

**Report on a Public Hearing
Held by the
Wek'èezhì Renewable Resources Board
23-24 February 2016
Yellowknife, NT**

&

**Reasons for Decisions Related to a
Joint Proposal for the Management of
the Bathurst ʔekwò (Barren-ground caribou) Herd**

PART A



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LIST OF ACRONYMS

CI	Confidence Interval
ENR	Environment & Natural Resources
GNWT	Government of the Northwest Territories
HTA	Hunters' and Trappers' Association
INAC	Indigenous and Northern Affairs Canada
IR	Information Request
MCBCCA	Mobile Core Bathurst Caribou Conservation Area
MCBCMZ	Mobile Core Bathurst Caribou Management Zone
MVEIRB	Mackenzie Valley Environmental Impact Review Board
NSMA	North Slave Métis Alliance
NWT	Northwest Territories
TAH	Total Allowable Harvest
TG	Tłıchǫ Government
TK	Tłıchǫ Knowledge
WRRB	Wek'èezhì Renewable Resources Board
YKDFN	Yellowknives Dene First Nation

LIST OF TŁİCHǪ TERMS

dè, Ndè	land
dìga	wolf
ʔekwò	barren-ground caribou
edzie	bison
Kwetłìʔàa	rock extends into the water; Rayrock mine
liwe	fish
Wek'èezhì	management area; within the boundaries of

1. PLAIN LANGUAGE SUMMARY OF REPORT

The Wek'èezhì Renewable Resources Board (WRRB) is responsible for wildlife management in Wek'èezhì and shares responsibility for managing and monitoring the Bathurst ʔekwò (barren-ground caribou) herd. In September 2015, the Department of Environment and Natural Resources (ENR), Government of the Northwest Territories (GNWT) reported that, in their view, the Bathurst herd had continued to decline significantly and that further management actions were required.

In December 2015, the Tłıchǫ Government (TG) and ENR submitted the *Joint Proposal on Caribou Management Actions for the Bathurst Herd: 2016-2019* to the Board, which proposed new restrictions on hunter harvest, predator management to reduce dı́ga (wolf) populations on the winter range of the Bathurst ʔekwò herd and ongoing biological monitoring. The WRRB considered any specific restriction of harvest or component of harvest as the establishment of a total allowable harvest (TAH). After review and analysis of the proposal, the WRRB complied with Section 12.3.10 of the Tłıchǫ Agreement and held a public hearing in Yellowknife, NT on February 23-24, 2016.

The WRRB concluded, based on all available Aboriginal and scientific evidence, that a serious conservation concern exists for the Bathurst ʔekwò herd and that additional management actions are vital for herd recovery. However, in order to allow careful consideration of all of the evidence on the record and to meet legislated timelines, the WRRB decided to prepare two separate reports to respond to the proposed management actions in the joint management proposal.

This first report, Part A, will deal with the proposed harvest management actions that will require regulation changes in order for new regulations to be in place for the start of the 2016/17 harvest season, as well as the proposed mobile dı́ga-hunter camp and the dı́ga feasibility assessment. The second report, Part B, will deal with additional predator management actions, biological and environmental monitoring, and cumulative effects.

The WRRB determined that a total allowable harvest of zero shall be implemented for all users of the Bathurst ʔekwò herd within Wek'èezhì for the 2016/17, 2017/18, 2018/19 harvest seasons. As monitoring of the ʔekwò wildlife management units and Bathurst ʔekwò harvest are intricately linked to the implementation of a TAH, the Board recommended that TG and ENR agree on an approach to designating zones for aerial and ground-based surveillance throughout the fall and winter harvests seasons from 2016 to 2019. These harvest management actions are to be implemented by July 1, 2016, the start of the 2016/17 harvest season. Additionally, the WRRB recommended timely implementation of hunter education programs in all Tłıchǫ communities.

The Community-based Dı́ga Harvesting Project, proposed by TG and ENR as a pilot training program, is to train Tłıchǫ harvesters, in a culturally appropriate manner, to hunt and trap dı́ga on the Bathurst herd range. The Board continues to support the Project as a

training program, with recommendations related to implementation and assessment. Prior to Project start up, the Board requests an update from TG and ENR in December 2016.

The WRRB also recommended that the dīga feasibility assessment set out in the proposal be led by the Board with input and support from TG and ENR. The feasibility assessment would primarily be an examination of all options for dīga management, including costs, practicality and effectiveness. The Board requested that this assessment be initiated in June 2016.

2. INTRODUCTION

2.1 The WRRB and Management of the Bathurst ʔekwò (Barren-ground Caribou) Herd

The WRRB was established to perform the wildlife management functions set out in the Tłıchʔ Agreement in Wek'èezhì¹ and shares responsibility for the monitoring and management of the Bathurst ʔekwò herd. On December 15, 2015, TG and ENR submitted the “*Joint Proposal on Caribou Management Actions for the Bathurst Herd: 2016-2019*” (Appendix A) to the WRRB outlining proposed management actions for the Bathurst ʔekwò herd in Wek'èezhì, including new restrictions on hunter harvest, predator management to reduce dīga populations on the winter range of the Bathurst ʔekwò herd and ongoing biological monitoring. The goal of the actions presented in the joint management proposal is to reverse the Bathurst herd's decline and promote an increase in the number of breeding females in the herd, over the period of November 2016-November 2019.

2.2 Prioritization and Organization of Decisions and Recommendations

In order to allow careful consideration of all of the information on the record and to meet legislated timelines, the WRRB has decided that prioritization and organization of its decisions and recommendations is necessary. The Board will prepare two separate reports to respond to the proposed management actions in the joint management proposal.

This first report, Part A, will deal with the proposed harvest management actions that will require regulation changes in order for new regulations to be in place for the start of the 2016/17 harvest season, as well as the proposed mobile dīga-hunter camp and the dīga feasibility assessment.

¹ Section 12.1.2 of the *Land Claims and Self-Government Agreement Among the Tłıchʔ and the Government of the Northwest Territories and the Government of Canada*, Indian Affairs and Northern Development, Ottawa, 2003 (hereinafter the “Tłıchʔ Agreement”).

The second report, Part B, will deal with additional predator management actions, biological and environmental monitoring, and cumulative effects. The Board expects to submit its second report to TG and ENR no later than August 31, 2016.

2.3 WRRB Governance

2.3.1 Mandate & Authorities

The WRRB is a co-management tribunal established to perform the functions related to wildlife, forest, plant and protected areas management in Wek'èezhì (Figure 1) set out in the Tłıchǫ Agreement. The Board's legal authorities came into effect at the time the Agreement was ratified by Parliament.² The WRRB's major authorities and responsibilities in relation to wildlife are set out in Chapter 12 of the Tłıchǫ Agreement.

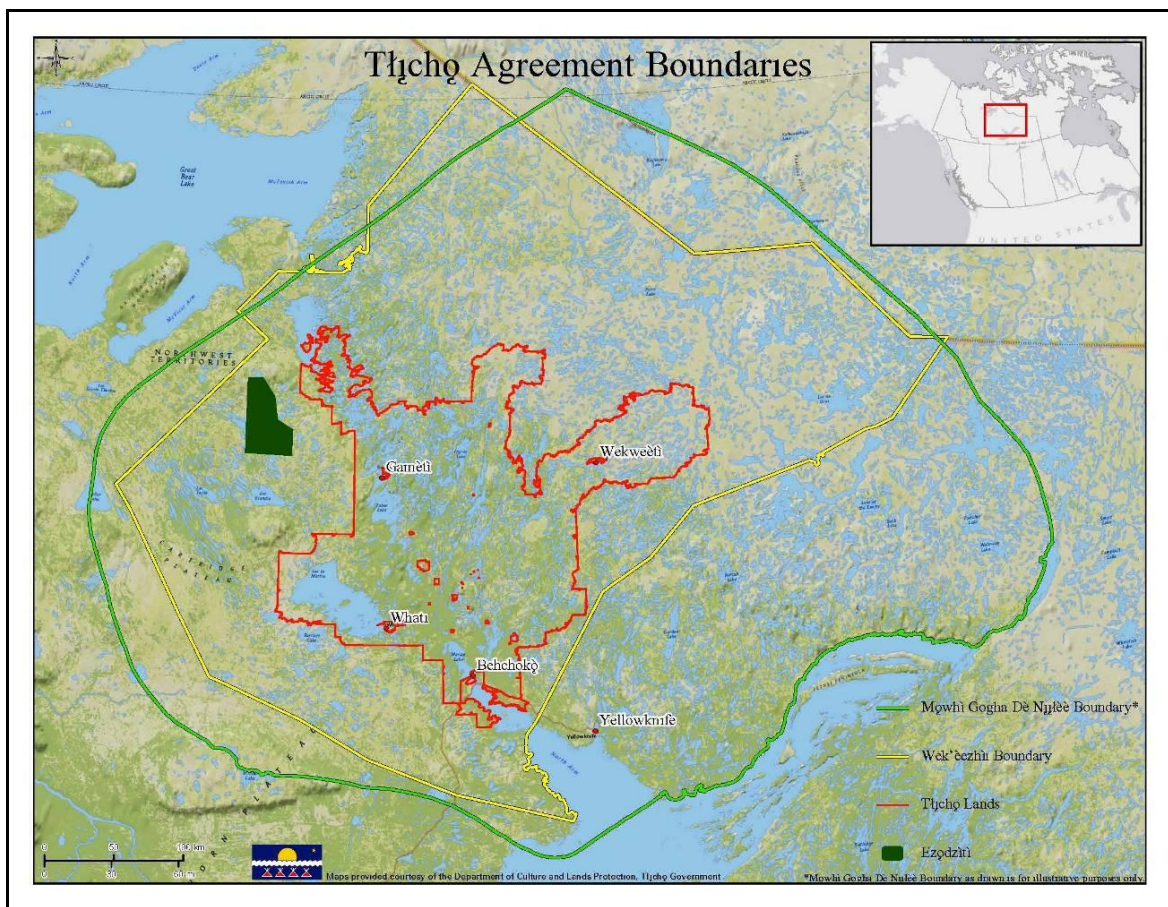


Figure 1: Wek'èezhì Management Area.³

² Tłıchǫ Land Claims and Self-Government Act, S.C. 2005, c.1. Royal assent February 15, 2005. See s.12.1.2 of the Tłıchǫ Agreement.

³ Department of Culture & Lands Protection, Tłıchǫ Government. 2014.

As required by Sections 12.5.1 and 12.5.4 of the Tłıchǫ Agreement, any Party⁴ proposing a wildlife management action in Wek'èezhìi must submit a management proposal to the WRRB for review. This includes the establishment of a TAH. Prior to making a determination or recommendation, the WRRB must consult with any body with authority over that wildlife species both inside and outside of Wek'èezhìi. Under the Section 12.5.5 of the Agreement, the WRRB has sole responsibility for making a final determination with respect to a total allowable harvest for Wek'èezhìi. Such action may only be taken for the purposes of conservation.

12.5.5 The Wek'èezhìi Renewable Resources Board shall

- (a) make a final determination, in accordance with 12.6 or 12.7, in relation to a proposal*
 - (i) regarding a total allowable harvest level for Wek'èezhìi, except for fish,*
 - (ii) regarding the allocation of portions of any total allowable harvest levels for Wek'èezhìi to groups of persons or for specified purposes, or*
 - (iii) submitted under 12.11.2 for the management of the Bathurst caribou herd with respect to its application in Wek'èezhìi; and*
- (b) in relation to any other proposal, including a proposal for a total allowable harvest level for a population or stock of fish, with respect to its application in Wek'èezhìi recommend implementation of the proposal as submitted or recommend revisions to it, or recommend it not be implemented.*

The WRRB acts in the public interest. It is an institution of public government, which makes its decisions on the basis of consensus. The WRRB works closely with Tłıchǫ communities, TG, and ENR. The Board also collaborates with other territorial government departments, such as Lands and Industry, Tourism and Investment, and federal government departments, such as Environment and Climate Change Canada, Fisheries and Oceans Canada, and Indigenous and Northern Affairs Canada (INAC). In addition, the WRRB works with other wildlife management authorities, Aboriginal organizations and stakeholders.

Wildlife management is a central and vital component of the Tłıchǫ Agreement.⁵ The rights of Tłıchǫ citizens to use wildlife for sustenance, cultural and spiritual purposes are protected by the Tłıchǫ Agreement and the Constitution⁶, subject to the management framework set out in Chapter 12. The most important provisions in relation to the

⁴ As defined in the Tłıchǫ Agreement, “Parties” mean the Parties to the Agreement, namely the Tłıchǫ, as represented by the Tłıchǫ Government, the Government of the Northwest Territories and the Government of Canada.

⁵ See Section.12.1.1 of the Tłıchǫ Agreement.

⁶ *Constitution Act*. 1982. Section 35.

WRRB's role in the limitation of Tłıchq citizens harvesting are set out in the Tłıchq Agreement as follows:

12.6.1 Subject to chapters 15 and 16, a total allowable harvest level for Wek'èezhì or Mòwhì Gogha Dè Nìtlèè (NWT) shall be determined for conservation purposes only and only to the extent required for such purposes.

12.6.2 Subject to 12.6.1 and chapters 15 and 16, limits may not be prescribed under legislation

- (a) on the exercise of rights under 10.1.1 or 10.2.1 except for the purposes of conservation, public health or public safety; or*
- (b) on the right of access under 10.5.1 except for the purposes of safety.*

12.6.3 Any limits referred to in 12.6.2 shall be no greater than necessary to achieve the objective for which they are prescribed, and may not be prescribed where there is any other measure by which that objective could reasonably be achieved if that other measure would involve a lesser limitation on the exercise of the rights.

12.6.5 In exercising its powers in relation to limits on harvesting, the Wek'èezhì Renewable Resources Board shall give priority to

- (a) non-commercial harvesting over commercial harvesting; and*
- (b) with respect to non-commercial harvesting,*
 - (i) Tłıchq Citizens and members of an Aboriginal people, with rights to harvest wildlife in Wek'èezhì, over other persons, and*
 - (ii) residents of the Northwest Territories over non-residents of the Northwest Territories other than persons described in (i).*

The WRRB is bound by the Tłıchq Agreement if it is contemplating any limitation to Tłıchq citizens' harvesting, including any limitation to the harvesting of Bathurst Ɂekwò. More specifically, Section 12.6.1 (see above) specifies that a total allowable harvest level shall be determined for conservation purposes only and only to the extent required for such purposes. The Tłıchq Agreement defines conservation as follows:

"conservation" means

- (a) the maintenance of the integrity of ecosystems by measures such as the protection and reclamation of wildlife habitat and, where necessary, restoration of wildlife habitat; and*
- (b) the maintenance of vital, healthy wildlife populations capable of sustaining harvesting under the Agreement.*

In addition to the substantive legal protection for Tłıchq citizens' harvesting rights set out in the Tłıchq Agreement, the WRRB is also bound by the procedural requirements therein and the requirements of fairness. Paragraph 12.3.10 makes it mandatory for the WRRB to hold a public hearing when it intends to consider establishing a TAH in respect of a species or a population such as the Bathurst Ɂekwò herd.

2.3.2 Rule for Management Proposals

Section 12.5.1 of the Tłıchq Agreement requires a Party before taking “*any action for management of wildlife in Wek’èezhìi to submit its proposals to the WRRB for review*”. Under Section 12.3.6, the WRRB has the authority to make rules respecting the procedure for making applications to the Board. In 2009, the WRRB developed an Interim Rule for Management Proposals as a guide for making management proposal submissions, including actions taken in the issuance of licences, permits and other authorizations. The Board sought advice from all Parties to the Tłıchq Agreement to ensure that the actions, timelines, process and reporting requirements within the Rule would be practicable. In 2013, the Board finalized its Rule for Management Proposals.

In anticipation of management proposal submissions in 2015 and 2016 related to Ɂekwò, the Board reviewed, and subsequently revised its Rule. At its September 2015 meeting, the WRRB approved the revised Rule for Management Proposals.

3. PREVIOUS WRRB RECOMMENDATIONS RELATED TO BATHURST ɁEKWÒ (BARREN-GROUND CARIBOU) MANAGEMENT

3.1 2007 Proceeding

In June 2006, a calving ground photographic survey conducted by ENR confirmed that the total number of breeding females was 55,593 (95% confidence interval (CI) =37,147-74,039).⁷ The total population estimate was 128,047 (95% CI=100,704-155,390), a 73% reduction from 1986, when the herd size was estimated at 472,000 Ɂekwò.⁸

The WRRB became fully operational in August 2006 and received its first management proposal, entitled “*Bathurst Caribou Herd Harvest Reductions*” from ENR on December 14, 2006 to reduce Bathurst Ɂekwò herd harvest levels. The proposed management actions, based on the 2006 calving ground photographic survey results, were intended to limit the harvest to 4% of the 2006 estimated herd size for a total of 5120 Bathurst Ɂekwò. This included eliminating all commercial meat tags held by Tłıchq communities,

⁷ PR (BATH) – 080: An Estimate of Breeding Females and Analyses of Demographics For The Bathurst Herd of Barren-ground Caribou: 2012 Calving Ground Photographic Survey. File Report No.142. 2014.

⁸ PR (BATH) – 039: Report on a Public Hearing Held by the Wek’èezhìi Renewable Resources Board 22-26 March 2010 & 5-6 August 2010, Behchokò, NT and Reasons for Decisions Related to a Joint Proposal for the Management of the Bathurst Caribou Herd. 2010.

reducing the number of tags for non-resident and non-resident alien hunters from 2 to 1, and reducing tags for all outfitters from 1559 to a total of 350.

Due to the significance of the management actions proposed, and the fact that the WRRB, as a new organization, had not yet heard from other Parties affected by the ENR proposal, the Board decided to conduct a public hearing in March 2007 before making any decisions on the proposal.

Additional details of the 2007 proceeding, including the Board's decision, can be found in Appendix B.

3.2 2010 Proceeding

In June 2009, a calving ground photographic survey conducted by ENR confirmed that the total number of breeding females was 16,649 (95% confidence interval (CI) =12,153-21,056).⁹ The total population estimate was 31,900 (95% CI=21,000-42,800), a decline of 70% in 3 years.¹⁰

On November 5, 2009, TG and ENR submitted the *Joint Proposal on Caribou Management Actions in Wek'èezhìi*, which proposed nine management actions and eleven monitoring actions, including harvest limitations, for the Bathurst, Bluenose-East and Ahiak ʔekwò herds. While there was agreement on the majority of actions proposed, there was no agreement reached on the proposed levels of Aboriginal harvesting.

Upon review of the proposal, the WRRB held that any restriction of harvest or component of harvest to a specific number of animals would constitute a TAH. Thus, the Board ruled that it was required to hold a public hearing. Registered Parties were notified on November 30, 2009 of the Board's decision to limit the scope of the public hearing to Actions 1 through 5 of the joint proposal, which prescribed limitations on harvest. All other proposed actions were addressed through written submissions to the Board.

On January 1, 2010, ENR implemented interim emergency measures, which included the closure of ʔekwò commercial, outfitted¹¹ and resident harvesting in the North Slave regions. In addition, all harvest was closed in a newly established no-hunting conservation zone (Figure 2). This decision was made by the Minister of ENR under the authority of Section 12.5.14 of the Tłchq Agreement. The Minister considered these

⁹ PR (BATH) – 080: An Estimate of Breeding Females and Analyses of Demographics For The Bathurst Herd of Barren-ground Caribou: 2012 Calving Ground Photographic Survey. File Report No.142. 2014.

¹⁰ PR (BATH) – 039: Report on a Public Hearing Held by the Wek'èezhìi Renewable Resources Board 22-26 March 2010 & 5-6 August 2010, Behchokò, NT and Reasons for Decisions Related to a Joint Proposal for the Management of the Bathurst Caribou Herd. 2010.

¹¹ Non-residents and non-resident aliens require an outfitter to hunt big game (but not small game). Outfitters provide licenced guides for the hunters they serve. A non-resident is a Canadian citizen or landed immigrant who lives outside the NWT or has not resided in the NWT for 12 months; a non-resident alien is an individual who is neither an NWT resident nor a non-resident. ENR. 2015. Northwest Territories Summary of Hunting Regulations, July 1, 2015 to June 30, 2016.

emergency actions necessary due to the rapidly declining population of the Bathurst Ɂekwò herd. The Board was informed of the Minister's decisions on December 17, 2009.

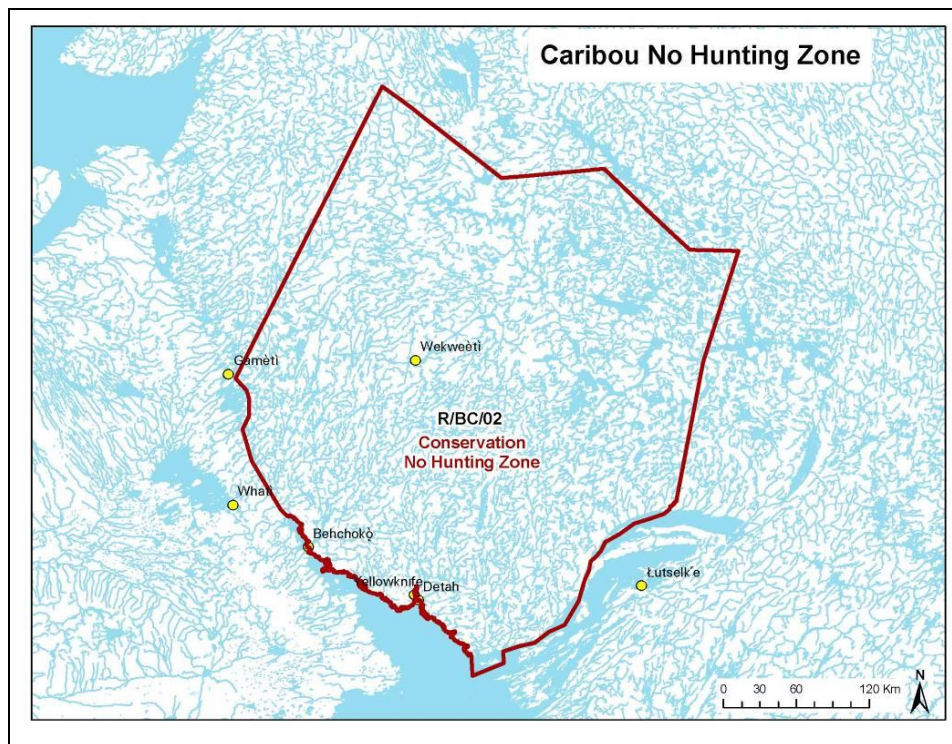


Figure 2: No-Hunting Conservation Zone, R/BC/02, January 1, 2010 to December 8, 2010.¹²

Originally scheduled for January 11-13, 2010, the public hearing eventually took place March 22-26, 2010 in Behchokò, NT. Once the evidentiary phase of the proceeding was completed, TG requested the WRRB adjourn the hearing in order to give TG and ENR time to work collaboratively to complete the joint management proposal. The Board agreed to grant the application for adjournment with the condition that any revised proposal be filed by May 31, 2010 and that such a proposal address both harvest numbers and allocation of harvest for both the Bathurst and Bluenose-East Ɂekwò herds.

On May 31, 2010, TG and ENR submitted the *Revised Joint Proposal on Caribou Management Actions in Wek'èezhì*. This revised proposal changed the original management and monitoring actions and incorporated an adaptive co-management framework and rules-based approach to harvesting. TG and ENR were able to reach an agreement on Aboriginal harvesting. Following review of the information and comments from registered Parties, the WRRB accepted the revised proposal. Therefore, the WRRB

¹² ENR-GNWT 2010. http://www.enr.gov.nt.ca/live/documents/content/No-Hunting_Conervation_Zone_Map.pdf

reconvened its public hearing on August 5-6, 2010 in Behchokò, NT, where final presentations, questions and closing arguments were made.

3.3 2010 Board Decision

On October 8, 2010, the WRRB submitted its final recommendations and reasons for decision report to TG and ENR. Based on all available information, the Board concluded that a conservation concern existed for the Bathurst Ɂekwò herd and management actions were vital for herd recovery. However, rather than imposing a TAH, the WRRB was persuaded by TG and ENR's argument to recommend a harvest target of 300 Bathurst Ɂekwò per year for harvest seasons 2010/11, 2011/12 and 2012/13. Further, the Board recommended that the ratio of bulls harvested to cows should be 85:15.

The Board concluded that a limited harvest of 270-330 Ɂekwò with 60 or fewer cows was an appropriate management option to help stabilize the herd. While the strongest measures to maximize the potential for the recovery of the herd would have been to end all harvesting, including the Aboriginal harvest, the Board recognized the linkage between Aboriginal peoples, Ɂekwò and culture and the hardship that a total ban would entail. Therefore, the WRRB sought a balance between maintenance of those important linkages and minimizing impact of the harvest on the Bathurst Ɂekwò herd.

The Board recommended that all commercial, outfitted and resident harvesting of the Bathurst Ɂekwò herd in Wek'èezhì be set to zero. The Board also made harvest recommendations for the Bluenose-East and Ahiak Ɂekwò herds.

The WRRB made additional Ɂekwò management and monitoring recommendations to TG and ENR, specifically implementation of detailed scientific and Tłıchq Knowledge (TK) monitoring actions, implementation of an adaptive co-management framework and development and implementation of a Bathurst Ɂekwò management plan.

The WRRB also recommended to the Minister of INAC (formerly Indian and Northern Affairs Canada) and ENR to collaboratively develop best practices for mitigating effects on Ɂekwò during calving and post-calving, including the consideration of implementing mobile Ɂekwò protection measures, and for monitoring landscape changes, including fires and industrial exploration and development, to assess potential impacts to Ɂekwò habitat.

The WRRB was requested to make recommendations to TG and ENR regarding dıga. The Board recommended that the harvest of dıga should be increased through incentives but that focused dıga control not be implemented. If TG and ENR were to contemplate focused dıga control in the future, a management proposal would be required for submission to the WRRB for its consideration.

The Minister's emergency interim measures remained in effect until the WRRB's recommendations on Ɂekwò management in Wek'èezhì were implemented on December

8, 2010. On January 13, 2011, TG and ENR responded to the Board's recommendations, accepting 35, varying 22 and rejecting three of the 60 recommendations. TG and ENR submitted an implementation plan to the WRRB on June 17, 2011, which the Board formally supported on June 30, 2011 (Appendix C).

4. SUMMARY OF CURRENT PROCEEDING

4.1 Request for Joint Proposal

On June 27, 2012, following the completion of the 2012 Bathurst ʔekwò herd calving ground survey, the WRRB requested a joint management proposal from TG and ENR to address any changes in the 2010 management actions. On March 6, 2013, TG and ENR notified the Board that discussions had commenced in an effort to have a joint proposal filed by May 1, 2013, with implementation of recommendations for the 2013 fall harvest. However, on May 6, 2013, TG and ENR advised the Board that, due to incomplete community consultations and the Tłchq Government's 2013 election period, the joint management proposal would not be submitted until after September 16, 2013.

In the interim, on May 31, 2013, the WRRB reviewed and recommended continued implementation of recommendations made in its October 2010 Recommendations Report for the 2013/2014 harvesting season. On December 6, 2013 and January 16, 2014, TG and ENR, respectively, accepted the Board's recommendation for continued implementation of the 2010 recommended management actions for the Bathurst ʔekwò herd.

On June 30, 2014, TG and ENR submitted the "*Joint Proposal on the Caribou Management Actions in Wek'èezhì (2014-2019)*" under separate cover. On July 11, 2014, the WRRB deemed the joint management proposal to be incomplete until receipt of consultation reports that TG and ENR promised would be available by July 15, 2014 and September 2014, respectively. These consultation reports were never provided. Given the circumstances, the Board recommended that, in order to ensure a consistent management approach, the recommendations made for the 2013/14 harvest season should remain in place for 2014/15.

Following the June 2014 reconnaissance survey of the Bathurst ʔekwò herd, on August 27, 2014, the Minister of ENR held a meeting of Aboriginal leaders and wildlife management authorities to discuss the results, which suggested a continuing declining trend. Subsequently, on August 29, 2014, the WRRB requested clarification from TG and ENR regarding their intentions to either confirm or revise the management actions proposed in the joint management proposal submitted in June 2014. On September 15, 2014, TG and ENR requested that the Board defer consideration of the joint management proposal until the two governments could determine whether the proposed management actions were still appropriate.

On January 20, 2015, ENR submitted a management proposal to the Board to establish a Mobile Core Bathurst Caribou Conservation Area (MCBCCA) (Figure 3), based on the locations of satellite-collared Ɂekwò. Harvest of Ɂekwò was not permitted within the MCBCCA; however, harvest of a limited number of Bathurst Ɂekwò bulls, up to a maximum of 15, would be considered by ENR within the MCBCCA for ceremonial purposes upon submission of a written proposal by an Aboriginal government with traditional harvesting rights for the Bathurst Ɂekwò herd. On January 23, 2015, the WRRB supported the establishment of the proposed MCBCCA through wildlife regulations and the amendments to the Big Game Hunting Regulations to require authorization cards for harvest within R/BC/01, R/BC/02, and R/BC/03.

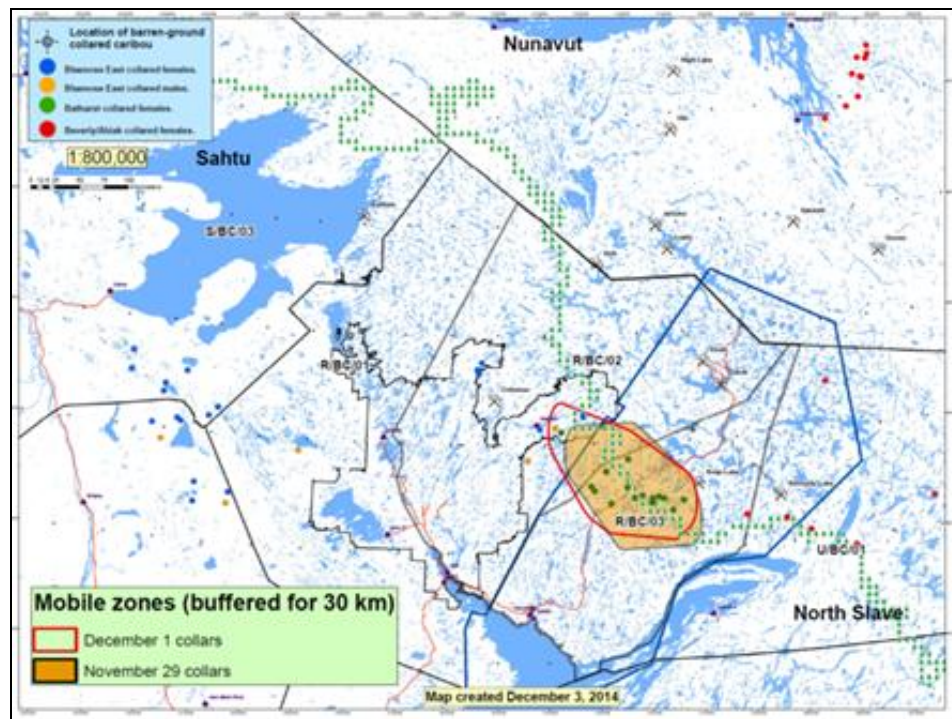


Figure 3: An example of the mobile Bathurst conservation area (MCBCCA) centered on Bathurst Ɂekwò (barren-ground caribou) collar locations, winter 2014-2015. Zones R/BC/01, R/BC/02 and R/BC/03 are also shown.¹³

On August 25, 2015 and September 22, 2015, respectively, TG and ENR provided short-term Ɂekwò management recommendations for the 2015/16 harvest season. The Board responded to TG and ENR, on September 25, 2016, with reasons for decisions and a list of recommendations for the 2015/16 harvest season, including agreeing on and implementing a further reduction in the number of Ɂekwò harvested by subsistence

¹³ PR (BATH) – 004: Joint Proposal on Caribou Management Actions for the Bathurst herd: 2016-2019. 2016.

users¹⁴ of the Bathurst Ɂekwò herd, and whether the MCBCCA or Wildlife Management Units Subzones is the most effective way to differentiate between barren-ground caribou herds. In addition, in order to implement determinations and/or recommendations by July 1, 2016, the WRRB requested the submission of a joint management proposal for the Bathurst Ɂekwò herd, for the 2016/17 harvest season and beyond, by no later than October 15, 2015.

Due to consultation requirements, TG and ENR approached the Board on October 15, 2015 requesting an extension of the time for the submission of a joint management proposal for the Bathurst Ɂekwò herd until December 15, 2015. On October 21, 2015, the Board accepted the extension request despite concerns about future timing issues, including the implementation of management actions in the 2016/2017 harvest season.

On November 27, 2015, TG and ENR accepted the WRRB's recommendations and came to an agreement to implement, for the 2015/16 harvest season, a harvest target of zero for the NWT Aboriginal harvest of the Bathurst Ɂekwò herd, and the continued use of a renewed version of the MCBCCA, called the Mobile Core Bathurst Caribou Management Zone (MCBCMZ).

TG and ENR submitted the "*Community Based Wolf Harvesting Project*" management proposal to the Board on January 13, 2016. The 2015/16 pilot project proposed to train participants from Wekweètì in effective field techniques to hunt, trap, skin and process ḏiga and to utilize Tł̱chq cultural practices. Field camps would be established near large lakes within the MCBCMZ. If successful in Wekweètì, the project would then be offered in the communities of Gamètì and Whatì in 2016/17. On January 18, 2016, the WRRB supported the establishment of the proposed Community-based Wolf Harvest Project as a pilot training program only and not as a management action to reduce any potential impacts to the Bathurst Ɂekwò herd given that no accurate population estimate is available for ḏiga in Wek'èezhìi or the broader NWT.

4.2 Receipt of 2015 Joint Proposal

On December 15, 2015, the TG and ENR submitted the "*Joint Proposal on Caribou Management Actions for the Bathurst Herd: 2016-2019*" to the WRRB outlining proposed management actions for the Bathurst Ɂekwò herd in Wek'èezhìi, including new restrictions on hunter harvest, predator management to reduce ḏiga populations on the winter range of the Bathurst Ɂekwò herd and ongoing monitoring (Appendix A). More specifically, TG and ENR proposed the closure of all harvesting of the Bathurst Ɂekwò herd and the development of mobile ḏiga-hunter camps. The WRRB considered the proposed restriction of harvest as the establishment of a TAH and, therefore, was required to hold a public hearing.

¹⁴ Subsistence users include Tł̱chq Citizens and members of an Aboriginal people, with rights to harvest wildlife in Wek'èezhìi, as per Section 12.6.5(b)(i) of the Tł̱chq Agreement.

The Board initiated its 2016 Bathurst Caribou Herd Proceeding on January 18, 2016 and established an online public registry: <http://www.wrrb.ca/public-information/public-registry>. On January 18, 2016, public notice of the WRRB decision to open a proceeding and conduct a public hearing concerning the possible setting of a TAH for the Bathurst ʔekwò herd was provided to potentially interested organizations in and out of Wek'èezhìi via email, WRRB website, social media and radio. Notifications of the revised proceeding schedules were posted publicly on February 1 and 18, 2016.

The proceeding and hearing were conducted in accordance with the WRRB's *Rules of Procedures*, September 23, 2015.

4.3 Registered Intervenors

Interested organizations or individuals were required to register as intervenors via the Board's website or to notify the WRRB in writing via email by January 26, 2016. Only two organizations registered by the deadline date: Yellowknives Dene First Nation (YKDFN) and the North Slave Métis Alliance (NSMA). Full intervenor status was granted to YKDFN and NSMA on February 1, 2016.

4.4 Information Requests

In order to obtain the information necessary for the WRRB to consider as part of the record of this proceeding, a series of Information Requests (IRs) were issued to the registered Parties. The IRs and responses are all available on the online public registry.

The first round of IRs was issued January 18, 2016, requesting that TG and ENR provide additional Tłchq knowledge and scientific information and rationale on the proposed management and monitoring actions. ENR and TG provided their responses on January 26, 2016. On February 4, 2016, the Board requested consent from all Parties to post supporting documentation referenced by TG and ENR in their management proposal and IR No.1 responses to the public registry. No concerns were raised and all documents were posted on February 8, 2016.

The second round of IRs was issued February 8, 2016, requesting all Registered Parties provide additional information, in particular related to monitoring and research on key environmental and habitat variables as well as cumulative effects monitoring and management. Additionally, NSMA submitted two IRs for response by ENR. All Parties provided their responses on February 15, 2016.

4.5 Public Hearing, February 23-24, 2016

To ensure that procedural, legal and administrative items were addressed prior to the public hearing, the Board held a pre-hearing conference on February 15, 2016 in Yellowknife. The WRRB issued public hearing instructions to the registered Parties as

required and, further to recommendations made by Parties during the pre-hearing conference, a revised set of instructions were issued on February 18, 2016. The instructions also included the requirements for Party closing statements and final written arguments.

Hearing presentations from all Parties were requested for February 19, 2016. All written submissions, hearing presentations and speaking notes were posted to the public registry.

During the February 23-24, 2016 hearing in Yellowknife, NT, the registered Parties gave oral presentations and asked question of the other Parties. Registered general public were also given a daily opportunity to address the WRRB in the hearing. A list of registered Parties and general public is in Appendix D. A full written transcript of each day's session was produced and is available on the public registry. Recommendations provided by the Parties were summarized by Board staff (Appendix E).

The WRRB adjourned the hearing on February 24, 2016. Final written arguments were to be submitted by registered intervenors on March 8, 2016, and by TG and ENR on March 11, 2016. However, following a request from the NSMA, a one-week long extension was granted to all Parties for the submission of final written arguments.

The public record was closed on March 18, 2016 and the WRRB's deliberations followed.

5. IS THERE A CONSERVATION CONCERN FOR THE BATHURST ʔEKWÒ (BARREN-GROUND CARIBOU) HERD?

Based on the WRRB's review of Sections 12.6.1 and 12.6.2 of the Tłıchǫ Agreement, the first question which must be answered is whether there is a conservation concern with respect to the Bathurst ʔekwò herd. If the WRRB is not convinced that there is a Bathurst ʔekwò management problem, it does not have the authority to recommend harvest limitations on Tłıchǫ citizens.

5.1 Evidence Presented

5.1.1 Aboriginal Evidence

Evidence presented by TG, YKDFN and NSMA suggest that Bathurst ʔekwò herd numbers are low enough for stronger conservation measures. TG stated explicitly in their final written argument that *"the TG decision to recommend a TAH of zero should be understood and respected as a significant decision that involves profound social-cultural tradeoffs for Tłıchǫ on issues including caribou conservation and food security"*.¹⁵ Less explicit were comments from NSMA that they *"understand that the Bathurst Caribou*

¹⁵ PR (BATH) – 161: TG to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

population is in a perilous state ... [and] harvesting from a herd in such a state, scientifically and culturally, is not viable for NSMA members”¹⁶ and YKDFN’s question to ENR about “governments’ authority to impose regulations for conservation purposes”¹⁷, suggests that YKDFN considers the rapid ʔekwò decline to be a conservation issue.

Tł̨chq knowledge holders used language acknowledging their role as custodians of the dè (land) and animals in the area. Further, these TK holders noted serious stewardship concerns for ʔekwò and their habitat, as expressed by Elder Joseph Judas, “Now, today we’re concerned about no caribou. But at the same time, we had such as large fire that – that – on the land that burned a lot of feed of the caribou, so we need to find all those stressors”.¹⁸ Throughout the public hearing, TG consistently acknowledged the shortage of ʔekwò as exemplified by Elder Joe Rabesca, who stated, “...Mr. Chair, we’re still going to support not shooting new caribou, because it’s important...”¹⁹, and Dr. John B. Zoe, who said, “we don’t want to be the – the part of the chain that kind of determines the demise of the caribou, the Bathurst caribou”.²⁰

These types of statements were not limited to TG representatives. During the public hearing, Ms. Madelaine Chocolate Pasquayak explained she was raised on ʔekwò meat and is concerned about industrial development on the dè. Ms. Chocolate Pasquayak then suggested, “If we’re going to take care of this caribou problem, maybe we should put a restriction on killing caribou for maybe one or two or maybe five years”.²¹ A slightly different theme was expressed by Mr. George Mackenzie, who is also concerned that ʔekwò populations are declining. He said, “Yes, we want to manage it. We don’t want a total decline. ... Before all the caribou disappear”.²² Mr. Mackenzie went on to emphasize that they do not want ʔekwò to disappear but they do not want GNWT to be the type of decision-maker that prosecutes and punishes their young hunters.

There were members of the public who expressed concern about the presentation of the population estimate. Mr. Leon Lafferty clearly expressed this perspective when he said:

“But if you overlay the forestry -- the forest fires over the hunting wintering grounds of the caribou and then you see the -- where the caribou -- collared caribou, which you don't show anybody where they go, if you were to do that you'd find out that the caribou go where the food is. Northern Saskatchewan, Northern Alberta, or maybe all the way to Quebec. Look at the numbers went up in Quebec about five years ago. In

¹⁶ PR (BATH) – 159: NSMA to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

¹⁷ PR (BATH) – 153: Transcript – February 23, 2106 (Day 1) – Bathurst Caribou Herd Public Hearing. 2016. pp.156-157.

¹⁸ Ibid. p.118.

¹⁹ Ibid. p.128.

²⁰ Ibid. p.181.

²¹ PR (BATH) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016. p.107.

²² Ibid. p.205.

1999 caribou increased in Northern Saskatchewan, Alaska, Baker Lake. For three days I seen caribou migrating through there, which they haven't seen for hundreds of years. Our caribou are not dead. There's no dead bodies laying around. You guys better do your research before you even decide to put any quota on the people around here."²³

Similar to Mr. Lafferty's statement, biologists, reindeer herders and ʔekwò hunters speaking at the 'The Human Role in Caribou and Reindeer Systems' conference in Finland (1999), stressed the need for both reindeer and ʔekwò to have extensive ranges in conjunction with respectful relationships with knowledgeable humans.²⁴ Tł̓chq̓ harvesters accept that there is no known pattern or consistent reason for shifting migration routes and distribution within these large territories.²⁵ They do know, however, that ʔekwò require lush habitat in which to forage, and that ʔekwò make minor adjustments every few years, with more extreme shifts occurring every decade or so.²⁶

In 2008, Tł̓chq̓ elders who had lived closely with ʔekwò explained that

*"... reduced population and rapid change in distribution can mean there is insufficient food for caribou to forage, or their habitat has been damaged in some way. Habitat changes can be the ebb and flow of natural cycles, or can be caused by human behaviour."*²⁷

When ʔekwò do not migrate to a particular area, it is attributed to a number of factors, most of which are caused by human behaviour and activities. These factors range from a person hitting ʔekwò with a stick causing them to stay away for up to 30 years²⁸ or putting collars on them which causes even their bone marrow to change. Most attribute fires²⁹ and industrial development, particularly mines, as the main reasons "*behind caribou health defects and changes to their behaviour and migration.*"³⁰ Ms. Madelaine Chocolate Pasquayak explained at the public hearing that ʔekwò used to come into Kwetł̓ʔàa area, which is northeast of Whatì and south of Gamètì, but, after opening the Rayrock Mine in that area in the 1950s, "*with all the noise and activity, the ʔekwò never came back into the area.*"³¹

²³ PR (BATH) – 165: Bluenose-East Caribou Herd Public Hearing Transcript – Day 3 (April 8, 2016). 2016. pp.196-197.

²⁴ PR (BATH) – 068: Caribou Migration and the State of their Habitat – Final Report, March 2001 (republished 2014).

²⁵ Ibid.

²⁶ Ibid.

²⁷ PR (BATH) – 021: Monitoring the Relationship between People and Caribou. 2008.

²⁸ Ibid.

²⁹ PR (Bath) – 020: Denéshñné (Chipewyan) Knowledge of Barren-Ground Caribou (*Rangifer tarandus groenlandicus*) Movements. 2005

³⁰ PR (BATH) – 005: Edwò zò gha dao nats'edè – "We live Here for Caribou": Cumulative Impacts Study on the Bathurst Caribou. 2016.

³¹ PR (BATH) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016. p 106.

Documentation of Aboriginal concerns, with a focus on protecting ʔekwò, have been recorded and shared with decision makers. In the mid-1990s, the Tłıchq elders and leaders expressed concern that ʔekwò populations and distributions would change dramatically due to human activities that disregarded the habitat requirements of ʔekwò. Specifically, changes related to resource development that

“restricts foraging possibilities; increases unfamiliar smells and noise that cause caribou to be confused about where to find lush vegetation; destroys several key water crossings due to pit and road locations; [and] increases air pollution that settles on plants and in water , and slowly destroys wildlife habitat.”³²

In 2001, Tłıchq elders from all four communities made recommendations given the importance of ʔekwò *“in the hope that the caribou will be protected from destructive bi-products from industrial development ...”* and to ensure the protection of winter forage for ʔekwò.³³ The Łutsel K’e Dene community members, in their 2003-2005 study, noticed unnatural changes to the migration of the Bathurst herd as well as signs of sickness and injuries. The overwhelming thought to the cause of the high levels of disturbances was attributed to the diamond mines.³⁴ More recently, in August 2015, the Tłıchq Government stated,

“We’re dealing with the symptoms of the decline, not necessarily the reasons for it. ... Tłıchq Government wants WRRB to recommend on management actions planning that emphasizes addressing the multiple causes [natural mortality, industrial development, roads, loss of habitat, etc] of the decline and a long term plan that includes all harvesters of these herds throughout the range of these herds.”³⁵

5.1.2 Scientific Evidence

Herd Estimates and Vital Rates^{36,37,38,39,40,41}

A calving ground photographic survey, conducted by ENR in June 2015, confirmed that the total number of breeding females had declined from an estimate of 15,935 (95% CI=13,009-18,861) in 2012 to an estimate of 8,075 (95% CI=4608-11,542) in 2015, a

³² PR (BATH) – 021: Monitoring the Relationship between People and Caribou. 2008.

³³ PR (BATH) – 068: Caribou Migration and the State of their Habitat – Final Report, March 2001 (republished 2014).

³⁴ PR (BATH) – 081: Nııhat’ni-Watching the Land: Results of 2003-2005 Monitoring Activities in the Traditional Territory of the Łutsel K’e Denéşqłiné. March 2005.

³⁵ PR (BATH) – 006: TG & ENR Information Request No. 1 Responses – Bathurst Caribou Herd. Question #6. 2016.

³⁶ PR (BATH) - 004: Joint Proposal on Caribou Management Actions for the Bathurst Herd: 2016-2019. 2016.

³⁷ PR (BATH) - 162: ENR to WRRB - Final Written Argument - Bathurst Caribou Herd Public Hearing. 2016.

³⁸ PR (BATH) - 037: ENR to WRRB - DRAFT 2015 Calving Photo Survey Report - Bathurst Caribou Herd. 2016.

³⁹ PR (BATH) - 061: Overview: Monitoring of Bathurst and Bluenose-East Caribou Herds, Sept. 2014 Unpublished Report.

⁴⁰ PR (BATH) - 006: TG & ENR Information Request No.1 Responses - Bathurst Caribou Herd. 2016.

⁴¹ PR (BATH) - 129: TG & ENR Information Request No.2 Responses - Additional Information for Question #1 – Bathurst Caribou Herd. 2016.

decline of about 50% (Figure 4). The total population estimate fell from 34,690 (95% CI=24,935-44,445) in 2012 to an estimate of 19,769 (95% CI=12,349-27,189) in 2015 – a decline of approximately 40% over three years and a decrease of 96% since the peak population estimated at 470,000 in 1986 (Figure 5).

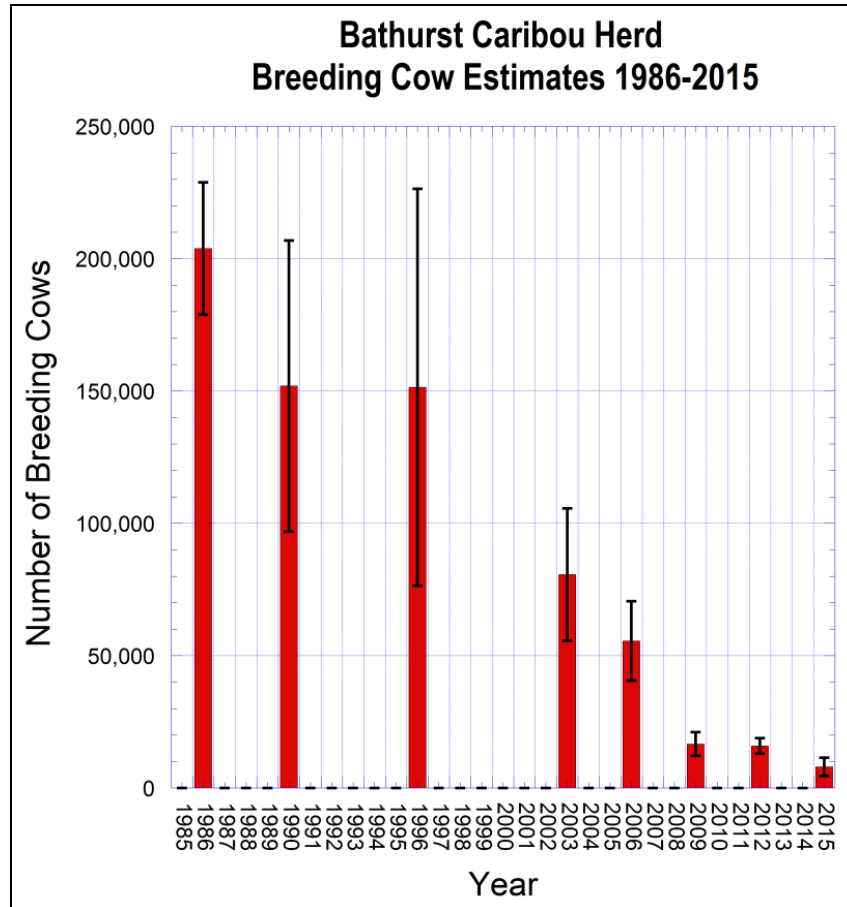


Figure 4: Bathurst ʔekwò (barren-ground caribou) herd breeding cow estimates (1986-2015).⁴²

⁴² PR (BATH) – 004: Joint Proposal on Caribou Management Actions for the Bathurst herd: 2016-2019. 2016.

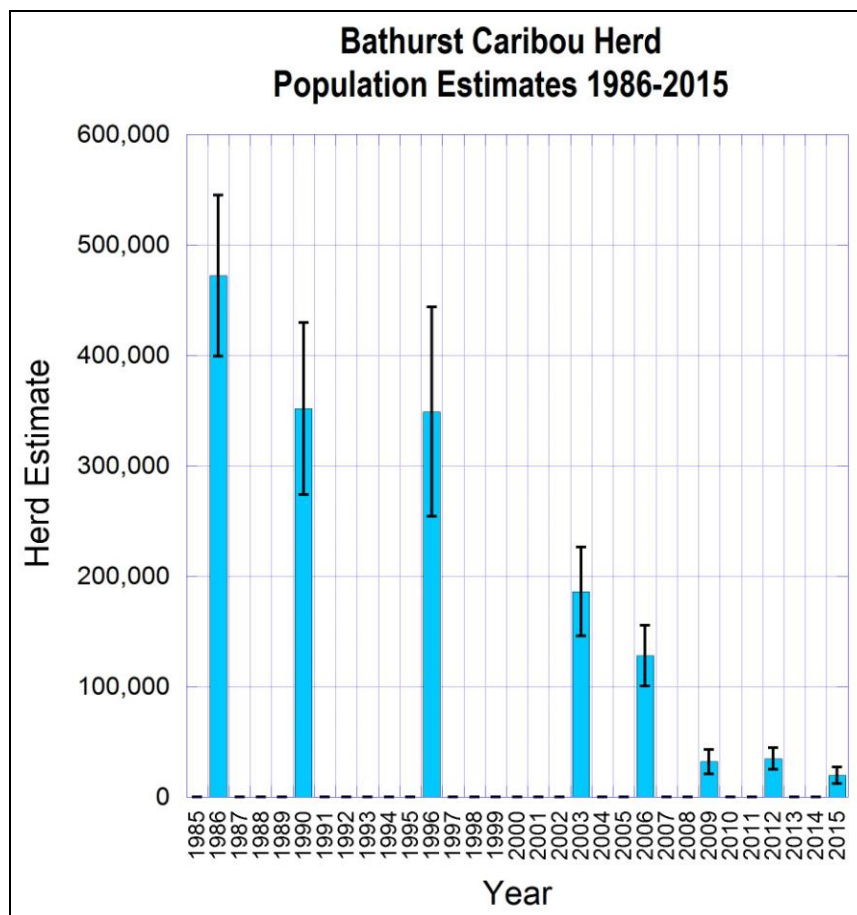


Figure 5: Bathurst Ɂekwò (barren-ground caribou) herd population estimates (1986-2015).⁴³

The 2015 survey also showed that 40% of the cows in the Bathurst Ɂekwò herd were non-breeders, which suggests the pregnancy rate in winter 2014/15 was about 60%, which is well below a rate of 80% seen in a healthy herd. Other vital rates for the Bathurst herd are also low. The cow survival rate between 2012 and 2015 is estimated to have been 78%, which is below the 80-85% associated with a stable herd. Calf recruitment in the last three years was 25 calves:100 cows in 2013, 32 calves:100 cows in 2014 and 24 calves:100 cows in 2015. Two of the three years were below the 30-40 calves:100 cows generally associated with stable herds. TG agreed with and supported the scientific information presented.

Movement of Collared Ɂekwò among Herds

Movement of collared cow Ɂekwò between the Bathurst, Bluenose-East and Beverly-Ahiak calving grounds from 2008 to 2015 has been evaluated to determine the frequency of herd switching. Results suggest that there has been a very low rate of switching of

⁴³ PR (BATH) – 152: ENR to WRRB – Bathurst Caribou Public Hearing Presentation. 2016.

cows between the Bathurst and neighbouring calving grounds, with the net movement to or from the Bathurst range being minimal.⁴⁴ This minimal movement to or from the Bathurst range is unlikely to account for the declining trend in the herd.⁴⁵

Specifically, information was collected on collared cows that had consecutive June locations, i.e. cows that were observed returning to the same calving grounds one year to another. For the three herds, there were a total of 259 sets of data for cows that returned to calve in consecutive years. Of the 259 pairs of locations from 2008 to 2015, 254 indicated returns to the same calving ground, with 5 indicating a switch between herds.⁴⁶ In the Bathurst herd, one collared cow switched to the Beverly-Ahiak herd and one switched in the reverse direction; also, two Bathurst cows switched to the Bluenose-East calving ground and one switched in the reverse direction.⁴⁷ Overall, the data represent a 98% loyalty to calving grounds, and previous evaluations specific to the Bathurst herd have shown a 96-98% loyalty of collared cows to calving grounds.⁴⁸

State of the Habitat

Concerns over environmental factors contributing to the continuing decline have been voiced, including a severe drought in the summers of 2012 and 2014. A review of an index of drought conditions on the summer range of the Bathurst herd from 1979 to 2014 indicates an increase in drought conditions in 2009 -2014, with a peak in 2014.⁴⁹ The hot, dry summer in 2014 likely resulted in poor plant growth and poor feeding conditions for ʔekwò, likely having a negative influence on the condition of cows in the breeding season and subsequently the low pregnancy rate⁵⁰; if cows do not have access to good forage during the summer, then their condition is poor, and pregnancy rate low⁵¹. A recent study found a correlation between spring calf:cow ratios and summer range productivity, which suggested that poor summer feeding conditions lead to poor cow condition and low pregnancy rates the following winter and reduced calf ratios the following year⁵². Though an overall determination of the adequacy of the Bathurst herd range habitat quality has not been conducted, it is unlikely that that a smaller herd is limited by overall range capacity. However, an increasing frequency of exceptional fire years, such as 2014, may reduce the availability of lichen on the winter range⁵³.

⁴⁴ PR (BATH) – 037: Boulanger et al. 2016. Estimate of Breeding Females and Analyses of Demographics for the Bathurst herd of Barren-Ground Caribou 2015 Calving Ground Photographic Survey. Draft. 2016.

⁴⁵ Ibid.

⁴⁶ PR (BATH) – 152: ENR to WRRB – Bathurst Caribou Public Hearing Presentation. 2016.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ PR (BATH) - 152: ENR to WRRB - Bathurst Caribou Public Hearing Presentation. 2016.

⁵⁰ PR (BATH) - 006: TG & ENR Information Request No.1 Responses - Bathurst Caribou Herd. 2016.

⁵¹ PR (Bath) - 061: Overview: Monitoring of Bathurst and Bluenose-East Caribou Herds, Sept. 2014 Unpublished Report.

⁵² PR (BATH) - 063: Assessing the Impacts of Summer Range on Bathurst Caribou's Productivity and Abundance since 1985. 2014.

⁵³ PR (BATH) - 113: TG & ENR Information Request No.2 Responses – Bathurst Caribou Herd. 2016.

Biting flies, such as mosquitoes, black flies and warble flies, can interfere with ʔekwò feeding during a time when vegetation is most nutritious. The activity of biting flies is tied to temperature and wind speed, and summer weather records can be used to derive an index of activity level in warble flies. A review of the warble fly index for the Bathurst herd from 1979 to 2014 shows a trend towards increased insect harassment, with 2014 being the worst season on record. This index is likely correlated with the previously mentioned drought index, and suggests that poor summer feeding conditions have occurred in combination with insect harassment, further interfering with ʔekwò feeding and likely contributing to a low pregnancy rate and low calf production⁵⁴.

The impacts of various ongoing and proposed human-induced activities on the Bathurst range, both in the NWT and Nunavut, were mentioned repeatedly during the Public hearing, with concerns also provided in supporting documents. For example, in the Reasons for Decision on the proposed Jay Project⁵⁵, Mackenzie Valley Environmental Impact Review Board (MVEIRB) stated that

“Parties and the developer made it clear to the Review Board that the Bathurst caribou herd has been or will be affected cumulatively by past, present and reasonably foreseeable human activities, including mines, roads, exploration activities, hunting and climate change related trends”

with possible industrial developments in the calving grounds in Nunavut being “particularly concerning”. MVEIRB indicated that many human activities have affected caribou, and that the Review Board agreed with the majority of parties’ conclusion that cumulative effects on Bathurst caribou are significant. Recommendations regarding cumulative effects will be discussed in Part B.

5.2 Conclusion

Throughout the proceeding, the Bathurst ʔekwò herd has been referred to as being in a “troubled”⁵⁶ and “perilous”⁵⁷ state, as having a status that is “unprecedented and of grave concern”⁵⁸, and overall being considered to be in a “crisis”.⁵⁹ The Board has repeatedly heard from governments, communities and members of the public of their concerns over the continued decrease of the Bathurst herd, including recognition of the rapid rate of the decline. Vital rates associated with the herd, including the cow survival rate, calf recruitment, and pregnancy rate, all indicate that the herd is likely to continue to decline in the near future. Despite all the management actions taken over the past seven years, the herd is still declining, and recovery of the herd remains uncertain. Despite the

⁵⁴ PR (BATH) - 152: ENR to WRRB - Bathurst Caribou Public Hearing Presentation. 2016.

⁵⁵ PR (BATH) - 027: Mackenzie Valley Review Board Report of Environmental Assessment and Reasons for Decision Dominion Diamond Ekati Corporation Jay Project EA1314-01. 2016.

⁵⁶ PR (BATH) - 152: ENR to WRRB - Bathurst Caribou Public Hearing Presentation. 2016.

⁵⁷ PR (BATH) - 159: NSMA to WRRB - Final Written Argument - Bathurst Caribou Herd Public Hearing. 2016.

⁵⁸ PR (BATH) - 162: ENR to WRRB - Final Written Argument - Bathurst Caribou Herd Public Hearing. 2016.

⁵⁹ PR (BATH) - 161: TG to WRRB - Final Written Argument - Bathurst Caribou Herd Public Hearing. 2016.

uncertainty, ENR noted that to facilitate herd recovery and to once again provide harvesting opportunities for traditional users, that “*timely conservation-based management actions are needed.*”⁶⁰ Additionally, TG stated that “*in a time of crisis for caribou – closure of Aboriginal harvesting of caribou ... are difficult but necessary actions*”.⁶¹

Therefore, the WRRB concluded that the balance of Aboriginal and scientific evidence supports the conclusion that the Bathurst ʔekwò herd has continued to decrease in number in recent years, and demonstrates that there is an issue of serious conservation concern.

⁶⁰ PR (BATH) – 162: ENR to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

⁶¹ PR (BATH) – 161: TG to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

6. OTHER ABORIGINAL HARVESTERS OF THE BATHURST ʔEKWÒ (BARREN-GROUND CARIBOU) HERD

The annual range of the Bathurst ʔekwò herd includes communities in the Akaitcho Territory and Sahtú Settlement Area, and in Nunavut and Saskatchewan, which harvest from the herd at different times of the year (Figure 6). In the NWT, the Tłı̨chq, YKDFN, Łutsel K'e Dene First Nation, NWT Métis Nation, NSMA, and the Sahtú Got'ı̨ne⁶² harvest the Bathurst ʔekwò herd more often than other Aboriginal users. The Tłı̨chq harvest more ʔekwò from the Bathurst herd than any other group.⁶³

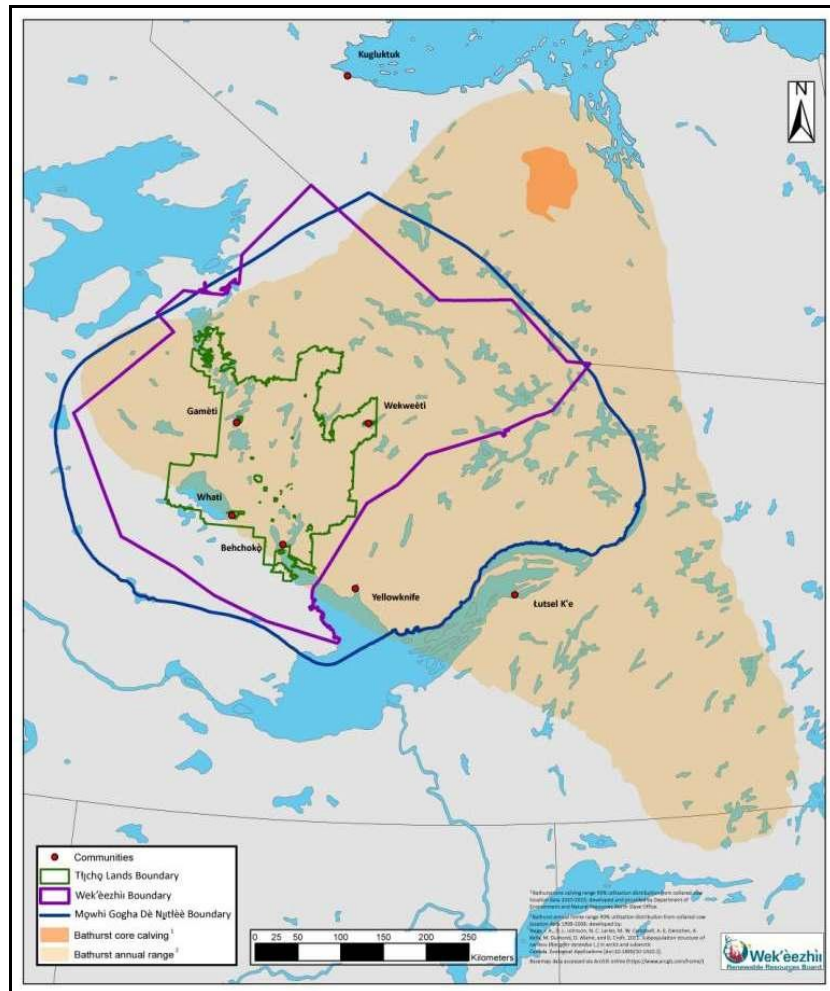


Figure 6: Bathurst ʔekwò (barren-ground caribou) herd annual range (1996-2008) and core calving grounds (2010-2015).⁶⁴

⁶² Sahtú Got'ı̨ne means the Dene of Great Bear Lake, Dı̨lı̨ne.

⁶³ PR (BATH) – 068: Caribou Migration and the State of their Habitat – Final Report, March 2001 (republished 2014).

⁶⁴ WRRB. 2016.

The Bathurst ʔekwò herd range has contracted since 2000 as the herd's size has declined, with reduction in range size and shift in location most noticeable in the fall and winter (Figures 7, 8 and 9).⁶⁵ Collared ʔekwò locations show reduced use of the more southern and eastern ranges, such as southeast of Great Slave Lake.

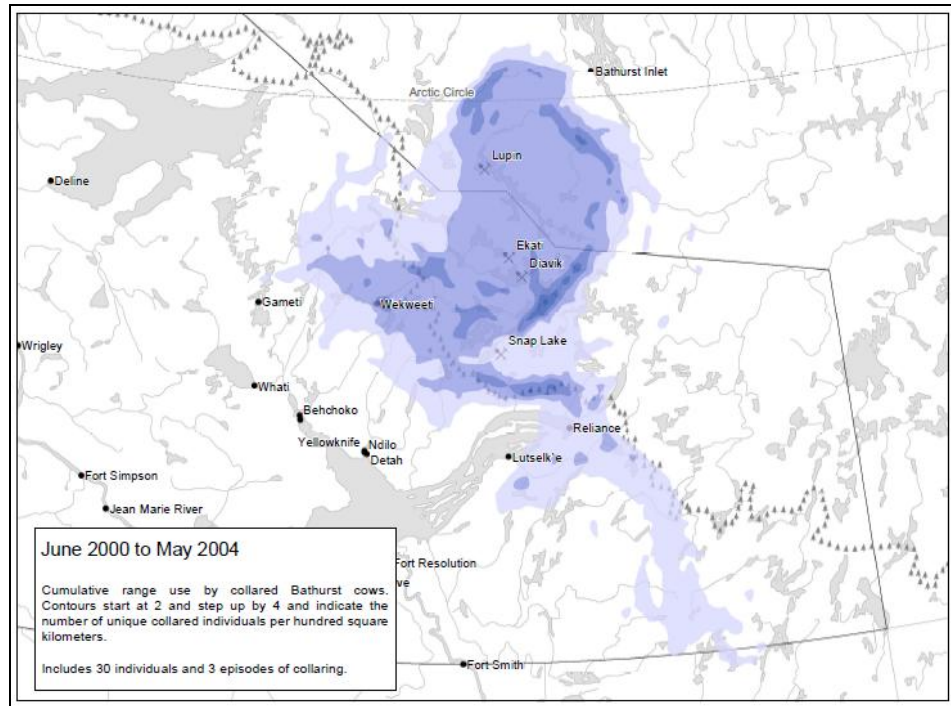


Figure 7: Bathurst ʔekwò (barren-ground caribou) herd annual range for June 2000 to May 2004.

⁶⁵ PR (BATH) - 006: TG & ENR Information Request No.1 Responses - Bathurst Caribou Herd. Question #16. 2016.

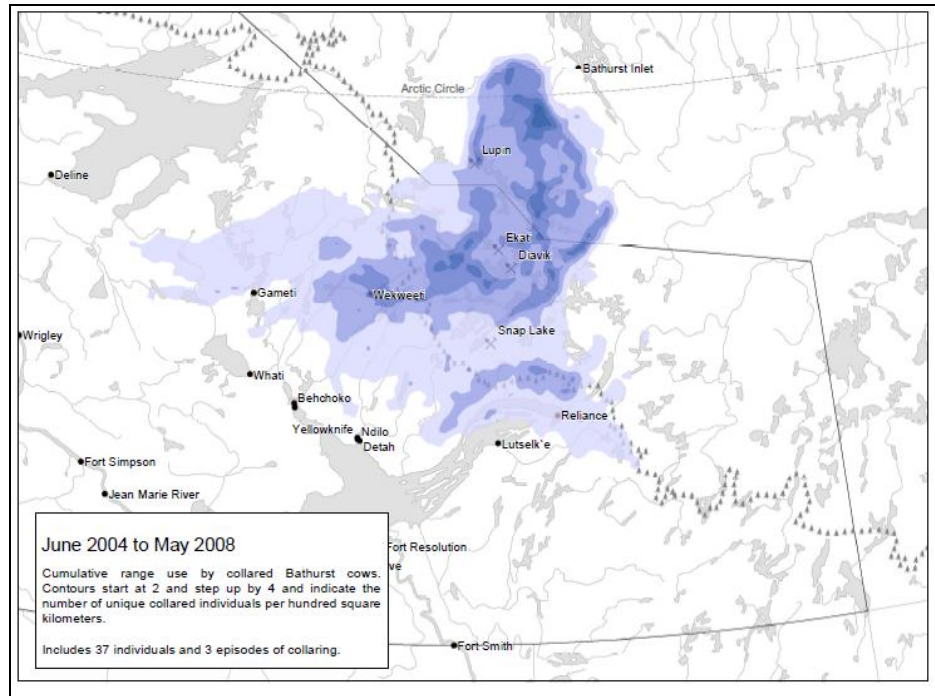


Figure 8: Bathurst Ɂekwò (barren-ground caribou) herd annual range for June 2004 to May 2008.

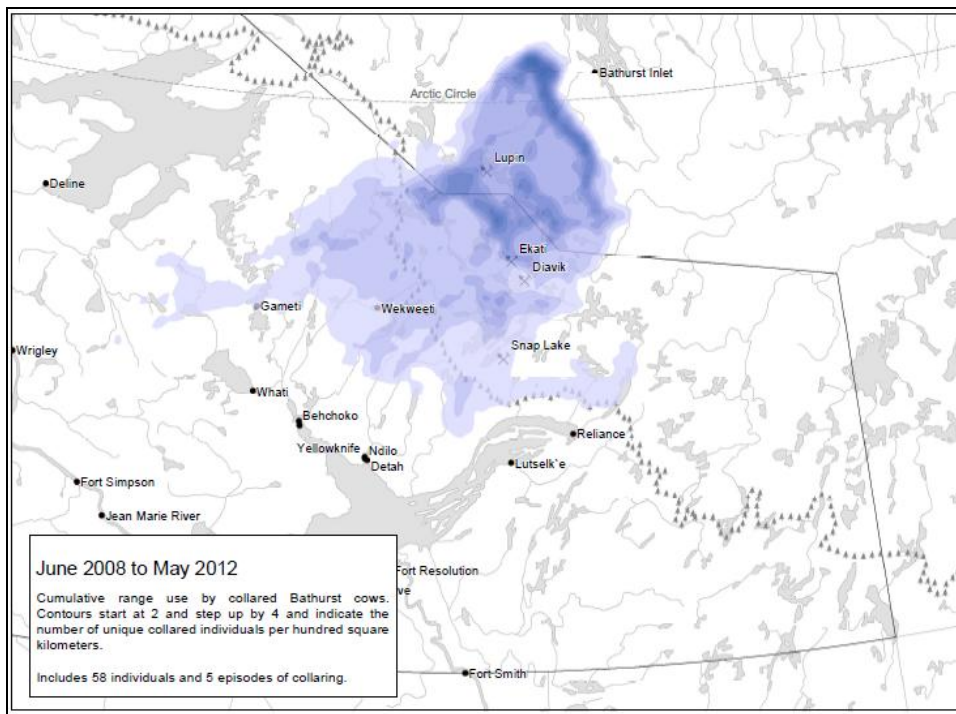


Figure 9: Bathurst Ɂekwò (barren-ground caribou) herd annual range for June 2008 to May 2012.

Dene place names are indicators of both Aboriginal use and the resources they used.⁶⁶ Tłıchq places names indicate the trails, places and resources they used;⁶⁷ most of these are in Wek'èezhìi with many places outside Wek'èezhìi but within Mqwhì Gogha Dè Nı̀tłèè being shared with other Aboriginal people. As Dr. John B Zoe said,

*“We know from our stories and our place names that there was nobody else here, as well as in the other regions, probably the same thing. ... generally you knew which -- whose area that is was. And that agreement is based on an earlier discussion, like I said at the beginning, back in the '70s when a lot of Elders got together.”*⁶⁸

As Ɂekwò move throughout their range, those whose traditional dè the Ɂekwò migrate within will host Dene and Métis from other regions. At the TG Caribou Workshop held in Whatì (2007), the participants suggested formalizing this traditional protocol; *“the four Tłıchq communities and the Tłıchq Government have to be notified in advance before other regions can hunt in the Tłıchq Nation.”*⁶⁹ They want their leadership to ensure everyone takes only what is needed and treats Ɂekwò as has been their tradition.⁷⁰

Under the *NWT Wildlife Act*, the GNWT is responsible for Ɂekwò management, in accordance with the law and following consultation, with the YKDFN and the Łutsel K'e Dene First Nation, the NWT Métis Nation, the NSMA and the Athabasca Denesuline.

The WRRB and the Nunavut Wildlife Management Board (NWMB) are the two co-management tribunals with primary management authority over the Bathurst Ɂekwò herd. As per Section 12.5.4 of the Tłıchq Agreement, on February 24, 2016, the WRRB requested that the NWMB identify whether further consultation was required prior to the WRRB's final decision on TG and ENR's joint management proposal. To date, no reply has been received. The NWMB has received a proposal from the Government of Nunavut to establish a TAH for the Bathurst Ɂekwò herd, and NWMB has scheduled a public hearing for June 14-15, 2016 in Cambridge Bay, NU.

While the WRRB is responsible for managing wildlife in Wek'èezhìi on an ecosystemic basis using the best available information, it must not lose sight of this overall management context. A failure to act when the evidence indicates a wildlife management need could have effects on harvesters outside of Wek'èezhìi.

⁶⁶ PR (BATH) – 020: Denésołné (Chipewyan) Knowledge of Barren-Ground Caribou (*Rangifer tarandus groenlandicus*) Movements. 2005.; PR (BATH) – 095: Traditional Ecological Knowledge in Kaché Tué Study Region, Phase 3. 2002.; and PR (BATH) – 034: Communities and Caribou in the Sahtú Region Yearend Summary Activity Report. 2009.

⁶⁷ PR (BATH) – 163: Bluenose-East Caribou Herd Public Hearing Transcript-Day 1 (April 6, 2016). 2016. p 129.

⁶⁸ PR (BATH) – 163: Bluenose-East Caribou Herd Public Hearing Transcript – Day 1 (April 6, 2016). 2016. Pp. 132-133.

⁶⁹ PR (BATH) – 107: Transcript – Tłıchq Government Caribou Workshop, Whatì, NT – Day 2. 2007.

⁷⁰ Ibid.

7. WRRB DETERMINATION & RECOMMENDATIONS ON LIMITATIONS TO BATHURST ʔEKWÒ (BARREN-GROUND CARIBOU) HARVEST

7.1 Harvest of Bathurst ʔekwò (Barren-ground Caribou)

Resident, Outfitted and Commercial Harvest

Prior to 2005, NWT resident harvesters were allocated five tags, non-resident and non-resident alien harvesters were allocated two bull-only tags, and the quota for each ʔekwò outfitter group (Hunters' and Trappers' Associations (HTA) and Non-HTA) in the North Slave Region was 1260 animals (total outfitted harvest = 2520). As well, Tłı̨chʔ communities received tags to be used for commercial meat sales. During 2005/06, the number of tags for resident hunters was reduced from five to two bull-only tags and the quota for non-HTA outfitters was reduced from 1260 to 1163. The estimated harvest of the Bathurst ʔekwò by residents in 2005/06, based on returns of the annual survey, was 400 animals; the outfitted and commercial harvests were 769 and 75 animals, respectively.⁷¹ In 2007, the number of tags for non-resident and non-resident alien harvesters was reduced from two to one bull-only tag, all commercial tags for Tłı̨chʔ communities were eliminated, and the total quota for both HTA and non-HTA outfitters was reduced to 750 animals.⁷² In 2008 and 2009, the estimated resident harvest was less than 100 bulls taken annually; the outfitted harvest was 419 and 223 bulls, respectively (note: no specific harvest information was available for 2006 and 2007).⁷³

On January 1, 2010, ENR implemented interim emergency measures, which included the closure of ʔekwò commercial, outfitted and resident harvesting in the North Slave region, including Wek'èezhìi.⁷⁴ Since 2010, the WRRB has continued to recommend that commercial, outfitted and resident harvest remain closed in Wek'èezhìi.

Aboriginal Subsistence Harvest

Estimated harvest from 2006 to 2009 was approximately 5000 Bathurst ʔekwò per year, mostly cows.⁷⁵ Harvest in the North Slave region, primarily zones U/BC/01, R/BC/01, R/BC/02 and R/BC/03 (Figure 10), has been monitored by a combination of community monitors, officer patrols and check stations. Following harvest restrictions in 2010, the estimated harvest per year, including fall and winter in R/BC/02 and R/BC/03, and

⁷¹ PR (BATH) – 039: Report on a Public Hearing Held by the Wek'èezhìi Renewable Resources Board 22-26 March 2010 & 5-6 August 2010, Behchokò, NT and Reasons for Decisions Related to a Joint Proposal for the Management of the Bathurst Caribou Herd. 2010.

⁷² Ibid.

⁷³ PR (BATH) - 061: Overview: Monitoring of Bathurst and Bluenose-East Caribou Herds, Sept. 2014 Unpublished Report.

⁷⁴ PR (BATH) – 039: Report on a Public Hearing Held by the Wek'èezhìi Renewable Resources Board 22-26 March 2010 & 5-6 August 2010, Behchokò, NT and Reasons for Decisions Related to a Joint Proposal for the Management of the Bathurst Caribou Herd. 2010.

⁷⁵ PR (BATH) - 006: TG & ENR Information Request No.1 Responses - Bathurst Caribou Herd. Question #9 & 11. 2016.

Nunavut harvest where available, was: 2010 – 300, 2011 – 213, 2012 – 205, 2013 – 202, 2014 – 234, and 2015 – 70 (note: the harvest information for 2015 assumes that all Bathurst Inlet tags were used on outfitted hunts).⁷⁶ Assessing the level of Bathurst Ɂekwò harvest is difficult given overlap with the Bluenose-East herd in some years and the low number of collars on the Bathurst herd,⁷⁷ and harvest estimates provided are considered to be low as they do not include wounding losses or underreporting.⁷⁸

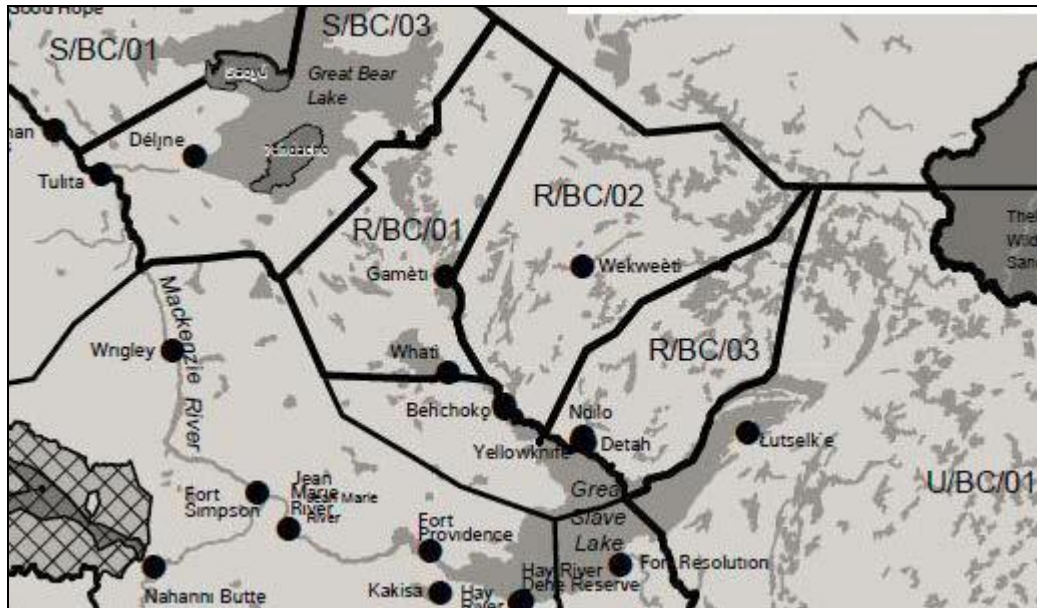


Figure 10: NWT Ɂekwò (barren-ground caribou) management zones in the main Bathurst Ɂekwò winter range and adjacent areas.⁷⁹

Annual harvest of Bathurst Ɂekwò in Nunavut has been estimated by wildlife officers, in recent years, at about 70 bulls taken under tags issued to the small community of Bathurst Inlet and used for late-summer outfitted hunts.⁸⁰

Tłı̨chǫ have relations with Ɂekwò as they have co-inhabited and travelled through the same landscape since long before the arrival of European explorers, traders and missionaries.⁸¹ It is critical to the understanding and management of Ɂekwò in Wek'èezhì to know that the Tłı̨chǫ take their respectful behaviour towards Ɂekwò very seriously as they provide much more than food security. In response to the question,

⁷⁶ Ibid.

⁷⁷ PR (BATH) - 006: TG & ENR Information Request No.1 Responses - Bathurst Caribou Herd. 2016.

⁷⁸ PR (BATH) - 061: Overview: Monitoring of Bathurst and Bluenose-East Caribou Herds, Sept. 2014 Unpublished Report.

⁷⁹ ENR. 2015. Northwest Territories Summary of Hunting Regulations, July 1, 2015 to June 30, 2016.

⁸⁰ PR (BATH) – 004: Joint Proposal on Caribou Management Actions for the Bathurst herd: 2016-2019. 2016.

⁸¹ PR (BATH) – 163: Bluenose-East Caribou Herd Public Hearing Transcript – Day 1 (April 6, 2016).2016. pp.128-129.

‘why do the elders say to leave the caribou alone?’, Elder Joseph Judas gave an extensive reply,

*“Our elders they still teach us, you know, they tell us to be cautious and they tell us to be patient, and then, you, know, maybe at some point in time in the very near future maybe the caribou might rebound and ...our ancestors ... taught us how to respect the animal”.*⁸²

As Dr. John B. Zoe explained, Tłıchǫ place names and stories reflect this intimate relationship and knowledge of ɛekwǝ behaviour and the landscape the ɛekwǝ travel through during the year.⁸³

ʔetsaàʔı̀ɛedaà	a place where Tłıchǫ would wait for ɛekwǝ to cross the lake at this narrow spot
ʔek’atı or Kwek’atı	an area named after the fat of the ɛekwǝ that are always around the lake prior to migrating to their winter range and because the rocks in the area look like ɛekwǝ fat
Daàghǝtı	an area where there is lots of ‘tree lichen’ that is an important winter food for ɛekwǝ
Nıtsaghòòɛedaà	a name for an important ɛekwǝ water crossing
Wedziımı̀tı	male caribou swimming across this lake
Tadeeti	a shallow lake with no fish but with lots of grass for ɛekwǝ
Dıgati	dıga lake; one such lake was named due to the number of dıga dens in the esker and how the dıga chase the ɛekwǝ when they migrate across the lake, which has a number of narrows making it easy to harvest ɛekwǝ

When hunting ɛekwǝ, Dene usually harvest only what is needed, which is dependent on the number of people in their camp or who they are responsible for sharing their harvest with.⁸⁴ This was evident in a study on harvest patterns between 1917 and 1998 when the Dene clearly recalled whether or not the number of ɛekwǝ from a harvest was enough for all the people they were responsible to feed.⁸⁵ In the 1950s, there were few ɛekwǝ

⁸² PR (BATH) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016. pp.64-74.

⁸³ PR (BATH) – 163: Bluenose-East Caribou Herd Public Hearing Transcript – Day 1 (April 6, 2016). 2016. p.129.

⁸⁴ PR (BATH) – 109: Traditional Ecological Knowledge in the Kachè Tuè Study Region, Phase 1 and 2. June 2001.

⁸⁵ PR (BATH) – 068: Caribou Migration and the State of their Habitat – Final Report, March 2001 (republished 2014).

reported west of Wekweètì, and of those, the ʔekwò that were harvested did not always provide enough for all those at the camp due to being underweight.⁸⁶

They also remembered and discussed ʔekwò fitness and forage but not the exact numbers of ʔekwò harvested.⁸⁷ Then, as now, Dene have a tendency to use approximations when discussing harvest, as it always depends on how many people need to be fed. As Elder Jimmy Martin explained on February 21, 2007 in Whatì,

“A single person would take down about twenty to twenty-five caribous but a large families use to kill more and that depended on how many were in the family. Caribou is very important to us and what I’m saying is the truth. I paddled with men to the Arctic with a canoe from a very young age and I did that every summer until I was in my late twenties.”⁸⁸

Similarly, Elder Louis Zoe said,

“My parents and the rest of the family led a nomadic lifestyle when I was a little boy and we went to the barrenlands every fall to follow the caribou. Once [we] were on the barrenlands, my father used to kill about five large bulls. That many caribou makes about ten parcels. But that was the only time my dad would kill bulls. The rest of the winter, he used to kill small caribou but never bulls.”⁸⁹

The Dene in the NWT have intimate relations with ʔekwò. Nevertheless, they harvest much of what is provided by the land and what is culturally appropriate. All that is harvested is shown appropriate respect. When travelling the land, place names direct people to “the fisheries along the way, areas where the moose live, and the different types and methods of harvesting that are embedded in the landscape”.⁹⁰

ʔehts’èk’ètì’àà	pickerel bay
ʔhdaadzìhtì	jackfish hook lake
ʔhdaamìhk’è	jackfish net lake
Dedì’ehdaà	moose point

Fishing is a key resource, as Elder Joseph Judas explained,

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ PR (BATH) – 106: Transcript – Tìchq Government Caribou Workshop, Whatì, NT – Day 1. 2007.

⁸⁹ PR (BATH) – 108: Transcript – Tìchq Government Caribou Workshop, Whatì, NT – Day 3. 2007.

⁹⁰ PR (BATH) – 035: Proceedings of the 13th North American Caribou Workshop, Winnipeg, MB, Canada, 25-28 October 2010.

“once the caribou has been brought back to the community [in the autumn] and then they all shared all the dry meat and all the good stuff that came back from the land. ... They have to – before freeze up they have to go find a good fish camp, and prepare for the winter.”⁹¹

Liwe (fish) are particularly important in the winter while waiting for ʔekwò, especially when they do not come. But as Elder Joseph Judas, explained sometimes the ʔekwò do not come and it is difficult to get through the ice to the liwe.

“The caribou disappeared from our area, that was back in 1969... the ice was too thick, and we can’t chisel ice – through the ice to set our net for our [fish] – for human consumption as well as ... for dog food. So that’s how the – you know, we had to evacuate a community.”⁹²

Not all wildlife species are harvested. The Tłıchǫ are culturally uncomfortable with edzie (bison) because their knowledge of these animals indicates that the edzie are one of the reasons why the ʔekwò no longer migrate to an area. Elder Bernadette Nasken stated,

“And that year, that winter, the winter that they brought bison over, we had caribou around -- around the community. And so when the caribou was around the community, and when the bison was put in -- in that area of the caribou, the caribou went further away from us. And so that's how it started to go further and further away from the -- from us”.⁹³

7.1.1 Total Allowable Harvest

Aboriginal Evidence

Since 2007, due to the downturn in ʔekwò population, Tłıchǫ community members have supported restricted harvesting, particularly limiting fall community hunts to the community hosting the Tłıchǫ Annual Gathering and restricting non-Tłıchǫ harvesting on Tłıchǫ dè. Currently, TG and ENR have proposed a TAH of zero on the Bathurst ʔekwò herd, which has

“profound implications that go far beyond the immediate and direct impacts on reduced food security for many Tłıchǫ citizens, but extends to aspects of Tłıchǫ culture, language and way of life. ʔekwò defines who we are and our way of life, our language. Restrictions can result in lost connection to ʔekwò and Ndè”.⁹⁴

YKDFN also raised concerns about how a zero harvest will jeopardize food security for Aboriginal residents who traditionally harvest from the Bathurst herd and who potentially

⁹¹ PR (Bath) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016. p.215.

⁹² PR (BATH) – 155: Transcripts – February 24, 2016 (Day2) – Bathurst Caribou Herd Public Hearing. 2016. p.71.

⁹³ PR (BATH) – 165: Bluenose-East Caribou Herd Public Hearing Transcript – Day 3 (April 8, 2016). 2016. P.203.

⁹⁴ PR (BATH) – 161: TG to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

cannot afford to purchase grocery store products.⁹⁵ They also noted that a zero harvest will restrict the ability of people to engage in traditional activities and traditional lifestyle, limiting the transfer of knowledge to younger generations.

Nevertheless, TG believes a TAH of zero, in addition to protecting ʔekwò habitat and landscape, to be the most responsible action *“to support herd recovery and to provide leadership as a responsible co-management partner in the current Bathurst ʔekwò management crisis”*.⁹⁶ The NSMA also supported a temporary ban on harvesting the Bathurst herd as long as *“the responsibility is shared fairly and equitably by all Aboriginal people”*.⁹⁷

Ceremonial Harvest

A ceremonial harvest allows for the possibility of a limited harvest on the Bathurst ʔekwò herd to be conducted in a culturally appropriate manner, while also allowing for control of the number and sex that is harvested. For the Sahtú Got’ıne, a ceremonial harvest provides a means by which a generational transfer of traditions and skills can take place.⁹⁸

Community feasts are considered ceremonial as food is shared among community members and visitors alike, which is an important social ritual among Dene.⁹⁹ Mr. Alex Black stated, *“I guess you know like our ceremonial feasts, I guess, have changed. Because, you know, the ceremony relating to the feast, the local feast in the community. ... we used to have the feast with the caribou meat.”*¹⁰⁰ Mr. Joseph Dryneck, from Wekweètì, added to this comment by explaining:

*“The Tłıchǝ Government has, it’s rotating every four years or so they have an assembly with each community, four communities and this coming summer, I guess, it’s suppose to be our turn. And I assume that we – we’re sitting there empty and we don’t know what to prepare food for – I hope that the ENR will be able to give us at least 50 caribou for ceremonial – ceremonial purposes, if – if that’s what they call it. At least you have something for visiting people to share the – the country food.”*¹⁰¹

⁹⁵ PR (BATH) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016.

⁹⁶ PR (BATH) – 161: TG to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

⁹⁷ PR (BATH) – 149: NSMA to WRRB – Bathurst Caribou Public Hearing Presentation Speaking Notes. 2016.

⁹⁸ PR (BATH) – 148: Belarewıle Gots’ı ʔekwé – Caribou for All Time: A Délıne Got’ıne Plan of Action. January 2016.

⁹⁹ PR (BNE) – 167: Transcript – April 8, 2016 (Day 3) – Bluenose-East Caribou Herd Public Hearing. 2016. pp.148-149.

¹⁰⁰ Ibid. pp.171-172.

¹⁰¹ Ibid. p.220.

The Tłıchq leadership has decided against a ceremonial harvest “*because we’re one of the primary users in the area. That it’s serious decline, we’re in an area that’s unchartered territory and that if there’s going to be any recovery we need to start right away*”.¹⁰²

Therefore, the WRRB concluded not to provide for a ceremonial harvest for the Bathurst Ɂekwò herd, with the recognition that if TG wished to implement a ceremonial harvest during 2016-2019 that a management proposal would need to be submitted to the Board.

Scientific Evidence

Harvest is a factor affecting Ɂekwò mortality that can be controlled directly, and can become a significant contributor to herd decline if the harvest is large relative to herd size, if the harvest is largely made up of breeding cows, and if the herd has a high natural mortality and low productivity.¹⁰³ With the Bathurst herd’s current small and rapidly declining population size, a harvest of zero aims to ensure that harvest mortality, a component of total mortality, does not contribute to further Bathurst Ɂekwò herd decline.

Though limiting harvest helps to control direct mortality, a harvest of zero does not ensure that the herd will stabilize or recover. Predation is one of the main causes of caribou mortality, with wolves killing calves and adult Ɂekwò throughout the year, and grizzly bears generally killing Ɂekwò around and after the peak of calving. Predation as a limiting factor for Ɂekwò is likely greater in a declining herd at lower numbers, than in a larger herd with good calf recruitment.¹⁰⁴ Environmental factors can influence vital rates, such as cow survival rate, calf recruitment, and pregnancy rate, and unless the vital rates show improvement, the Bathurst Ɂekwò herd is “*likely to decline further in the next few years*”.¹⁰⁵ Further, though harvest may be limited to zero, there may not be a measurable response in the Ɂekwò population that could be directly attributed to implementing a zero harvest.

However, ENR believes that “*a cautious overall approach to management of harvest and other human influences on this herd will provide this herd with its best opportunity to recover to larger numbers and higher productivity*”.¹⁰⁶

Conclusion

Resident, outfitted and commercial harvests have been closed since 2010. While the Tłıchq and other traditional users stand to lose a close connection with Ɂekwò and the dè, it was noted that any harvesting from the Bathurst herd is no longer scientifically and

¹⁰² PR (BATH) – 153: Transcript – February 23, 2016 (Day 1) – Bathurst Caribou Herd Public Hearing. 2016. pp.181-182.

¹⁰³ PR (BATH) – 152: ENR to WRRB – Bathurst Caribou Public Hearing Presentation. 2016.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ PR (BATH) – 037: Boulanger et al. 2016. Estimate of Breeding Females and Analyses of Demographics for the Bathurst herd of Barren-Ground Caribou 2015 Calving Ground Photographic Survey. Draft. 2016.

culturally viable.¹⁰⁷ The Tłıchq and other traditional users have always harvested other resources, which will help to maintain the connection with the dè.

While a harvest of zero does not ensure that the Bathurst Ɂekwò herd will stabilize or recover, a harvest closure based on the precautionary principle will eliminate any direct and/or additional sources of mortality to Bathurst Ɂekwò caused by people.¹⁰⁸ In addition to a harvest closure, additional management and monitoring actions that will focus on reducing predation and disturbance to Ɂekwò and their habitat are required.¹⁰⁹

Therefore, the WRRB concluded that, despite the hardships that the Tłıchq and other Aboriginal harvesters will endure, the preponderance of the Aboriginal and scientific evidence submitted suggests that harvest restriction is warranted and urgently required.

As per Section 12.6.3 of the Tłıchq Agreement, any harvest limit

“shall be no greater than necessary to achieve the objective for which they are prescribed, and may not be prescribed where there is any other measure by which that objective could reasonably be achieved if that other measure would involve a lesser limitation on the exercise of the rights”.

The Board believes that the Bathurst Ɂekwò herd is in crisis given the continuing decline in the breeding females, poor vital rates, impacts of environmental factors, e.g. poor summer feeding conditions, and extensive exploration and development on the herd’s annual range; therefore, a TAH of zero must be implemented without delay.

In the Tłıchq Agreement, a TAH level is defined as *“in relation to a population or stock of wildlife, the total amount of that population or stock that may be harvested annually”*, i.e. a TAH is an absolute number of caribou that can be harvested from a particular herd. As per Section 12.5.5(a)(i) of the Tłıchq Agreement, the WRRB has sole responsibility for making a final determination with respect to a TAH for Wek’èezhì.

Determination #1-2016: The Board determines that a total allowable harvest of zero for all users of the Bathurst Ɂekwò herd within Wek’èezhì be implemented for the 2016/17, 2017/18, 2018/19 harvest seasons. For further clarification, the absolute number of caribou that can be harvested from the Bathurst herd is zero.

7.1.2 Allocation of Total Allowable Harvest

Section 12.5.5(a)(ii) of the Tłıchq Agreement states that *“the WRRB shall make a final determination about the allocation of portions of any TAH for Wek’èezhì to groups of*

¹⁰⁷ PR (BATH) – 159: NSMA to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

¹⁰⁸ PR (BATH) – 006: TG & ENR Information Request No.1 Responses – Bathurst Caribou Herd. Question 9. 2016.

¹⁰⁹ Ibid.

persons or for specified purposes”. However, in the case of a TAH totalling zero, there is no allocation required.

7.1.3 Wildlife Management Zones

For the 2015/16 harvest season, TG and ENR recommended continuation of a new version of the MCBCCA as used in winter 2014/15 (Figure 3), with no harvest permitted within the mobile zone. An alternative to the mobile conservation zone is managing harvest from the Bathurst and neighbouring herds through a set of smaller sub-zones with fixed boundaries (Figure 11). A Bathurst no-harvest zone would be determined as a grouping of sub-zones rather than a mobile zone with boundaries that change frequently.

TG and ENR will explore the sub-zone approach as well as other alternatives, with the overall goal being the definition of zones for the three herds that protect the Bathurst herd, maintain harvesting opportunities from the Bluenose-East and Beverly-Ahiak herds and provide a clear and easily understandable way of defining zone boundaries. In addition, TG and ENR should develop criteria for identifying when the herds overlap in their winter distribution and how the overlap will be managed, including the closure of zones to avoid inadvertent harvesting of Bathurst ʔekwò.

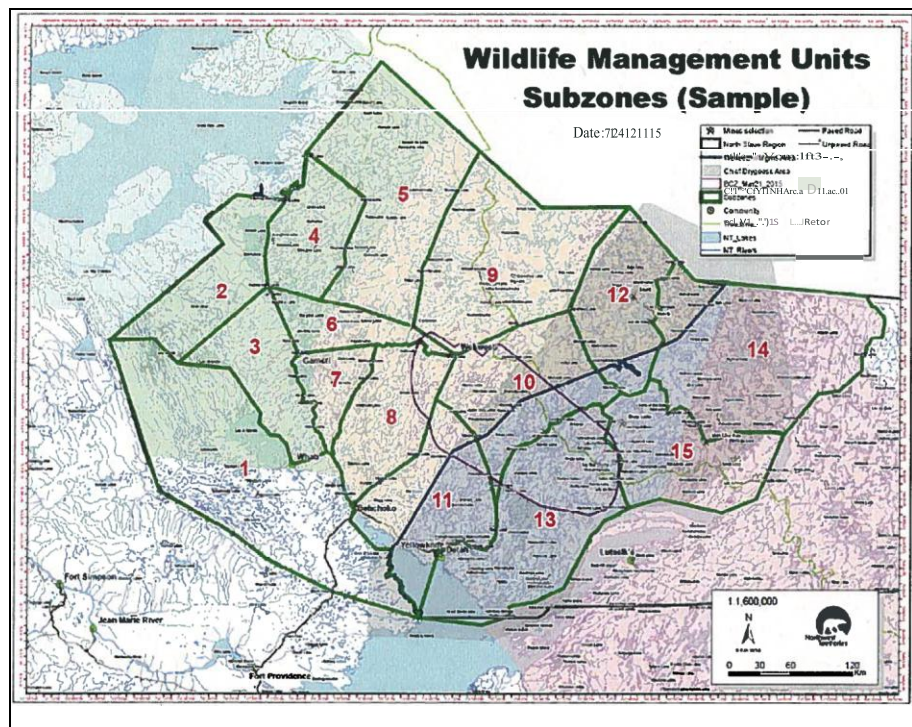


Figure 11: An example of ʔekwò (barren-ground caribou) management sub-zones.¹¹⁰

¹¹⁰ PR (BATH) – 140: TG to WRRB – WRRB Meeting September 9-10, 2015, 25 Aug 2015.

Recommendation #1-2016: The Board recommends that TG and ENR come to an agreement on whether the MCBCMZ or Wildlife Management Units Subzones is the most effective way to differentiate between ʔekwò herds, and then implement the approach with criteria for managing any overlaps between herds, for the 2016/17, 2017/18, and 2018/19 harvest seasons.

7.1.4 Monitoring of Harvest

As the TAH for the Bathurst herd is zero, harvest monitoring will need to focus on ensuring compliance via aerial and ground-based patrols. Aerial and ground-based surveillance by TG and ENR would continue throughout the fall and winter harvest seasons from 2016 to 2019.¹¹¹

Aerial reconnaissance flights throughout the fall and winter harvest seasons will be required to check for any harvesting activity within any closed wildlife management zone for Bathurst ʔekwò and along winter roads. If the MCBCMZ-approach is continued, weekly monitoring flights by ENR will be conducted to determine the herd's distribution. Updated maps showing the location of the MCBCMZ will be provided weekly to TG, Tłıchǫ communities, and to other communities that have harvested Bathurst ʔekwò as well as on TG and ENR's websites. Wildlife officers and/or Tłıchǫ community monitors will also carry out ground-based patrols to ensure compliance with the no-harvest regime.

Recommendation #2-2016: The Board recommends that TG and ENR provide weekly updates to the WRRB and the general public on aerial and ground-based surveillance of the Bathurst ʔekwò herd throughout the fall and winter harvest seasons for the 2016/17, 2017/18, and 2018/19.

In addition, TG and ENR suggest that greater effort is needed for public and hunter education, with an emphasis on educating on reasons for not harvesting the Bathurst ʔekwò herd, and promoting traditional practices of using all parts of harvested caribou, minimizing wastage, harvesting bulls instead of cows, and related conservation education.

Recommendation #3-2016: The Board recommends that TG and ENR increase public education efforts and implement ENR's recently developed Hunter Education program in all Tłıchǫ communities.

¹¹¹ PR (BATH) – 004: Joint Proposal on Caribou Management Actions for the Bathurst herd: 2016-2019. 2016.

8. WRRB RECOMMENDATIONS ON DÌGA (WOLF) MANAGEMENT

8.1 Community-Based Dìga (Wolf) Harvesting Project

During the winter of 2015/16, TG and ENR proposed the community-based dìga harvesting pilot project (the Project).¹¹² The WRRB supported the Project, which would train 6-10 participants from Wekweètì in effective field techniques to hunt, trap, skin and process dìga, ensuring that Tłıchǵ cultural practices were followed. The expertise of a Tłıchǵ wolf hunter/trapper, a taxidermy skinning expert and a Tłıchǵ elder would be utilized. The Project would identify appropriate locations away from communities for skinning and processing wolf carcasses, with field camps established near large lakes within the MCBCMZ. A minimum of 40 wolves would be harvested, but not more than 100. Wolf carcasses would be necropsied by ENR biologists in the field, when possible. Harvesters would receive payment by either delivering the entire unskinned wolf carcass to ENR or preparing the hide themselves. If preparing the hides, the harvester would submit to ENR either skinned traditionally or skinned/prepared by Genuine Mackenzie Valley Fur Program standards. If the Project was deemed successful in Wekweètì, the communities of Gamètì and Whatì would also have the Project offered in 2016/17. Unfortunately, the 2015/16 Project did not happen.

TG has been careful in developing the Project. Although they have had difficulties in getting started due to other activities, TG plans to take the necessary steps to educate their community members on the cultural importance of dìga.

“There are few wolf hunting specialists in Tłıchǵ communities and recruiting new wolf hunters (i.e. men) is not achieved solely through offering financial incentives. For Tłıchǵ there are also cultural values, knowledge and taboos that must be understood by individuals who wish to hunt wolves and prepare the hides in a respectful manner; [learning] this knowledge [takes time and] is most appropriately provided by elders.”¹¹³

Recommendation #4-2016: The WRRB continues to support the implementation of the Community-based Dìga Harvesting Project, as a training program only, subject to the following conditions:

- a) If the Project is to be expanded to other Tłıchǵ communities, a management proposal must be submitted to the WRRB for review and approval.
- b) If the Project is to be expanded in scope, prior to the submission of a management proposal to the WRRB, an index of changing wolf abundance must be available

¹¹² PR (BATH) – 004: Joint Proposal on Caribou Management Actions for the Bathurst herd: 2016-2019. 2016, and PR (BATH) – 096: Tłıchǵ Government and GNWT Management Proposal – Community-based Wolf Harvesting Project. 2016.

¹¹³ PR (BATH) – 113: TG & ENR Information Request No. 2 Responses – Bathurst Caribou Herd. 2016.

- and research on habitat quality and quantity on the Bathurst ʔekwò herd range must be conducted;
- c) TG and ENR must inform the WRRB of the following prior to the start of the Project:
 - i. How aerial and/or ground-based disturbance to Bathurst ʔekwò will be prevented or minimized? How will this potential disturbance be measured, assessed, and mitigated?;
 - ii. How will unintentional or accidental harvest of Bathurst ʔekwò, by the Tłıchǫ dıǵa harvesters, be prevented? If a Bathurst ʔekwò is harvested, how will TG and ENR report to the WRRB?; and,
 - iii. How will the facilitation of wolf movements through the wolves' use of skidoo trails be prevented or minimized?;
 - d) TG and ENR must communicate regularly about the Project with Tłıchǫ communities and the WRRB. Specifically, the Board requests an update prior to start up of the Project in December 2016 and a follow-up on the success of the Project in May 2017. As well, TG and ENR must report monthly on the Project, including numbers, age, sex and pregnancy rates of wolves harvested and location of wolf harvest, to the WRRB;
 - e) The Project must be curtailed or stopped should negative impacts¹¹⁴ to the Bathurst ʔekwò occur; and,
 - f) TG and ENR must establish a threshold or criteria to evaluate the success of the program, i.e. the effectiveness of training a core set of wolf harvesters, the acceptance of the Project by Tłıchǫ communities, continued program implementation and reaching the target number of dıǵa harvested.

8.2 Feasibility Assessment

TG concluded that it is necessary to harvest dıǵa as the TAH of zero will have a profound social impact on the Tłıchǫ.¹¹⁵ In a 2002 report, by the Łutsel K'e First Nations, they stated if dıǵa are present, then ʔekwò are around. This report also stated that predators, such as dıǵa and bears, are higher than normal as young people are not hunting them.¹¹⁶ The Tłıchǫ public is frustrated that, while their harvest is being restricted, nothing is being done about the impact of dıǵa on ʔekwò. As Elder Bernadette Nasken stated,

“Because you put us in a very bad position, you -- --and so who is it that's managing our wildlife? ... As wildlife officers you could easily harvest wolves. And I'm sure that's what your job is here to do, is using helicopters and harvest wood – maybe you could harvest wolves and using helicopter I'm sure you could do that I'm sure that's what your employment entails. The caribou doesn't disturb

¹¹⁴ Negative impacts include, but are not limited to, direct mortality (i.e. unintentional/accidental harvest by dıǵa harvest parties; evidence of unlawful ʔekwò harvest facilitated by dıǵa harvester access routes) and behavioural responses (e.g. harassment-related, such as ʔekwò running away from dıǵa harvesters and/or from planes or helicopters when picking off/dropping off dıǵa harvesters).

¹¹⁵ PR (BATH) – 161: TG to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing, 2016.

¹¹⁶ PR (BATH) – 095: Traditional Ecological Knowledge in Kaché Tué Study Region, Phase 3. 2002.

other wildlife, But it seems like you're restricting the caribou from us. But the wolf, that's a predator, you seem to love it... It – it destroys a lot of our food. What we're supposed to be eating, they're taking it."¹¹⁷

YKDFN stated they have been engaged in predator management for generations and have traditional knowledge on the issues. They were particularly clear they do not want a poisoning project.¹¹⁸ The NSMA stated that *"aggressive predator control is a difficult management response to support due to cultural values, ecological impacts, and economic effectiveness"*.¹¹⁹ YKDFN noted concern that for predator control to make a difference, a large number of dīga need to be killed over an extended period for any prey to make a significant recovery.¹²⁰

In their revised joint proposal, submitted to the Board on May 31, 2010, TG and ENR identified proposed dīga management actions, including the development of survey and monitoring methodology and experimental design for removal of dīga on winter range and at den sites by fall 2010.¹²¹ In October 2010, the WRRB recommended that focused dīga control not be implemented, and if TG and ENR contemplated focused dīga control in the future, a management proposal should be provided to the Board for its consideration. In response to the Board's recommendations, ENR stated that, in consultation with TG, they would provide a proposal with potential options and costings, relevant to dīga monitoring, research, and management¹²². This proposal could help determine whether current management actions were working or more intensive management was required to facilitate ʔekwò recovery.¹²³

During this proceeding, ENR has stated they will carry out the outstanding technical feasibility assessment of dīga management options in 2016, to consider the practicality, costs, and likely effectiveness of different management actions.¹²⁴ This assessment will be completed collaboratively with TG and the input of other interested parties, with the initial focus on the Bathurst herd. The assessment would be completed by December 2016. The assessment will include:

- An examination of the current dīga monitoring to look for improvements in estimating dīga abundance;
- An examination of all options for dīga management, including costs, practicality and effectiveness; and,

¹¹⁷ PR (BATH) – 165: Bluenose-East Caribou Herd Public Hearing Transcript – Day 3 (April 8, 2016). 2016. pp.203-204.

¹¹⁸ PR (BATH) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016. p.180.

¹¹⁹ PR (BATH) – 159: NSMA to WRRB – Final Written Argument – Bathurst Caribou Herd Public Hearing. 2016.

¹²⁰ PR (BATH) – 153: Transcript – February 23, 2016 (Day 1) – Bathurst Caribou Herd Public Hearing. 2016. p.159.

¹²¹ PR (BATH) – 039: Report on a Public Hearing Held by the Wek'èezhì Renewable Resources Board 22-26 March 2010 & 5-6 August 2010, Behchokò, NT and Reasons for Decisions Related to a Joint Proposal for the Management of the Bathurst Caribou Herd. 2010.

¹²² PR (BATH) – 093: ENR & TG to WRRB – Recommendation Report – Revised Joint Proposal, 13 Jan 2011. 2016.

¹²³ PR (BATH) – 134: ENR & TG to WRRB – Revised Joint Proposal on Caribou Management Actions in Wek'èezhì – Implementation Plan, 17 Jun 2011. 2016.

¹²⁴ PR (BATH) – 004: Joint Proposal on Caribou Management Actions for the Bathurst herd: 2016-2019. 2016.

- A determination of which dīga management options are acceptable to co-management partners.

TG and ENR were asked how the Board could assist and speed up completing the dīga feasibility assessment and implementing predator management, including the pilot project. ENR indicated that the Board could assist by identifying which dīga management options would be acceptable.¹²⁵ TG specified that the WRRB could assist in the design and delivery of the pilot project as well as be direct collaborators in the feasibility assessment led by ENR.¹²⁶

Due to its concerns regarding the time for completion of the assessment, the WRRB discussed showing leadership by leading a collaborative dīga feasibility assessment. The Board would collaborate with TG and ENR to determine a terms of reference for completion. The feasibility assessment would be cost-shared equally by TG, ENR and the Board. TK from the hearings and public registry would be summarized to suggest culturally appropriate ways to hunt and trap dīga as well as lethal and non-lethal options for dīga management. It would include possible objectives and monitoring to rate success or failure. It would lay out approaches to monitoring of wolves beyond relying on estimating wolf abundance.

Recommendation #5-2016: The WRRB recommends TG and ENR support a collaborative feasibility assessment of options for dīga management, led by the Board.

9. IMPLEMENTATION

As per Section 12.5.12 of the Tł̥chq Agreement,

*“each Party shall, to the extent of its power under legislation or Tł̥chq laws, establish or otherwise implement
(a) a determination of the Wek’èezhì Renewable Resources Board under 12.5.5 or 12.5.6; and
(b) any recommendation of the Board as accepted or varied by it.”*

As the Bathurst ʔekwò herd is at a critical state, the WRRB requires its **Determination #1-2016** implemented by July 1, 2016, which is the start of the 2016/17 harvest season. Further, as monitoring of the ʔekwò wildlife management units and Bathurst ʔekwò harvest are linked to the implementation of a TAH, the Board expects that **Recommendations #1-2016** and **#2-2016** be implemented by July 1, 2016.

¹²⁵ PR (BATH) – 165: Bluenose-East Caribou Herd Public Hearing Transcript – Day 3 (April 8, 2016). 2016. p. 26.

¹²⁶ PR (BATH) – 155: Transcript – February 24, 2016 (Day 2) – Bathurst Caribou Herd Public Hearing. 2016. pp. 160-161, and PR (BATH) – 165: Bluenose-East Caribou Herd Public Hearing Transcript – Day 3 (April 8, 2016). 2016. pp.28-29.

The Board would like the preliminary aspects of its **Recommendation #3-2016** to be initiated at the beginning of the 2016/17 harvest season with the understanding that this long-term program will take time to fully implement. **Recommendation #4-2016**, specifically b) and e), should be addressed with the Board, prior to Project start up, at its December 2016 meeting. The Board, in conjunction with TG and ENR, would like to initiate **Recommendation #5-2016** by June 2016 and have the assessment completed by September 2016.

10. CONCLUDING COMMENTS

With the Bathurst ʔekwò herd in such a perilous state, all peoples who harvest in Wek'èezhì must do their part to ensure the recovery of the herd. Users and managers must act now, in whatever ways possible, to protect the herd so future recovery may be possible.

“And as people, we always --it was our tradition. It was our tradition. All our trails are starting to disappear as the caribou trails are disappearing. And so today let's help each other with the caribou. And so as I speak today, I wonder how can I help my people. How can I help future generations, my future grandchildren, their grandchildren, to --to how far --how far into the future can we make plans for them.”¹²⁷

Elder Joseph Judas

¹²⁷ PR (BATH) – 153: Transcript – February 23, 2016 (Day 1) – Bathurst Caribou Herd Public Hearing. 2016. p.115.

APPENDIX A

Joint Proposal on Caribou Management Actions in Wek'èezhì, December 15, 2015

APPENDIX B Previous WRRB Recommendations related to Bathurst ʔekwò (Barren-Ground Caribou) Management – March 2007 Proceeding

March 2007 Proceeding

In December 2006, ENR submitted a management proposal recommending management actions to reduce harvest levels in a manner consistent with the Tłıchǫ Agreement and the Bathurst Caribou Management Plan for the WRRB's consideration. The proposed management actions were intended to limit the harvest to 4% of the 2006 herd size for a total of 5120 caribou, including eliminate all commercial meat tags held by Tłıchǫ communities, reduce number of tags for non-resident hunters and non-resident alien hunters from 2 to 1, and reduce tags for all non-Hunters' & Trappers' Association (HTA) and HTA outfitters from 1559 to a total of 350.

Due to the significance of the management actions proposed, and the fact that the WRRB, as a new organization, had not yet heard from other Parties affected by the ENR proposal, the Board decided to conduct a public hearing before making any decisions on the proposal. The WRRB held the public hearing on March 13-14, 2007 in Behchokò, NT.

During the course of the hearing, ENR officials admitted that the Minister and Department had not consulted the Tłıchǫ Government about their proposal, as required in the Tłıchǫ Agreement, before it was submitted to the Board. Once the evidentiary phase of the proceeding was completed, the Board decided to adjourn the proceeding in order to give ENR and the Tłıchǫ Government time to initiate a consultation process. Specifically, ENR and the Tłıchǫ Government were directed to report to the WRRB on the outcome of their consultations by April 23, 2007.

On April 20, 2007 and April 23, 2007 respectively, the Tłıchǫ Government and ENR filed letters with the WRRB indicating that the consultation process had not been concluded, thereby requiring an additional 90 days to finish the consultations. The WRRB advised ENR and the Tłıchǫ Government, in early May 2007, that it had decided to extend the period of adjournment in the proceeding by 30 days to permit the Parties to conclude the consultations by June 1, 2007. The Board indicated that if the consultation efforts were not producing substantial progress, it would bring the proceeding to a close and prepare its Recommendations Report for submission to the Minister of ENR and the Tłıchǫ Government.

Emergency Measure

On April 17, 2007, the Minister of ENR advised the Tłıchǫ Government and the WRRB that the Big Game Hunting Regulations had been amended to reduce the number of tags available for outfitted hunts for barren-ground caribou in Unit "R" to 750 for the 2007 season. The letter noted that this decision was made under the authority of Section 12.5.14 of the Tłıchǫ Agreement as ENR considered its action necessary due to an emergency situation regarding declining populations of the barren-ground caribou.

Board Decision

On May 30, 2007 and June 4, 2007 respectively, the Tłıchq Government and ENR submitted letters to the Board indicating that they were making substantial progress but required an extension to September 28, 2007 in order to develop a new joint caribou management proposal. The WRRB was concerned that any further adjournments could adversely affect the interests of other Parties affected by the proposal. ENR had already taken steps to implement portions of its proposal on the grounds that an emergency situation existed. Further extension of the proceeding to accommodate consultation which, in the Board's view should have taken place before the proposal was advanced, seemed inconsistent with the urgency asserted by ENR. For these reasons, the WRRB decided not to grant a further adjournment of its proceeding.

Based on the WRRB's review of the evidence presented during the proceedings, the Board recommended that ENR's proposal to undertake management actions to reduce the harvest of the Bathurst caribou herd not be implemented as submitted. The WRRB strongly encouraged ENR and the Tłıchq Government to continue their consultations towards the development of a joint proposal for the management of the Bathurst caribou herd. Additionally, the WRRB indicated that any future management actions that propose to limit any component of the harvest to a particular number, including zero, would be treated as a proposal for the establishment of a total allowable harvest.

Barren-ground Outfitter's Association Tag Request

In October 2007, the Barren-ground Caribou Outfitter's Association requested that the tag quota for caribou outfitters be restored to 1260 for the non-HTA outfitters and 396 for the HTA outfitters due to financial hardships experienced by the outfitters and supporting businesses. The Board did not recommend the tag increase to the GWNT as the WRRB is not mandated to address issues of economic viability. Further, the WRRB considered any requests for changes to tag quotas to be premature prior to the submission of a joint proposal regarding the management of caribou in Wek'èezhì by ENR and Tłıchq Government.

APPENDIX C

Review of 2010 Recommendations – Government Responses and Programs

APPENDIX D List of Registered Parties

Proponents

Tłıchǫ Government

Department of Environment & Natural Resources, Government of the Northwest Territories

Intervenors

Yellowknives Dene First Nation

North Slave Métis Alliance

Registered General Public

Tony Rabesca

Madelaine Chocolate Pasquayak

George Mackenzie

APPENDIX E Summary Table of Party Recommendations