



17th Legislative Assembly of the Northwest Territories

Standing Committee on Economic Development and Infrastructure

Report on the Review of Bill 3:
Wildlife Act

Chair: Mr. Robert Hawkins

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**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT
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REPORT ON THE REVIEW OF BILL 3: *WILDLIFE ACT*

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**REPORT ON THE REVIEW OF
BILL 3: *WILDLIFE ACT***

INTRODUCTION

Bill 3, the *Wildlife Act*, is a product of over 15 years of work to replace existing wildlife legislation which dates back to 1978. The Standing Committee on Economic Development and Infrastructure conducted extensive public consultation on the bill and has reached consensus among its members that the legislation is ready for consideration by the Committee of the Whole.

Bill 3 was referred to the Standing Committee on March 5, 2013. Between April and June 2013, the Committee held public hearings in Yellowknife, Tulita, Norman Wells, Tsiigehtchic, Dettah, Hay River, Fort Smith, Inuvik, Fort Simpson, Nahanni Butte, Fort Providence, and Behchoko. The Committee heard from a wide range of individuals, organizations and Aboriginal governments during this public review process, both at hearings and via written submissions. The Committee members would like to thank all participants.

After carefully considering and discussing all feedback received on the Bill, the Committee proposed the amendments discussed in this report. The Committee would also like to take this opportunity to raise a number of issues brought forward during public hearings that it agrees are significant to the implementation of the new Act.

The Committee heard considerable appreciation for the Department of Environment and Natural Resources' (the Department's) collaborative approach to the development of Bill 3, and the extensive consultation process it undertook prior to the introduction of the Bill in the Legislative Assembly. Presenters also commended the Standing Committee on its effort to consult with the public on the Bill.

A number of presentations expressed general support for the Bill, highlighting its incorporation of Aboriginal and treaty rights and management and conservation principles as strengths of the proposed legislation. Other individuals and organizations expressed conditional support, or, in some cases, could not support the Bill at all for reasons which the Committee attempted to address through amendments or recommendations.

INCLUSIVE WILDLIFE MANAGEMENT

The Committee believes that, while upholding Aboriginal and treaty rights, legislation should clearly recognize the value of wildlife to all residents of the Northwest Territories. The Committee heard that the Bill needed to further convey that all northerners have a responsibility for stewardship that comes with the opportunity to access wildlife.

The Committee also heard that legislated wildlife management is contradictory to the traditional Aboriginal relationship with wildlife and the land. A Tulita elder told the Committee, "Unfortunately, the Dene way of self-regulation does not fit within the legal system of the non-Dene."

The Committee wants to reinforce how the new *Wildlife Act* upholds constitutionally enshrined treaty and Aboriginal rights and the provisions in land claim agreements, recognizing that land claim and self-government agreements function as modern treaties. At the same time, the Committee believes that the legislation should be interpreted in a way that recognizes the fundamental value of wildlife to all residents, and thus proposed that the preamble be amended to include the statement: "And whereas all people of the Northwest Territories have an interest in wildlife as a natural resource and a responsibility for stewardship of wildlife and habitat." The Minister concurred with this amendment, and the change has been made to Bill 3.

MANDATORY HARVESTER TRAINING

Many presenters asked that the new *Wildlife Act* make harvester and firearms safety training mandatory for all harvesters. The Committee recognizes the need to balance the constitutionally enshrined Aboriginal and treaty rights, while still ensuring that sound harvesting skills are taught to all harvesters. The Committee has heard from the public how harvester training is intrinsic to traditional Aboriginal lifestyles, and skills traditionally passed from elders to new hunters.

In response to public request and acknowledgement of traditional practices, the Committee felt that the *Act* should set a standard of safe hunting by requiring safety training for all harvesters, except those who are exempted by the regulations. In this way, and with the appropriate consultation, the Minister may exempt certain harvesters from the safety training requirement, and define the training methodology applicable to such harvesters. The Committee believed that training should include firearms safety; practices to prevent wastage; and harvesting skills relevant to conservation such as identifying male and female animals.

The Committee agrees that firearms safety training is extremely important. It acknowledges that Bill 3 sets out provisions for safe harvesting, and applicable federal law has established provisions for safe and responsible firearms training that are beyond the scope of wildlife legislation.

The Committee proposed to amend sections 22, 47 and 48 of the Bill to provide that no person is entitled to obtain a hunting licence, general hunting licence or otherwise harvest under such a licence until that person has successfully completed an approved harvester training course unless exempt from harvester training, according to the regulations.

During the clause by clause review, the Minister did not concur with the motions and explained that Bill 3 provides for harvester training to be developed under the regulations, through extensive consultation. The public has identified a number of concerns related to conservation and public safety, and has clearly requested a high standard of safety and training for hunters in the Northwest Territories. The matter of harvester training will be discussed further when the bill is considered by the Legislative Assembly.

APPEAL PROCESS

The Committee heard that the *Act* should establish an appeal process for individuals who are denied permission to trap game, particularly in unsettled claim areas. Bill 3 provides for applicants to receive written explanation for the refusal of an application for a hunting licence. The Committee proposed an amendment that would add a requirement for written reasons for refusal to issue or recommend the issuance of a special harvester licence. The Committee further proposed a motion to allow an individual to appeal refusals to issue any licence, permit or other authorization, including the option of appealing to the Minister.

The Minister did not concur with this amendment, but suggested that an appeal process, independent of the Minister, could be developed through regulations, similar to the model established in the *Forest Management Act*. This matter will be subject to further discussion by the Committee of the Whole.

SAME-DAY HARVESTING

The Committee heard concerns with respect to harvesting and commercial activities involving aircraft. The Committee proposed an amendment to Bill 3 that would prohibit a person from hunting prescribed game, including all big game, within a prescribed time after being airborne in an aircraft. The type of game and the prescribed time limit would be set out in regulations.

The Minister did not concur with this amendment, and again, the Committee anticipates that this topic will be a subject of further discussion.

MANDATORY HARVEST REPORTING

The Committee heard the view that new legislation should enforce mandatory harvest reporting for all harvesters. The Committee strongly agrees that harvest reporting should apply as widely as possible. Bill 3 avoids potential infringement upon Aboriginal and treaty rights by dealing with harvest reporting in regulations, in cooperation with Aboriginal governments. The Committee supports this approach, but agrees it could be strengthened by amending the bill to include harvest reporting provisions. The Committee further recommends that the department work with Aboriginal governments, renewable resource boards, and all other stakeholders to ensure that as many harvesters as possible report their harvest in a way that promotes a consistent, cooperative approach to responsible wildlife management, including population monitoring and sustainability for game species that withstand considerable harvesting.

The motivation for harvest reporting is stewardship-focussed. Creating a culture of harvest reporting for big game is a proactive, conservation-oriented approach to managing wildlife populations and ensuring sustained harvest for all.

The Committee moved that the Bill be amended to specify that a person who harvests wildlife shall report the wounding, killing or capture of big game or other prescribed wildlife, within a timeframe specified in regulations. The Minister did not concur, explaining that it was preferable to deal with harvest reporting requirements under regulations only, in cooperation with Aboriginal governments and local harvesting organizations. This topic will be subject to further discussion by the Committee of the Whole.

OTHER SIGNIFICANT MATTERS

Throughout the public consultation process, the Committee heard a number of issues that it chose not to address through amendments, but still deserve to be recognized as a high priority for the department in the implementation of the new *Act*.

Regulations

The overwhelming majority of public presentations and written submissions called upon the Committee to recommend that the same consultative, collaborative process used to develop Bill 3 apply to the development of the

regulations. Members of both the public and the Committee expressed concern that Bill 3 contains significant regulation-making powers, and that it is difficult to determine the full implications of the new legislation in the absence of these regulations.

The legislative process does not allow for regulations to be developed at the same time as a bill. The committee confirmed the extent of the bill's regulation-making power is similar to wildlife management legislation in other parts of Canada. The Department states in its publication of the *Results of the 2012 Consultation and Public Engagement on the Proposed New Wildlife Act*, that it is "developing a process and timelines to engage and consult with other government departments, Aboriginal governments, co-management partners, regulators, stakeholder organizations, industry and the public on new regulations." The Committee strongly recommends that the necessary resources be made available for this thorough public consultation process. The Committee itself also expects to be involved.

The Committee heard a number of concerns related to unsettled land claims and land use plans. The Committee believes that sections 4 and 172 of Bill 3 are adequate to address these issues. At the same time, the Committee recognizes these issues as significant and that they may set precedent in terms of future land claims and land use planning agreements, and wants to ensure that some of the concerns expressed by First Nations governments can be addressed through regulations.

Submissions on Wildlife and Habitat

Many people expressed the view that the process for providing public input into wildlife and habitat management, formalized in section 16 of the Bill, needs to be part of an inclusive forum where all northerners can be heard. The Committee supports the wildlife management process set out in sections 15 and 16 of the Bill; however, the Committee recommends that the annual meeting of organizations responsible for wildlife management in the Northwest Territories be open to the public to attend as observers with an opportunity to share their understanding of wildlife. The Committee further recommends that the department and Aboriginal governments work together to find ways to actively involve stakeholders to foster a truly collaborative approach to wildlife and habitat management and conservation.

Communications

The Committee heard that the Department should help residents understand significant changes under the new *Wildlife Act* and avoid inadvertent violations of the new *Act* by promoting awareness of the roles, responsibilities and authorizations it contains. Recognizing the complexity of the Northwest

Territories' wildlife and habitat management system, the Committee recommends that the Department conduct an extensive communications campaign to ensure all residents are aware of the new *Act* and its provisions. The Committee highlights the importance of ensuring clarity surrounding the process for obtaining licences, permits and any other authorizations.

Enforcement

In order to be effective, the *Wildlife Act* must be implemented and enforced. As a resident harvester in Inuvik pointed out, the *Act* and regulations "are only as good as their enforcement." Throughout the Northwest Territories, the Committee heard concerns about enforcement issues including the need to ensure adequate resources are available for officers to carry out their duties, and to monitor non-resident harvesters particularly along Northwest Territories borders.

Residency

Unless special permission is granted, current legislation requires a person to reside in the Northwest Territories for two years before he or she can apply for a hunting licence. Bill 3 proposes a 12-month residency period before an individual is eligible for a resident hunting licence. This change was a significant source of concern for many individuals and organizations. The Committee reached consensus that the Bill may proceed with a one-year residency requirement, but asks that the Department retain well-defined and stringent requirements for proof of residency.

Over the last ten years, the Department has issued, on average, close to 1,200 resident hunting licences per year. The Northwest Territories Bureau of Statistics currently predicts a net increase of 204 non-Aboriginal residents in the next eight years. That would result in an increase of 12 new resident harvesters, at the current rate of participation in resident harvesting activities, and 56 new resident hunters by 2031.

The Department has publicly stated that effective measures are available to control the level of resident harvest. In areas with settled land claims, Aboriginal governments also have authority to control harvest.

The change would also allow RCMP and military service personnel who are typically in the Northwest Territories for a short term to participate in harvesting activities with a resident hunting licence. On a further note, a one-year residency requirement is consistent with other Canadian jurisdictions.

Conservation Areas

A significant number of comments and concerns were expressed with respect to the establishment of conservation areas. The Committee recognizes that some of the public may feel a great deal of uncertainty in this area. The Committee's view is that the *Act* sets out a reasonable procedure to designate conservation zones based on concrete data and in the interest of sustaining wildlife population and habitat. The Committee strongly recommends that the Department work with stakeholders, and the public, as appropriate, when establishing any form of conservation area. Members reinforce that conservation areas should address critical wildlife issues and thus should only be required on rare occasions.

CONCLUSION

The Committee is well aware of the significance of wildlife to the people of the Northwest Territories and the complexity of developing new wildlife management legislation. Bill 3, the *Wildlife Act*, is the culmination of years of effort, dedication and inestimable investment of talent, interest and emotion on the part of a group of people as wide and diverse as the North itself. The Northwest Territories has undergone significant change since the new *Act* was initially developed, and the Committee recognizes that it is no small achievement to bring forward legislation that can continue to apply to our ever-evolving political and physical landscape. Members once again commend the hard work and determination of all those involved in every step of this journey. The Committee is optimistic that Bill 3 can be assented to in the 17th Assembly, and recognizes the passage of a new *Wildlife Act* as an important milestone. The Committee urges Cabinet to support the proposed amendments and begin the establishment of a renewed wildlife management regime that recognizes the paramount importance and fundamental value of wildlife to the Northwest Territories.