



Beverly and Qamanirjuaq Caribou Management Board

7 August 2015

Sharon Ehaloak,
Executive Director
Nunavut Planning Commission
Cambridge Bay NU X0B 0C0

Via e-mail: sehaloak@nunavut.ca

Dear Ms. Ehaloak:

BQCMB Follow-up to Technical Meetings on 2014 Draft Nunavut Land Use Plan

The Beverly and Qamanirjuaq Caribou Management Board (BQCMB) appreciated the opportunity to have our representatives join parts of the Nunavut Planning Commission's (NPC) June and July 2015 technical meetings on the 2014 Draft Nunavut Land Use Plan (NLUP or Plan) by teleconference. The outcome of Nunavut's land use planning process is of great interest to BQCMB members and more than 20 communities in Nunavut, Manitoba, Saskatchewan and Northwest Territories who share the Beverly and Qamanirjuaq caribou herds.

Following are the BQCMB's comments on the proposed caribou workshop and our recommendations concerning revision of the Draft NLUP and timing of the Public Hearing in response to the Commission's request. Our major points are in bold for clarity of review. Because of our inability to participate fully in the technical meetings, I have also attached further input on a few other key issues relevant to caribou that have been discussed at these meetings.

Revision of the Draft NLUP

As we stated in our June 2015 technical submission to NPC, ***the BQCMB agrees with other participants that the Draft NLUP should be revised to address currently unresolved technical issues prior to the NPC's Public Hearing.*** It is clear that there are numerous technical and often complex issues that are undergoing further discussion now. It seems likely that important changes will result to some proposed land use designations and other Draft NLUP content. Therefore it is apparent to the BQCMB that proceeding with the Public Hearing without first circulating a revised version of the

Draft Plan may be viewed as be disrespectful to Nunavummiut and could result in much confusion at the Hearing. It would certainly not fulfill the Commission's stated objectives for transparency in decision making in land use planning, which is directed by both the Nunavut Land Claims Agreement and the *Nunavut Planning and Project Assessment Act*.

We are uncertain how the process for identifying necessary revisions to the Draft NLUP will be conducted, and request that this be clarified by the NPC. We are concerned that it is not clear how input will be incorporated from various sources including written technical submissions, verbal input provided at technical meetings where only certain issues are discussed at length and working group meetings which are currently being held on specific issues. We are particularly interested in knowing how the perspectives of participants will be weighted for decision-making by the Commission.

Caribou Workshop

The BQCMB is encouraged by the commitments made by the Nunavut Wildlife Management Board (NWMB), NPC and other participants to organize caribou workshop(s) to provide a forum for identifying options for protection of caribou and key habitats in Nunavut. The BQCMB is keenly interested in participating fully in these meeting(s) due to the shared nature of the caribou herds, the importance of key caribou habitats in Nunavut and the need for collaborative management of this crucial resource. ***However, the BQCMB cautions that without clear terms of reference and objectives for the workshop(s), much time and expense may be wasted.***

Clearly, there are strongly opposing views regarding the impacts of exploration and development on caribou and key areas such as calving grounds. It is unrealistic to expect both camps to compile data and conduct analyses to prove their cases beyond a shadow of a doubt, especially in the limited time available. ***An agenda item for the workshop(s) should be a brief on the Precautionary Principle.***

We hope that organizers successfully solicit sufficient resource contributions from all relevant parties to allow the workshop(s) to occur during the first week of November as tentatively planned. ***Unless funding is provided to ensure broad participation, any outcomes will unfairly favour the views of those organizations with funding available to send representatives.*** It has been demonstrated that teleconferencing is not adequate for this type of discussion, compared to in-person representation.

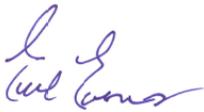
Following the workshop(s), adequate time also must be provided to allow NPC staff to carefully consider input received and make revisions to the Draft NLUP (including revisions to designations, maps and descriptions of key caribou habitats) and to seek approval from the Commissioners before the complete revised Draft Plan is circulated for review.

Timing of NPC Public Hearing

We agree with statements by participants in the NPC's technical meetings that a revised Draft NLUP should be circulated well in advance of the Hearing to provide adequate time for review and preparation of written comments and presentations. Our understanding is that many parties prefer that the Hearing is held this fiscal year. Given that the boards of Hunters and Trappers Organizations and other community and regional bodies meet infrequently and have many issues to address, ***the BQCMB recommends that a minimum of 60 days be made available for review of a new Draft NLUP.*** Therefore we suggest that the new Draft Plan be circulated by mid-January 2016 to allow for a Public Hearing to be held in March 2016.

Thank you for providing the BQCMB with the opportunity to submit further input to support development of the NLUP. We look forward to participating in the caribou workshop(s) and the Public Hearing. If you have any questions about these comments, please contact BQCMB Executive Director Ross Thompson (rossthompson@mymts.net) or contract biologist Leslie Wakelyn (wakelyn@theedge.ca).

Sincerely,



Earl Evans
BQCMB Chairperson

Attachment

cc Stanley Adjuk, BQCMB member and Kivalliq Wildlife Board Chairperson
Alex Ishalook, BQCMB member (Kivalliq Wildlife Board) and Arviat HTO Chairperson
Mitch Campbell, BQCMB member (Government of Nunavut) and Kivalliq Regional Biologist
Jennifer Pye, Government of Nunavut - Land Use Planning
Bert Dean, Nunavut Tunngavik Incorporated - Department of Wildlife and Environment
Karla Letto, Nunavut Wildlife Management Board

Attachment. BQCMB Comments on Some Issues Discussed at the 2015 Technical Meetings

Designation for Calving and Post-calving Areas with High Mineral Potential

Sec. 2.1.2.1 Calving and Post-calving Areas – We understand that the caribou workshop(s) will provide the opportunity for extensive discussion on these and other related topics. At this time, however, the BQCMB would like to reiterate that we agree with statements made by GN, KWB, QWB and NWMB in the technical meetings that ***calving grounds, post-calving areas and key access corridors should be designated as Protected Areas regardless of their mineral potential.***

The currently proposed Special Management Area designation for calving and post-calving areas with high known mineral potential is not adequate because:

- key caribou habitat will not be protected by application of a designation that provides no prohibitions on any land use activities and merely provides instructions to apply measures intended to mitigate impacts on caribou, not habitat;
- protection will not be provided at a level that ensures that caribou will not be disturbed when they are most vulnerable; and
- caribou access to calving areas will not be ensured over the long-term through land use planning that allows development of mining infrastructure and all-weather roads on key migration routes.

The BQCMB does not agree that identification of “high mineral potential” for any portion of caribou calving and post-calving areas should automatically down-grade designation of that area to Special Management Area and recommends that these key caribou habitats should be designated as Protected Areas.

Proposal to Grandfather Mineral Rights

Sec. 7. 6: Existing Rights – The Government of Canada (GoC)’s June 2015 technical submission includes the following recommendation about existing mineral tenures:

The plan should accommodate the development of all pre-existing tenures, including prospectors’ permits and mining claims, as well as significant modifications to existing projects that were approved before the adoption of the plan so as to allow existing rights to advance to the other stages of their lifecycle.

The GoC also states that the Commission has the authority “to exempt pre-existing tenures from the application of specific land use designations . . . ” and “When the tenures expire the prohibitions would then become applicable.”

Discussion during the July technical meeting indicated there was much concern and confusion resulting from this recommendation. The BQCMB agrees that there is a need to clarify what the GoC specifically means by this statement, including the implications of this recommendation for future

land use plans and environmental assessment. A first step would be for GoC to present a current mineral tenure map to NPC for posting on-line.

Note that in the past the BQCMB has been told by GoC staff that tenures provide ensured access to defined parcels of land for a specific purpose (mineral exploration) and a specified time period, but do not provide “rights” for mine development. However, discussion during the technical meeting indicated that the mining industry expects to have the right to complete the full mining lifecycle from the initial mineral tenure through to mine development and that no prohibitions on any land uses related to mineral exploration and mining (including all-weather roads) should occur where mineral tenures exist.

The BQCMB recommends that GoC be asked to provide clarification on various points raised at the July technical meeting:

- a) What “rights” are granted in legislation to holders of mineral tenures, including prospecting permits and mineral claims?
- b) Why does the GoC believe that the NLUP needs to further ensure or extend these “rights” and how would a land use plan provide rights to develop a mine project? Aren’t rights dealt with through legislation, while use of the land is the mandate of the land use plan?
- c) What prohibitions would be excluded from areas with existing mineral tenures? Would this be limited strictly to prohibitions on mineral exploration and mine site development, or would it include prohibitions for any land use activities associated with mineral exploration and development, such as quarries and all-weather roads?

The BQCMB recommends that “guaranteed rights” for all-weather roads should not be granted to all holders of mineral tenures regardless of where those tenures are located.

- d) What types and extent of “significant modifications to existing projects” would be grandfathered? Would this include modifications such as roads, airstrips, additional mine sites not identified under the original project description? How would this affect the environmental assessment of the project?
- e) How would grandfathering of tenures be applied for subsequent versions of the NLUP?
- f) Specific points raised by the BQCMB:
 - At what point in time will mineral tenures be grandfathered (i.e., when the policy decision is made, when the NLUP receives formal approval, or sometime between)?
 - How GoC would ensure that a “staking rush” for prospecting permit and mineral claim applications would not occur during the intervening period (i.e., until the NLUP is approved)?

- How would an increased risk of speculative tenure applications be managed by GoC for the second generation NLUP after the on-line staking system is implemented?

Other Outstanding Issues Relevant to Caribou

- **Sec. 3.1.2.2: Migratory Bird Sanctuaries** – Discussion during both technical meetings about dual designations and the Chamber of Mines’ June 2015 comments and questions about the status of the Queen Maud Gulf Migratory Bird Sanctuary (QMGMBS) indicate that there is confusion about the current status of the QMGMBS and its boundaries, and also about the relationship between the federal bird sanctuary and NLUP protected area designations proposed for the QMGMBS. The BQCMB notes that the references cited by the Chamber of Mines regarding the sanctuary boundaries are outdated.

The BQCMB urges the NPC to recognize that the sanctuary boundaries contain calving grounds of the Beverly and Ahiak caribou herds and that the area provides crucial habitat for caribou as well as for geese. We note that the Ahiak Area Comanagement Committee (ACMC) informed NPC that the sanctuary includes important caribou calving grounds in their June 2014 submission and indicated a need for a protected area designation in the NLUP that prohibits all land uses except tourism, recreation and research. We support this Ahiak ACMC recommendation to NPC, which is consistent with our February 2014 comments on the 2012 Draft NLUP (in which we indicated that a protected area designation that permits tourism, recreation and research and prohibits all other uses should be applied to the QMGMBS to protect the caribou calving grounds that it contains).

We believe that the highest level of protective designation that the land use plan can provide is needed to protect the key caribou habitat in the QMGMBS and that this should be applied through the first version of a finalized NLUP. ***The BQCMB recommends maintaining the proposed Protected Area designation with prohibited uses as specified for the QMGMBS in the 2014 Draft NLUP***, subject to refining what is meant by “related research” so as not to prohibit research required for management and conservation of wildlife and habitat.

- **Sec. 3.1.2.5: Heritage Rivers** - As we indicated in our February 2014 comments on the 2012 Draft NLUP, it is the BQCMB’s view that a protected area designation that permits tourism, recreation and research and prohibits all other uses should be applied to the Thelon and Kazan Heritage Rivers to protect the key caribou water crossings and other ecological and cultural values of these areas. We do not believe that the Special Management Area designation currently proposed will provide adequate protection for these key caribou habitats. Note also that land use designations applied to these areas in the NLUP should not focus solely on the water component of these river ecosystems, as that will not be sufficient to ensure that the integrity of these ecosystems is maintained.

The BQCMB recommends applying the Protected Area designation to the Thelon and Kazan Heritage Rivers with prohibited uses as specified for the Soper River in the 2014 Draft NLUP, subject to clarifying the term “related research” so as not to prohibit research required for management and conservation of their ecological and cultural values.

- ***Sec. 4.2.1: Transportation Infrastructure*** - Unfortunately we did not hear discussion of these sections at either technical meeting. Based on transcripts for the June technical meeting, however, it appears there was a lot of confusion and that various participants identified a need for revisions to what was described in the Draft NLUP to make them more realistic and to provide greater clarity about how transportation corridors would affect land use options and be affected by land use designations. The BQCMB agrees that clearer explanation is required.

The proposed Manitoba-Kivalliq road has the potential to have major effects on the Qamanirjuaq caribou herd. Our understanding of the current proposed corridor is that it crosses key habitats used by Qamanirjuaq caribou during spring migration and calving. The proposed routing between Arviat and Whale Cove is of particular concern.

The BQCMB disagrees with the GoC’s June 2015 recommendation to exempt the entire proposed Manitoba-Kivalliq road corridor from prohibition on all-weather roads, and instead recommends that all-weather roads continue to be prohibited in calving grounds, post-calving areas and spring migration corridors. This would mean that, at a minimum, a Protected Area designation should be applied to caribou calving areas and key access corridors as recommended by the GN.