

The Behdzi Ahda” First Nation’s submission to the SRRB hearing in Fort Good Hope from November 21-23, 2007

The Census Data Conflicts with BAFN's October 2006 Count

The census data is inaccurate and conflicts with Behdzi Ahda” First Nation's own survey in 2006. The submission provided by David Codzi on behalf of the Behdzi Ahda” First Nation Renewable Resource Council describes the BAFN survey and the results.

The recommendation of BAFN is that the Board does not have sufficient information to establish a TAH for the Sahtu Settlement Area or to make a specific recommendation to the Minister at this time. What is required is a joint survey which will involve the community harvesters as well as ENR biologists. Ideally, this joint approach should involve harvesters in the neighbouring regions as well. This will result in more reliable data and encourage the support from the individual communities.

While this position is reasonable from the community's point of view, the census data which is extrapolated from aerial survey results across the Western Arctic does indicate a very significant decline in the Bathurst-West Herd. The SRRB itself is on record as being very concerned about the decline. Therefore, the SRRB will want to do something immediately to limit the amount of harvesting within the Sahtu Settlement Area. In fact, the SRRB may regard the situation as an emergency. Therefore, BAFN must be prepared to advance a position which will respond to the perceived emergency.

If Emergency Measures Are Necessary, What Can Be Done?

If emergency measures are necessary, the Minister should be urged to take action immediately to establish a Caribou Management Plan applicable to the Bluenose - West Herd. It is only through cooperation with harvesters in other regions (Gwich'in and Inuvialuit) that the problem can be dealt with effectively.

This approval is consistent with the provisions of the Sahtu Dene and Metis Land Claim Agreement dealing with the management of migratory species which are as follows:

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 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.

In other words, there is a clear direction in the land claim that Government must work with the Boards and with users to establish wildlife management agreements for migratory species. The Bluenose herd is specifically mentioned in 13.6.3 which requires government to work with the users of the Bluenose caribou herd to establish a management plan.

It is only where an agreement cannot be reached for the management of a migratory species that government has the power to intervene and establish its own management plan under 13.6.2. However, in BAFN's view the Government does not have the power to step in and impose a limitation on the harvest in the Sahtu. A TAH may only be imposed by the SRRB following the procedure under 13.5.

The management plan would address the implementation of restrictions between regions (the division between Bluenose-East and Bluenose-West, a tag system, etc.) to be implemented by the regional Renewable Resource Boards in accordance with the provisions of the land claim agreements.

Even if the SRRB and ENR follow this approach, however, it will take some time to consult with communities in all regions to develop an appropriate management plan. Therefore the SRRB will likely form the opinion that something should be done now to limit the harvest while preparation of a management plan is underway. Further, it is likely that ENR will insist upon action being taken, particularly because new regulations have already been imposed on the Inuvialuit communities as reported on the CBC on October 16.

What Measures Can Be Taken Immediately Before a Management Plan Is In Place

Here again, the only practical solution in the short run may be for the SRRB to recommend voluntary restriction as suggested by the SRRB in letters to the Minister dated February 17, 2006 and March 24, 2006. The idea of setting a TAH for the entire Bluenose - West herd at 5% of the 2006 census as suggested by the Board in its letter to the Minister dated December 20, 2006 and its letter dated August 3, 2007 is arbitrary and not based on sound methodology. A joint approach to develop a management plan involving the users actively in the

formation of that plan, coupled with an immediate voluntary restriction on harvesting is the only practical approach.

As stated above, it is doubtful that the Minister has the authority to establish a TAH which would have legal effect within the Sahtu and Gwich'in Settlement Areas, since it is only the Renewable Resource Boards which can make a decision for a TAH under s. 13.5 of the Sahtu Land Claim Agreement and 12.5 of the Gwich'in Land Claim Agreement. Although the Minister has some residual authority under 13.6.2 to establish a management plan this would not include the establishment of a Total Allowable Harvest in the Sahtu and Gwich'in Settlement Areas which is a responsibility of the individual boards.

It is only through cooperative action which actually involves the communities that a management plan can be established and enforced. After such a management plan is in place, the individual boards in the Gwich'in Settlement Area and in the Sahtu Settlement Area will be in a position to establish a Total Allowable Harvest for their region.

Involving the Communities as Users of the Bluenose - West Herd

The community of Colville Lake has not been involved in the deliberations of the SRRB although the community depends on the caribou and is a major user. The communities, as users of the Bluenose - West Herd, have not been adequately involved in the process. The establishment of a Total Allowable Harvest is being considered because the herd is threatened. It is a step which has never been taken before. The communities must become directly involved in the planning process. If this is not done, the process will break down and restrictions will not be observed.

The Board has the responsibility to establish a Total Allowable Harvest for the Sahtu Settlement Area and until a TAH is established, the harvest by Sahtu harvesters may not be limited (13.5.2). After a Total Allowable Harvest is established, the Board may allocate the harvest to Sahtu Dene and Metis harvesters by establishing a Sahtu Needs Level. This Sahtu Needs Level may be established for a particular population or for particular areas or communities.

Under the land claim agreement, the SRRB must consult the RRC's in establishing and adjusting a Sahtu Needs Level (13.5, 13.5.12). The Board is required to hold a public hearing if the Board intends to consider the establishment of a TAH and of a Sahtu Needs Level in respect of caribou (13.8.21) Since the community of Colville Lake will be drastically impacted by any restrictions, a hearing should be held in Colville Lake if the Board intends to establish a TAH and a Sahtu Needs Level. Any SRRB strategy must involve the community before any regulatory action is taken to limit the harvest. This is clearly required by the land claim agreement.

It is also essential for ENR and the Minister to consult with and involve the community of Colville Lake in any action that is to be taken to establish a caribou management plan.

Thank you for the time and consideration,

Joseph Kochon