



Tłıchǫ Government

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2016-04-22

Mr. Grant Pryznyk
Chair
Wek'èezhì Renewable Resources Board
4504 49TH AVENUE
YELLOWKNIFE NT X1A 1A7

RE: Closing Submission Bluenose-East Barren-Ground Caribou Herd Public Hearing

Dear Mr. Pryznyk:

Please see attached Tłıchǫ Government closing submissions for the Bluenose-East Barren-Ground Caribou herd Public Hearing.

If you have any questions, please contact our office at (867) 392-6381 or sjoerdvanderwielen@tlicho.com.

In Tłıchǫ Unity,

Sjoerd van der Wielen
Lands Manager
Department of Culture and Lands Protection Tłıchǫ Government



Bluenose-East Herd Public Hearings Tłıchǫ Government Closing Submissions

1. Joint Proposal on Bluenose East Caribou Herd Management Actions in Wek'èezhìi: 2016 - 2019

a. Areas of Agreement between Tłıchǫ Government (TG) and the Department of Environment and Natural Resources (ENR), Government of the Northwest Territories (GNWT)

Available biological monitoring data shows that the Bluenose-East caribou herd is vulnerable due to its observed high rate of decline, which if unchecked may see the population continue to decline at a rate (i.e., halving time) of 50% in 2 years. This rate of decline would place population size of the Bluenose-East herd within a lower critical population management threshold of <20,000 caribou before the next calving ground survey is scheduled in June 2018.

The Tłıchǫ Government (TG) and the Department of Environment & Natural Resources (ENR), Government of Northwest Territories (GNWT) agree on the following key recommendations for consideration by the Wek'èezhìi Renewable Resources Board (WRRB):

- i) that a total allowable harvest (TAH) for the Bluenose-East herd be established at nine hundred and fifty (950) for at least the next 3 years and until the herd shows signs of sustained recovery as indicated by a positive rate of increase in estimates of breeding females;
- ii) allocation of the TAH
- iii) in collaboration with TG and WRRB, ENR will lead and complete a feasibility assessment by 2016 on additional predator management action(s) that may be recommended for implementation to further support recovery of the Bluenose-East herd.

b. Perspectives of Tłıchǫ Government

In addition to the principal recommendations agreed upon by TG and ENR as highlighted above, TG wishes to respectfully provide additional perspective to the WRRB, which may help highlight the importance and seriousness of the many challenges that need to be addressed collaboratively by all co-management partners to support recovery of the herd.

- A decision by TG to jointly recommend with ENR a TAH of nine hundred and fifty (950) on the Bluenose-East herd has serious and direct implications for Tłıchǫ citizens (i.e., food security, culture, language and way of life), but the implications also extend to traditional users of the herd across its annual range. So although the focus of the WRRB's harvest management recommendations will be on caribou harvested in Wek'èezhìi, the need for consistent and complementary stewardship and recovery actions should be considered and implemented across the annual range of the herd.

Yes, that the -- today, I guess, all the -- the number is so low that, you know, we can't take any more than that, I guess. And then we just can't leave the animal until all the last animals is knocked down by our ambition.

So we got to find a way, you know, to work out how to stabilize the herd. That the -- most of us are -- we respect our creator. And then, you know, we asked our creator to replenish the animals once again, and then -- that's within our prayer, as well, too.

Elder Joseph Judas (WRRB transcript - Day 1 p. 111)

So now we have to work together. There's a big issue that we have to tackle. And -- and we have to use our treaty rights and say that we - we have the right to hunt and trap, because we cannot -- we can't -- we have to change our way of thinking. We cannot think that we have rights to hunt as much as we want to like we used to.

If we -- we have to restrict our harvesting rights then we -- we have to. So we cannot go against the Environmental Natural Resources Board or -- or the delegation and the Sahtu recommendations.

We als -- we also want our young people, when -- when they get older to still be able to hunt caribou. So there is going to be some recommendations that a lot of people might not be happy with. There might be some restrictions put on us, but we have to live with that, because we are in crisis where the caribou is concerned.

Elder Joe Rabesca (WRRB Transcripts – Day 1 p. 119-120)

- In a time of crisis for caribou – restriction of Aboriginal harvesting of caribou and implementation of wolf (predator) management are difficult but necessary and complementary.

TG strongly supports the ENR-led collaborative wolf (predator) management feasibility assessment as a basis for exploring options for action and implementation within an adaptive co-management framework. TG emphasizes that all due respect and consideration be given to exploring technical feasibility of wolf management options. And that this will require co-management partners and collaborators to give serious consideration of wolf management options that may support and enhance caribou recovery. In this context, the TG suggests that it is critically important to maintain and expand the collaborative process, and welcomes further and ongoing direct involvement by the WRRB in this matter.

Since we started our collaborative process with ENR we know how important it is to work together, especially when you have a partner that has abilities beyond what we can do ourselves, like monitoring enforcement, funds, technical expertise.

But having, on the Tlicho Government side, our ability to -- to mobilize, provide harvesters, all these things, and -- and the traditional knowledge that comes with it so it's very important for us to maintain the collaborative process. And we know that one (1) of the -- beyond the human harvest there is the predator management that's also looked at.

Dr. John B. Zoe (WRRB Transcript - Day 3 p. 27-28)

We also know that grizzlies -- bears and wolves are the predators. We can talk about solutions, but what about the problems that we're facing with -- with the bears and also with the wolves? If we -- if we don't take care of that, then the population will do -- continue to decline. So -- so all of you in ENR should understand the problems that we're facing, and sometimes people will not agree. The -- sometimes people would react with being upset. But the issues that I'm talking about is very close to our hearts.

Elder Joe Rabesca (WRRB Transcript – Day 1 p. 114-115)

The Tłı̄chǫ Context

ʔEkwǭ defines who we are and our way of life, our language. Restrictions can result in lost connection to ʔEkwǭ and Ndè. The pain of the herd decline is best described by Tłı̄chǫ people.

Yes, definitely he says I think -- the caribou that's under discussion here at the hearing it's very important to the Dogrib nation. Like I say, especially the Aboriginal people from around here are really, you know, sensible, and really, you know, eager to know what the outcome of the hearing will come.

Elder Joseph Judas (WRRB transcript - Day 1 p. 105-106)

Important -- the caribou is really important. It was very important back in our history, and that's what brought us through the hardships, even with our ancestors. Caribou was the only source of food that pulled them through the cold winters. He -- he says that is why we are still here because our ancestors survive on -- on caribou. And that's why the allocation of tags that we have now cannot be reduced more than it is now. More cannot be taken away from us. I know that a lot of people will not be very happy with it.

Elder Joe Rabesca (WRRB Transcript – Day 1 p. 115-116)

The Elders used to tell me that one (1) summer that -- that any -- nobody every missed hunting in that area. They went hunting there for caribou. They follow the caribous every -- every year. And even to -- even to Hottah Lake they used to travel by canoe. Sometimes it used to take them about a month. The reason why I'm telling you this is because our ancestors used to follow the caribou. That was their main source of diet, and for them to survive they had to follow the caribou. And now the numbers are going down. I'm not really happy with that, but what is our solution?

Elder Joe Rabesca (WRRB Transcript – Day 1 p. 119)

That the caribou is our primary source of our language, culture and way of life. And everything that we stood for before contact was strictly around the caribou. Our trails lead towards the car -- the caribou. Our trails into the winter lead to caribou. And our summer trails lead us to the summer grounds.

Dr. John B. Zoe (WRRB transcript - Day 1 p. 133- 134)

The connection specifically to the BNE is pointed out by Elder Joe Rabesca using the trails map (same map closer to the end of this document)

And so the way the road is written up to Hottah Lake, people like my grandfather, Gwatigoo (phonetic), and people from Gameti, Bruno Apple (phonetic), he -- they had thought they travelled from Behchoko to Intseeti, Hottah Lake. They would travel that distance. And they would live 9 there. But the travel time would take one (1) month. And then they would live there, at Hottah Lake. And so -- and so, as -- and -- and so my -- my Uncle Rabesca and -- and Louie have raised me. And so when we travelled and stopped at Hottah Lake we travelled by two (2) dog teams. And so my father suggested we go to the left and go trapping and we were discussing -- discussing among the uncles.

Elder Joe Rabesca (WRRB Transcript – Day 2 p. 128)

Tlicho Government asks that this Tlicho context be reflected in the deliberations of the WRRB and in its decisions and recommendations.

Allocation

Under the Tłı̨chǫ Agreement, the question of allocation for Wek' èezhìi is considered:

12.7.1

When the Wek' èezhìi Renewable Resources Board makes an allocation of a total allowable harvest level, it shall allocate

(a) a sufficient portion

(i) for the Tłı̨chǫ First Nation to exercise its rights to harvest wildlife in Wek' èezhìi, and

(ii) for any other Aboriginal people to exercise its rights to harvest wildlife in Wek' èezhìi; and

(b) portions of any remainder of the total allowable harvest level among other groups of persons or for other purposes.

12.7.2

When the Wek' èezhìi Renewable Resources Board makes an allocation under 12.7.1(a), it shall consider all relevant factors including, in particular,

(a) current and past usage patterns and harvest levels in the exercise of rights referred to in 12.7.1(a); and

(b) the availability of other populations of wildlife to meet the needs of the Tłı̨chǫ First Nation or the other Aboriginal people.

12.7.3

When the Wek' èezhìi Renewable Resources Board makes an allocation under 12.7.1(a), if the total allowable harvest level is not sufficient to allow the

Tłıchǫ First Nation and any other Aboriginal peoples to exercise their rights to harvest wildlife in Wek' èezhìi, it shall allocate the level equitably among the Tłıchǫ First Nation and those peoples.

12.7.4

When the Wek' èezhìi Renewable Resources Board makes an allocation under 12.7.1(b), of any portion of a total allowable harvest level remaining after an allocation for the Tłıchǫ First Nation and for any other Aboriginal peoples, it shall consider all relevant factors including, in particular,

(a) demand for hunting and sport fishing by residents and non-residents of the Northwest Territories;

(b) demand for commercial harvesting in the Northwest Territories; and

(c) demand by lodge operators and outfitters in Wek' èezhìi.

12.7.5

When the Wek' èezhìi Renewable Resources Board makes an allocation under 12.7.1(b) of any portion of a total allowable harvest level remaining after an allocation for the Tłıchǫ First Nation and for other Aboriginal peoples, it shall give priority to

(a) non-commercial harvesting over commercial harvesting; and

(b) with respect to non-commercial harvesting,

(i) residents of the Northwest Territories over non-residents of the Northwest Territories, and

(ii) to the extent provided by legislation, residents of Wek' èezhìi who rely on wildlife from that area for food for themselves and their families over other persons.

Tłıchǫ Government has already provided two written responses relating to allocation that are (or will be soon) be on the record:

1. March 14, 2016 - Tłıchǫ Government Response to Request for Information from Wek'èezhìi Renewable Resources Board dated March 4, 2016 and its attachments; and
2. April 22, 2016 - Joint Response of the Government of the Northwest Territories Environment and Natural Resources & Tłıchǫ Government - Response to WRRB Question at Page 181 of Transcript on Day 2, April 7, 2016

Tłıchǫ Government asks that the WRRB consider these documents as part of these closing submissions as they relate to allocation.

Assuming that WRRB makes an allocation under 12.7.1(a), it must consider all relevant factors including and in particular the current and past usage patterns and harvest levels in the exercise of rights referred to in 12.7.1(a);

In addition to the previous submissions and the presentations of Tłı̄chǰ at the public hearings, Tłı̄chǰ Government would like to direct the Board’s attention to the following as they relate to “current and past usage patterns and harvest levels”:

Current Usage:

In the March 14, 2016 Tłı̄chǰ Government Response to Request for Information from Wek’èezhì Renewable Resources Board dated March 4, 2016, there is a section entitled “Recent Allocations and information” which chronicles recent harvesting data for Bluenose East and shows the recent and heavy reliance that the Tłı̄chǰ have on the Bluenose East Herd. It is repeated below for ease of reference:

		Total BNE Harvest	Female	Male	Calves	Unknown	% total/ community	% total/ region
Fall 2010/ Winter 2011	Tłı̄chǰ	1103	634	469			77.5%	77.5%
	YKDFN	44	28	16			3.1%	3.1%
	Sahtu	123				123	8.6%	8.6%
	*Kugluktuk	153				153	10.8%	10.8%
	Annual TOTAL	1423	662	485		276		

Fall 2011/ Winter 2012	Behchokò	408	213	176	19		23.1%	65%
	Gameti	287	78	174		35	16.3%	
	Whati	425	158	149		118	24.1%	
	Wekweètì	30	25	5			1.7%	
	YKDFN	132	97	35			7.5%	7.5%
	Sahtu	300	110	9		181	17.0%	17.0%
	Dehcho	34	7	27			1.9%	1.9%
	*Kugluktuk	150				150	8.5%	8.5%
	Annual TOTAL	1766	688	575		153		

Fall 2012/ Winter 2013	Behchokò	634	240	393		1	24.7%	54.9%
	Gameti	404	246	151		7	15.8%	
	Wha Ti	316	40	161		115	12.3%	
	Wekweètì	52	14	38			2.0%	
	YKDFN	26	8	18			1.0%	1.0%

	Sahtu	365	192	173			14.2%	14.2%
	Dehcho	7		7			0.3%	0.3%
	*Kugluktuk	705				705	27.5%	27.5%
	Fort Smith	13	13				0.5%	
	Fort Resolution	35	17	18			1.4%	2.1%
	Hay River	5	4	1			0.2%	
	Annual TOTAL	2562	774	960		828		

Fall 2013/ Winter 2014	Behchokò	1066	741	317		8	35.1%	
	Gameti	291	208	55		28	9.6%	47.8%
	Wha Ti	93	29	56		8	3.1%	
	YKDFN	17	10	7			0.6%	0.6%
	Sahtu	517	394	123			17.0%	17.0%
	Dehcho	25	7	7		11	0.8%	0.8%
	*Kugluktuk	1000				1000	33.0%	33.0%
	Fort Smith	24	6	18			0.8%	0.8%
	Annual TOTAL	3033	1395	583		1055		

* Represents an estimate from Nunavut Wildlife Biologists and wildlife officers

Sjoerd van der Wielen, in his presentation to the WRRB at the public hearings, referred to the more recent usage patterns:

Sjoerd van der Wielen – Public Hearings transcript – Day 1 Page 122 at p. 125 line 19: So in the fall of 2010 and 2011 the report of harvest was 77 percent for the Tłı̄chų – for the Tłı̄chų people from the Bluenose-East. So that's a total of eleven hundred (1,100) animals. In -- in the harvest season of '11/'12 the Tłı̄chų harvested 65 percent of the total – total reported. In 2012 and '13, the Tłı̄chų harvested 55 percent of the total reported. And finally, in 2012 and '14 the Tłı̄chų harvested 48 percent

Past Usage:

The Tłı̄chų have always been harvesters of the Bluenose herd. While the WRRB will review and consider the entirety of the record, Tłı̄chų Government directs the Board's attention to the following when considering past usage:

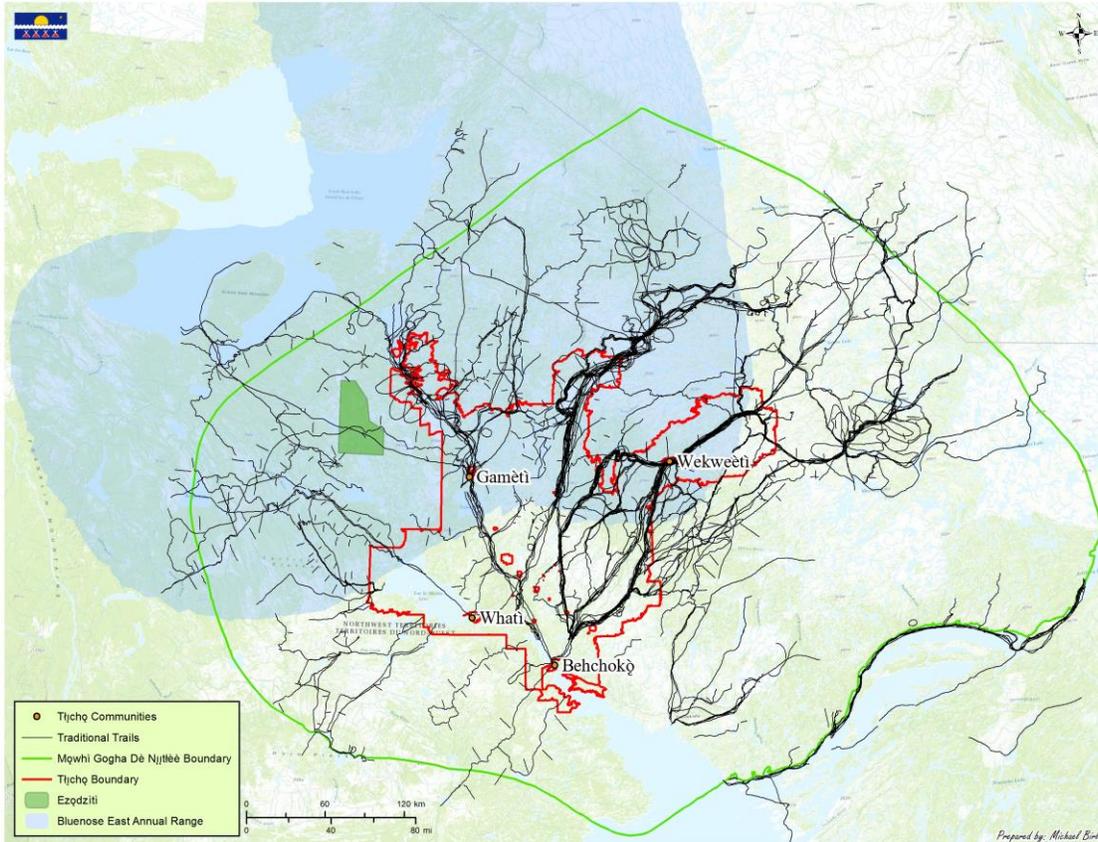
1. March 14, 2016 - Tłı̄chų Government Response to Request for Information from Wek'èezhii Renewable Resources Board dated March 4, 2016 and its attachments and in particular:
 - a. The Caribou Migration and the State of Their Habitat: Tłı̄chų Knowledge and Perspectives on ɤekwò (Barrenland Caribou)" Submitted by Dogrib Treaty 11 Council to the West Kitikmeot Slave Study Society; March 2001. Republished by Dedats'eetsaa: Tłı̄chų Research & Training Institute. This report documented caribou migration routes, water crossings and yearly distribution based on

harvesting patterns between the mid 1920's and late 1990's. It was written by Whàehdòò Nowo Kò, Dogrib Treaty 11 Council and submitted to the West Kitikmeot Slave Study Society in March 2001. In October 2014 it was re-published by the T̨́chq̨́ Research and Training Institute.

2. The T̨́chq̨́ presenters at the public hearings in Behchokò provided additional information about past usage:
 - a. Elder Joe Rabesca – Public Hearings transcript – Day 1 Page 122 at line 4: *But back -- back in the '80s when the negotiations between T̨́chq̨́ and Nuna -- Nunavut was happening there was a lot of disagreement, because we could not agree on the water between the two (2) groups. We -- we did a lot of research on the areas that we have used and the areas that the -- the people of Nunavut had used, the overlaps. We -- we did a lot of research on that first, before the actual line was drawn, because the actual boundary was drawn on a map. There was a lot of elders from -- from Gameti, Sean Metradi (phonetic), Andrew Gunn (phonetic), Harry Simpson (phonetic), all from Gameti. They talked -- they talked to me about how far they trapped to the east. They never -- they never go south of Gameti, it was always to the east. And those -- those are the -- those are the research that were done. And based on that that's how the boundary was drawn from the inputs. So we will continue what we have been practising for years and years. And those ancestor's trials will never fade, it will always be there.*
 - b. Dr. John B. Zoe – Public Hearings transcript – Day 1 Page 133 at line 20: *And in this case, we're talking about a caribou that is endangered. That the Wek' èezhii Renewable Resources Board is the authority that we present our case. That the caribou is our primary source of our language, culture and way of life. And everything that we stood for before contact was strictly around the caribou. Our trails lead towards the car -- the caribou. Our trails into the winter lead to caribou. And our summer trails lead us to the summer grounds. It's people moving around when the caribou are around and doing so -- something else when it's not around. So that right now, what we have is -- is an allocation that ENR and TG has put in numbers as to what the allocation should be. And it's the best numbers that can be -- that can be brought up at this point that we believe would not contribute towards a further decline. Hopefully that -- that it's -- it's a number that would be healthy at this time. And the allocation -- I think the numbers that were shown up there and some of the things that the -- that the other new cooperative working group put together is that these numbers are based on more recent allocation from the year before and the numbers this year because we come from a period, like I say, where we didn't see anybody in this area before, especially before the cat train trails came in, that it was mostly strictly the T̨́chq̨́ people living in this area who travelled the traditional trails.*

These excerpts represent important aspects of T̨́chq̨́ past usage, but we urge the WRRB to review the entirety of the T̨́chq̨́ presentations in the public transcripts to obtain the “T̨́chq̨́ context” for the current and past usage related to the Bluenose Herd.

Finally, for ease of reference, T̨́chq̨́ Government is providing once again a map showing the annual range of Bluenose East Caribou and the traditional trails of the T̨́chq̨́ throughout Ḿ̨whì Gogha Dè Ń̨ttlèè (source: Legat et al 2001/2014:



In its closing argument dated April 19, 2016 and uploaded on the public registry on April 20, 2016, the NSMA stated the following:

Respecting the allocation, in NSMA’s view, minimum allocation of 5% is a fair starting point, as we expressed during the January 20-21, 2016 meeting. We have also outlined NSMA’s approach to BNE caribou tag allocation in the letter submitted to the GNWT on February 5, 2015. In the February 5, 2015 letter, NSMA suggested, based on population and proximity to the herd, that NSMA should receive approximately 10% of Tlı̨chǫ allocation.

Tlı̨chǫ Government disagrees:

Tłı̨chǫ Government has stated that the allocation of 373 caribou is the minimum amount needed to maintain the connection to the caribou in order to continue Tłı̨chǫ language culture and way of life. The proposal to take away 10% from the Tłı̨chǫ allocation is not consistent with the proposed allocation in the Joint Management Proposal, does not reflect recent usage patterns, and finally the proposal is prejudicial to Tłı̨chǫ.

2. Additional Resources for dealing with this crisis

Resources to deal with the Caribou Crisis

Tłı̨chǫ Government submits, as in its Closing Submission relating to the Bathurst herd, that it is now, at this time of crisis of the herd, that resources need to be allocated to deal with both the shorter and longer term issues that need to be addressed.

Tłı̨chǫ Government is currently in discussions with the Government of Canada to improve on the fiscal resources needed to operate the Department of Culture and Lands Protection given the many issues it deals with under its departmental mandate.

Especially during this time of herd decline and crisis, there needs to be work done on longer term issues - planning that deals not only with short term issues, but long-term planning that addresses issues such as predation, development, roads, loss of habitat and sets out a management strategy to ensure survival and recovery of the herd.

Tłı̨chǫ Government respectfully asks that WRRB examine and recommend on how it can participate in the development of data, studies and reports on medium to longer term issues. Tłı̨chǫ Government is painfully aware that these matters cost money. Now is the time to invest in the caribou and the path forward. There is support for this in the Tłı̨chǫ Agreement. The Tłı̨chǫ Agreement considers that the Parties and WRRB take steps to acquire Traditional, expert opinion and scientific knowledge:

- 12.1.6 In exercising their powers under this chapter, the Parties and the Wek'èezhìi Renewable Resources Board shall take steps to acquire and use traditional knowledge as well as other types of scientific information and expert opinion.

If there are not enough current budgeted resources for WRRB to do the work needed to be done, the Tłı̨chǫ Agreement requires under 12.1.6 that the expenses of the Board incurred in accordance with its approved budget shall be a charge on government, and further that the budget shall provide for funds reasonably required to fulfill the mandate of the Board and shall be in accordance with the Government of Canada's Treasury Board guidelines. If, at any time since the existence of the WRRB, there is a critical need for more resources to deal with the crisis, it is now.

Further, the Tłı̨chǫ Agreement requires that WRRB should be resourced with sufficient staffing that it needs to conduct its affairs:

- 12.3.4 The Wek'èezhìi Renewable Resources Board shall have, subject to its approved budget, such staff, professional and technical advisors and consultants as are necessary for the proper conduct of its affairs.

In order to carefully study impacts that are contributing to herd decline, WRRB must be resourced to do the work necessary. In our view, we would like WRRB to be sufficiently resourced to make such studies and reports about issues such as the impacts contributing to herd decline. Government must resource WRRB adequately for the work needing to be done and TG would assist in every way it could. An example would be coordinating with WRRB on the collection of any traditional knowledge necessary to study impacts.

Rather than unilaterally set out the specific steps for WRRB to follow, all with a timeline and who should participate, TG wants to work collaboratively to develop this process with a view to the completion of Terms of Reference for such a process.

We respectfully ask once again that as the issue of planning and budget relates equally to the Bathurst and Bluenose East herds, that WRRB recommend that the parties to the Tūchq Agreement meet with WRRB to discuss such a Terms of Reference for studies and reports and also require that it be adequately resourced for the critical tasks ahead.