



# In-Person Board Meeting Minutes

December 3-5, 2019, 9 am-4 pm  
 Trumpeter Camp, Norman Wells  
 Minutes by Deborah Simmons

## List of Acronyms/Terms Used

ᐱᕐᕈᕈᕐ ᑕᑕᑦᑎᕐ	Renewable Resources Council
ᐱᕐᕈᕈᕐ ᑕᑕᑦᑎᕐ ᑕᑕᑦᑎᕐ ᑕᑕᑦᑎᕐ	Sahtú Renewable Resources Board
ᑕᑕᑕᑕ	Barren-ground caribou (K'áhsho Got'Inę/Dehlá Got'Inę)
ᑕᑕᑕᑕᑕ	Barren-ground caribou (DélInę Got'Inę)
ACCWM	Advisory Committee for Cooperation on Wildlife Management
BNE	Bluenose East barren-ground caribou
BNW	Bluenose West barren-ground caribou
CCP	Community Conservation Planning
ENR	NWT Environment and Natural Resources
ᑕᑕ ᑕᑕᑕᑕ ᑕᑕ	Keepers of the Land (Guardians)
NWRRC	Norman Wells Renewable Resources Council
SLUPB	Sahtú Land Use Planning Board
SLWB	Sahtú Land and Water Board
SRRB	Sahtú Renewable Resources Board
SSI	Sahtú Secretariat Incorporated

## Agenda

### Opening

- Prayer and introductions
- Swearing-in ceremony for new Board Members (RCMP booked for 9:30 am)

### Days 1-2 Hearing Training

- Part 1: How did we get here?
- Part 2: The SRRB's role as a "tribunal"
- Part 3: Hearing evidence and making a decision
- Part 4: Issues that may arise in the Hearing

### Day 2 Other Board Business

- Highlights from Implementation Committee meeting

## Day 2 Evening Session: Banquet and meeting with Norman Wells Renewable Resources Council

- Colville 2020 Public Listening update
- Mine exploration in the mountains
- Sahtú Research Workshop 2019
- Future meetings

## Day 3

- Debrief on NWRRC Meeting
- Strategic Plan Workshop
  - Scoping key priorities
  - Review of draft plan prepared with help from PlanIt North
- Response to ENR re Colville 2020 Public Listening Session
- Scheduling Final Decisions Meeting
- Other Board Matters
  - ACCWM status assessment for Bluenose West and Bluenose East caribou

## Participants

### Board Members

George Barnaby (Interim Chair), Faye D'Eon-Eggertson, Samuel Haché, Keith Hickling (part time), Camilla Rabisca, Camilla Tutcho, Jennie Vandermeer

### Staff

Deborah Simmons

### Other Guests

Nick Sowsun, Lorraine Land (OKT Law)

## Day 1

### Opening

#### *Prayer by Camilla Tutcho*

- Introductions, recognizing newest Board members Faye D'Eon Eggertson, Samuel Haché, and Jennie Vandermeer, appointed on August 27, 2019
- Quorum Check: 7/7
- Swearing-in ceremony for new Board Members Faye D'Eon Eggertson, Samuel Haché, Camilla Tutcho, and Jennie Vandermeer by RCMP Officers

### Hearing Training

*Presentations by Lorraine Land*

## Part 1: How did we get here?

### History of the SRRB

- Mackenzie Valley Pipeline proposal in the 1970s, and land claims processes
- Sparrow decision and meaningful consultation
- Land claim agreements, co-management, and self-government
- Collaboration with ʔehdzo Got'Inę
- Coordination of wildlife management authorities, eg. Conference of Management Authorities (CMA) on Species At Risk and Advisory Committee for Cooperation on Wildlife Management (ACCWM)
- Community Conservation Planning (CCP) approach

### 2007 Bluenose West Caribou and 2016 Bluenose East ʔekwé Hearings

- April 2015 resolution passed at Sahtú Leadership Caribou Meeting convened jointly by SRRB and Sahtú Secretariat Inc. (SSI) in Colville Lake
- 2015 evidence of Bluenose East Caribou decline; DéłInę CCP in collaboration with SRRB and ENR, adapting the Healthy Country Planning approach developed by Australian Indigenous communities and adopting a restorative justice model for enforcement
- Role of Federal government: Species At Risk legislation and oversight in land claim implementation
- Accountability of NWT Environment and Natural Resources (ENR) Minister to co-management Board decisions; Makivik decision
- Requirement to minimize infringement on Indigenous peoples

### The Board's history of adapting its procedures to be culturally appropriate

- Land claim objectives (Chapters 1 and 13) and the public interest
- Biocultural approach
- History of Hearing Rules, established for 2007 Bluenose West (BNW) Hearing, and revised for 2016 and 2020 Hearings
- Cross-cultural interpretation, and interpreter preparation; slowing down the process to ensure there's time for proper communication
- Balancing traditional knowledge and science
- Procedural fairness and informality
- Role of ʔehdzo Got'Inę
- Structuring hearings in a culturally sensitive way
- Precautionary approach to conservation
- "Hot topics" approach to identifying unresolved issues, copied from the ACCWM's *Taking Caribou of Caribou* plan for Bluenose West, Bluenose East and Cape Bathurst caribou
- The role of stories or oral traditions in evidence; Delgamuukw decision
- Definition and role of Elders
- When things are working well, everybody is participating and people are listening to each other
- Timing of the hearing so people are available to attend

- Encouraging youth involvement
- Workshops prior to the hearing to support community preparation to present
- Dene laws and protocols guiding procedure
- Mitigating risk of conflict; creating a fair and safe space
- Meeting facilitation approach, supporting the Chair
- Conflict of interest and bias rules
- The concept of consensus: consensus among communities is considered with respect to the weight of the evidence; it is part of the Dene cultural practice of good decision making; the Board operates primarily by consensus on a practical level

Break for lunch

Part 2: The SRRB's role as a "tribunal"

What is an administrative tribunal?

- Decision-making powers arising from the land claim agreement and Wildlife Act
- SRRB's role is primarily advisory or policy focused, so it is more flexible than regulatory boards

Understanding the Legal Powers of the SRRB

- The Board may "lose its jurisdiction" when it does something that is unfair, for example if it does something outside of its jurisdiction or fails to exercise its jurisdiction
- What is fair is an interpretive issue, such as when the Board was challenged with a conflict of interest issue in 2016
- SRRB and Sahtú Land Use Planning Board jurisdictions with respect to habitat, and the role of the SRRB in land use planning processes
- The SRRB has explicit powers (eg. to establish, modify or remove a Total Allowable Harvest), and implicit powers (eg. establishing processes to ensure appropriate involvement of Dene and Métis in decision-making, or considering conservation principles and practices in decision-making, consulting or advising)
- Implementation of Board decisions may be led by various parties.

Some Basic Rules of Procedural Fairness

- Rules of procedural fairness are also referred to as rules of natural justice
- Two key principles: duty to act fairly, and duty to exercise discretion appropriately
- Tests for fairness: Does everybody understand what this hearing is all about, the key questions that are going to be asked and the scope of decisions?
- The Colville hearing is unusual in that it was not triggered by a management proposal from ENR

SRRB Timeline

- 2006: amendment of big game hunting regulations to restrict non-Dene barren-ground caribou harvest
- December 2006: SRRB sets Total Allowable Harvest for BNW without holding a hearing
- January 2007: Colville challenges ENR estimates for BNW

- November 2007: BNW Hearing in Fort Good Hope
- February 2008: BNW Hearing Report issued
- 2008: Establishment of ACCWM to develop a management plan for BNW, BNE, and Cape Bathurst caribou coordinating research, planning and distribution of harvest; formalized in 2012 via a Memorandum of Understanding
- 2010: ENR amends the regulations to add the requirement for tags for S/BC/01 (BNW) zone in the Sahtú, but tags are not actually distributed to community members due to opposition from communities; situation similar to before legalization of marijuana, where provisions in criminal code were not enforced, which undermined the legitimacy of the law
- 2014: ACCWM *Taking Care of Caribou* plan finalized and approved by the Minister of ENR
- March 2015: ENR uses BNW tags for first time
- April 2015: Sahtú Leadership Resolution in Colville Lake; SRRB and SSI seek additional funding for ʔehdzo Got'Inę to fulfill their mandate
- 2015: Deline begins to design its own plan
- January 2016: SRRB and WRRB agree to cooperate in BNE Hearing proceedings
- March 2016: SRRB BNE Hearing in Dél'Inę; Colville bias motion with respect to three SRRB Board members; ENR argues against the motion based on test for bias for northern tribunals; SRRB decides there is no bias, but establishes protocols to mitigate risk of bias

Adjourned for the day at approximately 4:00 pm

## Day 2

### Hearing Training (continued)

#### Part 2: The SRRB's role as a "tribunal" (continued)

##### Roles – Who does what in the Hearing?

- The role of Parties
- Expert witnesses
- Presentations and questions
- Responding to questions about the process
- Role of staff: logistics, ensuring evidence is properly documented and posted to the registry
- Board member participation: must be present for the entire proceeding and decision-making process, since all need to be making decisions based on the same evidence; must be perceived to be listening; must make it clear what the process and outcome is, so people have confidence that they are not talking for nothing
- Financial support for participation of the Parties
- Role of legal counsel: on the spot advice, tracking the evidence record
- Graphic recorder: providing a visual interpretation of the evidence
- Protocols for elders who wish to speak
- Technical experts for the Board advise us on technical issues
- The Chair provides over the Hearing, making sure it's a safe and respectful process

- A cultural facilitator can assist the chair: decided not to pursue this due to cost, since it may lead to confusion about the Chair's role, and because it may make us more vulnerable to challenges about unconventional approach
- The Board can caucus to discuss procedural issues as needed
- The public should also have an opportunity to speak
- The process should be flexible
- Evening cultural activities such as hand games, drum dances and family fun night as planned by Colville will help to support positive context for the proceeding
- Security may be necessary if there might be people disrupting the proceedings; to be discussed with Colville, noting that there will be alcohol in the community since the winter road will be open
- Board members represent the mandate of the Board under the land claim, not the government that nominated them

### Part 3: Hearing Evidence and Making a Decision

#### Rules of Evidence

- Decisions are based on best available evidence, including Indigenous knowledge and science
- Evidence can be in written and oral form, and should be weighed based on the expertise of the person providing evidence
- Important to ensure that the evidence can be fully understood by the Parties and the Board
- The Information Requests as well as community workshops prior to the hearing can help to build understanding of the unresolved issues
- Sensitive information can be kept confidential by request of the Party and decision of the Board

#### Where Evidence Comes From

- Evidence can come from Parties, government, experts and the general public
- The Board asks what is the most important, relevant, reliable, truthful, information? Is coming from a good source?

#### Building the Record

- Once the Board has all the evidence it needs, it closes the record; no more evidence will be accepted after that time
- It's important to have a hearing process that ensures we get the best information possible within the timeline
- There needs to be appropriate focus in the information gathered; but for example with Elders' knowledge, the relevance of their contributions is not always immediately apparent

#### Making the Final Decision

- Decision for the Board to meet right after the hearing to consider the relevant issues, and then hold a decision meeting after the record is closed
- Decision that Special Advisors will not participate, since four of these are also Parties to the hearing as Presidents of ʔehdzo Got'jneᑦ

- The staff prepare a draft report for review by the Board

## Other Board Business

### Implementation Committee Highlights

#### *Presentation by Deborah Simmons*

- Presentations by Executive Directors of the Sahtú Land Use Planning Board (SLUPB) and Sahtú Land and Water Board (SLWB) in person (Ottawa) and SRRB by phone
- The SLUPB described their acute need for expanded funding. Deb voiced support for adequately funding the SLUPB, noting for example the importance of the land use plan for caribou conservation
- The SLWB presented about the joint initiative to consider structural approaches to appropriately integrating the board system in our region as envisioned in the land claim agreement; a two-page written submission was provided, and Dakota Erutse was hired to prepare a discussion paper
- The SRRB presentation described the five part Public Listening process, and the Board's interest in pursuing funding to support the regional CCP approach as a mechanism for accommodating self-government
- Federal government representatives presented about initiatives to address issues related to Board appointment processes and honorarium levels; note that this is effectively a devaluing of the expertise of Indigenous Board members who most often are the non-salaried members requiring honoraria

### *Break for lunch*

## Hearing Training (continued)

### Part 4: Issues that may arise in the Hearing

#### Recent Developments

- Review of December 3, 2019 letter from ENR and preparation of Board responses
- Colville 2020 Public Listening Scope and central question
- Partnership with Colville and collaborative scoping
- Sikyea decision, 1964, following which land claims structures set up to bridge Dene laws and Canada's laws
- Paul Nadasdy's book *Hunters and Bureaucrats* more recently critiques co-management for not being inclusive of Indigenous perspectives
- Terminology: encouraging a list of important terms and concepts

#### Confidentiality requests

- A party makes a confidentiality request and then asks for specific accommodation measures (who they want to hear it or don't want to hear it) and then the Board decides.
- The Board needs to consider, does this really need to be kept confidential, or is it something the public at large should know?

### Scope

- The key question we're trying to answer with this hearing is: What is the most effective way to regulate harvesting of caribou?
- Rather than a herd approach where many issues regarding one herd are discussed, the Board is trying to narrow the scope by using a topical approach instead of a herd specific approach
- The Board is open to adopting a TAH, if it can be shown that the CCP process is not working.
- The Board welcomes presentation of any conservation plans that Parties wish to present.

### Conflict of Interest and Bias

- The Board will seek an independent legal opinion on the issue of bias due to choice of legal counsel.

## Evening Session: Banquet and meeting with Norman Wells Renewable Resources Council

### SRRB Participants

#### Board Members

George Barnaby (Interim Chair), Faye D'Eon-Eggertson, Samuel Haché, Keith Hickling, Camilla Rabisca, Camilla Tutcho

#### Staff

Deborah Simmons

#### Other Guests

Nick Sowsun, Lorraine Land (OKT Law)

### NWRRRC Participants

Stuart Pope, Jasmine Plummer, Jaryd McDonald, Roger Odgaard, Margaret McDonald

### *Before dinner discussion*

### Opening

- Introductions
- Opening remarks and review of agenda

### Colville 2020 Public Listening Update

#### *Presentation by Deborah Simmons*

- Overview of topic and timelines.
- The key question regarding harvest regulation is important for Norman wells, because Norman wells is super concerned about harvesting in the mountains.
- The SRRB (Kirsten Jensen) can provide funding and capacity support to prepare a presentation; Norman Wells will coordinate a workshop to discuss.

- Reflections on the regional CCP workshops in Tulít'a and Colville in November (Stuart Pope and Jaryd McDonald).
- A series of five Public Listening Sessions is planned on different “hot topics” over the coming years, with each community hosting a meeting.
- Agreed that it’s appropriate for Norman Wells to host the session on the mixed economy.
- Norman Wells youth are encouraged to participate as part of the Sahtú Youth Network panel.

#### *After dinner*

#### Mine Exploration in the Mountains

##### *Presentation by Roger Odgaard*

- Concerns that the NWRRC has not had the opportunity to review exploration and development prospects in relation to the Nío Nę P'ęñé – Trails of the Mountain Caribou conservation plan.
- Access and Benefits Agreements need to be negotiated with the Land Corporations as a condition of any development. The risk is that without assistance, the community could be forced to accept the industry’s agreement template. There are people who are eager to provide negotiating assistance to communities if they wish.
- The Fort Norman Métis Land Corporation challenged the proposal with regards to benefits (IBA) and traditional knowledge.
- The SRRB contributed technical comments.
- There are also concerns about impacts of the Howard’s Pass road.
- The community has had negative experiences failure to clean up after prospecting and mine exploration.

#### Sahtú Research Workshop 2019

##### *Presentation by Deborah Simmons*

- The NWRRC is welcome to send delegates to the Sahtú Research Workshop in Tulít'a, scheduled for December 10-12.
- Concern about arsenic levels in the mountains, which main flow into the Keele River and then to the Mackenzie River.
- Concern about oil seepage into the Mackenzie River, including seepage from the artificial islands across from Norman Wells where oil wells are situated, and possible failure of Imperial to inform the public of contamination – or claims that seepage is natural.

#### Future Meetings

- Recommendation that future meetings take place downtown to support local businesses – especially Sahtú Dene Inn.

*Meeting adjourned at 7:00 pm approximately.*

## Day 3

### NWRRC Meeting Debrief

- Note that the Board tries to rotate meetings throughout the communities, and takes the opportunity to meeting with local ʔehdzo Got'ɲne and others.
- The plan is for the fifth Public Listening is to be held here in Norman Wells on the topic of the mixed economy.
- It was helpful to encourage NWRRC to contribute to the Public Listening Session, drawing from the work done on the Nío Nę P'ęne plan.
- On November 30, Deb, Leon and Ethel presented about the Nío Nę P'ęne to the Norman Wells Land Corporation. It's important to involve them since they are the land owners.
- There are different perspectives in the community on resource development and the leadership organisations have not been working together, and the Nío Nę P'ęne plan is not being used as a reference point. There is a silo effect in environmental assessment processes.
- The SRRB needs to evaluate our role in the permitting process.
- The SLWB faces the challenge that they don't receive much input from communities. Our CCP approach may help to support more participation by building capacity. It may be useful to involve the SLWB more in our CCP processes.
- Discussion of Nío Nę P'ęne plan, Working Group chaired by Leon Andrew, proposed Indigenous Protected and Conserved Area, and partners.
  - Protection has been conditional on finding an agency to sponsor – but there is now a new legislative framework in the NWT after devolution.
- The ʔehdzo Got'ɲne have had a big funding increase, but they are still struggling in terms of capacity. The SRRB is trying to support capacity development through CCP, youth initiatives and support for Nę K'áđí Ke initiatives.

### Strategic Planning Workshop

#### *Presentation by Deborah Simmons*

- This is the third ever strategic plan for the SRRB; it's appropriate to be considering this in the midst of our Public Listening proceeding. The first plan was in 1999, when Norman Simmons was Executive Director, in the early years of the Board. The second was in 2009.
- Master's student Rory Carthew (University of Calgary) completed a thesis based on an evaluation of the Board, including interviews of a lot of people involved in the co-management system. He found that the co-management bureaucracy was an obstacle to community participation. This was similar to Paul Nadasdy's critique in the book *Hunters and Bureaucrats*.
- In the interim, the Board was overwhelmed with the requirements of responding to two major events: the advent of the Canol shale oil play and the news of declining barren-ground caribou herds.

- The danger of strategic plans is that they just sit on the shelf.
- The current draft plan is based on a workshop facilitated by Christine Wenman that took place in 2017, and has been updated based on more recent events.
- In the past five years the Board has been moving outside the box of conventional wildlife management approaches in order to address its mandate as a co-management board.
- There have also been more developments that will affect the Board's strategy: Nę K'ádí Ke programs, Indigenous Protected and Conserved Areas, the caribou Public Listening series.
- A strategic plan is SMART: Specific, Measurable, Action oriented, Resourced, Timely.
- The Board also needs to consider approaches from a Dene and Métis standpoint, for example accounting for the importance of on the land programs.
- Visioning exercise: where do we want to be in five years?

### Strategic Plan Overview

#### *Presentation by Christine Wenman (teleconference)*

- Vision: Working together to make a living on the land.
- This overview aims to help the 60 pages in front of you seem less daunting.
- In reviewing the plan, we should be able to go back to the components of our vision statement, and see if we've managed to capture all of the important parts of our plan.
- Key issues:
  - Staff and Board member turnover.
  - The staff are overwhelmed with work, and it's difficult for Board members to keep up with projects and decisions.
  - Importance of identifying priorities and sticking with them.
  - Ensuring the communities are shaping the priorities and we're working closely with them, supporting the things they're doing; otherwise things will fall apart.
  - Implementing land claim objectives.
  - ʔehdzo Got'ıne capacity.
- Successes:
  - CCP (Délıne, Colville and Nıo Nę P'ęne).
  - Sahtú Youth Network.
- Working harder doesn't necessarily achieve our objectives or address our weaknesses.
- Between 2017 and today we've had huge breakthroughs in terms of the levels of community support and participation, including:
  - Collaborative work with Colville Lake
  - Partnering with Sahtú Dene Council in initiating Nę K'ádí Ke program
- Concept of leadership, including formal and informal leaders.
- Key initiatives:
  - CCP
  - *Best of Both Worlds* project considering Dene ts'ııı or traditional economy as a key part of the vision for the Sahtú mixed economy.
  - Nę K'ę Dene Ts'ııı - Living on the Land Forum (formerly Sahtú Environmental Research and Monitoring Forum).

- On the Land programs: Dene Ts'įłį School, Cross-Cultural Water Research Camp, Ne K'ádí Ke program.
- Legislative and political context:
  - UNDRIP
  - Convention on Biodiversity
  - Truth and Reconciliation Commission
  - Contemporary reinterpretations of land claim agreement
- Approach:
  - Biocultural
  - Bottom-up: the bands, the council, the boards, all work for the people
  - Holistic
  - Founded in Indigenous knowledge
  - Precautionary and proactive
- Conservation context: declining wildlife populations
  - Focus on caribou.
  - CCP might be a proactive vehicle to consider these processes ahead of time, and to address cross-regional processes.
  - Industrial development.
  - Changing legislation and policy: climate change, forest management.
- Mission and mandate: interpreted with respect to the overall objectives of the claim, and also in the context of the changing legislative and political context.
- Audience: who are we trying to address with the strategic plan? It's first and foremost intended to be a tool of the Board, to provide direction to staff. However, communication is important, because the Board is trying to do things differently than might be expected.
- There is some value in a larger document that provides context for the Board's effort to be innovative in interpreting its mandate.
- It's important to consider the Board's role within the larger integrated resource management system.

#### Next Steps

- Staff to review and revise the draft.
- Board workshop on implementation goals.

#### Response to ENR re Colville 2020 Public Listening Session

##### *Presentation by Lorraine Land*

The Board reviewed the response to ENR letter, made some edits and ultimately approved the substantive responses, pending further edits for grammar and spelling.

#### Scheduling the Final Decision Meeting:

- The deadline for final written submissions is February 10, and decisions should be made after that.

## Other Board Business

ACCWM Status Assessment for Bluenose West and Bluenose East ɾədə/ɾekwé  
*Presentation by Deborah Simmons*

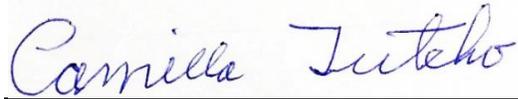
### Motion 2020-25

M2020-25	Approve the status of Bluenose East ɾekwé (caribou) as Red Zone, Bluenose West ɾədə (caribou) as Orange Zone, and Cape Bathurst as Yellow Zone. Keith Hickling/Camilla Rabisca.	Consensus
----------	---	-----------

*Meeting adjourned at 4:00 pm approximately.*

## Approval of Minutes

Approved by Board decision, June 11, 2020.



---

Camilla Tutcho, Acting Chair

## Summary of Motions

Number	Description	Result
M2020-25	Approve the status of Bluenose East ɾekwé (caribou) as Red Zone, Bluenose West ɾədə (caribou) as Orange Zone, and Cape Bathurst as Yellow Zone. Keith Hickling/Camilla Rabisca.	Consensus