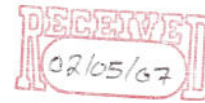




FILE

April 30, 2007



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Qikiqtaaluk

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Arctic Bay
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Qikiqtarjuaq
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Cape Dorset
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Clyde River
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Hall Beach
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Kimmirut
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Pangnirtung
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Pond Inlet
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Resolute Bay
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Sanikiluaq
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Kivalliq

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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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Kugluktuk
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Gjoa Haven
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Kugaaruk
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Taloyoak
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Jim Noble
Chief Operating Officer
Nunavut Wildlife Management Board
P.O. Box 1379
Lot 924 Parnaivik Building
Iqaluit, Nunavut
X0A 0H0

Dear Jim:

Re: Outstanding issues arising from the NWMB's letters to the parties dated April 11 and April 19, 2007

Further to NTI's April 20 letter requesting an urgent meeting regarding the Board's interpretation of section 5.3.3(b) of the NLCA, NTI would like to confirm a number of points for the record in Special Meeting Twelve.

1. Role of non-voting observers in NWMB in camera decision sessions

In a number of places in the Board's April 11 letter, the Board asserts that NTI's non-voting observer attending the Board's December 2006 in camera decision session failed to object to a Board decision or justification that was under consideration.

For the record, NTI's non-voting observer was not invited to express any concern at any time during this session, or given an opportunity to do so. On the contrary, it was NTI's observer's clear understanding, based on the guidance provided by the Chairperson, that he should not make any comment except to clarify a submission that NTI had already made in the public proceeding, and that he should not make that type of comment except on request from the Board.

As NTI noted in its December 14 letter to the Board, filed, it would be a serious breach of procedural fairness if the Board were to convene an in camera decision session following a public hearing and then treat its own in camera discussion as further proceedings on which its decisions may be based. Such a course of action would fail to give the parties who participated in the hearing due notice that the hearing is effectively extended, access to any further case that is made in camera, or opportunity to respond.

Section 5.2.3 of the NLCA entitles the DIO to have a "technical advisor" attend all NWMB meetings as a "non-voting observer". In NTI's submission, such observers have no responsibility to state objections during in camera Board deliberations, or to take any

other action other than advise the DIO as appropriate. NTI cannot be held to have failed to object to any NWMB action by virtue of the observer's conduct, because the observer is not a participant.

2. Notice to NTI of the NWMB's interpretation of section 5.3.3(b) of the NLCA

The Board's April 11 letter confirms the Board's view that section 5.3.3(b) of the NLCA, read together with other Article 5 provisions, authorizes the Board to limit Inuit harvesting for humane harvesting reasons. At page 6, the letter asserts that NTI appears to have shared this view with the Board during the development of the *Wildlife Act* and during the development of the draft regulations.

NTI is disappointed by this assertion, for two reasons:

- a) It disregards the several statements that NTI has made on the record in this proceeding notifying the Board of NTI's confusion and surprise following the Board's first-ever indication of this Board position in April, 2006. See NTI's filed letters to the Board dated May 4 and July 24, 2006, NTI's filed *Response Number Two* (page 3) and the oral submissions of NTI counsel to this effect at Session B.
- b) According to both legal counsel who acted for NTI in the working groups on the *Wildlife Act* and draft regulations, respectively, this characterization of NTI's position in those working groups is wrong and without foundation.

Of course, the absence of objection by NTI to any particular limitation in the *Wildlife Act* does not entitle the Board to attribute any position to NTI respecting the possible justification for such limitations.

If the Board has any information that it believes indicates that NTI has shared the Board's current view regarding the effect of section 5.3.3(b) at any time, please provide this information to NTI immediately and allow NTI an opportunity to respond. If not, NTI respectfully requests that the Board retract this assertion in writing.

3. Procedure to deal with the outstanding 5.6.51 issue – closed season for gyrfalcons

The Board's April 19 letter communicates the Board's decision as to how to proceed in Special Meeting Twelve in connection with pre-NLCA limitations falling under 5.6.51. The limitation in issue is the closed season for harvesting gyrfalcons contained in subsection 2(1) of the draft Open Seasons Order and the accompanying Schedule. The Board's decision is to "consider that every NLCA s. 5.6.51 NQL complies with NLCA 5.3.3 ... while providing NTI with .. opportunity to present the contrary case".

Please be informed that NTI objects to this decision and the procedure adopted, for the reasons provided in Professor Ruth Sullivan's two opinion documents, filed on behalf of NTI, and in NTI's December 14 letter and submissions made at Session B. In NTI's submission, the position that the Board has taken – that the NLCA authorizes the Board to presume that pre-NLCA limitations comply with section 5.3.3 when the Board is reviewing such limitations - is incorrect in law.

The Board's April 19 letter also directs NTI to inform the Board by April 30 if NTI requires more time in order to proceed on the basis set out in the Board's letter, in which case the Board will postpone consideration of this issue until after Session C.

In response to this direction, please be informed that at the upcoming Session C NTI would be prepared to address its written submissions made in response to the GN's filed submissions on the gyrfalcon season issue, and to respond to the GN's related oral comments. However, NTI will not be in a position when Session C is scheduled to begin "to present the justification ..., including evidence and rationale, that the current NQL does not satisfy NLCA s. 5.3.3 and that its proposed modifications do". NTI will write further to the Board regarding the procedural implications of NTI's objection to the Board's ruling, shortly.

4. Agenda

NTI is finding it difficult to plan for its participation in Session C without a draft agenda. Please provide a draft agenda for Session C. as soon as possible.

Sincerely,



Joe Adla Kunuk,
Chief Executive Officer,
Nunavut Tunngavik Incorporated

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