

June 21, 2016

Mr. Daniel Shewchuk
A/Chairman
Nunavut Wildlife Management Board
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Written comments on the Nunavut Wildlife Management Board's Allocation Policy for Commercial Marine Fisheries

Dear Mr. Shewchuk:

On May 17, 2016 Nunavut's commercial fisheries allocation holders attended a meeting held in Iqaluit at the invitation of NWMB. The purpose of the meeting was to initiate a review of the NWMB's Allocation Policy for Commercial Marine Fisheries.

As a follow up to the May 17, 2016 meeting, on May 27, 2016 Qikiqtaaluk Corporation (QC) received a letter from the Nunavut Wildlife Management Board (NWMB) **RE: Invitation to provide written comments on the Nunavut Wildlife Management Board's Allocation Policy for Commercial Marine Fisheries**, by June 30, 2016. QC has reviewed the Allocation Policy and its Annex and Appendices and it makes the following comments and suggestions regarding the sections identified for discussion and possible changes as identified in the May 17, 2016 Working Group meeting.

Prior to making these comments on the specifics of the Policy and any changes that might be required, QC wishes to make the following points regarding the 2015/16 allocation process and the significant issues that arose:

- The issues that arose during the 2015/16 allocation process were not related to the Policy itself. It is QC's view that these issues would not have occurred if the Policy had been implemented properly in terms of: the composition and experience of the FAC members; the timelines for the process in terms of the preliminary recommendations, review period and final recommendations; and the NWMB Board's timeliness and decisions;
- QC expended a significant amount of time and effort in order to submit a comprehensive and forward-looking submission in 2015, which addressed all of the issues that had been previously outlined by the NWMB and presented an aggressive approach to maximizing benefits for Nunavut and Nunavummiut. Although this effort was very positively recognized by the FAC and in the preliminary recommendations for new allocations to QC, the NWMB Board's final decision to roll over allocations was inconsistent not only with the FAC's recommendations but with the spirit and intent of the Policy; and

- Based on the preliminary recommendations provided to QC, the past experience in all prior iterations of Policy implementation (whereas any increases in quotas provided in the preliminary recommendations were not reduced in the final decision), and the excessive timeframe it took to receive the NWMB's final decision, QC had proceeded to negotiate with a third party to optimize fishing arrangements. The decision of the Board therefore placed QC in legal jeopardy, resulted in the loss of the negotiated agreement, and had a detrimental impact on QC's reputation in the industry. As a result, QC continues to evaluate its legal options for recourse.

The following pages outline specific comments from QC on the allocation policy:

Section 3 – Composition of the Fisheries Advisory Committee and Term of Appointment (Appendix A Terms of Reference).

The Terms of Reference document states, the membership of the Committee shall include five members appointed by the following organizations:

- Two members appointed by Nunavut Tunngavik Inc., one an industry expert and the other a Qaujimanilik (a person recognized by Inuit as having an in-depth knowledge of issues essential to the success of the fishery);
- Two members appointed by the Government of Nunavut, one an industry expert and the other a Qaujimanilik; and
- One member appointed by the Nunavut Wildlife Management Board.

Members will be appointed by the respective organizations based upon their knowledge and experience of fisheries-related issues in Nunavut, including their knowledge of social, economic, governance, business, employment, and development issues related to commercial marine fisheries. Upon selection, the FAC members will appoint a chairperson and vice-chairperson.

QC has no issue with the number of appointees to the committee or the composition of the committee but it does have concern with the experience of some of the existing members. Although we believe that the current appointees are hardworking, dedicated employees of their respective organizations, not all members have the fishing industry knowledge required to meet the conditions for appointment to the FAC.

QC recommends the following:

- At least one each of the GN and NTI representatives have a strong fishing industry background, as required in the Policy;
- That the Chairman be totally independent from either GN or NTI;
- To support the work of the FAC that an independent consultant be hired to review all the applications, and support the analysis and reporting required. There is a tremendous volume of information presented by the applicants, and it is unreasonable to expect full time employees of the GN, NTI and NWMB to take on this extra workload; and
- The current 5 year term for members of FAC is reasonable, provided qualified persons meeting the Policy guidelines are placed on the committee.

Section 4 – Principles and Guidelines

The NWMB Allocation Policy itemizes the principles and guidelines which guide the NWMB in its allocation of commercial marine fisheries resources both inside and outside of the NSA, specifically:

1. The protection of healthy marine populations and habitat through sustainable development, responsible stewardship and adherence to the precautionary principle are essential to sustain the economic, social and cultural harvesting needs of Nunavummiut, for both present and future generations (NLCA S.5.1.5(c));
2. The fishery is a valuable and vital common property resource to be managed in an open, transparent and accountable manner for the equitable benefit of all Nunavummiut;
3. There is a need for the fishery to be diversified, striking a healthy balance between inshore and offshore operations, and between community entitlements and entrepreneurial initiative;
4. In order to achieve a prosperous Nunavut-controlled fishery, there is a need for people to work together in harmony (see the Inuit Qaujimajatuqangit principle of Piliriqatigiingniq);
5. In allocating commercial marine fisheries resources, preference needs to be given to Nunavummiut and to operations providing direct benefits to Nunavut's economy (NLCA S.5.6.45);
6. There is a need to give special consideration to adjacency in the allocation of commercial marine fisheries resources, particularly within the NSA (NLCA S.15.3.7);
7. In allocating commercial marine fisheries resources, there is a need to give special consideration to the economic dependence of communities on those resources (NLCA S.15.3.7);
8. A prosperous Nunavut-controlled fishery requires substantial involvement of viable commercial ventures sponsored or owned by Regional Wildlife Organizations (RWOs) and Hunters and Trappers Organizations (HTOs) (NLCA S.5.1.3(a)(iii) and 5.6.39);
9. In allocating commercial marine fisheries resources, there is a need to give special consideration to economically viable fishing enterprises and to fishers that have a successful history in a particular fishery; and
10. A prosperous Nunavut fishery that contributes to the creation of wealth, employment, training and educational opportunities for Nunavummiut requires substantial re-investment of revenues received from one of Nunavut's most valuable common property resources.

These principles and guidelines were developed through two extensive consultative processes with all stakeholders, the first of which was undertaken in advance of the initial publication and implementation of the Policy and the second in a subsequent major review after the first several years of Policy implementation. As a result, these principles and guidelines were approved and implemented through the Policy.

This being the case QC strongly questions what authority the FAC had in establishing the additional 11 criteria that they felt were paramount to consider in making the 2015/16 allocation decisions. These criteria were outlined in documentation to the allocation holders and are listed below.

1. Conservation and sustainability of fisheries in Nunavut is of great importance.
2. It is imperative that the benefits of Nunavut's offshore resources and fishing enterprises be directly linked to the growth of inshore fisheries in Qikiqtaaluk.

3. That all fishing enterprises demonstrate their commitment to be 100% Nunavut owned and controlled (vessels included).
4. That fishing entities provide maximum tangible benefits, employment, training, opportunities and services to Inuit and Nunavummiut.
5. Nunavut fishers that are most adjacent to the resource will be given preference when making allocations.
6. Nunavut Fisheries that have the greatest history with the resource will be given preference when making allocations.
7. Due consideration be given to the economic dependence of Nunavut communities on benefits, both direct and indirect, from the offshore resource. Conversely, the FAC must consider over time the economic independence of communities to the resource and modify allocations accordingly so as to ensure equitable distribution of benefits within the Qikiqtaaluk.
8. Direct involvement of Inuit and Nunavut communities in the economic enterprise is required. There is a strong preference for direct HTO and RWO involvement.
9. Audited financial statements are required by all applicants as per NWMB Allocation Policy for Commercial Marine fisheries (section4: key Factors).
10. Preference be given to fishing enterprises that collaborate among themselves (e.g. harvest agreements) and with other stakeholders in Nunavut to ensure fishing assets, benefits, and efforts are maximized.
11. Active and ongoing commitment to research, science and exploratory fisheries.

It is QC's view that the FAC is in place to implement the Policy as outlined, not to adjust or add to the Policy in any way and definitely not to develop their own new set of evaluation criteria. These criteria did not undergo any consultative process or vetting by stakeholders, as was the case with the existing principles and guidelines.

QC recommends the following:

- That the FAC be clearly instructed on its role, which is outlined in detail in the Policy and be instructed to not deviate or overreach beyond its current mandate. In the future if NWMB and/or the FAC are to implement new policies and guidelines then they need to communicate and discuss with the allocation holders and other stakeholders in advance of submissions.

Section 7 – Allocation Guidelines for Nunavut's Commercial Marine Fisheries.

NWMB has set out 3 guidelines for deciding upon individual commercial marine allocations

- Governance and Business capacity (up to 30 points)
- Inuit Involvement (up to 40 points)
- Benefits to Nunavummiut

In the latest allocation process the NWMB/FAC did not provide allocation holders with an analysis of its performance as per Allocation policy Appendix D: **Allocation Form for the Allocation Guidelines**. Once again, this is another example of how the FAC in its 2015/16 deliberations and reporting did not adhere to the mandate and requirements outlined in the Policy.

QC recommends:

- In future all allocation holders should receive a completed allocation form. This form allows the allocation holder to see where it has made or not made improvements since its last allocation and/or annual reports to NWMB/FAC.
- That the applicant be judged on not only the benefits derived in the fishing sector but how it uses these benefits for the benefit of Nunavummiut overall.

QC is a diversified company, active in various economic sectors, which provides major employment and other economic benefits to Nunavut and Canada both directly from its fishing operations as well as the other investments the success of these operations have enabled QC to undertake over the years. As an example, in 2015, the QC Group of Companies created 515 jobs with total earnings of over \$13 Million, while achieving an Inuit employment level of 385 positions, for 75% of the total available positions. This does not include the direct employment in the fishery, which on QC's vessel averages 26 people per trip, including an average in 2015 of 8.6 Inuit employees per trip (36 individual Inuit), Inuit earnings earning over \$2.4 million in wages.

Section 10 – New Applicants for Commercial Fisheries Allocations.

There was considerable discussion at the May 17, 2016 meeting on a) when should new entrants be allowed in the application process; and b) under what conditions should application holders lose any of their existing allocations. As provided in the current Policy, it is very important that adding new entrants into the fishery does not jeopardize the economic viability of the existing allocation holders. However, the Policy also outlines that new entrants must be provided with an opportunity and process to join the Nunavut fishery. As previously discussed the development and any changes to the Policy only came through extensive stakeholder consultations, well beyond one meeting.

QC recommends the following:

New entrants into the fishery may be considered under the following conditions:

- When there is an increase in allocations. However, even in this case it is important that the harvesting capacity of the existing fleet be taken into consideration, is it under or over capacity position. In QC's case historically 25% - 50% of the harvests on its vessel the Saputi has to be sourced from non-NWMB administered allocations, so QC clearly needs additional allocations to maximize the production on our multi-species factory freezer vessel.
- When there is an emerging and/or underutilized fishery. However, in this case priority for any new allocations has to be provided to the existing allocation holders or others who have contributed to developing the emerging fishery.
- In instances where a community or communities in the Qikiqtani region are not affiliated with an existing allocation holder, i.e. are excluded from the fishery.

With regards to new entrants into the fishery, QC recommends that the evaluation process developed takes the following into consideration:

- Does the applicant have the in-house capacity from both a human resources and financial capacity perspective to manage and operate the allocation(s)?
- If they currently do not have the in-house capacity has the applicant entered into a partnership with one of the current allocation holders that does have the capacity: human resources, harvesting and financial to ensure any allocation it receives is harvested and managed in a professional manner.

On the issue of what would trigger the loss of allocations by existing allocation holders the discussion considered what happens if an allocation holder does not harvest all of its Allocation(s)?

- It is QC's view that if this should happen for more than one year and or if there is no legitimate reason provided by an allocation holder, then other existing allocation holders should receive priority for receiving the unharvested allocation(s). As to which allocation holder should get the unharvested allocation will depend on a number of variables:
 - The tonnage currently held by the existing allocation holder(s) in relation to the overall tonnage.
 - On the merit of its submission.
 - On the merit of its historical performance.

As indicated there may have been legitimate and valid reasons why the allocation(s) were not harvested in any one singular year, such as:

- Environmental conditions such as ice conditions that contributed to late start and/or early fall freeze up in Nunavut's adjacent waters;
- Mechanical breakdown;
- Loss or damage to a vessel; and
- An overall decrease in harvesting yields due to a combination of the above.

Section 12 – Multi-Year Allocations.

The response to this issue by current industry members will depend on the percentage of the overall allocation that an existing allocation holder may have. If you have the vast majority of the existing allocations then you may want to have the allocations approved for a lengthy period, whereas if you have a minor share of the allocations then you would like the opportunity to increase your share of the overall allocations within a reasonable time frame.

The application of multi-year applications and its implementation has been inconsistent since the start of the fishery in Nunavut's adjacent waters. Although the NWMB has called for submissions for allocations for a five (5) year period the final allocations have normally been awarded for between 2-3 years. From a business it is important to have allocations awarded for a longer period to make it easier for bank financing purposes.

Once the Policy has achieved fair and equitable implementation, QC recommends the following in terms of allocation timelines:

- 3 – 5 years.

Increases to Nunavut Allocations

QC recommends the following:

In most instances, the majority of any increase would be expected to go to existing allocation holders. In making the allocation(s) of increased quotas, the NWMB needs to consider the following:

- Available harvesting capacity of individual allocation holders; and
- Whether current allocation holder(s), who are meeting the Policy requirements and have excess harvesting capacity, do not have a fair share of the overall allocation. It is unfair for one allocation holder to have only 10% of the available turbot while another has more than 50% of that quota. It is even more unfair with regards to shrimp administered by NWMB where the percentage by allocation holder has ranged from less than 5% to more than 75%.

Decreases in Nunavut allocations

QC recommends the following:

QC agrees with current Policy position that any decrease would be applied through proportional allocation decreases to each allocation holder in the affected fishery. However, QC does not agree with the policy to review the issue should decreases be 15% or greater. The allocations of turbot and shrimp to existing allocations holders range from less than 10% for the lowest allocation holder (QC) to more than 50% for the highest allocation holder (BFC). It is our view that those with the highest allocations derived the benefits from the fishery when quotas increased and as such should bear the majority of the consequences of a decrease in the quotas.

Section 14 – Allocation Applications, Annual Reports and Verification Reports.

Allocation Applications

QC recommendation:

- Annex 1: Application Form for Commercial Marine Fisheries Allocations is fine as is.

Allocation Application Flow Chart

It is essential that Allocation submissions have defined, specific targeted dates for the flow of information required from the applicants to NWMB for review by the Fisheries Advisory Committee (FAC). Unfortunately, in most cases both the FAC and NWMB have not reported back to the applicants in a timely and consistent manner. This has been a major issue in 2015/16, resulting in the serious issues for QC previously discussed.

QC recommendation:

- **Annex 2: The Allocation Application Flow Chart** with its time frames is acceptable as it is. However, NWMB, NTI and GN must ensure that their respective appointee(s) to the FAC must be qualified and experienced, and have the time necessary to focus on this task and to meet the Policy timelines.

Annual Report and Verification Report Flow Chart.

It is essential that the Annual Report and Verification Report Flow Chart have defined, specific targeted dates for the flow of information required from the applicants to NWMB for review by the Fisheries Advisory Committee (FAC). Unfortunately, in most cases both the FAC and NWMB specifically have not reported back to the applicants in a timely and consistent manner.

QC recommendation:

The Annual Report and Verification Report Flow Chart time schedule, and documentation required is acceptable as it is. However, NWMB, NTI and GN must ensure that:

- Their respective appointee(s) to the FAC must be qualified and experienced.
- That NWMB/FAC report back to allocation holders within the time frames as identified in the Annex 3 Flow chart.

Evaluation Form for the Allocation Guidelines.

This document provides a score card for each of the allocation holders with respect to:

- Governance and Business Capacity;
- Inuit Involvement; and
- Benefits to Nunavummiut

In the last allocation process carried out by the FAC none of the allocation holders received a completed ranking form. For future allocation submissions and Annual reports it is essential that all of the allocation holders receive their current ranking versus the ranking received on prior allocations and reporting.

QC recommendation:

- In future it is essential that applicants be provided with the agreed score card in the Policy so that they may see where they stand in relation to prior allocation and annual report submission(s).

Other issues discussed at the Working Group meeting on May 17, 2017

Appeal process

It was suggested by several allocation holders that there is no appeal process in place for applicants to appeal their case before an independent appeal board. QC does not feel that this is required, if the

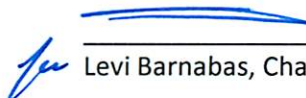
Policy is applied properly in terms of timelines, FAC experience, and the principles and guidelines utilized. Adding an additional appeal layer would only serve to further delay the process, which is already a major issue.

QC recommendation:

- That FAC/NWMB follow the schedules that they have outlined in the Allocation Application Flow Chart and the Annual Report and Verification Report Flow Chart.
- That applicants have two opportunities to meet with FAC regarding their submission a) one no later than August 31 where application addresses any concerns expressed in writing by the FAC and b) another a face to face meeting with FAC within 30 Days of Applicant receiving its preliminary allocation.
- If the applicant is not pleased with allocations as provided by FAC/NWMB, then each applicant has the opportunity to put their concerns in writing to the DFO Minister once NWMB makes its final recommendations to the Minister.

In conclusion, we appreciate the opportunity to review current access and allocation guidelines with NWMB, and we look forward to the next meeting to address the recommendations received from current allocation holders.

Sincerely;



Levi Barnabas, Chairman

CC
Harry Flaherty, President & CEO
Peter Keenainak, Vice President
Jerry Ward, Director of Fisheries