

# **16<sup>th</sup> Legislative Assembly of the Northwest Territories**

## **Standing Committee on Economic Development and Infrastructure**

Report on the Review of Bill 6:  
*Species at Risk (NWT) Act*

Chair: Mr. David Ramsay

**MEMBERS OF THE STANDING COMMITTEE ON  
ECONOMIC DEVELOPMENT  
AND INFRASTRUCTURE**

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MLA Kam Lake  
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MLA Hay River South

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Gay Kennedy  
Committee Researcher



Northwest  
Territories

Legislative Assembly

Standing Committee on Economic Development and Infrastructure

June 1, 2009

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Economic Development and Infrastructure is pleased to provide its Report on the Review of Bill 6: *Species at Risk (NWT) Act* and commends it to the House.

A handwritten signature in black ink, appearing to read 'D Ramsay'.

David Ramsay, MLA  
Chairperson

**STANDING COMMITTEE ON  
ECONOMIC DEVELOPMENT  
AND INFRASTRUCTURE**

**REPORT ON THE REVIEW OF BILL 6:  
*SPECIES AT RISK (NWT) ACT***

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**STANDING COMMITTEE ON  
ECONOMIC DEVELOPMENT  
AND INFRASTRUCTURE**

**REPORT ON THE REVIEW OF BILL 6:  
*SPECIES AT RISK (NWT) ACT***

**INTRODUCTION**

The Standing Committee on Economic Development and Infrastructure is pleased to report on its review of Bill 6: *Species at Risk (NWT) Act*.

Bill 6: *Species at Risk (NWT) Act* set out the processes to identify, protect and recover species at risk in the NWT. The proposed *Act* will apply to any wild animal, plant or other species managed by the Government of the Northwest Territories. It will apply everywhere in the NWT, on both public and private lands, including private lands owned under a land claims agreement.

Bill 6 received second reading in the Legislative Assembly on October 24, 2008 and was referred to the Standing Committee on Economic Development and Infrastructure for review. The review process began on January 19, 2009 with opening comments from the Minister of Environment and Natural Resources. The Committee then conducted public hearings on Bill 6 in the following communities:

- Yellowknife on March 30<sup>th</sup> and April 6, 2009
- Dettah on March 30, 2009
- Fort Resolution on March 31, 2009
- Fort Smith on April 1, 2009
- Fort Simpson on April 2, 2009
- Fort Providence on April 3, 2009
- Norman Wells on April 7, 2009
- Tulita on April 8, 2009
- Inuvik on April 9, 2009

A list of persons and organizations which participated in the hearings is attached at Appendix A. In addition, several organizations submitted written comments to the Standing Committee. The written submissions are included in Appendix B. This report reviews the concerns identified through the public review and provides information about the views of the Standing Committee.

## **BACKGROUND TO BILL 6: *SPECIES AT RISK (NWT) ACT***

### **National Accord for the Protection of Species at Risk**

In 1996, all provincial, territorial and federal governments responsible for the management of wildlife agreed in principle to the National Accord for the Protection of Species at Risk. Under the Accord, jurisdictions agreed to work together to provide effective protection to all species at risk in Canada and to help those species recover. The Accord includes a number of commitments, including a commitment by each jurisdiction to put legislation and programs in place to protect species at risk. The Government of the Northwest Territories signed the *Accord* in 2004.

### **Federal *Species at Risk Act***

The federal government passed its *Species at Risk Act* in 2003. The federal *Act* establishes a process to assess and list species at risk at the national level, including migratory birds, fish and marine mammals. If a species is listed as threatened or endangered under the federal legislation, protection measures apply immediately anywhere in Canada. The federal government has management authority for fish and migratory birds, wherever they occur, as well as management authority for wildlife in national parks, migratory bird sanctuaries and national wildlife areas. Federal protection measures include automatic prohibitions against the killing, harassing, harming, buying, selling or trading of any threatened or endangered species and protecting its residences.

Territorial and provincial governments are responsible for managing other species such as land mammals, amphibians, reptiles, non-migratory birds and insects. Under the federal *Species at Risk Act* the appropriate jurisdiction is responsible for providing protection to species that are listed at the national level. It also contains a safety net provision, whereby if a jurisdiction does not provide effective legal protection, the federal government must step in to protect the species.

### **Collaborative Processes with Aboriginal Organizations**

Initial consultation on the *Species at Risk* legislation began in 1999 in conjunction with consultations on the proposed *Wildlife Act*. During this initial phase, land claims organizations advocated for a direct role in the drafting of the legislation to ensure that the rights, roles and responsibilities of the co-operative wildlife management processes established under the various land claims agreements were properly addressed.

The Government of the Northwest Territories agreed to an inclusive process for drafting the *Species at Risk* legislation that involved the four land claims organizations, the co-management boards and their legal counsel. In 2005, the *Species at Risk Working Group* was established. They collaborated with Environment and Natural Resources staff in the drafting of the legislation. Working Group membership included the Joint Secretariat, the Wildlife Management Advisory Committee, the Gwich'in Tribal Council,

the Gwich'in Renewable Resources Board, the Sahtu Secretariat, the Sahtu Renewable Resources Board, the Tlicho Government and the Wek'eezhii Renewable Resources Board. Those Aboriginal Groups with unsettled lands claims (The Akaitcho Territory Government, Deh Cho First Nation, Northwest Territory Métis Nation and the North Slave Métis Alliance) were invited to the Working Group as observers but declined to participate because they did not want to have the process influence their land claim and self-government negotiations.

The Minister of Environment and Natural Resources tabled a draft *Species at Risk (NWT) Act* in the summer of 2008 for public review and comment. Revisions were made to the draft *Act* based on comments received from Aboriginal organizations, wildlife organizations, industry representatives and the general public. The Minister then introduced Bill 6 in the Legislative Assembly in October 2008.

### **SUPPORT FOR THIS BILL FROM MANY NWT ABORIGINAL ORGANIZATIONS**

During the public review, Standing Committee members heard from the four members of the Species at Risk Working Group. Working Group membership included the Joint Secretariat, the Wildlife Management Advisory Committee, the Gwich'in Tribal Council, the Gwich'in Renewable Resources Board, the Sahtu Secretariat, the Sahtu Renewable Resources Board, the Tlicho Government and the Wek'eezhii Renewable Resources Board. All endorsed the proposed legislation and spoke of its importance in strengthening the wildlife protection goals under the various land claims and self-government agreements.

Eddie Erasmus, Director of the Tlicho Government's Lands Protection Department and Working Group member, told Committee members, "it was necessary to establish a unique system for protecting and managing species at risk in the NWT, because land claims and self-government agreements have established new responsibilities, rights and obligations for managing all wildlife. Because of those constitutionally protected agreements, it is not possible for any one party, acting in isolation, to conserve species that may be at risk. Instead, Aboriginal governments, co-management bodies and the Governments of the NWT and Canada need to work together, in a cooperative way, to achieve those important objectives."

Steven Baryluk, Resource Management Coordinator for the Inuvialuit Game Council told Committee members, "While it may have taken a while to get here, we believe that the additional time taken has resulted in a draft bill that gives consideration to all the necessary aspects of the various land claims provisions and co-management processes that currently exist in the Northwest Territories. The participation of the land claims organizations at the table while the bill was being drafted produced a stronger bill that the Inuvialuit Game Council can feel comfortable supporting."

## **CONCERNS EXPRESSED DURING THE REVIEW**

### **Concern about the Impact of Federal Legislation on NWT Species at Risk**

Many people who participated in the public hearings raised concerns about whether the federal *Species at Risk Act* would supersede the proposed NWT legislation.

For species in the NWT that are listed under the federal legislation, the Government of the NWT must show that its laws are providing effective protection for those species. The *Species at Risk (NWT) Act* will establish the mechanisms to assess the status of a species at the territorial level (which could differ from the national level), identify the threats facing the species in the NWT and identify what actions are necessary to protect, conserve and recover that species. This would fulfill the NWT's commitment under the National Accord and meet the obligation to provide effective legal protection.

It will also allow for the assessment of species that may be at risk in the NWT but are not at risk nationally, and provide the appropriate protection and conservation measures to address threats in the NWT. The proposed NWT legislation will also provide protection to species at risk in the NWT in a manner that recognizes the unique circumstances of wildlife co-management in the NWT.

### **Concern about Aboriginal and Treaty Rights**

Throughout the Standing Committee's public review process, many questions were raised by presenters about how Aboriginal and Treaty Rights were protected under the proposed legislation. The Committee Members are confident that the proposed legislation makes the paramountcy of Aboriginal and Treaty Rights over the legislation clear. Clause 2 of the Bill ensures that Aboriginal and Treaty Rights cannot be infringed upon by the *Species at Risk (NWT) Act*. The *Act* also makes it clear that if there is an inconsistency between the *Act* and a land claim agreement, the provisions of the land claim agreements prevail to the extent of the inconsistency. In addition, the preamble to the *Act* also specifically recognizes the constitutional duty of the Government of the Northwest Territories to consult with Aboriginal peoples.

Under the *Act*, Aboriginal groups with unsettled land claims are not recognized as Management Authorities because they do not have the same accountabilities established with respect to species management until their land claim or self-government agreement is settled. However, the preamble of the *Act* recognizes that "future agreements with Aboriginal peoples whose land claims are not yet settled are likely to address authorities and processes for the management and processes for the management and conservation of species" which thereby allow for a future role as a Management Authority. However, whenever the interests of these groups are affected, the Minister is bound to consult and accommodate as established in current case law and under Section 35 of the *Constitution Act*.

## **Concern about Complex Structures**

Management of wildlife resources in the Northwest Territories is shared by three levels of government – federal, territorial and Aboriginal – and by co-management boards established by land claims agreements. The protection, conservation and use of wildlife resources in the NWT are also bound by case law and Aboriginal and Treaty Rights.

The proposed Species at Risk legislation establishes a Conference of Management Authorities which will set out a formal process of collaborative decision-making among co-management boards established under land claims and self-government agreements and the Governments of the NWT and Canada which will guide the identification and management of species at risk.

Members of the Species at Risk Working Group who made presentations to Standing Committee see the concept of the Conference of Management Authorities as the best approach to accommodate the complex decision-making that would be required for species that cross boundaries of two or more land claim areas and allow for coordinated action among the various wildlife co-management structures that exist in the NWT.

The Standing Committee members agree with the proposed structures to manage and assess species that may be at risk in the NWT. The Conference builds on the existing co-management processes and authorities established for wildlife management in the NWT.

## **Concern about the Species at Risk Committee**

The proposed legislation also establishes a Species at Risk Committee (SARC) to assess the biological status of species that may be at risk in the NWT. This assessment would be based on traditional, community and scientific knowledge of the species. The Committee would include members appointed by co-management boards and members from areas without settled land claims, who would be appointed by the Minister. Members of SARC would have significant traditional, community or scientific knowledge about northern species and would act independently from their appointing agencies. SARC would make recommendations on the listing of species and on conservation measures for the consideration of the Management Authorities. SARC will not consider socio-economic effects in its assessment.

The Standing Committee heard from industry representatives that the SARC should consider socio-economic effects in its species assessment reports. Under the proposed legislation, socio-economic effects, along with biological status of the species and results from any required consultation are considered by the Conference of Management Authorities when attempting to reach a consensus agreement on listing.

The Standing Committee Members agree with proposed legislation which focuses on the biological status of that species based on the best available traditional, scientific and community knowledge. This provides a foundation on which the Conference of

Management Authorities can then consider other issues that may be impacted by listing and protection measures, including socio-economic effects.

### **Concern about Timelines**

Other presenters questioned how efficient these structures will be in carrying out their prescribed responsibilities. They were concerned that the process could lead to significant delays in identifying species at risk and in establishing management and recovery plans.

The Standing Committee members recognize that the proposed timelines for the various processes under the proposed legislation are lengthy and in some cases can be extended. In order to address this issue, the legislation proposes that if the Species at Risk Committee recommends that a species should be listed as being at risk, the species is considered a “pre-listed” species and conservation measures can be put in place immediately. The Standing Committee is satisfied that this will provide the necessary protection measures for species at risk until a final management plan or recovery strategy is approved and implemented.

### **Concern about Resources**

The majority of presenters supported the proposed management and assessment structure. However, they cautioned that in order to make co-management work effectively the Government of the NWT must provide adequate resources to implement and maintain the process. Concerns were also raised as to whether the Government of the Northwest Territories could afford the proposed management and committee structures, particularly during this period of reductions in government spending and revenues. Standing Committee members agree that new resources will be needed to implement the proposed legislation.

#### **Recommendation 1**

**The Standing Committee recommends that the Government should closely monitor these costs and implement on-going evaluation measures to ensure the process operates efficiently and in a cost-effective manner.**

#### **Recommendation 2**

**The Standing Committee also recommends that the Minister should review the implementation plans for the Conference of Management Authorities and the Species at Risk Committee with the Standing Committee.**

## **Concern about the Use of Traditional Knowledge**

The proposed legislation will not contain a list of species at risk in the NWT when it comes into force. Rather, species designated at risk in the NWT under the federal Species at Risk legislation will be assessed under the processes established in the NWT legislation.

Committee members heard from a delegation of polar bear hunters who described the impact on their livelihood that occurred when the USA designated polar bears as “endangered”. They all acknowledge that there have been negative impacts on the bears over the years; however, they believe the bear population remains relatively healthy. They felt that traditional knowledge was often overlooked in assessments of species health. They stressed the need for a balance between scientific and traditional knowledge when assessing species that may be at risk. They support the broad conservation goals that are at the heart of the Species at Risk (NWT) legislation and believe that appropriate management plans can address the need to both conserve species while at the same time support local economic activities.

Committee members heard from many others who wanted assurances that traditional knowledge would be included in a meaningful way throughout the assessment, listing and recovery processes. Committee members agree that the inclusion of traditional knowledge can improve a species’ assessment and supply much of the information needed for such an assessment when combined with scientific information. More importantly, the inclusion of traditional knowledge supports the meaningful involvement of Aboriginal people in species conservation, which may improve local-level acceptance of a species status and associated recovery programs.

### **Recommendation 3**

**The Standing Committee recommends that a series of protocols and guidelines for the collection of Aboriginal traditional knowledge be developed to support its inclusion in the assessment and protection measures of species that may be at risk in the NWT.**

## **Concerns about the Exclusion of Migratory Birds and Fishes**

Given the importance of migratory birds and fish to NWT residents and to the biodiversity on which the northern ecosystem depends, Committee members wanted to know why the Department of Environment and Natural Resources excluded them from the proposed NWT legislation. Departmental representatives indicated that in 2002, during the preparation and review of the Legislative Proposal for the Species at Risk Act, concerns were raised about the GNWT taking on responsibility for costs or activities associated with species under federal jurisdiction, namely migratory birds and

fish. The Department was given direction that the Bill should not include any provisions that would in any way provide the GNWT with responsibility for fish or migratory birds.

The proposed *Act* does enable the Minister to make an agreement with the Government of Canada to assess, but not list, the status of fish and migratory birds in the NWT. This would allow the Species at Risk Committee to assess the biological status of federal species that are not listed under the federal *Species at Risk Act* or are listed in a category that a co-management board considers inappropriate to their risk in the NWT. The assessment would be provided to the appropriate co-management boards and the federal government with no obligation on the GNWT to take further action.

#### **Recommendation 4**

**The Standing Committee recommends that the inclusion of fishes and migratory birds in the *Species at Risk Act* be undertaken as consequential amendments to the new *Wildlife Act*.**

#### **Concerns about Landowners**

Questions were raised by a number of presenters on the sections of the *Act* relating to habitat conservation provisions and the designation of habitat on private lands (s.79 and s.81). These concerns were primarily focused on whether the Minister could act unilaterally to designate habitat and how the rights of landowners were protected.

Departmental representatives explained that Section 79 gives the Minister the authority to put forward regulations to protect habitat that is important to the conservation of any listed or pre-listed species. These regulations would be specific to the requirements of the particular species at risk and could require actions be taken to conserve habitat or prohibit activities that could negatively affect the habitat or restrict the use, access or activities in the habitat area. The legislation also enables the Minister to enter into an agreement with a landowner for the purposes of habitat conservation. As a result of the agreement, the Minister may exempt a landowner from certain regulations prohibiting activities that would affect a listed species. The intent of this provision is to provide options and flexibility to landowners to conserve habitat without having regulations imposed on them and is intended as a way to promote stewardship.

In Section 81, where there is an issue of potential designation of private lands, the Minister is obligated to make reasonable efforts to enter into an agreement with a landowner (s.81(1)). Habitat can only be designated on private land if 1) it is essential to the survival and recovery of the species and designation is necessary for conservation of the species and its habitat, and 2) there is not enough public land to meet these needs.

If private land is the only choice, the Minister must consult with the owner of the lands before recommending designation. The Minister must also make reasonable effort to enter into an agreement with the owner regarding the impacts of designation, including mitigation of negative impacts resulting from designation and compensation to the owner for economic loss. Only if the Minister and owner cannot come to an agreement would the Minister refer to regulations (which have yet to be developed) to provide compensation.

The Standing Committee acknowledges the difficulties involved in these types of arrangements and supports the approach identified in the legislation.

### **Concern about Aboriginal Use of a Species**

Under the proposed legislation, there are some exemptions built into the legislation, particularly those that are necessary for human health and safety. If regulations are made to prohibit possession of a species of risk, there are also exemptions for people who possessed the species before the regulations were made and for a person who uses a species for Aboriginal ceremonial, medicinal or cultural purposes.

Of particular concern to some presenters at the public hearings was Section 83 (b) that describes the exemption for a person who uses a species for Aboriginal ceremonial, medicinal or cultural purposes. Committee heard presenters who felt that the use of the word “persons” was too broad and recommended this exemption should be limited to Aboriginal persons.

The Standing Committee proposed a motion to amend the wording of this clause in the Bill. The Minister supported the change.

### **Concern about the Preamble**

Stewardship of the land is a fundamental value of Aboriginal people and shared by many other residents of the Northwest Territories. They recognize that the use of the land and its resources and the stewardship of those resources have always been linked. Frank Andrew, Chief of the Tulita Band, told Committee members that “Aboriginal people depend on and value the plants and animals and understand our relationship with them. We have effectively managed and protected the land for years because it is so important to our survival.”

In every community Committee members visited during the public hearings into Bill 6, the importance of stewardship of our natural resources was reinforced. People clearly recognized that the ultimate purpose of the proposed legislation is to prevent native species from becoming extinct in the first place.

Committee members proposed in a motion that the Preamble to the *Act* be changed to include a statement that conservation of species at risk is part of a larger commitment to maintain the biodiversity of the NWT and that all residents of the NWT have a shared

responsibility for species conservation and protection. The Minister concurred with the motion.

### **Concern about the Development of Regulations**

The Standing Committee Members understand that regulations will be made on a case-by-case basis to make sure they are appropriate for the species and the specific threats it may face in the NWT.

#### **Recommendation 5**

**The Standing Committee recommends that the Minister should use a process which supports the involvement of key stakeholders and consultation with all interested parties during the development of regulations related to this law.**

### **CONCLUSION**

The Standing Committee on Economic Development and Infrastructure thanks all the individuals and organizations who shared their views at the public hearings or provided written submissions. The Committee members also thank the Minister of Environment and Natural Resources and the numerous departmental representatives who attended hearings and prepared briefings. Committee members acknowledge that this legislation marks a critical milestone in the recognition of the joint responsibility that the GNWT and Aboriginal governments share for wildlife management. The Standing Committee hopes that this legislation has provided a successful model to move forward with the renewal of the *Wildlife Act*.

The Clause-by-Clause review of the Bill was held on May 27, 2009 in Yellowknife. At that time, the Committee proposed two motions to make amendments to Bill 6, based on the Committee's review and feedback from the public hearings. The Committee also considered and approved four minor amendments, clarifying the wording of the affected clauses. The Minister of Environment and Natural Resources concurred with the six motions. The Bill was amended, reprinted and returned to the Legislative Assembly for third reading.

## **APPENDIX A**

### **PUBLIC HEARINGS, BILL 6: *SPECIES AT RISK (NWT) ACT***

#### **PRESENTATION SCHEDULES AND PARTICIPANTS LISTS**



**ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE  
PRESENTATION SCHEDULE FOR BILL 6: SPECIES AT RISK (NWT) ACT**

**COMMUNITY: YELLOWKNIFE**

**DATE: MONDAY, MARCH 30, 2009, 1:30PM**

<b>COMMITTEE MEMBERS</b>	<b>STAFF</b>	<b>OBSERVERS</b>
DAVID RAMSAY	CATE SILLS	LYNDA YONGE (ENR)
BOB BROMLEY	GAIL BENNETT	SUSAN FLECK (ENR)
DAVID KRUTKO	JENNIFER KNOWLAN	ROBERT GAU (ENR)
GLEN ABERNETHY (ALTERNATE)		TERRI BERENS (ENR)
		ADAM VIVIAN (ENR)
		DARLENE ROMANKO (ENR)
		KELLY McLAUGHLIN (JUSTICE)
		SUZANNE CARRIERE (GNWT)

**WITNESSES:**

<b>PRESENTED (X MEANS YES)</b>	<b>NAME</b>	<b>ORGANIZATION/GOVERNMENT (IF APPLICABLE)</b>	<b>CONTACT INFORMATION</b>
X	DAVE NICKERSON	MEMBER OF PUBLIC	
X	GORDON CLARKE	CHAMBER OF MINES	
	MOISE RABESCA	MEMBER OF PUBLIC, TRAPPER	
	JOYCE RABESCA	MEMBER OF PUBLIC, TRAPPER	
	AMANDA PETERSON	PETERSON'S POINT LODGE	
	CHRIS BREKKE	CPAWS	
	CHAD PETERSON	PETERSON'S POINT LODGE	



**ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE  
PRESENTATION SCHEDULE FOR BILL 6: SPECIES AT RISK (NWT) ACT**

**COMMUNITY: FORT SMITH**

**DATE: WEDNESDAY, APRIL 1, 2009, 7:00PM**

**CD #1 – TRACK 009**

<b>COMMITTEE MEMBERS</b>	<b>STAFF</b>	<b>OBSERVERS</b>
JACKIE JACOBSON	CATE SILLS	TERRI BERENS (ENR)
BOB BROMLEY	GAIL BENNETT	
DAVID KRUTKO	JENNIFER KNOWLAN	
GLEN ABERNETHY (ALTERNATE)		

**WITNESSES:**

<b>PRESENTED (X MEANS YES)</b>	<b>NAME</b>	<b>ORGANIZATION/GOVERNMENT (IF APPLICABLE)</b>	<b>CONTACT INFORMATION</b>
X	RICHARD MERCREDI	METIS NATION	867-872-2973 RBMERCREDI@NWESTEL.NET
X	LIZ FORTIER	SALT RIVER FIRST NATION	867-872-4946 Box 187 Ft SMITH NT
X	DELPHINE BEAULIEU	SALT RIVER FIRST NATION	867-872-4219
X	WENDY BIDWELL	ENR	867-872-6421 WENDY_BIDWELL@GOV.NT.CA
X	CEC HERON	SALT RIVER FIRST NATION, LANDS MANAGER	867-872-2402 C_HERON@SMITHLANDING.COM
X	HENRY BEAVER	SALT RIVER FIRST NATION	867-872-2986
X	FRANCOIS PAULETTE	SALT RIVER FIRST NATION; NATIONAL ABORIGINAL COUNCIL ON SPECIES AT RISK	867-872-5556 FRANCOIS.PAULETTE@YAHOO.CA
X	STUART MACMILLAN	PARKS CANADA, BISON RECOVERY TEAM	867-872-7938 STUART.MACMILLAN@PC.GC.CA





## ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE PRESENTATION SCHEDULE FOR BILL 6: SPECIES AT RISK (NWT) ACT

**COMMUNITY: YELLOWKNIFE**

**DATE: MONDAY, APRIL 6, 2009, 1:30PM**

<b>COMMITTEE MEMBERS</b>	<b>STAFF</b>	<b>OBSERVERS</b>
DAVID RAMSAY	CATE SILLS	LYNDA YONGE (ENR)
BOB BROMLEY	GAIL BENNETT	JULIE GREEN (CBC)
DAVID KRUTKO	JENNIFER KNOWLAN	ADAM VIVIAN (ENR)
GLEN ABERNETHY (ALTERNATE)	SARAH KAY	DARLENE ROMANKO (ENR)
		KELLY McLAUGHLIN (JUSTICE)
		WENDY BISARO (MLA)

**WITNESSES:**

<b>PRESENTED (X MEANS YES)</b>	<b>NAME</b>	<b>ORGANIZATION/GOVERNMENT (IF APPLICABLE)</b>	<b>CONTACT INFORMATION</b>
X	EDDIE ERASMUS	TLI'CHO GOVERNMENT, LANDS PROTECTION DEPARTMENT	
X	DAVID CONNELLY	AVALON VENTURES	
X	LAWRENCE BEAULIEU	TSASONOTINE (S'SONTINNE) SOCIETY	
X	RYAN SILKE	CHAMBER OF MINES	
X	NOELENE VILLEBRUN	TSASONOTINE SOCIETY	766-3234
	ROBERT BEAULIEU	TSASONOTINE (S'SONTINNE) SOCIETY	
	KERRY GARDNER	TLI'CHO GOVERNMENT	

**ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE  
PRESENTATION SCHEDULE FOR BILL 6: SPECIES AT RISK (NWT) ACT**

**COMMUNITY: NORMAN WELLS  
DATE: TUESDAY, APRIL 7, 2009, 7:00PM**

**CD #2 – TRACK 011/012**

<b>COMMITTEE MEMBERS</b>	<b>STAFF</b>	<b>OBSERVERS</b>
JACKIE JACOBSON	CATE SILLS	ADAM VIVIAN (ENR)
BOB BROMLEY	GAIL BENNETT	NORM SNOWSHOE (ENR)
DAVID KRUTKO	JENNIFER KNOWLAN	ALASDAIR VEITCH (ENR)
GLEN ABERNETHY (ALTERNATE)		

**WITNESSES:**

<b>PRESENTED (X MEANS YES)</b>	<b>NAME</b>	<b>ORGANIZATION/GOVERNMENT (IF APPLICABLE)</b>	<b>CONTACT INFORMATION</b>
X	TARAS BABIUK	MEMBER OF PUBLIC	
X	NORM MCDONALD	H.C.I.	867-587-2168
X	FEMKE WANT	ENBRIDGE	780-420-8544
X	BOYAN TRACZ	ENR	
	PAUL CALHOUN	ENBRIDGE	867-587-7005
	ANN MARIE TOUT	ENBRIDGE	867-587-7015
	VALERIE KOLKA	VISITOR	
	DAVE KOLKA	VISITOR	
	JULES FOURNEL	ENBRIDGE	

## ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE PRESENTATION SCHEDULE FOR BILL 6: SPECIES AT RISK (NWT) ACT

**COMMUNITY: TULITA**

**DATE: WEDNESDAY, APRIL 8, 2009, 7:00PM**

**CD #2 – TRACK 013**

<b>COMMITTEE MEMBERS</b>	<b>STAFF</b>	<b>OBSERVERS</b>
JACKIE JACOBSON	CATE SILLS	ADAM VIVIAN (ENR)
BOB BROMLEY	GAIL BENNETT	NORM SNOWSHOE (ENR)
DAVID KRUTKO	JENNIFER KNOWLAN	TERESA ETCHINELE (INTERPRETER)
GLEN ABERNETHY (ALTERNATE)		NORMAN YAKELEYA (MLA)

**WITNESSES:**

<b>PRESENTED (X MEANS YES)</b>	<b>NAME</b>	<b>ORGANIZATION/GOVERNMENT (IF APPLICABLE)</b>	<b>CONTACT INFORMATION</b>
X	FRANK ANDREW	CHIEF, TULITA BAND	
X	DAVID ETCHINELE		
X	DAVID MENACHO		
X	LEON ANDREW		
X	FREDERICK ANDREW JR. (ANON?)		
	RICHARD McCAULEY	HOUSING CORP	
	RODERICK YALLE		
	2 MEMBERS OF PUBLIC		

**ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE  
PRESENTATION SCHEDULE FOR BILL 6: SPECIES AT RISK (NWT) ACT**

**COMMUNITY: INUVIK**

**DATE: THURSDAY, APRIL 9, 2009, 7:00PM**

**CD #2 – TRACK 014**

<b>COMMITTEE MEMBERS</b>	<b>STAFF</b>	<b>OBSERVERS</b>
DAVID RAMSAY	JENNIFER KNOWLAN	NORM SNOWSHOE (ENR)
JACKIE JACOBSON	CATE SILLS	ADAM VIVIAN (ENR)
BOB BROMLEY	GAIL BENNETT	DONNA BERNHARDT (JACKIE'S CA)
DAVID KRUTKO		
GLEN ABERNETHY (ALTERNATE)		

**WITNESSES:**

<b>PRESENTED (X MEANS YES)</b>	<b>NAME</b>	<b>ORGANIZATION/GOVERNMENT (IF APPLICABLE)</b>	<b>CONTACT INFORMATION</b>
X	STEVE BARYLUK	INUVIALUIT GAME COUNCIL	
X	RAY RUBEN	HAMLET OF PAULATUK	
X	LENNIE EMAGHOK	HUNTERS & TRAPPERS	
X	DAVID NASOGALUAK	ELDER FROM TUK	
X	JOHN ALIKAMIK	ULUHAKTOK	
X	ANDY CARPENTER SR.		
X	ROGER KUPTANA	POLAR BEAR ENTERPRISES	
X	JOZEF CARNOGURSKY	GWICH'IN TRIBAL COUNCIL	
X	BRUCE ANDRIDGE (?)	WMAC	

## **APPENDIX B**

### **PUBLIC HEARINGS, BILL 6: *SPECIES AT RISK (NWT) ACT***

#### **WRITTEN SUBMISSIONS**



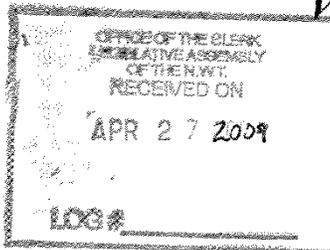
# SAHTU RENEWABLE RESOURCES BOARD

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April 27, 2009

David Ramsay, Chair  
Standing Committee on Economic Development & Infrastructure  
P.O. Box 1320  
Yellowknife, NT  
X1A 2L9  
Fax: (867) 873-0432

*Via Facsimile*  
**(867) 873-0432**



**Re: Bill 6: Species at Risk (NWT) Act**

Mr. Ramsay:

The Sahtu Renewable Resources Board (SRRB) formally supports Bill 6: Species at Risk (NWT) Act as submitted to the 16<sup>th</sup> Legislative Assembly. As a co-management authority responsible for wildlife management, including, species at risk, the SRRB, along with the Sahtu Secretariat Inc., participated in the development of the Bill. The Board believes that this cutting edge legislation will provide the best opportunity for the Sahtu Settlement Area to be fully involved in management of species of risk and their designated habitat.

Sincerely,

for Paul Latour  
I/Chair

Cc SRRB Members & Alternates  
Susan Fleck, Director of Wildlife, Environment & Natural Resources

**To: Standing Committee on Economic Development and Infrastructure**  
**From: Avalon Rare Metals Inc.**  
**Date: April 25, 2009**

**Re: Submission from Avalon Rare Metals Inc. re the NWT Species at Risk Act.**

Thank you for the opportunity to appear in front of the Committee and to present the views of Avalon Rare Metals. As requested the following is a written and revised version of our oral presentation in Yellowknife.

Our comments are from the view point of a Canadian junior company trying to responsibly advance a potential mining project in the NWT.

Avalon supports the implementation of Bill 6 the Species at Risk (NWT) Act. It is consistent with the E3 Plus Framework for Responsible Exploration Principles and Guidelines introduced by the Prospectors and Developers Association and adopted by Avalon\* ( see specifically pages 35-42 - Protect the Environment).

The Act provides a “made-in-the-NWT” approach and some additional flexibility for northern solutions.

Our comments are offered as general principles or intent with the hope that if they are accepted by the Committee that the drafters would incorporate the intent.

The act recognizes the importance of cooperation and coordination to conserve species at risk and their habitat. However the Act does not incorporate the opportunity for cooperation and coordination with industry to achieve its goals.

The North is unique in that often for large areas the party that has the most information and potential to help coordinate and cooperate is industry. This implies a paradigm shift about views of the old exploration and mining industry to the more responsible new industry. There is an opportunity to reflect this in the Act and gain the benefits of doing so. For example the Act refers to traditional knowledge, community knowledge, and scientific knowledge but not industry knowledge.

Some methods of achieving benefits from industry participation include:

- Providing for industry representation on the Conference of Management Authorities and as party to the Consensus Agreement.
- In cases where the Minister is required to intervene as there is a possibility of a proposed development affecting a species at risk, or its habitat, it would be constructive if there was an initial mechanism for consultation and discussion with the developer to seek an agreed resolution that addresses the underlying

concerns (Para 76-77). This may apply for preliminary, screening or environmental impact review.

- The law may provide for encouraging data reciprocity. Data is costly for NGOs, governments and industry to collect. The Act could establish a common public data bank and encourage parties to use common methodologies. It could ensure that this data was acceptable for environmental assessment and permitting as well as scientific, government and NGO uses, but at the same time not burden parties with onerous bureaucratic requirements. This would effectively reduce the cost to all parties. An analogy might be the technical reports commonly filed with governments for minerals projects, with guidelines for the format of such reports.
- Avalon has voluntarily offered to adjust, within reason, its environmental baseline activities to assist various species managers. Some examples are making spare seats on helicopters available for species counts, placing insect traps, amending its methodologies or changing or adding a species to a survey. Essentially, it has said where at modest cost its activities can be changed to provide value to NGOs and species managers it will do it. Other developers might not think to do this. However, if there were a mechanism to encourage this behavior (not a punishment) all parties might benefit and a collaborative environment could be promoted.

The Canadian junior exploration industry is the engine of new project development, however, unless a project is small with modest capital requirements, the junior companies invariably will bring in a senior partner, either Canadian or foreign. In either case, risk of closure or severe financial penalties could be a real factor in discouraging exploration.

Fines of a million dollars per day are very large relative to a junior company. The maximum fine is also the same for any violation ranging from harming an individual of the species to failing to do things that may conserve the species.

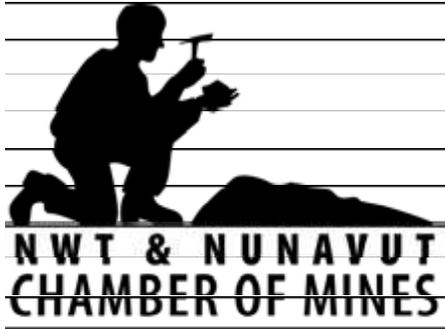
Likewise imposing bonds, particularly on junior Canadian companies that have not done anything wrong is a very significant burden that operates against retaining Canadian ownership.

In addition to the thematic concerns noted above, some specific examples are:

- A clear mechanism to protect industry, where industry, while acting in good faith to mitigate an environmental impact(s), violates the act. An example would be wind turbines which significantly reduce carbon footprints but have occasional bird strikes. (Incidental take permits may provide some protection but may not be enough to address the risks for bankers to fund the project.)

- Avalon is concerned that limited species range expansion into an area as a result of climate change could result in a “threatened species” in a project’s operating area while it is not threatened elsewhere. (Staff have assured us this is not the case.)
- Developments can create a positive influence on a species and its habitat that attract and even help preserve or expand a threatened population. A mechanism is required that does not impose costs or risk of shutdown on the developer if they attract species at risk. Falcons and wolverine are two examples. For example, the Say’s Phoebe is said by some to be declining in numbers. Its commonly reported range is within the mountains of NWT and the Yukon as a summer breeding visitor. However, it is also sometimes reported that its range is limited generally by suitable nesting sites. It is nesting at the Thor Lake project in every manmade structure that it can use. As a result there are often numerous breeding pairs at the project, that is “officially” outside its range.
- Avalon permits community employees to pursue traditional practices at camp while not working including hunting and trapping. The Act holds the employer responsible for employee violations. As written, an unintended consequence of the Act will be for Avalon to enforce a no hunting and trapping policy at camp. There needs to be a clarification of the legal status of Aboriginal people and employers when Aboriginal people are exercising traditional activities.

Thank you for the opportunity to participate.



David Ramsey, Chair  
Standing Committee for the Species at Risk Legislation  
Economic Development and Infrastructure Committee

April 28, 2009

### **Species at Risk Legislation**

Dear Mr. Ramsey,

Thank you for the opportunity to provide comments on the proposed Species at Risk legislation. Management of wildlife in the Northwest Territories continues to be an important part of the mining and mineral exploration industry, and we are happy to provide some insight from a development point of view.

Mineral development and production are the north's primary source of employment, training and business opportunities. Mining contributes over half of the NWT's Gross Domestic Product. Unfortunately, each day a mine operates it is one day closer to closure as its reserves are reduced and eventually exhausted. Only new exploration, reduced costs or a new economic mineral find will guarantee the continuation of the mining industry. Under the current economic climate – unless improvement is seen – the NWT's diamond mines may only have another 10 years production remaining. Current estimates show that we will begin to see a reduction in activity, spending and investment by the existing diamond mines as early as 2012.

Mining and mineral exploration remains the north's best option for economic opportunity and growth. In this context, the potential impact of mineral development is a public concern, even though all mines past and present in the NWT and Nunavut take up as little as 0.003% of the landmass. Although the mineral industry is a temporary user of the land, the industry and regulators have made significant strides in planning, developing and regulating mines so that today short term and long term environmental impacts are mitigated.

In order to be successful and provide continued benefits to northerners, the minerals industry must operate within a regulatory system that is fair, balanced, and predictable. The NWT's regulatory system is currently undergoing a review to address the concerns of northerners. Industry has identified several deficiencies in the regulatory process. Many of them relate to the

original drafting of the Mackenzie Valley Resource Management Act (MVRMA), whose wording has left room for interpretation. In our view, this lack of clarity has sometimes enabled mineral activities to be stalled or stopped for reasons unrelated to the actual environmental assessment of developments being proposed. New legislation, such as the Species at Risk could ultimately be used in a similar way, if there is not clarity in the legislation.

We respect the fact that there are certain species under threat due to climatic change and the ever increasing human footprint on areas that were once remote. We firmly believe that mineral development and wildlife habitat can coexist, and that government departments and industry can work together to promote sustainable ecosystems and species populations. Northern mines have embraced the principles of sustainable mining, and operate at a pinnacle of regulatory discretion. They are perhaps the most heavily regulated and the most environmentally friendly mining operations in the world. Wildlife management and monitoring is a requirement under land and water use permits and mining companies have been very successful in mitigating the impacts of their activities on local flora and fauna. There is no defensible evidence that mineral exploration, development, or production has caused a loss of habitat to a level that a population effect would be detectable for any species. Our aim as industry is to ensure this remains the case.

Given the above, one of the first concerns the Chamber wishes to point out is the need for standalone, NWT Species at Risk legislation. Federal legislation already exists today that can be used as a tool to assess and mitigate the threats to endangered species in Canada. The committee that runs this legislation is held to international standards in their assessments and is led by a qualified panel of experts that make decisions based on the best known science.

The Chamber questions the reasoning for an all new board for the NWT. We note that on top of the new legislation, a Species at Risk Committee (SARC) will be created with representatives from governments and resource management boards. The Conference of Management Authorities (CMA) already consists of representatives from the resource management boards. Is the CMA not adequate to make decisions on Species at Risk issues? If assessment is required then should there not be qualified staff within ENR and other government agencies capable of doing this or at least directing it? We feel a SARC will be for the most part a duplication of CMA given a set of designated tasks that will in reality just be carried out by ENR and consultants. We also caution the creation of another committee/board, which will only further the complexity and delay of the regulatory process, especially when community capacity for board appointments is exhausted already, and at a time when the GNWT is in a deficit.

Our second concern is the possibility for lack of scientific controls over decisions of the SARC for declaring a species to be at risk. Decisions must be based on good science. The loose definition of “distinct population” (Section 26.2) could allow the SARC to name any population as a species at risk for reasons which might not be scientific. Because declaring a species to be at risk has the potential to halt or seriously delay industry projects, impacting significant industry investments, the decision to declare a species to be at risk must be driven by science and protection of the species alone. To be clear, the Chamber fully supports protecting species that are declared at risk, but that such a declaration be on a scientific basis.

We are also concerned about several clauses in the legislation that could, based on its wording, have a direct impact on the operations of a mining or mineral exploration company. There is discussion of 'compensation' in the legislation. We are unsure how compensation can be measured and paid out successfully to holders of mineral tenure. If, for example, an open pit mining operation is told to shut down because a species is nesting in the area, how can government be expected to compensate for the loss of revenue? If a multi-million dollar exploration project has to be cancelled because of an endangered migratory species passing through the property, how will the company which has invested heavily in the north be compensated for its losses? The whole issue of compensation sounds very convoluted and could lead to legal action where companies who have invested feel they have suffered financially as a result of decisions of the SAR committee.

The mineral industry supports the premise behind the Species at Risk Act. Many of the proposed conditions may indeed be warranted if species are indeed under threat, but we need to be vigilant about how this legislation can be used. Our membership has experienced and is concerned about the political use of the MVRMA and its processes to block development even at low impact, exploration stages. Our members are significant investors in the economy and they need increased certainty in the regulatory environment. They worry that the proposed legislation could create a new avenue for delays, based on matters that are political, not scientific and the cost of these delays. Industry supports a solid and well balanced piece of legislation, and a system that is based on qualified assessment of real threats to species. If the NWT is to have its own Species at Risk Act, it must be held to the same standards as the Federal Legislation, and the government must ensure that its committee is well-funded, and its members are held accountable for their important decisions and the impact they will have.

Thank you again for the opportunity to comment on the draft legislation,  
Sincerely,

A handwritten signature in black ink, appearing to read "Lou Covello". The signature is fluid and cursive, with a large, sweeping initial "L".

Lou Covello  
President  
NWT & Nunavut Chamber of Mines

Species at Risk  
Presentation to the SAR panel  
Inuvik N.T  
April 9 2009

Thank you for giving us the opportunity to speak.

To begin with, I would like to give some study information with facts and figures that pertain to the Polar Bear.

Back in 1996 and 1997 polar bear studies were conducted by Ian Stirling and Tony Green. These studies took place in the Brown's Harbour area 35 to 40 miles north of Paulatuk, A helicopter was used to track the bears for sampling and ear tagging. The first year they successfully tagged 49 bears in a period of one week. The next year they only managed to tag 13 bears. Weather was a major factor this time around. Out of the 13 bears tagged the second year, not one was from the first year. They were puzzled by this as they expected to recapture 7 or 8 of the bears tagged the first year. The condition of the bears then were very good, fat and healthy.

A few quotes from elders Tony Green and David Ruben include; "not like the old days, now only a few are in good shape, 1950's & 60's they were in good shape"

"you can see by the little bears, they used to be round" "seals running out of ice, getting crushed, no where to give birth" "bears now a days eat the whole seal right to the flippers. Them days they only ate the fat & the foxes ate the rest" "bears are now jumpy (nervous) from noise, while they are waiting for seals to come up, the seals send bubbles up the holes before they come up, the bears react nervously and make noise , the seal hears it and swims to another hole"

"I was hunting seal waiting in a seal hole, when I heard noise from the hole I shot into the hole but no blood, my older brother told me that the seal is testing the hole with bubbles to see if there is any noise".

#### Outside Influence

It has always been known since the earlier days of whaling in mass numbers and the seal slaughter, that the mass of people from the south and over seas had strong influence on our life style & our activities.

With technology as far as it is now, large numbers of people who I may add did not know of our life style our traditions and were ignorant of our values, were able to impact & life style.

#### Cultural Beliefs/Traditional Practices (just a few examples of)

We were taught to always respect our lands, and waters and the animals they sustain for us & use nature as it was intended, to sustain life, to live off.

Never get more than you need or can handle.

Never waste what you can use.

Never brag or act proud about what you can do and what you think you could get.

Always respect nature & share what you have.

(Paulatuk)

Local Economy (pre-ban) Polar Bears only.

-25 to 30 Locals with a vested interest

-200 to 250 thousand dollars to the local economy

-thousands of dollars in the region for travel, accommodations, commercial outlets etc..

Life Today-more & more

-Income based economy

-Sealing, trapping, fishing are all becoming a thing of the past & practiced less & less with more-Dependency on the Gov't and programs

-More Income support dependency

-More cries for subsidies in all aspects

(heating, electricity, equip, etc..)

-Less self reliancy/self sustainability

-People are not able to support themselves or their families

-20 yrs ago, people did not want industry to clog and disturb our lands & wild life, now for reasons unclear of, they are wanting to find work with these same industries.

Seals (Main food staple for Polar Bears)

-In 1965, two individuals conducted studies of seals at Browns Harbour. Seals were caught using seal nets. There were plenty seals in the area that time. Word from hunters was that you could load up in no time then, A well respected elder now deceased told to his family that when he got to Browns that year(1965) he said there were about,400 seals hauled up and piled at the point, unskinned & rotting. These were the seals that did not make it alive past the branding. These were the seals that drowned, caught in the nets. Those that were lucky enough not to drown were sampled and branded with red hot iron. This elder said he witnessed the branding of seals, you could hear the skin burn. He saw after the seals were branded, they swam out without going down for as far as you could see. They said they received word about 2 years later that seals were spotting around Holman Island, starving.

Amazing feeling today that we are still learning from our elders.

Message From the elders and people of the community;

“its time to leave the animals alone, leave everything alone, shut down all the studies and quit putting collars on the animals, we live here and if something changes, we're gonna notice”

“if they are gonna continue, they better put their work on film for us to see, how much the animals are bothered”

Ray Ruben

Paulatuk Delegate

[ray.francis.07@live.ca](mailto:ray.francis.07@live.ca)



May 1, 2009  
Jennifer Knowlan  
Principal Clerk  
Standing and Special Committees

We appreciate the opportunity to provide comments on Bill 6 - The NWT Species at Risk Act. CPAWS-NWT is a non-profit conservation organization directed by grassroots support from our members and our NWT board. Our mission is to conserve the land water and wildlife in the NWT for current and future generations by working with NWT residents, governments, communities, and organizations. As such we are very committed to the success of the NWT Species at Risk Act. We are encouraged that the GNWT is preparing to address the reality that species in the NWT are facing vulnerability due to human activity, development and climate change. We are fortunate in the NWT that we can be proactive by taking advantage of the large areas of contiguous habitat available to provide for the protection of existing populations of species and their critical habitat for the recovery of those that will be listed.

The draft legislation is written as a flexible document leaving its implementation to the discretion of the minister, conference and committee. We understand that this has been done to accommodate a number of variables and would be difficult to use if written in a prescriptive manner. This increases the responsibility of the GNWT to use its discretion aggressively and proactively when considering species listings, recovery and management. The GNWT should be prepared to allocate adequate resources to listed species with the goal that all species in the NWT can be managed for sustainability not recovery. We trust that the GNWT will be diligent when addressing species at risk. Please consider our additional comments below:

#### Implementation

CPAWS-NWT understands that the Act will not include a list of species at risk in the NWT upon implementation. However, the species at risk committee should assess federally listed species that occur in the NWT as soon as the legislation is implemented. To assist effective implementation CPAWS-NWT recommends that:

Species recommended for listing by COSEWIC or listed under the Federal SARA should be immediately entered into the SARC assessment process.

- The SARC should be ready to convene when the legislation is implemented and the Conference should be prepared to delegate a prioritized list of species for assessment.

- Information from the COSEWIC or federal listings should be used to assist or expedite the SARC assessment.

### Timelines

The draft legislation allows for timeline extension throughout the assessment process. The timelines set out in Parts 2, 3 or 4 may be granted extension either through application and approval by the conference or by authority of the minister. For this legislation to be effective and cost efficient it is imperative that timelines are adhered to. We understand that timelines are sensitive to collection of scientific data, organization of committees or conferences and priority of species being assessed. These could be valid reasons for a timeline extension. However, we are concerned that these timelines could be used as, or perceived as a loophole to delaying the listing process.

- To avoid this, and to encourage adherence to these timelines, we recommend that Sec.139 require that the rationale for all timeline extensions, agreed to by the conference or approved by the minister be made available for comment in the public registry.

Furthermore, Sec. 84 (8) requires that the minister report fiscally on July 1<sup>st</sup> to the conference, providing information on permits issued and refused. This information would then be passed to the public. This process could take longer than one year from the date of the permit issue. This timeline is unacceptable as it does not provide for the conference or public to comment on the permit or monitor the undertaking.

- Sec.84 (8) should be amended so that permit exceptions granted in designated habitat would be reviewed by the conference on a case by case basis and the rationale for granting the permit be made public prior to issuance.

### Listing of Species

Greater consideration needs to be given to species that SARC identifies as requiring an **Endangered** listing. Sec 56(1) outlines that conservation measures could be put into place to protect pre-listed species. Species considered to be **Endangered** by the SARC committee should be put forward for mandatory conservation including the identification of critical habitat for survival and recovery while in the pre-listing stage

- This should be included in Sec 56 (1) as emergency measures for conservation and recovery.

### Agreements with land owners

Sec. 81 provides for agreements with private landowners to protect designated habitat. The need for negotiating with and compensating private landowners could be reduced by encouraging stewardship proactively. This could also reduce the long term costs of species recovery.

- Have stewardship incentives such as conservation easements on property tax been considered to encourage species and habitat protection?
- Will the secretariat promote stewardship of species on public and private lands through conservation awareness?

### Permits and Licensing

Sec 84, allows for designated habitat to be permitted for use through an exception granted by the minister contravening regulations in Sec 80,151,152,154 or 155. Considering the importance of habitat to the recovery of listed species and the time invested by the committee, conference, minister and public in designating this habitat, it is unacceptable that a permit or license could be granted without consultation from the conference or public as allowed by Sec.84.

### Enforcement

We are encouraged by the proposed penalties for conviction under the legislation.

- We recommend that fines be distributed back into protection of species at risk. These funds could support the application of the legislation or be offered as grant money available to groups who propose projects that enhance habitat critical to the recovery of species at risk. The secretariat should report on the distribution of these funds.

Thank-you for considering our comments, we hope they will assist the GNWT in the recovery and management of our species at risk. Kris Brekke Conservation Coordinator Canadian Parks and Wilderness Society NWT Chapter 867-873-9893 ext.24 kris@cpaws.org

NORTHWEST TERRITORY MÉTIS NATION

April 30, 2009

VIA FACSIMILE (867) 920-4735

Jennifer Knowlan, Principal Clerk  
Standing and Special Committees  
Legislative Assembly of the Northwest Territories  
PO Box 1320  
Yellowknife, NT X1A 2L9

Dear Ms. Knowlan:

**Re: Review of the *Species at Risk (NWT) Act.***

We are writing to provide our comments in writing on the proposed *Species at Risk (NWT) Act*. As you are aware, NWT Métis Nation representatives participated on the working group established to develop the draft legislation. We were pleased to have had the opportunity to participate in the process. However, we are concerned that the recent round of community consultations may not have given sufficient opportunity for our members to comment on the proposed legislation. We understand there will be opportunities for our members in the communities to engage in further consultations on the proposed legislation. We look forward to further consultations as the proposed legislation moves forward.

As a preliminary comment, we wish to formally express our interest in having representatives of the NWT Métis Nation on the committee that is to be established under section 17. This committee is established to allow participation by aboriginal governments with settled land claim agreements and, in particular, co-management bodies. As you are aware, the NWT Métis Nation is engaged in negotiations on land, resources and governance. The final agreement and self-government agreement will establish an authority to manage wildlife and other resources in the agreement area. We take comfort from an introductory provision to the proposed legislation, which states that "future agreements with Aboriginal peoples whose land claims are not yet settled

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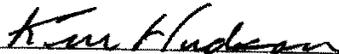
are likely to address authorities and processes for the management and conservation of species". We believe our interests can be accommodated through representation on the committee that is to be established under section 17.

We would appreciate the opportunity to discuss this issue further as the consultations move forward. Thank you for your consideration.

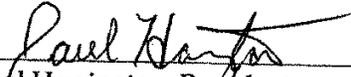
Sincerely,



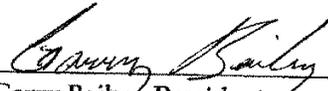
Betty Villebrun, NWTMN President



Ken Hudson, President  
Fort Smith Métis Council



Paul Harrington, President  
Hay River Métis Government Council



Garry Bailey, President  
Fort Resolution Métis Council

Cc: The Hon. J. Michael Miltenberger, Minister of Environment and Natural Resources  
(By fax: 867-873-0596)

Good evening committee members.

My name is Steven Baryluk and I am the Resource Management Coordinator for the Inuvialuit Game Council. I am here on behalf of the Chair of the Inuvialuit Game Council Frank Pokiak who is unavailable to attend due to prior commitments.

The Inuvialuit Game Council was established in 1983 pursuant to Section 14 (73) of the Inuvialuit Final Agreement, or IFA, and it represents the collective interests of the Inuvialuit with respect to wildlife issues.

Wildlife is a culturally and economically important resource to the Inuvialuit, providing food, clothing, supplies necessary for survival in a harsh arctic environment (such as seal/whale oil for lamps or *qulliq*), and a source of traditional as well as contemporary income.

Wildlife is a central focus of the Inuvialuit land claim.

This is reflected in the three guiding principles set out in section 1 of the IFA. Part (c) of Section 1 states that one of the basic goals of the IFA is to “protect and preserve the Arctic Wildlife, environment and biological productivity.”

The co-operative management – or co-management – regime established pursuant to the IFA is also a central feature of the land claim and it plays an important role in wildlife management within the Inuvialuit Settlement Region, with the aim of fulfilling the goals of the IFA.

I will provide some detail on how the Inuvialuit co-management system fits into the draft legislation later in this presentation.

Bill 6 which will establish the NWT Species at Risk Act will also be an important tool in helping to achieve the wildlife protection goals of the IFA.

The IFA came in to force in 1984 and since 1990, Inuvialuit have been urging the Government of the Northwest Territories to update its wildlife legislation to reflect the new realities for wildlife management in the NWT. Since 1990 three other claims have been settled in the NWT.

Co-management and collaboration between GNWT wildlife harvesters and the institutions which represent them is now the only way to manage wildlife in the NWT.

The initial approach taken by GNWT to renewing the Wildlife Act and developing Species at Risk legislation did not respect these new realities and we had a bit of a rocky start in that process because of its failure to reflect co-management.

Eventually, however, GNWT established an inclusive process for drafting the SARA Bill with the involvement of Inuvialuit, First Nations and the co-management boards. This process was both productive and effective.

On behalf of the Inuvialuit Game Council I want to take a moment now to acknowledge the leadership of Minister Miltenberger and the hard work of the staff at the Department of Environment and Natural Resources, particularly Susan Fleck and Lynda Yonge. It is because of their efforts that all parties were able to collaborate successfully in the development of Bill 6.

While it may have taken a while to get here, we believe that the additional time taken has resulted in a draft bill that gives consideration to all the necessary aspects of the various land claim provisions and co-management processes that currently exist in the Northwest Territories.

The participation of the land claims organizations at the table while the bill was being drafted produced a stronger bill that the IGC can feel comfortable supporting.

The NWT Species at Risk Act is an important piece of legislation for the Northwest Territories that will be key to managing species at risk within the territory.

This legislation will allow aboriginal groups and other residents to have their say in assessing the status of species in the Northwest Territories. This is important as there may be cases where a species is at risk in other parts of the country, but not in the NWT.

Without our own Territorial legislation the species designation under the federal Species at Risk Act could apply, whether it was warranted or not in the NWT.

I want to emphasize that Inuvialuit do not favour relying on the federal Species at Risk Act. They have not had a positive experience with its application to date.

It is a cumbersome and highly politicized process that does not adequately incorporate the co-management systems established pursuant to land claims.

The co-management boards established pursuant to the IFA will participate as members of the Conference of Management Authorities (CMA), where appropriate, under the NWT Species at Risk Act.

There are two wildlife co-management boards in NWT portion of the Inuvialuit Settlement Region: the Wildlife Management Advisory Council (NWT), and the Fisheries Joint Management Committee (FJMC).

Both these boards include equal numbers of Inuvialuit and government representatives, with the Inuvialuit members being appointed by the IGC. For the WMAC (NWT) the

chair is appointed by Canada with input from the GNWT and the consent of the Inuvialuit, while for the FJMC the committee members appoint the chair themselves.

The WMAC (NWT) has a mandate to manage wildlife in the ISR in the NWT, as well as to manage polar bear in the adjacent near shore and offshore waters.

The WMAC (NWT) provides advice to the appropriate Ministers on all matters relating to wildlife policy and the management, regulation, and administration of wildlife, habitat and harvesting.

The FJMC assists the Inuvialuit and Canada in administering the rights and obligations relating to fisheries (including marine mammals), and advises both the IGC and the government on fisheries issues in the ISR.

The concept of the Conference of Management Authorities contained in the draft Act is a novel approach that was seen as the best way to allow for flexibility and coordinated action among the various wildlife co-management structures that exist in the NWT.

This CMA is a vital aspect of the structure proposed in the NWT SARA to accommodate the complex decision-making process that would be required for species that cross boundaries of two or more land claim areas.

Managing species at risk collaboratively will require resources and GNWT must stand ready to make co-management work while protecting species at risk.

Without proper resources the Inuvialuit feel that the NWT SARA will not be able to achieve the goals to which GNWT has already committed itself. ....that of affording protection for species that are assessed to be at some level of risk within the Territory.

The Bill calls for a review after five years, at which time costs can be reviewed and amendments made as deemed appropriate.

In conclusion, the Inuvialuit are supportive of the NWT Species at Risk Act as currently proposed and would like to see its enactment as quickly as possible by the Legislative Assembly.

We feel that Inuvialuit participation during the drafting of the bill has led to draft legislation which properly addresses the requirements of the Inuvialuit Final Agreement and which respects the role and rights of Inuvialuit co-management boards.

We urge the Committee to return a positive report to the Legislative Assembly and recommend early enactment of Bill 6.

Thank you for the opportunity to speak with you today and for your consideration of our comments.

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**PRESENTATION RE *SPECIES AT RISK ACT***

**BY EDDIE ERASMUS,  
DIRECTOR, TLICHO GOVERNMENT LANDS PROTECTION DEPARTMENT  
TO LEGISLATIVE COMMITTEE, GOVERNMENT OF NWT**

April 6, 2009

I am the Director of the Tlicho Government's Lands Protection Department, and I am pleased to speak to you today about the new *Species At Risk Act* that you are considering.

I hope that the members of the NWT Legislature will pass this new law. The law will establish an integrated and cooperative system for the protection of species that could be at risk in the NWT in the future.

The Tlicho see the proposed law as a way to strengthen our constitutionally protected rights to harvest – which sustains our people, our land-based economy and our culture. The law will also strengthen the stewardship of those resources, including the Tlicho Government's authority and responsibilities to work with other bodies and governments – in order to protect and conserve the wildlife species we rely on, and the habitat of those wildlife species.

The new system in the proposed Species At Risk Act is unique. It was developed through a long collaborative process - designed to plan a system for identifying and managing species at risk – that would be consistent with the Land Claims and Self-Government Agreements that have been concluded in the NWT.

The ideas in the Act were developed by a working group - made up of officials and technical staff of Aboriginal peoples and governments, co-management bodies established by the Land Claims Agreements, and the NWT government.

I was a member of that working group. We worked together for two years - to plan how wildlife species at risk could be identified and protected, through a **practical system** that would **build on** the mechanisms for managing and protecting wildlife and habitat that are already included in the Land Claims and Self-Government Agreements.

It was necessary to establish a **unique system** for protecting and managing species at risk in the NWT, because the Land Claims and Self-Government Agreements have established new responsibilities, rights, obligations and governmental arrangements for managing all wildlife.

Because of those constitutionally protected Agreements, it is not possible for any one party, acting in isolation, to conserve species that may be at risk. Instead Aboriginal parties and governments, co-management bodies and the Governments of the NWT and Canada will usually need to work together, in a cooperative way, to achieve those important objectives.

For example, under the Land Claims and Self-Government Agreements, four different co-management bodies – one of which is the Wekeejhi Renewable Resources Board - have been established as public government institutions, to be the main instruments of wildlife management in each of the settlement areas - of the Inuvialuit, the Gwich'in, the Sahtu and the Tlicho.

Those co-management bodies have important roles to play in managing species that might be at risk. Under the Tlicho Agreement, wildlife management plans can still be developed by the NWT Government, but the Tlicho Government must be consulted on those plans, and they must then be reviewed by the Wekeejhi Renewable Resources Board, before they can be implemented. Also, total allowable harvests could not be legally set on wildlife species without the agreement of the Renewable Resources Board.

The four completed Land Claims Agreements are different in some details, but all of them require the involvement of those new co-management bodies in developing or