



Nunavut Wildlife Management Board

ΛΔΓΔΓσ<sup>5b</sup> >ΔLΔ<sup>5b</sup> Δ<sup>5b</sup>ΔΓΓΔJ ΔΓΓΓΔΓσ<sup>5b</sup>ΓΓ ΔσΔ<sup>c</sup> Γ<sup>5b</sup>ΔΓLσ<sup>5b</sup>Γ<sup>c</sup> ΔLΔ Γ<sup>5b</sup>ΔΓΓ<sup>c</sup>ΓLΓ<sup>c</sup> Γ<sup>5b</sup>ΔΓLσ<sup>5b</sup>Γ<sup>c</sup>  
Tammaqtainahuarniit anngutighat atuqhugit Inuit qaujimajatuqangillu ilihmaniillu ilitquhiannin  
Conserving wildlife through the application of Inuit Qaujimajatuqangit and scientific knowledge

January 16, 2006

The Hon. Stéphane Dion  
Minister of the Environment  
Les Terrasses de la Chaudière  
10 Wellington Street, 28<sup>th</sup> Floor  
Hull, Québec  
K1A 0H3

~~RECEIVED~~  
JAN 16 2006

**Re: The final decisions of the Nunavut Wildlife Management Board regarding the proposed legal listing of Peary Caribou, Dolphin and Union Caribou and Porsild's Bryum under the *Species at Risk Act***

Dear Mr. Dion:

Thank you for your letter of September 9<sup>th</sup> 2005, responding to three letters from the Nunavut Wildlife Management Board (NWMB or Board), sent to you on July 12<sup>th</sup> 2005. The NWMB's July letters set out the Board's decisions and accompanying reasons concerning proposed listings under the *Species at Risk Act* (SARA) of Peary Caribou, Dolphin and Union Caribou and Porsild's Bryum. The NWMB's initial decisions were the following:

- Queen Elizabeth Islands population of Peary Caribou: a listing of special concern;
- Prince of Wales and Somerset Islands population of Peary Caribou: a listing of endangered;
- Boothia Peninsula population of Peary Caribou: no listing at this time; however, refer the matter back to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) – on an expedited basis – for further information and consideration;
- Dolphin and Union Caribou: not at risk; and
- Porsild's Bryum: a listing of special concern.

Your September response indicated that you rejected the NWMB's decisions, and provided 19 reasons supporting your position. Based upon those reasons,

you have asked the Board to support the listings under SARA of all populations of Peary Caribou as endangered, Dolphin and Union Caribou as special concern, and Porsild's Bryum as threatened.

Pursuant to Section 5.3.21 of the *Nunavut Land Claims Agreement* (NLCA), the Board is required to reconsider its initial decisions in light of the written reasons that you have provided, to make final decisions, and to forward them to you. The NWMB may make those final decisions public.

Mr. Minister, before providing you with both the Board's carefully considered responses to your written reasons and the Board's final decisions, I wish to underline that the NWMB regards its role in the listing of species under SARA as among the most important responsibilities resting on the shoulders of its members. Nunavummiut place a tremendously high value on the maintenance of vital, healthy wildlife populations, and on the restoration and revitalization of depleted populations of wildlife and wildlife habitat. As the main instrument of wildlife management in the Nunavut Settlement Area (NSA), the Board is committed to ensuring that it makes fully informed and responsible decisions regarding the risk status of wildlife populations in the NSA.

### **The Minister's reasons and the NWMB's responses**

The Minister's reasons for all three species:

#### **1. The NWMB provided little new evidence for consideration.**

The NWMB agrees with this statement. Almost all of the evidence referred to by the NWMB in its July decision letters was taken directly from the COSEWIC Status Reports.

#### **2. The best biological information remains the Status Reports which formed the basis for the COSEWIC assessments.**

The NWMB agrees with this statement. The vast majority of the evidence and information relied upon by the Board in its initial decisions comes from the COSEWIC Status Reports. At the same time, it is important to acknowledge that none of the Status Reports had the benefit of input from COSEWIC's Aboriginal Traditional Knowledge (ATK) Subcommittee, as contemplated by SARA. That Subcommittee is still not functional, and currently has only two members.



The Minister's specific reasons for Peary Caribou:

**3. COSEWIC's guidelines do not support a split of this caribou subspecies into distinct populations, because there are no other grounds for a split besides genetic differences.**

The NWMB disagrees with this reason, on four grounds:

- (i) The Status Report itself states that, "*Peary caribou occur as at least 4 geographically and genetically distinct populations...*" Accordingly, the Status Report provides 2 grounds for a split into distinct populations: geographically distinct populations and genetically distinct populations (Status Report, p. 9).
  - (ii) COSEWIC's guidelines are clear: Except in the case where a single, uniform status rank is appropriate to accurately portray the probability of extinction of a species, designatable units are to be recognized on the basis of any of COSEWIC's four biologically-based criteria (Green, D.M. 2005. Designatable Units for Status Assessment of Endangered Species. Conservation Biology 19, p.1820.)
  - (iii) SARA permits geographically or genetically distinct populations of a species to be treated independently from other populations (SARA s. 2(1)).
  - (iv) The NLCA limits the NWMB to approving the designation of species at risk within the NSA only. In doing so, it is appropriate for the NWMB to also take account of the risk status of a species outside the NSA. However, where geographically and/or genetically distinct populations occur in the NSA, the Board's responsibility is to make approval decisions with respect to those populations, while taking into proper account the risk status of the species outside the NSA. The Minister's responsibility is to review those decisions pursuant to the terms of the NLCA, while also taking into account the risk status of the species outside the NSA. In addition, COSEWIC must take into account any applicable provisions of the NLCA when carrying out its functions (SARA s.15(3)).
- 4. The Status Report writer contacted the NWMB and other relevant authorities, COSEWIC provided the draft report to the NWMB for review, and all relevant information received – including traditional and community knowledge – was incorporated into the report.**

The NWMB agrees with this statement. However, it is relevant to again point out that the Status Report did not have the benefit of input from COSEWIC's ATK Subcommittee, as contemplated by SARA.

**5. The best available information indicates that this species meets the assessment criteria for an endangered designation.**

Based upon evidence from the Status Report, the NWMB disagrees with this statement with respect to two populations – Queen Elizabeth Islands and Boothia Peninsula (Status Report, p. 37, 38, 45, 51, 58, 63, 64, 84).

**6. The principle cause of their population decline has been severe winters. Because of climate change, weather extremes in the north can be expected to occur more often, making it increasingly likely that icing events will be more frequent in the future.**

The NWMB agrees with the above statements, subject to the following caveats:

- (i) With respect to the eastern Queen Elizabeth Islands population:
  - The best available Aboriginal traditional knowledge and community knowledge within the Status Report is that the population has increased (Status Report, p. 63); and
  - The best available scientific knowledge within the Status Report is that “*virtually nothing is known of population changes or their contributing factors.*” (Status Report, p. 64)
- (ii) With respect to the Boothia Peninsula population:
  - Population estimates are recognized by the Status Report as unsatisfactory (Status Report, p. 45); nevertheless, it appears relatively clear that - despite possible decreases between 1985 and 1995 - the population increased at least 10% between 1980 and 1995 (Status Report, p. 63); and
  - COSEWIC failed to meet its obligations under SARA s.15(2) to make its assessment on the basis of the best available community and Aboriginal traditional knowledge, as well as scientific knowledge.

**7. The Government of the Northwest Territories (GNWT) unequivocally supports the listing, other organizations and Canadians support the listing, and neither the Government of Nunavut (GN) nor the Wildlife Management Advisory Council of the NWT (WMAC) opposes the listing.**



The NWMB agrees with this statement, except that it is incomplete. WMAC recommends that the listing be postponed. The only two Nunavut communities that were consulted oppose the listing. The communities of Taloyoak, Gjoa Haven and Kugaaruk were not consulted at all<sup>1</sup> – despite the fact that the Government of Canada has confirmed that public consultations are an essential part of the SARA listing process (Regulatory Impact Statement, Canada Gazette Part 1, Vol. 139, No. 20, p. 1719 and 1733).

The Minister's specific reasons for Dolphin and Union Caribou:

**8. The population had declined precipitously and approached extinction in a very short time period.**

The NWMB agrees with this statement, although the precipitous decline took place over half a century ago, and the population increased by 712% between 1980 and 1997 (Status Report, p. 41, 63).

**9. The population has not yet recovered to a size closer to its historic numbers.**

The NWMB disagrees with this statement. Although the population has not nearly recovered to the size it was in 1920, it has been growing steadily for decades, and at an astonishing rate (approximately 13% per year) over the 17 years between 1980 and 1997 (three caribou generations) (Status Report, p. 41, 63).

**10. The population is subject to a rate of harvest that may not be sustainable.**

While the NWMB agrees that it is theoretically possible that the rate of harvest may not be sustainable, the best available evidence clearly points to the opposite conclusion. Hunting has steadily continued throughout the modern period of spectacular population increases (Status Report, p. 68).

**11. It is unclear how the population is faring currently and what percentage of it is being harvested.**

The NWMB disagrees that it is unclear how the population is faring currently. The best available information from the Status Report is that the population increased from 3,424 individuals to 27,786 individuals between 1980 and 1997, with harvests continuing throughout that period (Status

---

<sup>1</sup> It appears likely that the communities of Baker Lake and Cambridge Bay also occasionally harvest Peary Caribou. Neither of these communities were consulted.

Report, p. 41, 63, 68). In addition, a new aerial survey of the population is planned in 2006.

**12. Increased ship traffic, though not yet a problem, and climate change are likely to adversely affect the population in the future.**

The NWMB agrees that Dolphin and Union Caribou face these potential future threats. To date, neither ship traffic nor climate change have had any discernible effect on the population. Nevertheless, it is reasonable to expect that ship traffic will increase in the future and that climate change will become more severe. The NWMB is not convinced that a healthy, rapidly-growing caribou population should be listed under SARA at this time on the basis of potential future threats.

**13. The GNWT unequivocally supports the listing, other organizations and Canadians support the listing, and WMAC does not oppose the listing.**

The NWMB agrees with this statement, except that it is incomplete. WMAC recommends that the listing be postponed. Of the three Nunavut Hunters and Trappers Organizations (HTOs) consulted by Environment Canada, only one (Kugluktuk) has indicated that it supports the listing. In addition, both the GN and the Regional Wildlife Organization representing all of the HTOs in the Kitikmeot Region of Nunavut (the Kitikmeot Hunters and Trappers Association) oppose the listing.

**14. A listing of special concern is meant only to flag species that need to be managed wisely – in this case, to ensure that the population continues to recover.**

The NWMB agrees with this statement. However, in the case of Dolphin and Union Caribou, reliable statistics demonstrate tremendous population increases over a sustained period of time (three caribou generations) and no serious current threats.

The Minister's specific reasons for Porsild's Bryum:

**15. The population in the Nunavut Settlement Area (NSA) was not recognized by COSEWIC as a designatable unit because COSEWIC deemed a single (national) status designation was sufficient to accurately portray conservation concerns with the species as a whole.**



The NWMB disagrees that a single national status designation is sufficient to accurately portray conservation concerns with this species as a whole:

- (i) The Status Report includes no discussion of the moss within Nunavut, nor any discussion of threats to it in the Territory. Meanwhile, several new sites, mini-sites and colonies were recently located by Parks Canada researchers within a four-day period. (Project on documentation and inventory of Porsild's bryum (*Bryum porsildii*) at Tanquary Fiord area, Quttinirpaaq National Park, Summary Report 2004.)
- (ii) "*Range disjunction*" is a criterion followed by COSEWIC in recognizing a designatable unit below the species level. The Nunavut population of Porsild's *Bryum* clearly meets this criterion, since the closest known other locations are found in British Columbia and Greenland. (Green, D.M. 2005. Designatable Units for Status Assessment of Endangered Species. *Conservation Biology* 19, p.1820.)
- (iii) SARA permits geographically or genetically distinct populations of a species to be treated independently from other populations (SARA s. 2(1)).
- (iv) The NLCA limits the NWMB to approving the designation of species at risk within the NSA only. In doing so, it is appropriate for the NWMB to also take account of the risk status of a species outside the NSA. However, where geographically and/or genetically distinct populations occur in the NSA, the Board's responsibility is to make approval decisions with respect to those populations, while taking into proper account the risk status of the species outside the NSA. The Minister's responsibility is to review those decisions pursuant to the terms of the NLCA, while also taking into account the risk status of the species outside the NSA. In addition, COSEWIC must take into account any applicable provisions of the NLCA when carrying out its functions (SARA s.15(3)).

**16. Although there is some uncertainty regarding the northern Canadian populations of the moss, the identification of key information gaps would be an important element of the recovery actions for the species.**

The NWMB agrees that the identification of key information gaps would be an important element of the recovery actions for the species. However, until

recently, no effort was made to survey the species in northern Canada, except for a single sighting on Ellesmere Island 41 years ago (Status Report, p. 20). In August of 2004, after the Status Report was completed, Parks Canada carried out a documentation and inventory of Porsild's Bryum in the Tanquary Fiord area of Quttinirpaaq National Park. Besides finding the original 1941 site, in a four-day period researchers located the moss at two additional sites, including 3 separate mini-sites - with 2 of those mini-sites containing several colonies each of Porsild's Bryum.<sup>2</sup>

Rather than speculatively list the Nunavut population as threatened and require the development of a recovery plan that would identify key information gaps, the NWMB recommends that the Canadian Wildlife Service carry out a more extensive survey of the moss in Nunavut, in order to help more accurately, quickly and economically determine its status in the Territory.

**17. The best available information indicates that this species meets the assessment criteria for an endangered designation (10 small, severely fragmented populations with few individuals, occupying a small total area, with some populations having recently declined significantly).**

The NWMB disagrees with this statement insofar as it purports to apply to Nunavut. The Status Report contains practically no information on this species in Nunavut. More recently, researchers looked for Porsild's Bryum in one small location in the Territory. Several sites, mini-sites and colonies were located within a four-day period. While more extensive surveying needs to be carried out to draw any firm conclusions, there is no basis upon which to conclude at this point in time that Porsild's Bryum is an endangered or threatened species within Nunavut.

**18. Because the moss is not at imminent risk of extirpation, a less serious status of "threatened" is warranted (very small total population, restricted distribution, continuing decline in area of occupancy, quality of habitat, number of mature individuals, and meets the criterion for an endangered designation for its decline in total population size).**

The NWMB disagrees with this statement insofar as it purports to apply to Nunavut. There is no evidence that the moss is threatened in the NSA. What

---

<sup>2</sup> Of anecdotal significance is a November 2005 meeting of representatives of the NWMB and HTOs from across Nunavut. At that meeting, power point slides of Porsild's Bryum were displayed, and HTO representatives from different communities indicated that they recognized the moss.



little evidence there is for the Nunavut population indicates that there are a number of population sites in the Tanquary Fiord area of Quttinirpaaq National Park. No other area has been surveyed. More extensive surveying needs to be carried out.

**19. The Government of Newfoundland and Labrador supports the listing, other organizations and Canadians support the listing, the Grise Fiord Hunters and Trappers Organization concurs with the listing, and the Governments of Nunavut, Alberta and British Columbia do not oppose the listing.**

The NWMB agrees with this statement, except that it is incomplete. The GN's position is that, *"The current listing seems to derive from a single plant inventory in a National Park. It may be that the listing has more to do with the lack of survey information than any actual conservation issue."* (February 2005 letter from the Deputy Minister of the Nunavut Department of Environment to the Deputy Minister of Environment Canada)

**The NWMB's final decisions**

At NWMB Meeting No. 44 and NWMB Conference Call No. 93, both held in December of 2005, the Board carefully considered the 19 reasons that you provided for rejecting its initial July 2005 decisions. A summary of the NWMB's consideration is set out above. Following that consideration, on December 22<sup>nd</sup> 2005, the Board decided to confirm its initial decisions for the species under consideration:

- Queen Elizabeth Islands population of Peary Caribou: a listing of special concern;
- Prince of Wales and Somerset Islands population of Peary Caribou: a listing of endangered;
- Boothia Peninsula population of Peary Caribou: no listing at this time; however, the NWMB recommends that the matter be referred back to COSEWIC – on an expedited basis – for further information and consideration;
- Dolphin and Union Caribou: not at risk; and
- Porsild's Bryum: a listing of special concern.

Mr. Dion, the NWMB takes no pleasure in its disagreement to date with you over the risk status of these species in the NSA. The Board has attempted in this letter to carefully set out, for your consideration, the relevant evidence and analysis leading to its conclusions. Pursuant to NLCA S.5.3.22, it is now up to you to conscientiously examine the Board's final decisions and rationales, and to accept, reject or vary those decisions in accordance with the terms of the

NLCA. In the course of your examination, should you have any questions or concerns with respect to the Board's decisions or rationales, please do not hesitate to contact the NWMB.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Joe Tigullaraq', is written over the printed name.

Joe Tigullaraq, Chairperson of the  
Nunavut Wildlife Management Board