

Sahtú Ragóᓂa (Hunting Law) and Approaches to Wildlife Harvesting

Colville 2020 Public Listening (Hearing) Session

SECOND REPORT



Colville 2020
Public Listening



Submitted to the Honourable Shane Thompson
Minister of Environment and Natural Resources
Legislative Assembly of the Northwest Territories

March 30, 2021

Suggested citation:

Sahtú Renewable Resources Board (ʔehdzo Got'ıne Gots'ę Nákedı), *Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting: Colville 2020 Public Listening (Hearing) Session Second Report*, March 30, 2021, Tulít'a, NT.

The ʔehdzo Got'ıne Gots'ę Nákedı (Sahtú Renewable Resources Board) is the co-management board established by the *Sahtú Dene and Métis Comprehensive Land Claim Agreement* of 1993 (*SDMCLCA*) as the main instrument of wildlife and wildlife habitat management in the Sahtú region of the Northwest Territories. Our Dene name means “Helpers of the ʔehdzo Got'ıne, the Trap People.” We work together with ʔehdzo got'ıne (renewable resources councils) in the five communities of the Sahtú region to maintain Dene and Métis harvesting traditions and keep the land and animals healthy for future generations.

This report presents a Hı́dó Gogha Śnégots'ı́á Policy Statement, as well as reply to the Government of the NWT Minister, and updated decisions and recommendations of the Board members.

Report Submitted: March 30, 2021

The SRRB was assisted in this report by:

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Colville 2020
Public Listening

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Delivered via email

March 30, 2021

RE: SRRB Second Report on Colville Lake Public Listening Session: Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting, January 21-23, 2020

Dear Minister Thompson:

This letter and the appended report follows upon your response of January 29, 2021 to the ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board – SRRB) Report and Reasons for Decision on the Colville Lake Public Listening Session (PLS), *Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting* of October 30, 2020.

This report marks a step in the planned five-part PLS hearing approach adopted by the SRRB during 2020-2024 to address the central question, **“What is the most effective way to conserve caribou?”** The Colville 2020 PLS is focused on the question, **“What is the most effective way to regulate the harvest of caribou?”** The documents arising from the Colville 2020 PLS are referred to as the October 30 SRRB Report, the January 29 Minister’s Response and the March 30 SRRB Second Report.

The SRRB is established by the *Sahtú Dene and Métis Comprehensive Land Claim Agreement* (SDMCLCA) as the main instrument of wildlife management in the Sahtú region. The Minister retains ultimate responsibility for wildlife management, so the SRRB’s decisions are sent to the Minister.

The SRRB met and considered the January 29 Minister’s Response. The SRRB also invited hearing parties to comment on legal issues not previously raised before preparing its second report. The SRRB sought to fulfill its mandate by presenting reliable evidence, sound analysis and justified positions for the Minister to take into account in making wildlife management decisions affecting the Sahtú region. We invite the Minister to receive and review this report in a way that accounts for the evidence, the SRRB's analysis and the justification relied on for positions.

This report contains two parts: 1) a policy statement on Hı́dó Gogha Sė́nė́gots'ı́á (Community Conservation Planning - CCP); and 2) the SRRB's analysis and reply to October 30 decisions and recommendations that the Minister proposed be varied or set aside and replaced. The SRRB is grateful for the Minister's extension of the deadline for the second report, and looks forward to a fruitful dialogue following this report and through the forthcoming Public Listening Sessions.

In light of the Minister's January 29 Response, the SRRB has decided to establish a policy on Hı́dó Gogha Sė́nė́gots'ı́á. This includes an explanation of the principles the SRRB applies to CCP and the CCP Components. This second report also addresses issues raised in the January 29 Minister's Response, while inviting further engagement on a number of these via the planned 2021-2024 Public Listening Sessions.

The Minister accepted a number of the SRRB's decisions and recommendations from the Colville 2020 PLNS. The Minister also varied or set aside and replaced key substantive decisions. In many respects, however, the Minister's positions are already codified in current regulation or outlined in previous ENR legal interpretations made in submissions for the Colville 2020 PLS. On the basis of the January 29 Minister's Response, the SRRB understands that more work is required to clarify the authority and jurisdiction of ʔehdzo Got'ı́nė́ (Renewable Resources Councils) with respect to wildlife harvesting in order to support key features of CCP.

[Toward a viable caribou conservation system](#)

The SRRB understands that there exist Indigenous caribou conservation systems that continue to be practiced and should be respected in decision-making about conservation. Nevertheless, there is growing recognition of conservation concerns with respect to the three ecotypes of caribou that inhabit or travel through the Sahtú region: ɔ́də/ɔ́ekwė́/nódele (barren-ground caribou), ı́dızı (boreal caribou), and shúhta goɔ́epė́/shı́hta goɔ́ədə (mountain caribou). In this context, more consideration is warranted on the potential conservation value of Dene and Métis approaches to ɔ́edets'ė́ k'áots'erewe (self-regulation) as a key conservation tool.

The SRRB found that these long-existing conservation systems are culturally-sensitive, rights-respecting and legally compliant (where not restricted by regulation). The SRRB emphasizes to the Minister that community conservation plans should be seriously considered as viable alternatives to a total allowable harvest (TAH), and regulation that impairs Dene harvesting practices and customs should be reviewed in light of a broader conservation perspective.

The evidence before the SRRB and transmitted to the Minister in the October 30 SRRB Report is that there may be a viable alternative conservation approach to consider *before* a TAH is imposed, as part of Government's wider impairment analysis. The SDMCLCA states that TAH are "only" to be used "if required" and "to the extent necessary." CCP can achieve conservation and operate to regulate caribou harvesting. A herd's biological status, while a key factor, is not the only factor for determining appropriate conservation measures. There are other factors to

consider that have to be weighed and considered, particularly in light of a comprehensive analysis of the SDMCLCA's objectives for wildlife harvesting and conservation. An ɔ́sɔ́l godí hé dene ts'ɔ́l hé (biocultural) approach to conservation accounts for health of relationships between Dene and Métis people and the caribou who have the right to live and depend on each other and environment as they always have.

This report is shaped by an SRRB policy statement that **hɔ́dó gogha sɛ́nɛ́gots'ígá (community conservation plans) are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits, which are only to be used when required and to the extent necessary.** More details about the policy statement, its content and foundational principles are set out in the attached report.

The SRRB recognizes the presence of Dene ɔ́ɔ́á (translated as law, regulation, or policy), and a role for Dene ɔ́ɔ́á in harvest regulation as well as within the larger co-management system. The SRRB interprets its mandate to include application of conservation principles *with regard to the rights of participation in wildlife harvest decision making and respect for harvest management customs and practices of Sahtú Dene and Métis.* The SRRB's Hɔ́dó Gogha Sɛ́nɛ́gots'ígá Policy and the Public Listening Sessions are intended to help facilitate understanding of these issues and to bring together parties in an ethical space where Dene ɔ́ɔ́á can be considered and discussed. The SRRB invites the Minister to undertake the serious consideration necessary to address the accommodation opportunity CCP presents to caribou conservation, the goals of which are shared by all.

ʔets'ewéhɔ́ɔ́¹/ʔets'ewéhk'w'ɛ́² - We are listening

For the Sahtú Dene and Métis harvesters, and community parties who participated in the Colville 2020 Public Listening Session, your conservation practices will carry on as they have. Work on conservation planning and Sahtú ragóɔ́a (hunting law) should go ahead. The importance of this work does not change if the Minister agrees or not on a particular issue at this stage. We all want to work toward the responsible harvest and conservation of caribou. If you believe community conservation planning can help, then do not stop your work. The SRRB is listening. Others are watching.

The Minister wrote to Norman Wells and Fort Good Hope Renewable Resources Councils (RRCs) on March 16, and again on March 22, offering financial resources to consider your governance authority. The SRRB recognizes parties are going to be better informed about their rights and the issues if they have access to legal advice. The legal issues implicated in determining the scope of RRC authority and jurisdiction reflect interpretation of its function under the SDMCLCA

¹ K'áhsho Got'ɔ́nɛ́ dialect.

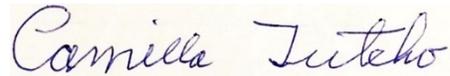
² Délɔ́nɛ́ dialect.

in light of applicable law. The SRRB looks forward to including consideration of your newly informed positions in the future.

The SRRB was not included in this initiative, but has chosen to comment. The SRRB welcomes this offer. The SRRB notes the offer arises after a PLS process specifically to address these issues in a public hearing, and with a deadline to respond *after* the SRRB submits this report in our role as the main instrument of wildlife management. In the interests of limiting duplication, the SRRB reminds the Minister there will be more dialogue through the ongoing PLS series to consider these issues in an appropriate forum.

The SRRB looks forward to continued collaboration with ENR and our other co-management partners to ensure the best conservation planning and practices to support better caribou conservation.

Máhsı,

A handwritten signature in blue ink that reads "Camilla Tutcho". The signature is written in a cursive, flowing style.

Camilla Tutcho, Acting Chair

Report Summary



This is the second report by the ʔehdzo Gotʔnə Gotsʔé Nákedı (Sahtú Renewable Resources Board – SRRB) on the Colville 2020 Public Listening Session (PLS), *Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting*, which was co-hosted with Colville Lake on January 21-23, 2020.

The present report marks a step in the planned five-part PLS hearing approach undertaken by the ʔehdzo Gotʔnə Gotsʔé Nákedı (Sahtú Renewable Resources Board – SRRB) during 2020-2024 to address the central question, ***“What is the most effective way to conserve caribou?”*** The Colville 2020 PLS focused on the question, ***“What is the most effective way to regulate the harvest of caribou?”***

This report follows upon the January 29, 2021 response by the NWT Minister of Environment and Natural Resources (ENR) to the SRRB’s October 30, 2020 Report and Reasons for Decision on the Colville 2020 PLS. The documents arising from the Colville 2020 PLS are referred to as the October 30 SRRB Report, the January 29 Minister’s Response and the March 30 SRRB Second Report.

The SRRB is established by the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)* as the main instrument of wildlife management in the Sahtú region. The Minister retains ultimate responsibility for wildlife management, so the SRRB’s decisions are sent to the Minister.

The SRRB met and considered the January 29 Minister’s Response. The SRRB also invited hearing parties to comment on legal issues not previously raised before preparing its second report. The SRRB sought to fulfill its mandate by presenting reliable evidence, sound analysis and justified positions.

This report contains two parts: 1) a policy statement on Hı́dó Gogha Sė́nė́gotsʔı́á (Community Conservation Planning - CCP); and 2) the SRRB’s analysis and reply specifically with respect to October 30 decisions and recommendations that the Minister proposed be varied or set aside and replaced.

In light of the Minister’s January 29 Response, the SRRB has decided to establish a policy on Hı́dó Gogha Sė́nė́gotsʔı́á. This includes an explanation of the principles the SRRB applies to Community Conservation Planning (CCP) and the CCP Components. This second report also addresses issues raised in the January 29 Minister’s Response, while inviting further engagement on a number of these via the planned 2021-2024 Public Listening Sessions.

Policy Statement on Hı́dó Gogha Sė́nė́gots'ı́á (Community Conservation Plans)

This report is shaped by the policy statement that **hı́dó gogha sė́nė́gots'ı́á (community conservation plans) are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits, which are only to be used when required and to the extent necessary.**

Hı́dó Gogha Sė́nė́gots'ı́á Components

As part of the Hı́dó Gogha Sė́nė́gots'ı́á Policy the SRRB has defined an initial list of CCP Components as a starting point to assess whether a community conservation plan contains minimum required elements to be considered complete and ready for review and possible approval. As the PLS process is designed, the SRRB expects that the five-part PLS series will lead to further development of CCP by the five Sahtú communities, and a revised list of CCP components that evolves during the process.

1. Identification of key issues and knowledge gaps in conservation
2. Dene concepts and terminology related to conservation issues, programs, and actions
3. Research and conservation programs, actions, and timelines for addressing priority issues and knowledge gaps
4. Approaches for ɔ́edets'ė́ k'áots'erewe (self-regulation) and regional/cross-regional accountability in plan implementation, including:
 - a. Consideration of the appropriate seasons of harvest and harvest locations and zones
 - b. Community sharing protocols and godı kehtsı́ (agreements) with other users within and beyond the Sahtú, including a protocol for implementation reporting
5. Coordination, including engagement and decision-making within communities in developing plans

Hı́dó Gogha Sė́nė́gots'ı́á Principles

The present policy is centred on three interdependent principles that guide community-led plans in the Sahtú region.

1. **ɔ́ası́ı́ Godı́ hé Dene Ts'ı́ıı́ hé (Biocultural Diversity)** - Dene expect decisions that affect them to account for ɔ́ası́ı́ godı́ hé Dene ts'ı́ıı́ hé (all living things and Dene ways of being).

2. **ʔedets'ę K'áokerewe (Self-Regulation)** - In Dene ɛɛá (law) people and wildlife are called upon to respect each other's autonomy as a basis for social cohesion and survival in a harsh environment through ʔedets'ę k'áots'erewe.
3. **Godı Kehtsı (Ethical Space)** - Dene and Métis participation in conservation efforts with Government depends on godı kehtsı (fair consideration or coming together of diverse perspectives), including science and Indigenous knowledge through ʔetexé ɛeghálats'eda (collaborative) systems of accountability.

SRRB Analysis and Reply to the Minister

A number of decisions and recommendations from the Colville 2020 PLS Hearing Report were accepted. This report is focused on the decisions and recommendations that were varied or set aside and replaced by the Minister in the January 29 Minister's Response. The ENR Minister's positions reflect what is codified in current regulations or formed part of ENR submissions made during the Colville 2020 PLS. On the basis of the January 29 Minister's Response, the SRRB understands that more work is required to clarify the authority and jurisdiction of ʔehdzo Got'ıneę (Renewable Resources Councils) with respect to wildlife harvesting. Opportunities to undertake this work are provided by the forthcoming PLS series, 2021-2024.

The following table lists items accepted by the Minister, and the outcomes of the SRRB analysis of items for which ENR has proposed variance. The analysis that accompanies these positions are critical to understanding them.

Table 1: Decisions, Recommendations, and Deferrals

1. The Conservation Picture: Caribou, People, and Planning		
Decisions	D1.1	Harvest regulation and Community Conservation Planning <i>Revised:</i> Harvest regulation for all caribou populations within the Sahtú region will reflect community conservation planning measures. When ready for submission and review, community conservation plans will be assessed against the SRRB's Hıdó Gogha Sęnégots'ıá (Community Conservation Plan) Components, and when approved, forwarded to the Minister.
	D1.2	Primary responsibility for stewardship <i>Deferred:</i> The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ɛɛá. The Minister's position is already codified in current regulation or outlined in previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of ʔehdzo Got'ıneę (Renewable Resources Councils) with respect to the management of wildlife harvesting.

	D1.3	<p>Youth roles in Public Listening Sessions</p> <p><i>Accepted:</i> The SRRB has decided that youth will be invited to play meaningful roles in the entire process for future public listening sessions.</p>
Recommendations	R1.1	<p>Shúhta Gogepé Harvest Regulation</p> <p><i>The Minister has accepted the SRRB's recommendation, as follows:</i></p> <p>The SRRB recommends that a proposal for harvest regulation of shúhta gogepé (mountain caribou) be co-developed by Tulít'a and Norman Wells and submitted to the SRRB for consideration as part of the 2021-2024 series of public listening sessions.</p>
	R1.2	<p>Recommendation 1.2 Dene béré (country food) campaign</p> <p><i>The Minister has accepted the SRRB's recommendation, as follows:</i></p> <p>The SRRB recommends that a Dene béré (country food) campaign be collaboratively developed by the Nę K'ə Dene Ts'ıı Forum in accordance with the NWT's Sustainable Livelihoods Action Plan, 2019-2023, as well as conservation objectives embodied in community caribou plans.</p>
	R1.3	<p>Nę K'ádı Ke (Keepers of the Land) programs</p> <p><i>The Minister has accepted the SRRB's recommendation, as follows:</i></p> <p>The SRRB recommends that communities and the Sahtú Dene Council continue to develop Nę K'ádı Ke (Keepers of the Land) programs to support implementation of community conservation plans.</p>
<p>2. Dehlá Got'ıne ʔada Plan and Ts'ıduweh ʔada ʔeʔá (Colville Lake)</p>		
Decision	D2.1	<p>Colville's Plan as a Sahtú Community Conservation Plan</p> <p><i>Revised:</i> When ready for submission and review, community conservation plans will be assessed against the SRRB's Hıdó Gogha Sėnégots'ıá (Community Conservation Plan) Components, and when approved, forwarded to the Minister for acceptance.</p>
<p>3. Belare Wıle Gots'ė ʔekwė and Dene Béré Belare Wıle Plans (Délıne)</p>		
Decision	D3.1	<p>2019 edition of Délıne's plan</p> <p><i>Revised:</i> When ready for submission and review, community conservation plans will be assessed against the SRRB's Hıdó Gogha Sėnégots'ıá (Community Conservation Plan) Components, and when approved, forwarded to the Minister.</p>
<p>4. Authorizations</p>		
Recommendations	R4.1	<p>Colville Lake Renewable Resources Council powers</p> <p><i>Deferred:</i> The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ʔeʔá. The Minister's position depends on restrictions in current regulation or ENR submissions. The SRRB understands more work is required to clarify the authority and jurisdiction of ʔehdzo Got'ıne (Renewable Resources Councils) with respect to the management of wildlife harvesting.</p>
	R4.2	<p>Hıdó Gogha Sėnégots'ıá ʔeʔá (Community Conservation Plan Regulation)</p> <p><i>Deferred:</i> The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response</p>

		<p>does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ɁeɁá. The Minister’s position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of Ɂehdzo Got’jneᑦ (Renewable Resources Councils) with respect to the management of wildlife harvesting.</p> <p>The Minister is being invited to consider and prepare a specific <i>Hjdó Gogha Sénégots’íá ɁeɁá (Community Conservation Plan Regulation)</i>.</p>
Recommendations	R4.3	<p>Colville-ENR Interim Management Agreement <i>Revised:</i> The Interim Management Agreement between Colville Lake and the Department of Environment and Natural Resources is recommended to continue to be in effect until it is replaced with an approved Hjdó Gogha Sénégots’íá (Community Conservation Plan).</p>
	R.4.4	<p>Colville-ENR Interim Management Agreement 2 <i>Revised:</i> In the event that the Colville Plan is not in place by the Interim Management Agreement’s current date of expiry (May 31, 2021), the SRRB recommends that the parties meet to review and decide to extend the agreement.</p>
	R4.5	<p>Déljneᑦ and ENR Interim Agreement <i>The SRRB accepts the Minister’s proposed revision to this recommendation:</i> Déljneᑦ and the Department of Environment and Natural Resources should meet to discuss the workplan for implementing Déljneᑦ’s <i>Belare Wile Gots’é Ɂekwé (Caribou for All Time)</i> plan.</p>
5. Enforcement Mechanisms		
Recommendations	R5.1	<p>Alternative Measures <i>Revised:</i> Alternative measures, as set out in the Wildlife Act, that are consistent with culturally appropriate restorative justice processes provided for in the Colville Lake and Déljneᑦ community conservation plans will be presented for authorization as alternative measures to the Minister of Justice.</p>
	R5.2	<p>Colville and ENR Interim Management Agreement and Enforcement <i>The SRRB accepts the Minister’s proposed revision to this recommendation, as follows:</i> Colville Lake and the Department of Environment and Natural Resources should meet to discuss enforcement of community conservation plans. The SRRB is willing to participate if invited.</p>

6. Total Allowable Harvest		
Decision	D6.1	<p>Total allowable harvest</p> <p><i>Deferred:</i> The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister’s response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene Ɂəǰá. The Minister’s position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of ɁehdzɁo Got’Ɂneǰ (Renewable Resources Councils) with respect to the management of wildlife harvesting.</p>
Recommendations	R6.1	<p>Tag requirement in S/BC/01 and S/BC/03</p> <p><i>Deferred:</i> The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister’s response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene Ɂəǰá. The Minister’s position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of ɁehdzɁo Got’Ɂneǰ (Renewable Resources Councils) with respect to the management of wildlife harvesting.</p>
	R6.2	<p>Colville to work with neighbouring groups</p> <p><i>The Minister has accepted the SRRB’s recommendation, as follows:</i></p> <p>The SRRB recommends that Colville Lake work with harvester groups in neighbouring regions in developing and adapting their community conservation plan to address shared conservation goals.</p>
7. Zoning Issues		
Recommendations	R7.1	<p>Dene name for S/BC/01</p> <p><i>The Minister has accepted the SRRB’s recommendation, as follows:</i></p> <p>The SRRB recommends that Sahtú Barren-ground Caribou Area 01 (S/BC/01) be renamed Gow’Ɂ Ɂəǰə Nəǰé (Barren-ground Caribou Land), with the name change reflected in the Wildlife Management Zones and Areas Regulations and in any other enactment that references this area.</p>
	R7.2	<p>Dene name for S/BC/02</p> <p><i>The Minister has accepted the SRRB’s recommendation, as follows:</i></p> <p>The SRRB recommends that Sahtú Barren-ground Caribou Area 02 (S/BC/02) be renamed Tuyeta Ɂəǰə Nəǰé (Caribou Land), with the change reflected in the <i>Wildlife Management Zones and Areas Regulations</i> and in any other enactment that references this area.</p>
	R7.3	<p>Dene name for S/BC/03</p> <p><i>The Minister has accepted the SRRB’s recommendation, as follows:</i></p> <p>The SRRB recommends that Sahtú Barren-ground Caribou Area 03 (S/BC/03) be renamed Ɂehdajla Ɂekwé Nəǰé (Caribou Point Caribou Land), with the change</p>

		reflected in the <i>Wildlife Management Zones and Areas Regulations</i> and in any other enactment that references this area.
	R7.4	<p>Collaborative research in S/BC/02</p> <p><i>The Minister has accepted the SRRB's recommendation, as follows:</i></p> <p>The SRRB recommends that Fort Good Hope and Colville Lake Renewable Resources Councils, SRRB, NWT Environment and Natural Resources, and Environment and Climate Change Canada collaboratively develop a workplan to address knowledge gaps regarding Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ʔədə Nĕnĕ [Caribou Land]) through non-invasive Indigenous knowledge and science.</p>
Recommendt	R7.5	<p>Community Conservation Plan for S/BC/02</p> <p><i>Revised:</i> It is recommended that the Ts'udá Nıłıne Tuyeta Management Board take part in meetings on the development of a community conservation plan for caribou in Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ʔədə Nĕnĕ [Caribou Land]).</p>
8. Wildlife Act Residency and Hunter Education Requirements		
Decision	D8.1	<p>Wildlife Act Residency and 2021 Public Listening Session</p> <p><i>The Minister has accepted the SRRB's decision, as follows:</i></p> <p>The SRRB has decided that the 2021 public listening session will include a full discussion of the role that residency requirements and hunter education play in fostering or inhibiting respect for Dene protocols in the Sahtú region.</p>
9. Special Harvesting Areas		
Recommendation	R9.1	<p>Special harvesting areas implementation</p> <p><i>The Minister has accepted the SRRB's recommendation, as follows:</i></p> <p>The SRRB recommends that ʔehdzo got'ıne (renewable resources councils), NWT Environment and Natural Resources, and the SRRB undertake community conservation planning workshops in each of the three Sahtú districts (K'áhsho Got'ıne District; Tulít'a District; and Délıne District) to develop proposals for implementation of special harvesting areas, including any required regulations, prior to the 2024 public listening session.</p>
10. Capacity Support for Community Conservation Planning		
Decision	D10.1	<p>Capacity support and program funding for CCP and plan implementation</p> <p><i>The Minister has accepted the SRRB's recommendation, as follows:</i></p> <p>The SRRB has decided that there needs to be further capacity support and program funding for community conservation planning and plan implementation in the Sahtú region.</p>

A note on Public Listening Sessions

The SRRB continues to work on its five-part PLS approach to determine ***“What is the most effective way to conserve caribou?”*** In this report, the SRRB is focused on the question of the Colville 2020 PLS, ***“What is the most effective way to regulate the harvest of caribou?”*** The SRRB created space in its 2019 *Rules for Hearings* for PLS to serve as a form of public hearing “in order to encourage increased participation.” The PLS are intended to provide *godı kehtsı* (ethical space) where there is support for participation of affected rights-holders and fair consideration of both Indigenous knowledge and science.

The SRRB elaborated the PLS approach in its December 6, 2019, response to ENR’s procedural questions. The SRRB clarified that the five-part PLS marked a departure from a typical herd-by-herd, zone-by-zone conservation analysis in order to account for a wide range of conservation pressures that are not being sufficiently considered, where wider “hot topics” in caribou conservation affecting all three ecotypes of caribou present in the Sahtú region can be addressed. The PLS is designed to include hearing procedures to accommodate Dene and Métis participation and achieve *godı kehtsı* (ethical space) for all knowledge sources.

The four forthcoming PLS will each have a thematic focus on:

- Predators and Competitors;
- Knowledge about Caribou and Landscapes;
- Wildfires and Climate Change; and
- Economy and Caribou Conservation.

The SRRB intends to make a Hearing Report with reasons for its decisions after each PLS, as it did with the Colville 2020 PLS on October 30, 2020. The Minister provided the January 29 Response, which is followed by the SRRB’s March 30 Report. The second PLS was postponed to facilitate this process.

The SRRB understands the complexity of the current wildlife management system, and seeks to achieve its aims without discounting promises to protect the cultural rights of Indigenous peoples. Co-management is a system designed in modern treaties to bring Indigenous people and Government authorities together with shared objectives. The SDMCLCA on Wildlife Harvesting and Management (Chapter 13) has eight objectives. There are two objectives about the importance of future use and the application of conservation principles and practices. These objectives are given significant weight. Chapter 13 includes four separate objectives addressing respect for Sahtú Dene and Métis harvest management customs and practices, preferential rights, ongoing needs, and direct and meaningful involvement in wildlife planning and management. Chapter 13 objectives also address the rights and interests of neighbouring

Indigenous harvesters and non-participants. The SRRB aims to satisfy its mandate through the fulfillment of the Chapter 13 objectives.

Wildlife is of central importance to Sahtú Dene and Métis. Harvesting was given emphasis in both Treaty 11 and the SDMCLCA. Current SDMCLCA implementation practices do not resolve the tensions that can arise between Indigenous knowledge and science in conservation processes. It is unstated which approach should be considered in priority, yet clearly both of these approaches are considered relevant and should be taken into account. The work of the co-management body has to account for the full extent of its mandate and the objectives of the wildlife management system, and must include appropriate accommodation of cultural rights.

As the SRRB stated in December 2019:

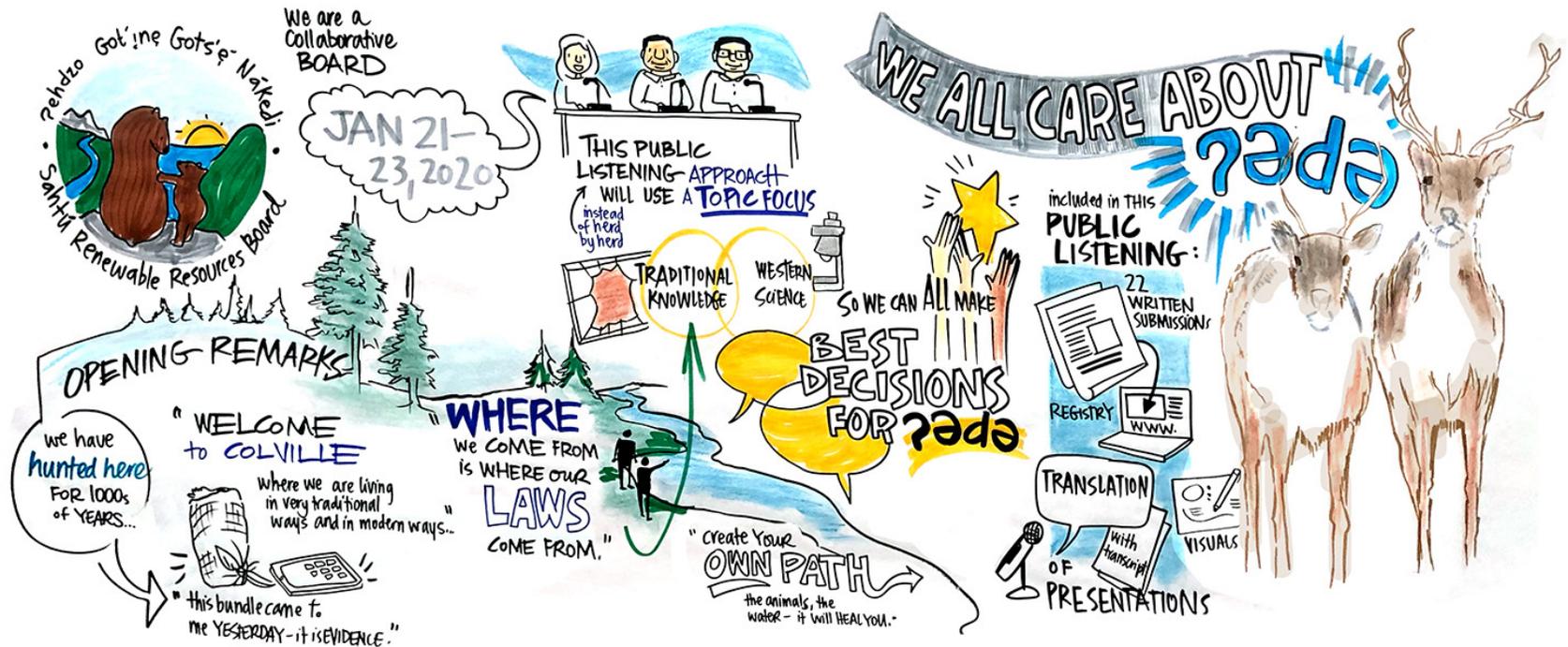
Each hearing by a wildlife management authority has conventionally looked at a wide range of issues for that specific herd. Herd-specific hearings, based on requests for a total allowable harvest, typically deal with the status of the caribou population based on science and Indigenous knowledge, herd health and population dynamics, the various potential triggers for population decline (including natural population cycles, impacts of industrial development, climate change, wildfire ecology and others), and the various options for addressing pressures affecting caribou (various forms of harvest regulation, limits in land use planning, predator control, and many more). For each herd, this wide range of topics is typically canvassed and the outcome is typically decisions focused on applying a Total Allowable Harvest to control Indigenous harvesters as the primary conservation mechanism.³

The PLS takes a step back, looking at a wide range of conservation pressures that are not being sufficiently considered, where wider “hot topics” in caribou conservation affecting all three ecotypes of caribou present in the Sahtú region can be addressed. The SRRB acknowledges that caribou do not recognize boundaries, so there is no intention to trigger negative conservation impacts with CCP. CCP is something that should be considered at community, regional and cross-regional levels. There are Indigenous groups throughout the migratory ranges of the Bluenose (now designated as Cape Bathurst, Bluenose-West, and Bluenose-East) and Bathurst herds subject to SDMCLCA 13.6 that have also had conservation management approaches honed over millennia of living with caribou. The Colville 2020 PLS, and its decisions and recommendations, are based on evidence provided about those approaches documented through a community conservation plan development process, as well as evidence regarding contemporary conservation practices as those approaches adapt to the modern era. Community leadership in conservation management should be promoted.

³ SRRB, *SRRB Letter to ENR's Assistant Deputy Minister re Responses to ENR Questions and Comments; Colville 2020 Public Listening Session on Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting* (2019). 2.

The SRRB is committed to a five-part PLS series that will address the question “*What are the most effective ways to conserve caribou?*” The SRRB acknowledges the PLS is an innovative approach to public hearings. Much has been learned during the Colville 2020 PLS. The SRRB understands additional clarity on decision-making for the rest of the PLS in this series would be helpful. The SRRB looks forward to working with parties again soon in the 2021 Délı̄nę PLS on *Tłch’ádıı hé Gots’edıı (Living with Wildlife) – Predators and Competitors*.

COLVILLE 2020 PUBLIC LISTENING SAHTÚ RAGÓ?A (HUNTING LAWS) AND APPROACHES TO WILDLIFE HARVESTING



Colville 2020: Public Listening: on Dene Ragó?a (Hunting Laws) and Sahlit Approaches to Wildlife Harvesting January 21-23, 2020

LIVE GRAPHIC RECORDING | Drawing Change
Sam Bradd

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Máhsı cho



Máhsı cho to the parties that participated in the Colville 2020 Public Listening Session (PLS). The Colville 2020 PLS was the start of a five year hearing proceeding, and the SRRB is very grateful to the parties for their commitment to this important process toward addressing hot topics in caribou conservation. The parties continue to demonstrate a shared dedication to healthy caribou populations for the enjoyment of future generations, and to ɁelɁé Ɂegháletseda (working together) in the spirit of co-management to address conservation concerns.

Máhsı to our legal counsel, Bruce McRae, for his courage, expertise and hard work in assisting with this report on a short timeline. The SRRB looks forward to continuing the PLS journey in confidence that we can count on his efforts to support SRRB decisions grounded in evidence and law.

Máhsı to the SRRB staff team without whose support this process would not be possible. To our Office Manager Lori Ann Lennie, thanks for sticking with the Board for twenty years. And special thanks to our outgoing Program Manager and Community Conservation Planner Kirsten Jensen for your efforts to support meaningful community participation in the Colville 2020 PLS, in addition to many other community initiatives in planning, guardianship, research and monitoring. Your tireless work to support youth to give expression to their aspirations through the Sahtú Youth Network will leave a lasting mark in the region. Thanks to our interns, Jessie Yakeleya and Jasmine Plummer, who are charting a path forward for youth leadership in environmental research and governance. And lastly, máhsı to our new staff, Alyssa Bougie and Melanie Harding, for bringing your energy and ideas to the team. We look forward to your support in preparing for the Délıne 2021 PLS!



Figure 1: Artwork by Sam Bradd, Drawing Change

Dene Kədə - Glossary



Term or Acronym	Meaning
ᑲᓂᑭᑦ ᑲᑲᑦ ᑲᑲᑦ ᑲᑲᑦ ᑲᑲᑦ	All living things and Dene ways of life; biocultural diversity
ᑲᑲᑲᑲ or ᑲᑲᑲᑲ	policy; code; regulation; law
ᑲᑲᑲᑲ	barren-ground caribou (Dehlá Got'Jne dialect)
ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲᑲ	governance; self-regulation (Déljne dialect)
ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ	Caribou Point caribou; Bluenose East barren-ground caribou
ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ	Caribou Point Barren-Ground Caribou Land; Bluenose East caribou area (SRRB recommended name for Hunting Area S/BC/03)
ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ	trappers; Renewable Resources Councils
ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲ	helper of the trappers; Sahtú Renewable Resources Board
ᑲᑲᑲᑲᑲᑲ	barren-ground caribou (Déljne dialect)
ᑲᑲᑲᑲᑲᑲ ᑲᑲᑲᑲᑲᑲᑲᑲᑲᑲ	working together; collaborating; co-management
ᑲᑲᑲᑲᑲᑲᑲᑲᑲᑲ	we are listening (Déljne dialect)
ᑲᑲᑲᑲᑲᑲᑲᑲᑲᑲ	we are listening (K'áhsho Got'Jne dialect)
Belare Wíle Gots'ᑲᑲᑲᑲᑲᑲ	Caribou for All Time (title of Déljne's barren-ground caribou plan)
Dehlá Got'Jne	end of the treeline people; people of Colville Lake
Déljne	where the water flows (community name)
Déljne Got'Jne	people of Déljne
Dene	people (Indigenous peoples)
Dene béré	country food
Dene Béré Belare Wíle	Country Food for All Time (title of Déljne's food security plan)
Dene kədə	Dene language spoken by communities of the Sahtú region, known in the NWT Official Languages Act as "North Slavey"
Dene ts'jli	Dene being, identity, ways of life
hjdó gogha sénéᑲᑲᑲᑲᑲᑲᑲᑲ	planning for the future; community conservation plan or planning
godı kehtsı	agreements; consensus-building; systems of mutual accountability; ethical space
Gow'ı ᑲᑲᑲᑲᑲᑲᑲᑲ	Barren-Ground Caribou Land (SRRB recommended name for Hunting Area S/BC/01)
K'áhsho Got'Jne	big arrow people; people of Fort Good Hope
máhsı	thank you
máhsı cho	thank you very much
Ne K'ə Dene Ts'jli Forum	Living on the Land Forum
Ne K'ádı Ke	Keepers of the Land; Guardians

Term or Acronym	Meaning
Neregha ʔekwé Néné	north shore of Great Bear Lake barren-ground caribou area; Bluenose West caribou area (Déljné name for S/BC/01 defined in Belare Wíle Gots'é ʔekwé plan)
Nío Nę P'ęné Begháré Shúhta Gozepé Nareᑭ	Trails of the Mountain Caribou (title of plan developed by Nío Nę P'ęné Working Group)
Nío Nę P'ęné	backbone of the mountains
nódele	barren-ground caribou (Shúhtaot'jné dialect)
Sahtú	bear lake; Great Bear Lake
shíhta goᑭᑭ	mountain caribou (K'áhsho Got'jné and Dehlá Got'jné dialects)
shúhta goᑭᑭ	mountain caribou (Shúhtaot'jné dialect)
Shúhtaot'jné	Mountain Dene people
tqdzı	boreal caribou
Ts'jduweh ʔᑭᑭ ʔeᑭ	Ancient Caribou Law
ts'uda bechᑭ dá	pregant caribou females (Dëne Sų́iné language)
Ts'udá Niljné Tuyeta	Ramparts River and Wetlands (protected area)
Tuyeta ʔᑭᑭ Néné	Tuyeta Caribou Land (SRRB recommended name for Hunting Area S/BC/02)
Tu Łidlini	Ross River, Yukon Territory
Tulít'a	where the rivers meet (community name)

Acronyms

ACCWM	Advisory Committee for Cooperation on Wildlife Management
CCN	Conservation Coaches Network
CCP	Community Conservation Plan
ENR	Department of Environment and Natural Resources, GNWT
GNWT	Government of the NWT
HCP	Healthy Country Planning
NWT	Northwest Territories
PLS	Public Listening Session
RRC	Renewable Resources Council; ʔehdzo Got'jné
S/BC	Sahtú Barren-Ground Caribou (zone/area code in NWT hunting regulations)
SDMCLCA	Sahtú Dene and Métis Comprehensive Land Claim Agreement
SRRB	Sahtú Renewable Resources Board; ʔehdzo Got'jné Got'sé Nákedı
SSI	Sahtú Secretariat Inc.
TAH	Total Allowable Harvest



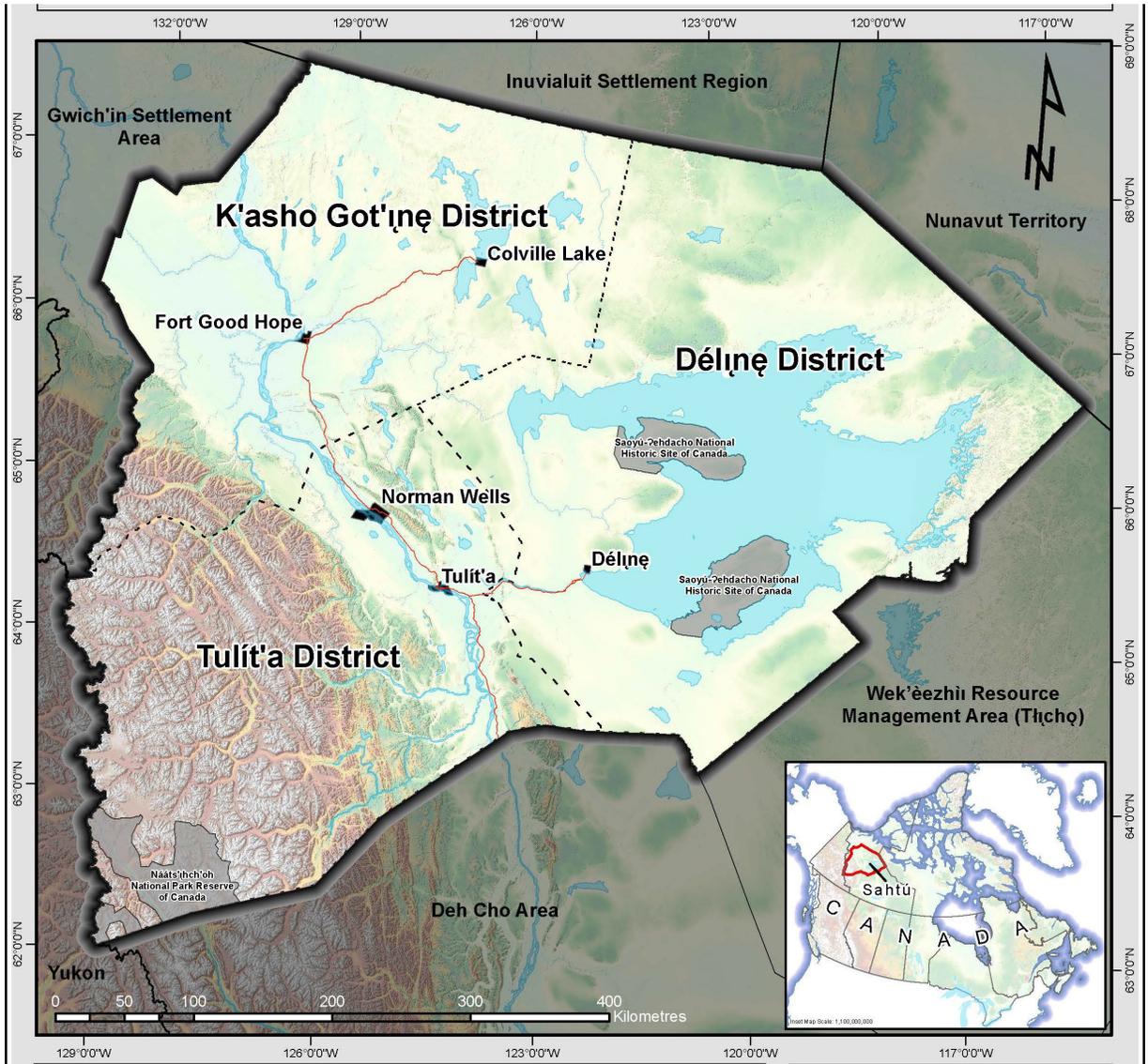


Figure 2: Map of Sahtú Settlement Area. Credit: Sahtú Land Use Planning Board.

Colville 2020 Public Listening (Hearing) Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting

SECOND REPORT

March 30, 2021



Introduction

This is the second report by the ʔehdzo Got'ıne Gots'ę Nákedı (Sahtú Renewable Resources Board – SRRB) on the Colville 2020 Public Listening Session (PLS), *Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting*, which was co-hosted with Colville Lake on January 21-23, 2020.

The present report marks a step in the planned five-part PLS hearing approach undertaken by the ʔehdzo Got'ıne Gots'ę Nákedı (Sahtú Renewable Resources Board – SRRB) during 2020-2024 to address the central question, ***“What is the most effective way to conserve caribou?”*** The Colville 2020 PLS focused on the question, ***“What is the most effective way to regulate the harvest of caribou?”***

This report follows upon the January 29, 2021 response by the NWT Minister of Environment and Natural Resources (ENR) to the SRRB's October 30, 2020 Report and Reasons for Decision on the Colville 2020 PLS. The documents arising from the Colville 2020 PLS are referred to as the October 30 SRRB Report, the January 29 Minister's Response and the March 30 SRRB Second Report.⁴

The SRRB is established by the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*⁵ as the main instrument of wildlife management in the Sahtú region. The Minister retains ultimate responsibility for wildlife management, so the SRRB's decisions are sent to the Minister.

The SRRB met and considered the January 29 Minister's Response. The SRRB also invited hearing parties to comment on legal issues not previously raised before preparing its second report. Comments were received from Colville Lake, Fort Good Hope, Norman Wells and Délıne ʔehdzo Got'ıne (Renewable Resources Councils) as well as the Sahtú Secretariat Inc. and Dene Nation. The SRRB sought to fulfill its mandate by presenting reliable evidence, sound analysis and justified positions.

⁴Documents associated with these proceedings may be found on the SRRB's public registry at www.srrb.nt.ca.

⁵ Canada, *Sahtú Dene and Métis Comprehensive Land Claim Agreement Volume 1* (Canada, 1993).

This report contains two parts: 1) a policy statement on Hjdó Gogha Sénégots'íwá (Community Conservation Plans - CCP); and 2) the SRRB's determinations specifically with respect to October 30 decisions and recommendations that the Minister proposed be varied or set aside and replaced.

In light of the Minister's January 29 Response, the SRRB has decided to set out a clear policy statement on Hjdó Gogha Sénégots'íwá (Community Conservation Plans - CCP), and specifically address a number of decisions and recommendations being discussed in this decision-making process with the Minister. This report is shaped by an SRRB policy statement that **hjdó gogha sénégots'íwá (CCP) are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits which are only to be used when required and to the extent necessary.**

This second report also addresses issues raised in the January 29 Minister's Response, while inviting further engagement on a number of these via the planned five-part 2021-2024 PLS series. The PLS hearing is ongoing. The SRRB understands some issues may take time to work through and looks forward to the ongoing support and engagement from parties.

January 29 Minister's Response

The SRRB appreciates the Minister's January 29 Response to the Colville 2020 PLS Report. The Minister's response focuses on the specific decisions and recommendations in the October 30 SRRB Report. The SRRB, as part of the PLS approach, understands that more time is needed to finalize CCPs and work to address issues that were raised but remain unresolved. Parties are encouraged to advance dialogue outside of the PLS process to bring agreements and collaborative plans to the SRRB. The SRRB recognizes the challenge involved with introducing an alternative harvest regulation system, and invites co-management partners to continue to develop their understanding of the important benefits that derive from an appropriate ɔasjł godí hé dene ts'łł hé (biocultural) consideration of conservation issues.

Caribou are in a precarious situation. Everyone is concerned. Conservation issues are manifold and complex, and affect all caribou ecotypes. Conservation actions need to address more than abundance surveys and quantitative harvest limits.

The total allowable harvest system has been used as a primary conservation tool since before the negotiation of the SDMCLCA. In the current context where there are conservation concerns, alternative approaches deserve to be properly assessed on their merits. As the Colville 2020 PLS Report outlined, there is considerable knowledge – properly viewed as evidence before the SRRB – available to inform these approaches.

The SRRB has embraced its role in convening and facilitating these important discussions. The SRRB counts on the Minister's ongoing commitment to support accommodation of CCP within NWT's conservation landscape. We all agree that effective conservation outcomes will be better if they are also community led.

The SRRB intentionally designed a five-part PLS process that would provide *godı kehtsı* (ethical space) where there is support for participation of affected rights-holders and fair consideration of both Indigenous knowledge and science. In this respect, certain policy issues are priority, in that they require consideration as a pre-condition to advancing on to other specific harvest regulation issues. Prioritization is warranted in the situation where fundamental issues are not yet agreed – that CCP can have a central role in caribou conservation and should represent an alternative to quantitative limits that infringe on rights-holders less.

The SRRB is committed to a five-part PLS series as an iterative process. The Minister's response is helpful in allowing the SRRB to recognize where key outstanding issues remain. After its consideration of the Minister's January 29 Response and comments from hearing parties, the SRRB has decided to prioritize recognition of CCP as a less impairing alternative to total allowable harvest limits. This requires reconsideration of specific decisions and recommendations in this report. Other issues specific to harvest regulation may benefit from reconsideration if and when there is acceptance of the CCP approach. The SRRB seeks to confirm the view that effective CCP may be a viable, more rights-affirming conservation approach than a total allowable harvest. Discussion of other specific harvest regulation issues, such as RRC governance authority and enforcement, may be taken up in a future PLS after the policy issues have been resolved.

As the SRRB continues the PLS series, the Minister is requested to provide adequate Government resources to ensure fulsome consideration of the issues. As well, where issues between parties can be resolved bilaterally, such as the extension of the Colville Lake-ENR *Interim Management Agreement*, the SRRB urges diligent action by parties to the extent possible. This includes decisions and implementation long overdue from the 2016 *Délıne* hearing.

Note on Dene Kədə (Terminology)

Concepts and principles in this report are derived from the 2016 Bluenose East ʔekwé Hearing hosted by Délıne, as well as the 2020 PLS hosted by Colville Lake.⁶ Both proceedings involved participation by Parties and the public from all five Sahtú communities. The importance of these terms for precise communication is indicated in the fact that no exact parallels exist in English, and depending on context one term in Dene kədə may refer to different English concepts (and vice versa). For example, of the concept of ʔeʔá, which is referred to in this report, encompasses policy, code, regulation and law (because of the technical nature of the three English language terms in this cross-cultural context, we have chosen to use the English terms for the most part in this report). Godı kehtsı may refer to agreements, consensus-building, systems of mutual accountability, or ethical space. ʔetexé ʔeghálatseda may refer to working collaboratively together or co-management.

The Dene terms offered here reflect the diverse dialects present within these SRRB proceedings, as well as terms that are shared among dialects. More work is required to identify variation and document terms in Sahtú dialects. In this policy, the dialect in which terms are presented is specified both in an initial footnote, and in the glossary, except where current understanding is that the term bridges Sahtú dialects.

⁶ Both the Délıne 2016 Bluenose East ʔekwé Hearing Report and the Colville 2020 Report and Reasons for Decision include Dene kədə glossaries. Understanding of terms and spellings evolves, so there are minor variations through the sequence of documents.

Statement on H̱dó Gogha S̱eṉgots'í̱á (Community Conservation Plan) Policy



Background

The Sahtú Dene and Métis have always insisted on their right to maintain traditional ways of life (Dene ts'ı̱ı̱), including wildlife harvesting practices. From the earliest agreement with the Crown, Treaty 11 recognized and affirmed the Sahtú Dene and Métis rights to “pursue their usual vocations of hunting, trapping and fishing” in response to concerns raised about infringement.⁷ This promise lives on in the Chapter 1 objectives of the modern SDMCLCA, and in Chapter 13 on Wildlife Harvesting and Management.

Under the SDMCLCA, Indigenous participants were promised participatory rights to decision-making concerning wildlife harvesting and conservation. The agreement also created the Sahtú Renewable Resources Board and local Renewable Resources Councils (referred to in Dene language as ʔehdzo Got'ı̱ne̱). The SRRB's mandate involves working closely with ʔehdzo Got'ı̱ne̱; for this reason, the SRRB is referred to as ʔehdzo Got'ı̱ne̱ Gots'é Nákedı (helpers of the ʔehdzo Got'ı̱ne̱). The SRRB's purpose is to be “the main instrument of wildlife management in the Sahtú settlement area.”⁸ The SRRB seeks to fulfill its purpose in an ʔeḻexé ʔeghálats'eda (collaborative) framework.

Notwithstanding the laudable land claim objectives, many features of wildlife conservation in the Sahtú have continued to be driven by a non-Dene concept of management. Even the language of the SDMCLCA can appear antiquated given evolving understandings and best practices over the three decades since it was negotiated. Sahtú Dene and Métis have long asserted that the prevailing approach to wildlife conservation may not be culturally adapted to reflect the pursuit of their “usual vocation” of harvesting and conservation.

The SRRB recognizes a systemic imbalance in the accommodation of Indigenous knowledge and science within the co-management system. The prevailing approach uses centralized, coordinated authority, and relies heavily on quantitative science-as-evidence. It relies on the conception of wildlife as property or a resource, with agricultural values of managing productivity at its core. As the SRRB has heard, even the term “wildlife management” is incongruent with Dene and Métis cultures, values and spirituality, since “management” does not align with the core values of sharing and spiritual relationships between people and wildlife.

⁷ Canada, *Treaty 11* (www.rcaanc-cirnac.gc.ca: Canada, 1921, 1926).

⁸ *SDMCLCA*, *supra* note 5, s. 13.8.1(a).

At a leadership gathering convened by the Sahtú Secretariat Inc in 2015, the communities of the Sahtú made two consensus resolutions asserting that their perspectives were insufficiently reflected in the SRRB's 2008 decision to establish a total allowable harvest and tag system,⁹ and that community conservation planning is the effective approach:

That the Sahtú region continue the traditional laws of relationship with caribou through a Sahtú-developed caribou plan including a process of self-regulation, driven by community-based monitoring and decisions (Resolution 1.2).

The Sahtú region rejects the current imposition of tags on aboriginal harvesters by ENR under the *Wildlife Act Big Game Hunting Regulations* for Bluenose West and Bluenose East caribou in the Sahtú Region, as there is no traditional knowledge or science-based evidence of a caribou population level such that conservation measures of this nature are required under the terms of the Sahtú Dene and Métis Comprehensive Land Claim Agreement (Resolution 3).¹⁰

Evidence further supporting this perspective was presented by Sahtú community parties at the Délı̨ę 2016 Bluenose East ʔekwé (Barren-Ground Caribou) Hearing, as reflected in the SRRB's 2016 Hearing Report, *ʔekwé hé Dene Ts'ı̨ı Sustaining Relationships*¹¹ Over the five years since the 2016 hearing, the SRRB has been working with communities in the Sahtú Settlement Area to document effective and culturally appropriate community-based conservation systems. These systems have been practiced in Sahtú communities since before the imposition of the prevailing wildlife management approach, a fact the SRRB cannot ignore. For this reason, in 2017 the SRRB formally adopted a ɥı́dó gogha sę́nęgots'ı́á (community conservation plan - CCP) approach to implementing its mandate.

The SRRB decided to undertake an ambitious project to develop a better understanding of Sahtú Dene and Métis approaches to caribou conservation within the larger caribou conservation context, initiating a five-part Public Listening Session (PLS) series. The evidentiary record from the SRRB's Colville 2020 PLS, which focused on harvest regulation, shows that existing harvest regulation customs and practices of Sahtú Dene and Métis have been a viable conservation system. Sahtú parties understand the potential for CCP to reflect and represent their cultural rights as an integral feature of effective caribou harvest regulation while meeting the important goals of achieving conservation. CCP merit consideration when making conservation decisions in priority to more severe alternatives like total allowable harvest (TAH) limitations.

⁹ SRRB, *Report on a Public Hearing Held by the Sahtú Renewable Resources Board & Reasons for Decision on the Setting of a Total Allowable Harvest for the Bluenose - West Caribou Herd* (www.srrb.nt.ca: SRRB, 2008).

¹⁰ SRRB and SSI, *Caribou Meeting Record* (www.srrb.nt.ca: SRRB, 2015).

¹¹ SRRB, *ʔekwé hé Dene Ts'ı̨ı Sustaining Relationships. Final Report of the ʔehdzo Got'ı̨ę Gots'ę Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016* (www.srrb.nt.ca: SRRB, 2016).

On this basis and within its mandate as “the main instrument of wildlife management” in the Sahtú region, the SRRB has decided to establish a *Hı́dó Gogha Śnégots’ı́á ʔeáá* (*Community Conservation Plan – CCP Policy*). By providing the CCP Policy now, the SRRB hopes to provide additional clarity and justification for its positions following upon the Minister’s January 29 response to the Colville 2020 PLS Report. The SRRB relies on its authority under the SDMCLCA to establish policies with respect to wildlife harvesting for the CCP Policy.¹²

Why Hı́dó Gogha Śnégots’ı́á Policy?

The SRRB determined that establishing a *Hı́dó Gogha Śnégots’ı́á ʔeáá* (CCP Policy) could outline the “why” for CCP consideration. Policies are systems of principles or rules to guide decisions and actions. This policy draws upon general principles of Dene caribou conservation identified in the Déłı́ne 2016 Bluenose East ʔekwé Hearing and confirmed in the Colville 2020 PLS, while drawing on best practices outlined in documents such as the Advisory Committee for Cooperation on Wildlife Management (ACCWM) *Taking Care of Caribou* plan for Cape Bathurst, Bluenose-West, and Bluenose-East barren-ground caribou herds.¹³

Under the present implementation of the co-management regime established under the SDMCLCA and other modern land claims, conservation planning has already achieved a new level of complexity, enhancing its hybridity or cross-cultural character. Planning recognizes and celebrates the role of Indigenous peoples at the centre of conservation. Planning is now informed not only by global forces of climate change, but also by processes of social change, including the shifts introduced with the contemporary mixed/global economy, as well as requirements for working across newly introduced jurisdictional boundaries and governmental systems. In order to support community efforts to address these new pressures in the context of caribou conservation planning, the SRRB and our local ʔehdzo Got’ı́ne ʔeáá partners sought out a toolkit. A good option, known as Healthy Country Planning (HCP), was developed by Indigenous peoples in Australia.

HCP is an Indigenous adaptation of the Open Standards for the Practice of Conservation, an “adaptive management” toolkit. The Open Standards are now being used by countries across the globe. The more recently developed HCP toolkit from the Australian Indigenous experience is rapidly expanding in recognition among Indigenous peoples internationally, where it is being adapted for local use with support from the Conservation Coaches Network (CCN) and others. Key benefits of HCP as presented by the CCN are:

¹²¹² *SDMCLCA*, *supra* note 5, s. 13.8.23

¹³ Advisory Committee for Cooperation on Wildlife Management, *Taking Care of Caribou: the Cape Bathurst, Bluenose-West, and Bluenose-East barren-ground caribou herds management plan*. (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, 2014).

- Places Indigenous knowledge and community values as the driver of the conservation planning process
- Structured process to empower local decision-making and place-based solutions
- Uses language that is clear and locally relevant
- Simple and easy to understand while exploring complex issues at many scales
- Provides a clear connection between vision, values, concerns and on-ground actions
- Outputs and tools are highly visual, making plans accessible and giving identity and ownership
- Forms a clear basis for investment, funding, job programs and operations¹⁴

Déljñé Got'jñé and the SRRB first encountered Australian HCP coach Stuart Cowell in 2014 at an Open Standards workshop sponsored by ENR in Yellowknife. This workshop inspired Déljñé to undertake community-based conservation planning in preparation for the 2016 Bluenose East ʔekwé Hearing. Déljñé's *Belare Wile Gots'é ʔekwé (Caribou for All Time)* plan¹⁵ was approved by the SRRB and the Minister. At this point, the SRRB adopted a wider approach to CCP, outlined in its 2016 Hearing Report. The SRRB incorporated CCP into its 2017-2020 Strategic Plan. The success of Déljñé's planning work inspired Tulít'a and Norman Wells ʔehdzo Got'jñé to work with the Tu ʔidlini (Ross River) Dena Council to develop a plan addressing their conservation concerns regarding shúhta goʔepé,¹⁶ and was a catalyst for Colville to develop their *Dehlá Got'jñé ʔada Plan* and *Ts'jduweh ʔada ʔeʔá*.¹⁷

The SRRB has been involved in facilitating processes to document Sahtú Dene and Métis perspectives to enhance the fulfillment of its mandate and the implementation of the SDMCLCA. The five-part PLS series is intended to facilitate ongoing review and consideration of CCP. This policy seeks to explain the SRRB's understanding of CCP as an approach to achieving conservation in a way that more fully reflects the objectives of the SDMCLCA and advances reconciliation. The SRRB depends on the commitment and contribution of its co-management partners to articulate the CCP Policy and implement the approach. This CCP Policy is a work in progress.

¹⁴ www.ccneglobal.com/resource/healthy-country-planning

¹⁵ Déljñé First Nation, Déljñé ʔehdzo Got'jñé (Renewable Resources Council), and Déljñé Land Corporation, *Belarewile Gots'é ʔekwé / Caribou for All Time: A Déljñé Got'jñé Plan of Action 2016* (2016).

¹⁶ Nío Nę P'ęñé Working Group (compiled by Janet Winbourne), *Nío Nę P'ęñé Begháré Shúhta Goʔepé Narehʔá / Trails of the Mountain Caribou Plan* (www.srrb.nt.ca: SRRB, June 2019 2019).

¹⁷ Colville Lake Renewable Resources Council, *Dehlá Got'jñé ʔada Plan* (10/21/19 2019). Colville Lake Renewable Resources Council, *Dehlá Got'jñé Ts'jduweh ʔada ʔeʔá, 2019 / Dehlá Got'jñé Ancient Caribou Law, 2019* (10/21/19 2019).

Hı́dó Gogha Sė́nė́gots'ı́á (Community Conservation Plans - CCP)

Hı́dó gogha sė́nė́gots'ı́á refers to community-led conservation planning for the future. This kind of work has always been inherent within Dene and Metis governance systems. More recently, this concept has been applied to the plan documents that serve as vehicles for communication, accountability and evaluation. In the Sahtú region, CCP draws on principles of ɔ́sı́ı́ godı́ hé Dene ts'ı́ıı́ hé (biocultural diversity), ɔ́edets'ė́ k'áots'erewe (self-regulation), and godı́ kehtsı́ (ethical space) and allows for documenting the role of these long-standing principles and practices in the modern conservation context.

Sahtú Dene and Métis often refer to themselves as “cold climate peoples” and this environmental context brings with it very specific planning disciplines. Planning requires sophisticated knowledge and awareness of numerous environmental variables, including seasonal changes and shifts in wildlife populations and habitats. Planning has always been cross-cultural and cross-scalar, incorporating knowledge gained from interactions of harvesting families, communities and regions across huge landscapes. The intricate and expansive network of trails documented in the Dene Nation Mapping Project of the 1970s goes some way to documenting this.

In 2016, the SRRB made the following decisions:

The ɔ́ehdzo Got'ı́nė́ Gots'ė́ Nákedı́ (Sahtú Renewable Resources Board) will prioritize support for ɔ́ełexé ɔ́eghálats'eda (collaborative) research, community-driven conservation planning, and community environmental leadership development as essential components of robust ɔ́ełexé ɔ́eghálats'eda goɔ́ekwé¹⁸ (caribou co-management) in the Sahtú Region. (Hearing Decision 14)

The ɔ́ehdzo Got'ı́nė́ Gots'ė́ Nákedı́ (Sahtú Renewable Resources Board) will exercise its power under the SDMCLCA to review and approve community, regional and cross-regional Bluenose East ɔ́ekwé conservation plans, and to contribute to ɔ́ełexé ɔ́eghálats'eda (collaborative) implementation of approved plans. (Hearing Decision 15)¹⁹

In the Minister's response to the 2016 Déı́ı́nė́ Hearing Report, the Minister generally agreed that community-based conservation plans can be effective, or even a critical success factor, noting:

¹⁸ Déı́ı́nė́ dialect.

¹⁹ *Supra* note 11.

Management of a caribou herd, including the very sensitive management of Aboriginal harvest, is most likely to succeed if it is rooted in ways of managing that are community-based, consistent with traditional laws, and broadly supported.²⁰

Under its authority to establish policies, these decisions have come to form the basis of a policy position. The SRRB confirmed its position during the current Colville 2020 PLS, relying on the evidence presented, tested and considered.

It is SRRB policy that **hjdó gogha sénégot's'ízá (community conservation plans – CCP) are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits which are only to be used when required and to the extent necessary.**

This policy runs counter to the prevailing conservation approach that emphasizes quantitative harvest limits, which appears to be the primary option considered by Government. The SRRB seeks to help the Minister understand that where CCP alternatives are available, they should be preferred to quantitative limitation to avoid restricting harvesting rights unnecessarily. To be clear: *quantitative limitations should not be considered the minimal infringement when CCP alternatives are available.*

The SRRB is establishing this policy to provide guidance to parties about its interpretation of its mandate in light of the objectives of the SDMCLCA, in both Chapter 1 and Chapter 13. The SRRB has read the language of the SDMCLCA very closely and understands that although the SRRB is empowered to impose quantitative harvest limits, it is not bound to do so. The SRRB is concerned when quantitative harvest limits are considered in place of other less intrusive means to advance conservation, particularly when there is evidence that the cultural perspectives of the rights-holders affected are not reflected in the conservation approach.

The SRRB understands that, in fact, there exists a rigorous system for harvest regulation in Dene culture. Understanding, documenting and adapting the caribou conservation approach to reflect this fact fulfills the promises of the SDMCLA instead of imposing restrictions

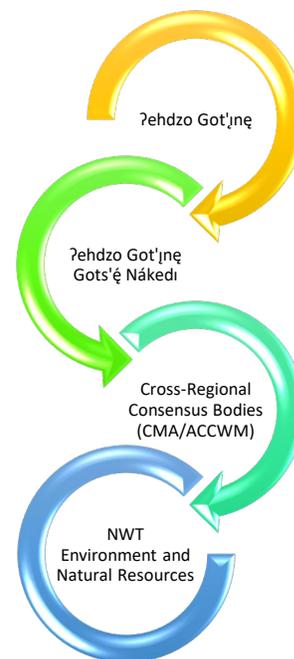


Figure 3: A co-management accountability framework including local ʔehdzo Got'ineᑦ; the ʔehdzo Got'ineᑦ Gots'é Nákedí (SRRB); cross-regional consensus bodies including the Conference of Management Authorities on Species At Risk (CMA) and Advisory Committee for Cooperation on Wildlife Management (ACCWM); and NWT Environment and Natural Resources.

²⁰ GNWT, ENR Minister Letter to SRRB: SRRB Report July 28, 2016: Hearing Decisions and ENR Responses (www.srrb.nt.ca, 9/26/16 2016). 1.

on the expression of those rights. There is little disagreement about the present caribou conservation concerns, but the prevailing approach does not provide sufficient consideration of Dene and Métis perspectives.

On this basis, the SRRB has continued its work with Sahtú communities on CCP. CCP is an approach that puts the community conservation paradigms first. The SRRB's decisions to adopt the CCP approach are based on the Board's finding that achieving conservation can result from processes that are more rights-compliant and have local communities at their foundation. In the Sahtú, CCP development has been community-driven and collaborative in the spirit of Ɂełexé Ɂeghálats'eda (co-management).

Adapted from the Australian Indigenous Healthy Country Planning (HCP) approach, CCP can respect Sahtú Dene and Métis harvesting and wildlife management customs and practice while advancing conservation outcomes or addressing conservation concerns. The SRRB understands that ENR has sponsored training in HCP in the context of Indigenous Protected and Conserved Areas initiatives, and the HCP toolkit has been successfully adapted for the Sahtú context to address caribou conservation concerns. As previously noted, HCP places Indigenous knowledge and community values at the core of the conservation planning process.

The CCP approach allows for appropriate consideration of Sahtú Dene and Métis perspectives within and in compliance with wildlife management frameworks set out in the SDMCLCA. CCP incorporate systems of accountability applicable to co-management partners.

Local Ɂehdzo Got'ıneɁ seek recognition and support for their plans by the SRRB, other regions, and ENR – keeping in mind shared conservation objectives. For this reason, Ɂehdzo Got'ıneɁ Ɂełexé Ɂeghálats'eda (work collaboratively) with partners at key points in planning processes. DélıneɁ involved the SRRB and ENR in all stages of planning, and the plan reflects community responses to questions posed by their partners. Tulít'a, Norman Wells and Tu ıidlini took a similar collaborative approach, expanding the scope of partnership to include federal government and non-government organisations. Colville collaborated with ENR in developing an *Interim Management Agreement* for implementation of aspects of their plan.²¹ DélıneɁ, Tulít'a, Norman Wells and Colville have all actively participated in cross-regional processes when offered opportunities (including at ACCWM, North American Caribou Workshop, etc.).

²¹ Behdzi Ahda First Nation et al., *Ɂade 2019-2021 Interim Management Agreement* (www.srrb.nt.ca: SRRB, 2020).

Hjdó Gogha Sėnégots'ıá Components

In 2016, the SRRB defined an initial list of CCP Components as a starting point to assess whether a community conservation plan contains minimum required elements to be considered complete and ready for review and possible approval.²²

These CCP Components were further considered and developed during the Colville 2020 PLS.²³ Since then, the SRRB has refined the list of CCP Components to prepare checklists developed for the Délıne 2021 PLS.²⁴ This definition of CCP Components remains an iterative process. At this point, there has been a greater level of analysis of the harvest regulation components, given that this was the central focus of the Colville 2020 PLS. This is also likely to involve the most tension with the prevailing approach as set out in the current regulatory framework under the *Wildlife Act*.

CCP entails a holistic view of caribou conservation, particularly given the important interactions caribou conservation has on people – especially Indigenous harvesters – and culture in the Sahtú region and beyond. The SRRB heard about the work done on CCP in all five Sahtú communities at the Colville 2020 PLS. Their plans were in different stages of development, and many serious questions remain unresolved. As the PLS process is designed, the SRRB expects that the five-part PLS series will lead to further

List of Hjdó Gogha Sėnégots'ıá Components

1. Identification of key issues and knowledge gaps in conservation
2. Dene concepts and terminology related to conservation issues, programs, and actions
3. Research and conservation programs, actions, and timelines for addressing priority issues and knowledge gaps
4. Approaches for ıedets'ė k'áots'erewe (self-regulation) and regional/cross-regional accountability in plan implementation, including:
 - a. Consideration of the appropriate seasons of harvest and harvest locations and zones
 - b. Community sharing protocols and godı kehtsı (agreements) with other users within and beyond the Sahtú, including a protocol for implementation reporting
5. Coordination, including engagement and decision-making within communities in developing plans

Adapted from 2016 SRRB Hearing Report.

²² *Supra* note 11 at Figure 5, 44.

²³ SRRB, *Sahtú Ragóıa (Hunting Law) and Approaches to Wildlife Harvesting: Colville 2020 Public Listening (Hearing) Session Report and Reasons for Decision* (www.srrb.nt.ca: SRRB, 2020). Appendix H, 168.

²⁴ SRRB, *Tıch'ádıı hé Gots'edı (Living with Wildlife) – Predators and Competitors: Checklist for Community Plans* (www.srrb.nt.ca: SRRB, 2020).

development of CCP by the five Sahtú communities, and a revised list of CCP components that evolves during the process.

The primary issue remains the conservation of caribou. As the main instrument of wildlife management under the SDMCLCA, the SRRB understands that community conservation planning should proceed as the most effective approach to conserving caribou in the Sahtú region. The SRRB considers it appropriate, after more than five years of work on CCP, to establish a policy in this regard.

The SRRB also understands that a lot of work has gone into developing the prevailing approach to caribou management. It may take time for non-Indigenous people to understand and agree to an approach that cedes space for Indigenous leadership and cultural perspectives that are not part of the dominant wildlife management paradigm. However, Sahtú communities have made their positions clear and they are the rights-holders. Dene and Métis harvesters and ʔehdzo Got'jneᑦ have their own ways of doing things. The SRRB is merely the “main instrument,” conveying this important perspective as part of its mandate. This policy is intended to aid the Minister in their exercise of their authority and meeting their constitutional responsibilities.

When the SRRB considers the central importance of the right to harvest caribou for Sahtú Dene and Métis, the SRRB has determined that such decisions warrant the highest degree of accommodation and minimum infringement on the basis of common law principles set out in cases known as *Sparrow*, *Badger*, and *Delgamuukw*. If this modern treaty is interpreted ungenerously to impose restrictions that exceed minimal infringement, are the objectives of the SDMCLCA being met?

The Minister represents the honour of the Crown when fulfilling ENR's role in the SDMCLCA decision-making process, and the SDMCLCA should facilitate reconciliation between Government and Indigenous signatories. The SRRB is cautious not to make assessments of constitutional law outside of a specific factual setting. The SRRB acknowledges that it is not expected to hold constitutional law expertise, so its decisions in this regard will not be given deference. Nonetheless, its work cannot help but engage constitutional law.

The SRRB has considered the public's interest in CCP. The SRRB takes an ʔasj̄j̄ godí hé dene ts'j̄lj̄ hé approach because the people, the land and the caribou are part of the same conservation context. The SRRB cannot ignore that Sahtú ragóʔa (hunting law) directly impacts issues like food security and cultural expression. The local affected population is also significantly Indigenous. These rights-based issues have to be weighed against privileges for recreational or commercial activities. Dene and Métis residents of these communities have a distinct set of Aboriginal rights, were here long before Canada asserted its sovereignty, and are considered citizens by the Government. The perspective taken to consider these issues is intended consider the spirit and intent of the SDMCLCA, the goal of reconciliation, the premises in the United

Nations *Declaration on the Rights of Indigenous Peoples* and Indigenous self-determination. In the circumstances, the public interest is served by upholding these citizens' rights, fulfilling implementation promises made in modern land claims, and advancing reconciliation.

Cross-regional issues are important. Fortunately, each Indigenous user group has a long tradition of living as neighbours and harvesting caribou. All share immense concerns about the status of caribou, as well as maintenance of Indigenous cultural integrity, concerns that can be addressed with principles like biocultural diversity and approaches like CCP. ACCWM processes facilitate dialogue, and the SRRB will continue to support those initiatives.

CCP processes have integrity if they are community led and owned. This does not mean that there is no oversight – on the contrary, CCP approaches support a greater level of accountability than has been possible in the prevailing externally imposed and conflict-based system. However, CCP is not administratively convenient and requires active engagement and support. All the best aspects of regional and cross-regional collaborative management will be required to find solutions that are acceptable to all parties.

Hjdó Gogha Sėnégots'ı́á Principles

The present policy is centred on three interdependent principles that guide community-led plans in the Sahtú region. The principles summarized here are discussed in more detail in the section that follows.

1. **ᑭásı́ı Godı́ hé Dene Ts'ı́ıı hé (Biocultural Diversity)** - Dene expect decisions that affect them to account for ᑭásı́ı godı́ hé Dene ts'ı́ıı hé (all living things and Dene ways of being).
2. **ᑭedets'ė́ K'áokerewe²⁵ (Self-Regulation)** - In Dene ᑭedá (law) people and wildlife are called upon to respect each other's autonomy as a basis for social cohesion and survival in a harsh environment through ᑭedets'ė́ k'áots'erewe.
3. **Godı́ Kehtsı́ (Ethical Space)** - Dene and Métis participation in conservation efforts with Government depends on godı́ kehtsı́ (fair consideration or coming together of diverse perspectives), including science and Indigenous knowledge through ᑭedexé ᑭeghálats'eda (collaborative) systems of accountability.

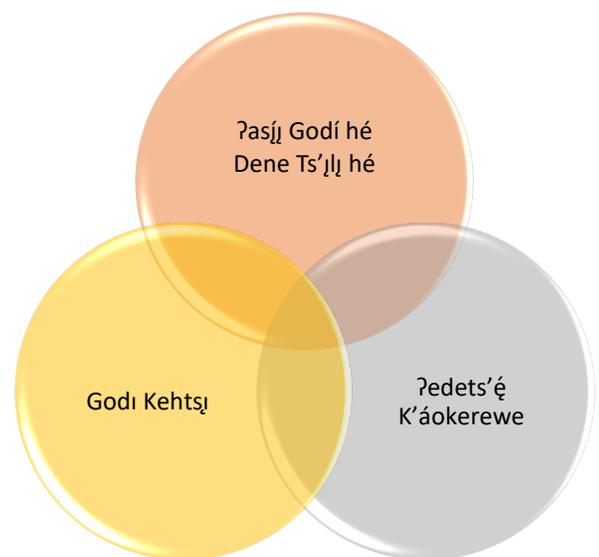


Figure 4: Three intersecting principles in CCP.

²⁵ Déıııę dialect.

Principle 1: ʔasʔı́ Godí hé Dene Ts'ı́lı́ hé (Biocultural Diversity)

Dene expect decisions that affect them to account for ʔasʔı́ godí hé Dene ts'ı́lı́ hé (all living things and Dene ways of being – biocultural diversity). The English term biocultural is a contraction that incorporates the duality of biological and cultural perspectives. The concept reflects biological, cultural and linguistic expression of life as part of a holistic understanding of ecological and social systems in Indigenous homelands. An expanding body of research is demonstrating linkages between ecological diversity and the health and diversity of Indigenous cultures, drawing on language diversity as a key indicator. The principle of biocultural diversity, then, invokes commitments to consider both the well-being of Indigenous cultures and the well-being of other living things in conservation efforts. Such an understanding is consistent with Article 8(j) of the *International Convention on Biodiversity*, which asserts that the conservation of biodiversity must encompass indigenous knowledge and ways of life.²⁶

During the 2007, 2016 and 2020 caribou proceedings convened by the SRRB, Dene and Métis parties and community members provided evidence that caribou are vital to Dene ts'ı́lı́. According to this view, caribou and the Indigenous peoples that harvest caribou as part of Dene ts'ı́lı́ are part of the same ecosystem. In the Sahtú region, wildlife conservation is understood by way of a ʔasʔı́ godí hé Dene ts'ı́lı́ hé perspective highlighting relationships between well-being of people and caribou. The ʔasʔı́ godí hé Dene ts'ı́lı́ hé scope adopted by the SRRB considers caribou health and the wellbeing of Indigenous peoples and ways of life to be connected. Accordingly, following the 2016 Bluenose East Hearing, the SRRB formally adopted a biocultural approach to weighing the evidence, and has sought to arrive at decisions that address ʔasʔı́ godí hé Dene ts'ı́lı́ hé. This approach was reflected in the SRRB's 2017-2020 Strategic Plan, and is now reconfirmed in the 2021-2025 Strategic Plan.

The SRRB has called a five-part series of Public Listening Sessions (PLS) to address hot topics in caribou conservation. Consistent with the principle of ʔasʔı́ godí hé Dene ts'ı́lı́ hé, the PLS series encompasses all three ecotypes of caribou that inhabit or travel through the Sahtú region – including ʔadə/ʔekwé/nódele (barren-ground), tǫdzı́ (boreal) and shúhta goʔepé/shíhta goʔadə (mountain) caribou, and their sub-populations or herds. As well, the SRRB emphasizes the importance of Dene ts'ı́lı́ as part of the conservation context, facilitating submission of evidence about issues such as the state of people's relationships with caribou, Dene béré (country food) security, and the role of intergenerational exchange in transmission of knowledge and skills in caribou conservation. A biocultural approach includes people in all aspects of socio-ecological governance.

²⁶ www.cbd.int/traditional.

Principle 2: ʔedets'ę K'áots'erewe (Self-Regulation)

In Dene ʔeʔá (law) people are called upon to respect each other's autonomy as a basis for social cohesion and survival in a harsh environment through ʔedets'ę k'áots'erewe. This extends to wildlife, which is considered part of the biocultural environment. Numerous Dene stories elucidate this principle and its centrality to Dene ʔeʔá (law). The intimacy of relationships between people and caribou and the nature of ʔedets'ę k'áots'erewe is especially highlighted in stories where caribou become people and people become caribou (such as the story that prefaces Déljné's plan). This perspective is in tension with the concept of managing caribou as property for maximum productivity.

ʔedets'ę k'áots'erewe is a foundational conservation principle for Dene. Referring to both people and other living things, this principle reflects a biocultural approach, and underpins Déljné's vision in the *Belare Wile Gots'ę ʔekwé* plan that "Dene and ʔekwé are free to maintain their relationships through their own ʔeʔa."²⁷ Similarly, the *Nío Nę P'ęné Begháré Shúhta Goʔepe' Narehá* (*Trails of the Mountain Caribou*) plan developed by Tulít'a and Norman Wells RRCs and Tu łidlini (Ross River) Dena Council presents a vision of peoples and shúhta goʔepé co-existing peacefully, sharing, and travelling freely.²⁸ The "ʔadə Declaration" prefacing Colville's *Dehlá Got'jné ʔadə Plan* centres concepts of mutual responsibility and reciprocal gifts that are foundational for ʔedets'ę k'áots'erewe.²⁹

People are consistently called upon to evaluate their practices in relation to caribou by imagining how they would feel if they were a caribou. This prohibits greed and disrespectful or controlling behaviour among wildlife, among people, or between people and wildlife. These social-ecological norms are customary ʔeʔá (legal practices) that pre-date contact, and remain in use today. Contravening Dene ʔeʔá can lead to the disastrous consequences of cultural and spiritual starvation and death, both literally and figuratively.

Wildlife give themselves as food where there is respectful conduct. There are consequences for disrespectful conduct, such as talking disrespectfully about caribou, hitting caribou with a stick, corralling caribou, or improper disposal of carcasses. Disregard for the tenets of ʔedets'ę k'áots'erewe can mean the caribou go away and no longer offer themselves as food for people.

Taking account of ʔedets'ę k'áots'erewe respects this important Dene custom of harvesting without managing people or wildlife, both of which are autonomous, co-dependant and worthy of respectful conduct.

²⁷ *Supra* note 15 at 2.

²⁸ *Supra* note 16 at 16.

²⁹ *Supra* note 17 at 1.

Principle 3: Godı Kehtsı (Ethical Space)

Dene and Métis participation in conservation efforts with Government depends on fair consideration of two perspectives, commonly referred to as Indigenous knowledge and science. Despite recognition of rights in a modern land claim, it should not be controversial to say there is still work to do before meaningful accommodation of cultural perspectives occurs. The prevailing wildlife management system continues to rely primarily on quantitative scientific studies and models based on which sustainable harvest is calculated, and harvest limitations such as TAH are proposed. Indigenous peoples are left to challenge or confirm the assessment of the conservation status, or barter over the TAH. This should not be considered sufficient accommodation of Indigenous knowledge, and moreover poses serious challenges for conducting appropriate consultation (including accommodation) and making decisions within the co-management framework.

Canada's system of administrative law seeks to accommodate a wide range of decision-making settings. These accommodations arose to constrain the authority of the state. Nonetheless, a hearing (or even a Public Listening Session) imposes a degree of formality otherwise uncommon in activities related to wildlife harvesting. Procedural fairness is a key accommodation requirement, adapted to the circumstances of the decisions being made and their impacts on the affected parties.

The procedural context in which the SRRB operates is heavily influenced by the culture of Sahtú Dene and Métis. The history of negotiations makes this clear. The SRRB was established as soon as the SDMCLCA was enshrined in Canadian law. This is especially the case with respect to conservation of a cultural keystone species such as caribou, which affects rights central to the participants governed by the SDMCLCA.

As part of the PLS proceeding, the SRRB has determined that accommodations are required to allow parties to document and present evidence. Dene ɁɁá (law) can and should be considered on a priority basis for conservation approaches. Communities can only be meaningful co-management partners if they have space to define and propose conservation plans themselves. The key role of Dene ɁɁá may require time and specific effort to review, develop, present and understand.

The SRRB seeks to create appropriate and godı kehtsı (ethical space) that allows for reasonable consideration of Dene and Métis knowledge along with science in matters of caribou conservation. The evidence before the tribunal directs the discussion. When there is robust evidence, decisions made relying on that evidence are better. Until now, documentary evidence from Dene perspectives has been insufficient. This risks outcomes that are unfair and imbalanced.

Indigenous evidence needs to be on the record, despite being historically undocumented. Enhancing recognition of Indigenous knowledge and science is within the SRRB's mandate and its role in the Sahtú. This godı kehtsı approach applies as a principle of CCP and effective tribunal conduct in a modern land claims context. Fair consideration may be manifested in ethical spaces that enable diverse peoples and their knowledge systems to be equally considered. A godı kehtsı approach to fair consideration requires flexibility and mutual respect among all Parties.

Analysis of Responses to Decisions and Recommendations



Overview

A total of twelve decisions and recommendations from the October 30 SRRB Report were accepted by ENR. These are not specifically addressed in this report.

As outlined in this section, the SRRB revised three decisions (D1.1/ D2.1/ D3.1) and five recommendations (R4.3/ R4.4/ R5.1/ R5.2/ R7.5), and provided reasons for the revisions. Two revised decisions (D2.1/ D3.1) directly impact CCPs. One invites Colville Lake to submit its complete *Dehlá Got'ıne ʔada Plan and Ts'ıduweh ʔada ʔeʔá (Ancient Caribou Law)* to the SRRB, and the other invites Délıne ʔ to submit its complete and community-approved *Belare Wıle Gots'ı ʔekwı (Caribou for All Time)* plan.

A series of decisions and recommendations (D.1.2/ R4.1/ R.4.2/ D6.1/ R6.1) relate to the role of Dene ʔeʔá, existing regulatory or interpretive restrictions, and the role of ʔehdzo Got'ıne. The SRRB addresses specific questions arising from the Minister's response and identifies opportunities to address these through the four upcoming PLS (2021-2024). The SRRB addressed these issues from a "next steps" perspective.

Table 1 summarizes the status of decisions and recommendations. The final section of the table (section 11) includes four topics addressed in comments from parties following the January 29 Minister's Response. These provide context for this report and the SRRB's review of October 30 decisions and recommendations.

Table 2: State of Decisions/Recommendations to Date

#	Topic	ENR /SRRB Accepted	SRRB Revised	SRRB Deferred
1. Conservation Picture: Caribou, People, Planning				
D1.1	Harvest regulation-CCP	0	1	0
D1.2	Stewardship responsibility	0	0	1
D1.3	Youth roles in PLS	1	0	0
R 1.1	Shúhta Goʔepı Harvest Regulation	1	0	0
R1.2	Dene béré (country food) campaign	1	0	0
R1.3	Nı K'ádı Ke (Keepers of the Land) programs	1	0	0
2. Dehlá Got'ıne ʔada Plan and Ts'ıduweh ʔada ʔeʔá (Colville Lake)				
D2.1	Colville's Plan as a Sahtú CCP	0	1	0
3. Belare Wıle Gots'ı ʔekwı and Dene Béré Belare Wıle Plans (Délıne ʔ)				
D3.1	2019 edition of Délıne ʔ' s plan	0	1	0

#	Topic	ENR /SRRB Accepted	SRRB Revised	SRRB Deferred
4. Authorizations				
R4.1	Colville RRC power to authorize harvesters	0	0	1
R4.2	CCP Regulation	0	0	1
R4.3	Colville and ENR Interim Agreement 1	0	1	0
R4.4	Colville and ENR Interim Agreement 2	0	1	0
R4.5	Déłıne and ENR Interim Agreement	0	1	0
5. Enforcement Mechanisms				
R5.1	Alternative Measures	0	1	0
R5.2	Colville and ENR Interim Agreement- Enforcement	0	1	0
6. Total Allowable Harvest				
D6.1	Remove total allowable harvest	0	0	1
R6.1	Remove tag requirement in S/BC/01 and S/BC/03	0	0	1
R6.2	Colville to work with neighbouring groups	1	0	0
7. Zoning Issues				
R7.1	Dene name for S/BC/01	1	0	0
R7.2	Dene name for S/BC/02	1	0	0
R7.3	Dene name for S/BC/03	1	0	0
R7.4	Collaborative research in S/BC/02	1	0	0
R7.5	CCP for S/BC/02	0	0	1
8. Wildlife Act Residency and Hunter Education Requirements				
D8.1	Wildlife Act Residency and 2021 PLS	1	0	0
9. Special Harvesting Areas				
R9.1	Special harvesting areas implementation	1	0	0
10. Capacity Support for Community Conservation Planning				
D10.1	Capacity support and program funding for CCP	1	0	0
11. Other topics addressed in party comments				
NA	Support for Dehlá Got'ıne comments (Feb 25/21) and plan			
NA	UNDRIP rights			
NA	Indigenous conservation systems			
NA	Wildlife co-management system-migratory species			
Totals		12	8	6

1. The Conservation Picture: Caribou, People, and Planning

Decision 1.1 Harvest regulation and Community Conservation Planning

SRRB Analysis of the Minister's January 29 Response

The SRRB counts on the Minister's support for the community conservation planning approach. The SRRB began its work in earnest after the 2016 Bluenose East Hearing and developed the policy foundations for the CCP. As the Minister recognized, conservation measures are stronger when they are rooted in community-based management, consistent with Dene ɁeɁá, and broadly supported. For five years the SRRB has been working with communities in the Sahtú Settlement Area to document effective community-based conservation approaches.

In the context of the SRRB's Colville 2020 PLS, the evidentiary record shows that harvest regulation customs and practices of Sahtú Dene and Métis are a viable conservation approach. Sahtú harvesters understand the potential for CCP to reflect and represent their cultural rights as an integrated feature of effective caribou harvest regulation. The SRRB recognizes and appreciates ENR's funding for training in Healthy Country Planning (HCP), which served as the model for CCP. This is a good demonstration of the Government's work to better understand and disseminate this approach. Supporting and accommodating CCP should not be optional where community harvest regulation operates.

The ecosystem is dynamic, so conservation planning must be adaptive. CCP will require ongoing maintenance, as any good plan should. The SRRB sees CCP implementation monitoring as essential. Where CCP includes harvest regulation, harvest reporting is required. Communities that are closest to a given caribou herd are going to be more implicated in some form of leadership (see more below). As a culturally appropriate vehicle for conservation, CCP encompass Dene ts'ı̄l̄ı̄ (ways of life) and Dene béré (country food) systems. Youth must be involved.

The SRRB understands the complex inter-regional issues that arise in caribou harvest regulation. The SRRB, however, cannot delegate its jurisdiction nor the authority of the SDMCLCA in the Sahtú Settlement Area to advisory bodies like the ACCWM. The *Taking Care of Caribou* plan provides an important guide; the SRRB remains committed to its implementation. That does not preclude additional measures at the community level, particularly those like the CCP that are in line with conservation actions outlined in the *Taking Care of Caribou* plan and herd-specific Action Plans developed by the ACCWM based on annual status assessments. Well prepared CCP depends on effective dialogue among wildlife management authorities and harvester groups. No conservation approach can succeed without Ɂetexé Ɂeghálats'eda. Regional conservation plans and CCP are not mutually exclusive.

The SRRB is concerned with the Minister’s proposed formulation that harvest regulation measures will reflect CCP “where appropriate.” On the basis of an ɔ́sɔ́jɔ́ godí hé Dene ts’ɔ́lɔ́ hé approach to CCP, caribou, people and planning are inter-related. The CCP approach recognizes the role present and future wildlife harvesting has for Sahtú Dene and Métis first, as the basis for considering actions connected to the specific conservation situation of caribou. For this reason, the SRRB decided that CCP is required. This work is intended to be part of a dialogue ongoing via the PLS series. There are long-standing practices applied in “wildlife management” that will need to be adjusted in order to accommodate relevant – but not always aligned – Indigenous perspectives.

Any given CCP will only have the force granted to it by the relevant authorities. In many respects, legal authority over harvest regulation is within the Minister’s hands to regulate; in many respects, Indigenous peoples have always had an inherent right to self-determination in matters of conservation. The SRRB has determined that CCP addresses SDMCLCA objectives for meaningful participation by Sahtú Dene and Métis participation in harvest regulation. The SRRB invites the Minister to undertake the serious consideration necessary to assess the accommodation opportunity CCP presents to conservation management, the goals of which are shared by all.

SRRB Revised Decision 1.1

Harvest regulation for all caribou populations within the Sahtú region will reflect community conservation planning measures. When ready for submission and review, community conservation plans will be assessed against the SRRB’s Hɔ́dó Gogha Sɛ́nɛ́gots’íɔ́ (Community Conservation Plan) Components, and when approved, forwarded to the Minister.

Decision 1.2 Primary responsibility for stewardship

SRRB Analysis of the Minister’s January 29 Response

The Minister’s response does not reflect Dene ɔ́ɔ́á on the record of the Colville 2020 PLS. Sahtú communities recognize a customary practice providing a leadership role for the community closest to where the caribou are. The Colville 2020 PLS included evidence from hearing parties that communities acknowledge and support specific leadership roles for individual communities in intra-regional conservation management. The SRRB respects this custom and practice. In the case of Colville Lake, the leadership role includes ɔ́ɔ́ɔ́. The community that “primarily harvests” has a particular stewardship role that is distinct, and it differs from the general stewardship role shared among all communities.

In the context of an approved CCP, community leadership includes a governance role and corresponding accountability in an area. This issue is subject to additional analysis under Recommendation 4.1 below. CCP facilitates this kind of leadership in a way that is

complementary to concurrent conservation efforts, including the framework for conservation actions set out in the *Taking Care of Caribou* plan, in a way that respects an existing Indigenous conservation system.

Decision 1.2 Next Steps

The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ɁeɁá. The Minister's position is already codified in current regulation or outlined in previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of Ɂehdzo Got'Inę (Renewable Resources Councils) with respect to the management of wildlife harvesting.

Decision 1.3 Youth roles in Public Listening Sessions

Accepted Decision 1.3

The Minister has accepted the SRRB's decision, as follows:

The SRRB has decided that youth will be invited to play meaningful roles in the entire process for future public listening sessions.

Recommendation 1.1 Shúhta GoɁepé Harvest Regulation

Accepted Recommendation 1.1

The ENR Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that a proposal for harvest regulation of shúhta goɁepé (mountain caribou) be co-developed by Tulít'a and Norman Wells and submitted to the SRRB for consideration as part of the 2021-2024 series of public listening sessions.

Recommendation 1.2 Dene béré (country food) campaign

Accepted Recommendation 1.2

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that a Dene béré (country food) campaign be collaboratively developed by the Nę K'ə Dene Ts'ı̨ Forum in accordance with the NWT's Sustainable Livelihoods Action Plan, 2019-2023, as well as conservation objectives embodied in community caribou plans.

Recommendation 1.3 Nę K'ádı Ke (Keepers of the Land) programs

Accepted Recommendation 1.3

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that communities and the Sahtú Dene Council continue to develop Nę K'ádı Ke (Keepers of the Land) programs to support implementation of community conservation plans.

2. Dehlá Got'ı̨ne ʔada Plan and Ts'ı̨duweh ʔada ʔeʔá (Colville Lake)

Decision 2.1 Colville's Plan as a Sahtú Community Conservation Plan

SRRB Analysis of the Minister's January 29 Response

The SRRB assessed currently best available information and presented its findings, decisions and recommendations related to Colville's *Dehlá Got'ı̨ne ʔada Plan* and *Ts'ı̨duweh ʔada ʔeʔá* to the Minister based on the Colville 2020 PLS, including an extensive report of the evidence relied upon in the process.

The current regulatory frame (including the *Big Game Harvesting Regulations*) being applied to assess and reject key aspects of CCP may not respect the rights, customs and practices of Sahtú Dene and Métis. The CCP Components are intended to come closer to achieving this. The SRRB invites the Minister to take these perspectives into consideration. It is harder for the SRRB to see the TAH as the priority, primary, or principled conservation response solely on the basis of its presentation in the SDMCLCA as a conservation mechanism. As a society, our conversations about the roles of Indigenous peoples in environmental governance have advanced since the SDMCLCA was negotiated. Our understanding of conservation has evolved. There may be other, less impairing, conservation approaches that should be considered. The SRRB established the CCP Policy for this reason.

The Minister's proposed language for the varied decision also imposes Ministerial approval without accounting for the CCP Components (or the conditions the Minister would apply to review). If the Minister continues to use regulations made under the *Wildlife Act* or recommended management actions from advisory bodies to determine the scope of rights expression in the Sahtú Settlement Area, it is hard to understand how a CCP could receive the Minister's approval. The SRRB invites the Minister to explain how parties should understand the

Minister's stated support for community conservation planning in this regard. A total allowable harvest limitation is only required to comply with the SDMCLCA "if required" and "to the extent necessary" to achieve conservation.³⁰ The Minister's reasons did not consider these limits on the conditions for invoking the TAH mechanism, particularly in light of the CCP approach and the Colville 2020 PLS.

The SRRB understands the Minister's jurisdiction with respect to wildlife management. The SRRB also understands the influence of broader caribou conservation structures, with which the SRRB is actively engaged. However, the SRRB also seeks to ensure it retains its jurisdiction and as the "main instrument" in the Sahtú Settlement Area. The SDMCLCA directs us to avoid duplication in the management of wildlife,³¹ and so without surrendering its jurisdiction, the SRRB seeks to complement the work of ENR and bodies like ACCWM. The Minister's review of an approved CCP should likewise seek to complement the SRRB's role, not duplicate or displace it. The CCP Policy included in this reply may aid in the Minister's consideration of the SRRB's role in defining the CCP Components, as well as the Minister's assessment of submissions from within the Sahtú. A CCP Regulation would go even further to clarify matters, as the SRRB has already proposed to the Minister.

SRRB Revised Decision 2.1

When ready for submission and review, community conservation plans will be assessed against the SRRB's Hjdó Gogha Sénégots'írá (Community Conservation Plan) Components, and when approved, forwarded to the Minister for acceptance.

3. Belare Wíle Gots'é ʔekwé and Dene Béré Belare Wíle Plans (Déljné)

Decision 3.1 2019 edition of Déljné's plan

SRRB Analysis of the Minister's January 29 Response

The Déljné plan was approved in 2016. Since that time, the community has been working on implementing their plan. The Minister, however, does not seem to have found it practicable to implement key features of the plan. In advance of the 2020 Colville PLS, Déljné updated its plan in 2019.³² One distinction to make is that Déljné is not proposing a new plan, but presenting an update. In the Minister's January 29 Response, it is not clear if the Minister is requiring an

³⁰ *SDMCLCA*, *supra* note 5, s. 13.5.2.

³¹ *SDMCLCA* *supra* note 5, s. 13.8.15.

³² Déljné ʔekwé Working Group, *Belare Wíle Gots'é ʔekwé / Caribou for All Time: A Déljné Got'jné Plan of Action for 2019-2021* (October 6, 2019 2019).

amendment, already, of the Délı̨nę plan update despite it not being complete and pending the submission of additional evidence.

Over the past two years, there has not been any reported harvest of Ɂekwé (barren-ground caribou). Délı̨nę has been working on harvesting species other than caribou. Evidence of Délı̨nę's reporting, an important aspect of CCP implementation, can be found in ACCWM Monitoring Tables that Délı̨nę has contributed to on an annual basis.³³ Délı̨nę's reporting has been accepted as part of the annual status assessments by consensus of ACCWM Member Boards. This reporting supports the SRRB's findings that CCP can be viable.

The SRRB's understanding of community conservation planning has been evolving since 2016. If *Taking Care of Caribou* was adopted in 2014, it seems reasonable to consider there may be developments to consider in the way inter-regional caribou conservation is undertaken. This should be particularly true when a credible conservation approach that is more rights-compliant than a TAH is available for consideration.

This issue also engages community leadership in stewardship and RRC powers, as raised elsewhere in this reply.

SRRB Revised Decision 3.1

When ready for submission and review, community conservation plans will be assessed against the SRRB's Hı̨dó Gogha Sė́nė́gots'ı̨á (Community Conservation Plan) Components, and when approved, forwarded to the Minister for acceptance.

4. Authorizations

Recommendation 4.1 Colville Lake Renewable Resources Council powers

SRRB Analysis of the Minister's January 29 Response

Sahtú Dene and Métis harvest regulation customs and practices include a governance role for the community that primarily harvests in an area by way of Ɂehdzo Got'ı̨nę (Renewable Resources Council - RRC). RRCs are created by the designated Sahtu organization³⁴ with a

³³ Advisory Committee for Cooperation on Wildlife Management, *Bluenose West Monitoring Table; Status Meeting 2019* (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, 2019). Advisory Committee for Cooperation on Wildlife Management, *Bluenose East Monitoring Table; Status Meeting 2019* (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, 2019). Similar monitoring tables with contributions from Délı̨nę are posted to the Délı̨nę 2021 PLS registry. At www.srrb.nt.ca.

³⁴ *SDMCLCA supra* note 5, s. 13.9.2.

mandate focused on conservation, harvesting studies, research and wildlife management.³⁵ RRCs are established by the designated representative rights-holder in the community, so the location of the rights-holding organization is linked to the same community where it creates an RRC. A group of people who reside in the community make up the governance of the RRC. This role accounts for the relevant knowledge requirement for RRC governance, and presumably recognition of some form of relevant knowledge to be involved in matters of conservation, harvesting studies, research and wildlife management. This is essentially the scope of activities described throughout Chapter 13.

A person who is from a community bears local knowledge and responsibilities that are distinct from that of a person who is not from the community. People identify where they are from not just in relation to a town, but also in relation to a place where they seek to harvest and where they have family history. Access to wildlife and harvest effort are key factors to consider. This is the context in which the words and meaning of RRC authority should be interpreted in the SDMCLCA. The SRRB's recommendation relies on an interpretation of the governance authority of an RRC that differs from the Minister's interpretation.

RRCs have powers over the "local exercise" of participants' harvesting. This specific statement of authority does not limit the participants to whom it applies, nor is there reference to a given place of residence. It is reasonable that the local RRC would have a role in the local exercise of harvesting beyond the municipal boundaries. The RRC's enumerated powers include, but are not necessarily limited to, "local exercise" and an advisory role to the SRRB on matters of "local concern." As such, the RRCs are parties to this proceeding. RRCs are mandated to promote and encourage local involvement in conservation. In the case of Colville Lake, it is the proponent of a CCP.

ENR has submitted arguments and then relied on them in both the PLS and the negotiation of the *Interim Management Agreement* with the Colville Lake RRC.³⁶ In the Minister's January 29 Response, the reasons rely on this same interpretation and conclude this ENR analysis "...leaves no doubt that 'local' refers to a specific community."³⁷ This interpretation is key to defining the scope of governance authority of an RRC. The Minister's analysis of the word local relies on Chapter 13, not the whole SDMCLCA, despite citing Supreme Court authority to interpret terms "in light of the treaty text as a whole and the treaty's objectives."³⁸ The phrase "in the community" is used to identify the designated Sahtú organization, and to identify the minimum requirement to be appointed to govern an RRC.

³⁵ *Ibid*, s. 13.9.1.

³⁶ *Supra* note 21.

³⁷ GNT Minister Shane Thompson, *Responses to Sahtú Ragóga (Hunting Law) and Approaches to Wildlife Harvesting: Report on the Colville 2020 Public Listening (Hearing) Session* (www.srrb.nt.ca: SRRB, 2021). 9.

³⁸ *Ibid*.

In Chapter 13 alone, local is used to modify:

- the creation of an RRC to promote and encourage *local* involvement in conservation and wildlife management.³⁹
- the *local* exercise of harvesting rights;⁴⁰
- matters of *local* concern that may warrant being brought to the SRRB;⁴¹

It seems unreasonable that an RRC's jurisdiction with respect to some form of management of local harvesting be limited to the geographic boundaries "in the community." The SRRB heard evidence that it is Dene custom to seek permission from the responsible group to harvest in an area. It may be appropriate for Government to seriously consider an existing Dene practice of authorizing harvesting by other Dene in the approach to conservation and co-management of wildlife.

The SRRB reminds the Minister that the PLS is intended to facilitate an iterative CCP process. The SRRB acknowledges that the issues of authorizations and enforcement require more work among the parties. The SRRB supports the approach used to negotiate the *Interim Management Agreement* between Colville and ENR. The SRRB invites the Minister to direct ENR personnel to discuss the potential scope of authorizations with communities assuming that 1) sufficiently outlined the potential of CCP to be a less impairing approach to achieve conservation and 2) some form of local exercise of participants' harvesting rights may be within the governance authority of an RRC.

Recommendation 4.1 Next Steps

The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ɁeɁá. The Minister's position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of Ɂehdzo Got'ɁneɁ (Renewable Resources Councils) with respect to the management of wildlife harvesting.

³⁹ *SDMCLCA supra* note 5, s. 13.9.1.

⁴⁰ *Ibid*, s. 13.9.4(b).

⁴¹ *Ibid*, s. 13.8.4(e).

Recommendation 4.2 Hı́dó Gogha Śenégots'ı́á ʔeá (Community Conservation Plan Regulation)

SRRB Analysis of the Minister's January 29 Response

The SRRB has the authority to establish policies and propose regulations. The SRRB invites the Minister to direct ENR personnel to work with the SRRB on a new Hı́dó Gogha Śenégots'ı́á ʔeá (CCP Regulation). The CCP Regulation should be developed over the course of the PLS series. The CCP Regulation can address the existing regulatory issues, and create a regulatory frame in which the Minister understands, states and sets out the role of CCP. A CCP Regulation can include and recognize CCP Components. The Minister has this authority, and is supported in this role by the principles of the *Wildlife Act*. The Wek'èezhii Renewable Resources Board has recognized a role for self-regulation and called on the Tı́chq Government to enact laws in this regard.⁴² Inuvialuit and Hunters and Trappers Associations have bylaws codified in regulation. These are models for the Minister to consider. *Wildlife Act* regulations are both numerous and frequently subject to amendment. However, the current regulatory framework is lacking. It depends on a biological-centric approach to caribou management and conservation. The SRRB is making clear there are other important *biocultural* considerations that are not being adequately taken into account. The CCP is a different mechanism – a specific conservation approach – that justifies regulatory action.

The SRRB cannot direct Ministerial action, but it can highlight how important and relevant regulation of CCP could be. The Minister varied decisions and recommendations from the Colville 2020 PLS on the basis that these do not comply with existing regulation. The Minister should take into account that the PLS is intended to be an iterative process for understanding the range of evidence regarding caribou conservation, including options for innovative approaches. Harvest regulation is a recognized component of caribou conservation systems. This key component will be subject to ongoing discussions during the PLS series and in the meantime remains as-is under the current regulatory frame.

The SRRB looks forward to continuing the ongoing work with ENR and regional co-management partners on CCP and the PLS.

Recommendation 4.2 Next Steps

The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ʔeá. The Minister's

⁴² Wek'èezhii Renewable Resources Board, *Reasons for Decisions Related to a Joint Proposal for the Management of the Bluenose-East (Barren-ground caribou)* (www.wrrb.ca: Wek'èezhii Renewable Resources Board, 2016). PART B. 10-13.

position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of ʔehdzo Got'ɪnɛ (Renewable Resources Councils) with respect to the management of wildlife harvesting.

The Minister is being invited to consider and prepare a specific *Hɪdó Gogha Sɛ́nɛ́gots'íɔ́ ʔeɔ́* (Community Conservation Plan Regulation).

Recommendation 4.3 Colville-ENR Interim Management Agreement 1

SRRB Analysis of the Minister's January 29 Response

The SRRB invites the parties to continue to make use of the Interim Management Agreement mechanism. The SRRB heard about the important accomplishment that this agreement represented to both parties, Colville Lake and ENR. The SRRB welcomes negotiated agreement between the parties for review and consideration. Godɪ kehtsɪ (consensus-building) is a good way to resolve issues.

Above, the SRRB explained its concerns with the Minister's interpretation of the limits of Renewable Resources Council authority, and suggested such issues would benefit from further discussion. The SRRB's involvement can be facilitated through the wider PLS process. The SRRB invites the Minister to use the existing *Interim Management Agreement* and its renewal to facilitate the RRC's work until there is an approved and accepted CCP.

SRRB Revised Recommendation 4.3

The *Interim Management Agreement* between Colville Lake and the Department of Environment and Natural Resources is recommended to continue to be in effect until it is replaced with an approved *Hɪdó Gogha Sɛ́nɛ́gots'íɔ́* (Community Conservation Plan).

Recommendation 4.4 Colville-ENR Interim Management Agreement 2

SRRB Analysis of the Minister's January 29 Response

The SRRB invites the parties to continue to make use of the Interim Management Agreement mechanism. The SRRB heard the important accomplishment this agreement represented to both parties, Colville Lake and ENR. The SRRB welcomes negotiated agreement between the parties for review and consideration. Godɪ kehtsɪ (consensus-building) is a good way to resolve issues.

Above, the SRRB explained its concerns with the Minister's interpretation of the limits of Renewable Resources Council authority, and suggested such issues would benefit from further discussion. The SRRB's involvement can be facilitated through the wider PLS process. The SRRB

invites the Minister to use the existing *Interim Management Agreement* and its renewal to facilitate the RRC's work until there is an approved and accepted CCP.

SRRB Revised Recommendation 4.4

In the event that the Colville Plan is not in place by the *Interim Management Agreement's* current date of expiry (May 31, 2021), the SRRB recommends that the parties meet to review and decide to extend the agreement.

Recommendation 4.5 Délıne and ENR Interim Agreement

SRRB Analysis of the Minister's January 29 Response

The SRRB welcomes the parties to meet and advance implementation of the approved Délıne CCP "as soon as practicable." This community has had a CCP in place since 2016, and has been providing harvest monitoring to ACCWM. The parties are invited to bring news of their progress to the next PLS.

SRRB Revised Recommendation 4.5

The SRRB accepts the Minister's proposed revision to this recommendation:

Délıne and the Department of Environment and Natural Resources should meet to discuss the workplan for implementing Délıne's *Belare Wıle Gots'ę 7ekwę (Caribou for All Time)* plan.

5. Enforcement Mechanisms

Recommendation 5.1 Alternative Measures

SRRB Analysis of the Minister's January 29 Response

The SRRB understands that effective harvest regulation includes enforcement. The SRRB understands the Minister of Justice will only authorize alternative measures that are part of the current law or regulation. The SRRB is unclear on where to direct recommendations arising from the Colville 2020 PLS that are made under the Chapter 13 decision-making process, but varied by the Minister to require compliance with other review and approval processes outside the SDMCLCA. The role of restorative justice measures, like alternative measures and pre-sentencing diversion, are part of a continuum of harvest regulation and management that begins with education and respect and continues to enforcement and sanction. These are integral to CCP.

It is insufficient to restrict CCP to the existing regulatory frame. Dene continue to practise harvest regulation, which includes forms of enforcement outlined in CCP proposals but not

included in the current regulations. The SRRB invites the Minister to recognize and work to address this regulatory shortfall instead of imposing the existing regulatory frame as the basis for limiting harvest.

The SRRB reminds the Minister the PLS is intended to be an iterative process. The SRRB acknowledges the issue of authorizations, and enforcement, require more work between the parties. Assuming the SRRB has 1) sufficiently outlined the potential of CCP to be a less infringing approach to achieve conservation and 2) some form of local exercise of participants' harvesting rights may be within the governance authority of an RRC, the SRRB invites the Minister to direct ENR personnel to discuss the potential scope of enforcement with communities. The SRRB supports the approach used to negotiate the *Interim Management Agreement* with Colville.

SRRB Revised Recommendation 5.1

Alternative measures, as set out in the *Wildlife Act*, that are consistent with culturally appropriate restorative justice processes provided for in the Colville Lake and Délı̨ne community conservation plans will be presented for authorization as alternative measures to the Minister of Justice.

Recommendation 5.2 Colville and ENR Interim Management Agreement and Enforcement

SRRB Analysis of the Minister's January 29 Response

The SRRB invites the parties to continue to make use of the Interim Management Agreement mechanism. The SRRB heard about the important accomplishment that this agreement represented to both parties, Colville Lake and ENR. The SRRB welcomes negotiated agreement between the parties for review and consideration. Godı̨ kehtsı̨ (consensus-building) is a good way to resolve issues.

SRRB Revised Recommendation 5.2

The SRRB accepts the Minister's proposed revision to this recommendation, as follows:

Colville Lake and the Department of Environment and Natural Resources should meet to discuss enforcement of community conservation plans. The SRRB is willing to participate if invited.

6. Total Allowable Harvest

Decision 6.1 Total allowable harvest

SRRB Analysis of the Minister's January 29 Response

The SRRB decided the first public listening session should focus on the question, “*What is the most effective way to regulate the harvest of caribou?*” The ENR evidence submitted to the Colville 2020 PLS does not provide an explicit justification for retaining a TAH, or how the TAH meets the limiting conditions for its imposition. ENR’s submissions assume a TAH is required to achieve conservation,⁴³ and relies on the objective of assuring consistency among groups,⁴⁴ a situation “unavoidably more complex” to justify the infringement a TAH represents. The conclusion of ENR’s Final Written Arguments reflects this position:

The approach to conservation and harvest management is unavoidably more complex when wildlife populations cross between more than one land claim area or traditional harvesting area, as is the case for the three ecotypes of caribou found in the Sahtú. ... In particular, the harvest management regulations currently in place for the Bluenose-West herd, along with other management actions being taken, *are required for conservation and restrict the exercise of Aboriginal rights to the least extent possible while still addressing the need for conservation* [emphasis added].⁴⁵

The SRRB presented evidence, analysis and reasons that the imposition of TAH in the circumstances of Colville Lake is not aligned with the SRRB mandate, key parts of the spirit and intent of the SDMCLCA, and statements in the common law of modern land claim treaty interpretation that parties are directed to seek reconciliation rather than interpret modern land claims as if it were an everyday commercial contract. A TAH does not respect harvest management practices and customs of Sahtú Dene and Métis.

Sahtú communities have not stopped implementing their Indigenous harvest regulation systems. In 2012, a gathering of ʔehdzo Got'įnę of the Sahtú made clear statements about their views on caribou conservation. They said:

1. The Sahtú Renewable Resources Board (SRRB) adopt traditional knowledge and Dene law as the leading edge of caribou and harvesting knowledge and law that will guide all efforts to protect the animals.
2. The SRRB and Renewable Resources Councils should jointly support caribou traditional knowledge and harvesting research as well as appropriate scientific research

⁴³ *SDMCLCA supra* note 5, s. 13.5.2.

⁴⁴ *Ibid*, s. 13.6.

⁴⁵ GNWT, *Final Written Arguments; Colville 2020 Public Listening* (www.srrb.nt.ca: SRRB).

that does not disrespect the animals or harm them in any way, benefits both the caribou and the communities, and helps to maintain and strengthen our relationships with caribou.

In 2015, a gathering of Sahtú leaders resolved to “continue the traditional laws of relationship with caribou through a Sahtú-developed caribou plan including a process of self-regulation, driven by community-based monitoring and decisions” (Resolution 1.2).⁴⁶ These statements are not controversial in their intent, but they present a challenge to the prevailing approach to wildlife management. The SRRB wants to make clear its TAH decision arising from the Fort Good Hope 2007 Bluenose West Hearing should *not* be relied on to maintain a TAH in the Sahtú Settlement Area in light of these kinds of statements and mounting evidence from SRRB proceedings about the viability of CCP.

The evidence before the SRRB, and transmitted to the Minister in the SRRB’s Colville 2020 PLS Report, is that CCP works, and may be a viable alternative conservation approach considered *before* a TAH is imposed. To confirm several years of work on the topic, the SRRB establishes this CCP policy statement:

Hjdó Gogha Sénégots’írá (Community Conservation Plans – CCPs) are viable conservation approaches that can be more effective, more rights-compliant and more community-led, and should be considered before and in place of total allowable harvest limits, which are only to be used when required and to the extent necessary.

The Minister set aside and varied the SRRB’s decision with reasons that largely justified ENR positions presented during the PLS. The Minister’s response relies on strict interpretations of the Minister’s authority that may not suit the context in which it operates, particularly as the Minister continues to express support for community conservation planning. The Minister relied on existing regulations to reject CCP. In response, the SRRB recommended the Minister make a CCP regulation (see R4.2). Rejection of CCP for regulatory non-compliance is not reflective of the consideration, or support, these measures are due. The Minister’s response undermines early confidence that CCP had been recognized as a viable conservation approach following the Minister’s support and approval of the Déljñę plan in 2016.

The SRRB recognizes the presence of Dene ɛɛɛá, and a role for Dene ɛɛɛá in harvest regulation. The SRRB interprets its mandate to apply conservation principles *with regard to the rights of participation in wildlife harvest decision making and respect for harvest management customs and practices of Sahtú Dene and Métis*. The work of the co-management body has to account for the full extent of its mandate and the objectives of the wildlife management system, which includes biocultural diversity. The SRRB’s CCP Policy and PLS are intended to help facilitate

⁴⁶ SRRB and SSI, *Caribou Meeting Record*. 9.

understanding of these issues and to bring together parties in an ethical space where Dene ʔeʔa can be considered and discussed.

Larger Conservation Context

The inter-regional question is critical to CCP, where neighbours share respect each other and share among each other. The SRRB does not see empowering Indigenous rights holders as a zero-sum game where neighbours lose. The SRRB recognized the concept of the “tragedy of the commons” in its 2016 Hearing Report, where unrestricted individual interests can lead over-consume a shared resource. “The SRRB accepts that there is a need to think critically about the underlying assumptions regarding wildlife management – such as the ‘tragedy of the commons’ - which may not be valid in a northern indigenous context.”⁴⁷ In the current circumstances, the Inuvialuit Game Council and Wildlife Management Advisory Council-NWT identify “the risk is that other user groups may also pull out of the transboundary caribou management arrangement, and the collaborative co-management framework which is enshrined in land claims and the Wildlife Act could collapse.”⁴⁸ The SRRB is not advocating for the collapse of the collaborative co-management system, but it is challenging the prevailing TAH-first approach.

The ACCWM is a consensus advisory body. The *Taking Care of Caribou* plan proposes standard management actions at the herd level when certain biological triggers are met. If this management advice justifies setting aside SRRB decisions, it seems to challenge the SRRB’s jurisdiction to make decisions in the circumstances. A herd’s biological status, while a key factor, is not the only determining factor for determining appropriate conservation measures in a biocultural approach to conservation management that accounts for the people and the caribou who have the right to live and depend on each other and environment as they always have. The management actions corresponding to ACCWM threat level assessments should not be used to prescribe total allowable harvests unless the assessment accounts for biocultural considerations and without discounting certain key objectives of the SDMCLCA.

The SRRB will consider the presentation and role of its CCP Policy at bodies like ACCWM going forward. The 2014 *Taking Care of Caribou* plan may warrant review and revision to reflect a real and meaningful role for community rights-holders and their governing RRCs and their CCP. Calls for respectful hunting practices in response to over harvesting are heard around the NWT. Relying on a TAH is an overly narrow approach to preserving these species. Getting communities appropriately involved is also part of the unavoidably complex jurisdictional landscape in the NWT that is due for attention.

⁴⁷ *Supra* note 11, 42.

⁴⁸ Wildlife Management Advisory Council (NWT) and Inuvialuit Game Council, *Concerns Regarding the Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting: Report on the Colville 2020 Public Listening (Hearing) Session, 2020* (www.srrb.nt.ca: SRRB, 2021).

Next Steps

The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ɔ́ɔ́á. The Minister's position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of ɔ́ehdzo Got'ɔ́neᑦ (Renewable Resources Councils) with respect to the management of wildlife harvesting.

Recommendation 6.1 Tag requirement in S/BC/01 and S/BC/03

Recommendation 6.1 Next Steps

The SRRB respectfully disagrees with the Minister and invites further engagement on this issue via the Public Listening Sessions. The Minister's response does not take adequate account of evidence presented in the Colville 2020 Hearing Report or the role of Dene ɔ́ɔ́á. The Minister's position depends on restrictions in current regulation or previous ENR submissions to the Colville 2020 PLS. The SRRB understands more work is required to clarify the authority and jurisdiction of ɔ́ehdzo Got'ɔ́neᑦ (Renewable Resources Councils) with respect to the management of wildlife harvesting.

Recommendation 6.2 Colville to work with neighbouring groups

Accepted Recommendation 6.2

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that Colville Lake work with harvester groups in neighbouring regions in developing and adapting their community conservation plan to address shared conservation goals.

7. Zoning Issues

Recommendation 7.1 Dene name for S/BC/01

Accepted Recommendation 7.1

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that Sahtú Barren-ground Caribou Area 01 (S/BC/01) be renamed Gow'ı ɔ́əɔ́ Nəneᑦ (Barren-ground Caribou Land), with the name change reflected in the Wildlife

Management Zones and Areas Regulations and in any other enactment that references this area.

Recommendation 7.2 Dene name for S/BC/02

Accepted Recommendation 7.2

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that Sahtú Barren-ground Caribou Area 02 (S/BC/02) be renamed Tuyeta ʔədə Nënë (Caribou Land), with the change reflected in the Wildlife Management Zones and Areas Regulations and in any other enactment that references this area.

Recommendation 7.3 Dene name for S/BC/03

Accepted Recommendation 7.3

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that Sahtú Barren-ground Caribou Area 03 (S/BC/03) be renamed ʔehdaɭa ʔekwé Nënë (Caribou Point Caribou Land), with the change reflected in the Wildlife Management Zones and Areas Regulations and in any other enactment that references this area.

Recommendation 7.4 Collaborative research in S/BC/02

Accepted Recommendation 7.4

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that Fort Good Hope and Colville Lake Renewable Resources Councils, SRRB, NWT Environment and Natural Resources, and Environment and Climate Change Canada collaboratively develop a workplan to address knowledge gaps regarding Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ʔədə Nënë [Caribou Land]) through non-invasive Indigenous knowledge and science.

Recommendation 7.5 Community Conservation Plan for S/BC/02

SRRB Analysis of the Minister's January 29 Response

The SRRB recognizes the mandate of RRCs within these processes. CCP can include other community organizations. The new Ts'udó Nlɭné Tuyeta Management Board should be involved, but the community should determine the leadership of the planning process.

Revised Recommendation 7.5

It is recommended that the Ts'udá Nı́łné Tuyeta Management Board take part in meetings on the development of a community conservation plan for caribou in Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ʔədə Néné [Caribou Land]).

8. Wildlife Act Residency and Hunter Education Requirements

Decision 8.1 Wildlife Act Residency and 2021 Public Listening Session

Accepted Decision 8.1

The Minister has accepted the SRRB's decision, as follows:

The SRRB has decided that the 2021 public listening session will include a full discussion of the role that residency requirements and hunter education play in fostering or inhibiting respect for Dene protocols in the Sahtú region.

9. Special Harvesting Areas

Recommendation 9.1 Special harvesting areas implementation

Accepted Recommendation 9.1

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB recommends that ʔehdzo Got'ı́ne (Renewable Resources Councils), NWT Environment and Natural Resources, and the SRRB undertake community conservation planning workshops in each of the three Sahtú districts (K'áhsho Got'ı́ne District; Tulít'a District; and Délı́ne District) to develop proposals for implementation of special harvesting areas, including any required regulations, prior to the 2024 public listening session.

10. Capacity Support for Community Conservation Planning

Decision 10.1 Capacity support and program funding for community conservation planning and plan implementation

Accepted Recommendation 10.1

The Minister has accepted the SRRB's recommendation, as follows:

The SRRB has decided that there needs to be further capacity support and program funding for community conservation planning and plan implementation in the Sahtú region.

Conclusion

This report marks formal establishment of the SRRB's *Hjdó Gogha Sėnégots'ı́ǵá (Community Conservation Plan) Policy*. The report also offers analysis and revised decisions and recommendations based on comments received from the Minister and parties to the Colville 2020 PLS on the October 30 SRRB Report and Reasons for Decision.



This second component of the two-part report is focused on a key topic in community conservation planning, harvest regulation, which was the topic of the Colville 2020 PLS. While accepting a number of the October 30 SRRB decisions and recommendations, the January 29 Minister's Response gave rise to a number of questions that can only be addressed if certain priority issues are resolved. The SRRB has put forward revised decisions and recommendations on priority issues. The SRRB has also invited further engagement on unresolved questions through the planned 2021-2024 PLS series. The SRRB looks forward to continuing to draw upon contributions of the parties in working toward solutions that are based on reliable evidence, sound analysis and justified positions.

For the Sahtú Dene and Métis harvesters, and community parties who participated in the Colville 2020 PLS, the SRRB understands that conservation practices will carry on as they have. Work on conservation planning and Sahtú ragóǵa (hunting laws) should go ahead. The importance of this work does not change if the Minister agrees or not on a particular issue at this stage. We all want to work toward the responsible harvest and conservation of caribou. If you believe community conservation planning can help, then do not stop your work. The SRRB is listening. Others are watching.

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