

November 15, 2022

Kivalliq Inuit Association responses about Mobile Measures to questions from the Beverly and Qamanirjuaq Caribou Management Board during the NPC public hearings on the 2021 draft Nunavut Land Use Plan

The Beverly and Qamanirjuaq Caribou Management Board raised questions about Mobile Caribou Conservation Measures (Mobile Measures) at the Nunavut Planning Commission's hearing on the Draft Nunavut Land Use Plan in Thompson, Manitoba in September 2022. We appreciate BQCMB's questions as we recognize BQCMB's role in protecting caribou. Although the Kivalliq Inuit Association had presented on the Mobile Measures and addressed questions from participants at the Rankin Inlet hearing preceding the Thompson hearing, the KivIA did not present during the Thompson hearings and so on behalf of the KivIA, we answer BQCMB's

BQCMB	Beverly and Qamanirjuaq Caribou Management Board
CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada
DNLUP	Draft Nunavut Land Use Plan
ENR	Environment and Natural Resources, GNWT
GNWT	Government of the Northwest Territories
GN	Government of Nunavut
GoC	Government of Canada
IOL	Inuit Owned Land
KivIA	Kivalliq Inuit Association
LUP	Land Use Permit
NIRB	Nunavut Impact Review Board
NPC	Nunavut Planning Commission
NTI	Nunavut Tunngavik Incorporated
NWMB	Nunavut Wildlife Management Board
RIA	Regional Inuit Association

questions below. BQCMB had five specific questions but also raised other points about Mobile Measures during their presentation and follow-up questions¹.

During the consultations for the DNLUP, KivIA held on-line meetings with NPC, GN, NTI and the RIAs to describe and discuss Mobile Measures. KivIA would welcome an opportunity to discuss the Mobile Measures directly with the BQCMB and we remain willing to have a conversation in addition to providing this written response. We have chosen to provide background to answering BQCMB's questions because during the DNLUP hearings, we heard some misapprehensions about Mobile Measures arising, in our opinion, from outdated information.

KivIA sees Mobile Measures as having evolved from the original federal Caribou Protection Measures from the 1970s, and therefore addresses some of the shortcomings of those original measures. As

¹ BQCMB questions at Thomson, MB. NPC DNLUP hearings transcript pages 110-112

¹ www.rcaanc-cirnac.gc.ca/eng/1100100036000/1547749889500

BQCMB itself notes², Mobile Measures in one form or another have been developing over the last 45 years. This means there is experience about what works and does not work. The earlier history and assessment of the Caribou Protection Measures have been reported (see Weihs and Usher 2001, Gunn et al. 2007).

KivIA has included Mobile Measures as part of its licenses for accessing IOL since 2016 and is currently reviewing the approach in light of GNWT's framework and operational guidance reports for Mobile Measures (GNWT 2022a, 2022b). Mobile Measures are being developed as a requirement for the Bathurst Caribou Range Plan (GNWT 2019) which was co-developed by Indigenous governments and organizations, GNWT, GN and industry partners. The GNWT's framework includes minimum standards of monitoring and mitigation, which is similar to a recommendation from GN's draft 2016 review of Mobile Measures (Atkinson 2016). Developing the Mobile Measures for the Bathurst herd included considerable implementation detail, especially on government and the LUP operator's roles and responsibilities. The NWT government will provide mapping and resources to LUP operators, but the costs of site monitoring and mitigation are borne by LUP operator.

Although COVID delayed implementation of GNWT's program during 2020-21, the delays allowed desk top tests of the procedures including the practicality of providing information to LUP operators on the likely exposure of their work sites to caribou and testing the reporting templates (GNWT 2022a, 2022b). On the Bathurst herd's NWT seasonal ranges, Mobile Measures will be implemented using a rules-based approach, with monitoring primarily from height-of-land and other ground-based methods as communities do not always support fixed-wing or helicopter surveys for monitoring. The caribou are monitored within pre-determined zones which are scaled by caribou season surrounding the land use site, and the monitoring results compared to pre-assigned threshold levels. When a threshold is met, it triggers pre-determined mitigations which are applied with increasing intensity as increasing numbers of caribou approach the project, to avoid or minimize any potential sensory disturbance to caribou.

Although Mobile Measures are intended only for mineral exploration and not mineral development such as a mine, we suggest that the experience through NIRB's requirements for adaptive monitoring and mitigation at mines is also a useful context for how Mobile Measures work. This is because KiviA's Lands Administration staff have experience in using ground observations and collared caribou locations to trigger adaptive mitigation at mine sites, which is a similar approach of adaptive monitoring, thresholds and mitigation as required in Mobile Measures.

KivIA has provided responses (*in italics*) to **BQCMB's questions (in bold)** following each question.

How will mobile measures work and who will be responsible?

BQCMB background comment:

KIA has recommended that:

- **calving areas be zoned as conditional use areas where seasonal restrictions and mobile caribou conservation measures are applied by exploration projects for protecting caribou**

² Letter from BQCMB to NPC, Additional Comments on the 2021 Draft Nunavut Land Use Plan, 15 April 2022

- summer and fall ranges be zoned as multiple use areas with mobile measures applied.

Therefore, there would be no habitat protection in the land use plan for these areas.

KivIA response: KivIA does not agree with BQCMB's comment that there would be no habitat protection for calving, summer and fall ranges. KivIA defines caribou habitat as all the environmental conditions a caribou needs to survive: this includes plants and their availability as forage; landforms that support insect and heat relief landforms; efficient travelling conditions; and predator avoidance. Caribou habitat also includes the presence of other caribou as their social behavior contributes to survival ('safety in numbers'). Habitat thus defined is not synonymous with seasonal and annual ranges which are the geographic space used by a herd. Direct habitat loss is modification or removal of vegetation and soil surface or landforms such as eskers. Indirect habitat loss occurs when caribou are alarmed or frightened and avoid an area of habitat or minimize its use.

Mobile Measures are applied to mineral exploration projects and not operating mines and their associated infrastructure including roads. NIRB is responsible for establishing the monitoring and mitigation to avoid and minimize both direct and indirect habitat loss for mines. For exploration activities in the Kivalliq Region, the Keewatin Land Use Plan identifies the need for Caribou Protection Measures and KivIA applies them as Mobile Measures in conditions attached to Land Use licenses³. The application forms typically include measures to minimize direct habitat loss which are listed in Schedule A. For example, those measures include Condition 24: "Disturbance of vegetation from deposit of drill fluids/cuttings shall be restricted to the area of the sump and the ground prepared for re-vegetation upon abandonment."

Mobile Measures are designed to avoid and minimize indirect habitat loss by reducing or halting activities that would otherwise displace caribou from their habitat. KivIA's Schedule B⁴ is the guideline to the Mobile Conservation Measures (the terms currently used in the License Terms and Conditions) including the seasons, monitoring and mitigation requirements to reduce disturbance to caribou. KivIA also notes that Mobile Measures are not the only tool to avoid and minimize impacts on caribou and their habitat from mineral exploration. Nunavut's integrated regulatory approach⁵ also applies to protecting caribou habitat. If NPC determines that a proposed activity such as mineral exploration may have potential cumulative impacts, the proposal is forwarded to NIRB for screening. BQCMB has at times provided comments through the screening consultation.

³ <https://www.kivalliqinuit.ca/access-to-inuit-owned-lands-2/>

⁴ <https://www.kivalliqinuit.ca/wp-content/uploads/2022/02/KIA-Land-Use-License-Terms-Conditions.pdf>

⁵ <https://www.nirb.ca/content/projects-requiring-assessment>

BQCMB Questions:

1) Communication plan:

Has KIA determined how they would communicate with exploration companies, both large and small, about these new requirements to tell them what would be required and what they would be responsible for, in terms of making arrangements and paying costs, to make sure it is all in place before they start work on the land?

Would this communication be done through the government’s on-line staking process, or through the NWT and NU Chamber of Mines, or some other means? Have the parties who would be responsible agreed to put this new system in place before the NLUP is finalized?

KivIA response: Yes, KivIA already has experience of working with exploration companies through the KivIA Lands Department. KivIA communicates the requirements when exploration companies apply for access to IOL. The Lands Department already has in place a licensing system for access to IOL⁶.

KivIA notes that the application of Mobile Measures in the Kivalliq Region has been in place since 2016 and its experience in communicating requirements will be useful for other RIAs. KivIA also notes that Nunavut’s integrated regulatory approach offers several avenues for communicating with small and large exploration companies across Nunavut.

2) Compliance and enforcement:

Who would be responsible for monitoring compliance with these new rules? What penalty would be applied for non-compliance, and how would it be enforced?

KivIA response: The KivIA Lands Department has Land Use Inspectors who monitor compliance and enforcement on IOL. As noted in the License Terms and Conditions: “Failure to comply may result in immediate termination of this License”. In addition, CIRNAC relies on its land-use inspectors for projects on Crown land.

3) Application:

Would this system be required for all exploration projects, starting with very small camps in their first season of prospecting? If not, what alternate [sic] system would be in place for smaller projects?

KivIA response: Yes, access to IOL is regulated for staking and prospecting so an alternative system is unnecessary. KivIA also notes that with the advent of CIRNAC’s on-line staking and claim system, camps for prospectors are not required.

4) Capacity, roles and responsibilities:

What agency would maintain sufficient satellite collar data and mapping capacity and be able to provide information on an as-needed basis?

⁶ <https://www.kivalliqinuit.ca/wp-content/uploads/2022/02/KIA-Land-Use-License-Terms-Conditions.pdf>

Who would be responsible for providing and paying for acquiring and distributing the data, and what system would be used to disseminate information while ensuring that it is not used for other purposes contrary to project objectives (e.g., hunting).

How could KIA guarantee that numerous small operations, which all need information at approximately the same time but for different geographic areas, would get it when they need it?

KivIA response: KivIA currently relies on GN for access to caribou collar data typically in the form of weekly or more frequently maps which are subject to confidentiality. Through the use of email, satellite phones, etc., KivIA's experience is that it is confident about distributing the collar data as needed. KivIA also points out that the collar data are not the only monitoring technique applicable to Mobile Measures.

KivIA also notes that the GNWT's development of Mobile Measures for the Bathurst caribou herd did specifically address providing collar data and how access to the data would be disseminated (GNWT 2022b).

5) Implementation and Monitoring:

How would you determine if the plan is working? What contingency plan have you put in place should significant impacts that are attributed to the activity in calving and post-calving grounds is seen?

KivIA response: KivIA relies on its Land Use Inspectors and community observers as well as the required annual reports from Land Use license holders to determine the effectiveness of Mobile Measures. KivIA would investigate instances where Mobile Measures were ineffective and determine steps to improve monitoring and mitigation. KivIA would also collaborate with other land managers (GoC) and caribou management agencies (GN, NWMB) if they detected significant impacts. KivIA would work with Community Land and Resource Committees and Hunters and Trappers Organizations to investigate and respond to concerns about exploration or other activities on calving and post-calving ranges as well as other seasons.

KivIA would also like to take this opportunity to respond to another question that BQCMB raised during the Thompson NPC hearings on the 2021 DNLUP (pg 110). **BQCMB asked "... how can KIA justify recommending that the NPC acquire the capacity and the capability to do the necessary work it would have to do to test and evaluate the methods prior to the final Land Use Plan being implemented, because essentially, you are putting all your cards onto these measures instead of protecting the habitat. "**

The KivIA does not understand the context for the question. The KivIA is not recommending that Mobile Measures be used on calving grounds when caribou are present. The KivIA has recommended Conditional Use with seasonal restrictions for concentrated calving grounds. In the event that caribou calved outside the mapped concentrated calving area, Mobile Measures would be applied for mineral exploration. In response to above question, KivIA based on its current experience of attaching Mobile Measures to licenses to access IOL, the KivIA did not recommend NPC acquire the capacity and, instead, suggests that the RIAs, NTI and CIRNAC would be the organizations to determine if they have the capacity and capability to implement, as land managers, the Mobile Measures if NPC identifies a requirement for them in the NLUP. KivIA considers that Mobile Measures applied to mineral exploration

are effective to avoid or minimize direct and indirect habitat loss while acknowledging that Mobile Measures should be adaptable and updated when necessary. KivIA does not consider the need for testing and evaluating methods prior to Nunavut-wide implementation is essential given the existing experience and that extensive testing could delay caribou protection. Additionally, implementing Mobile Measure for mineral exploration is only one component in Nunavut's integrated regulatory approach which serves to avoid and minimize changes to caribou habitat.

In closing, KivIA thanks BQCMB for their commitment to caribou and for sharing their concerns about Mobile Measures. KivIA reiterates that they are available and willing to continue a conversation with BQCMB if it would be helpful.

References

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