

provide the major components of Land Claim Agreements and Constitutional obligations. As the Strategy indicates the Strategy "...does not supersede provisions identified under domestic laws, land claims agreements, and international obligations, but jurisdictional agreement with the advice contained within this Strategy will strengthen overall coordination of conservation actions for polar bear in Canada." Pertaining to consultation, GN has responded by indicating that they believe that there is not a need for consultation as the document simply outlines the current management system. However, GN has indicated that they are currently planning extensive consultations with communities in Nunavut over the next two years towards the development of a Nunavut Management plan or the re-negotiating of the Memorandums of Understandings (MOUs).

Although changes to the Strategy have addressed most of NWMB staff's concern there is still a remaining concern with the Strategy, as illustrated by the following:

"9.4 This Strategy, including annexes, will remain in effect for five years. After five years the Strategy will be reviewed by the PBAC, and will be amended as necessary. In the absence of PBAC-directed changes, the Strategy will remain in effect"

"9.5 This Strategy can be amended at any time by agreement in writing of all PBAC members, on behalf of all signatories."

As the Board is aware NWMB staff no longer participate as a member of the PBAC and would not be involved in any such changes to the NWMB endorsed Strategy. Furthermore and more importantly, any such changes to an NWMB endorsed Strategy would require the NWMB to have "...a role in the negotiation or amendment of domestic interjurisdictional agreements..." (S 5.9.5 NLCA).

GN-DoE has responded by indicating that GN-DoE and NTI are part of the PBAC and that prior to agreeing to any amendments to the strategy they would ensure that the appropriate review process is followed in Nunavut as per the NLCA. GN-DoE has also again reiterated that they hope that the Board reconsiders its participation in the PBAC in future so that the Board is adequately informed on the discussions and activities of the Committee.

Recommendation:

What is being requested is support for the National Polar Bear Conservation Strategy (as per S 5.9.5) and not a request for approval of the Strategy (as per S 5.2.34(d) of the NLCA). NWMB staff believe that the Strategy is best viewed and reflected as an interjurisdictional agreement and the NWMB's NLCA responsibilities is that the NWMB is to have "...a role in the negotiation or amendment of domestic interjurisdictional agreements..." as per S 5.9.5 of the NLCA. The Strategy as written does not change nor suggest changes to how polar bear is managed within the Nunavut Settlement Area (NSA) and does not affect the NWMB's powers, duties or functions (S 5.2.33 to 5.2.34) nor the decision making responsibilities of the NWMB and the Minister (S 5.3.7 to 5.3.15 of the NLCA).

As indicated above, NWMB staff still have a remaining concern regarding the Strategy being able to be modified by the PBAC members on behalf of the signatories. NWMB staff has considered GN's response and feel that there is an approach to ensure that the NWMB's interests are maintained. NWMB staff would recommend that the NWMB participate as a member of the PBAC. This participation would not only ensure that any modifications to the Strategy followed the NWMB and NLCA required processes but would also ensure that the Board is aware of the work and developments pertaining to polar bear management. NWMB staff believe that since the NWMB's

withdrawal from the PBAC a number of recent developments have occurred regarding polar bear management that are of interest to the NWMB such as CITES, SARA, subpopulation boundaries and human-bear conflict. Participation in the PBAC would ensure that the Board is aware of all developments regarding polar bear management.

NWMB staff therefore recommends that the Board support the National Polar Bear Conservation Strategy and re-engage as a member of the PBAC.

Draft Resolution:

“MOVED that that NWMB support the National Polar Bear Conservation Strategy and re-engage as a member of the Polar Bear Administrative Committee (PBAC).”

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