



Tammaqtailinahuarnirit anngutighat atuqhugit Inuit qaujimajatuqangillu ilihimanillu ilitquhiannin  
Conserving wildlife through the application of Inuit Qaujimajatuqangit and scientific knowledge

May 1<sup>st</sup> 2012

Honourable Keith Ashfield  
Minister of Fisheries  
and Oceans  
Government of Canada

Honourable James Arreak  
Minister of Environment  
Government of Nunavut

Cathy Towtongie  
President of Nunavut  
Tunnngavik Incorporated

Ross Tatty  
Chairperson of the  
Kivalliq Wildlife Board

Attima Hadlari  
Chairperson of the  
Kitikmeot Regional  
Wildlife Board

James Qillaq  
Chairperson of the  
Qikiqtaaluk Wildlife Board

Jobie Tukkiapik  
President of  
Makivik Corporation

Chairpersons of Nunavut's  
Hunters and Trappers  
Organizations  
c/o Richard Connelly  
Executive Director of the  
Nunavut Inuit Wildlife Secretariat

Dear Colleagues:

**Re: Reinstatement of Nunavut Wildlife Management Board public hearing to establish the basic needs levels for beluga, narwhal and walrus**

## Background

On December 22<sup>nd</sup>, 2011, the Nunavut Wildlife Management (NWMB or Board) sent notification of a public hearing to establish the basic needs levels for beluga, narwhal and walrus in the Nunavut Settlement Area (NSA), to be conducted in Iqaluit on March 27<sup>th</sup> and 28<sup>th</sup>, 2012. In response to the notification, Nunavut Tunngavik Inc. (NTI) on January 19<sup>th</sup>, 2012 requested an adjournment of the public hearing to provide time for NTI to explore the resolution of this significant issue with Fisheries and Oceans Canada (DFO) by way of an amendment to the Nunavut Land Claims Agreement (NLCA). Shortly thereafter the NWMB held a pre-hearing conference call with all affected parties on January 26<sup>th</sup>, 2012 to consider the request from NTI. After considering the results of the pre-hearing conference on January 27<sup>th</sup>, 2012 the NWMB decided to indefinitely adjourn the public hearing to allow a reasonable opportunity for NTI and DFO to consider pursuing NTI's alternative approach.

On April 18<sup>th</sup>, 2012, the NWMB received a letter from NTI that provided a report on the S. 5.6.25 amendment discussions with DFO and a request for resumption of the public hearing process (refer to attached documents). The letter made the following key points:

- NTI was informed by the Minister of Fisheries and Oceans on March 26<sup>th</sup>, 2012 that DFO was not prepared to consider amending NLCA S. 5.6.25;
- NTI requests that the Board reschedule the adjourned public hearing as soon as possible; and
- NTI strongly disagrees with the proposal by DFO to postpone the matter of basic needs levels (BNLs) for beluga and walrus into the future and currently proceed with narwhal.

The NWMB has concluded that it has provided a reasonable opportunity for both NTI and DFO to consider an amendment to the NLCA and based on the report and request from NTI, the NWMB has decided to reinstate the public hearing process on NLCA S. 5.6.25.

### **Basic needs level**

To reiterate, the term “*basic needs level*” (BNL) refers to the level of harvesting by Inuit required to meet their basic needs, as determined through the decision-making process set out in Article 5 of the NLCA. The BNL constitutes the first demand by Inuit on the total allowable harvest for a stock or population of wildlife. NLCA Section 5.6.25 requires the NWMB to establish the BNLs for beluga, narwhal and walrus, “...*taking into account the fact that they are in short supply in some areas and therefore that the harvest by Inuit has been and is artificially low in relation to their needs and does not necessarily reflect their full level of needs.*”

### **Re-scheduled hearing**

The hearing has been rescheduled for September 11<sup>th</sup> and 12<sup>th</sup> 2012, in Iqaluit<sup>1</sup>. The hearing will be conducted each day from 9:00 a.m. to 12:00 p.m. and from 1:30 p.m. to 5:00 p.m. The NWMB may also hold one or more evening sessions from 7:00 p.m. to 9:00 p.m.

The Board is prepared to pay travel and accommodation costs for attendance by up to six (6) Distinguished Elders and six (6) Regional Wildlife Organization/Hunters and Trappers Organization representatives (twelve (12) delegates in total). Selection of these representatives will be decided by the Regional Wildlife Organizations. If other representatives of Inuit harvesters wish to attend, the NWMB has no further funding available, but will – if requested, and to the extent reasonably possible – make arrangements for electronic attendance at the hearing.

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<sup>1</sup> Please note that the NWMB may modify the date, duration and location well in advance of the hearing (i.e. *approximately 60 days*). Any modification to the public hearing date and location will be provided (i) by formal public notice, (ii) on the NWMB’s website and (iii) via official correspondence to all hearing parties.

The hearing rules and a number of additional documents comprising the best available information to date is available for download from the NWMB's website ([www.nwmb.com](http://www.nwmb.com)) or by contacting the NWMB at the following coordinates:

**NUNAVUT WILDLIFE MANAGEMENT BOARD**

3<sup>rd</sup> Floor, Ikaluktuutiak Drive

P.O. Box 1379, Iqaluit, NU, X0A 0H0

Phone: (867) 975-7300

Fax: (888) 421-9832

E-Mail: [receptionist@nwmb.com](mailto:receptionist@nwmb.com)

**Written submissions**

**Through this letter, the NWMB is extending an invitation to your department or organization to provide up to two (2) sets of written submissions and supporting documentation concerning the establishment of the basic needs levels for beluga, narwhal and walrus in the Nunavut Settlement Area.**

The first set of written submissions and supporting documentation (**initial submissions**) must be filed with the NWMB, in English and Inuktitut/Inuinnaqtun, by no later than 5:00 p.m. (Iqaluit time) on May 31<sup>st</sup> 2012.

The second set of written submissions and supporting documentation (**reply submissions**) – provided in response to submissions filed as of May 31<sup>st</sup> 2012 - must be filed with the NWMB, in English and Inuktitut/Inuinnaqtun, by no later than 5:00 p.m. (Iqaluit time) on July 6<sup>th</sup> 2012.

Subject to relevant confidentiality or privacy concerns, all submissions will be placed on the NWMB's website, and will be available for download, within one business day after they are filed with the Board.

Please take careful note that, unless persuasive written and translated reasons are provided to the NWMB for late filing, the Board will not consider materials for this hearing that are not filed on time.

Initial and reply submissions, and their supporting documentation may be filed with the Board in person, by courier or by mail. They should be clearly marked as pertaining to the *NWMB BNL Hearing for Beluga, Narwhal and Walrus*. Delivery of the materials may also be made through fax or electronic transmission, but only if your department or organization confirms by phone with the NWMB - prior to each filing deadline - that a complete and legible copy of

the transmission has been received by the Board. Materials are deemed to have been filed on the actual day of receipt by the NWMB.

Please keep in mind that the more thorough, reliable and persuasive submissions and supporting documentation are, the more weight they will be given by the NWMB in the *Nunavut Land Claims Agreement* decision-making process.

If you require further information, please do not hesitate to visit the NWMB website or to contact the Board directly.

Yours sincerely,



Jim Noble  
Chief Operating Officer  
Nunavut Wildlife Management Board

Attachments (4)

- January 30<sup>th</sup> 2012-NWMB letter to parties re: notice of indefinite postponement of the Nunavut Wildlife Management Board's public hearing to establish the basic needs levels for beluga, narwhal and walrus.
- March 8<sup>th</sup> 2012-NTI letter to Minister of Fisheries and Oceans re: NTI proposal to amend s. 5.6.25 of the Nunavut Land Claims Agreement.
- March 26<sup>th</sup> 2012-Minister of Fisheries and Oceans letter to NTI re: NTI proposal to amend s 5.6.25 of the Nunavut Land Claims Agreement.
- April 18<sup>th</sup> 2012-NTI letter to NWMB re: report on 5.6.25 amendment discussions and request for resumption of public hearing process to establish the basic needs levels for beluga, narwhal and walrus.

c.c. Gabriel Nirlungayuk, Director of Wildlife, Nunavut Tunngavik Inc.;  
Bert Dean, Senior Policy Advisor, Nunavut Tunngavik Inc.;  
Eric Kan, Director, Eastern Arctic Area, Department of Fisheries and Oceans;  
Kathy Fisher, Division Manager, Resource Management and Aboriginal Affairs,  
Department of Fisheries and Oceans;  
David Akeeagok, Deputy Minister, Nunavut Department of Environment; and  
Wayne Lynch, Director of Fisheries and Sealing, Nunavut Department of  
Environment;  
Stas Olpinski, Science and Policy Advisor, Nunavik Marine Region Wildlife Board;  
Johnny Oovaut, Chairperson, Nunavik Marine Region Wildlife Board; and  
Mark O'Connor, Director of Wildlife Management, Nunavik Marine Region Wildlife  
Board.



Nunavunmi Anngutighatigut Aulapkaajitkut Katimajiat  
Nunavut Wildlife Management Board

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

January 30<sup>th</sup>, 2012

Honourable Keith Ashfield  
Minister of Fisheries  
and Oceans  
Government of Canada

Honourable James Arreak  
Minister of Environment  
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Cathy Towtongie  
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Wildlife Board

James Qillaq  
Chairperson of the  
Qikiqtaaluk Wildlife Board

Jobie Tukkiapik  
President of  
Makivik Corporation

Dear Colleagues:

**Re: Notice of indefinite postponement of the Nunavut Wildlife Management Board's public hearing to establish the basic needs levels for beluga, narwhal and walrus**

On December 22<sup>nd</sup> 2011, the Nunavut Wildlife Management Board (NWMB or Board) sent you a letter notifying you of a public hearing to establish the basic needs levels for beluga, narwhal and walrus in the Nunavut Settlement Area, to be conducted in Iqaluit on March 27<sup>th</sup> and 28<sup>th</sup> 2012 (refer to attachment). The letter also extended an invitation to your department or organization to provide up to two sets of written submissions and supporting documentation concerning the public hearing, in which the deadlines for submissions were the following: (1) initial submissions on February 9<sup>th</sup> 2012; and (2) reply submissions on March 13<sup>th</sup> 2012.

On January 19<sup>th</sup> 2012 the NWMB received a letter (refer to attachment) from Nunavut Tunngavik Incorporated (NTI) requesting an adjournment of the public hearing to provide time for NTI to explore with the federal Department of Fisheries and Oceans (DFO) a resolution of this significant issue by way of an amendment to the *Nunavut Land Claims Agreement* (NLCA).

As time was of the essence in responding to this request and initial submissions for the hearing were due on February 9<sup>th</sup> 2012, the NWMB held a pre-hearing conference call on Thursday, January 26<sup>th</sup> at 2:00 p.m. that was attended by one representative from each of the hearing parties.

Following the pre-hearing conference call the NWMB held a teleconference on Friday, January 27<sup>th</sup> 2012 to consider all of the comments and/or recommendations received from the pre-hearing conference call, and to make a decision on whether to continue to hold the hearing on March 27<sup>th</sup> and 28<sup>th</sup> or to adjourn it to a later date (pending the outcome of the proposed NTI-DFO discussions). The NWMB made the following decision:

*"RESOLVED that the NWMB approve the request by Nunavut Tunngavik Incorporated to adjourn the public hearing concerning the establishment of Inuit basic needs levels for beluga, narwhal and walrus in the Nunavut Settlement Area for an indefinite period of time"*

The NWMB felt that an indefinite adjournment of the public hearing would be the best available option to allow a reasonable opportunity for NTI and DFO to consider addressing the subject matter of the public hearing by way of an amendment to the NLCA.

The NWMB will be issuing a public notice of adjournment of the public hearing on February 3<sup>rd</sup> 2012 to notify the public of the adjournment (refer to attachment). Please be advised that the adjournment of the public hearing includes the indefinite postponement of the deadlines for the filing of written submissions. The NWMB will, in due course, inform you and issue another public notice announcing either that it has established new dates for the public hearing and the filing of submissions, or that the hearing is cancelled because the NLCA parties are proceeding to address the matter by way of an amendment to the NLCA.

Should you have any questions or concerns regarding this letter, please do not hesitate to contact the NWMB at your convenience.

Yours sincerely,



Mikidjuk Akavak  
Chairperson of the  
Nunavut Wildlife Management Board

Attachments (3)

c.c. Eric Kan, Area Director-Eastern Arctic Area, Department of Fisheries and Oceans;  
Kathy Fisher, Division Manager-Resource Management and Aboriginal Affairs,  
Department of Fisheries and Oceans;  
Gabriel Nirlungayuk, Director of Wildlife, Nunavut Tunngavik Incorporated;  
Bert Dean, Senior Policy Advisor, Nunavut Tunngavik Incorporated;  
David Akeeagok, Deputy Minister, Nunavut Department of Environment;  
Drikus Gissing, Director of Wildlife, Nunavut Department of Environment; and  
Richard Connelly, Executive Director of the Nunavut Inuit Wildlife Secretariat, for  
distribution to the Chairpersons of Nunavut's Hunters and Trappers Organizations;  
Johnny Peters, Vice President of Renewable Resources, Makivik Corporation

December 22<sup>nd</sup> 2011

Honourable Keith Ashfield  
Minister of Fisheries  
and Oceans  
Government of Canada

Honourable James Arreak  
Minister of Environment  
Government of Nunavut

Cathy Towtongie  
President of Nunavut  
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James Qillaq  
Chairperson of the  
Qikiqtaaluk Wildlife Board

Chairpersons of Nunavut's  
Hunters and Trappers  
Organizations  
c/o Richard Connelly  
Executive Director of the  
Nunavut Inuit Wildlife Secretariat

Dear Colleagues:

Re: Public hearing of the Nunavut Wildlife Management Board to establish the basic needs levels for beluga, narwhal and walrus

The Nunavut Wildlife Management Board (NWMB or Board) has scheduled a public hearing to establish the basic needs levels for beluga, narwhal and walrus in the Nunavut Settlement Area. The term "*basic needs level*" (BNL) refers to the level of harvesting by Inuit required to meet their basic needs, as determined through the decision-making process set out in Article 5 of the *Nunavut Land Claims Agreement* (NLCA). The BNL constitutes the first demand by Inuit on the total allowable harvest for a stock or population of wildlife.

NLCA Section 5.6.25 requires the NWMB to establish the BNLs for beluga, narwhal and walrus, "...taking into account the fact that they are in short supply in some areas and therefore that the harvest by Inuit has been and is artificially low in relation to their needs and does not necessarily reflect their full level of needs."

The hearing will take place on March 27<sup>th</sup> and 28<sup>th</sup> 2012, in Iqaluit at the Koojesse Room of the Frobisher Inn. The hearing will be conducted each day from 9:00 a.m. to 12:00 p.m. and

from 1:30 p.m. to 5:00 p.m. The NWMB may also hold one or more evening sessions from 7:00 p.m. to 9:00 p.m.

The Board is prepared to pay travel and accommodation costs for attendance by up to six (6) Distinguished Elders and six (6) Regional Wildlife Organization/Hunters and Trappers Organization representatives (twelve (12) delegates in total). Selection of those representatives will be decided by the Regional Wildlife Organizations. If other representatives of Inuit harvesters wish to attend, the NWMB has no further funding available, but will – if requested, and to the extent reasonably possible – make arrangements for electronic attendance at the hearing.

The hearing rules and a number of additional documents comprising the best available information to date will be available for download from the NWMB's website ([www.nwmb.com](http://www.nwmb.com)) by no later than January 9<sup>th</sup> 2012, or by contacting the NWMB at the following coordinates:

**NUNAVUT WILDLIFE MANAGEMENT BOARD**

Parnaivik Building

P.O. Box 1379, Iqaluit, NU, X0A 0H0

Phone: (867) 975-7300

Fax: (867) 975-7320

E-Mail: [receptionist@nwmb.com](mailto:receptionist@nwmb.com)

**Through this letter, the NWMB is extending an invitation to your department or organization to provide up to two (2) sets of written submissions and supporting documentation concerning the establishment of the basic needs levels for beluga, narwhal and walrus in the Nunavut Settlement Area.**

The first set of written submissions and supporting documentation (**initial submissions**) must be filed with the NWMB, in English and Inuktitut, by no later than 5:00 p.m. (Iqaluit time) on February 9<sup>th</sup> 2012.

The second set of written submissions and supporting documentation (**reply submissions**) – provided in response to submissions filed as of February 9<sup>th</sup> 2012 - must be filed with the NWMB, in English and Inuktitut, by no later than 5:00 p.m. (Iqaluit time) on March 13<sup>th</sup> 2012.

Subject to relevant confidentiality or privacy concerns, all submissions will be placed on the NWMB's website, and will be available for download, within one business day after they are filed with the Board.

Please take careful note that, unless persuasive written and translated reasons are provided to the NWMB for late filing, the Board will not consider materials for this hearing that are not filed on time.

Initial and reply submissions, and their supporting documentation may be filed with the Board in person, by courier or by mail. They should be clearly marked as pertaining to the *NWMB Hearing for Beluga, Narwhal and Walrus*. Delivery of the materials may also be made through fax or electronic transmission, but only if your department or organization confirms by phone with the NWMB - prior to each filing deadline - that a complete and legible copy of the transmission has been received by the Board. Materials are deemed to have been filed on the actual day of receipt by the NWMB.

Please keep in mind that the more thorough, reliable and persuasive submissions and supporting documentation are, the more weight they will be given by the NWMB in the *Nunavut Land Claims Agreement* decision-making process.

If you require further information, please do not hesitate to visit the NWMB website or to contact the Board directly.

Yours sincerely,



Mikidjuk Akavak,  
Chairperson of the  
Nunavut Wildlife Management Board

c.c. Gabriel Nirlungayuk, Director of Wildlife, Nunavut Tunngavik Inc.;  
Bert Dean, Senior Policy Advisor, Nunavut Tunngavik Inc.;  
Keith Pelley, A/Area Director, Eastern Arctic Area, Department of Fisheries and Oceans;  
Kathy Fisher, Division Manager, Resource Management and Aboriginal Affairs, Department of Fisheries and Oceans;  
David Akeeagok, Deputy Minister, Nunavut Department of Environment; and  
Drikus Gissing, Director of Wildlife, Nunavut Department of Environment



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Chief Executive Officer

January 19, 2012

Mikidjuk Akavak,  
Chairperson,  
Nunavut Wildlife Management Board  
Box 1379  
Iqaluit NU  
X0A 0H0

Dear Mr Akavak:

**Re: Request for adjournment of the public hearing set for March 27-28, 2012 in Iqaluit to establish the basic needs levels for beluga, narwhal and walrus**

I am writing on behalf of Nunavut Tunngavik Incorporated (NTI) to request that the Nunavut Wildlife Management Board (NWMB) adjourn the public hearing currently set for March 27-28, 2012, so as to provide time for NTI to explore with the federal Department of Fisheries (DFO) resolution of this long-outstanding issue by way of an amendment to the *Nunavut Land Claims Agreement* (NLCA or Agreement).

As you know, the NLCA originally required basic needs levels (BNLs) to be set for beluga, narwhal and walrus with regard to the factors identified in section 5.6.25 of the NLCA by July 9, 1994. The Agreement was amended in 1996 to provide until the end of March, 1997 to complete the necessary work.

NTI has been encouraging the Board to proceed with the setting of these BNLs, despite the fact that the time for doing so under the Agreement has passed. Until recently, this seemed to NTI the only practical way forward. It remains NTI's view that, should the parties to the NLCA not be able to resolve this issue by means of an NLCA amendment, the Board should proceed to set BNLs for these species under 5.6.25 as currently written. However, in the course of preparing its submission for the March public hearing, NTI has recognized that a further amendment to the Agreement can, if achieved, provide a better way forward respecting this matter.

On reflection, NTI is persuaded that it should be possible for NTI and DFO to develop an amendment that provides more guidance than does s. 5.6.25 as to how the priority access to wildlife that is assured to Inuit under the Agreement should work in the case of these three species. Narwhal, for example, are reserved for harvest by Inuit under the *Marine Mammals Regulations*. Similar treatment is already provided for the harvest of furbearers under s. 5.6.12 of

the Agreement. If there are ancillary issues that need to be addressed, the vehicle of an Agreement amendment offers the parties more flexibility to do so than the current S.6.25.

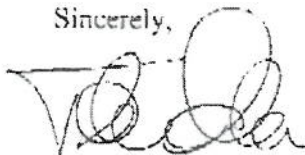
NTI proposes that the NWMB adjourn the hearing without setting a new date at this time, but on the understanding that a new date will be set if either NTI or DFO requests after June 1 that the hearing proceed. This will provide a minimum period of approximately four months for the parties to discuss a suitable amendment.

Of course, NTI is not in a position to assure the Board that an amendment will be obtained. In NTI's considered view, however, the modest amount of additional time that NTI proposes to devote to this matter is likely to be worth taking. NTI will provide DFO with a proposed draft amendment before February 23, 2012, when the first meeting of the Nunavut Fisheries Operations Committee is scheduled, and will propose to initiate discussions with DFO while DFO's representatives are in Iqaluit for the meeting.

NTI asks that, if possible, the Board make its decision regarding an adjournment by January 31, and inform the parties.

NTI is not aware of any material prejudice to DFO or any other affected party that could result from the Board's granting of the adjournment on the terms requested. NTI hopes that the Board agrees that adjourning the hearing on these terms would offer the best opportunity available to resolve this matter in a clear and appropriate manner.

Sincerely,



Terry Audla  
Chief Executive Officer  
Nunavut Tunngavik Incorporated

CC by facsimile

David Balfour, Associate Deputy Minister, Department of Fisheries and Oceans,  
Government of Canada, Ottawa

Eric Kan, Area Manager Nunavut, Department of Fisheries and Oceans, Government of  
Canada, Iqaluit

RWO Presidents





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Aapisia taphuma Angyuuqaaq  
Office of the President

By Facsimile

Without Prejudice

FAXED  
Mar 8-12

March 8, 2012

The Honourable Keith Ashfield  
Minister of Fisheries and Oceans  
15<sup>th</sup> Floor, Centennial Towers  
200 Kent St.  
Ottawa, Ont. K1A 0E6

Dear Minister:

Re: NTI proposal to amend s. 5.6.25 of the *Nunavut Land Claims Agreement (NLCA)*

Nunavut Tunngavik Incorporated (NTI) proposes to discuss with the Department of Fisheries and Oceans (DFO) an amendment to section 5.6.25 of the *Nunavut Land Claims Agreement (NLCA)*. The amendment would be straightforward and would serve the interests of the Canadian public and Nunavut Inuit equally. NTI proposes that these discussions begin as soon as possible and proceed on an expedited basis.

For your convenience I am enclosing a copy of NTI's proposed draft amendment. The draft was sent initially to Senior Assistant Deputy Minister David Balfour on February 17, 2012. NTI representatives explained the proposal to Mr. Balfour at DFO's meeting with NTI held in Iqaluit on February 23. NTI would also like to acknowledge the ongoing interest and commitment of Hon. Leona Aglukkaq, Member of Parliament for Nunavut, and Dennis Patterson, Senator for Nunavut on the narwhal issues and that NTI also would be more than happy to work with either or both to move this particular issue forward.

Under the *NLCA*, the BNL represents the priority Inuit allocation from a Total Allowable Harvest (TAH). Time is of the essence to resolve the issue of BNLs for narwhal, in particular, because in early 2013, at the next meeting of the Conference of the Parties (COP) to the Convention on International Trade in Endangered Species (CITES), Canada anticipates that there will be a proposal to up list narwhal from Appendix II to Appendix I, a step that effectively would ban the trade in narwhal products. DFO advises that having TAHs for narwhal in place will be necessary to the success of Canada's argument against up listing.

The Nunavut Wildlife Management Board (NWMB) twice has been unable to strike these BNLs by the deadline set in section 5.6.25, despite the fact that this section was amended in 1996 to extend the original deadline. As of December, 2011, when the NWMB set the matter down for public hearing for the first time, the Board was in default of the extended deadline by more than 14 years. Between September and November of 2011, NTI and DFO tried to reach agreement on

a joint submission that would have enabled the NWMB to proceed on the basis of consent, but were unsuccessful.

(At NTI's request, the Board adjourned the public hearing on February 3, pending further notice, so that discussions of NTI's proposed *NLCA* amendment can take place.)

Reflecting on this record of default and lack of progress, NTI has observed that section 5.6.25 gives little guidance to the Board as to how to calculate BNLs for these species. Contrary to the process for other species, the Board's Harvest Study is not to be the basis of the calculation. (The original section 5.6.25 made the original deadline for the striking of these BNLs the same date - July 9, 1994 - on which the five-year Harvest Study was required to *commence*.) The Board is directed to consider that these three species "are in short supply in some areas", hence that the Inuit harvest has been artificially low and does not necessarily reflect Inuit needs. But nothing like the formulae provided where Harvest Study data are to be relied on is offered. It is not surprising that the Board has not embraced this function, or that NTI and DFO have not been able to agree on how the Board should carry it out.

In this light, NTI has concluded that there must be a better way than a public hearing under the current section to resolve this matter within the time constraints that prevail. The better way that NTI proposes is one further amendment to 5.6.25 that would remove the uncertainties in the current section. This can be accomplished easily for beluga, narwhal and walrus in the NSA, because there is practically no demand for the harvest of these species in the NSA other than harvest by Inuit. NTI's proposed amendment therefore reserves the harvest of these species to Inuit.

The vehicle of an *NLCA* amendment also would enable NTI and DFO to provide for appropriate exceptions where the current 5.6.25 does not. For example, harvesting of these species by government scientists for research, with the approval of the NWMB, can be provided for expressly. The *NLCA* currently does not speak to that matter except in the case of species that qualify for "presumption-as-to need" treatment under section 5.6.5. NTI's draft proposal includes allowance for such harvesting. In order to ensure equitable treatment of any non-Inuit harvesters, the draft also would permit current non-Inuit harvesters to continue harvesting these species, and future non-Inuit would be able to harvest with the approval of the local Hunters and Trappers Organization.

NTI looks forward to working with you and your officials on this matter. Despite what appear to be widespread but erroneous impressions to the contrary, amending the *NLCA* need not be viewed as novel or difficult territory. The Nunavut Inuit and the Government of Canada have concluded numerous *NLCA* amendments since the *NLCA* was signed in 1993, some in relation to matters requiring far more complex drafting than the one at hand. The process can also be expeditious; it does not require any legislative activity on the part of the Crown.

If there is confidence that discussions are proceeding well, NTI would support the scheduling of the NWMB public hearing to set the necessary TAHs before the required NTI Board resolution and federal Order-in-Council amending section 5.6.25 are made.

Due to the urgency of this matter, I hope that you can inform me within the next two weeks whether you have instructed your staff to enter into discussions with NTI on the basis that I have described. Thank you for giving this letter your priority attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cathy Towtongie', with a stylized flourish at the end.

Cathy Towtongie

CC Hon Leona Aglukkaq  
Senator Dennis Patterson



MAR 26 2012

Ms. Cathy Towtongie  
President  
Nunavut Tunngavik Incorporated  
P.O. Box 638  
Iqaluit, Nunavut  
X0A 0H0

Dear Ms. Towtongie:

Thank you for your correspondence of March 8, 2012, regarding Nunavut Tunngavik Incorporated's proposal to amend section 5.6.25 of the *Nunavut Land Claims Agreement*.

As was discussed by our officials during their meeting in Iqaluit on February 23, 2012, the Department of Fisheries and Oceans does not support addressing the establishment of basic needs levels for beluga, narwhal and walrus by way of an amendment to the *Nunavut Land Claims Agreement*. The Department has consistently supported the existing provisions and responsibilities set out in the *Nunavut Land Claims Agreement* regarding the establishment of a basic needs level, and supports the continuation of existing processes related to the establishment of basic needs levels for beluga, narwhal and walrus, such as the public hearings proposed by the Nunavut Wildlife Management Board.

However, given the priority placed on narwhal by all of the co-management organizations, it remains the Department's opinion that our immediate focus should be on completing the Integrated Fisheries Management Plan for narwhal by January 2013. We understand that the Nunavut Wildlife Management Board is prepared to hold public hearings on changes to narwhal management once Fisheries and Oceans' consultations with Nunavut communities are completed in March 2012. The Nunavut Wildlife Management Board will have the opportunity to address the establishment of a basic needs level for narwhal during these public hearings, so that it can consider community comments prior to the establishment of Total Allowable Harvest levels and any non-quota limitations required to implementing proposed changes to the existing narwhal management regime.

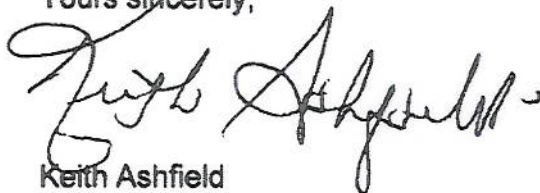
Subsequent to the public hearings and completion of the *Nunavut Land Claims Agreement* decision making process, any revisions to current narwhal management measures will be reflected in the finalized Integrated Fisheries Management Plan. This will assist Canada in defending the sustainability of the narwhal fishery, should a proposal be tabled to uplist narwhal to an Appendix I species under the *Convention on International Trade in Endangered Species of Fauna and Flora* at the next Conference of Parties in March 2013.

As you know, the Department has already confirmed to Nunavut Tunngavik Incorporated that it supports the proposal that the Total Allowable Harvest level serve as the basic needs level for narwhal (Fisheries and Oceans' letter to T. Audla, Dec 9, 2011). Given that the parties have reached consensus on the process for implementing s.5.6.25 for narwhal, the Department does not believe that this issue should delay the Nunavut Wildlife Management Board public hearings related to narwhal.

Given the significant challenges that remain to complete the narwhal Integrated Fisheries Management Plan by 2013 and the need for further dialogue on implementing s.5.6.25 for beluga and walrus, the Department suggests that basic needs levels for these two species be addressed after the narwhal Integrated Fisheries Management Plan is completed, perhaps at the same time as an Integrated Fisheries Management Plan for walrus is developed by the co-management partners.

Thank you for writing and I look forward to the continued work between our organizations on the development of the Narwhal Integrated Fisheries Management Plan.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Keith Ashfield", with a stylized flourish at the end.

Keith Ashfield

cc.: The Honourable Leona Aglukkaq, P.C., M.P.  
Senator Dennis Patterson



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Atangjuag  
Chief Executive Officer

## Hand Delivered

April 18, 2012

Peter Kusugak  
A/Chairperson,  
Nunavut Wildlife Management Board  
Box 1379  
Iqaluit NU  
X0A 0H0

Dear Mr Kusugak:

### Re: Report on 5.6.25 amendment discussions, and request for resumption of public hearing process to establish the basic needs levels for beluga, narwhal and walrus

Further to my January 19, 2012 letter and the Board's February 3, 2012 notice of adjournment, NTI wishes to advise the NWMB that the Minister of Fisheries and Oceans informed NTI by letter dated March 26, 2012 that his department is not prepared to consider amending section 5.6.25 as a means to resolve this issue.

For the Board's information, copies of the Minister's letter, and NTI's March 8 letter and draft amendment, are attached.

NTI is disappointed that DFO did not take advantage of the opportunity that NTI's initiative presented to resolve the long-standing breach of an *NLCA* duty that is posed by the absence of basic needs levels (BNLs) for these species. NTI's proposals would have settled this matter in a clear and simple manner that serves Inuit and the Canadian public equally well. For the record, NTI's offer to enter into such amendment discussions remains outstanding for the time being.

In the absence of such an amendment, the authority for setting a BNL in relation to these species in the period after passage of the *NLCA*'s 1997 deadline is not addressed by the Agreement, and therefore is uncertain. As indicated in its January 19 letter, NTI seeks the best practical solution to this uncertainty. NTI believes that, with cooperation and shared commitment, the parties can avoid having to precipitate legal conflict in this matter. Accordingly, NTI requests that the Board reschedule the adjourned public hearing as soon as possible and proceed to establish BNLs for these species on the basis of the hearing record. NTI reserves all legal rights in the proceeding.

As indicated in NTI's November 10, 2011 Request for Decision, NTI proposes that the Board strike BNLs for these species at the level of the total allowable harvest from time to time. As confirmed in the Minister's recent letter, DFO has agreed to NTI's proposal in the case of narwhal.

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In Minister Ashfield's letter, the Board will see that DFO proposes that the NWMB postpone the matter of BNLs for beluga and walrus into the future. NTI strongly disagrees with this suggestion. Without attributing any improper motivation on anyone's part, it is NTI's respectful view that this *NLCA* obligation has been left unmet for too long to contemplate any further delays. NTI looks forward to the NWMB minimizing ongoing dissonance with the NLCA by moving to set beluga and walrus BNLs.

Sincerely,



Terry Audla  
Chief Executive Officer  
Nunavut Tunngavik Incorporated

Enc. (Copies of NTI March 6 letter to Minister with attachment; Minister's March 26 reply)

CC with enclosures by facsimile

David Balfour, Associate Deputy Minister, Department of Fisheries and Oceans,  
Government of Canada, Ottawa

Eric Kan, Area Manager Nunavut, Department of Fisheries and Oceans, Government of  
Canada, Iqaluit

RWO Presidents

**DRAFT ONLY**

*Without Prejudice*

**Nunavut Tunngavik Incorporated.  
February 17, 2012**

Whereas the Agreement between the Inuit of the Nunavut Settlement Area (as represented by the Tungavik Federation of Nunavut) and Her Majesty in Right of Canada (the "Agreement"), signed on May 25, 1993, was ratified by the *Nunavut Land Claims Agreement Act* on July 9, 1993;

Whereas subsection 2.13.1 of the Agreement provides that an amendment to the Agreement shall require the consent of the Parties as evidenced by:

(a) in respect of Her Majesty, an Order of the Governor in Council, and

(b) in respect of Inuit, a resolution of the Tungavik, except as provided otherwise by its by laws or Section 35.9.1;

but the jurisdiction of the Legislative Assembly shall not be altered, and the Territorial Government shall not incur any financial obligations, through any amendment without its written consent;

Whereas the Parties wish to make amendments to the Agreement;

And whereas Nunavut Tunngavik Incorporated, as the lawful successor to the Tungavik Federation of Nunavut, has passed a resolution in favour of amending the Agreement in accordance with the annexed schedule;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to subsection 2.13.1 of the Agreement, hereby consents that the Agreement be amended, in accordance with the annexed schedule.

## SCHEDULE

1.       **The following new provisions are added under a new heading “Beluga, Narwhal, Walrus”**
- 5.6.15A   No person may harvest beluga, narwhal, or walrus in the Nunavut Settlement Area except as provided in Section 5.6.15B.
- 5.6.15B   Subject to the terms of this Article,
  - (a)   an Inuk may harvest beluga, narwhal or walrus in the Nunavut Settlement Area;
  - (b)   a person may harvest beluga or walrus if the person, on June 1, 2012, held a valid licence to harvest beluga or walrus in the Nunavut Settlement Area and actually harvested beluga or walrus under the licence, where that person desires to continue doing so, the burden of proving that the person qualifies under this Sub-section being on that person; and
  - (c)   a person may harvest beluga, narwhal or walrus whose application has been approved and recommended by an HTO of the place where the applicant desires to harvest beluga, narwhal, or walrus and subject to any terms and conditions imposed by the HTO.
- 5.6.15C   Persons mentioned in Sub-sections 5.6.15B (b) and (c) shall be subject to laws of general application.
- 5.6.15D   For the purposes of Section 5.6.15B, a valid licence to harvest held by a person who is not an Inuk is deemed to be a personal licence only, and is neither transferable nor heritable.
- 5.6.15E   Notwithstanding Section 5.6.15A, the NWMB may approve the harvest of beluga, narwhal, or walrus by government wildlife officers or researchers for purposes of research or of predator or disease control.
2.       **Section 5.6.25 is deleted**