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Pond Inlet
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Resolute Bay
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Arviat
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Baker Lake
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Chesterfield Inlet
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Coral Harbour
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Rankin Inlet
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Repulse Bay
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Whale Cove

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Kitikmeot

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Cambridge Bay
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Taloyoak

January 29, 2007

RECEIVED FEB 12 2007

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

Dear Joe:

Re: Third Session, Special Meeting Twelve

This letter and enclosures provide NTI's responses to the GN's December 20, 2006 submissions that were invited by the Board in its November 20, 2006 letter. In concluding, I will address two other outstanding issues.

1. Repealed Wildlife Regulations

NTI's reply to the GN's further submissions respecting this issue is enclosed.

2. Revised Muskox TAHs and NQLs

NTI is requesting further time to prepare its response on this issue. See my letter dated January 24.

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

Further to her legal opinion, filed, Professor Sullivan has prepared a reply to the GN's comments on this issue, enclosed. NTI requests that the Board consider Professor Sullivan's reply before deciding how to proceed respecting these limitations.

Should the GN submit any new arguments on this issue, NTI reserves the opportunity to respond.

NTI's counsel remains available to complete the discussions between counsel to identify which limitations fall into this category.

4. Limitations not previously recognized as NQLs by the GN

NTI does not have any written response to file respecting the justifications provided by the GN with its December 20 letter.

5. NQL decisions postponed by the NWMB

NTI does not have any submission to add to those made in NTI's December 14 and December 18 letters.

6. Other outstanding issues

a) Polar bear NQLs

Further to NTI's December 18 letter, NTI understands that the NWMB is awaiting the conclusion of Special Meeting Twelve before forwarding initial decisions arising from the Meeting to the Minister pursuant to s. 5.3.8.

In NTI's submission, the process that the NWMB has followed respecting the three polar bear NQLs that NTI is challenging requires that the NWMB make a "decision" whether or not to remove these prohibitions within the meaning of s. 5.3.8 of the NLCA and the ensuing provisions that enable the Minister to review the Board's determination. It was certainly NTI's understanding that this would be the case when the Board agreed to revisit its 2004 decisions on this issue. At that time, NTI had requested that the Board "revisit this issue and consider whether to remove these nqls" (emphasis added). In its February 14 2005 letter of reply, the Board stated:

"As you know, the NWMB has authority to modify or remove NQL's from time to time and as circumstances require- and will exercise that authority whenever the Board considers it necessary. Even though it ought to have done so earlier, should NTI still wish to make a case before the NWMB for the modification or removal of the three NQL's, the Board is prepared to receive your written and oral submissions". (emphasis added)

The Board then noted that it was awaiting recommendations relating to the new draft regulations under development, which may address the same NQLs, so the Board "would not be prepared to make any decisions until after it has received and considered those recommendations". (emphasis added)

Recognizing that this may be the first occasion in which the Board has revisited a previous decision respecting an NQL, NTI submits that the Board's commitment to do so on the basis that a "decision" will always result is the only practical manner to proceed in such cases. Otherwise, among other considerations, the party proposing establishment (following a previous decision not to establish), removal or modification - whether the party is a DIO, individual, or Government - can have no assurance that the Minister who may be persuaded of the case for establishment, removal or modification will have any opportunity to exercise the role that the Minister is provided in the NLCA.

NTI requests that the NWMB place the issue of polar bear NQLs on the agenda of Session Three so that the Board may hear from NTI (and other parties in response) respecting three points related to the proposed justification for these NQLs that in NTI's submission merit further examination by the Board. In making this request, NTI notes that the NWMB has granted a similar request from the GN respecting a number of NQLs, to which NTI does not object. (See NWMB November 20 letter, page 4, and NTI's December 14 letter, page 3.) These points are as follows:

- i) The implications of the policy (as opposed to legally mandatory) nature of the flexible quota system. NTI requested further time to consider this issue at Session 2.
- ii) The basis for HTO/RWO consent to the 2004 MOUs in relation to these NQLs. NTI is concerned that there may continue to be a misunderstanding on the part of the NWMB regarding NTI's position on this point.
- iii) The basis of the GN's assertion at Session 2 that if the prohibition against harvesting family groups were removed, TAH levels would have to be reduced in order to maintain sustainable harvests. This assertion was sufficiently new that NTI did not have full opportunity to consider it and respond in Session 2.

The further submissions that NTI asks the Board to consider on these three points are enclosed.

b) Section 5.3.3(b), NLCA

NTI is concerned that NTI's written and oral submissions on the correct interpretation of section 5.3.3 (b) of the NLCA appeared to be dismissed at Session 2 by the Board's counsel without serious consideration.

NTI requests that the Board provide the parties within a reasonable period in advance of Session 3 with the Board's written reasons for its contrary interpretation of section 5.3.3(b), including a full response to the analysis provided by NTI. (By copy of this letter, NTI also invites the GN to provide a similar brief.) In the very limited time that was made available for NTI to prepare the submission that it filed on this issue, NTI did not intend the document to represent a complete legal opinion, but NTI submits that its filed analysis merits the Board's due consideration and response.

NTI also requests that section 5.3.3(b) of the NLCA be placed on the agenda for Session 3 as a distinct item, and assigned at least 1.5 hours of meeting time for discussion.

In NTI's view, when considering these requests the Board should take into account that the current difference between NTI's and the NWMB's interpretation of s. 5.3.3(b) could pose a fundamental point of contention in any virtually decision the Board makes respecting limitations on Inuit harvesting. This is an enormously important issue. It needs to be resolved on a priority basis.

Sincerely,



Joe Adla Kunuk,
Chief Executive Officer,
Nunavut Tunngavik Incorporated

Enclosures

1. NTI reply re Repealed Wildlife Regulations
2. Memo of Reply re 5.6.51 by Professor Ruth Sullivan, January 11, 2007
3. NTI Reply re polar bear NQLs

CC Simon Awa, Deputy Minister of Environment, Government of Nunavut
Steve Pinksen, Director, Policy, Planning, and Legislation, Government of
Nunavut