



Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting

Environment and Natural Resources - Public Listening
Information Requests – Round 1

December 17, 2019

Topic 1: Caribou Status

- 1.1. Which kinds of caribou most concern you as a Party: ᐱᑦᑲᑦ/ᐱᑦᑲᑦᑲᑦ (Bluenose West or Bluenose East barren-ground caribou), shúhtagoᑲᑦᑲᑦ (Northern Mountain caribou), or ᑲᑲᑲᑲ (Boreal Woodland caribou)? Describe your main conservation concerns. (SRRB)

Environment and Natural Resources (ENR) is concerned about all three kinds of caribou that are found in the Sahtú region (mountain, boreal and barren-ground) as well as the other two kinds of caribou that are found in the other areas of the NWT (Peary and Dolphin and Union). All caribou are important to NWT communities. Monitoring is essential to ensure all wildlife managers have the relevant information to make informed decisions.

Northern mountain caribou were listed as a species of Special Concern under the federal Species at Risk Act in 2005. A national management plan for northern mountain caribou was released in 2012. The goal of the management plan is to prevent the northern mountain caribou from becoming threatened or endangered, by ensuring that agencies responsible for mountain caribou cooperatively work together to carefully manage these caribou and their habitat. At the time the management plan was released most herds were considered to be stable, although monitoring was limited and for many herds (including the NWT herds) population trends were unknown.

Boreal caribou are listed as Threatened under both the Species at Risk (NWT) Act and the federal Species at Risk Act (SARA). Recovery strategies have been developed under both Species at Risk Acts. The NWT Recovery Strategy calls for the development of regional range plans focused on managing human disturbance, while the National Recovery Strategy sets a target of maintaining at least 65% of the NT1 range in the NWT in an undisturbed condition. Range plans are focused on managing habitat disturbance as a means to decrease predation risk, but both the NWT status report and the National Recovery Strategy acknowledge that other factors such as climate change, harvest, and disease may be impacting boreal caribou in the NWT. Though these other threats are not addressed through range plans specifically, the NWT Conference of Management Authorities (CMA) has identified a number of actions to better understand these other threats.

Barren-ground caribou in the NWT were assessed as Threatened under *NWT Species at Risk Act* in 2018 due to the overall widespread declines in herds found in the NWT. A recovery strategy under the NWT CMA is currently under development. Herd-specific management plans are in place for many herds, including the 2014 Taking Care of Caribou Plan for the Cape Bathurst, Bluenose-West and Bluenose-East barren-ground caribou herds. Declines and associated harvest limitations have implications for people who have traditionally relied on these herds. Barren-ground caribou are of great cultural significance to many NWT communities that have depended on them for thousands of years.

Overall, ENR is concerned about all caribou in the NWT and the greatest concern is for populations that are at low numbers and still declining.

1.2. What development permits, licenses, interests and dispositions (including mineral claims) have been approved by the Government of the Northwest Territories or any other regulatory body in the Bluenose West range SB/01/02 since 2006 to the current date? (Colville)

Development permits and licences can be found on Sahtú Land and Water Board registry. This board issues land use permits and water licences in the Sahtú Land Claim Settlement Area.

Mineral interests and dispositions can be found utilizing the GNWT Mineral Tenure Map Viewer. This program allows people to view current data on mineral properties in the NWT, research geographical data online and produce customized maps using GIS information with specific focuses such as minerals and land claim areas. More information on this program can be found at <https://www.iti.gov.nt.ca/en/services/get-assistance-mining-records-office>.

1.3. How many caribou are being taken through outfitted sport hunting? (Tulít'a)

Eight outfitters are currently licenced by the Government of the NWT (GNWT) to provide big game outfitting services within the Mackenzie Mountains. In the Sahtú settlement area one outfitter, Canol Outfitters Ltd., is owned by local groups from the Sahtú. Non-resident and non-resident alien hunters must use the services of an outfitter and must be accompanied by a licenced guide at all times while hunting big game. Individual non-resident hunters are annually restricted to one northern mountain woodland caribou (either sex). Although non-resident hunters are allowed to hunt female caribou they prefer to hunt males for their antlers, so the harvest is exclusively bulls.

ENR is responsible for licencing outfitters, guides and hunters and for annually monitoring non-resident big game harvest in the Mackenzie Mountains. ENR releases annual reports summarizing the big game harvest in the Mackenzie Mountains; these reports can be found on ENR's website. Below is a table summarizing the annual harvest of mountain caribou bulls by non-resident hunters since 1991.

Year	Mountain Caribou
1991	179
1992	142
1993	191
1994	164
1995	180
1996	175
1997	168
1998	160
1999	117
2000	127
2001	128
2002	168

2003	143
2004	135
2005	160
2006	188
2007	165
2008	167
2009	125
2010	158
2011	181
2012	168
2013	182
2014	179
2015	190
2016	191
2017	195
Mean 1991-2017	165

1.4. Do the ENR biologists know if the muskox are causing the caribou to move? Do they eat the same thing the same way or just ruin the habitat? (Tulít'a)

Concerns over potential negative effects of muskoxen on caribou have been voiced in a number of NWT communities.

Several research studies have shown that muskoxen and caribou have different food requirements and are usually found in different habitats. Muskoxen usually eat mostly grasses, sedges and willows, while caribou eat a varied diet in the summer and rely on lichens as their main winter food. Muskoxen and caribou have co-existed for many thousands of years and through multiple ice ages. The general increase of muskoxen on the Canadian mainland from the 1920s to the present day is primarily associated with a recovery from very low numbers (estimated at fewer than 500) and disappearance in most of their range 100 years ago, to the present day when they have re-populated all of their former range, including the Sahtú region. In the winter, muskoxen sometimes spend many days or weeks in a particular area where snow and feeding conditions are good, but there is no evidence from biologists' studies that they ruin the habitat.

Topic 2: Hunting Laws

2.1 Do you have concerns about regulation of caribou harvest? What are your concerns? (SRRB)

The impacts of harvest on caribou populations, whether Peary, Dolphin and Union, barren-ground, mountain or boreal, depends on how large the harvest is in relation to population size and trend. Harvest of cows has a greater impact on herd population size and trend than the harvest of bulls, although a heavy harvest of prime bulls is not recommended. ENR's concerns about regulation of caribou harvest are related to ensuring that caribou management should be:

- (1) Is sustainable;
- (2) Is accurately reported by all harvesters and communities;
- (3) Is managed fairly and consistently across areas;
- (4) Is flexible; Indigenous communities should have the opportunity to suggest harvest management methods appropriate to their customs;
- (5) includes appropriate enforcement mechanisms consistent with the *Wildlife Act*; and
- (6) Is adaptable and responsive to population rates and conservation concerns.

2.2 How do you ensure that Indigenous harvesters that are not from your jurisdiction respect local hunting laws? How do you deal with visiting Indigenous harvesters that violate local hunting laws? (SRRB)

The Sahtú Dene and Metis Comprehensive Land Claim Agreement (SDMCLCA) contains provisions relating to wildlife harvesting and management. The *Wildlife Act* reflects those provisions and applies as a law of general application throughout the Sahtú settlement area. Provision 13.4.1 and 13.4.2 of the SDMCLCA speaks to harvesting of participants, and non-participants and chapter 28 of the SDMCLCA provides for reciprocal rights with both Inuvialuit and Inuit in regards to harvesting within the settlement area, as well as the provision for potential sharing agreements with adjacent Aboriginal groups.

The SDMCLCA implementation plan sets out detailed activities required to fulfil obligations under the SDMCLCA. Projects 13-1 through 13-24 as listed in the implementation plan set out the activities that the parties agree are required to fulfill the wildlife and harvesting management obligations under the SDMCLCA. The implementation plan should be consulted in regards to the granting of permission to harvest on Sahtú lands (Project 13-1) and other wildlife harvesting and management related matters in the Sahtú Settlement Area.

Under subsection 49(2) of the *Wildlife Act*, it is against the law for a person without an Aboriginal or Treaty right to harvest wildlife on private lands in a land claim area without permission, including Sahtú settlement lands. Harvesters are ultimately responsible for knowing where they are when on the land, following the *Wildlife Act*, and meeting the terms and conditions specific to land claims. People who harvest on private lands without permission can be charged under the *Wildlife Act*.

Asking permission to harvest wildlife on private lands also shows respect and helps develop a relationship between harvesters and land owners. Land owners will know who is harvesting in their area and can identify areas to be avoided, these may include culturally sensitive areas. Entering private lands without permission can also be a safety issue, especially if traps are set in an area.

In addition to the above, ENR is supportive of Indigenous governments and Indigenous organizations entering into traditional protocols or Memorandums of Understanding with other Indigenous governments and Indigenous organizations related to harvesting.

2.3 In the North, each region has a wildlife management authority that works with communities to determine the approach to caribou conservation. Do you have concerns about the coordination of caribou hunting regulation across regions? How do you propose that these concerns be addressed? (SRRB)

Caribou conservation issues cross land claim, treaty and jurisdictional boundaries, which is why it is so important for everyone to work together.

There are four clauses in the *Sahtú Dene and Metis Comprehensive Land Claim Agreement* that are important to take into account when coordinating barren-ground caribou management across regions:

- 13.6.1 Government undertakes that plans for wildlife management and habitat management will be designed to maintain or enhance the productivity of populations of migratory species within the Northwest Territories and Yukon Territory in an integrated fashion.
- 13.6.2 Government shall work with the Board, other wildlife management bodies and users to establish wildlife management agreements with respect to migratory species. Where an agreement has not been concluded for the management of a migratory species, government may exercise its powers of management including stipulating the terms of a management plan which shall be binding on all persons.
- 13.6.3 Government shall work with the users of the Bluenose caribou herd for the purpose of establishing an agreement for the management of the herd.
- 13.6.4 Any management agreements established with respect to the Bluenose or Bathurst caribou herds shall apply to the herds named therein, notwithstanding any provisions of this agreement which may be inconsistent with such agreements.

Other land claim agreements also contain clauses regarding management of barren-ground caribou within and across regions.

All Renewable Resources Boards in the NWT worked together to approve the Taking Care of Caribou Plan. ENR would like to reiterate the following two excerpts from the Taking Care of Caribou Plan:

- The Advisory Committee for Cooperation on Wildlife Management (ACCWM) recognizes that it is important to work collaboratively when discussing a total allowable harvest for shared herds – this was one of the underlying reasons behind the creation of the ACCWM. Discussions about allocations are based on harvest levels and according to the requirements of regional legislation and land claim agreements.
- In the NWT, land claim agreements establish priorities for allocation of harvest when it must be limited for conservation purposes. For areas without settled land claim agreements, the *Wildlife Act* includes the following priorities for allocation of harvest:

When the Délı̄nę plan was approved, the population estimate for the Bluenose-East herd was 38,592. The most recent population estimate, obtained in 2018, is 19,294, showing a decline of 50%. ENR's preference is a bull-only harvest and, as such, has requested that the community of Délı̄nę modify its plan to include 100% yárégo kanáts'ézé (smaller male caribou harvest).

- 2.11. There is evidence that muskox populations are increasing in the Sahtú region. Would increasing the number of hunting tags be sustainable for muskoxen, and beneficial for caribou populations? (SRRB)

Indigenous harvesters presently do not require tags to hunt muskoxen in the Sahtú, but tags are required for residents and guided outfitters. Whether the harvest is sustainable depends on the size and trend of the muskoxen population and the scale and sex ratio of the harvest. The last muskoxen survey in the Sahtú region was in 1997. Since then, information from all 5 communities indicates that geographic range and numbers of muskoxen have expanded. To ensure a sustainable harvest of muskoxen, up to date population numbers are required. Based on scientific studies and perspectives of biologists, increased muskoxen harvest is unlikely to have either a positive or a negative affect on caribou populations (boreal, mountain or barren-ground) as their diets and habitat use are generally different than that of caribou.

- 2.12. The resident hunting licences under the Wildlife Act - permitting individuals to hunt big game and harvest small game subject to certain conditions contained in the Act - deem individuals to be "resident" after just one year. This is not in accordance with Sahtú Dene law. Can this be changed for the Sahtú region? (Tulít'a)

The *Wildlife Act* and regulations that came into force in 2014 took 15 years to complete through multiple rounds of extensive consultation and engagement. It is important to note that this Act and its regulations were developed collaboratively through a Wildlife Act Working Group (WAWG), which included members from all wildlife co-management authorities and Indigenous governments and Indigenous organizations in the Northwest Territories. The Sahtú Renewable Resources Board and Sahtú Secretariat Inc. with its legal counsel were active participants on the WAWG.

The definition of "resident" was a major point of discussion across the Northwest Territories. Many felt a one-year residency requirement was fair, others noted it should remain at the previous two-year requirement, while others stated the requirement should be longer than two years. Based on input received during public engagement and consultation in 2010 and 2012, the residency requirement in the Act was set at one year. In addition, the Act now includes a new requirement for first time resident hunters to successfully complete a harvester training program to promote safe and respectful harvesting.

The WAWG agreed with this approach and it was formally accepted by all the NWT renewable resources boards as per the *Inuvialuit Final Agreement 14(60)*, *Gwich'in Comprehensive Land Claim*

Agreement 12.8.23, Sahtú Dene and Métis Comprehensive Land Claim Agreement 13.8.23, and the Tłı̨chǫ Agreement 12.5.1 and 12.5.4.

Topic 3: Approaches to Wildlife Harvesting

- 3.1 List three (or more) aspects of Indigenous country food systems and ways of life that most contribute to promoting caribou conservation. Do you have concerns about threats to these systems? (SRRB)

In times when caribou are declining, ENR works with Indigenous governments and organizations to promote alternative sources of country foods. ENR specifically undertook engagement with Indigenous governments and Indigenous organizations, communities, Hunter and Trapper Committees and residents in 2019 across the NWT towards the development of an ENR Sustainable Livelihoods Action Plan 2019-2023 (Action Plan). This Action Plan will help guide the direction of ENR programs, services and support related to country foods, traditional economies and land-based learning.

ENR has also been a partner in the NWT On The Land Collaborative since 2015 to help promote and support northern communities with their land-based initiatives. The NWT On The Land Collaborative provides funding, resources, and support for programs that centre land-based education and cultural revitalization.

ENR currently administers a series of harvester assistance programs that support and promote Indigenous country food systems, including the Community Harvester Assistance Program (CHAP), Take a Kid Trapping and trapper training.

During public engagement on the Action Plan, ENR heard about some of the challenges NWT communities are currently facing regarding changes to the country food system. These include: changes to the landscape and wildlife, including caribou, due to the impacts of climate change; increases in the cost of living, which make it more difficult for individuals to be able to afford going out on the land and partaking in traditional harvesting activities; and loss of language and culture, which are closely connected to experiences of being out on the land.

Based on what was heard during engagement, the Action Plan identifies action items that ENR will undertake in collaboration with Indigenous governments and Indigenous organizations to promote and support opportunities for on-the-land activities including the development and implementation of mentorship, learning and training programs.

3.2 How are Indigenous country food systems changing? What impacts are these changes having on caribou? (SRRB)

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Topic 4: Harvest Monitoring

4.1 Harvest monitoring is recognized as a key component in effective harvest regulation. What is the most effective way to monitor caribou harvest in your experience? (SRRB)

Experience in recent years has been that harvest monitoring can be done effectively using a number of different approaches. Active involvement and acceptance by communities and harvesters of an approach to harvest reporting is a key factor for effective harvest monitoring. The main objective of a harvest reporting program is to determine the total estimated harvest of caribou (bulls and cows). Accurate and reliable harvest information is central to wildlife management and harvest management.

For species where there is a conservation concern and a limitation on harvest, reporting is key in the use of harvest authorizations. In the Inuvialuit and Gwich'in settlement regions, tags or authorizations in combination with kits to assess health and condition have proven effective. Tłjcho harvesters of Bluenose-East caribou in recent years have used authorization cards, reporting harvest to a community director. Bluenose-East harvest by hunters from Déljñę use kits to assess health and condition and report to the local Renewable Resource Council as part of the Déljñę community-based caribou plan for the Bluenose-East herd.

For species where there is no conservation concern or permit required, harvest reporting is voluntary and encouraged throughout the NWT.

ENR ensures that information collected, including personal information and harvest data specifics, are kept confidential. Only overviews of harvest numbers are shared publically. All approaches used for harvest reporting need to be accurate, consistent, reliable and complete.

- 4.2 Over the past year, Indigenous Guardian programs have come onto the national stage as part of Indigenous environmental governance systems. What role can Guardians play in harvest monitoring? (SRRB)

ENR acknowledges and supports the important role that Guardians or guardian-style programs play in monitoring the land, as well as providing opportunities for education and outreach that promote respectful practices and conservation, the passing on of traditional knowledge and values, and the creation of economic opportunities. ENR is of the view is that such programs are best championed and led by Indigenous communities, and that ENR can provide in-kind and financial support in value-added ways.

Guardian stewardship programs are not considered a replacement for GNWT compliance and enforcement programs, including compliance activities that are required under the *Wildlife Act*. However, Guardians can be involved in collecting important information, data, and knowledge that is used in making decisions about harvesting.

Topic 5: Participation, Education, Information

- 5.1 Discussions among Member Boards of the Advisory Committee for Cooperation on Wildlife Management emphasize education and communication as priorities in achieving effective harvest regulation. What are your priorities for education and communication? (SRRB)

ENR respects and supports the ACCWM process for providing guidance on management of the Cape Bathurst, Bluenose-West and Bluenose-East caribou herds and the respective Action Plans for each herd. From an overall perspective for managing barren-ground caribou herds, ENR suggests the following as key priorities for education and communication with respect to harvest regulation:

- (1) Promote education programs for diverse audiences to increase knowledge of herds at risk and the actions being taken to promote recovery, including harvest limitations;
- (2) Educate youth and adults about the ancient relationship between people and caribou and the need to maintain it;
- (3) Support programs that bring youth and elders together in schools and on the land;
- (4) Implement hunter education programs that promote hunter excellence and traditional practices.

5.2 The Indigenous Discussion Paper and Calls to Action presented at the 2018 North American Caribou Workshop notes that "all Indigenous people have roles to play in caribou stewardship – women, men, and those who define their gender in a more fluid way – just as caribou herds are structured according to the roles of individual animals. We all depend upon each other." Please describe the importance of gender roles for you in harvest regulation, and any concerns about inclusion. (SRRB)

Key elements of the approach are treating all people with respect, fairness, and gender diversity and inclusion. ENR is committed to incorporating and accurately representing persons of all genders in harvesting. A principle of the Action Plan is ensuring that there are diverse and broad opportunities to meet the needs of all residents, regardless of age, skill, experience, knowledge, gender, ability, socio-economic status and other factors. In particular, ENR heard during public engagement on the Action Plan about the need for programs that are either targeted or accessible to middle aged participants, who have experienced a loss of knowledge and skills as a result of residential schools, as well as opportunities for women and girls.

5.3 In its 2016 BNE Hearing Report, the SRRB found that that "there is strong consensus in the Sahtú Region that youth involvement is critical for the success of community Ɂekwé [caribou] conservation plans." Describe your approach to involving youth in wildlife harvesting and harvest regulation. (SRRB)

ENR sees youth participation as an important element of land-based programs to connect members across generations, create opportunities for knowledge transmission, and foster mentorship. Almost all communities during the Action Plan public engagement indicated they wanted to see more opportunities for young people to get out on the land. This has been included as an objective in the Action Plan. ENR currently administers the Take a Kid Trapping program, which is designed to introduce school aged children in the NWT to the traditional harvesting practices of hunting, trapping, fishing and outdoor survival. ENR is also a funding partner of the NWT On The Land Collaborative, which provides funding, resources and support for land-based education and cultural revitalization. Youth participation is an important element in these programs. ENR is open to having youth involvement in the determination of harvest regulations.

5.4 What materials or websites do you recommend for review as relevant for consideration by the Parties related to the central question of the Public Listening Session? (SRRB)

ENR would recommend the following documents as relevant for consideration by the Parties for the Public Listening.

- Boreal Caribou
 - Recovery Strategy for Boreal Caribou in the NWT
 - National Boreal Caribou Recovery Strategy
 - Boreal Caribou Status Report NWT 2012
 - Framework for Boreal Caribou Range Planning
 - Consensus Agreement Respecting Implementation of the Recovery Strategy for Boreal Caribou in the NWT
- Barren-ground Caribou
 - Barren-ground Caribou Status Report 2017
 - Barren-ground Caribou – Consensus Agreement on Listing (2018)
 - Taking Care of Caribou – the Cape Bathurst, Bluenose-West, and Bluenose-East Barren-ground Caribou Herds Management Plan and associated action plans
 - Technical Report on the Cape Bathurst, Bluenose-West, and Bluenose-East Barren-ground Caribou Herds.
- Bluenose-West Barren-ground Caribou
 - SRRB Bluenose West Caribou Management Hearing Report 2007
 - ENR response to SRRB Bluenose-West Caribou Management Hearing Report 2007
- Bluenose-East Barren-ground Caribou
 - Tłıchų/GNWT Joint Proposal on Caribou Management Actions for the Bluenose-East Caribou 2016-2019 Proposal
 - WRRB Reasons for Decision on the Joint Proposal on Caribou Management Actions for the Bluenose-East Caribou 2020-2022 response and GNWT/Tłıchų Government response.
- Northern Mountain Caribou
 - Draft Species at Risk Committee Report on Northern Mountain Caribou
 - Northern Mountain Caribou Management Plan
- Other documents
 - ENR Sustainable Livelihoods Action Plan 2019-2023
 - *Wildlife Act* for the Northwest Territories: Plain Language Version 2014
 - ENR website
 - Board registries websites

Topic 6: Aboriginal and Treaty Rights

- 6.1 All regions in the North with Comprehensive Land Claim Agreements conducted similarly designed Harvest Studies as a requirement of their claims and as an evidence base for protecting Indigenous harvesting rights. If you participated as a partner in a Harvest Study, what do you consider to be the current and future value of the study? If you are continuing to participate in Harvest Studies, are these differently designed? Are they being used differently? (SRRB)

While not responsible for conducting harvest studies under land claim and self-government agreements, ENR provides support for renewable resources boards who are conducting these studies in their settlement areas upon request.

- 6.2 When tags or closures are enforced by the Government of the Northwest Territories, what accommodation has been provided to modern treaty beneficiaries or to other persons with Aboriginal and treaty rights to address present and future losses of caribou harvesting opportunities? (Colville)

When harvest restrictions are required for conservation reasons, ENR recognizes that this can impact communities that traditionally harvest from an affected herd. ENR works closely with our co-management partners to encourage harvest of alternate species and may consider support depending on the nature of the impact.

However, when the GNWT implements a restriction on an Aboriginal or treaty right to harvest, such as tags or closures, as long as the restriction satisfies the justification test set out by the courts, there is no legal requirement for the GNWT to provide accommodation to an Indigenous Government.

- 6.3 In circumstances where caribou declines could be attributable to development pressures resulting in tags or closures (ie. Bathurst caribou), has the Government of the Northwest Territories or any developer provided compensation to modern treaty beneficiaries or other persons with Aboriginal and treaty rights for present and future losses of caribou harvesting opportunities? (Colville)

No monetary compensation has been provided by the GNWT for loss of harvest opportunities related to impacts of development. While the cumulative effects of habitat disturbance, including development, are important, the current declines in NWT caribou herds reflect multiple factors that cumulatively influence population trends.

Chapter 18 of the SDMCLCA addresses developer liability for wildlife harvesting-related loss or damage suffered by participants as a result of the development activity of that developer, including responsibility to compensate participants for specified losses. Clause 18.1.2 states that a developer is liable for present and future loss of income from wildlife harvesting, and for present and future loss of wildlife harvested for personal use or which is provided by the participants to other participants for their personal use. The records of the Department of Executive and Indigenous

Affairs do not contain information on any specific participant claims nor compensation that may have been provided by a developer to participants in relation to such losses.