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December 18, 2006

RECEIVED JAN 09 2007

Joe Tigullaraq
 Chairperson
 Nunavut Wildlife Management Board
 Iqaluit, Nunavut
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Dear Joe,

Re: Outstanding Issues for Special Meeting Twelve

I am writing in response to the NWMB's November 20 invitation for supplementary written submissions on a number of issues.

1. Repealed Wildlife Regulations

NTI's further submission is provided in NTI's letter to the NWMB dated December 14.

2. Revised Muskox TAHs and NQLs

NTI looks forward to receipt of the GN submissions by December 18. NTI intends to provide a written submission in response by January 29, 2007.

3. Pre-NLCA NQLs that the GN proposes to continue without modification

For clarity, further to the submissions and discussions that preceded the Board's motion to deal with these issues in a further session of Special Meeting Twelve, NTI understands that the Board will not be forwarding initial decisions to the Minister based on Sessions 1 or 2 until it has completed its initial decisions respecting the remaining Meeting agenda items. If this is not correct, please inform NTI immediately.

NTI's counsel remains available for further discussions as to whether the draft Regulations proposed by the GN would "modify" pre-NLCA NQLs within the meaning of section 5.6.51 of the NLCA, respecting the four remaining items noted by the Board.

With respect to NQLs that the draft Regulations would continue without modification, NTI has obtained a legal opinion in order to assist in resolving the issue of the legal effect of s. 5.6.51 and related provisions of the NLCA. The opinion, attached, is that of Professor Ruth Sullivan, Canada's leading scholar on legislative

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interpretation. As counsel for the Board and GN will be aware, Professor Sullivan is the author of *Sullivan and Driedger on the Construction of Statutes, 4th ed.* (Butterworths Canada, 2002), *Statutory Interpretation* (Concord: Irwin Law, 1997), and many influential articles and opinions.

Professor Sullivan advises that, under the relevant provisions of the NLCA i) the Board has a duty to review pre-NLCA NQLs and to decide whether to modify or remove them, ii) the Board’s decision must be made in accordance with section 5.3.3, and iii) in this case, the Government having sought the Board’s approval of the proposed regulations containing these NQLs and the Board having undertaken to review them, the resulting decisions must satisfy 5.3.3.

NTI’s submits that the Board should accept Professor Sullivan’s advice. It follows that these limitations should be dealt with according to the same procedure that governs the other limitations proposed in the draft Regulations, as originally supported by the GN. Under this procedure, the GN as proponent identifies the limitation proposed, presents the justification that the GN is advancing under 5.3.3, including evidence and rationale, and affected parties are provided a reasonable opportunity to respond by way of written submissions and oral questions and comments at the hearing where the limitation is being considered. The Board then makes its decision – in these cases whether or not to remove or modify the pre-NLCA limitation – in accordance with the constraints of section 5.3.3.

Although NTI would not object if the GN sought to provide further written submissions relating to these limitations, the GN has already submitted written justifications in this connection, and NTI has responded. If the GN does not submit further materials, no further time need be added to the Board’s schedule in order to deal with these items at Session 3.

4. Limitations not previously recognized as NOLS by the GN

NTI’s further submission is provided in NTI’s letter to the NWMB dated December 14.

5. NQL decisions postponed by the NWMB

NTI’s further submission is provided in NTI’s letter to the NWMB dated December 14.

For clarity, based on the NWMB’s November 20 letter, NTI understands that the Board is only considering revisiting the “passive weapons” limitation in Special Meeting Twelve in so far as it is “non-contentious”; that is, only in so far as this limitation is proposed to apply to non- Inuit. If this is not the case, please inform NTI immediately.



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6. NWMB determinations

With response to the Board’s concern regarding scheduling, NTI notes that Special Meeting Twelve apparently would have concluded in October if the Government had not announced at that time that it no longer accepted the role it had been playing previously concerning pre-NLCA limitations. There also remains a fundamental difference of opinion between NTI and the Board and Government regarding the meaning of section 5.3.3(b) of the NLCA, which will have to be resolved. Nonetheless, I would like to emphasize that in NTI’s view the time and resources that the NWMB has invested in this Meeting represent the Board’s appropriate commitment to a momentous task.

As always, NTI appreciates the great effort that NWMB members and staff are devoting to this process.

Sincerely,

Joe Adla Kunuk,
 Chief Executive Officer,
 Nunavut Tunngavik Incorporated

Enc.

CC Simon Awa, Deputy Minister of Environment, Government of Nunavut
 Regional Wildlife Organizations

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