

Bathurst Caribou

Yellowknives Dene First Nation response to
Joint Proposal on Caribou Management Actions in Wek'èezhìi



The YKDFN Response to Caribou Management Plan
Wek'èezhìi Renewable Resource Board Hearing
March 22-25, 2010

Introduction

- The YKDFN have Treaty:
 - “And her majesty the Queen HEREBY AGREES with the said Indians that they shall have right to pursue their usual vocations of hunting, trapping and fishing”
- Treaty was only taken because the way of life was guaranteed:
 - In 1899 Chief Emil Drygeese said “If it is going to change, if you want to change our lives, then it is no use taking treaty because without treaty we are making a living for ourselves and our families. I would like a written promise from you to prove you are not taking our lands away from us. There will be no closed season on our land.”
- For years YKDFN have encouraged government to limit the outfitter and resident harvest to avoid this very situation.



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Highlights

- Jurisdiction
- GNWT Mismanagement
- INAC and Range Management



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Jurisdiction

- WRRB Process DOES NOT apply to YKDFN
 - YKDFN have Treaty - have not relinquished their Aboriginal Rights
 - WRRB applies only to Tlicho citizens Aboriginal Rights
 - Tlicho Agreement article 2.71(b)(i)&(ii)
 - Applies only within the Wek'eezhii
 - Tlicho Agreement article 12.1.2
 - As the YKDFN are not bound by the Tlicho Agreement, WRRB can not set an allowable harvest for them
 - Section 12.7.1 does not apply to the Chief Drygeese Territory
- YKDFN is participating because they have seen ENR's mismanagement and ignorance of Treaty Rights
 - YKDFN must protect Treaty Rights at every venue, else governments quickly forget their obligations
 - YKDFN participation cannot be viewed as a substitute for real, meaningful consultation - WRRB is not an agent of the crown



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ENR Trying to Export WRRB Results

- ENR has already indicated that there is a ‘political reality’ and that they intend to apply the results of this process to other First Nations, regardless of the process defined in law
 - Litany of case law has clearly defined the process of infringing Treaty Rights, involving consultation and accomodation, and even then only in most extreme of circumstances
 - So far they are once again “steam-rolling over aboriginal rights protected under s. 35(1) of the *Constitution Act, 1982*”
 - Begin engaging in direct consultation with YKDFN
 - Only a collaborative process that involves direct engagement and if further actions are required - internal measures – will be successful



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- Jurisdiction

YKDFN would like the Board to confirm that their recommendations do not apply to YKDFN members or the Chief Drygeese Territory.



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GNWT Mismanagement

- ENR has done virtually nothing to manage caribou
 - Consistently failed to implement measures from the 2004 Mgmt Plan, 2007 Caribou Summit (and other forums)
 - Repeating the same mistakes from the 2006 WRRB submission
 - Monitor the herd every year, but did not implement any management action while the herd evaporated.
 - Allow the sport hunt to proceed as normal, outlaw Dene harvest despite having the population numbers the whole time
 - Not a single measure to protect habitat, including the calving areas
- GNWT cannot be left to manage this on their own
- WRRB is the first step towards developing meaningful oversight
- Adaptive management with multi-party based decision authority is needed



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Recommendations

- GNWT Mismanagement

YKDFN suggests that the WRRB to recommend the establishment of a panel of outside experts to develop thresholds and running indicators for the GNWT to use and consider as adaptive management triggers.

Given the failures of GNWT, we would like the WRRB to recommend the development of a multi-party independent management board with the consensual authority to enact caribou management actions.



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INAC Roles & Habitat Protection

- INAC is supposed to protect Treaty Rights
 - Treaty Rights are empty if there's no resource to access
 - Fiduciary responsibility with First Nations
 - Should be ensuring that all other management options have been tried prior to limiting Dene harvest

- INAC is the Land Administrator in NWT and NU
 - Legislation allows INAC to protect habitat (MVLUR 26(1)h)
 - INAC was part of the Bathurst Caribou Mgmt Planning Committee
 - INAC promises are empty: no evidence that they've ever tried to protect habitat Bathurst Herd calving grounds in Nunavut
 - INAC has not protected any caribou habitat in the NWT
 - INAC should be leading trans-boundary cumulative effects research



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INAC Roles & Habitat Protection

- Calving Grounds are under considerable pressure
 - No West Kitikmeot Land Use Plan, no development controls
 - Govt of Canada opposes development in the Porcupine Herd calving grounds, but does nothing to protect Bathurst Herd
 - Caribou Protection Measures not in the LUPs with their effectiveness in doubt
- Attempting to divorce Caribou management from habitat is not logical and will undoubtedly result in failure
 - Will only prolong the hardships
 - Risks herd collapse similar to Fortymile herd and others



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- INAC and Range Management

YKDFN would like the Board to request INAC submit comments that outline how they have protected the rights of the signatories of Treaty 8 with a submission date prior to the Board's decision.

YKDFN suggest that the board ask INAC to participate in their process, soliciting opinions on what measures that fall within INAC's mandate which could help encourage herd population growth, with a submission date prior to the Board's decision

YKDFN suggest that the board direct GNWT to publically engage with INAC and Nunavut to develop meaningful protection of the calving grounds, similar to the National Parks that exist to protect the calving grounds of those herds that calve in the NWT or Yukon. With this, the board should require regular reports that outline what efforts have been made, what responses have been received, the measures being considered, and the accomplishments to date.



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