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Delivered via email

September 16, 2021

**RE: Agenda Questions for Délįnę 2021 Virtual ʔełets'ėhkwe Godı (Public Listening Session):
Tįch'ádıı hé Gots'edı (Living with Wildlife): Predators and Competitors**

Dear Dr. Kelly,

Thank you for your letter dated September 1, 2021. The ʔehdzo Got'įnę Gots'ę Nákedı (Sahtú Renewable Resources Board - SRRB) is pleased to provide this reply. The SRRB acknowledges the concerns raised in your letter. However, at this time, the SRRB will not modify its agenda on the basis of the argument set out in your letter for the reasons set out below.

Public Listening Sessions

In 2019, the SRRB convened a five-part series of Public Listening Sessions (PLS) on topics related to the core question, *“What is the most effective way to conserve caribou?”* Each PLS will address a specific theme, intended to advance discussion and consideration of the overarching question.

The second PLS is focused on the question of *“What should people’s role be in maintaining healthy relationships between caribou and other wildlife?”* The SRRB’s approach to the PLS reflects an innovative approach to the exercise of its jurisdiction with respect to “hot topics” in caribou conservation.

The SRRB appreciates the engagement and effort of all parties to participate and learn through this process. Parties are aware the SRRB is undertaking a five-part process, and share an important role in advancing these discussions on issues central to the fulfillment of the objectives of the SDMCLCA. The PLS addresses the complex nature of issues affecting Sahtú Dene and Métis experiences of wildlife, habitat and harvesting in their traditional territory.

The SRRB gave notice of the second PLS, the Déljñę 2021 ʔełets'éhkwę Godı (PLS) on December 1, 2020. The SRRB postponed the Déljñę 2021 PLS on February 5, 2021, and resumed it on July 7, 2021. In this reply, the SRRB relies on its July 7, 2021, Resumption Notice for the Déljñę 2021 PLS (Resumption Notice).

The SRRB provided reasons for modifying the agenda and including certain deferred issues, explaining the SRRB's intention to invite further engagement via the PLS. Other issues remain deferred, to be taken up in future PLS. Taking account for the circumstances, the SRRB seeks to ensure that its procedures facilitate fair participation, promotes public confidence and provides appropriate consideration from parties. The SRRB carefully considered its agenda before resuming the Déljñę 2021 PLS. The SRRB made its determination to bring forward certain deferred issues and provided reasons.

As you describe, NWT Environment and Natural Resources (ENR) has a critical role in these discussions and as party to the PLS. Government retains ultimate authority for wildlife management, and decisions of the SRRB are subject to Ministerial review and confirmation – a responsibility which in many cases falls to the NWT Minister of ENR. ENR staff are often on the ground working with and within communities. The objectives of reconciliation and the honourable implementation of treaties place additional responsibilities on ENR when it represents Government (and the Crown) as a party to SRRB proceedings. The SRRB does not seek to impede or otherwise limit the meaningful participation of ENR in the Déljñę 2021 PLS.

Your letter raises concerns with “the inclusion of the following two matters on the agenda” now subject to a judicial review:

- Primary responsibility for stewardship; and
- ʔehdzo Got'jñę (Renewable Resources Council) powers.

[Déljñę 2021 PLS and Colville Lake Application for Judicial Review](#)

The application for judicial review was made by Colville Lake RRC. The application concerns the final decisions of the Minister on the Colville 2020 PLS. The judicial review is a separate legal proceeding in which the SRRB is not a party.

As outlined in this letter, and in the Resumption Notice, the SRRB provided justification for its further consideration of certain issues in the Déljñę 2021 PLS. The SRRB explained how its consideration of these issues is not a re-hearing of an issue. The SRRB's agenda raises unresolved issues for caribou conservation in the Sahtú region that are distinct from those in the judicial review. The issues in the Resumption Notice will be subject to distinct submissions and evidence in the Déljñę 2021 PLS.

The SRRB considered the judicial review when it decided to modify the agenda for the Déljñę 2021 PLS. At present, there is an originating notice which begins the process of a judicial review. The SRRB does not know how long the judicial review will take to conclude. The SRRB

has no control over the court's consideration of an application for judicial review. The SRRB cannot account for argument from parties in a judicial review process. Nor can only it take account of a judgment until after it is issued. The SRRB does not seek to interfere with the legal rights of parties, or to interfere with a separate judicial process.

In light of these factors, the SRRB decided to proceed with resuming the Délı̨ne 2021 PLS as outlined in the Resumption Notice. The SRRB acknowledges the unusual co-management circumstances arising at this stage of its PLS. The SRRB continues to monitor the judicial review and will consider implications for the PLS as they arise.

Stewardship Roles

As explained in the Resumption Notice, the SRRB is considering “stewardship roles” in caribou conservation. The issues in the judicial review do not raise stewardship roles. The SRRB explained the scope of the issues it will consider at the Délı̨ne 2021 PLS in the Resumption Notice, specifically the following:

- the different roles and responsibilities involved in stewardship for caribou conservation, accounting for communities that primarily harvest from a population;
- stewardship where there may be more than one community (inside and/or outside the Sahtú region) that primarily harvests from a herd or subpopulation; and
- local stewardship when there are other concurrent conservation efforts such as the *Taking Care of Caribou* management plan.

The SRRB does not consider the issues related to stewardship roles as outlined in the Resumption Notice have been finally determined and so it elected to invite further evidence before proceeding.

ʔehdzo Got'ı̨ne (Renewable Resources Council) Powers

As explained in the Resumption Notice, the SRRB is considering ʔehdzo Got'ı̨ne (Renewable Resources Council) authority in caribou conservation. The issues in the judicial review are specific to one community and one feature of community harvesting authorization. The SRRB explained the scope of the issues it will consider at the Délı̨ne 2021 PLS in the Resumption Notice, specifically the following:

- What is the form of the ʔehdzo Got'ı̨ne (RRC) role in “encouragement and promotion of local involvement in conservation, harvesting studies, research and wildlife management in the community” (13.9.1)?
- How do ʔehdzo Got'ı̨ne (RRC) manage “the local exercise of participants’ harvesting rights, including methods, seasons, and location of harvest” (13.9.4[b])?

The SRRB does not consider the issues related to RRC authority outlined in the Resumption Notice to have been finally determined, and so it elected to invite further evidence before proceeding.

Conclusion

The SRRB invites ENR to participate in the Déljñę 2021 PLS, and encourages ENR to contribute submissions on the issues outlined in the resumption notice. As explained in this letter, the SRRB does not consider the agenda creates an unreasonable situation for ENR to participate as a party on the basis of the argument provided in your September 1 letter. If there are additional legal justifications for the concerns raised, please provide them without delay.

With the ongoing COVID-19 pandemic and the recent emergency within our region, the SRRB continues to monitor the situation in the Sahtú. Parties should be aware that these circumstances are likely to impact the Déljñę 2021 PLS, particularly the timelines. We are all hoping for a safe and speedy return to healthier times.

Máhsı cho,



Deborah Simmons
Executive Director

Enclosure
September 1, 2021, letter from ENR Deputy Minister to SRRB Chair

Copies to
Déljñę 2021 ʔełets'éhkwę Godı (Public Listening Session) Parties