




October 13, 2004

The Honourable Olayuk Akesuk  
Minister of Environment  
Government of Nunavut  
Box 2410, Iqaluit, NU  
X0A 0H0

Hand delivered  
Oct. 13, 2004  


Dear Minister Akesuk:

**Re: Decisions of the Nunavut Wildlife Management Board arising from the 2004 Polar Bear Management Memoranda of Understanding**

At its 39<sup>th</sup> meeting held in Kugluktuk during the first week of October 2004, the Nunavut Wildlife Management Board (NWMB) passed four resolutions arising from the 2004 Polar Bear Management Memoranda of Understanding (MOUs):

- Resolution No. 1 established four non-quota limitations for polar bears;
- Resolution No. 2 established five community total allowable harvests/basic needs levels and eight regional total allowable harvests/basic needs levels for ten polar bear populations;
- Resolution No. 3 established five total allowable harvest rules for polar bears; and
- Resolution No. 4 approved the 2004 MOUs, except for the M'Clintock Channel Population and the Davis Strait Population, and subject to a number of conditions.

Attached to this letter are copies of the four decisions, which the NWMB hereby forwards to you pursuant to Section 5.3.8 of the *Nunavut Land Claims Agreement*. Should you or your officials have questions with respect to any of the decisions, please do not hesitate to contact the NWMB office at your convenience.

Yours sincerely,



Ben Kovic,  
Chairperson and Chief Executive Officer  
of the Nunavut Wildlife Management Board

**NWMB RESOLUTIONS ARISING FROM THE 2004 POLAR BEAR MANAGEMENT MEMORANDA OF UNDERSTANDING**

**RESOLUTION NO. 1**

**RESOLVED** that the NWMB, pursuant to section 5.6.48 of the *Nunavut Land Claims Agreement*, taking into account the terms of the 2004 Polar Bear Management Memoranda of Understanding, and subject to Note 1 below, establish the following non-quota limitations for polar bear harvests within the Nunavut Settlement Area:

1. The season of harvest for polar bears shall be from July 1<sup>st</sup> of one year to June 30<sup>th</sup> of the following year. (MOU 3.4)
2. No person shall harvest a female polar bear that is accompanied by a bear that is or appears to be under three years of age. (MOU 5.3.1(a))
3. No person shall harvest a polar bear that is under three years of age unless
  - (a) it appears to be abandoned by its mother;
  - (b) the harvest is authorized by an exemption permit; or
  - (c) its mother was killed as an emergency kill (in accordance with section 97 of the *Wildlife Act*) and there is little likelihood of it surviving. (MOU 5.4.2)
4. No person shall harvest a polar bear that is in a den or that is constructing a den. (MOU 5.3.1(b))

**Note 1:** The NWMB acknowledges that certain of the non-quota limitations established by this resolution may also be characterized as modifications or affirmations of existing non-quota limitations.

**RESOLUTION NO. 2**

**RESOLVED** that the NWMB, pursuant to sections 5.6.16 and 5.6.17 of the *Nunavut Land Claims Agreement (NLCA)*, and taking into account the terms of the 2004 Polar Bear Management Memoranda of Understanding - including the principle that a maximum sustainable harvest of polar bears requires the harvesting of at least two males for every female - establish the following levels of total allowable harvest for polar bear populations within the Nunavut Settlement Area, effective for the period from July 1<sup>st</sup> 2004 to June 30<sup>th</sup> 2005:

<b>POLAR BEAR POPULATION</b>	<b>TOTAL ALLOWABLE HARVEST (TAH) DECISION FOR 2004-2005<sup>1</sup></b>	<b>COMMUNITY OR REGIONAL TAH FOR 2004-2005</b>
<b>Northern Beaufort Population</b>	<b>6 per year</b>	<b>Kugluktuk: 6</b>
<b>Viscount Melville Population</b>	<b>3 per year</b>	<b>Cambridge Bay: 3</b>
<b>Gulf of Boothia Population</b>	<b>74 per year</b>	<b>Kitikmeot: 54</b>
		<b>Kivalliq: 5</b>
		<b>Qikiqtaaluk: 15</b>
<b>Lancaster Sound Population</b>	<b>85 per year</b>	<b>Qikiqtaaluk: 85</b>
<b>Norwegian Bay Population</b>	<b>4 per year</b>	<b>Grise Fiord: 4</b>
<b>Kane Basin Population</b>	<b>5 per year</b>	<b>Grise Fiord: 5</b>
<b>Baffin Bay Population</b>	<b>105 per year</b>	<b>Qikiqtaaluk: 105</b>
<b>Western Hudson Bay Population</b>	<b>56 per year</b>	<b>Kivalliq: 56</b>
<b>Southern Hudson Bay Population</b>	<b>25 per year</b>	<b>Sanikiluaq: 25</b>
<b>Foxe Basin Population</b>	<b>106 per year</b>	<b>Kivalliq: 64</b>
		<b>Qikiqtaaluk: 42</b>

<sup>1</sup> Polar Bears are "presumptions as to needs" wildlife. The basic needs level (BNL) is presumed to be equal to the TAH for such wildlife (See NLCA Section 5.6.5). Accordingly, the TAHs set out in this Table are automatically also the BNLs.

## RESOLUTION NO. 3

**RESOLVED** that the NWMB, in accordance with sections 5.6.16 and 5.6.17 of the *Nunavut Land Claims Agreement* and its total allowable harvest (TAH) decisions for polar bear populations in the Nunavut Settlement Area (NSA), and taking into account the terms of the 2004 Polar Bear Management Memoranda of Understanding, establish the following TAH Rules for Polar Bears:

1. Except where a polar bear is killed for humane reasons,<sup>2</sup> the harvesting of a polar bear is counted against the total allowable harvest for that population. (MOU 6.8)
2. If a female bear is harvested when it is accompanied by another bear that is under three years of age, that other bear is deemed to be harvested at the same time as the female bear. (MOU 6.3)
3. Any bear that is deemed to be harvested pursuant to Rule 2 above is to be counted as only one-half a dead bear if:
  - (a) it is less than two-years old; and
  - (b) the female bear that accompanied it was killed because it was necessary to preserve a human life, protect a person's property or prevent a person's starvation. (MOU 6.3)
4. A polar bear cub (less than one year of age) that dies as by-catch in a certified trap is to be counted as one-half a dead bear.<sup>3</sup>
5. A polar bear harvested inside the NSA within 30 kms. of the boundary of a polar bear population may be presumed to come from either the population of the area it was harvested in or from the bordering one, as long as both areas are in the NSA.<sup>4</sup>

<sup>2</sup> A person who finds a polar bear alive but diseased or near death may kill the animal if, in the person's opinion, there is little likelihood of the bear surviving. See subsection 16(1) of the draft *Harvesting Regulations*.

<sup>3</sup> See MOU 6.1: "*Polar bear cubs caught in traps set for other species shall be recorded as part of the human kill, but shall not be deducted from the TAH or credits.*" The NWMB disagrees with this approach on conservation grounds, and finds it inconsistent with MOU sections 6.3 and 6.5.

<sup>4</sup> See MOU sections 5.5.2 and 5.5.3: A tag issued for a polar bear population may be used within the geographical area defined for the population. It may also be used up to 30 kilometres outside of the geographical area defined for that population, subject to the following conditions:

- (a) The polar bear is harvested within the Nunavut Settlement Area; and
- (b) The HTOs of both geographical areas:
  - (i) are signatories to the MOU for their populations, and
  - (ii) have previously reached agreement with each other on such a use of tags.

## RESOLUTION NO. 4

RESOLVED that the NWMB, pursuant to subsection 5.2.34(d)(i) of the *Nunavut Land Claims Agreement* (NLCA), approve the following elements of all the 2004 Polar Bear Management Memoranda of Understanding (MOUs) except for the *M'Clintock Channel Population* and the *Davis Strait Population* MOUs,<sup>5</sup> and subject to:

- (a) Notes 1 and 2 below, and
  - (b) The results of a reconsideration by the NWMB, the Department of the Environment and Nunavut Tunngavik Inc. of the entire polar bear management system within Nunavut, scheduled to begin in 2004:
1. Section 1, except:
    - (a) Under 1.10 and 1.11, NWMB approval of the MOU or amendments to it, is only required for those provisions that constitute plans for the management or protection of polar bears (or their habitats).
    - (b) Revise 1.12 to clarify that a person assigned a share of the polar bear total allowable harvest (TAH) under NLCA 5.7.34(b) is not to be considered an Inuk under the NLCA. That person is subject to laws of general application.
  2. Section 2.
  3. Section 3, except:
    - (a) Under 3.2, HTO rules for harvesting polar bears do not require formal NWMB approval to be valid, unless they are inconsistent or in conflict with:
      - (i) existing provisions of the MOU that constitute plans for the management or protection of polar bears (or their habitats); or
      - (ii) harvest limitations or TAH rules established by the NWMB.
  4. Section 4, except:
    - (a) The NWMB recognizes the "credit system" as an administrative system only. It can not automatically increase or decrease a TAH established by the NWMB. The NWMB will consider a request to modify a TAH based upon credits administered by the appropriate RWO.
    - (b) The NWMB calls upon the Department of the Environment to conduct further information sessions with RWOs concerning the complex "credit" and "Flexible Quota" systems, and the RWO role within those systems, as established in this and other sections of the MOU. (See, for example, Table 1, and sections 5.5.5, 6.2, 6.5, 6.6 and 6.9. See also Appendix 2.)
  5. Section 5, except:
    - (a) Revise 5.1.3 to read: "*Two-year old' means a polar bear that is ~~older than~~ two years of age or older, but less than 3 years of age, and is still with its mother.*"

<sup>5</sup> The NWMB has been informed by the Manager of Wildlife Research of the Department of the Environment (DOE) that these two MOUs have not been fully signed. Consequently, they have not yet been submitted to the NWMB for approval. The DOE Manager has indicated that they will be submitted before January 1<sup>st</sup> 2005.

- (b) 5.5.1(a) and Table 1 constitute only recommendations for NWMB consideration.
  - (c) Revise 5.6.1(e). The NWMB disagrees that consultation and HTO support should be treated as automatically having been provided beforehand for future research studies. Suggested revised wording for the second sentence of 5.6.1(e): *“For clarity, this stipulation means that this MOU constitutes HTO support for the use of the polar bear specimens referred to in subsections 5.6.1(a) to (e) for any additional studies”*.
  - (d) The *“Response to Population Depletion”* set out in 5.7.1 constitutes only a recommendation for NWMB consideration.
6. Section 6, except:
- (a) The NWMB recognizes the Flexible Quota System as an administrative system only. All directions concerning the TAH constitute recommendations for NWMB consideration. The NWMB will consider a request to modify a TAH based upon the Flexible Quota System.
  - (b) Under 6.1, consistent with 6.3 and 6.5, a polar bear cub caught in a trap set for another species should count for a half tag (See the NWMB’s proposed TAH Rule 4 for Polar Bears).
  - (c) Delete from 6.2, *“... or from next year’s TAH”*. The NWMB is of the view that the implications of such a proposed arrangement (potentially borrowing from future TAHs) require further discussion among the co-management partners.
7. Section 7, except:
- (a) Revise 7.3 to eliminate the reference to *“consultation”* in the first sentence. The NWMB is of the view that further consultation may be required with respect to certain details of the studies. Suggested revised wording: *“This MOU shall constitute support for conducting the periodic polar bear population inventory studies identified in Section 7.1.”*
  - (b) With respect to 7.5(a), if DOE is the agency that is to provide the \$5,000 compensation, the subsection should explicitly state that.

**Note 1:** The NWMB’s approval of the 2004 MOUs does not include any limitations on Inuit harvesting or rules with respect to total allowable harvests that fall within NWMB jurisdiction, except those that are included in NWMB Resolution Numbers 1, 2 or 3.

**Note 2:** The NWMB understands that Appendices 2 and 3, attached to the MOU, are explanations by the Government of Nunavut of its preferred *“Flexible Quota System”* and *“Harvest Risk Management Protocol”*, respectively. As such, the Appendices do not form a part of the MOU, do not require NWMB approval, and are provided for information purposes only. Accordingly, the NWMB’s approval of the MOU does not include any of the attached Appendices.



I value the Board's opinions as a co-management partner with my Department and as the primary instrument of wildlife management in Nunavut.

It is agreed that an amendment to Section 1.12 of the MOU is appropriate to clarify as the Board suggests.

Resolution 4 (3):

It is agreed that an amendment to Section 3 of the MOU is appropriate to clarify as the Board suggests.

Resolution 4(4):

For clarity, my staff would continue to provide polar bear TAH recommendations for each year for the NWMB to review as for the current (1996) MOUs.

The Regional Wildlife Organization's (RWO) role in the flexible quota system and credit administration was developed with the participation and the approval of the RWOs (they are signatories). The Department of Environment attends most RWO meetings and is always ready to assist the RWOs as required. Our agreement to support the RWOs is stated directly in the MOU.

Resolution 4 (5):

It is agreed that an amendment to Section 5.3.1 of the MOU is appropriate to clarify as the Board suggests.

Under Section 5.2.37 (c) of the Nunavut Land Claim Agreement (NLCA) the NWMB shall "review research proposals and applications, and where appropriate recommend the acceptance or rejection of such proposals to the appropriate government agency". The NWMB will continue to receive all wildlife research proposals for review, including those that utilize specimens from the polar bear harvest. Muscle and fat tissue is routinely collected from the mandatory specimens described in MOU section 5.6.1 (a) to 5.6.1 (e). Any additional tissue or other samples would have to be requested from the hunters, following appropriate consultation with the affected communities. I judge the current language in section 5.6.1 (e) to be within our mandate and appropriate. I request the NWMB recommendation to change 5.6.1 (e) be revisited.

The "response to population depletion" is a failsafe mechanism that is proposed to be implemented in the event of a population depletion. In light of the Board's decision to consider this management plan component as a recommendation, I request that the Board revisit the proposed response and provide a decision. The proposed mechanism is an integral part of the management plan because the TAH recommendations contained in the MOUs are only conservative if the administrative system that guarantees that harvest levels remain within conservation limits is also accepted.

#### Resolution 4(6):

The flexible quota system is required to ensure that the harvest of males and females remain within sustainable limits. The Board's decision does not adequately acknowledge the flexible quota system as a key aspect of the management plan for polar bears. I request that the Board revisit the flexible quota system as more than an administrative system but properly viewed as a management plan and provide a decision.

As previously mentioned, the NWMB decision to count polar bear cubs caught in traps as a by-catch as  $\frac{1}{2}$  and male is accepted.

Sometimes accidental, defence, or illegal kills occur after the quota for a given year has been taken. In these circumstances, conservation requires that the TAH be reduced in the following year if the credits are insufficient to cover these kills. I understand that the NWMB has approved a similar system for community based management of Narwhals. I request the NWMB to revisit this part of their decision, as a component of the overall plan for the management of polar bears and provide me with a decision.

#### Resolution 4(7)

Under Section 5.2.37 (c) of the Nunavut Land Claim Agreement (NLCA) the NWMB shall: "review research proposals and applications, and where appropriate recommend the acceptance or rejection of such proposals to the appropriate government agency". The NWMB will continue to receive all wildlife research proposals for review, including population inventory studies. The population inventory cycle is a critical component of our polar bear management system. The results of these studies are used to determine our next TAH recommendations as described in the MOUs. I judge the current language in MOU section 7.3 to be within our mandate and appropriate. I request the NWMB to revisit this part of their decision, to retain the current 7.3 language.

The suggestion to change the language in 7.5 is not accepted as necessary. Because only the Minister of Environment, HTOs, and RWO are signatories to the MOU, it is evident that the compensation for research killed polar bears would be paid by the Department of Environment, so no language change is necessary. The NWMB decision to change the language in section 7.5 should be **disallowed**.

With respect to "Note 1", I refer to my request above for the NWMB to revisit those components of polar bear management that make up the Memoranda of Understanding and provide a decision on the polar bear management plan.

With respect to "Note 2": Appendix 2 is referenced in the MOU and Appendix 3 describes the development conservative harvest rate that is a core component of the polar bear research and management system that is described in the MOU.

In asking the Board to revisit components of the management plan set out in the MOU, I ask the Board to consider the implications of increasing Nunavut's annual polar bear harvest by 115 without regard to the management system that ensures conservation limits apply. NWMB, as the main instrument of wildlife management, has to declare a position on our management plan in order to fully satisfy other jurisdictions that share our polar bear populations, and Canada's co-management partners identified in the International Agreement for the Conservation of Polar. This is important in order to retain the economic value from polar bear harvesting given that polar bears are a species of special concern (COSEWIC), on Appendix II (CITES), and under the close scrutiny of the US Fish and Wildlife Permit Office.

Recognizing that work we have done together to develop these MOUs, and I ask you to reconsider your decision in light of the comments above.

Sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Olayuk Akasuk  
Minister