

Tłegóhtł  
Public Listening



Pełdzo Got'ıne ę Gots'ę Nákedi  
(Sahtú Renewable Resources Board)  
Box 134,  
Tulıt'a, NT X0E 0K0  
Phone (867) 374-4040  
Fax (867) 588-3324  
eas@srrb.nt.ca  
www.srrb.nt.ca

The Honourable Jay Macdonald  
Northwest Territories Minister of Environment and Climate Change  
Legislative Assembly of the Northwest Territories  
Box 1320,  
Yellowknife, NT X1A 2L9  
[Jay\\_Macdonald@gov.nt.ca](mailto:Jay_Macdonald@gov.nt.ca)

The Honourable Terry Duguid  
Canada Minister of Environment and Climate Change  
House of Commons  
Ottawa, ON K1A 0A6  
[ministre-minister@ec.gc.ca](mailto:ministre-minister@ec.gc.ca)

April 8, 2025

Delivered via email

Dear Ministers,

On behalf of the Pełdzo Got'ıne ę Gots'ę Nákedi (Sahtú Renewable Resources Board—SRRB), I am writing to acknowledge receipt of your responses to the *SRRB Report on the Tłegóhtł (Norman Wells) 2024 Public Listening Session (PLS): Caribou Conservation, Climate Change and Wildfires*, dated January 15, 2025. This was the third PLS on conservation concerns for caribou in the Sahtú region.

The SRRB received your letters dated March 11 and March 14 respectively. The Board is grateful for your thoughtful consideration of its advice following the Tłegóhtł (Norman Wells) 2024 PLS. All co-management partners seek to support the faithful implementation of the promises in the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*.

The Board's advice, in the form of recommendations under section 13.8.36, is not subject to the iterative decision-making process nor were responses required under section 13.8.25. For specific analysis to support this conclusion, please see the attached appendix.

The SRRB considers this letter concludes the Tłegóhtł (Norman Wells) 2024 PLS, and wishes to extend its thanks to all parties and co-management partners for their support of the PLS, and invites them to

anticipate the fourth Public Listening Session on hot topics related to caribou conservation in the Sahtú Settlement Area.

Máhsı cho,



Donna Schear  
Acting Chair, Sahtú Renewable Resources Board

## **APPENDIX**

### Appendix – Analysis of Decision-Making and Advice

The Board wishes to explain its view that its advice, offered in the form of “recommendations” under section 13.8.36a, is not subject to the iterative decision-making process outlined in 13.8.24-28. When the Board exercises its power to make “decisions”, the Board intends the decision to have legal effect, which triggers the iterative decision-making process for “all decisions” of the Board.

#### *Responses to Board Advice*

A minister’s response to the Board’s advice does not operate as part of the iterative decision-making process under 13.8.24. The Board’s advice is not a decision applying powers under the SDMCLCA. The Board’s advice does not invite a reviewing minister to accept, vary, or set aside and replace it under 13.8.25. The Board’s advice has no immediate legal effect for Government to implement (13.8.29).

The Board agrees with the NWT Minister’s past statements about the interpretation of responding to SRRB recommendations under the land claim:

- the Minister of [ECC] is not required to respond to recommendations of the SRRB under 13.8.25 of the SDMCLCA...  
*Response of the NWT Minister of ECC to SRRB Colville Lake 2020 PLS First Hearing Report, January 29, 2021*
- the Minister has responded to decisions made by the SRRB as required under section 13.8.25 of the [SDMCLCA] but has also provided input on recommendations included in the SRRB’s report...  
*Response of the NWT Minister of ECC to SRRB Délıne 2021 PLS 2 First Hearing Report, June 27, 2023*

At the end of the Délı̄nę 2021 PLS, the Board considered the NWT Minister’s input about the Board’s advice, and reiterated the Board’s unwillingness to change its advice in light of the specific revisions. Despite the Board’s clarification based upon the SDMCLCA, it was surprised by the NWT Minister’s final response which stated “I am maintaining the varied wording that was provided in my first Response” (Response of the NWT Minister of ECC to SRRB Délı̄nę 2021 PLS Second Hearing Report, August 23, 2023).

*Varying* the Board’s advice erodes the Board’s independence and the importance of a co-management hearing under a modern land claim. The Board’s advice warrants due consideration at the conclusion of a public hearing into caribou conservation. A minister holds the honour of the Crown and is responsible to fulfill the duty to consult. The Board is concerned with the way the NWT Minister is responding to the Board when it provides advice. The NWT Minister’s response to vary and substitute wording, or set aside and replace advice, means the Board’s voice is subject to a minister confirming the content of the advice the Board gives. Any variation to the Board’s advice from a minister has the effect of the minister giving themselves advice.

Engaging the iterative decision-making process to finalize advice, unlike finalizing decisions that the Board intends to have legal effect, risks determining a matter of interpretation prematurely or without due consideration for the land claim process in which the advice arose. The Board’s advice being subject to variation and finalization by the Minister could reasonably lead parties to consider the Minister is making a legal determination that affects them. The NWT Court of Appeal (2025 NWTCA 01) helps clarify that responses from a minister should not merely speculate the Board’s advice is unworkable.

### *Responses to Board’s Advice in PLS 3*

Following the 2024 Tłegóhı̄ (Norman Wells) PLS, the Board gave advice based on what it heard in relation to the hot topic of wildfires and climate change affecting caribou conservation. The recommendations provided by the SRRB were all advice, provided under the Board’s discretion to “advise the Minister or government of any matter related to wildlife or wildlife habitat... whether or not the Minister or government requested such advice” (13.8.36a). The Board cited 13.8.36a for each recommendation in the January 15, 2025 PLS Report, and explained that its recommendations were how the SRRB thought the GNWT and GoC could work with Sahtú communities to address how climate change and wildfires affect caribou conservation in the Sahtú Settlement Area.

As the Board’s January 15, 2025, PLS Report stated, “When the SRRB makes a recommendation, it is providing advice to government or other parties with whom it shares co-management duties.” The NWT Minister of ECC confirmed their understanding of this when they noted the Board’s recommendations were made under 13.8.36 in their March 14, 2025, response letter. The NWT Minister did not provide a justification for responding to advice by varying it.

The Board's advice is not provided so a Minister can change it, whether by varying or setting aside and replacing it before it is final. The Board's advice is the Board's advice. If there's a response, and rationale provided for the response, the Board may consider it.

The NWT Minister responded to vary or set aside and replace the Board's recommendations in relation to monitoring impacts from fire retardant use (Recommendation 2.2c) and the maintenance and disclosure of records about fire retardant use in the Sahtú Settlement Area (Recommendation 2.2a). When the SRRB gave advice after the 2024 Tłegóhłį PLS, that advice resulted from the Board's consideration of the submissions of parties and the record, which included full participation from staff of your respective departments. The Board's advice is related to its wildlife management mandate, and under 13.8.36a, the Board has the opportunity to advise the Minister whether or not the advice was requested. A response from a Minister is a response to the Board's advice.

The Board is concerned that the NWT Minister's March 14 response that varies or sets aside and replaces the Board's advice:

- undermines the intent of the advice to address caribou conservation and impacts of fire-retardant use on people, caribou, other wildlife and the land;
- changes to the Board's advice to include actions and subject matter outside the SRRB's jurisdiction; and
- speculates without reasons that the Board's advice is unworkable, in a form that appears arbitrary, without engaging party arguments or with the Board's reasons that were provided to support the advice on the basis of the PLS record.

This kind of response gives a perception of inflexibility that is difficult to see as reflecting the honour of the Crown, the promises of the land claim, or the due consideration advice from the SRRB warrants. The Board is providing this analysis to support its view that its advice provided to the Ministers at the conclusion of the Tłegóhłį 2024 PLS is not subject to the iterative decision-making process triggered by 13.8.24, and objects to the SRRB's advice to the NWT Minister being altered. The Board invites the Ministers to work in accordance with the land claim, and consider the Board's advice without varying, or setting aside and replacing it. The Board does not expect the NWT Minister to provide a final response as none is required.