

NORTH SLAVE MÉTIS ALLIANCE



- ∞ The North Slave Métis have an inherent Aboriginal Right to self-determination, including management of wildlife, and wildlife harvesting.
- ∞ They also have Aboriginal Titles to lands and resources in their traditional territory, which extends at least throughout the North Slave region.
- ∞ The North Slave Métis also have Treaty Rights to continue to “live as formerly”, throughout their the area between Great Slave and Great Bear Lakes, from the Mackenzie River Valley to the barrenlands.
- ∞ These Rights are protected by the Canadian Constitution.
- ∞ Infringement of Aboriginal and Treaty Rights is not justified when there has not been adequate Crown Consultation and Accommodation.
- ∞ The Crown is responsible for ensuring First Nations have the capacity to participate in regulatory regime, if it relies on that participation to fulfil the Duty to Consult.
- ∞ There is a serious doubt that this WRRB process has the jurisdiction to affect North Slave Métis Aboriginal and Treaty Rights, since the Tlicho Agreement specifically can not.



January 20th intervention letter:

- Evidence of existence of recognised indigenous Métis community since long before effective European control.
 - 1999 Historic sites and Monuments Board Agenda Paper by Chris Hanks, about Francois Beaulieu II (attachment #1)
 - 2000 Rupert's Land Colloquium – paper by Chris Hanks on the Origins of the Métis in the Far Northwest. (attachment #2)

January 20th intervention letter:

- Evidence that Canada and the Tlicho both recognised the “Indian Title” and harvesting rights of the indigenous Métis community before and during negotiation of Treaty 11.
 - 1920 Memo from Treaty Commissioner Conroy to Parliament. (Attachment #3) mentioning some historic Métis families in this land.
 - Pg 245 of Rene Fumoleau’s 1975 book, “As Long As This Land Shall Last”. (attachment #4) mentioning Sousie the old prophet, Josue Beaulieu, and Germain as counsellors for Lac La Martre, Snare Lake and Yellowknife.

January 20th intervention letter:

- Evidence that Canada knowingly and intentionally gave the Métis a choice of Treaty, or Scrip.
 - 1938 article by P. G. Downes, reprinted in Arctic, Volume 39, #2 (June 1986), confirming that Sousie Beaulieu was Métis . (attachment #5)
 - 1924 scrip application of Moise Beaulieu (who mentions on his application that his brothers took Treaty) (attachment #6)

March 3rd, intervention letter:

- Evidence that Canada, the Tlicho, and the GNWT know of the continued existence and rights of the indigenous North Slave Métis, as represented by the NSMA.

– 2002 Paul vs. Canada ruling in Federal Court (attachment # 14)

“The plaintiffs' evidence ... provides a sufficient basis, at this stage, to establish there may well have been or be today such a community (then Old Fort Rae), (today the Flats in Yellowknife and French Point in Rae-Edzo). Counsel for the Dogrib Nation conceded the plaintiffs had raised sufficient evidence on this point. “

“the facts relied on by counsel for Canada, in my view, are not sufficient to negate the proposition the NSMA represents the Indigenous Metis in the NSR. The NSMA may represent more than the Indigenous Metis or less than that entire group but this does not affect the essence of their action.”



NORTH SLAVE MÉTIS ALLIANCE



- ∞ Adequate Crown Consultation involves four essential components:
 - ∞ Adequate time.
 - ∞ Adequate information.
 - ∞ Adequate opportunity to formulate and present community consensus view.
 - ∞ good faith efforts to accomodate views
- ∞ Neither Canada, the Government of the Northwest Territories nor the Tlicho Government have provided adequate Crown Consultation.
- ∞ Therefore, no infringement of North Slave Métis rights can be justified.



January 20th intervention letter:

- Standards of “Adequate” Crown Consultation
 - 2007 Métis Nation guide to Consultation (attachment #7)
 - 2007 LKDFN Consultation Protocol (attachment #8)
 - 2006 Dene’ Tha First Nation vs. Canada ruling in federal court (attachment #9)
 - 2008 Aboriginal Bulletin by Fasken Martineau regarding the Platinex ruling where Ontario Court restrains mining exploration due to inadequate consultation. (attachment # 10)
 - Tri-Council Guide to the ethical conduct of research, and the need for special consideration of Aboriginal Peoples (not just individuals) and their lands and resources. (attachment # 11)

NORTH SLAVE MÉTIS ALLIANCE



- The information provided by the GNWT is completely inadequate, and appears to be little better than speculation.
- The NSMA does not endorse the distinctions between herds as practiced by ENR.
- Barrenland caribou should be managed as a metapopulation. They are not genetically, behaviorally, or spatially distinct.
- Calving ground surveys must be done on all intermingling “herds” or “populations” at the same time in order to provides a credible total population estimate.

January 20th intervention letter:

- The research done to establish Caribou population numbers, and movements has not been done properly, has not included our TK, and has not adequately involved our community.
 - Tri-Council Guide to the ethical conduct of research, and the need for special consideration of Aboriginal Peoples (not just individuals) and their lands and resources. (attachment # 11)
 - Nunavut Research Agreements Guide (attachment #12)
 - Historical notes show that the caribou periodically make large shifts in their range outside of the areas where ENR surveys. (attachment # 13)

March 3rd, intervention letter:

- More evidence that the North Slave Métis TK should have been sought out and used.
 - 1993 Royal Commission on Aboriginal Peoples guidelines to conducting research. (attachment #15)
 - 2003 ACUNS statement of principles for the conduct of ethical research (attachment #16)
 - CIHR guidelines for Health Research Involving Aboriginal People (attachment # 17)

March 3rd, intervention letter:

- Support of our position that Caribou should be managed as a metapopulation.
 - 2005 ESA article shows eastern caribou are a metapopulation – including both sedentary and migratory herds. (attachment # 18)
 - 2002 report showing Alaskan caribou are a genetic metapopulation (attachment # 19)

NORTH SLAVE MÉTIS ALLIANCE



- The NSMA has not had the time or resources to review all the information on the public registry.
- The NSMA has not had the time or the resources to review the caribou movement data.
- The NSMA has not had the time or resources to make our own caribou population estimates.

NORTH SLAVE MÉTIS ALLIANCE



- The NSMA has not had an opportunity to prepare or present its views.
- The NSMA traditionally practices consensus decision making, and at the very least requires a democratic process.
- Resources are needed to educate the members, to engage independent expertise to review information, and to perform the activities required to build and state the community consensus views.

NORTH SLAVE MÉTIS ALLIANCE



- We do know, however, that we do not want to take chances with our caribou.
- We have voluntarily restricted our harvest for at least 5 years now, while asking Government to gather better information, and take precautionary measures.
- Government has continued to allow non-aboriginal harvesting – in conflict with the obligation to give priority allocation to Aboriginal Rights holders.



Government Can Not Be Trusted to Carry Out Its Fiduciary Obligations to Manage Caribou in the Best Interests of Aboriginal Peoples.

2003 Ph.D. Thesis, Anne Kendrick, on Caribou Management and TK (Attachment #20, May 4th letter) illustrates how **Government has often acted in a manner harmful to Aboriginal Peoples without an adequate understanding of the real situation of the wildlife in question. Restricting aboriginal use of their lands and resources contributes to the displacement of Aboriginal Peoples from their lands, and the destruction of their sustainable, traditional cultures. Thus, Government conservation measures often serve the purpose of colonization more than the protection of the caribou.**

- Page 73. *“There was even a suggestion in the late 1950s that “Indians” were not to be allowed to hunt themselves, they were to do the dressing and skinning while professional hunters, i.e. game officers, did the killing” (Cranston-Smith 1995:18)*
- Page 74. *“Government agencies responsible for conservation efforts often played a role in diluting treaty rights in their efforts to assert sovereignty in the North (Fumoleau 1975, Cranston-Smith 1995, Usher 200)*
- Page 74. *“A prohibition against hunting bison, targeting the wild populations in the present-day area of Wood Buffalo National Park (the park straddles today’s Northwest Territories-Alberta border) was written into the 1894 Unorganised Territories’ Game Preservation Act.*
- Page 75. *“In retrospect, it is clear that early laws and regulations limiting aboriginal harvesting activities were based on little and/or circumstantial evidence. Contemporary barren-ground caribou census surveys are still grappling with the extreme difficulty of estimating barren-ground caribou numbers in vast landscapes.”*
- Page 77. In 1914, Vilhajalmur Stefansson of the Canadian Naval Service observed excessive caribou harvesting by whalers in Alaska and the western Arctic. That same year, Canada’s Interior Minister suggested amendments to the Northwest Game Act including prohibitions on the killing of caribou cows and yearlings and the appointment of game officers to enforce caribou hunting restrictions and a closed season. In 1916 an Advisory Board on Wildlife protection (AWBP) was created to advise government on treaty matters and to suggest further changes to the Northwest Game Act. But, *“incredibly, while the Dene were starving in some areas, the government considered over-riding the Game Act to allow the export of caribou as war-time meat supplies.”*



- Page 77-78. In 1919 a Royal Commission was appointed to look at the potential of the North to produce meat (reindeer) and wool (musk-ox). The recommendations **included wolf control programs, harvest restrictions, domestication of caribou, importation of Saami herders and reindeer, and training for Inuit and Indian herders. At the same time, aboriginal harvesters were not allowed to kill a duck.**
- Page 85-86. By the 1930's, the Canadian government heard evidence that caribou hunting along the Arctic coast had grown so intensive, especially with the introduction of rifles and in order to meet the food supply needs of whaling ships, that caribou migration routes had changed (Porshcild 1929:5-6, C.H.Clarke Correspondence, Oct. 30, 1924, HBCO Archives RG2/4/86, Dragon 2002). **While the Canadian Department of the Interior was alarmed about the shortages of caribou, the northern portions of Alaska and the Yukon Territory were reporting caribou to be exceptionally numerous.**
- Page 86. In its report, the Royal Commission to Investigate the Possibilities of the Reindeer and Muskox Industries in the Arctic and Sub-Arctic Regions of Canada refused to recognise the arbitrary and debatable classifications of caribou into discrete herds.
- Page 87-88. Outlines the wildly fluctuating population estimates of caribou over time, and comments on the problems with methodology.



NORTH SLAVE MÉTIS ALLIANCE



The NSMA does not object to the following proposed Management Actions:

- Eliminate all outfitting tags for all NWT barrenground caribou.
- Eliminate all (non-aboriginal) resident hunting of all NWT barrenground caribou.



NORTH SLAVE MÉTIS ALLIANCE



The NSMA does NOT support the following proposed management actions:

- elimination of all commercial meat tags held by aboriginal communities,
- elimination of all female caribou harvesting by aboriginal people.

NORTH SLAVE MÉTIS ALLIANCE



The reasons the NSMA cannot support these management proposals are:

- There has not been adequate consultation with the NSMA, whose members have constitutionally protected rights to harvest caribou (commercially, and domestically).
- We have seen no acceptable justification (scientific data or Traditional Knowledge, showing the Caribou are in danger of extinction).
- **Biologists' failure to find, see and count caribou is not the same thing as an absence of caribou.**
- The Traditional Knowledge of the North Slave Métis community has not been sought out, gathered, or used, in the preparation of this proposal.
- It is not fair, equitable, or legal, for Métis harvesting to be restricted while others, such as the Inuit continue to harvest the same animals.
- Aboriginal harvesting must take precedence over all other harvesting.

NORTH SLAVE MÉTIS ALLIANCE



However, these precautionary management actions could be taken, which would support rather than infringe our rights:

- Working with Canada, and using whatever emergency funds are necessary, conduct caribou calving ground surveys using air photo census methods for ALL known caribou calving areas, whether collared caribou are known to be there or not, at once (during one calving season), throughout ALL of northern Canada.
- Encourage Aboriginal People to harvest alternative game with healthy populations by providing adequate funds for transportation and shipping to each First Nation.
- Resume forest fire control in caribou habitat.
- Reinststate the Special Aboriginal Harvesters Assistance Program to encourage more Aboriginal (including Métis) People to maintain their traditional land based life styles, including especially the harvesting of fur (ie: wolves and bears) and the observation of caribou health, behavior, and abundance.
- Establish (or re-establish) the Bathurst Caribou Management Committee with support for the participation of representatives of all directly affected First Nations. The Government of Nunavut must be involved, and all governments must be committed to implement the recommendations of the re-constituted BCMC.