fishing carried out pursuant to a Scientific Research Licence or fisheries licenced for scientific purposes under section 52 of the *Fisheries (General) Regulations*.

## **3. The Urgent Need to Settle what Harvests are included in Basic Needs Levels**

### **3.1 Background: 2006 to 2010**

With respect to future Board approvals of such plans, it is important to acknowledge that the practice of “*stand-alone*” approvals of char fishery plans - approvals containing no decisions with respect to total allowable harvests (TAHs), basic needs levels (BNLs) and surpluses - was intended to be a temporary measure only. The practice commenced in 2006, following successful co-management discussions among DFO, Nunavut Tunngavik Inc. (NTI) and the NWMB. The expectation was that this temporary measure would permit HTO commercial char fishing to proceed while the NWMB and the NLCA parties worked towards successfully implementing the NLCA Article 5 TAH-BNL-surplus allocation system.

In due course, on June 3<sup>rd</sup> 2009, the NWMB held its “*Public Hearing to Consider the Level of Total Allowable Harvest, the Basic Needs Level and the Surplus for the Char Fishery in Kingnait Fjord*”. The Board forwarded its resulting decisions to your predecessor in April 2010, and the Minister rejected the two primary decisions (TAH and BNL) in August of that year. The main point of disagreement was concerning the types of harvests that must be included in the calculation of the BNL – a disagreement rooted in differing interpretations of key provisions of NLCA Article 5.

### **3.2 September – October 2011 Correspondence between the Minister and the NWMB**

On September 2<sup>nd</sup> 2011, prior to completing its reconsiderations and final decisions, the NWMB wrote to you, recommending that it postpone making those final decisions in

order to provide a reasonable opportunity for DFO, NTI and the NWMB to attempt to reach a consensus on the way forward. As part of that recommendation, the Board proposed the following workplan/schedule:

1. *The NWMB, DFO, NTI and the Government of Nunavut meet in October [2011] to discuss the use of management tools - other than licences or permits - to address the practicalities of regulating BNL harvests, and of monitoring, reporting and certifying as sustainable those harvests to be sold to fish plants for export;*<sup>1</sup>
2. *The parties continue to meet as necessary during the fall and winter of 2011-2012, with a view to reaching consensus on harvests to be included in the BNL, and on reasonable management measures to regulate, and to monitor, report and certify as necessary, such harvests; and*
3. *If the parties are not able to show significant progress towards consensus within the next six months [by March 2012], they make best efforts to agree upon one of the following three alternatives:*
  - (a) *DFO and NTI agree to arbitration of the issue under NLCA Article 38;*<sup>2</sup>
  - (b) *The parties agree upon the statement of a case for the opinion of the Court; or*
  - (c) *The NWMB proceeds to make its final TAH and BNL decisions for Kingnait Fjord char.*

On October 24<sup>th</sup> 2011, you replied positively to the Board's proposal to work towards consensus prior to finalizing its decision. However, rather than endorsing the workplan/schedule proposed by the NWMB, you encouraged the Board to work with DFO and others towards the establishment of a senior level committee "...to address the fundamental issues relating to the Kingnait Fjord char fishery as well as other Nunavut fisheries related issues..."

### **3.3 The Canada – Nunavut Fisheries and Marine Mammal Cooperation Committee**

In the seven months since, the "Canada – Nunavut Fisheries and Marine Mammal Cooperation Committee" (Committee) has developed draft Terms of Reference and acknowledged that the identification of harvests included in a BNL is a top priority issue. However, the Committee has held no meetings or substantive discussions to move the matter forward. Meanwhile, the implementation of the NLCA Article 5 TAH-BNL-surplus allocation system remains at a standstill – three years after the Kingnait Fjord hearing was held, and a full six years after the co-management partners commenced the temporary practice of "stand-alone" approvals of char fishery plans.

<sup>1</sup> The NWMB recommends that the parties closely examine the potential for a "certificate" or "tag" system that meets reasonable management, traceability and certification requirements and the directions in NLCA Section 5.7.26. An additional measure could be the development of an agreement for procedures taken to satisfy fish purchasers outside of Nunavut.

<sup>2</sup> The issue of what harvests must be included in the calculation of a BNL constitutes a "... matter concerning the interpretation, application or implementation of the Agreement (NLCA S.38.2.1)" which would fall within the jurisdiction of an arbitration panel, "where the DIO and Government agree to be bound by the decision".

### 3.4 NWMB Recommendations

Mr. Minister, by any reasonable standard, the co-management partners are collectively treating this fundamentally important NLCA fisheries and wildlife management issue too casually, and have consequently made no significant progress to date. As a result, it is not an exaggeration to conclude that the fishery management system in Nunavut is approaching a crisis point. Accordingly, the NWMB repeats – for your consideration – its September 2011 recommendations, duly updated:

1. The Committee is scheduled to meet in Iqaluit on July 11<sup>th</sup> and 12<sup>th</sup> 2012. The NWMB recommends that the agenda be devoted to a discussion of the use of management tools - other than licences or permits - to address the practicalities of regulating BNL harvests, and of monitoring, reporting and certifying as sustainable those harvests to be sold to fish plants for export.
2. The parties continue to meet as necessary during the remainder of 2012, with a view to reaching consensus on harvests to be included in the BNL, and on reasonable management measures to regulate, and to monitor, report and certify as necessary, such harvests.
3. If the parties are not able to show significant progress towards consensus by the end of 2012, they make best efforts to agree upon one of the following three alternatives:
  - (d) DFO and NTI agree to arbitration of the issue under NLCA Article 38;
  - (e) The parties agree upon the statement of a case for the opinion of the Court; or
  - (f) The NWMB proceeds to make its final TAH and BNL decisions for Kingnait Fjord char.

For the reasons set out in Part 3 above – and as reflected in its March 14<sup>th</sup> 2012 resolution – henceforth, the NWMB will only consider “*stand-alone*” approvals of char fishery plans if significant progress has been achieved by the NWMB and the NLCA parties in determining what harvests are included in the calculation of BNLs.

If you or your officials require further information, or have any questions or concerns regarding this letter, please do not hesitate to contact the NWMB.

Yours sincerely,



Peter Kusugak  
Acting Chairperson of the  
Nunavut Wildlife Management Board

c.c. David G. Burden, A/Regional Director General, Department of Fisheries and Oceans, and  
Keith Pelley, A/Director, Eastern Arctic Area, Department of Fisheries and Oceans





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JUL 12 2012

Mr. Peter Kusugak  
Acting Chairperson  
Nunavut Wildlife Management Board  
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Dear Mr. Kusugak:

Thank you for your correspondence of June 7, 2012, addressed to the Honourable Keith Ashfield, Minister of Fisheries and Oceans, regarding the Nunavut Wildlife Management Board's (NWMB's) approval of the Confederation Fiord Emerging Char Fishery Plan. I have been asked to respond on the Minister's behalf.

I am pleased to inform you that the NWMB's decision to approve the Confederation Fiord Emerging Char Fishery Plan, as per Section 5.2.34 (d) (i) of the *Nunavut Land Claims Agreement* and conditions a) through d) as identified in your letter, is accepted.

With respect to the concerns related to the Basic Needs Level (BNL) that you have identified in your letter, Fisheries and Oceans Canada (DFO) acknowledges the importance of working towards implementation of a Total Allowable Harvest and BNL regime for Arctic char. DFO is also aware that all of the Nunavut parties under the Canada-Nunavut Fisheries and Marine Mammal Cooperative Committee have identified this issue as a priority. As you have noted, the Committee's second meeting is planned for mid-July 2012. It is anticipated that the senior level members of the Committee will discuss the list of priority fisheries issues and, as needed, task specific working groups to address those priority issues.

The Department looks forward to continued collaboration with the NWMB, as well as Nunavut Tunngavik Incorporated and the Government of Nunavut, on Arctic char co-management issues.

Sincerely,

*For*

David Burden  
A/Regional Director General  
Central and Arctic Region  
Fisheries and Oceans Canada