

04/25/2006 09:38 8678572243
Apr-24-2006 13:37 From-NPC CAMBRIDGE BAY

Page: 3/11

Date: 26/04/2006 11:51:24 AM
KIVALLIQ INUIT ASSOC

1 PAGE 02284

18678892792

T-401 P.004/028 F-388



RECEIVED APR 26 2006

April 20, 2006

Joe Tigullaraq, Chairperson
Nunavut Wildlife Management Board
Iqaluit, Nunavut X0A 0H0

Dear Joe,

Re: NWMB Special Meeting No. 12 to consider harvesting limitations in the Government of Nunavut's proposed Wildlife Regulations and Orders

The Nunavut Planning Commission (NPC) has seen the public notice of the NWMB Special Meeting scheduled for May 8-10, 2006, published in newspapers on March 31.

The notice states that only harvesting limitations and restrictions will be decided on at the scheduled meeting. While the NPC has several outstanding concerns with some of the draft regulations and orders being considered, the NPC's concerns do not relate to harvest limitations.

In case the NWMB should at any time in future consider making related decisions within its authority, I would like to bring to your Board's attention the attached submission dated November 4, 2005, which the NPC made to the Government of Nunavut during the government's public consultation on these draft orders and regulations. Several of the NPC's concerns relate to matters of habitat or wildlife protection that the NWMB may consider to fall within its jurisdiction.

The Government has not replied to the NPC's submission to date. The minor editing revisions that have been made to the draft regulations and orders on related points since the public consultation do not address the NPC's concerns.

Thank you for considering the NPC's views at the appropriate time. If you have any questions about the NPC's submission, please contact Adrian Boyd, Senior Policy Advisor, at 867-873-2613.

I would like to wish you and your Board the very best in continuing to carry out your important work in Nunavut for the benefit of all Nunavummiut.

Sincerely,


Peter Kriteqiliuk
Interim Chairperson

CC: Simon Awa, Deputy Minister, Department of Environment,
Government of Nunavut

Joe Kunuk, Executive Director, Nunavut Tunngavik Incorporated

November 4, 2005

The Hon. Olayuk Akesuk
Minister of Environment
Government of Nunavut
P.O. Box 1200
Iqaluit, Nu
XOA OHQ

By Facsimile

Dear Minister,

Re: Public Consultation on Draft Regulations pursuant to the new *Wildlife Act*

Thank you for this opportunity to comment on the draft territorial regulations and orders that will implement the wildlife provisions of the *Nunavut Land Claims Agreement* (NLCA, or Agreement).

As you know, the Nunavut Planning Commission is responsible under the NLCA to develop land use plans that guide and direct resource use and development in the Nunavut Settlement Area. Unfortunately, the Government of Nunavut withdrew from the land use planning process in January of this year. As the NLCA states (section 11.2.1(g)), "an effective land use planning process requires the active participation of both Government and Inuit". The Government's action has halted much of the work of the Commission, and these delays are depriving Nunavummiut of the benefit of important planning projects. In a spirit of cooperation, however, the Commission would like to assist your department in its work on these regulations. To this end the Commission submits comments on three draft regulations and orders that have land use planning implications.

1. Conservation Areas Management Order (Draft #07)

References to "conservation area"

"Conservation Area" is a term that is defined in Article 9 of the NLCA. As used in the Agreement, the term includes particular types of area established under either federal or territorial legislation. The Commission recommends that the term "conservation area" used in this order be defined, and in particular, that this order state whether or not its provisions are intended to apply to federally established areas.

Some further comments relating to the use of the term "conservation area" are also made below.

Caribou Protection Measures – sections 3 and 4

The Commission congratulates the Government of Nunavut on taking positive action to extend caribou protection measures to calving areas across Nunavut (subsection 3(1)). By approving the Commission's *North Baffin Regional Land Use Plan* and *Keewatin Regional Land Use Plan* along with the federal government in 2000, the Government ensured that all federal and territorial departments and agencies having authority are required to implement the caribou protection measures contained in those plans in the Keewatin and North Baffin planning regions. The main implementation tool that such authorities possess is licensing requirements. The Government's initiative to enact complementary punishable offences that will also apply in the other regions of Nunavut, as far as this is possible under territorial wildlife legislation, is welcome. In view of the accelerated development activity that is occurring in most of the calving grounds and other sensitive caribou areas in Nunavut, safeguards are needed.

With respect to the design of the proposed measures, the Commission recommends that the Government carefully consider the analysis at pages 88-90 of the draft *West Kitikmeot Regional Land Use Plan* before finalizing these measures. The report by the Beverly and Qamanirjuaq Caribou Management Board entitled *Protecting Calving Grounds, Post-Calving Areas and Other Important Habitats for Beverly and Qamanirjuaq Caribou: A Position Paper* (September 2004) is also instructive. As you know, the boundaries of caribou calving areas in Nunavut tend to fluctuate and can move significantly over a period of years. Experience with the DIAND land use permit measures that have been in use in the Kivalliq region since the early 1980's has shown that a map-based design is difficult to maintain where the research necessary to keep maps current is not being carried out.

The Commission notes that caribou calving areas cannot be Conservation Areas within the meaning of the *NLCA* unless they are "established" under legislation. Inclusion of measures for caribou calving areas in an order entitled "Conservation Areas Management" could confuse land users and enforcement officers. Perhaps the caribou protection measures could be made the subject of a separate order, a more specific title could be found, or, if these areas are intended to be "established" as Conservation Areas within the meaning of Article 9 of the *NLCA*, this could be stated.

Polar Bear Protection Measures – section 2

On this issue also, the Commission congratulates the Government for taking action to extend wildlife protection measures that are required by Nunavut's two approved land use plans beyond the borders of the Keewatin and North Baffin planning regions.

Recognizing that this order targets denning activity rather than the denning areas targeted by the two approved land use plans, the Commission notes that both types of measure,

properly implemented and enforced, will help Canada to meet its obligations to protect polar bear denning habitat under Article II of the *International Agreement on the Conservation of Polar Bears and their Habitat*.

The polar bear denning protection measures approved in the Keewatin and North Baffin land use plans apply wherever there are denning areas. Similarly, this order applies caribou calving protection measures wherever the designated maps confirm that caribou calve. The Commission recommends that the Government consider removing the restriction on polar bear protection in section 2 of this order to "conservation areas".

2. Conservation Areas Regulations (Draft #07)

As in the case of the Conservation Areas Management Order above, the Commission notes that caribou calving areas that may not be intended to be established as Conservation Areas within the meaning of the *NLCA* are included in this regulation. A separate regulation, more specific title, or clearer statement of intent is suggested.

3. Licences and Tags Regulations (Draft #15a)

The Commission welcomes this regulation in so far as section 7 recognizes that some types of licence will be subject to the requirements of Article 11 of the *NLCA* where an approved land use plan is in place.

In the Commission's strongly held view, however, it would be a mistake for the Government to retain section 7 in its current form. In this form, section 7 also takes the further step of attempting to *incorporate* the related requirements of Article 11. The Commission was not consulted on the draft text of section 7. As you may be aware, federal legislation that will implement Article 11 of the *Agreement* on a uniform basis, both territorially and federally, is under preparation by a working group in which both the Commission and the Government of Nunavut participate. The federal working group has been active for three years. That working group is the appropriate forum in which to discuss and resolve questions of interpretation concerning the language of Article 11 for the purpose of implementing Article 11 in legislation.

The problem with the well-meaning effort reflected in the current section 7 is that individual legislative measures that try to incorporate the *NLCA*'s specific requirements before dedicated implementation legislation is ready run a high risk of introducing inconsistent implementation measures into the law. The Commission has already noted several inconsistencies between section 7 of this draft regulation and the common understanding of the federal Working Group in a March 2005 brief to the federal Working Group. To give one example, the current section 7 requires licences to incorporate any terms and conditions of a NIRB project certificate, but does not require licences to incorporate any of the requirements of approved land use plans. The federal Working Group, by comparison, agrees that the conformity requirements of land use plans must also be incorporated in licences. Several other significant inconsistencies are noted in the Commission's brief.

In sum, the Commission strongly recommends that section 7 be revised so as to flag or notify licencees and licensing bodies that the applicable requirements of Article 11 of the NLCA must also be met before a licence is issued. The Commission strongly recommends against any more substantive provision in this regulation so far as land use planning is concerned.

Thank you again for this opportunity. If your officials have any questions about these comments, please contact the Commission's Acting Executive Director, Adrian Boyd, at 1 867-873-2613.

Once again, the Commission sincerely hopes that the Government of Nunavut will reconsider its decision to withdraw from the land use planning process. The Commission looks forward to working again in partnership with the Government on all land use planning issues that affect the well-being of Nunavummiut.

Sincerely,

Bob Lyall
Chairperson
Nunavut Planning Commission