

Standing Committee on
Economic Development
and Environment



Report on the Statutory Reviews of the *Species at Risk (NWT) Act* and *Wildlife Act*

19th Northwest Territories Legislative Assembly

Chair: Mr. Jackie Jacobson

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March 8, 2022

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Economic Development and Environment is pleased to provide its *Report on the Statutory Reviews of the Species at Risk (NWT) Act and Wildlife Act* and commends it to the House.



Mr. Jackie Jacobson
Chair, Standing Committee on
Economic Development and Environment

**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

**REPORT ON THE STATUTORY REVIEWS OF *THE SPECIES AT RISK
(NWT) ACT AND WILDLIFE ACT***

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
INTRODUCTION	5
REVIEW PROCESS.....	5
BACKGROUND.....	6
<i>Wildlife Act</i>	6
<i>Species At Risk (NWT) Act</i>	6
WHAT WE HEARD	7
Role of Indigenous Governments in Wildlife Management Without Agreements	7
Recommendation 1.....	8
Recommendation 2.....	9
Illegal Hunting	9
Hunting Enforcement.....	10
Recommendation 3.....	10
Indigenous Peoples' Identification	10
Harvester Education	10
Recommendation 4.....	11
Recommendation 5.....	11
Authority of Conservation Plans.....	12
Recommendation 6.....	12
Alternative Measures	12
Recommendation 7.....	13
Indigenous Guardians	13
Recommendation 8.....	15
Recommendation 9.....	15
Chronic Wasting Disease Testing.....	15

Food Security and Sharing of Wild Meat.....	16
Recommendation 10.....	17
Wildlife Habitat.....	17
Recommendation 11.....	17
Use of Traditional Knowledge	17
Annual Wildlife Meeting.....	18
Recommendation 12.....	18
Timeline of Statutory Review.....	18
Recommendation 13.....	18
Recommendation 14.....	18
CONCLUSION	18
Stakeholder Submissions	Appendix A

**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

**Report on the Statutory Reviews of the *Species at Risk (NWT) Act* and
*Wildlife Act***

EXECUTIVE SUMMARY

The Standing Committee on Economic Development and Environment (Committee) is mandated to review the *Wildlife Act* and *Species at Risk (NWT) Act* pursuant to Section 171 and Section 147, of the *Acts*, respectively.

Due to the change in Assemblies, there was a delay commencing the statutory review process and a further delay as a result of COVID-19.

Committee began the statutory review in August of 2020 and established the following key priorities in which to guide Committee's approach:

- the role of Indigenous governments from areas with ongoing negotiations in relation to lands, resources, or self-government agreements with respect to wildlife management;
- emerging role of guardianship and related programs; and
- community based wildlife management

Between September 2020 to October 2021 Committee held several rounds of public engagement seeking feedback from Indigenous governments, renewable resource boards, hunter and trapper associations, non-government wildlife stakeholders and the public. Committee received seven written submissions, and three public presentations as well as briefings from the Minister and officials from the Department of Environment and Natural Resources.

Committee heard a broad range of concerns including but not limited to:

- the role of Indigenous governments (without agreements) in wildlife management
- application of the legislation with regard to infractions, enforcement and identification
- Indigenous guardians
- harvester education and training
- community conservation plans
- wildlife habitat
- food security

- alternative measures under the *Wildlife Act*

The following report provides a summary of what Committee heard from stakeholders and submits recommendations to the GNWT to improve the *Species at Risk (NWT) Act* and the *Wildlife Act*.

The Standing Committee on Economic Development and Environment has provided 14 recommendations to the GNWT:

Recommendation 1

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories advance discussions under section 12 of the *Wildlife Act* with Indigenous governments who are not represented by existing Renewable Resource Boards or without a final lands, resources and self-government agreement.

Recommendation 2

The Standing Committee on Economic Development and Environment recommend the Department of Environment and Natural Resources strengthen the application of Section 14 and 21 under the *Species at Risk (NWT) Act* to ensure that Indigenous governments without a final agreement have a say in management of species at risk.

Recommendation 3

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories establish an expedited legal process for Indigenous hunters to regain access to hunting equipment when there is a risk of losing the hunting season without it.

Recommendation 4

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories increase funding support for the Community Harvester Assistance Program (and related programs that develop hunting, trapping and harvesting skills).

Recommendation 5

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories make hunter education a requirement of the kindergarten to grade 12 NWT education curriculum.

Recommendation 6

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories expand section 98 of the *Wildlife Act*, to require consideration of community conservation plans when determining allocation of harvests for wildlife and that written reasons be required for all decisions on harvest allocations.

Recommendation 7

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories work with Indigenous governments and Renewable Resource Boards to identify appropriate, culturally grounded, processes for enforcement using alternative measures which include restorative justice models.

Recommendation 8

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories establish a role for Indigenous guardians in legislation.

Recommendation 9

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories create a funding program to establish and maintain Indigenous guardian programs in communities, and that multi-year funding be available to employ people in small communities.

Recommendation 10

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories remove any regulatory barriers that prevent communities from sharing wild meat to improve food security.

Recommendation 11

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories expand Part 6, Conservation and Management Measures of the *Wildlife Act* to include provisions for nomination of conservation areas by Indigenous governments and others, consistent to the *Protected Areas Act*.

Recommendation 12

The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories make the results of discussions at meetings under Section 15 of the *Wildlife Act*, publicly available.

Recommendation 13

The Standing Committee on Economic Development and Environment recommends that the Minister extend the Statutory Review period under section 171 of the *Wildlife Act* to match the review period established under section 147 of the *Species at Risk (NWT) Act*, and that both of these Statutory Review periods be required every other Assembly.

And in closing,

Recommendation 14

The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories provide a response to the recommendations contained in this report within 120 days.

INTRODUCTION

The Standing Committee on Economic Development is mandated to undertake statutory reviews of legislation. Section 171 of the [Wildlife Act](#) requires the Act to be reviewed by the Legislative Assembly within five-years after coming into force (November 2014), and Section 147 of the [Species at Risk \(NWT\) Act](#) requires review ten-years after coming into force (February 2010). Due to 19th Assembly starting office in late 2019, along with limitations imposed in early 2020 due to COVID-19 pandemic, Committee was delayed commencing the statutory reviews. Due to the overlapping nature of both pieces of legislation, Committee is providing one consolidated report.

In Committee's preparation on the Report of statutory reviews, Committee conducted internal research, engaged with the Department of Environment and Natural Resources, and held three rounds of public engagement, all of which contributed to the recommendations as detailed in this report.

Committee recognizes this review was extended over two-years. While Committee acknowledges the intent of statutory review clauses in legislation to maintain accountability, these reviews require significant time, energy, and resources in addition to other priorities set by Committees.

REVIEW PROCESS

On August 20, 2020, Committee commenced the statutory review of the *Wildlife Act* and *Species at Risk (NWT) Act*. The following key priorities emerged from Committee's review:

- the role of Indigenous governments from areas with ongoing negotiations in relation to lands, resources, or self-government agreements with respect to wildlife management;
- emerging role of guardianship and related programs; and
- community based wildlife management

Between September 2020 and October 2021 Committee sent letters seeking feedback to all Indigenous governments and renewable resource boards, the Inuvialuit Game Council, hunter and trapper associations, Northwest Territories wildlife stakeholders, Indigenous guardian programs, tourism outfitters and the general public. Committee had originally planned to hold public hearings in various locations across the NWT but given COVID restrictions, written submissions and video conferences formed the public

engagement. Subsequent calls for submissions were released on the Legislative Assembly's various social media platforms.

The following stakeholders provided written submissions and/or public presentations before committee:

- ❖ Sahtu Renewable Resource Board
- ❖ the Inuvialuit Game Council
- ❖ the Wek'eezhii Reviewable Resource Board
- ❖ NWT Metis Nation
- ❖ Acho Dene Koe First Nations
- ❖ Ducks Unlimited
- ❖ Nature United
- ❖ Malcolm Jaeb

Any written submissions are contained in Appendix A of this report. The public presentations can be found on the [Legislative Assembly channel](#).

BACKGROUND

Wildlife Act

The original *Wildlife Act* was an inherited piece of legislation from the Government of Canada and was in force for more than 30 years. The implementation of land, resource, and self-government agreements required the Act to be updated. In 2010, the Government of the Northwest Territories (GNWT) began drafting the replacement *Wildlife Act*. This involved extensive consultation and co-drafting with settled and unsettled Indigenous governments and travel to all 33 communities. The new *Wildlife Act* legislation and regulations came into force in November 2014, while Sections 46 and 48 pertaining to a Harvester Training Course and a number of other "Phase 2" regulations later came into force on January 1, 2020.

Species At Risk (NWT) Act

The *Species at Risk (NWT) Act* was developed through a co-drafting process that commenced in 2005 including: GNWT representation from Environment and Natural Resources and Justice, negotiated land, resource and self-government agreement organizations (Inuvialuit Game Council, Gwich'in Tribal Council, Sahtu Secretariat Incorporated, and the Tłıchq̓ Government), and renewable resources boards established under land, resource or self-government agreements (Wildlife Management Advisory Council (NWT), Gwich'in Renewable Resources Board, Sahtu Renewable Resources Board and the Wek'eezhii Renewable Resources Board). The Act came into force in February of 2010.

WHAT WE HEARD

Through Committee's public engagement efforts, many stakeholders expressed high regard for the collaborative efforts of the Department of Environment and Natural Resources in the development of the *Wildlife Act* and the *Species at Risk (NWT) Act*. Many stakeholders viewed the Departments progressive approach to co-management very positively.

Role of Indigenous Governments in Wildlife Management Without Agreements

The existing Aboriginal and treaty rights of Indigenous people are recognized and mandated under section 35 of the *Constitution Act* (1982) and the United Nations Declaration on the Rights of Indigenous Peoples.

The *Wildlife Act* and *Species at Risk (NWT) Act* also provide further recognition of Aboriginal and treaty rights with respect to wildlife management and species at risk.

Committee has identified an interest to strengthen the role of Indigenous governments from areas without land and resource management agreements, in the management of wildlife in the NWT.

Wildlife Act

Section 9 of the *Wildlife Act* identifies renewable resource boards as the main instrument of wildlife management in areas of the Northwest Territories with land claims agreements.

Sections 12 and 14 of the *Wildlife Act* provide the authority for the Minister to enter into an agreement regarding wildlife management. This can include Indigenous governments who are still negotiating their lands and resources rights.

Committee recognizes this section of the Act is a tool for the Minister to give more responsibilities to Indigenous governments in areas without final agreements, but in Committee's view, this legislative tool has not been fully utilized.

Several stakeholders including Indigenous governments also voiced concern that wildlife co-management needs to incorporate a place at the decision-making table for Indigenous governments in areas still under negotiation.

In their submission the NWT Métis Nation states:

“...in areas of the NWT that are not subject to a land claim agreement, Indigenous governments provide input and are involved in wildlife management. The Wildlife Act and the Species at Risk (NWT) Act must recognize co-management rights of all Indigenous Governments irrespective of whether a group has a land claim.”

Nature United submits:

“...it is neither equitable or effective for conservation to exclude from wildlife co-management and decision-making the full participation of Indigenous governments who represent peoples and territories extending over approximately two-thirds of the land mass of the Northwest Territories.”

Whereas in the Wek'èezhì Renewable Resources Board submission, Committee is reminded that during the drafting of the *Wildlife Act*, there was opposition to Indigenous governments without agreements having specific decision-making authorities. While these Indigenous governments should be treated fairly and equitably, the WRRB states the GNWT must be careful not to grant legal authority where it does not exist, and to avoid an adverse effect on those areas with established institutions and rights.

Committee recognizes the legal authority and rights of the areas where institutions to manage wildlife in the NWT have been established under agreements and legislation. Committee also recognizes the legislative tools available under the *Wildlife Act* to provide more responsibility to Indigenous governments without final agreements areas have not been fully utilized.

Recommendation 1: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories advance discussions under section 12 of the *Wildlife Act* with Indigenous governments who are not represented by existing renewable resource boards or without a final lands, resources and self-government agreement.

Species At Risk (NWT) Act

Section 11 of the *Species at Risk (NWT) Act* lists the members to the Conference of Management Authorities which does not include a seat for Indigenous governments without a final agreement.

Section 19(1) lists the composition of Species at Risk Committee which also does not provide a seat for Indigenous governments without land and resource agreements.

Section 14 provides the authority for the Minister to invite others and details the extent to which they will participate regarding the Conference of Management Authorities.

Section 21 provides the same authority for Minister with respect to participation in the Species at Risk Committee.

Under the *Species at Risk (NWT) Act*, Indigenous governments from areas without land and resource agreements can observe the Species at Risk Committee, and the Conference of Management Authorities, but there is no decision-making role.

Some stakeholders specifically requested that Indigenous governments still negotiating agreements hold decision-making influence in the Conference of Management Authorities.

Acho Dene Koe First Nation recognized the need to strengthen the role of Indigenous governments without representation by a renewable resource board. Acho Dene Koe recommends:

“...amending the Species at Risk (NWT) Act to provide Indigenous governments currently negotiating land claim agreements (and therefore currently without co-management boards) with interim, independent decision-making influence in the Conference of Management Authorities.”

It was recommended that the Indigenous governments (not represented by renewable resource boards) still have equal roles and representation on the Conference of Management Authorities and that interim measures be established to finalize this role until agreements are completed.

Committee recognizes the legislation provides methods to involve Indigenous governments from areas without agreements in decisions, but Committee understands these provisions have not been fully utilized.

Recommendation 2: The Standing Committee on Economic Development and Environment recommends the Department of Environment and Natural Resources strengthen the application and use of Sections 14 and 21 under the *Species at Risk (NWT) Act* to ensure that Indigenous governments without a final agreement have a say in management of species at risk.

Illegal Hunting

Members have discussed at length the challenges of the GNWT to address declining caribou populations and illegal hunting activity along roads. Committee recognizes the growing media and public attention to meat wastage and illegal harvesting along the Tibbitt to Contwoyto ice road.

The Inuvialuit Game Council also identified harvesting compliance and meat wastage is an area of concern for the NWT.

Committee acknowledges the Department of Environment and Natural Resources collaborative efforts to advance effective public awareness campaigns on illegal

harvesting activities, such as the [March 9, 2021](#) press release, [Join A Wildlife Officer Monitoring Caribou on the winter road](#) educational video, as well as the Department's efforts to host meetings among "Respectful Harvesters" to collaboratively address this issue.

Committee also acknowledges 'effective road planning and management' are actions the Department intends to take to address declining herd populations as identified in the [Bathurst Caribou Range Plan](#).

Committee is concerned about the status of some declining herd populations, but also recognizes the proactive and collaborative efforts the Department is taking to address this issue, and therefore has no specific recommendation on this topic other than the need to continue these efforts collaboratively with Indigenous governments and harvesters.

Hunting Enforcement

Committee recognizes Part 7 of the *Wildlife Act* describes the authority of an officer appointed by the Minister to seize anything the officer thinks might have been involved in an offence or that provide evidence about an offence under the Act.

Committee recognizes the authority of the Minister to investigate wildlife infractions, which may lead to seizure of evidence. While Committee recognizes the legal process to retrieve one's seized equipment is identified in the Act, Committee is also concerned that seizing the hunting equipment of individuals can decrease the chance of gathering meat for a season and any sharing that usually takes place.

<p>Recommendation 3: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories establish an expedited legal process for Indigenous hunters to regain access to hunting equipment when there is a risk of losing the hunting season without it.</p>

Indigenous Peoples' Identification

Committee also has heard the need for Indigenous harvester identification in the field. The NWT Métis Nation recommends that the Department should recognize an identification card issued by Indigenous governments as an acceptable form of identification.

Committee suggests the Minister utilize the authority established under section 20 of the *Wildlife Act* to enter into agreements with Indigenous governments respecting the form of acceptable identification.

Harvester Education

Committee recognizes the importance of harvester and trapper training across the NWT. Furs and hides are an economy that can be pursued by individuals across all communities and is a skill set that should be widely taught, shared, and supported.

Committee acknowledges the efforts by the GNWT to expand hunter education across the NWT.

Sections 46 to 48 of the *Wildlife Act* provide the requirement for anyone who is hunting or harvesting wildlife to complete the harvester training course.

Committee applauds the Department's increased requirements to complete Hunter Education before receiving a hunting licence, and a [hunter education course](#) that is currently being piloted in nine schools across the NWT.

The Department has also expanded programs and funding to support the development of on-the-land skills.

Committee fully supports the Department's efforts in this regard.

Recommendation 4: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories increase funding support for the Community Harvester Assistance Program (and related programs that develop hunting, trapping and harvesting skills).

Committee also requests the hunter education course to be formalized in education curriculum across the NWT.

Recommendation 5: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories make hunter education a requirement of the kindergarten to grade 12 NWT education curriculum.

The Committee also recognizes the opportunity for the Department to support and formalize organized community-based hunts. Community-based hunts ensure that communities have access to meat, while conducting hunts in a setting where knowledge sharing between Elders, youth, and families can be facilitated. Committee sees these organized community hunts as an opportunity for caribou monitors as well as officers to participate.

Committee acknowledges the efforts of the Inuvialuit Regional Corporation (IRC) through the [Inuvialuit Harvesters Assistance Program](#) to support subsistence harvesting. Under this program the IRC *"provides assistance to Inuvialuit individuals and groups to engage in traditional and emerging renewable resource activities"*.

Committee encourages the Department to find ways to increase community organized hunts across the NWT.

And finally, Committee recognizes the need to educate and train people of all ages, not just children and youth. Committee suggests that the GNWT support community led hunter education training efforts. While the GNWT has developed this course, Committee would like to see Indigenous governments supported to build capacity to deliver this training.

Authority of Conservation Plans

Sahtu Renewable Resources Board (SRRB) requests the Community Conservation Plans (which includes aspects of harvest management) to be recognized under legal authority, likely under the *Wildlife Act*. [ENR and Colville Lake negotiated an Interim Management Agreement](#) to formalize certain local authority over harvest management, but other issues remain unresolved and unconfirmed in current law.

SRRB would like to see Community Conservation Plans be considered before determining Total Allowable Harvest limits. SRRB is of the view that the current regulatory framework being applied by GNWT may not respect the rights, customs, and practices of Sahtu Dene or Métis.

Committee recognizes the authority of the Minister to establish allocation of harvest on wildlife and agrees that Community Conservation Plans should be considered in this decision. Committee also believes that the Minister should provide written public notice on reasons for the decision on allocation of harvest for wildlife.

<p>Recommendation 6: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories expand section 98 of the <i>Wildlife Act</i>, to require consideration of community conservation plans when determining allocation of harvests for wildlife and that written reasons be required for all decisions on harvest allocations.</p>
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Alternative Measures

Committee recognizes how expensive and complicated court processes can be when dealing with infractions.

Committee recognizes that alternative measures are detailed under section 167 of the *Wildlife Act*.

Committee views infractions under the *Wildlife Act* seriously but also believes that alternative measures may be more effective tools to address illegal harvesting practices.

Committee believes that restorative justice models where Elders and Guardians (for example) as part of enforcement efforts may effectively increase compliance under the *Act*.

The SRRB recommends that the GNWT Minister consider culturally appropriate restorative justice processes in the [Déljñe](#) and [Dehla Gotine](#) Community Conservation Plans that reflect and accommodate community enforcement capacity under the authority available in the *Wildlife Act*.

The SRRB wants to see the *Wildlife Act* accommodate community-based authority, to define offences and/or determine enforcement measures.

Committee suggests the GNWT discuss alternative measures with Indigenous governments and Renewable Resource Boards to identify how alternative measures can be applied more often to promote compliance under the *Wildlife Act*.

Recommendation 7: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories work with Indigenous governments and Renewable Resource Boards to identify appropriate, culturally grounded, processes for enforcement using alternative measures which include restorative justice models.

Indigenous Guardians

Committee recognizes that Indigenous guardian programs, where Indigenous peoples take the lead on monitoring, stewardship, and protecting lands and waters are growing across the NWT and indeed the world. Committee also recognizes Indigenous guardians are an avenue for Indigenous peoples to exercise land rights and maintain cultural connections to the land through stewardship.

Committee is fully supportive of these efforts as a tool for wildlife conservation and management.

In Nature United's submission:

"A growing body of global evidence shows that Indigenous people who are able to actively participate in the management of lands and resources in accordance with Indigenous laws, customary management systems and Indigenous knowledge results in more effective and durable sustainable management over time¹."

Indigenous guardian programs in the NWT employ community members as stewards of the land, patrolling protected areas, monitoring fish and wildlife harvests, collecting data on climate change, tracking industrial activities and educating visitors about proper land use.

¹ For a recent summary of research in this area, see Hessami, Bowles, Popp and Fort (2021) "Indigenizing the North American Model of Wildlife Conservation". FACETS 5 August 2021. <https://doi.org/10.1139/facets-2020-0088>

The social return on investment of Indigenous guardian programs in the NWT is estimated that for every \$1 invested in an NWT Guardian Program there equates approximately \$2.5 of social, economic, cultural and environmental value².

Australia has been recognized as a leader in the development of Indigenous protected areas and the benefits of managing land under Indigenous stewardship. A study conducted for the Australian Prime Minister and Cabinet reflects the research findings from the NWT that for every \$1 invested in combined Indigenous Ranger and Indigenous protected area programs generates up to \$3 in social, economic and cultural benefits³.

In Australia, the Indigenous Protected Areas and 'Working on Country' programs have catalyzed the development of an Indigenous land and sea-based economies, empowering Indigenous landowners to manage their country in accordance with their priorities. As of April 9, 2021, there are 129 ranger groups and 898.7 full time equivalent Indigenous rangers in the country⁴. The success has been so impressive, the Government of Australia invested \$650M towards the Indigenous ranger programs as part of its COVID-19 economic recovery plan⁵.

Economic Diversification

Indigenous-led conservation areas across Canada are leading the way for creation of jobs, and the creation of new and expanded businesses in this area. Nature United notes that stakeholders involved in the establishment and management of Thaidene Nëné are expected to create approximately 10-20 jobs for Lutsel K'e Dene First Nation. Economic benefits from Indigenous-led conservation areas creates jobs in stewardship, land management, and parks while also stimulating tourism activities and new business developments.

Committee recognizes the potential for Indigenous guardian programs to grow the tourism and conservation economy across the NWT and suggest the GNWT work inter-departmentally to continue to support these community-based land stewardship efforts.

Committee acknowledges the Federal Government 2021 budget proposed to invest an additional \$2.3 billion to conserve nature, including continued support to Indigenous

² SVA Consulting, Analysis of the Current and Future Value of Indigenous Guardian Work in Canada's Northwest Territories, 2016. [td_231-182.pdf \(ntassembly.ca\)](#)

³ SVA Consulting, Consolidated report on Indigenous Protected Areas following Social Return on Investment analysis, February 2016, <https://www.socialventures.com.au/assets/Consolidated-SROI-Report-on-IPA-WoC.pdf>

⁴ Australian Government, National Indigenous Australians Agency, Indigenous Ranger Program, <https://www.niaa.gov.au/indigenous-affairs/environment/indigenous-ranger-programs>

⁵ The Narwhal, Australia just committed \$650 million to Indigenous rangers programs. Should Canada do the same?, June 26, 2020, <https://thenarwhal.ca/canada-indigenous-guardians-investment-covid/>

Guardians. The Deninue K'ue First Nation was one of ten First Nation Guardian recipients across the country under this initiative⁶.

Enforcement

Nature United proposes that the role of Guardians should be enabled under the provisions of the *Wildlife Act*, particularly with respect to monitoring, conservation and enforcement tools.

The Wek'èezhì Renewable Resource Board however, expressly identified that Guardians should not be involved in enforcement. The WRRB also cautions that the role of Guardians within legislation needs to be carefully considered so as not to overlap renewable resource boards or hunter and trapper committees.

Conservation and Monitoring

Both stakeholders acknowledge the opportunity to expand authority for Guardians around monitoring and conservation efforts, of which Committee also supports. Committee recognizes the Minister has the authority to establish agreements with Indigenous governments to recognize the role of Indigenous guardians in wildlife conservation and monitoring.

Recommendation 8: The Standing Committee on Economic Development and Environment recommend the Government of the Northwest Territories establish a role for Indigenous guardians in legislation.

There was consensus among several stakeholders including the Committee that the GNWT should assist with the establishment and funding of Indigenous guardian programs to support wildlife conservation and monitoring efforts.

Recommendation 9: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories create a funding program to establish and maintain Indigenous guardian programs in communities, and that multi-year funding be available to employ people in small communities.

Chronic Wasting Disease Testing

The Acho Dene Koe First Nation recommends the regulation prohibiting import of mule and white-tailed deer from outside of the NWT be re-considered under the *Wildlife Act*.

Committee recognizes the Acho Dene Koe First Nation traditional area extends outside the borders of the NWT. Acho Dene Koe First Nation assert that Section 12.3 of the

⁶ Government of Canada, Environment and Climate Change, News Release, June 3, 2021, <https://www.canada.ca/en/environment-climate-change/news/2021/06/government-of-canada-invests-in-10-first-nations-guardians-initiatives.html>

Wildlife General Regulations may create hardship and infringe on their Aboriginal or treaty rights.

Section 12.3 of the *Wildlife General Regulations* requires a hunter that shoots a mule or white-tailed deer more than 100km outside of the NWT border to have the animal tested for Chronic Wasting Disease and provide proof the animal does not have the disease before bringing it to the NWT.

Members had mixed views regarding the requirement for testing.

Committee recognizes the hardship this may create for hunters in their traditional territory. Committee also recognizes that the Department of Environment and Natural Resources provides support to the public to facilitate testing of [Chronic Wasting Disease](#).

Committee recommends that the Department work with Acho Dene Koe First Nation to ensure that testing for Chronic Wasting Disease is made accessible and appropriate to harvesters.

Food Security and Sharing of Wild Meat

Committee is concerned about food security in the NWT, and the opportunity for communities that have abundant levels of big game to be able to share with communities that do not. Committee would like to eliminate regulatory barriers that prevent communities from sharing meat, to stock up community freezers, and to reduce the number of children and families going hungry in the NWT.

The Inuvialuit Game Council recognized that the GNWT has made it more difficult to share harvested meat which has resulted in negative impacts on food security.

The Creation of a Northwest Territories Food Security Strategy Motion 37-19(2) was passed on June 4, 2021, by the 19th Legislative Assembly. This motion moves that:

“The Government of the Northwest Territories remove all of its legislative and regulatory barriers over the next 12 months to facilitate regional sharing of harvested meat or other food products”.

Committee acknowledges the [GNWT response, November 22, 2021](#) to this motion did not address a timeline for regulatory action to improve the sharing of harvested meat in the NWT.

Recommendation 10: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories remove any regulatory barriers that prevent communities from sharing wild meat to improve food security.

Wildlife Habitat

The Acho Dene Koe First Nation suggested that the *Species at Risk (NWT) Act* be amended under section 84 when authorizing the destruction of habitat to include: considerations on the impacts of a species on the well-being of Indigenous people; and to identify accommodation measures in collaboration with the Conference of Management Authorities and Indigenous people where impacts cannot be avoided or mitigated.

The Wek'èezhì Renewable Resources Board (WRRB) also stressed the importance of habitat in wildlife management. The WRRB urges the GNWT to consider forward looking wildlife management to face the climate change and the biodiversity crisis. Wildlife laws should reflect the importance of wildlife and wildlife habitat and be prepared for future challenges.

Ducks Unlimited also recognized the opportunity for the GNWT to take a proactive conservation approach and suggest that relational planning, land management and Indigenous viewpoints be integrated into a comprehensive Wetland Policy to protect critical habitat.

Committee recognizes the importance of protecting conservation areas for future generations.

Committee also recognizes that the *Protected Areas Act* allows for Indigenous governments or organizations (as well as the Executive Council) to nominate a candidate protected area. Committee suggests the *Wildlife Act* expand the provisions around the establishment of conservation areas to allow nominations from Indigenous governments and the public.

Recommendation 11: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories expand Part 6, Conservation and Management Measures of the *Wildlife Act* to include provisions for nomination of conservation areas by Indigenous governments and others, consistent to the *Protected Areas Act*.

Use of Traditional Knowledge

The WRRB recommends that the GNWT continue to build relationships with renewable resource boards and ensure balanced decision making by using both traditional knowledge and science.

Committee acknowledges that the GNWT is making efforts towards this end. On March 2, 2021 the GNWT announced that the Species at Risk Committee adopted a new [species assessment process](#) that adopts Indigenous, community and scientific knowledge equally and respectfully.

Annual Wildlife Meeting

Section 15 of the *Wildlife Act* requires the Department of Environment and Natural Resources to convene a meeting of bodies and organizations responsible for wildlife management in the NWT. Committee views this annual meeting as an important process in the co-management of wildlife and believes a summary of the discussions at these meetings should be made publicly available.

Recommendation 12: The Standing Committee on Economic Development and Environment recommends the Government of the Northwest Territories make the results of discussions at meetings under Section 15 of the *Wildlife Act* publicly available.

Timeline of Statutory Review

Section 171 of the *Wildlife Act* provides the authority for the Legislative Assembly to review the *Wildlife Act* every seven years after the tabling of this report. Under Section 147 of the *Species at Risk (NWT) Act* the Assembly is required to review the legislation every 10 years.

Committee recognizes that the Statutory Review process takes a significant amount of Committee attention. Committee recommends that both Acts be amended to require review at the same time, Committee further suggests the timeline be established by Assembly as opposed to a set number of years.

Recommendation 13: The Standing Committee on Economic Development and Environment recommends that the Minister extend the Statutory Review period under section 171 of the *Wildlife Act* to match the review period established under section 147 of the *Species at Risk (NWT) Act*, and that both of these Statutory Review periods be required every other Assembly.

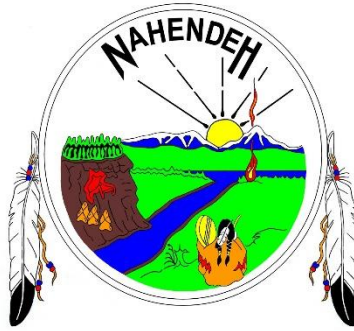
And in closing,

Recommendation 14: The Standing Committee on Economic Development and Environment recommends that the Government of the Northwest Territories provide a response to the recommendations contained in this report within 120 days.

CONCLUSION

This concludes the Standing Committee on Economic Development and Environment *Report on the Statutory Review of the Species at Risk (NWT) Act and Wildlife Act*.

Appendix A: Stakeholder Submissions



Acho Dene Koe First Nation

General Delivery, Fort Liard, NT X0G 0A0

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Website: www.adkfirstnation.ca

October 11, 2020

Jackie Jacobson, Chair
Standing Committee on Economic Development and Environment
Northwest Territories Legislative Assembly
Box 1320, 4570-48th Street
Yellowknife, NT X1A 2L9

VIA EMAIL: Michael_ball@ntassembly.ca

SENT ELECTRONICALLY ONLY

Subject: Standing Committee Review of the Wildlife Act and Species at Risk Act

Acho Dene Koe First Nation writes in response to the Northwest Territories Legislative Assembly Standing Committee's request for comments to support defining the scope of the review of the *Wildlife Act* and the *Species at Risk Act*, received via email on August 21, 2020.

As your members should be aware Acho Dene Koe First Nation's (ADKFN) traditional territory and waters span three jurisdictions: British Columbia (BC), the Yukon Territory and the Northwest Territories (NWT).

Further, ADKFN adhered to Treaty 11, and as such, we have treaty-protected hunting rights. Additionally, we assert Aboriginal rights, including title, throughout our Traditional Territory.

Our rights, and our Traditional Territory, are affected by any decision taken by the Northwest Territories Legislative Assembly and therefore it is our position that further government to government consultation is required on the above subject matter.

ADKFN's Treaty and Aboriginal Rights

In 1922, our ancestors adhered to Treaty 11, and these rights are constitutionally protected pursuant to s. 35(1) of the *Constitution Act, 1982*. Among other things, Treaty 11 protects our right to pursue our usual vocations of hunting, trapping and fishing. When signing Treaty 11, our ancestors were assured that this liberty would not be taken away or curtailed. Any erosion of our ability to hunt, trap and fish would be a serious infringement of our Treaty rights.

The courts have cast serious doubt on whether Treaty 11 extinguished Aboriginal title to the land. In *Re: Paulette's Application*, the trial judge found that "notwithstanding the

language of the two treaties there is sufficient doubt on the facts that aboriginal title was extinguished.¹”

More recently, the Federal Court recognized that the Federal Government’s failure to set aside reserves for Smbaa K’e First Nation was a fundamental breach of Treaty 11, and Smbaa K’e continued to have a strong *prima facie* case for Aboriginal title, which elevated the Crown’s duty to consult with them.² Accordingly, in our view, our Aboriginal rights, including Aboriginal title, have never been ceded, abandoned or extinguished in any part of our Territory.

Aboriginal rights, which include title, are constitutionally protected legal rights, pursuant to s. 35(1) of the *Constitution Act, 1982*. Aboriginal rights include a priority use rights to resources (e.g. fish, wildlife, trees, traditional medicines and foods). Aboriginal title confers on the rights-holding group the exclusive right to decide how the land is used and the right to benefit from those uses, subject to the restriction that the uses must be consistent with the group nature of the interest and the enjoyment of the land by future generations.³

ADKFN holds constitutionally protected Treaty rights, and assert strong Aboriginal rights within our Traditional Territory, and take seriously any infringement of our rights.

Crown’s Duty to Consult

Where the Crown has “knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it”, the Crown has a duty to consult with the First Nation (*Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511 at para. 35).

ADKFN currently uses, and has traditionally used, our Territory for fishing, hunting, trapping, and gathering. Development and resource exploitation have already significantly impacted and infringed our Treaty and Aboriginal rights and title past, and any new developments will infringe our rights in a compounding manner. An infringement cannot be justified, without meaningful consultation and accommodation, which may include compensation.

ADKFN expects and intends to enter full meaningful consultation with government prior to any decision that has the potential to infringe our Treaty or Aboriginal rights. The importance of protection our Treaty and Aboriginal rights, and of preserving natural resources, cannot be overstated.

Comments and Recommendations

ADKFN provides the following comments and recommendations with respect to the scope of the Standing Committee’s review of the *Wildlife Act* and *Species at Risk Act*.

1. Decision-making authority for Indigenous groups with unsettled land claims

Reference: *Species At Risk Act*, Sect 11(2), Sect 24

¹ *Re: Paulette's Application*, [1973] 6 W.W.R. 97 (N.W.T.) [*Re: Paulette's Application*].

² *Smbaa K’e Dene First Nation v. Duncan*, 2012 FC 204.

³ *R. v. Sparrow*, [1990] 1 S.C.R. 1075 and *Delgamuukw v. B.C.*, [1997] 3 S.C.R. 1010; *Tsilhqot’in Nation v. British Columbia*, 2014 SCC 44.

Comment:

ADKFN is actively negotiating its land claim, including land management structures. Presently, no land management boards have been established in the Dehcho Region that directly represents ADKFN's wildlife management interests, however, this is a subject of negotiations.

Consequently, ADKFN is currently limited to an observing participant role on the Conference of Management Authorities. While this allows ADKFN to be in the room during discussions of interest to their community (e.g. species assessment, listing, development of management plans and recovery strategies, etc.) they do not have any actual, independent decision-making influence.

Recommendation:

The Standing Committee should consider amending the Species at Risk Act to provide Indigenous Governments currently negotiating land claim agreements (and therefore currently without co-management boards) with interim, independent decision-making influence in the Conference of Management Authorities. The roles and responsibilities of such Indigenous Governments should be comparable to those of the existing management authorities (e.g. scope of decision-making, consideration of particular species, number of representatives, etc.). There should also be measures in place to amend or finalize the interim role of these Nations once land claim agreements are settled.

2. Implications of current Phase 2 Regulations on ADKFN Harvesting rights

Reference: *Wildlife Act*, Phase 2 regulations

Comments:

On July 1, 2019, new "Phase 2" regulations came into force under the Wildlife Act. One of these new regulations specifies that hunters who shoot mule or white-tailed deer more than 100km outside the NWT border must have the animal tested for Chronic Wasting Disease (CWD) and provide proof the animal does not have the disease before bringing it into the NWT. It is further noted that Treaty 8 areas in Saskatchewan and Alberta that have deer that have potentially been exposed to CWD. ADKFN would like to note that, to date, CWD has not been detected in British Columbia or Yukon Territory.

ADKFN's traditional territory extends outside the territorial boundaries of the Northwest Territories, south into British Columbia and west into the Yukon Territory. While ADKFN supports preventing the introduction of CWD into the Northwest Territories, this new import restriction for mule and white-tailed deer effectively restricts ADKFN land users from exercising their rights and freely hunting these species throughout the full extent of their traditional territory (e.g. into British Columbia and Yukon Territory).

The Department of Environment and Natural Resources has acknowledged this infringement of asserted or established Aboriginal or treaty rights, but maintain that the regulation is a necessary measure to ensure the conservation of wildlife, and especially caribou, in the NWT".

It is not clear whether ENR has considered:

- allowing an exemption to ADKFN to import of BC or YT-harvested deer until CWD has been detected in these jurisdictions
- improving access to out of province CWD testing services for ADKFN harvesters
- compensating ADKFN harvesters for infringements of their Aboriginal rights (e.g. compensation payments, provision of other/equivalent traditional foods, etc.)

Recommendation:

The Standing Committee should recommend that the Phase 2 regulation prohibiting the import of mule and white-tailed deer from outside of the NWT is re-considered through this review of the Wildlife Act. ADKFN prefers that ENR continue to allow the import of mule and white-tailed deer from BC and YT until CWD has been detected in these regions, assuming these jurisdictions implement sufficient and active surveillance and testing programs. However, if this is not possible to amend or enforce, then ADKFN requests that ENR undertake reasonable efforts to facilitate access to out of province CWD testing services for ADKFN harvesters. In the absence of implementing either of the above measures, ADKFN requests compensation for infringements to Aboriginal and Treaty rights (e.g. through compensation payments, or subsidized provision of other/equivalent traditional foods).

3. Requirements for permits issued by the Minister

Reference: *Species at Risk Act*, Sect 84(2)

Comment:

Section 84 outlines the requirements that must be met for the Minister to issue a permit that would authorize the recipient to engage in an activity that would contravene Section 80. While there are measures to ensure that the Minister only issues permits for activity where all feasible measures have been taken to minimize negative impacts of the activity on the species and its habitat (84(3)(a)(ii-iii) and 84(3)(b)(ii-iii)) , what must also be considered by the Minister is the effects on such species where in turn there are impacts on the well-being of Indigenous communities, and that where such negative impacts cannot be avoided or mitigated, appropriate accommodation measures to offset negative impacts must also be identified.

Recommendation:

The Standing Committee should consider amending the requirements related to the issuance of a permit by the Minister to include:

- Considerations of the impacts of an activity on a species as it relates to the subsequent effects to the well-being of an Indigenous group, where such a species is of social, cultural, or economic importance
- The identification of accommodation measures, in collaboration with Management Authorities and affected Indigenous groups, where such impacts cannot be avoided or mitigated

In order to address these comments and recommendations, and as part of the Standing Committee's process for the review, Acho Dene Koe First Nation requests a response to the

comments we have raised, and if mutually agreeable, a meeting with members of the Standing Committee to further discuss them.

If you have any questions concerning our response I would ask that you email our Lands Manager, Meghan Buckham at lands@adkfirstnation.ca

Thank you.

Yours truly,

ACHO DENE KOE FIRST NATION

Signed on behalf of Chief Eugene (Gene) Hope



Boyd Clark

Advisor/Acting Band Manager

Cc. Michael Ball, Committee Clerk, Northwest Territories Legislative Assembly
Donna Bigelow, Executive and Indigenous Affairs, Government of the Northwest Territories
Chief Eugene Hope
Hana Boye, Legal (Donovan & Co)
Jodi Carlow, Land Use Plan Advisor (JBTS Consulting)
Meghan Buckham, Lands Manager (Consultant – Shared Value Solutions)
Scott Mackay, Lands Director (Consultant – Shared Value Solutions)
Council



August 30, 2021

Government of the Northwest Territories
P.O. Box 1320
Yellowknife, NT X1A 2L9
Telephone: 867-767-9130

ATTN: Ms. Jennifer Franki-Smith

Via email: Jennifer-Franki-Smith@assembly.ca

Dear Ms. Franki-Smith,

**RE: Ducks Unlimited Canada's (DUC) input to GNWT's engagement paper:
Review of the Wildlife Act and Species at Risk (NWT) Act Review**

Introduction

Ducks Unlimited Canada (DUC) is pleased to provide this submission regarding the proposed amendments to the Wildlife Act and the Species at Risk Act. We commend the Government of the Northwest Territories (GNWT) for updating these Acts as it will reduce confusion, be more broadly applicable, and provide more certainty in a constantly changing environment.

We have structured this document to:

1. Provide general information about the importance of wetlands in the NWT;
2. Provide our comments on the topics referenced in your 'questions to stakeholders' and amendments to the Acts.

Importance of Wetlands

As Canada's leading conservation organization of wetlands, many of our comments focus on the importance of wetlands and the need for their conservation. In our experience, undervaluing wetlands has led, and continues to lead, to the degradation and loss of wetlands and the associated health, economic and environmental benefits that they provide.

Wetlands are some of the most biologically rich and productive areas in the boreal forest. They protect us from flooding by storing and slowing water sent downstream. They play a critical role in maintaining water quality by filtering out heavy metals, sediments and other pollutants. They protect us from drought by holding water when conditions are dry. They mitigate the impacts of climate change by storing significant amounts of carbon.

Wetlands also provide critical habitat for over 600 species of plants and animals, including many species at risk. They provide hundreds of species (including waterfowl) with safe places to eat, sleep and raise young. Wetlands give us natural places to play, learn and explore. They support tourism by providing

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destinations for hiking, hunting, canoeing, photography and more. They also clean the water we enjoy at beaches, lakes and rivers.

Our work across the Northwest Territories has focused on conserving the north's invaluable natural beauty and bounty. Its waters are central to all life in the region and we are working with northern people to protect them. As interest in developing the Territories' immense natural resources increases, there will undoubtedly be changes to the land and water. Hydropower, oil and gas, and mining projects have the potential to impact the wetlands, waterways, the wildlife and the people of the north.

General Comments to Proposed Amendments

Please find below DUC's general comments to the proposed amendments as outlined in your engagement paper. We have only included those sections that we have comments on and have restated the question prior to our respective comment - for your convenience.

3. Are there areas in the Acts that you believe should be changed, to improve co-management decision making processes with Indigenous governments from unsettled areas?

Comment: We are aware that entities such as Renewable Resource Boards were created as part of the negotiation and settlement of land claim and self government agreements, however, we do believe there is an outstanding need for co-management processes involving Indigenous governments in unsettled areas. The Act, as currently written, should allow for local wildlife committees in unsettled areas via Section 14(2). We suggest that this section could be improved by expanding the definition of local harvesting committee to ensure all aspects of wildlife management, not just specific to issues relating to "Aboriginal harvesters", are mandated within the new definition. This may also benefit from changing the name of local harvesting committee to a term that is more encompassing of the broader scope these entities would have. Similarly, Section 90 could be altered to allow for conservation areas to be created not only in accordance with land claim agreements but also in collaboration with Indigenous governments, regardless of the status of land claim agreements. This would not only allow for co-management but also provide an additional legislative mechanism for the creation of Indigenous Protected and Conserved Areas.

Community Based Wildlife Management

2. Indigenous Guardians programs, where Indigenous peoples take the lead on monitoring, stewarding and protecting the land, are growing across the NWT. Committee is interested to know how Indigenous Guardians could be supported by the NWT.
 - What are the opportunities and challenges with respect to Indigenous Guardians in the NWT?

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Comment: DUC supports Indigenous Guardian programs. Broadly, we have partnered with Indigenous Leadership Initiative (ILI) and have used their description of Indigenous Guardian programs to guide our actions. The Committee can find ILI's overview of Guardian programs at <https://www.ilinationhood.ca/guardians>. Specific to the NWT, we have provided training and other support to Indigenous Guardian programs that are currently being implemented.

There are many opportunities in the NWT to initiate Indigenous Guardian programs. It is our experience that numerous Indigenous Governments, regions and communities wish to take on a more active role in monitoring and managing their traditional territories. Indigenous Guardian programs are a means by which Indigenous people can exercise their land rights and maintain cultural connections to the land through stewardship. Currently, there is great interest by the federal government and private foundations wishing to provide funding for implementation of Indigenous Guardian programs. By acting now, we believe the GNWT and interested communities can take advantage of this funding to provide the necessary training and start-up costs associated with an Indigenous Guardian program.

DUC supports the incorporation of Indigenous knowledge into land and wildlife management decisions. The "two eyes seeing" approach that blends Indigenous knowledge and western science is a model that we believe will lead to informed decisions being made. To achieve this, increased presence on the land through Guardians is a means to ensure the gathering and sharing of this knowledge continues and, in some cases, increases from current levels.

As is often the case, there are challenges with any initiative. While funding is available for initiating these programs, there is a question regarding how these programs will be funded long-term. Many organizations, including DUC, are looking into how funding through a conservation economy can provide the stable, long-term funding necessary to ensure the success of Guardian programs. Unfortunately, there currently is not a guaranteed solution. We do encourage GNWT to consider their role in provision of these operating costs as well as providing opportunities for further legislative and regulatory actions necessary to allow for implementation of strategies for long-term funding once a workable model, or models, have been identified.

Implementation of an Indigenous Guardian program is a large undertaking. At times, Indigenous Governments, regions and communities have suffered from a lack of capacity to implement programs. We are cognizant that the training required to fully staff a Guardians program, particularly a program that may have a broad mandate, will take time and many resources. We support this training and encourage GNWT and other funders to consider both the financial and time commitment that will be required to provide this training.

We agree with the questions posed by Committee during this engagement regarding the role of Indigenous Guardians. Determining the mandate of a Guardians program will be necessary to avoid confusion between all parties including GNWT, Indigenous Governments, Guardians, and the public. Clarifying the mandate will allow for better acceptance of the program and improve

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its performance. DUC is not in a position at this time to provide recommendations on the exact nature of the mandate.

Other

1. Please identify any other key issues of the Board or community with respect to the Wildlife Act or Species at Risk (NWT) Act? What specific solutions or changes do you recommend?

Comment: Both the Wildlife Act and Species at Risk Act are written in a manner that leads primarily to reactive measures – once a problem is identified there are provisions to act to rectify the situation. DUC believes a proactive approach will result in a better conservation outcome. The NWT is in a position to maintain the natural values that are currently present. Taking a reactive approach risks permanent loss of these values with costly remedies required to put back what is lost as we see in southern parts of Canada. In a similar vein, there are numerous pieces of legislation that have potentially overlapping mandates. For example, both the Wildlife and Species at Risk Acts refer to habitat and provide mechanisms for conservation of habitats. Other acts (e.g. Protected Areas Act) also provide mechanisms for protection of habitats or lands in general while other acts guide land and resource use (e.g. Waters Act). We suggest there are tools for providing guidance in a proactive manner that addresses these overlapping mandates. One is land relationship planning and another is an overarching policy related to more specific aspects of land management. Both tools can outline GNWT's priorities and goals related to habitat or land conservation and do so in a manner that incorporates the viewpoints of Indigenous governments. A good example of a policy that is lacking in the NWT is one focussed on activities in wetlands.

As mentioned above, wetlands are important habitats that provide a home to many species that are a source of food to local communities, are culturally important, and in some cases are considered as Species at Risk. There are also the other benefits wetlands provide people such as flood and drought mitigation, water filtration, and carbon sequestration. Wetland policies have been, or are being, adopted in most jurisdiction in Canada including Alberta, Manitoba, Quebec, the Maritime provinces, as well as the Yukon. DUC estimates that up to 20% of the NWT is covered by wetland ecosystems. Wetlands are sensitive to disturbance due the numerous interwoven factors that determine the presence and characteristics of wetlands such as hydrology and permafrost. The conservation status of NWT wetlands is uncertain due to limited data on wetlands; unknown levels of current loss and degradation due to climate change; several threats that may be increasing such as development; and a lack of regulatory clarity.

The GNWT is in a globally unique position with relatively little wetland loss to date. However, changes in climate and increasing demand for natural resources can have an increasingly negative impact on wetland function and value – particularly in the absence of sound planning and policies. The adoption and implementation of a robust Wetland Policy, before large scale loss occurs, allows the NWT to avoid the costs other jurisdictions are now facing as they attempt to restore the functions and values that NWT wetlands currently provide.

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Policies, including a Wetland Policy, can provide the necessary direction to help implement these acts and align all legislation in a cohesive, efficient, and cost-effective manner. However, the two acts that are open for discussion at the moment could benefit from a more explicit statement that allows for policies to be adopted to not only facilitate implementation of these acts but also integrate other legislation and regulations to improve legislative harmonization. We suggest there are opportunities within each act to allow for the creation of overarching policies. In the Wildlife Act, Section 96 allows for the creation of guidelines. Either within this section or its own section, a similar statement can be made that directs the creation of policy that provides overarching direction across all relevant legislation. Similarly, the Regulations section in the Species at Risk Act may be an appropriate location for similar wording.

A comprehensive Wetland Policy will address these issues. As such, we recommend that strong consideration be given to the development of a stand-alone Government of the Northwest Territories Wetland Policy that can be a supportive instrument to achieve the goals and objectives of these and other relevant land use policies, legislation, regulations and guidelines going forward.

Additionally, please consider the following two specific suggestions that we believe can improve the inclusivity of the Wildlife Act:

In Section 46(2), we propose adding “Indigenous Guardians” to the list of bodies or organizations that the Minister shall request advice from in the development of course materials.

In Section 99(5), we would like to see an increase in the inclusivity of those that are sought by the Minister for advice regarding the assessment of interim measures that were taken under the Act. We would like to see the list expanded to include all other experts and stakeholders. This could include environmental non-government organizations, academics, or industry.

On behalf of DUC, Mahsi Cho for the opportunity to provide our comments. DUC would welcome the opportunity to discuss any of these comments in more detail and/or to discuss how we may collaborate to make further progress on an NWT Wetland Policy. We look forward to continuing our relationship with your government to advance conservation of wetlands in the NWT.

Sincerely,

A handwritten signature in blue ink, appearing to read "Barrett Lenoir", is written over a faint circular stamp.

Barrett Lenoir
Manager, Northwest Territories
Ducks Unlimited Canada

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Cc: Kevin Smith, National Manager, Boreal Programs, DUC
James Kenyon, Head, NWT and Yukon Operations, DUC

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Background Malcolm Jaeb

I was eight years old when I started walking with the Caribou I learned from my father my grandfather my elders how to hunt fish being self-sufficient on the land. I was told we are the keepers of this land. Standing committee on economic development and environment questions for stakeholders

1. My experience with the indigenous interest from unsettled areas:

That non-stakeholder's From the south slave have too much of an invested interest in unsettled areas the negative outlook on development, if it does not benefit them . Outfitters or tourism operators that have decades of traditional knowledge before the Diamond mining industry had come up to the north. Indigenous organizations using unfounded claims to have some sort of control in what industry is trying to do. Nobody has taken into consideration that we are the keepers of the land, that we have traditional knowledge that reaches over 40 years Personally.. We were told that the questions we have been asking are not relevant because we do not belong to a board or indigenous organization then the questions we ask are never taking into consideration about settled and unsettled land claims.

2. To improve collaborative wildlife decision making and sharing information about wildlife working with the people that know the land working with Nunavut Caribou management board on why did they see an increase of 100,000 Caribou , why do we have a decline did they move?

Information sharing about wildlife and the decision making process has put a lot of strain on individuals trying to feed their family a 20 km radius around an individual Caribou seems to be very outrageous and puts a hunter in a difficult situation where he is willing to risk life and limb to feed his family maps can be altered numbers can manipulated Information sharing should be free to all Northern residence work with all the territories in co-Management and share their collective numbers.

Get rid of hunting from a fixed wing or helicopter to cull wolves. What happened to Fairchase. People do not need to hear about the department of ENR officers bragging about shooting 80 wolves from a helicopter. On taxpayer dollars when those 80 wolves could've supported three individuals and their families.

Flying fixed wing or helicopters and harassing wildlife parties involved in harassment of wildlife from aircraft or helicopters causes significant impact in the injuries to Caribou and to other animals . Not all wounded Caribou were from hunters we have witnessed a helicopter buzzing the Caribou to split the herd to go into a no hunting zone. Who is held accountable for harassment of wildlife for fixed wing or helicopters.

3.(a)Agreements with other governments under the wildlife act regarding responsibilities.

The minister has responsibility to indigenous people of the north.The conduct of an officers. Officers not providing information when asked should be held accountable if the person is charge for a wildlife in fraction. With the criminal code stated in the wildlife act.

(B)Names dates vehicle identification any form of identification asking for permission to hunt in certain areas should be mandatory.

(C) why is there a membership of the conference of management authorities under the species at risk. When you were invited to a membership do you have to be compliant people don't like to hear the truth they should invite a private person and non-biased person.

(D) why would you list a species at risk if there is no census agreement it means that there are questions unanswered and it should be a priority to answer those question Listing a species at risk without an agreement is like a dictatorship that it didn't matter whether or not there was a census.

4. The success with participation with the indigenous governments have been the implementation of a monitoring program for The people.

Challenges breaking that barrier. We have a lot of traditional knowledge from the elders that have taught me that has showed me how to be self-sufficient. not being invited or asked to participate on any boards.

(A) Species at risk committee the conference of management authorities why is there no private companies outfitters tourism operators invited to these boards Or ask for recommendations.

(B) The development of wildlife management plans or recovery strategies.

Caribou. The management plan should include all citizens of the communities to agree upon bulls only, set number of tags for the number of people, people to be present upon getting the tags.

Monitored by their people and if enforcement is needed the department of ENR. Indigenous groups from the south should ask permission to hunting in North Slave region.

Bison The count should be done all at once And considered one heard. Naming of the herd numbers can be manipulated maps can be altered as we've seen from the Caribou.

(C) The wildlife management decisions are making The boundaries of a no hunting zone So outrageous its harder and harder for the indigenous people that are willing to risk life and limb. where there is always the threat of legal action enforcement charges being laid there is no trust from indigenous groups to the department of ENR.

5. Involving all indigenous stakeholders from unsettled areas has influenced the decisions of the species at risk. 25 years ago the caribou herds were created before the diamond mines there were only two indigenous groups the south slave had no input on what the north slave indigenous people were doing now the creation of these protect the Caribou management boards there have been indigenous people stating claims that are unfounded. South slave indigenous organizations using political government MLA'S To get a foothold on the north slave of region.

Community-based wildlife management

1.(a) The wildlife monitoring efforts in my region and how it relates to wildlife management. Wildlife monitoring from the TLICHO And yellow knives have received great praise from indigenous people hunting up in the north slave region the people are willing to talk about their experience how far they have to travel And what obstacles and barriers they had to overcome in order to be successful. Communication On what animals they had harvested bulls cows with the monitors asking the indigenous people to please take bulls only and the people respecting And taking that into consideration.

The challenges on the wildlife monitoring on how it relates to management put more effort into indigenous governments to conduct their own surveys counts Collaring Away from hunters. Not the other way around the way the GNWT has conducted themselves.

The GN WT should not have an expanded role there is no trust with these wildlife officers almost to a point where altercations with these officers they do not come up to the indigenous hunter with respect not like the old officers that went up to them talk to them respected them.

2. indigenous guardians could be supported in the NWT financially to expand the training to show the new generation respect of the traditional laws and values having a mentorship program.

Training on how to conduct on the land surveys without using fixed wing an helicopters that harassed the animals collaring practices teach what is the most humane way

B. Taking advantage of position using their position to benefit themselves without looking at the big picture on what needs to be done and addressed how do you teach the next generation.

C. What can be applied to indigenous guardians the right to detain individuals Intel an investigation or officers can look at the possible infraction. if you give too many people power they tend to abuse it.

D. the role of the indigenous guardians in terms of wildlife enforcement. Take out the term enforcement the indigenous guardians in terms of wildlife are there to show the people that they

are being looked after cared respect To teach traditional laws and values that was installed in them the guardians.

3. The Guardians under the species at risk community based wildlife monitoring efforts having a community involvement for outline communities would be very beneficial it will show that they are involved and they will put forth effort truthfulness helpfulness and respect if you have them to participate in a full harvest count on the people They will be helpful.

1. officers to be held accountable for their actions find out over the last six years which officers have been charging what indigenous community the most ask the question to that officer why is this keep on happening is there information that has not been provided to the hunter from these officers Are these officers in trapping people while one officer would say you can hunt here and then the hunter goes out harvest animals then the other officer comes up behind him and charges him for hunting illegally who are these offices that are doing that.
2. Asking non stakeholders to put in a submission or request to hunt the north slave region names of the people that are going 2 hunt then allocate tags if tags are not filled returned.
3. A-mentorship program for officers have the old officers to come in an retrain the new officers on how they showed respect and integrity.
4. Have the residence tag amount increased after talking to a lot of residents in yellowknife they had suggested to me the possibility of raising A tag \$300 per tag three tags per person and open up the hunting area for fall and winter in a full hunt locals can get together charter a plane go to a lodge the money stays in the north an if needed to be accompanied by an indigenous monitoring program.
5. Years back all the collard Caribou could be viewed on ENR website now there is daily tracking updates over the NWT range. there's nowhere to obtain this information I like many others would like to verify the Caribou cow location in Junction with a set boundaries that seems to always work against the hunter. When asking ENR for such info one is denied. I and others would like to go out and confirm this data and view the collard animal's . The decision of the set boundaries are decided on a template as a reference only by one man and finalized by this ENR employee then sent to indigenous organizations. This person has the final say and refuses to release the data for a personal audit or public or third-party audit when I asked for a GPS way point for a collared animal . One has to be a party of an indigenous government and has to be appointed to a board is what was suggested .

January 31, 2022

Jennifer Franki-Smith
Manager, Committees and Clerk of Journals

Northwest Territories Legislative Assembly
Edzanèk'e Gots'ò Ek'ètehtsodò Łegehdì Kò
PO Box 1320 | Yellowknife, NT | X1A 2L9
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RE: Invitation to Make a Submission to NWT Legislative Assembly, **Standing Committee on Economic Development and Environment (SCEDE) review of the NWT *Wildlife Act* and *Species at Risk (NWT) Act***, “Questions to Stakeholders, (July 23, 2021)”. A Statutory Review by the Legislative Assembly, & Nature United’s support to Indigenous Guardians: Projects & Programs Current & Past in the NWT & in Canada.

Dear Ms. Jennifer Franki-Smith for SCEDE Chair, Mr. Jackie Jacobson:

We are writing in response to the SCEDE invitation to respond to the SCEDE’s “Questions for Stakeholders” to provide the SCEDE an overview of Nature United’s work to support Guardian Programs run by Indigenous communities and their leadership in the Northwest Territories.

Nature United is dedicated to conserving nature as the foundation of strong communities, a prosperous economy and a future worth passing onto our grandchildren. We work in partnership with Indigenous people, industries and governments in the Northwest Territories, coastal British Columbia, and Manitoba. Our approach is to support local, regional, and Federal leadership to bolster local and regional economies, & improve community well-being.

Promoting cultural heritage and Indigenous rights:

As an organization, Nature United believes that the increased authority and capacity of Indigenous peoples to steward their lands and waters is critical for the future of healthy ecosystems and communities. A growing body of global evidence shows that Indigenous people who are able to actively participate in the management of lands and resources in accordance with Indigenous laws, customary management systems and Indigenous knowledge results in more effective and durable sustainable management over time.¹ Further, the rights of Indigenous peoples to manage their own lands and resources is recognized and explicitly mandated in Canadian and international law, including s. 35 of the *Constitution Act (1982)* and the *United Nations Declaration on the Rights of Indigenous Peoples*.

Among Canadian jurisdictions, the GNWT has been a leader in creating such space. Both the *Wildlife Act* and *Species at Risk (NWT) Act* recognize the shared responsibilities of both the

¹ For a recent summary of research in this area, see Hessami, Bowles, Popp and Fort (2021) “Indigenizing the North American Model of Wildlife Conservation”. FACETS 5 August 2021. <https://doi.org/10.1139/facets-2020-0088>

Crown, Government of the Northwest Territories as well as the wildlife co-management boards and Indigenous governments constituted under modern treaties.

Role of Indigenous Governments in Wildlife Management in the NWT

In response to the first priority, and to the Committee's questions regarding the role of Indigenous Governments in wildlife management from areas with ongoing negotiations in relation to lands, resources or self-government agreements, Nature United strongly supports **legislative recognition of the roles of Indigenous Governments in areas of the NWT where there are ongoing negotiations** in relation to lands, resources or self-government agreements. Their roles are not formally recognized in the existing legislation, particularly under the *NWT Species at Risk Act*, where they are not recognized as Management Authorities, and are merely 'observers' to Conference of Management Authorities. The present legislative distinction between Indigenous Governments and co-management bodies empowered by a modern treaty and those Indigenous Governments who have not yet finalized an agreement creates significant gaps in what is intended to be a cooperative and collaborative framework for wildlife management and conservation for **all** Indigenous Governments/communities in the NWT.

*Nature United submits that it is neither equitable nor effective for conservation to exclude from wildlife co-management and decision-making the **full participation of Indigenous Governments** who represent peoples and territories extending over approximately two-thirds of the land mass of the Northwest Territories.*

We note that the *Wildlife Act* has mechanisms for recognizing local harvesting committees and co-management arrangements are not present in *NWT Species at Risk Act*, and that incorporating such mechanisms in a future amendment to the *NWT Species at Risk Act* to enable the full participation of all Indigenous Governments in the species-at-risk regime provides one potential pathway for the recognition and participation of all Indigenous Governments in that process. Nature United also acknowledges, however, that the specifics of how these gaps should be filled is a matter that is most appropriately addressed on a government-to-government basis between the GNWT and Indigenous Governments themselves.

*Nature United recommends the Committee prioritize the **full and direct engagement of Indigenous Governments** in discussions about specific legislative amendments that would fill gaps in a manner that upholds the rights of Indigenous peoples to manage their own lands and resources without having to first conclude a modern treaty.*

Community based wildlife management and Indigenous Leadership

The Committee's second priority concerns community-based wildlife management. Nature United suggests that this priority should be understood within the growing global movement towards Indigenous-led conservation and Indigenous Guardianship.

Indigenous Governments in the Northwest Territories were early leaders in this movement, and Guardian programs are expanding across the Territories as a result of growing partnerships between Indigenous and public governments, universities and academic research networks, industry (e.g., via innovating monitoring arrangements), with support from our organization, as well as private donors and other not-for-profit organizations. The significant contributions of these programs to environmental, social and economic outcomes for Indigenous people in the NWT have

been documented in formal studies and are being magnified as Guardians programs continue to expand.²

It should be noted that several successful Indigenous Guardians programs have been established by Indigenous Governments who have not concluded modern treaties, such as the two programs we mention below.

Dehcho K’ehodi Stewardship Program: is a regional on the land program for stewardship activities in Dehcho region. It was initiated in 2014 with support from the Department of Fisheries and Oceans and has grown over the years as partnerships with other federal departments, the GNWT, university researchers and private industry have expanded. The Dehcho K’ehodi Guardians play a significant role in the operation of the Dehcho’s Edézhzié Protected Area, which is an Indigenous Protected and Conserved Area in the Dehcho Region, established in 2018. Edézhzié covers 14,218 km² and contains important Northwest Territory habitat within its lakes, wetlands, and boreal forest. Edézhzié, by the Dehcho First Nations own account is a place they are the stewards of, “a spiritual place that is ecologically and physically unique. Its lands, water and wildlife are integral to the Dehcho Dene culture, language and way of life.”³

Ni Hat ni Guardians in Thaidene Nënë: Thaidene Nënë is an area of major ecological and cultural significance of which the NWT Legislative Assembly & this Committee worked to create through the passage of the NWT Protected Areas Act. Thaidene Nënë Indigenous Protected Area, part Territorial Protected Area, Territorial Wildlife Conservation Area and National Park Reserve, is incredibly important for conservation, a regionally and globally significant area of Canada—where the tundra meets the Upland Boreal Forest. Nature United has supported Łutsël K’édé Dene First Nation’s (LKDFN) vision to look after Thaidene Nënë & their Dene way of life in TDN for over a decade. Most recently, Nature United & its affiliate, The Nature Conservancy, completed our fundraising commitment to the LKDFN, a 10-year effort that culminated in a 15M contribution to the TDN Fund of the LKDFN Trust, that ensures LKDFN co-management roles and responsibilities to TDN will have a consistent source of revenue from which to rely.

Protecting caribou habitat: Thaidene Nënë is but one of many incredible areas in the Northwest Territories that represents important caribou habitat that at least three barren-ground caribou herds use during important stages of their annual migration cycles⁴. Increased human disturbance elsewhere in Canada, including road access into sensitive habitat as well as the effects of growing industrial pressures in the region, have impacted caribou migration patterns, seasonal habitat use, and population cycles.⁵ Caribou require large ranges for their seasonal migration between the Boreal Forest and the calving grounds in the tundra plains north of the tree line. Like the LKDFN, Indigenous peoples of the Territory are better suited than any group to continue to be the vanguard for protecting & monitoring caribou, like the Bathurst herd, which has recently drastically declined, that relies on large, contiguous habitats like Thaidene Nënë to recover.

² SVA Consulting (2016) “Assessment of Current and Future Value of Indigenous Guardian Work in Canada’s Northwest Territories. Report tabled in the NWT Assembly and available online at https://www.ntassembly.ca/sites/assembly/files/td_231-182.pdf

³ <https://dehcho.org/resource-management/edehzhie/>

⁴ *Migratory Tundra Caribou Seasonal and Annual Distribution Relative to Thaidene Nënë* (Anne Gunn, Kim Poole, and J. Wierzchowski, 2011)

⁵ Bathurst Caribou Range Plan Draft. 2018: p 32

Nature United understands that most of the Indigenous Governments in the NWT are either developing Guardians programs or expanding existing ones. There is clear evidence that Guardians programs are significantly improving the conditions and capacity for the effective management of wildlife in regions where they are operating. Guardians are uniquely placed to engage in wildlife and harvest monitoring, identify stewardship concerns, engage with Indigenous knowledge holders, transmit cultural knowledge, and to model and promote culturally appropriate wildlife stewardship and harvesting practices by members.

However, Nature United notes that **Guardian roles are not currently reflected or enabled under the provisions of the *Wildlife Act***. This is a legislative gap that the Committee can and should address in the statutory review.

In particular, the monitoring, conservation and enforcement tools in the *Act* can be updated to more fully recognize the important roles that Guardians are now playing, and the roles that they may be able to play in the future as funding, training and other supports for such programs are secured.

Nature United is aware of a number of circumstances in which Indigenous Governments in the NWT have developed wildlife management plans (including caribou management plans developed by Dełjıne, Łutsël K'é and Colville Lake). We are also aware that in each case, the Government of the Northwest Territories has advised the Indigenous government that certain provisions of their plans respecting the authorization or enforcement activities (e.g., Indigenous harvesting) are not enforceable under existing legislation.

Nature United considers this response to be a missed opportunity that is being presented to the GNWT ie. to work more effectively and collaboratively with Indigenous governments. We note that the federal fisheries act (the Fisheries Act, R.S.C 1985) has express provisions to enable intergovernmental agreements for the purposes of fisheries habitat protection and management, the designation of Indigenous persons as Fisheries Guardians, and provisions for such Guardians to enforce federal fisheries laws as well as Indigenous laws.

Nature United believes that similar provisions could be considered for inclusion in a future amendment to the Wildlife Act, to enable Indigenous Governments and the GNWT to formalize the role of Guardians in monitoring and enforcement activities and to maximize other opportunities for collaborative approaches to wildlife management within the Northwest Territories.

As an example, identified in the Draft Bathurst Caribou Range Plan, Nature United recommends, as does the GNWT, that support to Indigenous groups in the coordinated development and use of integrated Community Guardianship Programs, across the ranges of known Caribou migration routes, like the Bathurst herd, would be a very positive step forward.

*Furthermore, Nature United recommends that Community Guardianship Programs should be **led and directed by Indigenous communities in coordination with their co-management government counterparts**, as “such programs would watch and report on activity associated with industrial development and harvest in combination with the movements, abundance, health and condition of caribou and caribou habitat, the relationship between caribou and Caribou People and overall caribou well-being.”^[1]*

^[1]Bathurst Caribou Range Plan Draft. 2018: p 32

One more thought to Advancing and diversifying local economy: According to the AMEC cost/benefit analysis⁶, Thaidene Nënë is expected to generate a net-benefit to local communities. Parks Canada, GNWT, and LKDFN will create approximately 10-20 jobs⁷ for the LKDFN community and Thaidene Nënë is expected to increase services, tourism, and transportation economies in Łutsël K'é, Yellowknife and Ft. Resolution. Nature United has seen the economic benefits of Indigenous-led conservation areas, such as in Great Bear Rainforest—where 1,000 new jobs were created, and 100 new businesses created or expanded. An analysis of Indigenous Guardian programs has shown a return-on-investment of more than 10 to 1, in addition to substantial community and cultural benefits. The LKDFN Ni Hat'ni program, the Guardians of Thaidene Nënë, is expected to create economic benefit to the local community on the order of \$1M

*Nature United fully supports the development of **Indigenous Guardian programs as a fundamental means of economic diversification** connected to stewardship of Indigenous lands and parks - including jobs directly created by Indigenous-led conservation, substantive increases in tourism activities that bring revenue into communities and a high return-on-investment associated with Indigenous Guardian programs.*

The SCEDE Committee identified the following priorities:

1. The role of Indigenous Governments in wildlife management from areas with ongoing negotiations in relation to lands, resources, or self-government agreements; and
2. Community based wildlife management

Nature United's submission addresses both priorities. Nature United strongly supports legislation that creates the space for public governments to work with Indigenous governments and their stewardship teams to meaningfully co-manage wildlife and species at risk in the Northwest Territories.

A long-time partner of the LKDFN, Nature United has provided technical and financial support, for longer-term sustainable financing for the ongoing stewardship of Thaidene Nënë. Territorial Protected Area and Wildlife Conservation Area designations protect this ecologically critical landscape, safeguard cultural connections to the land, uphold Indigenous rights, diversify the NWT economy, and will provide significant benefits to future generations, amid a changing northern and global climate.

We commend and strongly support the Government of the Northwest Territory, in their efforts to co-manage lands, waters and wildlife with their co-management Indigenous Government partners, as they are doing in Thaidene Nënë, throughout the Northwest Territories.

Sincerely,



Hadley Archer
Executive Director, Nature United

⁶ Thaidene Nënë Proposed National Park Reserve Landscape Values Summary (Parks Canada)

⁷ LKDFN Thaidene Nënë fact sheet

The “eyes and ears” of Indigenous lands and waters

Indigenous Guardians programs are established by Indigenous governments to help manage and steward their traditional lands and waters. These programs employ Indigenous community members to be the “eyes and ears” of their territories. While roles and responsibilities of Guardians are unique to each Nation, they carry out activities such as patrolling for illegal fishing and hunting, educating visitors and gathering vital data about climate change and industrial development activities. Guardians have also performed critical emergency response services during the COVID19 pandemic.

Creating economic, social, cultural, and environmental benefits

Indigenous Guardians programs have been found to provide multiple direct and indirect social, cultural ecological and economic benefits including:

- increased meaningful employment in Indigenous communities
- conservation of biodiversity and ecological values, such as water quality and wildlife habitat
- decreases in crime and violence and more role models for younger people
- strengthened language and culture and improving general health and community wellbeing
- advancing local, sustainable economic development

Recent studies have found the return on investment into these programs to be on average \$2.5-\$3 to every dollar invested and up to \$10 when measured against numerous social, cultural and economic Indigenous values.

Benefits to the Northwest Territories (NWT)

Indigenous Guardians programs can provide the following benefits to the NWT:

- Provide **meaningful jobs** for Indigenous people aligned with their cultures that both utilize existing and build new skills to carry out natural resource responsibilities
- Help **strengthen communications** between Federal, Territorial staff and our Indigenous governments & communities on wildlife co-management & resource management goals
- Complement the role and **improve the effectiveness of government staff including Conservation Officers** through their consistent and visible presence in their territories
- Fill critical Territorial data gaps through traditional knowledge and local capacity for **improved species management**
- Provide **opportunities in economic development** and facilitate partnerships between industry, academic institutions, non-governmental organizations and First Nations to unlock economic opportunities in the North
- Promote **reconciliation** and help renew relationships between Indigenous and Crown governments by recognizing the roles of Indigenous governments in natural resource management and co-management responsibilities of Indigenous governments in the Northwest Territories.

Guardians in Action

The Coastal Stewardship Network is a regional stewardship initiative among nine First Nations working together through the Coastal First Nations Great Bear Initiative on the north and central coast of BC. Coastal Guardian Watchmen play a critical role in all aspects of stewardship for Coastal First Nations – ensuring resources are sustainably managed, that rules and regulations are followed, and that land and marine use agreements are implemented effectively. The programs interact with provincial agencies in both informal and more formal ways.



Kitasoo/Xai'xais Watchmen program, who are members of the Coastal Stewardship Network. Photo courtesy of Ruth Fremson/The New York Times

Akin to Indigenous Guardians in Canada, Indigenous Ranger and Protected Area programs in Australia have proven the benefit of Indigenous stewardship programs at scale, not only for the health of lands and waters but also for the lives of Indigenous Peoples. Indigenous Ranger projects were first funded in 2007 and have created more than 2100 full-time, part-time and casual jobs for First Australians around the country. The Australian government has invested \$640 million AU in Rangers since 2013 and has now committed \$102 million AUS Dollar from 2021 forward. The return on investment for government and third parties who have invested in these programs has been calculated to be \$2.7 for every dollar.

In the NWT, the Łutsël K'é Dene First Nation has been running their Guardians program since 2009 to ensure the health and security of its land, water and people. They have many skilled land users, who are the backbone of the Guardian program, and they have made impressive progress in the program over the years. With the creation of Thaidene Nënë, they'll continue to strengthen their working with the Territorial government by sharing data that Guardians are collecting, which strengthens the Territories' ability to co-manage natural resources.

Investment is needed to scale Guardians in the Northwest Territories and across the North

To recognize the benefits of Guardians programs to Northern co-management & community life **investments are needed to develop and implement Guardians programs** as well as share best practices across communities. The volume of applications to the Government of Canada's Indigenous Guardians Pilot Program and the Challenge Program of the Nature Fund are just two recent examples that prove the need for Guardians in the NWT and across Canada. Most recently, Canada announced funding of 60K each for Guardians across the country, including Deninu K'ue First Nation¹. It will take investment at both the federal and Territorial level to begin to meet this need.



Northwest Territories youth, including 2 from Łutsël K'é Dene First Nation, on the 1st 2019 science expedition aboard the Nahidik to the deepest waters in North America, Great Slave Lake. Photo courtesy of CBC/Submitted by Tracey Williams.

¹ <https://www.canada.ca/en/environment-climate-change/news/2021/06/indigenous-guardians-first-nations-tier-1-projects-2021-2022.html>

About Nature United

Nature United is a Canadian charitable organization that creates solutions for people and nature by building diverse partnerships to protect lands and waters and ensure nature is the foundation of healthy communities, economies and future opportunities. We are the Canadian affiliate of the world's largest conservation organization, The Nature Conservancy. Nature United believes the increased authority of Indigenous peoples to steward their lands and waters results in lasting solutions for people and nature and as such we have a strong commitment to supporting Indigenous Guardians across Canada.

Contact: Tracey Williams, tracey.williams@tnc.org



NORTHWEST TERRITORY MÉTIS NATION

October 9, 2020

By email: Michael_Ball@ntassembly.ca

Attention: Michael Ball, Committee Clerk

Standing Committee on Economic Development and Environment
Government of Northwest Territories
PO Box 1320, Yellowknife, NT X1A 2L9

Dear Mr. Jacobson:

Re: Standing Committee Review of the *Wildlife Act* and *Species at Risk Act*

We confirm receipt of your letter dated September 11, 2020 requesting comments from the Northwest Territory Métis Nation, as an Indigenous Government, on topics related to the *Wildlife Act* and the *Species at Risk Act*.

Effectiveness of Co-Management

The *Wildlife Act* provides for wildlife management to be undertaken by renewable resource boards set up under land claim agreements:

- 9(1) Renewable resources boards are the main instruments of wildlife management in areas of the Northwest Territories with land claims agreements.

The *Species at Risk Act* provides for management authority to be undertaken by a board or body established pursuant to land claim agreements:

"co-management board" means a board or other body established by or under a land claims agreement that has co-management authority respecting the management of species in an area of the Northwest Territories.

...

- (2) The Management Authorities are
 - (a) co-management boards;
 - (b) Tlicho Government;

- (c) Government of the Northwest Territories; and
- (d) Government of Canada.

In areas of the NWT that are not subject to a land claim agreement, Indigenous governments provide input and are involved in wildlife management. *The Wildlife Act* and the *Species at Risk Act* must recognize co-management rights of all Indigenous Governments irrespective of whether a group has a land claim.

The *Wildlife Act* and the *Species at Risk Act* must provide a cooperative and collaborative co-management process with Indigenous Governments to determine conservation requirements of wildlife. The *Wildlife Act* and the *Species at Risk Act* must provide arrangements for Indigenous Governments to assume administration and enforcement functions from ENR as a measure of self-government.

Role of the Minister

Renewable resource boards make decisions and provide recommendations that require implementation by the GNWT. The Minister determines whether to implement the decision. The role of the Minister must change from final decision-maker to a collaborative decision-maker. The *Wildlife Act* must be amended to provide for the Minister to work collaboratively with Indigenous Governments.

When a species has been assessed as a species at risk, the Conference of Management Authorities can develop a consensus agreement to protect the species or habitat. If the Conference cannot reach consensus, the Minister of Environment and Natural Resources (ENR) can take action but must consider advice from the wildlife co-management boards.

The *Wildlife Act* and the *Species at Risk Act* should be amended to strengthen the decision-making authority with Indigenous Governments with Aboriginal rights.

Recognition of Traditional Harvesting Area

Indigenous People who are beneficiaries of a land claim agreement in the NWT may harvest within their settlement areas. The settlement areas are clearly identified within each land claim agreement and the settlement areas are recognized in the *Wildlife Act*.

The GNWT does not recognize the traditional harvesting areas of Indigenous Governments that have not entered into land claim agreement. The *Wildlife Act* must be amended to recognize the traditional harvesting area of Indigenous Governments that does not have a land claim agreement.

Traditional Use Cabins

The preamble of the *Wildlife Act* states “the GNWT recognizes and respects the Aboriginal and treaty rights of Aboriginal peoples, including harvesting rights”.

The *Wildlife Act* also acknowledges that the traditional Aboriginal practices related to harvesting are to be recognized and valued:

2. (1) The GNWT performing duties under this Act shall do so in accordance with the following principles:
 - ...
 - (d) traditional Aboriginal values and practices in relation to the harvesting and conservation of wildlife are to be recognized and valued;

Despite the recognition of these principles, the *Wildlife Act* does not recognize the aboriginal right to construct or occupy a structure on public land is incidental to the exercise of harvesting rights. The *Wildlife Act* must be amended to recognize traditional use cabins used for harvesting of wildlife, including for trapping.

Recognition of an Identification Card Issued by Indigenous Governments

The *Wildlife Act* states the ENR Minister and an Aboriginal organization may enter into an agreement respecting a form of identification:

The Minister may, with an Aboriginal organization that represents persons in respect of their rights under a land claims agreement to harvest wildlife, or in respect of their other treaty rights or Aboriginal rights to harvest wildlife, enter into an agreement respecting a form of identification that provides evidence that a person represented by the organization has an Aboriginal or treaty right to harvest wildlife in an area of the Northwest Territories.

The *Wildlife Act* must be amended to require the ENR Minister to recognize identification cards issued under the authority of Indigenous Governments.

Request for a Meeting to Discuss Further

We may also have additional comments that we will provide at the in-person meeting. We look forward to the Committee giving due consideration to the concerns of the NWTMN.

Yours truly,

NORTHWEST TERRITORY MÉTIS NATION

A handwritten signature in black ink, appearing to read "Garry Bailey". The signature is written in a cursive, flowing style.

Garry Bailey, President

cc: Mr. Lloyd Cardinal, President, Fort Resolution Métis Government
Mr. Allan Heron, President, Fort Smith Métis Council
Mr. Trevor Beck, President, Hay River Métis Government Council

Perspectives on Indigenous and Community-Based Wildlife Co-Management

Presented to

The Standing Committee on Economic Development and Environment

By the ʔehdzo Got'ıne Gots'é Nákedı

Sahtú Renewable Resources Board (SRRB)

June 29, 2021



Standing Committee Questions

2

- Co-management of wildlife with Indigenous Governments from areas with ongoing negotiations of lands, resources or self-government agreements
- Species at risk
- Community based wildlife management
- Other key issues and opportunities

- Background: a brief history of the SRRB and the 2021-2025 Strategic Plan
- Hıdó Gogha Séñégots'ı́á - Community Conservation Plan policy statement, principles and components
- Key Issues: *Wildlife Act* and the Sahtú 2016 and 2020 Caribou Hearings
- Key Issues: *Species At Risk Act*
- Wildlife legislation and Indigenous governments from unsettled areas
- Case Studies: *Nı́o Ne, P'ene* and *Belare Wı́le Gots'é, ?ekwe* plans
- Examples: Drone Regulations, Recent Media about respectful harvesting, and Boreal Caribou Range Planning
- A path forward: ?ełexé ?eghálats'eda (working together)

Current Board Membership

- Camilla Tutcho, Acting Chair
- Keith Hickling
- Faye D'Eon-Eggertson
- Samuel Haché

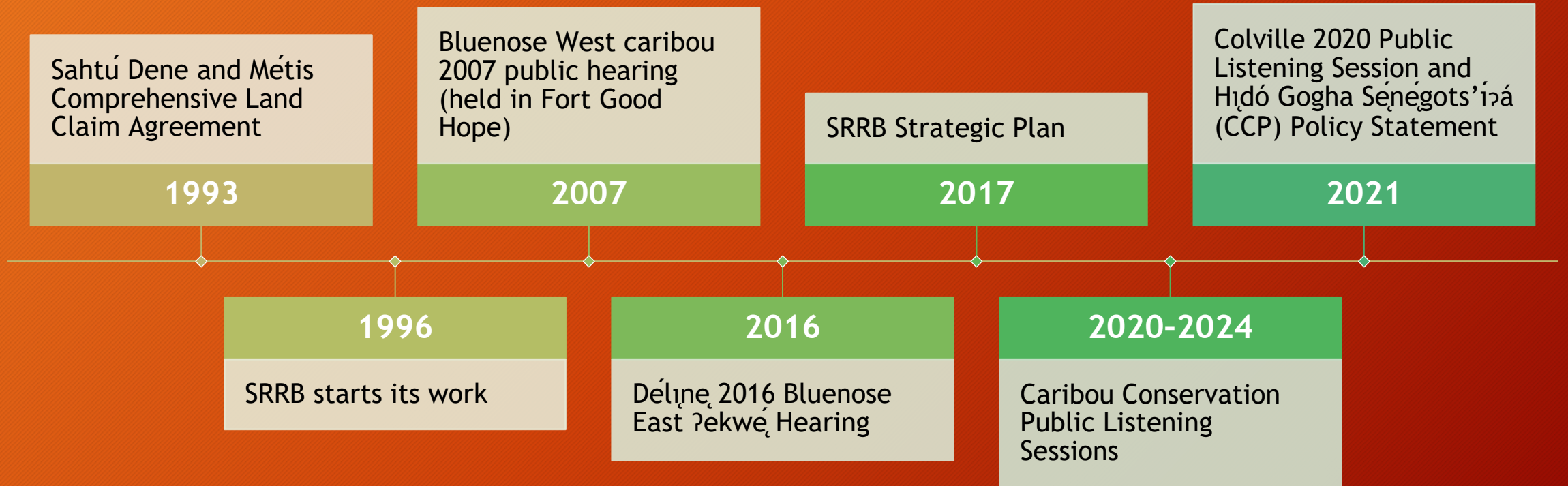
Pending appointment

- Chair
- Délı̄ne nominee
- Tulít'a nominees x 2
- Fort Good Hope nominees x 2
- Federal nominees x 2
- NWT nominee x 1



Background: A Brief History of the SRRB

5



Strategic Plan Context: Indigenous Environmental Governance

6

- 1992 UN Convention on Biological Diversity, Article 8(j)
- 1993 Sahtú Dene and Métis Comprehensive Land Claim Agreement
- 2007 UN Declaration on the Rights of Indigenous Peoples
- 2015 Truth and Reconciliation Report
- Self-government
- Indigenous Protected and Conserved Areas
- Indigenous Guardian initiatives

Five Land Claim Objectives Shaping Our Strategy

7

1.1.1(c) way of life



1.1.1(d) self-sufficiency

1.1.1(f) wildlife harvesting rights

1.1.1(g) right to participate in decision making

1.1.1(h) protect and conserve the wildlife and environment

ʔełexé
ʔegháłats'eda ne
k'ə
ʔedəots'erədí.

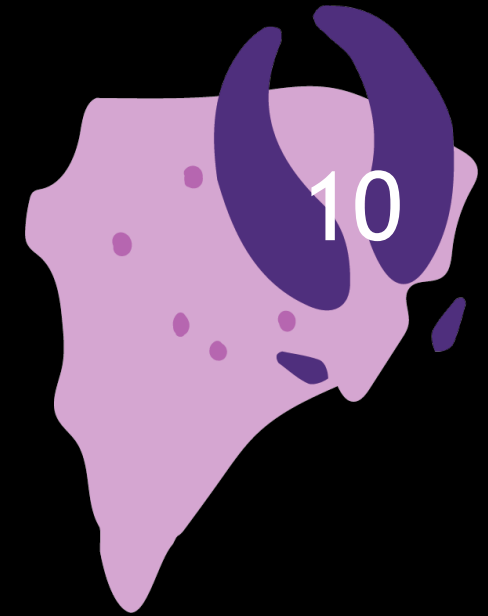
*Working
together to
make a living on
the land.*

Goals

9

1. Planning and related initiatives in the Sahtú are undertaken through **community conservation planning** processes, including strong Nę K'édíke - Keepers of the Land (Guardian) programs led by communities
2. Community **ʔehdzo Got'ıneę (Renewable Resources Councils)** are strong, independent organizations, fully implementing their role as defined in the Sahtú Dene and Métis Comprehensive Land Claim Agreement
3. **Research and monitoring** in the Sahtú is community-collaborative, and supports community and regional leaders to make wise decisions
4. **Sahtú youth** are strong environmental stewards and future community leaders
5. Build **strong staff, contractor and partnership teams**, with a central focus of building Beneficiary capacity in the Sahtú

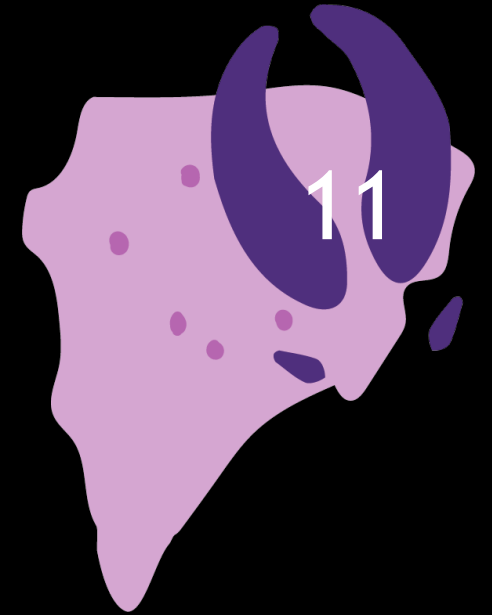
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What is the most effective way to conserve caribou?

- | | | | | |
|-----------------|--|---------------------------------|---|------------------|
| 1. Sahtú Ragóᑭᑦ | 2. ᑭᑦᑭᑦᑭᑦ ᑦᑭᑭᑦᑭᑦ ᑦᑭᑭᑦᑭᑦ
ᑭᑦᑭᑦᑭᑦ ᑦᑭᑭᑦᑭᑦ | 3. Wildfires and Climate Change | 4. Knowledge about Caribou and Landscapes | 5. Mixed Economy |
| • Colville 2020 | • Déᑭᑦᑭᑦ 2021 | • Tulít'a 2022 | • Ft Good Hope 2023 | • ᑭᑦᑭᑦᑭᑦ 2024 |

Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting



COLVILLE 2020 PUBLIC LISTENING SAHTÚ RAGÓʔA (HUNTING LAWS) AND APPROACHES TO WILDLIFE HARVESTING



"Hıdó gogha sénegots'ı́a are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits, which are only to be used when required and to the extent necessary."*

Hıdó Gogha Sénegots'ı́a

Community Conservation Plan Policy Statement



* SRRB Second Report in response to Minister's initial decisions, Deline 2020 Public Listening Session, March 30, 2021, at page 10. The Minister expects to review and approve this policy in the future under the terms of the SDMCLCA.

Principles

ʔası́ Godí hé Dene Ts'ı́lı́
hé (Biocultural Diversity)

ʔedets'é K'áokerewe
(Self-Regulation)

Godı Kehtsı́ (Ethical
Space)

Plan Components

Key issues and knowledge gaps in conservation

Dene concepts and terminology related to conservation issues, programs, and actions

Research and conservation programs, actions, and timelines for addressing priority issues and knowledge gaps

Approaches for *pedets'éc'áots'erewe* (self-regulation) and regional/cross-regional accountability in plan implementation, including:

Appropriate seasons of harvest and harvest locations and zones

Community sharing protocols and *godı kehtsı* (agreements) with other users within and beyond the Sahtú

Key Issues: Sahtú Hearings 2016/2020 and the *Wildlife Act* (WA)

15

Wildlife Act regulations
for Community
Conservation Plans

ᑭehdzo Got'ıne,
(Renewable Resources
Council) authorization
and enforcement

Wildlife Act alternative
measures

Harvester education and
residency

Implementing Special
Harvesting Areas

Co-Management
Decision-Making

Key Issues: Species At Risk Act

16

Biocultural diversity
approach

Integrative CCP and
“single species”
approach

Framework for
Indigenous
knowledge
Indigenous
stewardship, and CCP

Role for alternate on
Species At Risk
Committee:
combining expertise

Role for Guardians

Wildlife
legislation and
Indigenous
governments from
unsettled areas

Inclusiveness and diversity
enrich decisions

Role of Advisory Committee
for Cooperation on Wildlife
Management (ACCWM)

Reflects cultural and
ecological connectivity and
diversity

Case Study:
Níó Ne, P'ęęé, – Trails of
the Mountain Caribou

Leon Andrew, Lead





I am Shúhtaot'ine



Being Shúhtaot'ine

The Nío Ne P'ene, Plan

“Nío Ne P'ene is the backbone that holds everything together. Ká Tá - Willow Flats - is the headwaters, where the water is born and begins to flow and divide. Ká Tá is part of Nío Ne P'ene. We say that Nío Ne P'ene preserves nature for us. If Ká Tá dries up it means Nío Ne P'ene is broken down.”

– Leon Andrew





“We want to protect it now while there’s still caribou out there’ – Gordon Peter

Healthy Country Planning

23



A Vision to Start With

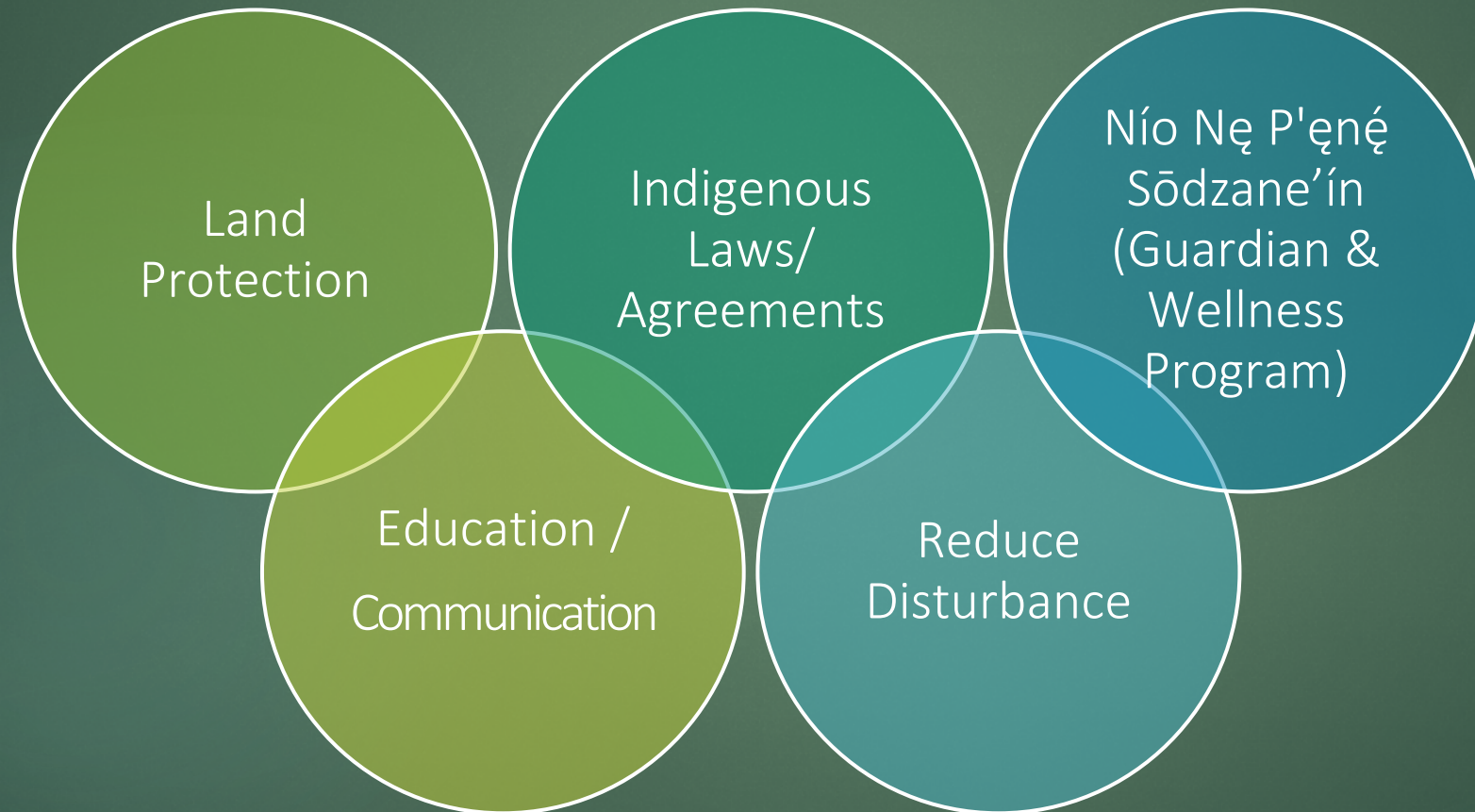
Shúhtaot'įnę and Métis continue to peacefully co-exist with shúhta goᑕepé in an ecologically diverse and healthy mountain landscape as they have for thousands of years.

Mountain Dene and Métis peoples and other inhabitants are travelling, harvesting, and sharing throughout their homelands, keeping Dene kədə (languages), Dene ts'ı́ı (ways of life) Dene ɓəɓa (law), and current conservation best practices strong.



The Plan: Program Areas

25



A Research Path to Conservation

Following trails of the caribou: Genetics

Understanding caribou landscapes: Remote Sensing

Mapping knowledge: State of Indigenous and outfitter knowledge

Livelihoods and climate change: Local aspirations and perspectives

Renewing governance: Innovations in Indigenous governance



Nío Nę P'ęné Hub



Ehdiitat (Aklavik)

Tetlit Zehh (Fort McPherson)

Gwichyaa (Tsiigehtchic)

K'áhsho Got'įneę (Fort Good Hope)

Tłegóhłı (Norman Wells)

Tulít'a

Nacho Nyak Dun (Mayo)

Tu Łidlini (Ross River)

Łíídlıı Kúę (Fort Simpson)

Nahęą Dehé (Nahanni Butte)

Google Earth

© 2021 Google
Image Landsat / Copernicus
Image IBCAO
Data SIO, NOAA, U.S. Navy, NGA, GEBCO



'We've got to find a way to move forward. Our people always did that – every time they struggled to find a way, they'd get together like this' – Leon Andrew



Why do we care and fight so hard?
Why do we never give up?

It's about the future of our land,
our animals and our people



Máhsı Cho!



Case Study



EXIT







Boy became ʔekwé



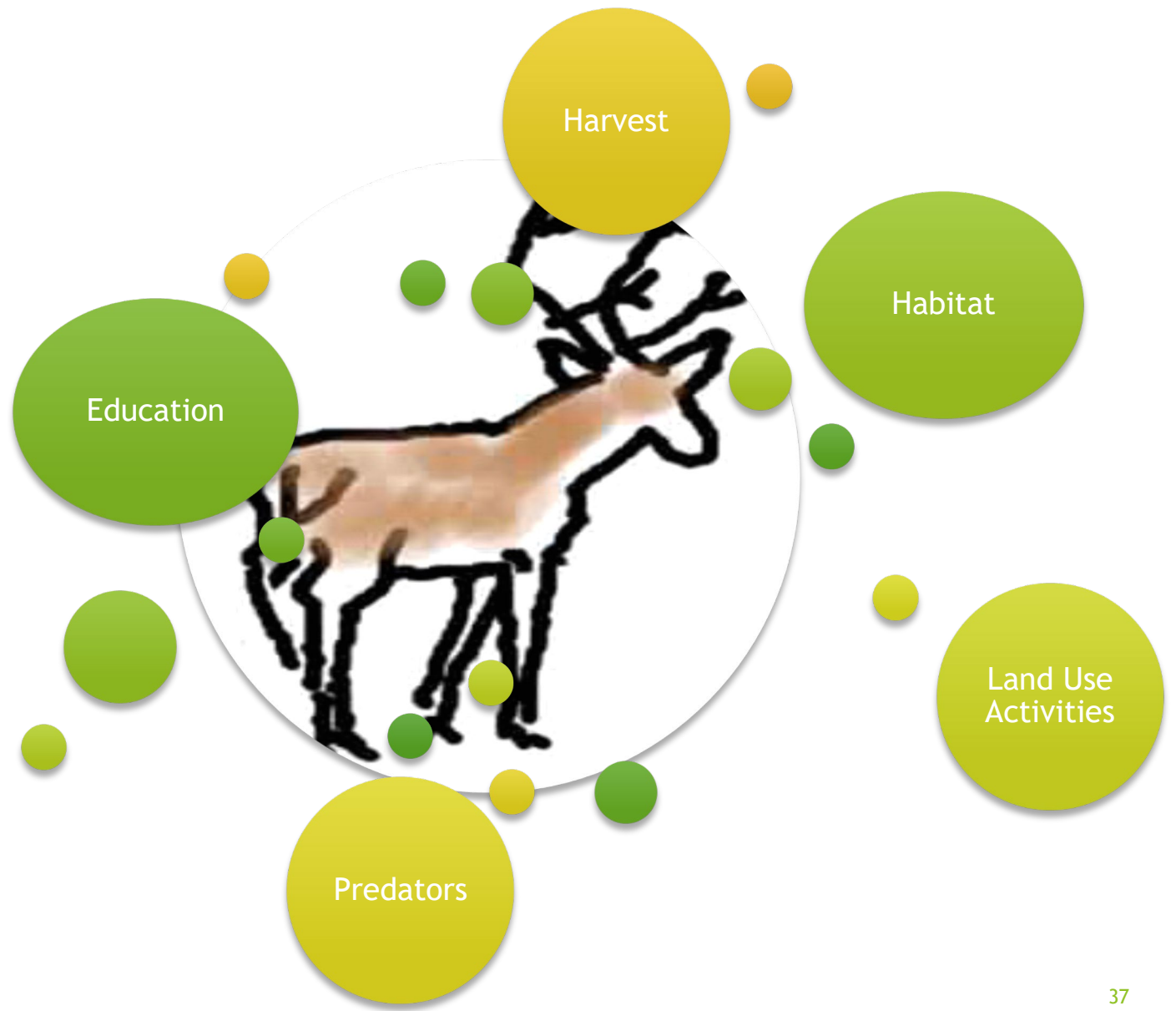
Ten Year Vison

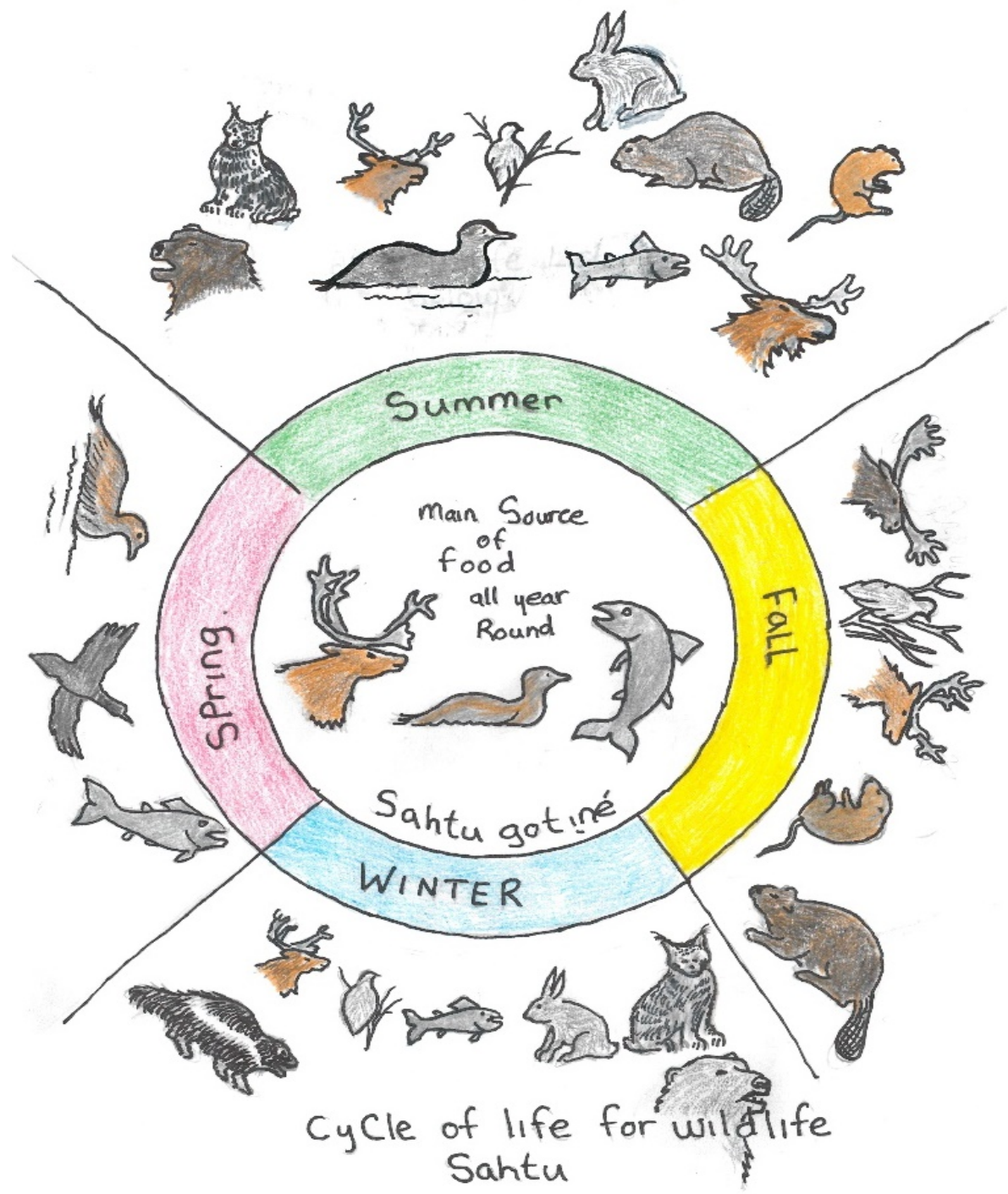
Dene and Ɂekwé are free to maintain their relationships through their own ɁɁa.

Déłıne, Got'ıne, ʔeʔa (Principles)

36

- **Goʔó begho gots'edé nı́dé dzá ɔt'e** (when people talk about caribou too much, it's not good).
- **Dene ts'ııı** (who we are, the whole concept of what being Dene meant to our grandparents)
- **ʔareyɔné ʔełóot'ıne ats'ıt'e** (we are all one family).
- **ʔełeghá ts'eredı** (sharing, giving)
- **Denechokə gok'étá náts'ezé** (we have to hunt like our grandparents did).









NOTICE TO HARVESTERS



Support our *Caribou Forever* plan for this harvest season!

This winter, we are encouraging harvesting łue, łts'é and tɔdzı. ʔekwé ɔłzɔ begha máhsı ts'ıŋıwe (ceremonial harvest only). We are harvesting no more than 30 tsída so more can survive to give birth in spring.

- Earn gas money! **\$** Collect samples to help us keep an eye on ɔekwé health.
- \$** Be a youth mentor.

Máhsı to Paul Modeste for helping spread the word by visiting all the families in the community!

For more information, contact Ed or Ted at the Deline ɔehdzo Got'ıne office.



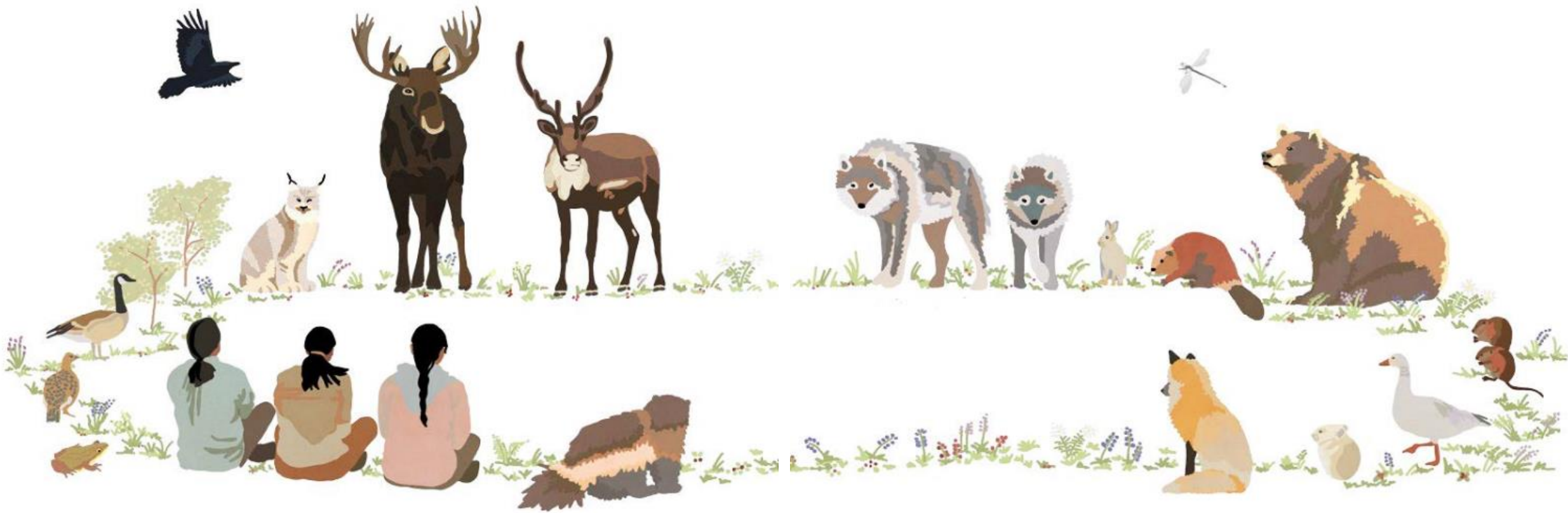
DELTA
FIRST
NATION

Belarewílé Gots'é ʔekwé - Caribou Forever

NO CARIBOU HUNTING ZONE

Ekúhya ʔekwé Kanáts'ezé Gha Góʔóle

By order of the Délıne ʔehdzo Got'ıne and Délıne First Nation



Máhsı!

Example: Drone Regulations

- Indigenous rights vs Indigenous laws
- The power of CCP
- “Effective local enforcement is an insufficiently explored option under existing or amended GNWT legislation.”*

* SRRB Hearing Report and Reasons for Decision, Deline 2020 Public Listening Session, October 30, 2020, at paragraph 164



Example: Recent media

- Indigenous rights vs Indigenous laws
- The power of CCP
- “Effective local enforcement is an insufficiently explored option under existing or amended GNWT legislation.”*

* SRRB Hearing Report and Reasons for Decision, Deline 2020 Public Listening Session, October 30, 2020, at paragraph 164

North

'A big no-no,' says N.W.T. hunter after finding wasted caribou on the land



WARNING: This story contains graphic photos that some readers may find disturbing

Kate Toth - CBC News - Posted: Mar 06, 2020 6:00 AM CT | Last Updated: March 6, 2020



North

Young caribou hunters need to learn respect, says Fort McPherson, N.W.T., elder



Caribou return to Dempster Highway, as well as 'lots and lots' of hunters, Abe Stewart says

CBC News - Posted: Nov 19, 2015 7:01 AM CT | Last Updated: November 19, 2015



North

Illegal hunting of caribou herds along winter roads running rampant



Enforcement and harvest monitoring efforts have been inadequate, says chair of caribou management board

Hannah Paulson - CBC News - Posted: Mar 09, 2021 9:00 AM CT | Last Updated: March 9



North

N.W.T. environment officers respond to complaints of food wastage on ice road



WARNING: This story contains graphic photos that some readers may find disturbing

Chantal Dubuc - CBC News - Posted: Feb 27, 2021 7:00 AM CT | Last Updated: February 27



Example: Boreal Caribou Range Planning

- Learning approach: range planning atlas including Indigenous and science information
- Local planning workshops
- Plan components presented at 2022-2023 Public Listening Sessions



ᑭᑦᑭᑦ ᑭᑦᑭᑦᑭᑦᑭᑦ - Working Together

46



- The *Wildlife Act* and *Species At Risk Act* make space for Indigenous land claim agreements and Indigenous knowledge
- Innovative, and at the forefront of efforts in Canada for reconciliation in wildlife conservation
- BUT this does not mean our task is complete.
- Together with our partners, the SRRB seeks to continue exploring the full spirit and intent of co-management objectives set out in the SDMCLCA.

Areas of Work

Regulatory change

Program support

Staff training

Funding to support
community planning

Máhsı cho!

ᑭehdzo Got'ıneᑭ Gots'é Nákedı
Sahtú Renewable Resources Board

director@srrb.nt.ca

867-446-1104





ʔehdzo Got'Inę Gots'ę Nákedı

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<http://www.facebook.com/SahtuWildlife>

Michael Ball
Committee Clerk
Standing Committee on Economic Development and Environment
Legislative Assembly of the Northwest Territories
Box 1320; 4570-48th Street
Yellowknife, NT X1A 2L9

Delivered via email

September 30, 2021

RE: Written Submission to GNWT Standing Committee on Economic Development and Environment

Dear Mr. Ball:

The ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board - SRRB) thanks the Standing Committee on Economic Development and Environment for inviting a follow-up written submission to supplement the SRRB's presentation and discussion with Committee Members on June 29, 2021.

The SRRB is one of three co-management boards in the Sahtú Settlement Area established by the *Sahtú Dene and Métis Comprehensive Land Claim Agreement* (1993 - SDMCLCA). The SRRB is an independent administrative decision-maker that is the main instrument of wildlife management in the Sahtú Settlement Area. The claim empowers ʔehdzo Got'Inę (Renewable Resources Councils - RRCs) to advise the SRRB on matters of local concern. The SRRB acts in the public interest and is comprised of an equal number of Sahtú and government nominees.

Along with Sahtú RRCs, SRRB authority is described in Chapter 13 and 14 of the SDMCLCA. In fulfilling its mandate, the SRRB seeks to ensure wildlife management accords with the objectives of the land claim, beginning with those in Chapter 1, as well as the specific objectives of Chapter 13 which address Wildlife Harvesting and Management.¹ The SDMCLCA objectives are consistent with the principles of the *Wildlife Act*² and are included in the Appendix.

This submission, along with the presentation from the SRRB to the Standing Committee on June 29 seeks to advance realization of these objectives. The submission provides an overview of the following four topics:

¹ SDMCLCA, s. 13.8.1(c)

² S.N.W.T. 2013, c. 30, s. 2(1)

- Co-management decision-Making in the *Wildlife Act* and the SRRB’s five part Hearing (Public Listening Session - PLS) Series
- Hjdó Gogha Sénégots’í ǰá (Community Conservation Plans – CCP), including a policy statement and principles
- Other relevant issues, including alternative enforcement measures and restorative justice, and harvester education
- Conclusion: A path to reconciliation in wildlife conservation

Co-Management Decision-Making in the *Wildlife Act*

Co-management is a novel approach to providing participatory rights in decision-making, including consideration of local and Indigenous knowledge alongside science. The *Wildlife Act* recognizes the SRRB as a Renewable Resources Board established under a land claims agreement to be the “main instrument” of wildlife management in the Sahtú settlement area.³ The *Wildlife Act* recognizes that the SRRB receives its jurisdiction from the land claim agreement.⁴ The SRRB does not seek to expand its land claim role under legislation. However, the SRRB acknowledges legislative clarification may be of assistance. The *Wildlife Act* does not address the authority of a Renewable Resources Board as a “main instrument” with respect to the Minister’s responsibility for conservation and management of wildlife and the administration of the *Wildlife Act*.⁵ This situation may not provide Indigenous parties with legal certainty about their rights or Government parties with clarity about the exercise of their powers consistent with specific rights in a settlement area.⁶

Five Part Hearing (Public Listening Session – PLS) Series

Co-management hearings are typically prompted by a proposal from Government to set or modify a herd-specific total allowable harvest (TAH). The typical justification for Government proposals are recent scientific evidence of a conservation concern in the form of an abundance estimate, often with consultation of rights-holders in the design and execution phases of the survey. The Renewable Resource Board is then asked to decide as the “main instrument” where, and to what extent, a TAH may be necessary. This kind of herd-specific approach concerns the SRRB in that it may not allow for adequate consideration of essential factors in conservation management, including recognizing and valuing Dene and Métis values and practices. Community parties routinely raise concerns with the narrow focus of these kinds of hearings where the stakes – a caribou TAH – are high.

In order to avoid constricting the interpretation of its mandate, in 2019 the SRRB convened a five-part hearing (PLS) series to facilitate consideration of relevant caribou conservation “hot topics” during 2020-2024. The Board considered this alternative approach desirable.⁷ The five PLS hearings will consider thematic “hot topic” issues, each and together:

- Sahtú Ragóǰa (Hunting Law) and Approaches to Wildlife Harvesting;
- ǰekwé hé Gots’edí (Living with Wildlife): Predators and Competitors;

³ *Ibid.*, s. 9(1)

⁴ *Ibid.*, s. 9(2)

⁵ *Ibid.*, s. 11(1-2)

⁶ *Ibid.*, s. 11(3)

⁷ SDMCLCA, s. 13.8.21(a)

- Wildfires and Climate Change;
- Knowledge about Caribou and Landscapes;
- Caribou and the Mixed Economy.

The SRRB's PLS process requires engagement from all parties. The articulation of Dene/Métis customs and practices within the co-management regime is not business as usual. Indigenous and local knowledge evidence arrives before the decision-maker in a very different form than the results of a recent population survey, abundance estimate and TAH proposal. The SRRB understands its role as convenor of a participatory co-management space. It seeks to fulfill this role by inviting parties to discuss these issues so it can provide its decisions, recommendations and policy input to the Minister. The SRRB is sensitive in its approach to the goals of reconciliation between the Crown and Indigenous peoples. The SRRB seeks to provide greater balance within wildlife management decision-making in the Sahtú. The SRRB commends parties for their fulsome participation and engagement in the PLS process so far.

Hı́dó Gogha Sė́nė́gots'ı́ǰá (Community Conservation Plans – CCP)

In fulfillment of its role as main instrument of wildlife management, and in recognition of the participatory rights provided under the SDMCLCA, the SRRB adopted a Hı́dó Gogha Sė́nė́gots'ı́ǰá (Community Conservation Plans – CCP) approach to enhancing understanding, respect and consideration for Indigenous and local knowledge. CCP facilitates the documentation of community-based customs and practices in wildlife conservation. CCP provide a structure for local and Indigenous knowledge to arrive before the SRRB in its proceedings and decisions affecting Dene and Métis harvesting rights.

The SRRB recognizes the importance and value of Sahtú Dene and Métis involvement in planning and management of wildlife harvesting and habitat. The SRRB seeks to engage in full and serious consideration of local and Dene/Métis knowledge in its approach to co-management. The SRRB is taking an incremental and iterative approach to the development, consideration and implementation of CCP. The concept of co-management means government buy-in is essential for CCP to proceed. Government support at key junctures has been instrumental in progress achieved on CCP to date.

The Dė́lǰnė ʔehdzo Got'ǰnė (Dė́lǰnė RRC) and the SRRB first encountered an approach known as Healthy Country Planning in 2014 at a workshop sponsored by NWT Environment and Natural Resources (ENR) in Yellowknife. This workshop inspired Dė́lǰnė to undertake community-based conservation planning in preparation for the 2016 Bluenose East ʔekwė́ (Caribou) Hearing. The trigger for the 2016 hearing was submission of ENR's Bluenose East management proposal. As a result of Dė́lǰnė's submission of the *Belare Wile Gots'ė́ ʔekwė́ – Caribou for All Time* plan, for the first time the SRRB was called upon to consider two plans for conservation of a single herd. Dė́lǰnė's plan was approved by the SRRB and the Minister. This first-generation community conservation plan continues to be overseen by the local ʔekwė́ Working Group and Dė́lǰnė RRC. Annual harvests, when they occur, are reported to the ACCWM network. Dė́lǰnė submitted an updated version of their community conservation plan in 2020.⁸

⁸ The updated CCP is pending further review at a future PLS.

Over the five years since the 2016 hearing, the SRRB has been working with communities in the Sahtú Settlement Area to document effective and culturally appropriate community-based conservation systems. These systems are based on customs practiced in Sahtú communities since before the arrival of the prevailing wildlife management approach, a fact that carries added weight in a reconciliation-informed analysis. The SRRB outlined a wider approach to CCP in its 2016 Bluenose East ʔekwé Hearing Report. In 2017, the SRRB formally adopted a hɪdó gogha sénégots'íʔá (community conservation plan - CCP) approach to implementing its mandate. The SRRB also incorporated CCP into its 2017-2020 and 2020-2025 Strategic Plans, and included a CCP Policy Statement and Principles in its March 2021 second hearing report.⁹ Now the SRRB is working through the five-part PLS process.

Community conservation plans can include facets of harvest management that would need to rely on legal authority, likely under the *Wildlife Act*. For example, the current *Wildlife Act* addresses harvester authorization through various classes of licensing and enforcement of offences by ENR wildlife officers under the Minister's administration. ENR and Colville Lake negotiated an *Interim Management Agreement* to formalize certain local authority over harvest management, but other issues remain unresolved and unconfirmed in current law.

CCP Policy Statement and Principles

In 2021, the SRRB articulated a policy statement on *Hɪdó Gogha Sénégots'íʔa (Community Conservation Plans – CCP)*:

Hɪdó gogha sénégots'íʔá are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits, which are only to be used when required and to the extent necessary.¹⁰

The SRRB's approach to CCP is guided by three interdependent principles that guide community-led planning in the Sahtú Settlement Area.

1. ʔasíj Godí hé Dene Ts'ɪlɪ hé (Biocultural Diversity)

Dene expect decisions that affect them to account for ʔasíj godí hé Dene ts'ɪlɪ hé (all living things and Dene ways of being).

2. ʔedets'é K'áokerewe²⁵ (Self-Regulation)

In Dene ʔeʔá (law) people and wildlife are called upon to respect each other's autonomy as a basis for social cohesion and survival in a harsh environment through ʔedets'é k'áots'erewe.

3. Godí Kehtsj (Ethical Space)

Dene and Métis participation in conservation efforts with Government depends on godí kehtsj (fair consideration or coming together of diverse perspectives), including science

⁹ *Second Report in response to Minister's initial decisions, Déljñe 2020 Public Listening Session, March 30, 2021, SRRB, at pages 5-18.*

¹⁰ *Second Report in response to Minister's initial decisions, Déljñe 2020 Public Listening Session, March 30, 2021, SRRB, at page 10*

will continue to work on these issues through the SRRB's PLS series, including the upcoming 2021 Déljñę PLS which was rescheduled to February 2022 due to COVID contingencies.

Other Relevant Issues

Alternative Measures/Restorative Justice

At the conclusion of the Colville 2020 PLS hearing on *Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Management*, the SRRB made decisions and recommendations addressing ten topics, including with respect to alternative measures where harvesting offences occur. The SRRB recommended that the GNWT Minister consider culturally appropriate restorative justice processes for CCP that reflect and accommodate community enforcement capacity under authority already available in the *Wildlife Act*:

Recommendation... to identify the appropriate culturally-grounded process for enforcement of their community conservation plans and the legislative amendments required to create the space for ... judicial alternatives [like alternative measures]. This would ensure the enforceability of the Déljñę and Dehlá Got'jñę community conservation plans, which include restorative justice models consistent with Dene culture.¹²

The Minister's response to the SRRB's recommendation explained the current regulations in force: that decisions about alternative measures are made on a case-by-case basis by prosecutors; clarifying that "... the Minister of ENR has no ability to authorize any alternative measures or to alter the existing alternative measures framework" because this is a question of the administration of justice under the authority of the Minister of Justice¹³; and that alternative measures can only apply to measures under the *Wildlife Act*, therefore only those aspects of approved community conservation plans "that are able to be reflected in regulations"¹⁴. The current regulations are triggered after an ENR wildlife officer contemplates charges and a prosecutor is involved.

The role of restorative justice measures, like alternative measures and pre-sentencing diversion, are part of a continuum of harvest regulation and management that begins with education and respect and continues to enforcement and sanction. These are integral to CCP. If the *Wildlife Act* does not accommodate community-based authority, for example to define offences and/or determine enforcement measures, it will be more difficult to manage offences locally, in culturally-sensitive ways grounded in a fundamental respect for wildlife.

Features of local restorative justice necessary for community governance are not included in current *Wildlife Act* regulations. The SRRB has made clear to the Minister these kinds of regulatory views present challenges to CCP:

¹² Colville 2020 Public Listening (Hearing) Session Report and Reasons for Decision, October 30, 2020, SRRB, at paragraph 172

¹³ Responses to Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting: Final Report on the Colville 2020 Public Listening (Hearing) Session, Minister of ENR, May 7, 2021, at page 6

¹⁴ Responses to Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting: Report on the Colville 2020 Public Listening (Hearing) Session, Minister of ENR, January 29, 2021, at page 12

The current regulatory frame (including the *Big Game Harvesting Regulations*) being applied to assess and reject key aspects of CCP [as a viable and rights-respecting harvest management approach] may not respect the rights, customs and practices of Sahtú Dene and Métis... If the Minister continues to use regulations made under the *Wildlife Act* or recommended management actions from advisory bodies to determine the scope of rights expression in the Sahtú Settlement Area, it is hard to understand how a CCP could receive the Minister's approval.¹⁵

The empowerment of local capacity in harvest management as described in the land claim is undefined in the *Wildlife Act*. Land claim implementation and caribou conservation issues may warrant reconsideration of the potential role of community authority in conservation management.

Harvester Education and Residency

Caribou populations are in a fragile state. The SRRB is aware of caribou conservation concerns, and the implications of the situation in the medium to long-term on people and the environment. CCP can direct respectful harvesting. There is a distinction between rights-holding harvesters and harvesters bearing permission granted under licence. The *Wildlife Act* outlines the residency and education requirements for licensees to harvest in the NWT. Licence-holders come to harvest in the Sahtú Settlement Area.

In 2020, the SRRB found:

Finding 8.2

*The SRRB finds that harvester education, including local involvement in the delivery of training programs, can be an effective means of ensuring that resident and non-resident hunters respect Dene protocols.*¹⁶

The Minister's response to the SRRB's hearing report acknowledged the issue and recalled the justification of the current regulation. "As such, feedback during engagement sessions identified that the number of resident hunters in the NWT relative to the number of Indigenous harvesters is very small and that reducing the residency requirement to one year would not make a difference to harvesting levels."¹⁷ In a situation where harvest levels are not subject to a TAH, harvesting is monitored via voluntary survey.

The SRRB has heard a notable degree of local concern about these issues. The SRRB gave notice that harvester residency and education requirements for all classes of harvesters who might be active in the Sahtú region will be part of the Déljñę 2021 PLS.

¹⁵ *Second Report in response to Minister's initial decisions, Déljñę 2020 Public Listening Session, March 30, 2021, SRRB, at page 24*

¹⁶ *Colville 2020 Public Listening (Hearing) Session Report and Reasons for Decision, October 30, 2020, SRRB, at paragraph 237*

¹⁷ *Responses to Sahtú Ragó?á (Hunting Law) and Approaches to Wildlife Harvesting: Report on the Colville 2020 Public Listening (Hearing) Session, Minister of ENR, January 29, 2021, at page 18*

Conclusion: A Path to Reconciliation in Wildlife Conservation

The *Wildlife Act* principles set out key standards for conservation. A community-based approach to stewardship in land, culture and wildlife interactions is part of our modern understanding of conservation, particularly in the NWT. The 1993 *Sahtú Dene and Métis Land Claim Agreement* was negotiated to meet a core group of objectives:

- certainty of ownership over land and resources in exchange for specific rights and benefits;
- recognition and promotion of the Sahtú Dene and Metis relationship with the land;
- Sahtú Dene and Métis rights to participate in decision-making about land, water, and wildlife conservation, use, and management; and
- Sahtú Dene and Métis wildlife harvesting rights.

These objectives align with calls from the 1992 *Earth Summit* in Rio de Janeiro, Brazil, for states to "... respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application..."¹⁸ Work on CCP advances these objectives.

The SRRB appreciates all of the contributions and efforts from the GNWT Minister and ENR department staff as we all continue on the long path to reconciliation and the honourable implementation of land claim agreements. The SRRB recognizes and appreciates that there have been many discussions on these issues, and there will likely be many more. The SRRB appreciates the contributions of parties and the conscientious engagement from the Minister during its decision-making. The SRRB looks forward to its ongoing PLS series, and the treatment of these issues.

The SRRB is grateful to the Standing Committee for this opportunity to supplement its June 29 presentation with these written submissions on the *Wildlife Act*. The SRRB would be happy to provide any additional clarification or documentation requested by the Standing Committee as it concludes these proceedings.

Máhsı cho,



Deborah Simmons
Executive Director

¹⁸ *Convention on Biological Diversity*, Article 8(j)

APPENDIX

1.1.1 The Sahtu Dene and Metis and Canada have negotiated this agreement in order to meet these objectives:

- (a) to provide for certainty and clarity of rights to ownership and use of land and resources;
- (b) to provide the specific rights and benefits in this agreement in exchange for the relinquishment by the Sahtu Dene and Metis of certain rights claimed in any part of Canada by treaty or otherwise;
- (c) to recognize and encourage the way of life of the Sahtu Dene and Metis which is based on the cultural and economic relationship between them and the land;
- (d) to encourage the self-sufficiency of the Sahtu Dene and Metis and to enhance their ability to participate fully in all aspects of the economy;
- (e) to provide the Sahtu Dene and Metis with specific benefits, including financial compensation, land and other economic benefits;
- (f) to provide the Sahtu Dene and Metis with wildlife harvesting rights and the right to participate in decision making concerning wildlife harvesting and management;
- (g) to provide the Sahtu Dene and Metis the right to participate in decision making concerning the use, management and conservation of land, water and resources;
- (h) to protect and conserve the wildlife and environment of the settlement area for present and future generations; and
- (i) to ensure the Sahtu Dene and Metis the opportunity to negotiate self-government agreements.

13.1.1 This chapter [Wildlife Harvesting and Management] has the following objectives:

- (a) to protect for the future the right of participants to gather, hunt, trap and fish throughout the settlement area at all seasons of the year;
- (b) to conserve and protect wildlife and wildlife habitat and to apply conservation principles and practices through planning and management;
- (c) to provide participants with certain exclusive, preferential and other harvesting rights and economic opportunities related to wildlife;
- (d) to respect the harvesting and wildlife management customs and practices of the participants and provide for their ongoing needs for wildlife;
- (e) to involve participants in a direct and meaningful manner in the planning and management of wildlife and wildlife habitat;
- (f) to integrate planning and management of wildlife and wildlife habitat with the planning and management of all types of land and water use in order to protect wildlife and wildlife habitat;
- (g) to ensure that traditional harvesting by other aboriginal peoples who have harvested in the settlement area can be accommodated in this agreement; and
- (h) to deal fairly and equitably with persons who hunt, trap, fish or conduct commercial wildlife activities in the settlement area and who are not participants.

Máhsı cho,

A handwritten signature in black ink, appearing to read 'DS', with a long horizontal stroke extending to the right.

Deborah Simmons
Executive Director

- **Thank you, Mister Chair. Good Morning. My name is Jody Pellissey, and I am the Executive Director of the Wek'èezhìi Renewable Resources Board.**
- **The WRRB would like to thank the Standing Committee for Economic Development and Environment for inviting the WRRB to provide our comments and recommendations during the review of the *Wildlife Act* and *Species at Risk (NWT) Act*.**
- **The WRRB is a renewable resource co-management board established by the Tłıchq Agreement and legislation in 2005. The Board is an institution of public government, which means that the Board considers the interests of all renewable resource users and acts in the public interest when making its decisions.**
- **The WRRB has important responsibilities related to the management of wildlife, plants, and forests as well as protected areas in Wek'èezhìi. These responsibilities are found in Chapters 12, 13, 14 and 16 of the Tłıchq Agreement.**
- **The WRRB's purpose is to work with Tłıchq citizens, NWT residents, communities, and governments to manage animals, birds and fish and their habitats in Wek'èezhìi to benefit people today and future generations.**
- **The duties and responsibilities assigned to the Board by the Tłıchq Agreement are an essential part of good renewable resource management in Wek'èezhìi.**

- In accordance with the Tłıchq Agreement, the WRRB adheres to the principles and practices of conservation, including the precautionary principle, in fulfilling its duties.
- The Board considers the relationships between wildlife, the land, and people, and uses the best information available, including Tłıchq knowledge, scientific knowledge, and expert opinion, to inform its decision making.
- The WRRB is then able to make balanced decisions supporting the Tłıchq philosophy of “strong like two people”.
- Today, I will focus on three main topics identified by the Committee in its review of the NWT *Wildlife Act* and the NWT *Species at Risk Act*: 1) Co-management of wildlife with Indigenous Governments from unsettled areas, 2) community-based wildlife management, and 3) Indigenous Guardian Programs.
- But first the WRRB would like to identify the excellent and far reaching work done by GNWT’s Department of Environment and Natural Resources during the development of the NWT *Wildlife Act* and the NWT *Species at Risk Act*, particularly in addressing co-management matters. This ready-made framework is recommended for use by the GNWT in the development of future legislation.
- The WRRB notes that implementation of the *Species at Risk Act* is well established and satisfactory. While implementation is underway for the *Wildlife Act*, it is too early to evaluate its effectiveness as many parts of the Act have only just gotten regulations and there are still many more regulations to develop.

- **GNWT must ensure continued involvement of renewable resource boards in the development of policy and regulations after an Act is enacted. This collaboration is necessary to fully reflect the NWT's modern framework for cooperative and coordinated management over wildlife, forests and plants, and protected areas. [Next Slide]**
- **The Committee has requested input about co-management of wildlife with Indigenous Governments from areas with ongoing negotiations of lands, resources, or self-government agreements. With respect to the WRRB process, the Board has considered evidence provided by IGOs during its wildlife management proceedings, including its most recent review of the joint wolf management proposal submitted by the Tłıchǫ Government and the GNWT.**
- **During government processes such as the Conference of Management Authorities, Species at Risk Committee, and the Section 15 Wildlife Act meetings, the WRRB notes that involvement by IGO representatives as participating observers has been beneficial to ensuring all information and perspectives are included in decision making.**
- **However, the WRRB reminds the Committee that during drafting of the *Wildlife Act* there was opposition to unsettled areas having specific decision-making authorities. While these IGOs should be treated fairly and equitably, the GNWT must be careful not to grant legal authority where it does not exist and that will have no adverse effect on settled area institutions and rights. [Next Slide]**

- In all four land claim areas of the NWT, the groups chose to include wildlife co-management by independent, objective boards alongside strong rights bearing organizations.
- Community level wildlife management is where science and traditional knowledge come together to generate good, objective wildlife and wildlife habitat related decisions. As political institutions, Indigenous wildlife rights protection and enhancement is the IGO's responsibility.
- By taking the best of both management visions, this melds the government and community strengths through wildlife co-management while ensuring co-managers are objective and accountable. This is another example of the Tłıchǫ philosophy of "strong like two people". [Next Slide]
- Community-based wildlife management is essential to appropriate and effective wildlife management decision making. It is not an alternative to the GNWT's role in wildlife science. Rather, it is an opportunity to enhance and expand our knowledge while getting a more fulsome understanding of problems and potential solutions.
- A great example of a community-based wildlife management program is the Tłıchǫ Government's Ekwò Nàxoède K'è program or Boots on the Ground. The Ekwò Nàxoède K'è program is a *Kqk'èeti ekwò* or Bathurst caribou monitoring program based upon the traditional knowledge of Tłıchǫ and Inuit indigenous elders and harvesters. The objectives are to monitor the conditions of the *Kqk'èeti ekwò* herd on their summer range. This program has recently expanded to include monitoring of the *Sahti ekwò* or Bluenose-East caribou.

- **The GNWT should support, collaborate, and fund community-based monitoring programs to support the collection of both knowledges. [Next Slide]**
- **Additionally, GNWT should assist with the establishment and funding of Indigenous Guardian Programs. Formalizing these programs at the community level will ensure that the benefits to be derived are in relation to wildlife and wildlife habitat management.**
- **However, the formal role of Guardians should be carefully thought through to ensure that management and conservation roles that are already allocated to either renewable resources boards or community-based organizations, such as hunters and trappers committees, are not impacted. [Next Slide]**
- **The WRRB believes that the focus of Guardian programs should be monitoring the land and all of its parts based on the knowledge of the elders and harvesters. This includes species at risk.**
- **It should be noted that most species at risk are not game animals, but instead are birds, plants, and insects. While Guardians can assist with monitoring these species at risk, programs that focus on facilitating the protection of habitats to improve species at risk outcomes should be considered.**
- **While the WRRB feels that Guardians should work closely together with Renewable Resource Officers to make certain that wildlife and wildlife habitat are properly protected, the Board feels that Guardian programs should not be involved with enforcement. Enforcement actions take place in a highly legal**

context, which require significant training and management to protect the public interest.

- **Community-based organizations, such as hunters and trappers' committees in the settled areas, already have a role in enforcement. The Board sees each role – Guardians, Renewable Resource Officers, HTC's – undertaking specific functions. By focusing each group on specific functions and working together, this ensures that appropriate and effective wildlife management can occur.**

[Next Slide]

- **Wildlife and wildlife management are culturally, economically, and spiritually important to all northerners. The WRRB recommends that the GNWT continue to build relationships with renewable resources co-management boards and ensure balanced decision making by using both traditional knowledge and science.**
- **The Board urges the GNWT to consider forward looking wildlife management to face serious challenges, such as climate change and the biodiversity crisis. Wildlife laws should reflect the importance of wildlife and wildlife habitat and be robust enough to face future challenges.**
- **By facing challenges collaboratively within and across jurisdictional boundaries, wildlife and wildlife habitat can be effectively conserved and managed for future generations. [Next Slide]**
- **Thank you for listening and considering the WRRB's comments.**



Wildlife • Plants • Forests • Protected Areas

Standing Committee on Economic Development and Environment's Review of *Wildlife Act* and *Species at Risk (NWT) Act*

**Jody Pellissey
Wek'èezhì Renewable Resources Board (WRRB)**

April 27, 2021

Co-Management of Wildlife with IGOs

- WRRB has considered concerns from IGOs during its wildlife management proceedings.
- Participation by IGO reps during SARC, CMA, or Section 15 Wildlife Act meetings has been beneficial to ensuring all information and perspectives are included in decision making.



S. Beaumont, WRRB

Co-Management of Wildlife with IGOs

- Community level wildlife management should be where science and TK come together to generate good, objective wildlife and wildlife habitat related decisions.
- IGOs are political institutions but are not specifically wildlife management organizations. Indigenous wildlife rights protection and enhancement should be the IGO's responsibility – but focussing on these matters does not generate good, objective wildlife management decisions.



Community-based Wildlife Management



- Tłıchq̓ Government's Ekwò Nàxoède K'è program
- Community-based monitoring should be supported, collaborated, and funded by GNWT.
- Opportunity to enhance and expand on existing wildlife science knowledge *“strong like two people”*

Indigenous Guardians Programs



- Formalized at a community level
- GNWT should assist with the establishment and funding of Guardian programs

Indigenous Guardian Programs

- Focus of Guardian programs should be monitoring
- Species at Risk can be monitored by Guardians



- Guardian programs should not be involved in enforcement
- Significant training and management within a legal context is required to protect the public interest

Collaborative Wildlife Management

- Wildlife and wildlife management are culturally, economically, and spiritually important to all northerners
- WRRB urges enhanced, forward looking wildlife management to face challenges, including climate change and the biodiversity crisis
- GNWT's wildlife laws should reflect the importance of wildlife and be robust enough to face the challenges



Thank you / Masi cho



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