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Nunavunmi Anngutighatigut Aulapkaajitkut Katimajiat
Nunavut Wildlife Management Board

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Tammaqtailinahuarinriit anngutighat atuqhugit Inuit qaujimajatuqangillu ilihmaniillu ilitquhiannin
Conserving wildlife through the application of Inuit Qaujimajatuqangit and scientific knowledge

FAXED
Feb 9/05

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February 2, 2005

Honourable Geoff Regan
Minister of Fisheries and Oceans
15th Floor, Centennial Towers
200 Kent Street
Ottawa, Ontario
K1A 0E6

Dear Mr. Regan:

Re: Four decisions by the Nunavut Wildlife Management Board regarding a new total allowable harvest for turbot in Cumberland Sound, and related matters

At Meeting 39 of the Nunavut Wildlife Management Board (NWMB or Board) - held during the week of October 4th 2004 - the NWMB received a Briefing Note and recommendation from the Department of Fisheries and Oceans (DFO) regarding a proposed separate turbot management area in Cumberland Sound, with a 500 tonne (t) quota distinct from the existing Division 0B allocation to Nunavut of 1,500t.

On October 15th 2004, the Board wrote directly to the Chairperson of the Pangnirtung Hunters and Trappers Association (referred to by the *Nunavut Land Claims Agreement* (NLCA) as "*Hunters and Trappers Organization*" or HTO), seeking the HTO's comments and concerns regarding the DFO proposal. Following receipt of a response from the Pangnirtung HTO in November, and a further presentation from DFO staff at Meeting 40 of the NWMB (held from December 7th to 9th 2004), the Board has made the following decisions, which it understands are in conformity with DFO's advice.

Please note that these NWMB decisions are the first with respect to any species subject to government of Canada jurisdiction, except for Bowhead Whale, that apply the "*total allowable harvest – basic needs level – surplus*" management system mandated by the NLCA following the completion of the Nunavut Wildlife Harvest Study.

DECISION NO. 1

Pursuant to NLCA Sections 5.6.16 and 5.6.17(a), the NWMB establishes a community total allowable harvest (TAH) for turbot of 500t within a new management area inside Cumberland Sound (the core area). See Table 2. This TAH is separate from and additional to the existing Division 0B allocation to Nunavut of 1,500t. Fishing for the 500t may take place at any time of the year. None of the TAH may be transferred to the offshore.

Rationale

The core area is understood by the Scientific Council of the Northwest Atlantic Fisheries Organization and DFO scientists to be similar to the northwest Greenland fjords which, because of their geography, do not allow groundfish to leave once they have entered. Accordingly, the fish in the core area constitute an isolated inshore stock. DFO has recommended an initial quota of 500t for the stock.

The NWMB has not yet been officially provided with specific coordinates to accurately describe the core area. However, the map attached to this letter, provided by DFO and the Pangnirtung HTO, sets out the approximate location of the core area. It is marked in pink. Until such time as DFO and the HTO agree upon the specific coordinates and send them to the Board, the attached map will serve as the agreed-upon guide to the location of the core area.

DECISION NO. 2

Pursuant to NLCA Section 5.6.21(a), the NWMB calculates a Pangnirtung community basic needs level (BNL) for this stock of 4.4t. See Table 1.

Rationale

Although the core area constitutes a new management area with a new TAH, the Cumberland Sound winter fishery has been prosecuted within a portion of the core area (the winter area) since approximately 1985. In 1990, DFO provided the Inuit of Pangnirtung with a 500t allocation for the winter fishery. That allocation was raised to 1,000t in 1992. Upon the coming into force of the NLCA in 1993, the 1,000t quota was deemed by NLCA Section 5.6.4 to have been established by the NWMB for the Nunavut Settlement Area. Since 1995, the Minister has permitted the NWMB to transfer to the offshore any part of this quota not fished in the winter.

Accordingly, the NWMB has calculated the BNL for the stock on the basis that it was subject to the equivalent of a TAH at the commencement of the Study (albeit in an area smaller than the core area). Applying the formula set out in NLCA Section 5.6.21(a), and using the harvest figures provided in the Final

Report of the Nunavut Wildlife Harvest Study for the stock in the winter area, the Board arrived at the conservative BNL figure of 4.4t.

TABLE 1: HARVEST FIGURES (1996/97-2000/01) AND BASIC NEEDS LEVEL FOR THE "CORE AREA" TURBOT STOCK

STOCK OR POPULATION	1996/97 HARVEST	1997/98 HARVEST	1998/99 HARVEST	1999/00 HARVEST	2000/01 HARVEST	BASIC NEEDS LEVEL
Cumberland Sound "core area" turbot stock	7,900 pounds	4,179 pounds	2,157 pounds	12,338 pounds	No recorded harvest	8,826.5 pounds/ 4.4 tonnes

The need to review the BNL

Since 1995, turbot harvests in the Cumberland Sound winter fishery have been delivered to, and accurately recorded by, the Pangnirtung Fish Plant.¹ A review of the Fish Plant's records clearly reveals that harvesters consistently under-reported their catches in the winter area during the Harvest Study reporting period.

Taking into consideration the under-reporting by Inuit during the Harvest Study, the significant harvests consistently recorded by the Fish Plant since that time,² and the fact that the core area is considerably larger than the winter area, the NWMB is of the view that the BNL for this inshore stock needs to be reviewed at the earliest reasonable opportunity. Once the NLCA decision-making process is completed with respect to the TAH and BNL for the stock, the NWMB plans to carry out that review and make a determination regarding adjustment.

The surplus

Mr. Minister, as you are aware, the BNL constitutes the first demand on the TAH (NLCA Section 5.6.20). Where the BNL is less than the TAH, the difference between them is the surplus (NLCA Section 5.1.1). See Table 2. Issues relevant to the allocation of the surplus for the core area turbot stock are addressed in the latter part of this letter.

¹ Prior to the establishment of the Pangnirtung Fish Plant, harvesters delivered their catch to the HTO freezer or, in the early 1990's, to a private fish plant which briefly operated in the community.

² In the four years from 2001 to 2004, the average harvest from the winter area was 139.4t per season.

**TABLE 2: TOTAL ALLOWABLE HARVEST, BASIC
NEEDS LEVEL AND SURPLUS FOR THE "CORE AREA" TURBOT STOCK**

STOCK OR POPULATION	TOTAL ALLOWABLE HARVEST (TAH)	COMMUNITY OR REGIONAL TAH	COMMUNITY OR REGIONAL BASIC NEEDS LEVEL	SURPLUS
Cumberland Sound "core area" turbot stock	500 tonnes	Pangnirtung: 500 tonnes	Pangnirtung: 4.4 tonnes	495.6 tonnes

DECISION NO. 3

Pursuant to NLCA Section 5.6.48 - and on the understanding that DFO and the Pangnirtung HTO wish to conduct an exploratory fishery in a separate area (the separate area) directly adjacent to the core area - the NWMB establishes the separate area as the location of the exploratory fishery. The fish harvested in this fishery will be taken from Pangnirtung's existing Division 0B allocation. Fishing in the separate area may take place at any time of the year.

Rationale

Scientists suspect that the separate area may be a continuation of the core area. Accordingly, the exploratory fishery will be used to seek evidence that fish tagged in the core area move into and can be harvested from the separate area.

The NWMB has not yet been officially provided with specific coordinates to accurately describe the separate area. However, the map referred to above and attached to this letter sets out the approximate location of the separate area. It is marked in yellow. Until such time as DFO and the HTO agree upon the specific coordinates and send them to the Board, the attached map will serve as the agreed-upon guide to the location of the separate area.

DECISION NO. 4

Pursuant to NLCA Section 5.6.48, no offshore fishing vessels (that is, vessels 65 feet/19.8 metres or more in overall length) are permitted to fish in Cumberland Sound beyond a line requested by the Pangnirtung HTO in its letter faxed to the NWMB on November 18th 2004. A copy of the HTO's letter is attached to this letter.

Rationale

This limitation is established as a precautionary measure, in order to protect marine mammal habitat and to avoid potential disturbance to the ocean floor within the Sound.

Again, the NWMB has not yet been officially provided with specific coordinates to accurately describe this "no fishing" area for large vessels. However, the map referred to above and attached to this letter sets out the approximate location of the area. It is marked in green. Until such time as DFO and the HTO agree upon the specific coordinates and send them to the Board, the attached map will serve as the agreed-upon guide to the location of the "no fishing" area for large vessels.

THE SURPLUS

In this instance, the BNL for the core area turbot stock is less than the TAH. Accordingly, the difference between them is the surplus. The NWMB is required to determine the global allocation of the surplus in the order and priority set out in NLCA Section 5.6.31. See Table 3.

TABLE 3: ALLOCATION OF THE SURPLUS

	PURPOSE	PORTION OF SURPLUS ALLOCATED
1.	To provide for personal consumption by other residents or by their dependents.	??
2.	To sustain the continuation of existing sports and other commercial operations.	??
3.	To support the establishment and continued operation of economic ventures designed to benefit Inuit, and sponsored by HTOs and RWOs.	??
4.	To provide for commercial, commercial sports, recreational or other uses.	??

With respect to individual allocations, the NWMB submits that the following arrangement is consistent with the directions set out in the NLCA and with established practice:

- The Minister is responsible for determining who is entitled to receive the portion of the surplus, and the quantities they are to receive, allocated to provide for:

- Personal consumption by residents, other than Inuit, and their dependents (NLCA Section 5.6.36); and
- The use of the remaining surplus by persons other than Inuit, as described in NLCA Section 5.6.40.
- The NWMB is responsible for determining who is entitled to receive the portion of the surplus, and the quantities they are to receive, allocated to provide for:
 - The continuation of existing sports and other commercial operations (NLCA Section 5.6.38);
 - Economic ventures designed to benefit Inuit and sponsored by HTOs and RWOs (NLCA Section 5.6.39); and
 - the use of the remaining surplus by Inuit, as described in NLCA Section 5.6.40.³

NEXT STEPS

Neither the Minister nor the Board will be in a position to make any allocations of the surplus until after the NLCA decision-making process is completed with respect to the TAH and BNL for the core area turbot stock. Once that process is completed, the NWMB intends to:

- go for a community meeting in Pangnirtung, in order to:
 - Ascertain the level of interest among other residents wishing to harvest turbot from the core area for personal consumption, and among other potential recipients of the surplus; and
 - Consult with the community regarding the NWMB's review of the BNL;
- Issue a call for applications regarding allocations of the surplus under NLCA Sections 5.6.38, 5.6.39 and 5.6.40;
- Make its global and individual surplus allocations; and
- Complete its review of the BNL and make a determination regarding adjustment.

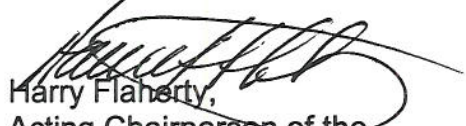
CONCLUSION

The NWMB hereby forwards to you the four decisions set out above, in accordance with NLCA Section 5.3.17. The Board also requests your response to its proposed approach to allocations of the surplus. Should you or your staff

³ Note that section 122 of Nunavut's *Wildlife Act* (assented to on December 5th 2003, and expected to be in force on July 1st 2005) reflects the arrangement submitted herein by the NWMB for allocations under the surplus.

have questions or concerns with respect either to the NWMB's decisions or to any issues associated with the allocation of the surplus, please do not hesitate to contact me or my staff at your convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Harry Flaherty', written over the printed name.

Harry Flaherty,
Acting Chairperson of the
Nunavut Wildlife Management Board

c.c. Michelle Wheatley, DFO Area Director, Eastern Arctic

Minister of
Fisheries and Oceans



Ministre des
Pêches et des Océans

Ottawa, Canada K1A 0E6

APR 6 2005
RECEIVED
APR 21 2005

Mr. Harry Flaherty
Acting Chairperson
Nunavut Wildlife Management Board
Box 1379
Iqaluit, Nunavut
X0A 0H0

Dear Mr. Flaherty:

I am writing in reference to your letter of February 2, 2005, conveying your four specific decisions towards the establishment of a separate management area for turbot in Cumberland Sound.

This is to confirm that I accept your decisions, as set out in your letter, on the establishment of: a Total Allowable Harvest (TAH) for turbot of 500 tonnes within a new management area inside Cumberland Sound; a Basic Need Level (BNL) for turbot of 4.4 tonnes for the community of Pangnirtung; a separate area near the entrance of Cumberland Sound for exploratory fishing; and, a prohibition of fishing by vessels greater than 19.8 meters in Cumberland Sound.

The elaboration and explanation on other management measures in support of a separate management area for turbot in Cumberland Sound, as provided in your letter, gave an adequate picture of how the NWMB intends to manage the fishing in that area. I look forward to supplemental decisions from the NWMB on these management measures. In the meantime, it should be clearly understood that full implementation and the potential benefits of a separate management area for turbot in Cumberland Sound cannot be realized until these supplemental decisions are taken.

I would like to take this opportunity to congratulate the NWMB on its decisive move in addressing the competing interests within the Nunavut Settlement Area for turbot fishing in Cumberland Sound by establishing a total allowable harvest and a Basic Need Level for the community of Pangnirtung and setting out steps to address allocation of the surplus in accordance with the Nunavut Land Claims Agreement.

Yours truly,


Geoff Regan

Canada