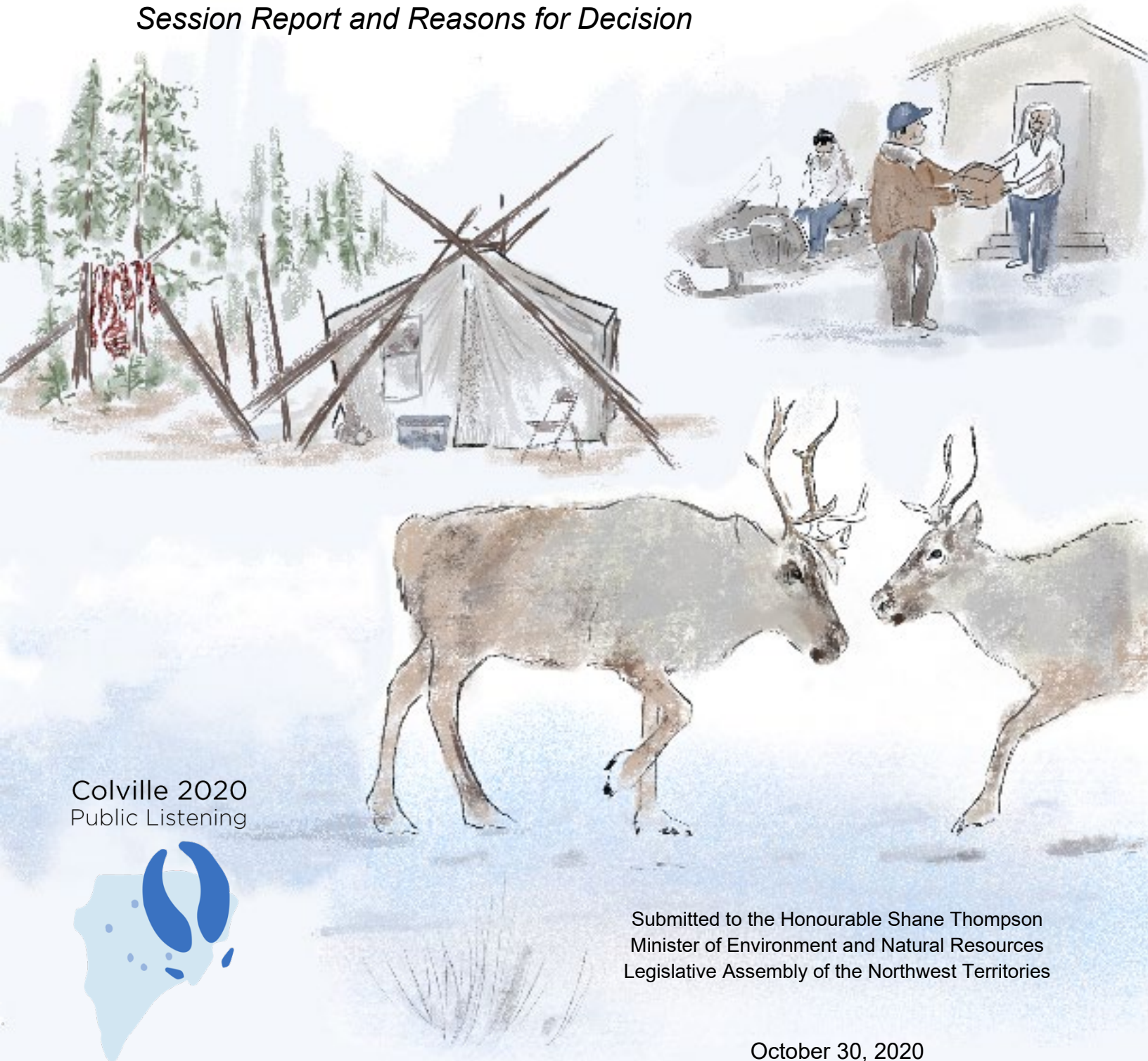


# Sahtú Ragóᓐa (Hunting Law) and Approaches to Wildlife Harvesting

*Report on the Colville 2020 Public Listening (Hearing)  
Session Report and Reasons for Decision*



Colville 2020  
Public Listening



Submitted to the Honourable Shane Thompson  
Minister of Environment and Natural Resources  
Legislative Assembly of the Northwest Territories

October 30, 2020

**Suggested citation:**

Sahtú Renewable Resources Board (ʔehdzo Got'Inę Gots'ę Nákedı), *Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting: Report on the Colville 2020 Public Listening (Hearing) Session*, 2020 SRRB 1, October 30, 2020, Tulít'a, NT.

The ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board) is the co-management board established by the *Sahtú Dene and Métis Comprehensive Land Claim Agreement* of 1993 (SDMCLCA) as the main instrument of wildlife and wildlife habitat management in the Sahtú region of the Northwest Territories. Our Dene name means “Helpers of the ʔehdzo Got'Inę, the Trap People.” We work together with ʔehdzo got'Inę (renewable resources councils) in the five communities of the Sahtú region to maintain Dene and Métis harvesting traditions and keep the land and animals healthy for future generations.

This report presents the decisions and recommendations of the Board members.  
Report Submitted: October 30, 2020

The SRRB was assisted in this public listening session by:

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**Colville 2020**  
Public Listening

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October 30, 2020

**RE: SRRB Final Report of Colville Lake Public Listening Session: Sahtú Ragóᑭa (Hunting Law) and Approaches to Wildlife Harvesting, January 21-23, 2020**

Dear Minister Thompson:

The SRRB has now completed its review of the evidence presented through the Colville 2020 Public Listening Session.

In April 2019, in response to conservation concerns about the three caribou ecotypes that inhabit or travel through the Sahtú region, ᑭᓄᓂᓂ ᑭᓄᓂᓂ ᑭᓄᓂᓂ (Sahtú Renewable Resources Board – SRRB) decided to undertake a series of public listening (hearing) sessions to address the question, **“What are the most effective ways to conserve caribou?”**

Given evidence regarding the low status of ᑭᓄᓂᓂ (Bluenose East caribou), Colville Lake’s expressed concerns about ᑭᓄᓂᓂ (barren-ground caribou) in their traditional territory, the threatened status of ᑭᓄᓂᓂ (boreal caribou), and the consideration of ᓄᓄᓄᓄ ᑭᓄᓂᓂ (mountain caribou) as a species of special concern in the NWT, the SRRB concluded there was sufficient conservation concern to trigger a hearing. Under section 13.8.21 of the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*, a hearing can be called when harvest restrictions are being considered or when the SRRB is satisfied that a hearing is desirable.

The SRRB decided the first public listening session should focus on the question, **“What is the most effective way to regulate the harvest of caribou?”** Colville Lake (“Colville”) offered to host the first public listening session, since the topic is of particular importance to that community. The SRRB accepted the offer, taking into consideration which of the five

topics planned for the five public listening sessions was best suited for each of the five Sahtú communities.


The public listening session planned for Colville Lake was first announced to Sahtú leaders and ENR on September 26, 2019. The session was announced to the broader public on October 3, 2019. Colville submitted their *Dehlá Got'ıne ʔədə (Caribou) Plan* and companion *Dehlá Got'ıne Ts'ıduweh ʔədə ʔeʔa (Ancient Caribou Law)* for SRRB approval on October 21, 2019. The public listening session was held on January 21-23, 2020, following two regional community conservation planning workshops, two pre-session teleconferences, and two rounds of information requests.

The SRRB recognizes that this is the first time that a wildlife co-management board in the NWT has convened a hearing focused on a single “hot topic” and encompassing multiple herds and ecotypes. The SRRB carefully considered both Indigenous knowledge evidence and science-based evidence in making the decisions and recommendations included in this report. In addition to receiving Colville’s community conservation plan, the SRRB also received a submission from ENR and convened community conservation planning sessions that resulted in Sahtú community submissions. Moreover, the SRRB encouraged neighbouring wildlife management authorities, nations, and communities to register as parties and contribute submissions.

The enclosed report contains the SRRB’s assessment of the evidence from the Colville proceeding and provides eight decisions and 18 recommendations on ten key issues related to caribou harvest regulation in the Sahtú region. The SRRB’s decisions and recommendations are based on a holistic and biocultural approach to caribou conservation. The SRRB determines that harvest regulation for all caribou populations must be subject to community conservation planning (CCP) measures; removes the total allowable harvest in Sahtú Barren-Ground Caribou Hunting Area S/BC/01; specifically defines a system for planning based on recognized community responsibilities for individual barren-ground caribou herds; and outlines requirements for approving the Colville (Dehlá Got'ıne) and Délıne caribou plans. The SRRB decides that youth will be invited to play meaningful roles in the entire process for future public listening sessions. The SRRB identifies the need for capacity support and program funding for the CCP system, and commits to working with co-management partners to develop a feasible means of implementing the Sahtú CCP approach. Conditions for approval of Colville’s community conservation plan and Délıne’s revised plan for 2019-2021 are identified. In addition, 18 recommendations provide guidance for consideration by other co-management partners, including recommendations supporting interim measures to implement the Colville and Délıne plans.

The SRRB looks forward to working with ENR and other co-management partners in our continuing and collaborative efforts to find the best, evolving mechanisms to address caribou conservation needs.

Máhsı,  
Camilla Tutcho, Acting Chair





# Report Summary

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This report provides the decisions of ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board – SRRB) based on evidence and the proceedings of the Colville 2020 Public Listening Session, entitled Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting.

In April 2019, in response to conservation concerns about the three caribou ecotypes that inhabit or travel through the Sahtú region, the SRRB decided to undertake a series of public listening (hearing) sessions to address the question, **“What are the most effective ways to conserve caribou?”**

Given evidence regarding the threatened status of ʔekwé (Bluenose East barren-ground caribou), Colville Lake's expressed concerns about ʔədə (barren-ground caribou) in their traditional territory, the threatened status of tǫdzı (boreal caribou), and the consideration of shúhta goʔepé (mountain caribou) as a species of special concern in the NWT, the SRRB concluded there was sufficient conservation concern to trigger a hearing. Under section 13.8.21 of the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*, a hearing can be called when harvest restrictions are being considered or when the SRRB is satisfied that a hearing is desirable.

The SRRB decided the first public listening session should focus on the question, **“What is the most effective way to regulate the harvest of caribou?”** Colville Lake (“Colville”) offered to host the session, since the topic is one of particular importance to that community. The SRRB accepted the offer, taking into consideration which of the five topics planned for the five public listening sessions was best suited to each of the five Sahtú communities.

The public listening session planned for Colville Lake was first announced to Sahtú leaders and ENR on September 26, 2019. The session was announced to the broader public on October 3, 2019. Colville submitted their *Dehlá Got'Inę ʔədə (Caribou) Plan* and companion *Dehlá Got'Inę Ts'ıduweh ʔədə ʔeʔa (Ancient Caribou Law)* for SRRB approval on October 21, 2019. The public listening session was held on January 21-23, 2020, following two regional community conservation planning workshops, two pre-session teleconferences, and two rounds of information requests.

Registered parties for the proceeding fell into three categories: Sahtú community panels (5) and parties (10); other parties attending the public listening session (5); and other parties not attending the public listening session (4, with three contributing submissions). In addition, elders, Colville community members, and the broader public were encouraged to participate.

Consistent with the 2016 Bluenose East Ɂekwé (Barren-ground Caribou) Hearing, the SRRB has adopted a holistic and biocultural approach to weighing the evidence.

This report addresses ten key issues arising from the Colville 2020 Public Listening Session, and outlines evidence, findings, and law as the basis for eight decisions and 18 recommendations. Because of the focus on harvest regulation for this public listening session, more attention is given to the two caribou ecotypes for which harvest regulation measures affecting Sahtú Dene and Métis harvesting rights are in place or have been proposed. The list of key issues along with attendant decisions and recommendations is provided below.

*Table 1: Key Issues, Decisions, and Recommendations*

1. The Conservation Picture: Caribou, People, and Planning		
Decisions	D1.1	The SRRB has decided that harvest regulation for all caribou populations must be subject to community conservation planning measures.
	D1.2	The SRRB recognizes the importance of having a comprehensive intraregional community conservation planning system based on Sahtú Indigenous governance systems. In this context, the SRRB has decided that Colville is the Sahtú community with primary responsibility for Ɂədə (barren-ground caribou) stewardship in Sahtú Barren-ground Caribou Area 01 (S/BC/01). Colville shares stewardship with Fort Good Hope in Area S/BC/02 where there may also be Ɂədə. Délıne is the Sahtú community with primary responsibility for Ɂekwé (barren-ground caribou) stewardship within Area S/BC/03.
	D1.3	The SRRB has decided that youth will be invited to play meaningful roles in the entire process for future public listening sessions.
Recommendations	R1.1	The SRRB recommends that a proposal for harvest regulation of shúhta goɁepé (mountain caribou) be co-developed by Tulít'a and Norman Wells and submitted to the SRRB for consideration as part of the 2021-2024 series of public listening sessions.
	R1.2	The SRRB recommends that a Dene béré (country food) campaign be collaboratively developed by the Nę K'á Dene Ts'ıı Forum in accordance with the NWT's <i>Sustainable Livelihoods Action Plan, 2019-2023</i> , as well as conservation objectives embodied in community caribou plans.
	R1.3	The SRRB recommends that communities and the Sahtú Dene Council continue to develop Nę K'ádı Ke (Keepers of the Land) programs to support implementation of community conservation plans.

2. <i>Dehlá Got'İne Ƴada Plan and Ts'İduweh Ƴada ƳeƳá</i> (Colville Lake)		
Decision	D2.1	The SRRB will approve Colville's Plan as a Sahtú community conservation plan following Colville's submission and the SRRB's subsequent assessment of the outstanding components of the community conservation plan: outline of Ƴada (caribou) monitoring and harvest monitoring information to be provided and reporting timelines; the plan for caribou conservation and food security (alternative harvest); and an evaluation framework.
3. <i>Belare Wíle Gots'É Ƴekwé and Dene Bére Belare Wíle Plans</i> (Délİne)		
Decision	D3.1	The SRRB approves the 2019 edition of the <i>Belare Wíle Gots'É Ƴekwé (Caribou for All Time)</i> plan, pending evidence the plan has been formally approved by the Délİne Got'İne Government and Délİne Ƴehdzo Got'İne (Renewable Resources Council).
4. Authorizations		
Recommendatİns	R4.1	The SRRB recommends to the Minister that the Colville Lake Renewable Resources Council be granted the power to issue authorizations to all types of harvesters in the entire Sahtú Barren-ground Caribou Area 01 (S/BC/01), subject to a periodic review of the status and location of Ƴada (Bluenose West caribou).
	R4.2	The SRRB recommends to the Minister that a new <i>Hıdó Gogha Sėnégots'İá ƳeƳa (Community Conservation Planning Regulation)</i> be created under the <i>Wildlife Act</i> to entrench the community conservation planning approach in NWT law.
Recommendations	R4.3	The SRRB recommends that the <i>Interim Management Agreement</i> between Colville Lake and NWT Environment and Natural Resources continue to be in effect until <i>Hıdó Gogha Sėnégots'İá ƳeƳa</i> comes into force.
	R4.4	In the event that <i>Hıdó Gogha Sėnégots'İá ƳeƳa</i> is not in place by the <i>Interim Management Agreement's</i> current date of expiry (May 31, 2021), the SRRB recommends the agreement be extended to such time as the regulation, or its equivalent, is in place.
	R4.5	The SRRB recommends that an interim management agreement to implement Délİne's <i>Belare Wíle Gots'É Ƴekwé (Caribou for All Time)</i> plan be made between Délİne and NWT Environment and Natural Resources.
5. Enforcement Mechanisms		
Recommendations	R5.1	The SRRB recommends that the <i>Wildlife Act</i> regulations be amended to provide for alternative measures for pre-sentencing diversion to the culturally appropriate restorative justice processes provided for in the Colville Lake and Délİne community conservation plans (as determined by the communities in consultation with NWT Environment and Natural Resources).
	R5.2	The SRRB recommends that the <i>Interim Management Agreement</i> between Colville Lake and NWT Environment and Natural Resources be amended to

		address enforcement in the period before <i>Hıdó Gogha Sėnégots'ıá ʔeʔa</i> comes into force.
<b>6. Total Allowable Harvest</b>		
Decision	D6.1	The SRRB has decided that it will remove the total allowable harvest in Sahtú Barren-ground Caribou Hunting Area 01 (S/BC/01) once Colville's community conservation plan has been completed and approved. The SRRB will regularly review the conservation outcomes under the community conservation planning approach. The SRRB reserves the right to re-apply the total allowable harvest if required for effective conservation.
Recommendations	R6.1	The SRRB recommends that the <i>Big Game Hunting Regulations</i> be amended to remove the tag required for Aboriginal harvesters in Sahtú Barren-ground Caribou Area 01 (S/BC/01) and Area S/BC/03 (as they are currently named), as the tagging requirement will be replaced by the authorization and permissions system under <i>Hıdó Gogha Sėnégots'ıá ʔeʔa</i> ( <i>Community Conservation Planning Regulation</i> ), described in Recommendation 4.2 of this report.
	R6.2	The SRRB recommends that Colville Lake work with harvester groups in neighbouring regions in developing and adapting their community conservation plan to address shared conservation goals.
<b>7. Zoning Issues</b>		
Recommendations	R7.1	The SRRB recommends that Sahtú Barren-ground Caribou Area 01 (S/BC/01) be renamed Gow'ı ʔədə Nėné (Barren-ground Caribou Land), with the name change reflected in the <i>Wildlife Management Zones and Areas Regulations</i> and in any other enactment that references this area.
	R7.2	The SRRB recommends that Sahtú Barren-ground Caribou Area 02 (S/BC/02) be renamed Tuyeta ʔədə Nėné (Caribou Land), with the change reflected in the <i>Wildlife Management Zones and Areas Regulations</i> and in any other enactment that references this area.
	R7.3	The SRRB recommends that Sahtú Barren-ground Caribou Area 03 (S/BC/03) be renamed ʔehdaıla ʔekwė Nėné (Caribou Point Caribou Land), with the change reflected in the <i>Wildlife Management Zones and Areas Regulations</i> and in any other enactment that references this area.
	R7.4	The SRRB recommends that Fort Good Hope and Colville Lake Renewable Resources Councils, SRRB, NWT Environment and Natural Resources, and Environment and Climate Change Canada collaboratively develop a work plan to address knowledge gaps regarding Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ʔədə Nėné [Caribou Land]) through non-invasive Indigenous knowledge and science.



Recommnd	R7.5	The SRRB recommends that the Ts'udá Níłné Tuyeta Management Board lead the development of a community conservation plan for caribou in Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ƣəᑦᑦ Nėné [Caribou Land]).
<b>8. Wildlife Act Residency and Hunter Education Requirements</b>		
Decsn	D8.1	The SRRB has decided that the 2021 public listening session will include a full discussion of the role that residency requirements and hunter education play in fostering or inhibiting respect for Dene protocols in the Sahtú region.
<b>9. Special Harvesting Areas</b>		
Recommendation	R9.1	The SRRB recommends that ƣehdzo got'ıne (renewable resources councils), NWT Environment and Natural Resources, and the SRRB undertake community conservation planning workshops in each of the three Sahtú districts (K'áhsho Got'ıne District; Tulít'a District; and Délıne District) to develop proposals for implementation of special harvesting areas, including any required regulations, prior to the 2024 public listening session.
<b>10. Capacity Support for Community Conservation Planning</b>		
Decsn	D10.1	The SRRB has decided that there needs to be further capacity support and program funding for community conservation planning and plan implementation in the Sahtú region.



Figure 1: Artwork by Sam Bradd, *Drawing Change*,

Máhsı cho to our legal counsel, Nick Sowsun and Lorraine Land, for their integrity in ensuring that our decisions are well founded in law. Máhsı to Technical Advisor Janet Winbourne for providing a rigorous assessment of the Sahtú Harvest Study as well as the best available evidence from the literature related to Indigenous harvest regulation. And a big thanks to our community conservation planning specialists, Kirsten Jensen and Stuart Cowell, for their tireless efforts to support meaningful community contributions, maximizing to the greatest extent possible fulfilment of ʔehdzo Got'ıne Gots'é Nákedı's duty to consult.

The mechanics of documenting evidence and finalizing this report has been a significant team effort in itself, for which we are grateful. Sam Bradd of Drawing Change created the logo for the SRRB's public listening series, as well as the cover art and other meaningful illustrations – not least the graphic recordings. Digi-Tran Inc. went the extra mile to provide transcripts including Dene orthography. Catarina Owen prepared the database of references for citation. Jess Dunkin applied her expertise as an outstanding writer in final polishing, fact checking, and copyediting. And Jen Luckay of PlanIt North graciously joined the team in the final hours to provide design support.

Finally, máhssi cho to Deborah Simmons, for her  
tireless work as Executive Director of the SRRB.



Colville 2020 Report and Reasons for Decision, October 30, 2020

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Term or Acronym	Meaning
Déḻṉę	where the water flows (community name)
Déḻṉę Got'̱ṉę	people of Déḻṉę
Dene	people (Indigenous peoples)
Dene béré	country food
Dene Béré Belare Wíle	Country Food for All Time (title of Déḻṉę's food security plan)
Dene béré kats'̱ṉıwe	alternative harvest
Dene kədə	Dene language spoken by communities of the Sahtú region, known in the NWT Official Languages Act as "North Slavey"
Dēne Sų́ḻné	Dene language spoken by peoples of Athabasca Treaty 8 territory, including Łutsel K'éḏ
Dene ts'̱ḻı	Dene being, identity, ways of life
gokw'ı ɤekw̱é	barren-ground caribou, often referred to as ɤekw̱éwá, or simply ɤekw̱é (Déḻṉę dialect)
gow'ı ɤədə	barren-ground caribou, often referred to as simply ɤədə (K'áhsho Got'̱ṉę and Dehlá Got'̱ṉę dialect)
Gow'ı ɤədə Ṉeṉé	Barren-Ground Caribou Land (SRRB recommended name for Hunting Area S/BC/01)
K'á Tá	Willow Flats (traditional area in Nío Ṉę P'̱eṉé plan)
K'áhsho Got'̱ṉę	big arrow people; people of Fort Good Hope
k'ech'ą́ıdı	muskox (Dēne Sų́ḻné language)
łalak'óoṉ ɤae kúhyá wíle aḏa gha s̱óoṉı	might disappear within a hundred years – Threatened designation under NWT and Federal Species At Risk Acts (Déḻṉę/Tulít'a dialects)
ḻıla horéno ɤai egúhyá behúle rágudı	might disappear within a hundred years – Threatened designation under NWT and Federal Species At Risk Acts (K'áhsho Got'̱ṉę dialect)
máhsı	thank you
máhsı cho	thank you very much
nálze	harvest (Dēne Sų́ḻné language)
náowerá	knowledge (Déḻṉę dialect)
náts'ezé	hunting
Ṉę K'ə Dene Ts'̱ḻı Forum	Living on the Land Forum
Ṉę K'əḏı Ke	Keepers of the Land; Guardians
Neregha	north shore of Great Bear Lake
Neregha ɤekw̱é Area	north shore of Great Bear Lake barren-ground caribou area; Bluenose West caribou area (Déḻṉę name for S/BC/01 defined in Belare Wíle Gots'̱é ɤekw̱é plan)
Nío Ṉę P'̱eṉé Begháré Shúhta G̱oɤep̱é Nareɤa	Trails of the Mountain Caribou (title of plan developed by Nío Ṉę P'̱eṉé Working Group)

Term or Acronym	Meaning
Nío Nę P'ęnę	backbone of the mountains
nódele	barren-ground caribou (Shúhtaot'Inę dialect)
nuwé nëné	traditional territory Dëne Sųłiné language)
Sahtú	bear lake; Great Bear Lake
Sahtú gotųch'ádı	wildlife of the Sahtú region
shúhta goęepę	mountain caribou
Shúhtaot'Inę	Mountain Dene people
Tehk'aıcho Dé	Johnny Hoe River
tqdzı	boreal caribou
ts'ıda	female caribou
Ts'ıduweh ęadę ęeęa	Ancient Caribou Law
ts'uda bechą dá	pregant caribou females (Dëne Sųłiné language)
Ts'udá Nıłné Tuyeta	Ramparts River and Wetlands (protected area)
Tuyeta ęadę Nęné	Tuyeta Caribou Land (SRRB recommended name for Hunting Area S/BC/02)
Tu łıdlini	Ross River, Yukon Territory
tuktu	barren-ground caribou (Inuinnaqtun language)
Tulıt'a	where the rivers meet (community name)
WLED	Wildlife, Lands and Environment Department, LKDFN
yárégo	young bull (DélInę dialect)
Yúnethé Xá ęetthën Hádı	Caribou Stewardship Plan (title of Łutsel K'e Dene First Nation plan)



# Acronyms



<b>ACCWM</b>	Advisory Committee for Cooperation on Wildlife Management
<b>BNE</b>	Bluenose East barren-ground caribou; ʔehdaɭla ʔekwé
<b>BNW</b>	Bluenose West barren-ground caribou; ʔəda
<b>CCP</b>	Community Conservation Plan
<b>CHAP</b>	Community Harvesters Assistance Program
<b>CHMP</b>	Coordinated Harvest Management Program
<b>CMA</b>	NWT Conference of Management Authorities
<b>COSEWIC</b>	Committee on the Status of Endangered Wildlife in Canada
<b>ENR</b>	Department of Environment and Natural Resources, GNWT
<b>GNWT</b>	Government of the NWT
<b>IGC</b>	Inuvialuit Game Council
<b>ISR</b>	Inuvialuit Settlement Region
<b>KAA</b>	Kugluktuk Agoniatit Association (Kugluktuk Hunters and Trappers Organisation)
<b>LKDFN</b>	Łutsël K'é Dene First Nation
<b>NWMB</b>	Nunavut Wildlife Management Board
<b>NWMB</b>	Nunavut Wildlife Management Board
<b>NWT</b>	Northwest Territories
<b>RRC</b>	Renewable Resources Council; ʔehdzo Got'ɪnɛ
<b>S/BC</b>	Sahtú Barren-Ground Caribou (zone/area code in NWT hunting regulations)
<b>SARC</b>	NWT Species At Risk Committee
<b>SDMCLCA</b>	Sahtú Dene and Métis Comprehensive Land Claim Agreement
<b>SRRB</b>	Sahtú Renewable Resources Board; ʔehdzo Got'ɪnɛ Got'sé Nákedı
<b>SSI</b>	Sahtú Secretariat Incorporated
<b>SYN</b>	Sahtú Youth Network
<b>TAH</b>	Total Allowable Harvest
<b>WMAC</b>	Wildlife Management Advisory Council

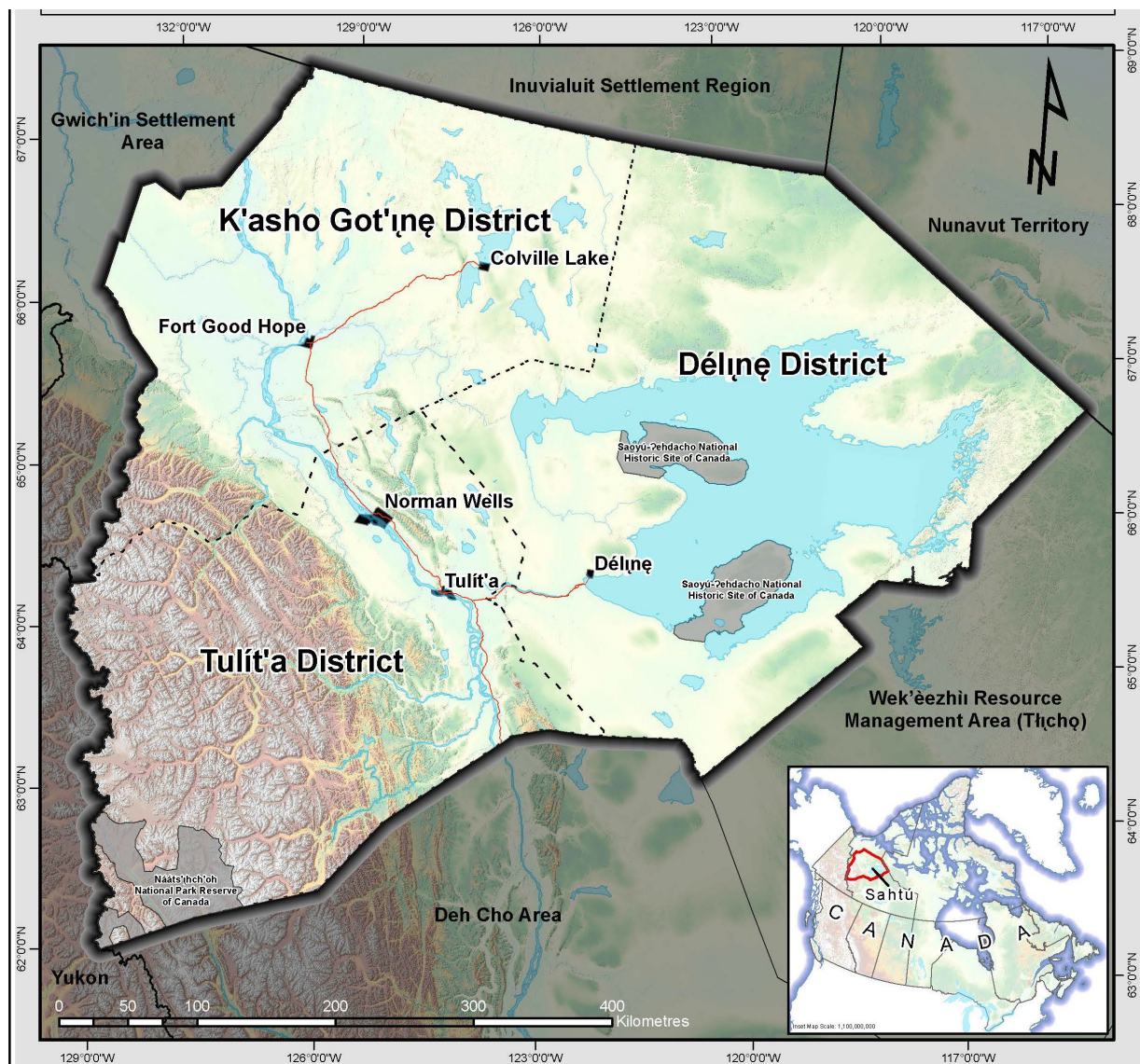


Figure 3: Map of Sahtú Settlement Area. Credit: Sahtú Land Use Planning Board.

# Colville 2020 Public Listening (Hearing) Session Report and Reasons for Decision

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## Introduction

[1] This report documents the decisions of ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board – SRRB), based on the evidence provided during the Colville 2020 Public Listening Session. Co-hosted by the Colville Lake Renewable Resources Council (RRC) and the SRRB on January 21-23, 2020, the session focused on the central question: “What is the most effective way to regulate the harvest of caribou?” This was the first of five public listening sessions, which together will comprise a five-part hearing proceeding to answer the question: “What are the most effective ways to conserve caribou?”

[2] The Colville 2020 Public Listening Session was groundbreaking in a number of ways. As required by decisions laid out in *ʔekwé hé Dene Ts'ıllı – Sustaining Relationships*,<sup>1</sup> the SRRB has undertaken a community conservation planning (CCP) approach to implementing its mandate in the Sahtú region. This approach was reflected in preparations for the public listening session, which included CCP workshops. Moreover, in order to facilitate the meaningful participation of Sahtú communities and to fully meet the SRRB's objectives and mandate under the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*,<sup>2</sup> the SRRB took an innovative approach to the entire hearing process, including the hearing setting and rules, the translations, and the documentation of proceedings. Addressing the holism of Dene concepts of caribou, the SRRB decided that the listening session would address all three caribou ecotypes that inhabit or travel through the Sahtú region: ʔədə/ʔekwé/nódele (barren-ground caribou), shúhta goʔepé (northern mountain caribou), and tódzi (boreal caribou). A full description of the SRRB's process and the implementation of its duties and powers under the *SDMCLCA* can be found in appendix A.

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<sup>1</sup> *ʔekwé hé Dene Ts'ıllı Sustaining Relationships. Final Report of the ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016* (July 2016), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>2</sup> Canada, *Sahtú Dene and Métis Comprehensive Land Claim Agreement Volume 1* (Canada, September 6, 1993).

## Background

[3] This is the third time the SRRB has called a hearing proceeding. A hearing focusing on ɣədə (Bluenose West barren-ground caribou, or BNW) was held in 2007 in Fort Good Hope. A hearing about ʔehdaɣla ɣekwé (Bluenose East barren-ground caribou, or BNE) took place in 2016 in Délı̨nę.<sup>3</sup> Since the 2016 hearing, the SRRB has heard increasing concerns about the three caribou ecotypes from Dene and Métis communities as well as from various organisations responsible for wildlife conservation and management. These communities and organisations have done considerable work to gather evidence and develop conservation approaches. The following initiatives were of particular relevance to the SRRB's mandate:

- Colville Lake, concerned about how their relationship with ɣədə could change with the imposition of a total allowable harvest (TAH) following the 2007 hearing, prepared *Dehlá Got'ı̨ne ɣədə Plan*<sup>4</sup> and *Ts'ı̨duweh ɣədə ʔeɣá (Ancient Caribou Law)*.<sup>5</sup> Fort Good Hope took a position supporting Colville as the lead steward of ɣədə in their shared K'áhsho Got'ı̨nę District.
- The Norman Wells and Tulı́t'a ʔehdzo Got'ı̨nę (RRCs) partnered with the neighbouring Tu Łı̨lını (Ross River) Dena Council to develop a plan addressing conservation concerns about shúhta goɣepé (northern mountain caribou), the *Nı́o Nę P'ęné Begháré Shúhta Goɣepé Narehɣá / Trails of the Mountain Caribou Plan*.<sup>6</sup>
- Délı̨nę, concerned about diminished availability of ʔehdaɣla ɣekwé, reviewed their 2016 *Belare Wı́le Gots'ę ʔekwé – Caribou for All Time* plan and prepared a revised draft.<sup>7</sup>
- In response to these plans, NWT Environment and Natural Resources (ENR) provided written submissions on caribou status and associated management and co-management processes as well as relevant aspects of the NWT *Wildlife Act* and

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<sup>3</sup> The public registry for SRRB hearings may be found at [www.srrb.nt.ca](http://www.srrb.nt.ca) under the “About Us” tab.

<sup>4</sup> Colville Lake Renewable Resources Council, *Dehlá Got'ı̨ne ɣədə Plan* (October 21, 2019), available on the public registry for the SRRB 2020 Colville Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>5</sup> Colville Lake Renewable Resources Council, *Dehlá Got'ı̨ne Ts'ı̨duweh ɣədə ʔeɣá, 2019 / Dehlá Got'ı̨ne Ancient Caribou Law, 2019* (October 21, 2019), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>6</sup> Nı́o Nę P'ęné Working Group, *Nı́o Nę P'ęné Begháré Shúhta Goɣepé Narehɣá / Trails of the Mountain Caribou Plan*, compiled by Janet Winbourne, June 2019, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>7</sup> Délı̨nę ʔekwé Working Group, *Belare Wı́le Gots'ę ʔekwé / Caribou for All Time: A Délı̨nę Got'ı̨nę Plan of Action for 2019-2021*, October 6, 2020, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.



*Species at Risk Act*.<sup>8</sup> ENR noted that, at the time of submission, northern mountain caribou were federally listed as special concern, and were in the process of being assessed in the NWT;<sup>9</sup> boreal caribou were listed as threatened under the federal and NWT *Species at Risk Acts*;<sup>10</sup> and barren-ground caribou were listed as threatened under the NWT *Species at Risk Act* and was being considered for federal listing as threatened.<sup>11</sup>

[4] The five communities of the Sahtú region as well as ENR and four other parties attended the Colville 2020 Public Listening Session (a full list of participating parties is provided in appendix B). The Colville Lake, Délı̨ne, Norman Wells, Tulı́t'a, and Fort Good Hope community panels all provided oral submissions during the proceedings, along with ENR, the Sahtú Youth Network (SYN), and the Indigenous Leadership Initiative. As well, Independent Consultant Janet Winbourne delivered a presentation about the Sahtú Harvest Study. Throughout the three-day session, elders sponsored by the Sahtú Dene Council took opportunities to share their knowledge. The Inuvialuit Game Council (IGC), several Tłı̨chų elders, and a Dehlá Got'ı̨ne elder also made oral contributions.

[5] Summaries of presentations can be found in appendix B, along with graphic recordings of the presentations and other oral submissions. The oral evidence from the Colville 2020 Public Listening Session is supplemented by considerable documentation on the public registry, including plans, responses to information requests, relevant documents recommended by the parties and reviewed by the SRRB, and final written arguments. Key documentation is addressed in the main body of this report. In addition, a literature review is provided in appendix C.

## Dene Kədə – Language and Acronyms

[6] Where practical, this report pays respect to Dene terms and concepts used during the Colville 2020 Public Listening Session. Dene kədə reflects the ecological and cultural diversity of the region and varies within and among communities. This is reflected in the diverse terminology used to refer to caribou, terminology that varies based on the community, caribou ecotype, and place in which caribou are to be found. A total of 72 terms in the various dialects and languages of the Indigenous parties are used in this report. Lists of terms and acronyms are provided at the front of this report for easy reference. Rather than standardize terms and spellings, the report adopts the

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<sup>8</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session* ([www.srrb.nt.ca](http://www.srrb.nt.ca): SRRB, January 17, 2020), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>9</sup> *Ibid*, 22.

<sup>10</sup> *Ibid*, 27.

<sup>11</sup> *Ibid*, 39.

dialect or dialects of the speaker, authors, or communities contributing in each context. A summary of the SRRB's efforts to accommodate the cross-cultural and multi-lingual nature of the formal proceeding is provided in Appendix A, page 106.

[7] The English language term “caribou” is used to encompass all caribou ecotypes in the Sahtú region for simplicity, since Dene terminology tends to be very specific to individual ecotypes. Terminology for different caribou ecotypes is discussed in “The Conservation Picture: Caribou, People, and Planning.”

[8] The term *ɣehdzo got'ɲe* (meaning “trappers”) was historically used to refer to hunter and trapper organisations (HTOs). Following implementation of the *SDMCLCA*, the term continued to be applied to the successor renewable resources councils (RRCs). At a meeting of the five RRC presidents in 2012, the Dene term was reaffirmed and was therefore adopted by the SRRB. However, communities vary in whether they use the term in formal contexts. In this report, *ɣehdzo got'ɲe* is used except when directly referencing: provisions in the land claim agreement or *Wildlife Act*; Colville's *Dehlá Got'ɲe ɣədə Plan* and *Ts'ɲduweh ɣədə ɣeɣá* (*Ancient Caribou Law*), which uses the land claim term; or in quotations drawn from evidence presented during the Colville 2020 Public Listening Session.

## The Dehlá Got'ɲe ɣədə Plan and Ts'ɲduweh ɣədə ɣeɣá

[9] The 2020 Public Listening Session centrally featured a presentation by the host community Colville Lake of their *Ts'ɲduweh ɣədə ɣeɣá* (*Ancient Caribou Law*) and *Dehlá Got'ɲe ɣədə Plan* (these two documents are collectively referred to in this document as “Colville's Plan”). The *Dehlá Got'ɲe ɣədə Plan* was developed to address objectives set out in the Dehlá Got'ɲe, or ɣədə Declaration. The declaration recognizes ɣədə as a spiritual gift and invokes both the value of respect and the responsibility of mutual care underpinning Dehlá Got'ɲe relationship with caribou.

[10] The companion *Dehlá Got'ɲe Ts'ɲduweh ɣədə ɣeɣá* outlines the mechanisms by which Colville would enact this responsibility. In particular, the Colville RRC would issue authorizations for hunting ɣədə and implement monitoring and enforcement mechanisms to ensure compliance. Nine principles and six goals are outlined in the plan, charting a path forward. The Dehlá Got'ɲe Declaration, principles, and goals are included in appendix D.

[11] Colville's Plan emphasizes a collaborative approach to conservation with co-management partners including the SRRB and ENR. An interim management agreement, signed by Colville and ENR in December, provides that Colville will work with ENR, the SRRB, and other parties “while we move towards fully implementing”

Colville's Plan.<sup>12</sup> The agreement includes a traditional knowledge and limited license agreement, which allows for information sharing with ENR.

[11] Colville asked the SRRB to approve their plan under the criteria for community conservation plans outlined in *ʔekwé hé Dene Ts'ı́lı – Sustaining Relationships*.<sup>13</sup>

## Authority

[12] The SRRB is a co-management body responsible for wildlife, habitat, and harvesting in the Sahtú Settlement Area. The SRRB's authority is grounded in the *SDMCLCA*, which grants the SRRB specific powers outlined in chapter 13 ("Wildlife Harvesting and Management") and chapter 14 ("Forestry"). The SRRB's powers include:

- the power to hold hearings;<sup>14</sup>
- the power to make rules respecting the conduct of hearings;<sup>15</sup>
- the power to establish policies and propose regulations in respect of harvesting of wildlife by any person, including any class of persons;<sup>16</sup> and
- the power to review any matter in respect of wildlife management referred to it by the Government of Canada or the Government of Northwest Territories (GNWT).<sup>17</sup>

[13] The SRRB's exercise of these powers is guided by the objectives found in chapters 1 and 13 of the *SDMCLCA*, including:

- respecting the way of life and the harvesting and wildlife management customs and practices of Sahtú Dene and Métis;<sup>18</sup>
- involving Dene and Métis land claim participants in a direct and meaningful manner in planning and decision-making about wildlife harvesting and management;<sup>19</sup> and

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<sup>12</sup> Behdzi Ahda First Nation et al., *Interim Management Agreement between Behdzi Ahda First Nation, Ayoni Keh Land Corporation, Colville Lake Renewable Resources Council and the Government of the Northwest Territories*, December 19, 2020, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <https://www.srrb.nt.ca/>.

<sup>13</sup> *ʔekwé hé Dene Ts'ı́lı Sustaining Relationships. Final Report of the ʔehdzo Got'ı́nə Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at 44.

<sup>14</sup> *SDMCLCA*, *supra* note 2, s 13.8.21.

<sup>15</sup> *Ibid*, s 13.8.18.

<sup>16</sup> *Ibid*, s 13.8.23(a).

<sup>17</sup> *Ibid*, s 13.8.23(h).

<sup>18</sup> *Ibid*, s 13.1.1 (d).

<sup>19</sup> *Ibid*, s 13.1.1 (e).

- protecting and conserving wildlife and wildlife habitat for present and future generations.<sup>20</sup>

[14] When the SRRB exercises its power to hold hearings, it does so as an administrative tribunal with adjudicative powers. In this role, the SRRB is responsible for compiling and assessing the available **evidence** and **legal arguments** brought forward by the parties. Based on this assessment, the SRRB makes **findings of fact**. The SRRB's findings form the basis of its subsequent recommendations and decisions. When the SRRB makes **recommendations**, it is requiring some action of the GNWT or other parties with which it shares co-management duties. When the SRRB makes a **decision**, it is exercising areas of exclusive authority, such as in the approval of plans for the management and protection of particular wildlife species.

[15] The *SDMCLCA* provides the SRRB with the authority to hold hearings “where the Board is satisfied that such a hearing is desirable.” The SRRB is exercising this authority to hold a series of public listening sessions, which will collectively constitute a hearing under the *SDMCLCA*. The SRRB is using the term “public listening sessions” instead of hearings to maximize Sahtú community participation in this process and to address concerns raised during previous hearings in the Sahtú region. Listening is intended to denote active acknowledgement and accommodation of the full range of evidence presented.

## Voices of the People

[16] In keeping with the nature of a public listening session, the evidence provided emphasizes (but is not limited to) people's voices during the Colville 2020 session. More rarely, people's voices from documents available on the public registry are also included. We are aware that participants may be very interested to look at contributions by different people, so we've provided an index of speakers at the end of this report (on page 91). Please note that in the case of texts from public listening transcripts, it was not possible to include transcriptions from the original Dene language. Nor was it possible to verify the Dene language interpretations.

[17] The full English transcripts along with Dene language audio versions can be found on the SRRB's public registry at [www.srrb.nt.ca](http://www.srrb.nt.ca). A discussion of the challenges posed by cross-cultural communication is included in appendix A, in a section on “Oral, Written, and Visual Interpretation Across Cultures.”

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<sup>20</sup> *Ibid*, s 1.1.1 (h).

## Context: The Appendices

[18] Readers seeking additional context for the SRRB's decisions are invited to look at the appendices to this report. Signposts about appendices specifically relevant to sections of the report are provided throughout.

## Key Issues Addressed at the Public Listening Session

[19] The SRRB identified ten key issues arising from the Colville 2020 Public Listening Session that directly relate to the central question of the proceeding. As required by the findings of the 2016 Bluenose East ʔekwé Hearing,<sup>21</sup> the SRRB continues to take a biocultural approach to weighing the evidence. The proceedings of the 2020 Public Listening Session were rich and wide-ranging in scope, and the SRRB expects that some evidence that is not specifically addressed in this report will be revisited during future public listening sessions hosted by the SRRB.

[20] The ten key issues that arose during the Colville 2020 Public Listening Session, and that this report addresses, are:

1. The Conservation Picture: Caribou, People, and Planning
2. *Dehlá Got'jne ʔədə Plan* and *Ts'jduweh ʔədə ʔeʔá* (Colville Lake)
3. *Belare Wíle Gots'é ʔekwé* and *Dene Béré Belare Wíle* Plans (Déljñe)
4. Authorizations
5. Enforcement Mechanisms
6. Total Allowable Harvest
7. Zoning Issues
8. *Wildlife Act* Residency and Hunter Education Requirements
9. Special Harvesting Areas
10. Capacity Support for Community Conservation Planning

[21] In each of the key issue sections below, the SRRB highlights the important pieces of specific evidence and legal arguments that led to the SRRB's findings, recommendations, and decisions. When making its findings, the SRRB weighed the evidence for reliability and relevance. In some cases, as noted in the text, more detailed evidence is available in the appendices to this report. In all cases, the full evidentiary record can be found on the SRRB's public registry for the 2020 Public Listening Session in Colville Lake.<sup>22</sup>

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<sup>21</sup> ʔekwé hé Dene Ts'jñ Sustaining Relationships. *Final Report of the ʔehdzo Got'jñe Gots'é Nákedí* (Sahtú Renewable Resources Board) *Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at 3.

<sup>22</sup> The public registry for SRRB hearings may be found at [www.srrb.nt.ca](http://www.srrb.nt.ca) under the "About Us" tab.



# Key Issues



## 1. The Conservation Picture: Caribou, People, and Planning

[22] As a starting point for decision-making, the SRRB weighed current evidence about conservation concerns for the three caribou ecotypes that inhabit or travel through the Sahtú region and concerns about people’s relationships with caribou. The SRRB also considered the status of caribou conservation planning processes as they have evolved since the 2016 Bluenose East ʔekwé Hearing, in which the SRRB accepted community conservation planning as the Sahtú approach for caribou conservation.<sup>23</sup>

[23] The SRRB’s decision to adopt the CCP approach was based on the Board’s finding that the best conservation outcomes are based on processes that are driven by local communities.<sup>24</sup> The SRRB’s decision was grounded in scientific evidence and analysis of the opportunities and challenges in a collaborative wildlife management process.<sup>25</sup> It was also informed by Dene náoweré (knowledge) that collaborative management has been undermined by historical and ongoing experiences of colonialism and the attendant distrust of outside authority.<sup>26</sup>

[24] An important area of evidence at the 2016 Bluenose East ʔekwé Hearing was the submissions of community parties calling for decisions to encompass ʔası́ı godı́ hé Dene ts’ı́ıı hé (biocultural diversity).<sup>27</sup> The SRRB found this evidence to be consistent with land claim objectives and emerging best practices recognizing the importance of biocultural approaches to harvesting and conservation of Sahtú gotı́ch’ádı́ı (wildlife).<sup>28</sup> The following section provides highlights of the evidentiary record concerning caribou conservation at the Colville 2020 Public Listening Session. It does so using a biocultural approach that considers the interdependence of caribou population health and Dene and Métis land-based ways of life and the implications for planning.

## Evidence

[25] We have organized the evidence on “The Conservation Picture” into four subsections: caribou, people, planning, and Nę K’édı́ Ke, which discusses guardian

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<sup>23</sup> ʔekwé hé Dene Ts’ı́ıı Sustaining Relationships. Final Report of the ʔehdzo Got’ı́nę Gots’ę Nákedı́ (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016, *supra* note 1 at 51.

<sup>24</sup> *Ibid* at 3.

<sup>25</sup> *Ibid* at 49.

<sup>26</sup> *Ibid* at 46.

<sup>27</sup> *Ibid* at 3.

<sup>28</sup> *Ibid* at 3.

programs. It is worth noting that there was a large amount of evidence provided by community parties about Dene ts'ı́ı́ (Dene ways of life) and especially the well-being and training of youth. There was significantly more evidence presented about Dene ts'ı́ı́ than about the status of the three caribou ecotypes. In part, this reflects Dene ʔəʔá that it is disrespectful to talk about caribou and reinforces the regional consensus that strong Dene ts'ı́ı́ is a primary factor in caribou conservation.

## Caribou

[26] The evidence related to caribou status includes concerns affecting all three ecotypes, as well as specific evidence regarding each ecotype. Ṯḏzı́ (boreal caribou) and shúhta goʔep̱é (northern mountain caribou) are listed under the federal *Species at Risk Act*, and ʔədə/ʔekw̱é/ṉodele (barren-ground caribou) is being considered for listing. Two of the three species are listed under the territorial *Species at Risk Act*: ʔədə/ʔekw̱é/ṉodele and ṯḏzı́ are listed as threatened. Shúhta goʔep̱é is still under consideration for listing, having been assessed as special concern by the Species at Risk Committee (SARC) in April 2020. There is strong community concern about the health of people's relationships with caribou. A more detailed account of the conservation picture with respect to caribou is provided in appendix E.

### ʔədə/ʔekw̱é/Ṉodele (Barren-ground Caribou)

[27] In the Sahtú, barren-ground caribou primarily travel through the Délı́ne and K'áhsho Got'ı́ne Districts.<sup>29</sup> Three terms are used to refer to barren-ground caribou in the Sahtú, reflecting the three main dialects of the region. K'áhsho Got'ı́ne of Fort Good Hope and Dehlá Got'ı́ne of Colville refer to barren-ground caribou as ʔədə (or gow'ı́ ʔədə), while Shúhtaot'ı́ne (Mountain Dene) refer to this ecotype as ṉodele. Délı́ne Got'ı́ne use the term ʔekw̱é (or gokw'ı́ ʔekw̱é, or ʔekw̱éwá) for barren-ground caribou. They further distinguish between ʔehdaı́la ʔekw̱é (Caribou Point or Bluenose East barren-ground caribou) and Neregha ʔekw̱é (North Shore or Bluenose West barren-ground caribou). There are differing views about the status of ʔədə/ʔekw̱é/ṉodele.

[28] As noted by ENR, this caribou ecotype is listed under the territorial *Species at Risk Act* as threatened. Barren-ground caribou have been federally assessed as threatened, and now are under consideration for listing.<sup>30</sup> The *Taking Care of Caribou*

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<sup>29</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 33 (Figure 5).

<sup>30</sup> For a summary of NWT and federal status listings, see [www.nwt-species-at-risk.ca/species/barren-ground-caribou](http://www.nwt-species-at-risk.ca/species/barren-ground-caribou). Dene terms for threatened are lá lak'óoṉ xae kúhyə wíle ade gha sóoṉı́ (Délı́ne/Tulı́t'a dialect) and líla horéno xai egúhyé behúle rágudı́ (K'áhsho Got'ı́ne dialect). See Sahtú Elders, Betty Harnum, Deborah Simmons, and Jean Polfus. *Kəde Nit'q Benats'adı - Xəde Rihet'q Herats'adı - Remember the Promise*. Tulı́t'a, NT: ʔehdzo Got'ı́ne Gots'é Nákedı́ (Sahtú Renewable Resources Board), 2014.

plan for Bluenose West, Bluenose East, and Cape Bathurst caribou considers there to be two populations of Ɂəðə/Ɂəkwé/nódele that travel through the Sahtú region, while recognizing herd definition as a “hot topic” that as of publication in 2014 had not yet been resolved.<sup>31</sup>

[29] The NWT *Big Game Hunting Regulations* include three areas in the Sahtú region that approximate the distribution of these two populations.<sup>32</sup> A map of these wildlife management areas is provided in appendix F. Ɂəðə (Bluenose West barren-ground caribou) travel mainly within the Sahtú Barren-ground Caribou Area 01 (S/BC/01). Area S/BC/02 may also be habitat for Ɂəðə. ɁəhdaɁla Ɂəkwé (Bluenose East barren-ground caribou) travel mainly in Area S/BC/03.

[30] Guided by the *Taking Care of Caribou* plan, the Advisory Committee for Cooperation on Wildlife Management (ACCWM)<sup>33</sup> reviews population status annually based on community and scientific information related to ten monitoring criteria:

1. Population size
2. Population trend and rate of change
3. Productivity and recruitment
4. Adult composition
5. Body condition and health
6. Harvest levels
7. Predator populations
8. Range and movement patterns
9. Environment and habitat
10. Human disturbance

[31] While the ACCWM considers Ɂəðə to be in the orange zone (the population level is intermediate and decreasing) based on community and scientific evidence,<sup>34</sup> Colville

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<sup>31</sup> Advisory Committee for Cooperation on Wildlife Management, *Taking Care of Caribou: the Cape Bathurst, Bluenose-West, and Bluenose-East barren-ground Caribou Herds Management Plan*. (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, November 3, 2014), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>32</sup> *Big Game Hunting Regulations*, NWT Reg 019-092. Note that these areas are defined and described in *Wildlife Management Zones and Areas Regulations*, RRNWT 1990, c. W-15, Schedule B, Part 6.

<sup>33</sup> The Advisory Committee for Cooperation on Wildlife Management (ACCWM) is a forum where multiple wildlife management authorities gather to exchange information, help develop cooperation and consensus, and make recommendations regarding wildlife and wildlife habitat issues that cross land claim and treaty boundaries. The ACCWM Member Boards include the NWT Wildlife Management Advisory Council, Gwich'in Renewable Resources Board, Ɂəhdzo Got'Ɂnə Gots'ə NákedɁ (Sahtú Renewable Resources Board), Wek'èezhɁ Renewable Resources Board, Kitikmeot Regional Wildlife Board, and Tuktut Nogait National Park Management Board.

<sup>34</sup> Advisory Committee for Cooperation on Wildlife Management, *Action Plan for the Bluenose West Caribou Herd 2019/2020 – Orange Status* (Yellowknife, NT: Advisory Committee for Cooperation on

has expressed lack of trust in this evidence and cites their own evidence about the strength of community relationships with and knowledge about caribou. Information provided to the ACCWM by Colville as well as the neighbouring Inuvialuit communities of Paulatuk and Tuktoyaktuk (by way of the Wildlife Management Advisory Council – NWT) are that Ɂədə are abundant and fat.<sup>35</sup>

From the time you start talking about decline of caribou herd, Colville Lake have always said we don't agree with what has been presented to us. We've always participated in some of the surveys. And in our hearts we know that we're not wrong because we spend a lot of time on the land. Right to this day, a lot of us, we spend time on the land with the caribou. If the caribou was in trouble, somehow they'll communicate with us. So that's why we hang on to our way of life, our traditional way of doing things. Very important. – Joseph Kochon, Colville Panel<sup>36</sup>

[32] The ACCWM and Délıne agreed with the weight of evidence considered during the 2019 annual assessment that Ɂehdaıla Ɂekwé population numbers are low and decreasing, or in the red zone according to ACCWM thresholds. The evidence provided by ENR, the community of Kugluktuk (through the Nunavut Wildlife Management Board), and the Tłıchq̃ Government supported this assessment.<sup>37</sup>

In Sahtú and Bear Lake, Sahtú Dene doesn't have caribou because there isn't any caribou. – Walter Bezha, Délıne Panel<sup>38</sup>

### *Shúhta GoɁepé (Northern Mountain Caribou)*

[33] In the Sahtú, shúhta goɁepé range falls within the mountain areas of the Tulít'a and K'áhsho Goł'ıne Districts.<sup>39</sup> Shúhta goɁepé are federally listed as special concern and were assessed in April 2020 by the NWT Species at Risk Committee as special

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Wildlife Management, January 2019), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>35</sup> Advisory Committee for Cooperation on Wildlife Management, *Bluenose West Monitoring Table* (Inuvik, NT: Advisory Committee for Cooperation on Wildlife Management, November 21, 2019), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>36</sup> *Colville 2020 Public Listening: Sahtú RagóɁa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, January 21, 2020, 30:9-21, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>37</sup> Advisory Committee for Cooperation on Wildlife Management, *Bluenose East Monitoring Table; Status Meeting 2019* (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, 2019).

<sup>38</sup> *Ibid.*, at 144:4-5.

<sup>39</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 19 (Figure 2).

concern.<sup>40</sup> The *Nío Nę P'ęnę – Trails of the Mountain Caribou plan* jointly developed by the Tulít'a and Norman Wells ǂehdzo Got'įnę and Tu Łidlini (Ross River) Dena Council arises from conservation concerns about shúhta goǂepę.<sup>41</sup>

We are concerned about mountain caribou. We have worked closely with Tulít'a RRC for past ten years. There has been a huge influx of Tulít'a people in our traditional territory. A lot of hunting pressure on caribou. Climate change is also a concern for us. We find that caribou numbers are declining. – Tu Łidlini (Ross River) Dena Council<sup>42</sup>

The population of people going into the mountain is getting too great. It has an effect on wildlife and why we think it's important to have some land set aside for the caribou starting with Indigenous protected area. – Leon Andrew, Indigenous Leadership Initiative<sup>43</sup>

### *Tǂdzı (Boreal Caribou)*

[34] In the Sahtú, tǂdzı range throughout the Mackenzie River valley that bridges the three Sahtú districts, between the foothills of the Mackenzie Mountains and the edge of the treeline to the east of Great Bear Lake.<sup>44</sup> Tǂdzı have been federally and territorially listed as threatened.<sup>45</sup> However, this is primarily due to threats further south in the NWT and Canada. Legislated federal and territorial recovery plans have been completed for tǂdzı. In compliance with these plans, Sahtú communities plan to participate as partners with ENR and the SRRB in a range planning effort. Restriction of Indigenous harvest is not currently contemplated in the NWT. Colville notes that tǂdzı may be moving northward to become more available in Dehlá Got'įne territory.

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<sup>40</sup> For a summary of NWT and Federal status listings, see [www.nwt-species-at-risk.ca/species/northern-mountain-caribou](http://www.nwt-species-at-risk.ca/species/northern-mountain-caribou). Dene terms for special concern are bek'e k'énadets'ewę (Délįnę and Tulít'a dialects) and bek'e k'įnaǂedits'ewę gha got'ódęǂa (K'áhsho Got'įnę dialect), which translate to we need to keep an eye on it. Sahtú Elders et al., *Kǂdǂ Nit'ǂ Benats'adí - Xǂdǂ Ríhǂt'ǂ Herats'ádi - Remember the Promise*, *supra* note 30.

<sup>41</sup> Nío Nę P'ęnę Working Group (compiled by Janet Winbourne), *Nío Nę P'ęnę Begháré Shúhta Goǂepę Narehǂá / Trails of the Mountain Caribou Plan*, *supra* note 6.

<sup>42</sup> Ross River Dena Council, *Ross River Dena Council Responses to Information Requests; Round No. 1 Colville 2020 Public Listening*, December 10, 2019, at 1, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>43</sup> *Colville 2020 Public Listening: Sahtú Ragǂǂa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, January 22, 2020, 152:4-9, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>44</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 25 (Figure 3).

<sup>45</sup> For a summary of NWT and federal status listings, see [www.nwt-species-at-risk.ca/species/boreal-caribou](http://www.nwt-species-at-risk.ca/species/boreal-caribou).



There's more woodland caribou [tɔdzi]. We had woodland caribou up on the hill all summer long. – David Codzi, Colville Panel<sup>46</sup>

The boreal caribou are scarce and far and few between. There's not ... lots of them. The point about them being sensitive and volatile is that they're small, little herds, anywhere from two, three to twenty, right? And they can get wiped out pretty quick. – Roger Odgaard, Norman Wells Panel<sup>47</sup>

## People

[35] The parties provided extensive evidence about Dene ts'ı́ı and Dene béré (country food) systems, reflecting the priority placed on people's responsibilities in their relationships with caribou. ENR's *Sustainable Livelihoods Action Plan, 2019-2023*,<sup>48</sup> based on extensive community engagement in the NWT and involving Sahtú representatives, provides additional supporting evidence that programs to support harvesting skills training and country food security are needed. Detailed evidence about the conservation picture with respect to people is provided in appendix G. Youth issues were an important focal point or indicator of the health of Dene ts'ı́ı and Dene béré systems. The topic of gender continues to be a gap in regional discussions about caribou conservation.

[36] Evidence regarding the status of Dene ts'ı́ı and Dene béré systems tended to focus on concerns about the well-being and training of youth as future leaders, stewards, and providers for the communities. All community panels and the Sahtú Youth Network (SYN) provided evidence that grave concerns continue about wellness and knowledge transmission across generations related to spirituality, Dene language, harvesting skills, safety, and access to Dene béré. Several parties spoke about the ongoing impacts of residential schools and other aspects of colonialism, and reflected on approaches to support youth in reclaiming their identity, skills, knowledge, and roles in governance. SYN delegates offered insights about the role of the network in supporting youth to self-organize and have their own voice. ENR noted that the NWT Hunter Education curriculum, which was developed with help from Sahtú knowledge holders, is available for community use in training youth.

We're still trying to find a way to communicate with some of our youth. I guess they've been pushed aside for too long and

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<sup>46</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 117:24-25.

<sup>47</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 74:23-24; 75:1-4.

<sup>48</sup> GNWT, *Sustainable Livelihoods Action Plan 2019-2023* (2019).

sometimes leadership has so much responsibilities and everything, they forget about that. So we'll try to do whatever we could to try to work with our youth and give them more voice .... So I guess overall just encourage you [SYN] to continue on. The more voices we hear, we can find a way to support you in any way possible, because today's day and age we're having a hard time try[ing] to communicate with our youth. Families are not communicating with their youth, so it's really important that you continue on. – Joseph Kochon, Colville Panel<sup>49</sup>

And we love young people. When I tease young people, they laugh. We want to help them in that way. We want our young people to grasp something. We take them to the land. And we go out on the land and we teach them everything that they're going to survive on. – Leon Modeste, Déljné Panel<sup>50</sup>

I would like to say thank you to everyone here because as youth we think that we're not acknowledged or listened to and most times think that we're excluded from the plans and decisions made for our future, but this whole week has been everything we could have asked for. All of you have listened, acknowledged, encouraged, and respected everything that we had to say. We were included, we were welcomed, and we were heard, and as youth that means so much to us and we are extremely grateful. – Lacey Wrigley, SYN<sup>51</sup>

## Planning

[37] At the 2016 Bluenose East ʔekwé Hearing, the community of Déljné presented the *Belare Wile Gots'é ʔekwé - Caribou for All Time* plan,<sup>52</sup> the first community caribou plan to be considered by the SRRB and likely the first of its kind in Canada. During the

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<sup>49</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 111:1-7; Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 95:13-19.

<sup>50</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 251:5-10.

<sup>51</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, January 23, 2020, 225:12-21, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>52</sup> Déljné First Nation, Déljné ʔehdzo Got'jné (Renewable Resources Council) & Déljné Land Corporation, *Belare Wile Gots'é ʔekwé / Caribou for All Time: A Déljné Got'jné Plan of Action 2016* (January 8, 2016), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

2020 Public Listening Session, Colville presented their *Dehlá Got'ine ʔədə Plan*,<sup>53</sup> and the SRRB received a draft of the *Nío Nę P'ęné Begháré Shúhta Goʔepé Nareʔa - Trails of the Mountain Caribou* plan<sup>54</sup> and a draft updated edition of Délįnę's plan.<sup>55</sup> The SRRB also took note of community caribou planning initiatives in other regions, including the Kugluktuk Agoniatit Association's draft plan<sup>56</sup> and the Łuts'ël K'é Dene First Nation's recently completed *Yúnethé Xá ʔetthën Hádi - Caribou Stewardship Plan*.<sup>57</sup>

[38] Evidence provided at the 2020 session included community reflections on their rationale for embracing a CCP approach. Community panels pointed to the role of CCP in supporting community governance frameworks as well as Indigenous decision-making processes and laws. Community panels also highlighted their community conservation plans as platforms for cross-community learning and community-to-community sharing agreements.

[The] *Dehlá Got'ine ʔədə* and *Dehlá Got'ine Ts'ıduweh ʔədə ʔeʔá* plan provides an opportunity to collaborate for each party to play a role and assume its responsibilities for ensuring that things are done in a good way ... A lot of times, we're left out of the things that are being written up. You know, just recently, we started getting more involved because ... we took on the mentality that's your way and this is our way ... In my mind, I'm looking at how we're going ahead and working on these plans. And in my mind, I'm going ... the Sahtú's like a big tree. All of us are a part of the branches on that tree. When we're talking about our plans, there's going to be commonality across all those things. I know there's no caribou in certain areas, but all wildlife that we have around us, we treat them the same way .... Every one of our communities have

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<sup>53</sup> Colville Lake Renewable Resources Council, *Dehlá Got'ine ʔədə Plan*, *supra* note 4.

<sup>54</sup> Nío Nę P'ęné Working Group (compiled by Janet Winbourne), *Nío Nę P'ęné Begháré Shúhta Goʔepé Narehʔá / Trails of the Mountain Caribou Plan*, *supra* note 6.

<sup>55</sup> Délįnę First Nation, Délįnę ʔehdzo Got'ine (Renewable Resources Council), and Délįnę Land Corporation, *Belare Wile Gots'ę ʔekwé / Caribou for All Time: A Délįnę Got'ine Plan of Action 2016*, *supra* note 52.

<sup>56</sup> This draft "Integrated Community Caribou Management Plan" was not provided for the Colville 2020 public registry, but can be found on the Nunavut Wildlife Management Board (NWMB) public registry as part of the Kugluktuk Angoniatit Association's written submission to the 2016 Bluenose East Hearing. Available on the public registry for the SRRB Bluenose East ʔekwé Hearing – March 2016, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>57</sup> Łuts'ël K'é Dene First Nation, *Yúnethé Xá ʔetthën Hádi; Caribou Stewardship Plan* (February 10, 2020).

mechanisms already inside the communities that we could rely on to do the community plans. – David Codzi, Colville Panel<sup>58</sup>

So far, we had a second regional meeting. The one before Christmas, we sat down with each of the communities and SRRB and presented our plan. So what that's going to do is give each of the communities the ability to work on their own plan within their area. So I guess the next step would be to find a way to collaborate. But first, we need to ensure that each community pick up their tools and start working on their plan. – Joseph Kochon, Colville Panel<sup>59</sup>

Dél̓n̓ę has their own plan as well, and they've gone through a long process. And ...Dél̓n̓ę leadership took on that whole process of trying to get away from the system that were imposed on Sahtú Got'̓n̓ę .... Dene people and Sahtú Dene want to make their own plans, their own decisions, and these are pretty straightforward. It's not asking for too much .... Community-based management – that's a really artful way of saying ... let the Dene make their own decisions. – Walter Bezha, Dél̓n̓ę Panel<sup>60</sup>

The RWED [ENR] group can help us and assist us, but I don't want to follow their rules ... Our ancestors had given us the rules already of how we will live, and that is what I would like to. – Frederick Andrew, Tulít'a Panel<sup>61</sup>

We're at the stage here in Tulít'a with the plan ... we're looking for evidence to go further with our plan. And we're hearing the other groups. We came here for a meeting with Colville Lake about it. – Douglas Yallee, Tulít'a Panel<sup>62</sup>

We support the Nío N̓ę P'̓n̓ę plan development process. We have to support the process because the plan's not complete. We totally support it. We know there's a lot more work that has to be done to it and we look forward to working with that ... But I do want to say

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<sup>58</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 34:2-12; 282:11-20. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 159:9-11.

<sup>59</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 116:5-15.

<sup>60</sup> *Ibid* at 62:9-15; 139:3-6; 165:10-12.

<sup>61</sup> *Ibid* at 266:10-14.

<sup>62</sup> *Ibid* at 268:11-15.

one thing, that I'm learning from you guys and this plan is actually following your guys' direction and ... I followed your guys' plan for this. This is a first crack at it. And it's going to be the same thing we work on for the next five years. We're going to try and develop it like you guys. – Roger Odgaard, Norman Wells Panel<sup>63</sup>

ENR is supportive of community conservation plans as an effective approach for wildlife and harvest management. We are willing to assist communities to develop and, where appropriate, implement those plans. – Heather Sayine-Crawford, ENR<sup>64</sup>

So if we don't all sit at the same table, we'll do different plans and different things which might not be what another groups agree with ... so we have to sit at the same table and come to some sort of an agreement where it'll work out for everybody. – Jim Elias, Inuvialuit Game Council<sup>65</sup>

What really got to me was when we were in that sharing circle at the North American Caribou Workshop in Ottawa. Listening to people from all over having the same problem, which was watching the government manage caribou and seeing the herds continue to decline. And hearing about how the Délı̨ne Government has made their own caribou conservation plan. I just felt that the Bathurst caribou range plan wasn't strong enough to help the herd recover and thought why couldn't we just make our own plan. So the government isn't just telling us what to do anymore. – Shonto Catholique, quoted in Łuts'el K'é Dene First Nation<sup>66</sup>

## Nę K'édı̨ Ke (Guardian Programs)

[39] The Sahtú Dene Council has initiated a guardian program, Nę K'édı̨ Ke (Keepers of the Land). There are also guardian programs underway for each of the proposed protected and conserved area initiatives in the Sahtú region. Dene are the primary harvesters of barren-ground caribou in the Sahtú and, from their cultural perspective,

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<sup>63</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 24:19-24; 29:23-25; 30:1-5.

<sup>64</sup> *Ibid* at 221:3-7.

<sup>65</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 101:4-9.

<sup>66</sup> Łuts'el K'é Dene First Nation, Yúnethé Xá ʔetthēn Hádi; Caribou Stewardship Plan, *supra* note 57 at 9.



have a primary cultural obligation to maintain a healthy “guardian” relationship with the caribou, such as the “ground-based” approach outlined in the *Dehlá Got’ıne Ǿədə Plan*.

I see Délıne’s vision, the government. They want their guardians out there. They want their guardians and say, you know, we’re going to be old and we’re going to ask the guardians, hey, what -- what do you see out there? The caribou doing good, the fishing? Who’s out there? Take lots of pictures. Yes, yes, definitely, you’ll be the guardians, and you can do as your grandfathers and your ancestors and be out on the land and tell us old folks as a government that things are okay or the recommendations that you would be making to us. – Walter Bezha, Délıne Panel<sup>67</sup>

I am in support of what the guardianship is doing, so for what they have done so far within the Tulı́t’a area. But, yeah, I would like to see it go further. – Douglas Yallee, Tulı́t’a Panel<sup>68</sup>

We have something coming up in February I heard with the guardianship program, so I’ve been told, and I want to get more youth out on the land. I want to teach youth. I love to teach. I love to see other kids learn in different ways, you know. – Jaryd McDonald, Norman Wells Panel<sup>69</sup>

As chiefs we got some money through guardianship. And we kind of want to set it up a little differently and – and so that the youth can be out there to really learn our culture. – Chief Wilbert Kochon, Colville Panel<sup>70</sup>

When I talk about monitoring and controlling, we’re talking about guardians, developing and training our young people to look after our land. – Ethel Blondin-Andrew, Indigenous Leadership Initiative<sup>71</sup>

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<sup>67</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 196:1-12.

<sup>68</sup> *Ibid* at 288:18-21.

<sup>69</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 81:20-25.

<sup>70</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3* (2020), *supra* note 43.

<sup>71</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 156:11-13.

## Law

[40] In 2016, the SRRB endorsed CCP as the Sahtú approach to conservation. Section 13.8.23 (c) of the *SDMCLCA* assigns the SRRB the responsibility to approve plans for the management and protection of particular wildlife populations. In 2016, the SRRB approved Délı̨ne's community conservation plan based on this obligation, and the SRRB will consider the *Dehlá Got'ı̨ne ʔədə Plan* later in these decisions pursuant to this same power.

[41] The SRRB's biocultural frame for understanding conservation is grounded not only in Dene/Métis knowledge and recent scholarship, but also in the *SDMCLCA* itself. Conservation of caribou and people is required by the overall objectives of the *SDMCLCA* (found in chapter 1) and the objectives on wildlife harvesting and management (chapter 13). Specifically, the objectives of the overall *SDMCLCA* include:<sup>72</sup>

1.1.1 The Sahtú Dene and Métis and Canada have negotiated this agreement in order to meet these objectives:

(c) to recognize and encourage the way of life of the Sahtú Dene and Métis which is based on the cultural and economic relationship between them and the land;

(d) to encourage the self-sufficiency of the Sahtú Dene and Métis and to enhance their ability to participate fully in all aspects of the economy;

(f) to provide the Sahtú Dene and Métis with wildlife harvesting rights and the right to participate in decision-making concerning wildlife harvesting and management;

(g) to provide the Sahtú Dene and Métis the right to participate in decision-making concerning the use, management and conservation of land, water and resources;

(h) to protect and conserve the wildlife and environment of the settlement area for present and future generations.

[42] The objectives of chapter 13 include:<sup>73</sup>

13.1.1 This chapter has the following objectives:

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<sup>72</sup> *SDMCLCA*, *supra* note 2, s 1.1.1.

<sup>73</sup> *Ibid* at s 13.1.1.

(b) to conserve and protect wildlife and wildlife habitat and to apply conservation principles and practices through planning and management;

(d) to respect the harvesting and wildlife management customs and practices of the participants and provide for their ongoing needs for wildlife;

(e) to involve participants in a direct and meaningful manner in the planning and management of wildlife and wildlife habitat.

[43] The *Big Game Hunting Regulations* under the *Wildlife Act* provide differential harvest restrictions depending on whether the harvester is a resident or non-resident harvester. Under the *Wildlife Act*, a person is eligible to obtain a resident hunting licence if they are a Canadian citizen or permanent resident who have been “ordinarily resident in the Territories for the 12 month period immediately preceding that time.”<sup>74</sup> A “non-resident” is a Canadian citizen or permanent resident who has not been ordinarily resident in the NWT for the preceding 12 months at the time of application.<sup>75</sup>

[44] The annual harvest of shúhta goʔepé (northern mountain caribou) is currently restricted to one caribou per person for resident and non-resident hunters alike.<sup>76</sup> The annual harvest of tɔdzı (boreal caribou) is currently restricted to a harvest of one male caribou per person for resident hunters, and closed to non-resident hunters.<sup>77</sup> The annual harvest of ʔədə/ʔekwé/nódele (barren-ground caribou) is currently closed to both resident and non-resident hunters.<sup>78</sup>

## Findings

### Finding 1.1

[45] *The SRRB finds that precautionary conservation measures are required for all three caribou ecotypes in the Sahtú, and measures are also required to conserve Dene ts'ı́lǵı́ (ways of life), including Dene béré (country food systems).*

[46] ʔehdaı́la ʔekwé (Bluenose East barren-ground caribou) are designated łəlak'óonǵłxae kúhyə wíle adə gha sǵonı́ (might disappear within a hundred years; threatened) and red zone (low population). ʔədə (Bluenose West barren-ground caribou) are designated líla horéno xai egúhyé behúle rágudı́ (might disappear within a hundred years; threatened) and orange zone (intermediate and decreasing). Barren-

<sup>74</sup> *Wildlife Act*, SNWT 2013, c30, s 1; 24(1)(a).

<sup>75</sup> *Ibid*, s 24(1)(b).

<sup>76</sup> *Big Game Hunting Regulations*, NWT Reg 019-092. Part 6.B. Caribou, Northern Mountain.

<sup>77</sup> *Ibid*, Part 6.A. Caribou, Boreal.

<sup>78</sup> *Ibid*, Part 5A. Caribou, Barren Ground

ground caribou harvest is closed to resident and non-resident hunters.<sup>79</sup> The SRRB supports the current closure of the barren-ground caribou harvest.

[47] Shúhta goʔepé (northern mountain caribou) are designated bek'e k'énadets'ewə (we need to keep an eye on it; special concern) in the outfitter areas that fall within the Tulít'a District (south of Turéhj Deé [Twitya River]). The SRRB supports the current harvest restriction of one caribou per person for resident and non-resident hunters.<sup>80</sup> Tɔdʒi (boreal caribou) are designated łəlak'óonq xae kúhyə wíle adə gha sɔqni or líla horéno xai egúhyé behúle rágudi (might disappear within a hundred years; threatened)<sup>81</sup> as a precautionary measure. The SRRB supports the current harvest restriction of one male caribou per person for resident hunters, and closed to non-resident hunters.<sup>82</sup>

[48] Dene ts'íli, including Dene spirituality, Dene language, Dene béré systems, and Dene knowledge is considered to be generally bek'e k'énadets'ewə or bek'e k'ínadets'ewe gha got'ódéʔa (we need to keep an eye on it; special concern). The role of women with respect to Dene ts'íli in a caribou conservation context needs to be better understood. Youth self-organisation and training are focal points for the resurgence of Dene ts'íli.

## Finding 1.2

[49] *The SRRB finds that community-led planning that incorporates harvest monitoring remains the most effective approach for caribou harvest regulation.*

[50] Within the Indigenous governance systems of the Sahtú, specific communities are recognized as stewardship leads for the caribou populations with which they have the closest relationship. The SRRB accepts that under the Sahtú Indigenous governance systems, the community stewardship lead for ʔehdaɭla ʔekwé is Déljné and for ʔədə is Colville. Tulít'a and Norman Wells are joint leads for shúhta goʔepé conservation. All Sahtú communities play an equal role in stewardship of tɔdʒi. The SRRB notes also that the caribou have moved around in the past and recognizes this may happen in the future. For that reason, the community stewardship leads are subject to change based on the movement and location of the caribou.

<sup>79</sup> Ibid, Part 5A. Caribou, Barren Ground

<sup>80</sup> Ibid, Part 6.B. Caribou, Northern Mountain.

<sup>81</sup> Łəlak'óonq xae kúhyə wíle adə gha sɔqni is the Déljné term for might disappear within a hundred years. Líla horéno xai egúhyé behúle rágudi is K'áhsho Got'jné dialect.

<sup>82</sup> Big Game Hunting Regulations, NWT Reg 019-092, Part 6.A. Caribou, Boreal.

### Finding 1.3

*[51] The SRRB finds that Nę K'édí Ke (Keepers of the Land) programs are an important tool for implementing community conservation plans concerning caribou.*

[52] The intention of the *SDMCLCA* is to respect Dene perspectives, customs, and practices in the process of making wildlife management decisions.<sup>83</sup> It is difficult to imagine a wildlife relationship more critical to Sahtú Dene culture and customs than the relationship to the caribou. Dene are the primary harvesters of caribou in the Sahtú region and, from their cultural perspective, have a primary cultural obligation to maintain a healthy guardian relationship with the caribou.

### Finding 1.4

*[53] The SRRB finds youth education, well-being, and participation in on the land and governance processes to be indicators of the resilience or even resurgence of Dene ts'ı́ı́.*

[54] The expanding role of the SYN delegates at the public listening sessions is an indicator of the growing strength of Dene ts'ı́ı́ and caribou conservation.

## Decisions

### Decision 1.1

*[55] The SRRB has decided that harvest regulation for all caribou populations within the Sahtú region must be subject to community conservation planning measures.*

[56] This is required for effective conservation in the region, given the SRRB's finding that most of the caribou within the Sahtú are considered threatened or of special concern, and the SRRB's finding that community-led conservation planning incorporating harvest monitoring remains the most effective approach for caribou regulation and conservation. For tódzi, the community conservation planning measures will come in the form of range planning as opposed to harvest regulation, and the SRRB will explore the topic of range planning in more depth at future public listening sessions.

### Decision 1.2

*[57] The SRRB recognizes the importance of having a comprehensive intraregional community conservation planning system based on Sahtú Indigenous governance systems. In this context, the SRRB has decided*

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<sup>83</sup> *SDMCLCA*, *supra* note 2, s. 1.1.1 (c) and (f); 13.1.1(d) and (e).



*that Colville is the Sahtú community with primary responsibility for ʔədə (barren-ground caribou) stewardship in Sahtú Barren-ground Caribou Area 01 (S/BC/01). Colville shares stewardship with Fort Good Hope within Area S/BC/02 where there may also be ʔədə. Délıne is the Sahtú community with primary responsibility for ʔekwé (barren-ground caribou) stewardship within Area S/BC/03.*

[58] The Sahtú stewardship system for land and wildlife expects that land users and harvesters (families and communities) play a governing role, while maintaining a strong sharing approach to ensuring food security for all. This system is not well described in the academic literature, but has been evident in both the 2016 Bluenose East ʔekwé Hearing and Colville 2020 Public Listening Session, where there was clear consensus that Colville is the governing entity with respect to ʔədə within the area identified in the NWT *Big Game Hunting Regulations* as S/BC/01, and Délıne is the governing entity with respect to ʔekwé within Area S/BC/03. Evidence of this consensus is the support from the other three Sahtú communities for the Colville and Délıne plans.

[59] The SRRB recognizes that the creation of a comprehensive system of community conservation plans engaging every community in the Sahtú region will not happen overnight. The SRRB hopes to take an iterative approach to CCP, assisting Sahtú communities with developing their plans through each public listening session and addressing resulting planning issues as they arise.

### Decision 1.3

*[60] The SRRB has decided that youth will be invited to play meaningful roles in the entire process for future public listening sessions.*

[61] In 2016, the SRRB found that there was strong consensus in the Sahtú region that youth involvement was critical for the success of community ʔekwé conservation plans.<sup>84</sup> The SRRB committed to prioritizing support for regional and local youth environmental leadership initiatives that could support community visions for youth education and participation.<sup>85</sup> The SRRB also committed to prioritizing research that both involves youth and explores youth learning and environmental leadership as a part of robust community conservation initiatives.

[62] The evidence at the Colville 2020 Public Listening Session has led the SRRB to the finding that youth involvement in education, well-being, and participation in on the land activities and governance is an important indicator of the strength of Dene ts'ı́l and

<sup>84</sup> ʔekwé hé Dene Ts'ı́l Sustaining Relationships. *Final Report of the ʔehdzo Got'ı́ne Gots'ę Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, supra note 1 at 46.

<sup>85</sup> *Ibid* at 45.

caribou conservation. For these reasons, the SRRB is committing to ensuring that youth will be invited to play a more meaningful role in the entire process for future public listening sessions.

## Recommendations

### Recommendation 1.1

*[63] The SRRB recommends that a proposal for harvest regulation of shúhta goʔepé (mountain caribou) be co-developed by Tulít'a and Norman Wells and submitted to the SRRB for consideration as part of the 2021-2024 series of public listening sessions.*

[64] Notwithstanding their concerns about harvest and protection of shúhta goʔepé, the communities of Tulít'a and Norman Wells have not yet provided a proposal for harvest regulation of these caribou. The SRRB recommends that these communities develop their community conservation plans before the status of shúhta goʔepé worsens.

### Recommendation 1.2

*[65] The SRRB recommends that a Dene béré (country food) campaign be collaboratively developed by the Nę K'ə Dene Ts'ı́l Forum in accordance with the NWT's Sustainable Livelihoods Action Plan, 2019-2023, as well as conservation objectives embodied in community caribou plans.*

[66] The Dene béré campaign should include the following types of activities:

- A regional Nę K'ə Dene Ts'ı́l Forum in-person planning meeting and regular teleconferences to share experiences and monitor progress;
- A regional workshop to collaboratively develop the campaign, facilitated by Nę K'ə Dene Ts'ı́l Forum members;
- A regional women's caucus with a focus on supporting both regional contributions to public listening sessions and involving women in local Dene béré campaign activities;
- Local workshops to develop local campaign workplans and reports, including harvest information;
- Locally led hunter education, mentorship, and on the land scholarship programs for youth;
- A door-to-door campaign and interviews;
- Nę K'édí Ke training and participation in harvest monitoring and sampling;
- Development of communication materials; and

- An evaluation framework for monitoring progress.

### Recommendation 1.3

[67] *The SRRB recommends that communities and the Sahtú Dene Council continue to develop Nę K'édí Ke (Keepers of the Land) programs to support implementation of community conservation plans.*

[68] As discussed in the section on evidence, the Sahtú Dene Council has a guardian program underway, Nę K'édí Ke. As described in Finding 1.3, the Dene are the primary harvesters of the barren-ground herds in the Sahtú region and have a primary cultural obligation to maintain a healthy guardian relationship with the caribou.

## 2. Dehlá Got'íne ʔədə Plan and Ts'jduweh ʔədə ʔeʔá (Colville Lake)

[69] Colville asked the SRRB to approve the *Dehlá Got'íne ʔədə Plan*<sup>86</sup> and *Ts'jduweh ʔədə ʔeʔá*<sup>87</sup> (collectively known as Colville's Plan) as a community conservation plan. The SRRB reviewed the plan in light of the list of seven CCP components outlined in *ʔekwé hé Dene Ts'jli – Sustaining Relationships*.<sup>88</sup> Excerpts from Colville's Plan (Dehlá Got'íne ʔədə Declaration, Principles, Planning Goals, and harvest monitoring and harvest authorization plans are provided in appendix D, along with detailed analysis of the plan as a whole. The following summarizes key evidence related to overall assessments of the *Dehlá Got'íne ʔədə Plan*, with a particular focus on several key plan components.

### Evidence

[70] The SRRB's analysis of Colville's Plan is situated in the context of the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*<sup>89</sup> and the *SDMCLCA*, with special attention to several overarching objectives of the agreement. Colville's Plan builds on the Dehlá Got'íne, or ʔədə Declaration<sup>90</sup> and is guided by nine principles for ʔədə conservation. The core of the plan describes six planning goals. The

<sup>86</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne ʔədə Plan*. The plan also offers an overview of the *Dehlá Got'íne Ts'jduweh ʔədə ʔeʔá*, which is provided in a companion document.

<sup>87</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne Ts'jduweh ʔədə ʔeʔá, 2019 / Dehlá Got'íne Ancient Caribou Law, 2019 supra* note 5.

<sup>88</sup> *ʔekwé hé Dene Ts'jli Sustaining Relationships. Final Report of the ʔehdzo Got'íne Gots'é Nákedí (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016, supra* note 1 at 44.

<sup>89</sup> For information about the declaration, see [www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html](http://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html).

<sup>90</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne ʔədə Plan, supra* note 4 at 1.

declaration, principles, and goals are included in appendix D, along with the sections on harvest monitoring and authorizations.

### Overall plan assessment

[71] Panels and parties each responded in turn to Colville's presentation of their community conservation plan, demonstrating that the principles and approach are shared among the communities and that "working together" is a priority. Fort Good Hope's support for the plan was particularly notable, as they share jurisdiction with Colville within the K'áhsho Got'İnë District.

Colville Lake has done excellent work on going through their plan. It's not that different from ours ... Dene people and Sahtú Dene want to make their own plans, their own decisions, and these are pretty straightforward. It's not asking for too much .... [We] fully support the Dehlá Got'İnë ʔəðə Plan ... there are established agreements with the community of Colville Lake and Délİnë on the ongoing traditional use of Horton Lake. Plans to establish a traditional trade system where all members of Colville Lake and Délİnë benefit. Share [and] celebrate together our successes and rewards to the champions of these plans in our community. – Walter Bezha, Délİnë Panel<sup>91</sup>

Those people from Colville Lake, your presentation was fantastic. We have to be very thankful to you. Around the community ... we listen to you and hear you and we will pass this on to our communities .... The Colville Lake panel ... let's us help each other and let us think about how we all have to be thanking our land, our wildlife, and think about what your Elders have said. And help each other .... And I agree with what Colville Lake is doing, and also the Sahtú [Délİnë] plan, so that it can be forever. And that is how we made our plans. – Alfred Taneton, Délİnë Panel<sup>92</sup>

And for all of us for the future, think of it. Think [of] our children -- we'll want to make a better life for them. So we should think about

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<sup>91</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 138:23-25; 139:1-6. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 177:18-25; 178:1.

<sup>92</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 146:23-25; 147:1-3; 154:16-20. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 90:7-9.

it, making a concerted effort. If we work together, we strengthen ourselves and Colville Lake peoples, all of us, with paper, with documents. They've done a good job for themselves ... I've told many peoples, don't talk -- don't talk. Whatever you want to work with, build it. Make it yourself. Establish it yourself, and make your documents, and present it to the government. This is when ours are visible, then we strengthen ourselves. That's what the Colville Lake peoples are doing. That's what they're working on, and so with that, their words will be strong. In the Sahtú, there's five communities in the Sahtú. For sure, we should be working together to strengthen ourselves. – Thomas Manuel, Fort Good Hope Panel<sup>93</sup>

When we live along the Sahtú, we are like one family; that is what the Elders have said ... when you respect each other, we have to work [with] each other, my people .... That's why I came today here, and when Colville made that same presentation for what they want to see. The people that live with caribou for thousands of years, and this is what they wanted. We have to respect and honour them, what they wanted to do. But I'm still willing to work with them, and the community, and we're all willing to work together. That's the important thing for all of us. – Gordon Yakeleya, Tulít'a Panel<sup>94</sup>

You guys make decision before the minister, we put a lot of good input into you guys and make it better for Colville Lake. – Chief Frank Andrew, Tulít'a Panel<sup>95</sup>

We're really taking in a lot, which is what we're here to do. We're here to learn from Colville ... who's leading the way on this .... The fight that Colville Lake has started here will finally be won. I think

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<sup>93</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 46:13-25; 47:1-8.

<sup>94</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 74:9-11; 75:3-4; Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 194:22-25; 195:1-5.

<sup>95</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 273:19-21.

they'll be sitting where they ultimately want to be, and I look forward to that day. – Stuart Pope, Norman Wells Panel<sup>96</sup>

We need to keep this issue moving forward ... when I've come along to meetings as either all the groups or with SRRB and Colville Lake, I'm always amazed how much of what we're talking about we all share. It's just we each have a different role, responsibility, and some details that we've got to make sure we're doing it the right way to meet each of our needs. But I've been really surprised how much we share in common at those tables. So just to echo your desire to move this forward .... We can provide input on what we know. But the whole spirit of co-management -- I think the thing is we need to work with you through the Délı̨ne plan, through the Colville plan, through SRRB, through ACCWM. I think we need to work together and say how are we going to improve information sharing and how do we bring these together. So, I think we need to do that at multiple levels .... And I think we can commit to trying to work with people. That's why I want to get back to the table with Colville and say, what's the next step to help support what you're doing? Let's get back to the taking care of caribou with all our co-management partners. – Brett Elkin, ENR<sup>97</sup>

I think the people are desperately trying to find some resolution that won't divide them. I heard Colville talking and reaching out, saying, "We want to have some commonalities that we sit down together and work on." And to me, the real sense of empowerment is when the government gives you the tools and the resources. – Ethel Blondin-Andrew, Indigenous Leadership Initiative<sup>98</sup>

### Harvest plan, monitoring, and reporting

[72] Colville's Plan provides a detailed code for respectful and safe harvesting, outlining a harvesting approach with community oversight and accountability through harvest reporting and data-sharing agreements. Goal 1 in the plan notes the importance of "family-based systems of harvesting."<sup>99</sup> Details about how food security needs will be

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<sup>96</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 15:22-24; Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 208:12-15.

<sup>97</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 234:18-25; 235:1-4; 262:13-21; 333:8-13.

<sup>98</sup> *Ibid* at 329:5-13

<sup>99</sup> *Ibid* at 9.



met in the context of ongoing ɶdɶ conservation measures are not included in the plan; however, oral evidence was provided indicating ongoing alternative harvesting practices as well as new innovations being considered (see oral evidence related to Colville's food security approach documented in key issue 9, Special Harvesting Areas).

[73] Colville's Plan acknowledges the requirement under the *SDMCLCA* to share harvest monitoring data and sets out a data sharing protocol to allow for this. However, in its written submissions for the 2020 Public Listening Session in Colville Lake, the Wildlife Management Advisory Council (WMAC) of the Inuvialuit region raised concerns about harvest monitoring. Specifically, WMAC raised a concern that the SRRB was not receiving nor sharing monthly harvest information "with a degree of confidence and information on how the numbers were collected" from RRCs, as was previously agreed at a meeting between WMAC, the SRRB, and the Gwich'in Renewable Resources Board (GRRB) in November 2015.<sup>100</sup>

[74] Colville's Plan describes how monitoring of ɶdɶ and monitoring of harvest will take place, but does not include details about reporting, including types of information to be provided, how data validity will be demonstrated, and timelines. In her presentation about the Sahtú Harvest Study (in which Colville participated from 1998-2005), Janet Winbourne pointed out that community validation sessions highlighted significant inaccuracies in harvest numbers, indicating that methods and levels of community interest and ownership have a major impact on the quality of data. Chief Wilbert Kochon confirmed that much of the Colville data in the Sahtú Harvest Study is faulty: "A lot of the numbers I look at are not very accurate because I know myself, I know what I get every year."<sup>101</sup>

Issues with methods affect participation. So ... you have to have good participation to have good harvest study results. It's super important in any kind of harvest monitoring to have really good participation .... So overall, I would say that the count-based surveys [have] ... some kind of crippling weaknesses for determining something important like a regulation system for needs levels or even for informing a TAH without the story around the numbers. .... The methods and the monitoring programs, with full support, always produce the best results .... It would be dangerous to use the numbers without considering the community

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<sup>100</sup> Wildlife Management Advisory Council (NWT), *WMAC-NWT Letter to SRRB re Public Listening Session in Colville Lake* (December 19, 2019), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>101</sup> 2020 *Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 47:20-22.

insight on the numbers. – Janet Winbourne, Independent Consultant<sup>102</sup>

You have to earn the trust with the people. And a lot of times, when they get information, it's used against you. And that's the reason why a lot of people didn't really want to give their information. .... I think we'll probably have to start doing the study ourselves after we start working with ENR and SRRB, I guess. – Chief Wilbert Kochon, Colville Panel<sup>103</sup>

As we've heard here, many of our people are reluctant in giving information and that, in perspective, the view of information being used against them and, therefore, reluctant in giving information. – Frank T'seleie, Fort Good Hope Panel<sup>104</sup>

I think from day one that if we understood, I think the numbers could have been a little [more] accurate. That's just what I'm saying, that a lot of times I was told, but I was afraid to give my information out to somebody if I didn't know the purpose of it. – Gordon Yakeleya, Tulít'a Panel<sup>105</sup>

[75] In their responses to the information request regarding harvest monitoring, the Déljñę ʔehdzo Got'jñę and the Inuvialuit Game Council provided positive examples of collaborative community harvest monitoring.

In Déljñę, it doesn't matter if you are monitoring people that are harvesting. Eventually you are going to learn who harvests what. A young harvester is out there, when he gets back to town he is going to tell somebody and tell the story and share some of the food. So that is the most effective. Sharing the stories, appreciating the stories. The most effective is having a culture of sharing harvest knowledge. Have an annual meeting where you talk about these things and give thanks and share thanksgiving through that. A culture of harvest celebration and recognition. – Déljñę Response to Round 1 Information Requests<sup>106</sup>

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<sup>102</sup> *Ibid* at 41:5-10, 23-25; 42:1-2; 46:7-9; 78:24-25; 79:1.

<sup>103</sup> *Ibid* at 48:5-10; 49:8-10.

<sup>104</sup> *Ibid* at 57:23-25; 58:1.

<sup>105</sup> *Ibid* at 68:10-16.

<sup>106</sup> Déljñę ʔehdzo Got'jñę, *Déljñę ʔehdzo Got'jñę Responses to Information Requests; Round No. 1 Colville 2020 Public Listening* (January 26, 2020), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

The Inuvialuit Harvest Study is the most effective way to monitor caribou in the ISR [Inuvialuit Settlement Region] because it employs local community resource technicians (CRTs) in each community who understand their local dynamics and have established relationships with harvesters. Monthly harvest surveys are conducted in culturally appropriate ways, wherein CRTs hold open houses and conduct home visits to gather information while sharing tea and conversation. Moreover, the Inuvialuit Harvest Study has invested in technology that allows for field data collection and regular syncing to the Inuvialuit Settlement Region Platform for review and analysis. Not only does the Harvest Study provide accurate community harvest data, but it encourages local stewardship, provides employment opportunities and builds capacity at the community level for ongoing monitoring activities. – Inuvialuit Game Council, Responses to Information Requests<sup>107</sup>

## Authorization and enforcement

[76] ENR raised concerns about the legal implications of the authorization and enforcement aspects of Colville's Plan. These issues will be explored in the sections on Authorizations, Enforcement Mechanisms, and Total Allowable Harvest.

## Law

[77] Section 13.8.23 (c) of the *SDMCLCA* provides the SRRB with the power to approve plans for the management and protection of particular wildlife populations.<sup>108</sup> In 2016, the SRRB endorsed CCP as the Sahtú approach to conservation, and outlined a list of CCP components that must be addressed for a plan to be deemed ready for review and approval by the SRRB. The following are the main components (a full list including sub-components is provided in appendix H).

## Community Conservation Plan Components

1. Identification of key issues and knowledge gaps in Ɂekwé conservation (including subcomponents a-d);
2. Dene concepts and terminology related to conservation issues, programs, and actions;
3. Research and conservation programs, actions, and timelines for addressing priority issues and knowledge gaps;

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<sup>107</sup> Inuvialuit Game Council, *Inuvialuit Game Council Responses to Information Requests; Round No. 1 Colville 2020 Public Listening* (January 17, 2020), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>108</sup> *SDMCLCA*, *supra* note 2, s 13.8.23 (c).

4. Approaches for self-regulation and regional/cross-regional accountability in plan implementation (including subcomponents a-f);
5. Consideration of the appropriate seasons of harvest and harvest locations and zones;
6. Community sharing protocols and agreements with other users within and beyond the Sahtú, including a protocol for implementation reporting; and
7. Community coordination in developing plans.

[78] Colville's Plan includes the ʔədə Declaration, a set of nine guiding principles, and a list of six goals that are discussed in detail in the main part of *Dehlá Got'íne ʔədə Plan*.<sup>109</sup> Colville's Plan addresses the majority of the CCP components required to be deemed complete. However, some additional details are required with respect to component 4, and it is expected that other components will be further developed through future public listening proceedings. For the declaration, principles, goals, and a full review of how Colville's Plan meets SRRB CCP criteria, see appendix D.

## Finding

### Finding 2.1

*[79] Colville's Plan meets most of the SRRB's community conservation planning criteria as outlined in the report from the 2016 Bluenose East ʔekwé Hearing. However, the plan is incomplete with respect to the outline of ʔədə monitoring and harvest monitoring information to be provided and reporting timelines; the plan for caribou conservation and food security (alternative harvest); and progress evaluation.*

[80] The community conservation plan components are described in detail in appendix H.

[81] The SRRB has taken note of evidence presented as part of Colville's oral and written submissions at the 2020 Public Listening Session indicating that Colville has considered the three components that are currently missing from the plan.

[82] The SRRB understands that Colville's Plan is a living document, and expects that some components will be further developed during upcoming public listening sessions, and pending review of other relevant information. Further review of the Sahtú Harvest Study in light of other community information will be especially helpful for development of several components, as highlighted in appendix D.

<sup>109</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne ʔədə Plan*, *supra* note 4.

## Decision

### Decision 2.1

[83] *The SRRB will approve Colville's Plan as a Sahtú community conservation plan following Colville's submission and the SRRB's subsequent assessment of the outstanding components of the community conservation plan: outline of ɾədə (caribou) monitoring and harvest monitoring information to be provided and reporting timelines; the plan for caribou conservation and food security (alternative harvest); and an evaluation framework.*

[84] Before the SRRB will formally approve Colville's Plan, the SRRB requires Colville to provide additional details to address component 4 requirements for a CCP to be deemed complete, as outlined in Decision 2.1. The required components of a complete CCP are described in *ɾekwé hé Dene Ts'ıı – Sustaining Relationships*.<sup>110</sup>

[85] The SRRB notes the concerns of WMAC, IGC, and ENR regarding effective inter-regional coordination under the community conservation planning approach. The SRRB intends to focus on the topic of inter-regional coordination as a key point of discussion at upcoming public listening sessions

[86] The SRRB will continue to develop the model for and components of community conservation plans, and reserves the right to require revision of particular plans to meet ongoing and updated requirements.

### 3. *Belare Wıle Gots'é ɾekwé* and *Dene Béré Belare Wıle* Plans (Délıne)

[87] Délıne first presented their *Belare Wıle Gots'é ɾekwé - Caribou for All Time* plan ("Délıne's Plan") at the Bluenose East ɾekwé Hearing in March 2016.<sup>111</sup> The plan was formally approved and presented by the Délıne First Nation, Land Corporation, and ɾehdzo Got'ıne. The Délıne Self-Government Agreement came into force on September 1, 2016, at which time the Délıne Got'ıne Government replaced the previous First Nation and Land Corporation.

[88] Délıne's Plan was approved by the SRRB and the NWT Minister of Environment and Natural Resources in 2016. Since that time, the Délıne Got'ıne Government has

<sup>110</sup> *ɾekwé hé Dene Ts'ıı Sustaining Relationships. Final Report of the ɾehdzo Got'ıne Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ɾekwé (Caribou) Hearing 2016, supra note 1 at 44.*

<sup>111</sup> Délıne First Nation, Délıne ɾehdzo Got'ıne (Renewable Resources Council), and Délıne Land Corporation, *Belare Wıle Gots'é ɾekwé / Caribou for All Time: A Délıne Got'ıne Plan of Action 2016, supra note 52.*

reaffirmed the *Belare Wile Gots'ę ʔekwé* plan, and the ʔekwé Working Group was reconstituted with knowledge holders and representatives of community leadership organisations to update the plan and oversee implementation and evaluation. As well, the community has developed a *Dene Béré Belare Wile - Ensuring Food Security for Future Generations*<sup>112</sup> plan as a complement to the *Belare Wile Gots'ę ʔekwé* plan, considering approaches for alternative harvesting, growing food locally, and youth training.

## Evidence

[89] The *Belare Wile Gots'ę ʔekwé* plan was updated in 2019,<sup>113</sup> but the essential components remain the same as the 2016 edition.<sup>114</sup> The plan is based on a ten-year vision that “Dene and ʔekwé are free to maintain their relationships through their own ʔeʔa (laws).”<sup>115</sup> The plan takes as its starting point two keystone stories: The first, retold by Charlie Neyelle as passed down from his father, is about a boy who became a caribou and came to know and share the law of the caribou with his people. The second is the story of the meeting between Caribou and Wolf from the late William Sewi, highlighting the ecological relationships and sharing protocols that are key for the survival of people and caribou.

[90] Délıne’s Plan includes a threats assessment, and describes four strategic program areas to address the threats: ʔededáhk’é (Habitat); Náts’ezé (Hunting); ʔedets’ę K’áots’erewe (Governance); and Dene Náoweré (Knowledge). Especially relevant for the Colville 2020 Public Listening Session are the “Harvest Policy and Code,” which together outline principles, practices, and laws governing harvesting.

[91] The revised plan for 2019-2021 provided for discussion at the Colville 2020 Public Listening Session has not, to the SRRB’s knowledge, been formally approved by the Délıne Got’ıne Government. However, the revisions were the outcome of collaborative work involving the Délıne ʔekwé Working Group, the SRRB, and ENR to consider conservation requirements arising from community and scientific evidence that

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<sup>112</sup> Dehlá Got’ıne, *Colville Lake Parties Reponse to Information Request; Round No. 1 Colville 2020 Public Listening* (December 17, 2019), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>113</sup> Délıne ʔekwé Working Group, *Belare Wile Gots'ę ʔekwé / Caribou for All Time: A Délıne Got'ıne Plan of Action for 2019-2021*, *supra* note 7.

<sup>114</sup> Délıne First Nation, Délıne ʔehdzo Got’ıne (Renewable Resources Council), and Délıne Land Corporation, *Belare Wile Gots'ę ʔekwé / Caribou for All Time: A Délıne Got'ıne Plan of Action 2016*, *supra* note 52.

<sup>115</sup> Délıne ʔ Délıne ʔekwé Working Group, *Belare Wile Gots'ę ʔekwé / Caribou for All Time: A Délıne Got'ıne Plan of Action for 2019-2021*, *supra* note 7.



ʔehdaɪla ʔekwé (Caribou Point or Bluenose East barren-ground caribou) are much less available for harvest than previously.

[92] Consequently, the revised plan proposes “a fall/winter harvest of primarily yárégo (smaller males), with a maximum harvest of six (6) ts’ída (cows) to meet the needs of the ʔekwé gha máhsı ts’ıŋwe (ceremonial harvest).”<sup>116</sup> When a threshold of 20 ʔehdaɪla ʔekwé has been harvested, “the Délıne ʔehdzo Got’ıne shall call a community meeting to plan for the harvest of the remainder of ʔekwé.”<sup>117</sup> No funding support is to be provided for the ʔekwé gha máhsı ts’ıŋwe from the Community Harvest Assistance Program (CHAP); rather, the CHAP budget provides support for the Dene Ts’ıı Award and Dene béré kats’ıŋwe (alternative harvest).

[93] The plan commits to a maximum harvest of 30 ʔehdaɪla ʔekwé and 50 Neregha ʔekwé (North Shore or Bluenose West barren-ground caribou). The location of the ʔehdaɪla ʔekwé harvest is to be focused at ʔehdaɪla (Caribou Point) and Neregha/ʔenakə Túé (North Shore/Horton Lake) areas, allowing ʔekwé to rest and renew their health at Tehk’aicho Dé (Johnny Hoe River) and ʔıts’ééré Túé (Hottah Lake) areas for travel to the calving grounds in the spring.

[94] A detailed framework for harvest monitoring is provided in section J of the Délıne Harvest Code, and is provided as appendix I.

[95] The *Dene Béré Belare Wıle* plan identifies six strategic initiatives over five years. The community aims to maintain access to country foods and harvesting knowledge even during the period when access to ʔekwé is reduced.

## Law

[96] As stated in the section above regarding the legal foundation of the SRRB’s approval of the *Dehlá Got’ıne ʔədə Plan*, the SRRB has the responsibility to approve plans for the management and protection of particular wildlife populations through section 13.8.23 (c) of the *SDMCLCA*.<sup>118</sup> In 2016, the SRRB endorsed CCP as the appropriate Sahtú approach to caribou conservation, based on the evidence. As noted above (page 31), the SRRB outlined a list of CCP components that must be addressed for a plan to be deemed ready for review and approval by the SRRB. These are provided in appendix H.

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<sup>116</sup> *Ibid* at 30 (ʔeʔa C: “Season and Location of ʔekwé Náts’ezé,” Section 3.1).

<sup>117</sup> *Ibid* at 46 (Appendix D: “Délıne ʔekwé Code 2019-2021,” Section 36).

<sup>118</sup> *SDMCLCA*, *supra* note 2, 13.8.23 (c).

## Findings

### Finding 3.1

*[97] The SRRB finds that the revised 2019 version of Délįnę's Belare Wíle Gots'ę Țekwé (Caribou for All Time) plan adequately addresses conservation concerns with respect to the current red zone (low and decreasing) status of ȚehdaȚla Țekwé (Bluenose East barren-ground caribou), and therefore continues to meet the SRRB's community conservation plan requirements.*

[98] The community conservation plan components are described in detail in appendix H.

### Finding 3.2

*[99] The Délįnę Got'įnę Government and Délįnę Țehdzo Got'įnę (Renewable Resources Council) have not approved their revised Belare Wíle Gots'ę Țekwé (Caribou for All Time) plan.*

[100] The 2019 edition of the *Belare Wíle Gots'ę Țekwé* plan provided for discussion at the Colville 2020 Public Listening Session has not, to the SRRB's knowledge, been formally approved by the Délįnę Got'įnę Government.

## Decision

### Decision 3.1

*[101] The SRRB approves the 2019 edition of the Belare Wíle Gots'ę Țekwé (Caribou for All Time) plan, pending evidence that the plan has been formally approved by the Délįnę Got'įnę Government and Délįnę Țehdzo Got'įnę (Renewable Resources Council).*

## 4. Authorizations

[102] One of the primary issues that the SRRB heard at the Colville 2020 Public Listening Session was concern about who should authorize the harvest of caribou in the Sahtú. This is a contentious issue, which has also been discussed at previous SRRB hearings. The evidence shows a range of views.

## Evidence

[103] Following the 2016 hearing about ʔehdaɩla ʔekwé, the SRRB recommended that the GNWT/ENR amend the *Big Game Hunting Regulations* to add a condition for Area S/BC/03 (Délɩnɛ region for Bluenose East) that requires harvesting authorization from the local ʔehdzo got'ɩnɛ and removes the tag requirement.<sup>119</sup> ENR responded by endorsing Délɩnɛ issuing authorizations and recognizing that the SRRB "has reserved the right to consider a total allowable harvest (TAH) for the BNE herd in the event the Délɩnɛ plan is not successful."<sup>120</sup> However, ENR did not amend the *Big Game Hunting Regulations*, stating in 2017 and repeating recently that it "was prepared to review authorizations for barren-ground caribou harvest under the *Wildlife Act*" and adding that it "has begun this process, and continues to consider this issue in discussion with co-management partners."<sup>121</sup>

[104] Four years later at the Colville 2020 Public Listening Session, the SRRB was once again considering a proposal for a community conservation plan that requires harvesting authorizations from the local ʔehdzo got'ɩnɛ.

[105] Colville's *Dehlá Got'ɩne ʔədə Plan* and accompanying *Dehlá Got'ɩne Ts'ɩduweh ʔədə ʔeʔá* empowers RRC monitors and ENR to ask any harvester if they have authorization from the Colville RRC to be harvesting in the Dehlá Got'ɩne area.<sup>122</sup> Colville's Plan also requires written authorization from the Colville RRC to be received before entering the Dehlá Got'ɩne area for the purposes of hunting.<sup>123</sup> Further, Colville's Plan requires individuals to be prepared to provide proof of authorization to either a Colville RRC monitor or ENR officer.<sup>124</sup>

[106] ENR and Colville Lake have negotiated and signed an interim agreement that allows the Colville RRC to grant authorizations in a manner similar to that proposed in Colville's Plan.<sup>125</sup> While there are a number of differences between Colville's Plan and

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<sup>119</sup> ʔekwé hé Dene Ts'ɩɩ Sustaining Relationships. *Final Report of the ʔehdzo Got'ɩnɛ Gots'é Nákedí (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at 79.

<sup>120</sup> ENR Minister's letter to SRRB, "Toward a Visionary Cross-Regional Approach to Caribou Conservation in the NWT", dated February 22, 2017, page 3.

<sup>121</sup> GNWT, *ENR Responses to Information Requests; Round No. 1 Colville 2020 Public Listening* (December 17, 2019), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>, at 6.

<sup>122</sup> Colville Lake Renewable Resources Council, *Dehlá Got'ɩne Ts'ɩduweh ʔədə ʔeʔá, 2019 / Dehlá Got'ɩne Ancient Caribou Law, 2019* *supra* note 5, s 31.

<sup>123</sup> *Ibid*, s 3.

<sup>124</sup> *Ibid*, s 32.

<sup>125</sup> Behdzi Ahda First Nation et al., *Interim Management Agreement between Behdzi Ahda First Nation, Ayoni Keh Land Corporation, Colville Lake Renewable Resources Council and the Government of the Northwest Territories*, *supra* note 12, sections 4.1 and 4.2.

the *Interim Management Agreement*, the most notable difference concerns the question of who is required to seek authorizations. Under Colville's Plan, the authorization requirement would apply to any harvesters in the Dehlá Got'íne area, including members of other First Nations, *SDMCLCA* beneficiaries, and beneficiaries of other land claims.<sup>126</sup> Under the *Interim Management Agreement*, the word harvester is defined more narrowly, so that only Dehlá Got'íne and non-land claim participants are required to seek authorization from the Colville RRC.<sup>127</sup>

[107] There was widespread support for Colville's Plan from the other Sahtú parties, including support for the principle that Colville should be able to issue authorizations to all harvesters:

We have a very close relationship with Colville Lake. We share the same values, and ... it boils right down to your culture, your values ... as to how you want to protect the land, and so those things we kind of live by .... From my community we support Colville Lake's plan, and whatever they say, I'm backing them up. That's where I stand. – Chief Danny Masuzumi, Fort Good Hope Panel<sup>128</sup>

What they are saying here in Colville Lake, I think -- I think and feel the same as them. We don't want ENR to be the boss. Today they think they're the boss. They're not, and that is not right. – Gabe Kochon, Fort Good Hope Panel<sup>129</sup>

We support Colville Lake and Délíne and anyone else when it comes to their initiatives and their long-term goals of one day being the issuer of licences and tags. – Roger Odgaard, Norman Wells Panel<sup>130</sup>

[108] While ENR supports community conservation planning in principle, it takes issue with the legal form of Colville's Plan, arguing that the power to enact laws rests with the GNWT and the power to form policy is assigned to the SRRB, and asserting that there can be no duplication in the functions required for public management of wildlife in the

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<sup>126</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne Ts'jduweh ʔəde ʔeʔá*, 2019 / *Dehlá Got'íne Ancient Caribou Law*, 2019 *supra* note 5, s 16 -19.

<sup>127</sup> Behdzi Ahda First Nation et al., *Interim Management Agreement between Behdzi Ahda First Nation, Ayoni Keh Land Corporation, Colville Lake Renewable Resources Council and the Government of the Northwest Territories*, *supra* note 12, s 1.3.

<sup>128</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 72:21-25; 73:1, 23-25.

<sup>129</sup> *Ibid* at 228:6-10.

<sup>130</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 21:20-23.

*SDMCLCA*.<sup>131</sup> At the same time, however, ENR notes that it has “worked with other communities in other areas to implement TAHs through authorization cards or letters and is open to discussing other approaches of harvest monitoring and management.”<sup>132</sup>

[109] At the Colville 2020 Public Listening Session, SRRB Board members asked ENR to explain the discrepancy between their support for Colville issuing authorizations under the *Interim Management Agreement*, and their assertions that Colville having its own harvest law would amount to a duplication of functions required for public management of wildlife in the *SDMCLCA*. Specifically, ENR was asked to identify the legal mechanism being used to grant the Colville RRC the authority to issue authorizations under the *Interim Management Agreement*. ENR responded as follows:

While the *Wildlife Act* may say you need a tag attached, we're trying to find a way that meets the spirit and intent of the authorization agreement in the short term while we figure out what we do in the long term .... So we can't tell you the outcome until we go back to the table. We're hoping this gets us to the table so we can look forward and not back. – Brett Elkin, ENR<sup>133</sup>

The authorizations would be similar to the Délı̨në plan, that would be what we're accepting as an authorization in the interim. – Heather Sayine-Crawford, ENR<sup>134</sup>

[110] Colville asked ENR at the 2020 Public Listening Session (for which ENR gave an undertaking to respond<sup>135</sup>) what else ENR would need, other than an SRRB endorsement, to allow the Colville RRC to issue authorizations to visiting hunters.<sup>136</sup> In its undertaking response, ENR did not address the specific question asked. Rather, the response listed all the reasons why, in ENR's view, allowing RRCs to issue authorizations could not happen under the *SDMCLCA*.<sup>137</sup>

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<sup>131</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 41.

<sup>132</sup> *Ibid* at 39.

<sup>133</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 369:10-14, 23-25.

<sup>134</sup> *Ibid* at 371:3-5.

<sup>135</sup> “Undertaking” is defined in *Black's Law Dictionary* (1968) as a “promise, engagement or stipulation.” Lawyers in the NWT are required to fulfill any undertaking given, particularly those given in the course of litigation. See Rules 5.1 and 7.2, *Code of Professional Conduct*, Law Society of the Northwest Territories, as amended April 10, 2019. [www.lawsociety.nt.ca](http://www.lawsociety.nt.ca). For discussion of the legal definition of “undertaking” see *National Gaming Corp. (Re)*, (2000), 9 ASCS 3570 #09/37.

<sup>136</sup> GNWT, *ENR Undertakings: Sahtú Ragóʔa and Approaches to Wildlife Harvesting Colville Lake Public Listening*, January 29, 2020, available on the Public Registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>> at 1.

<sup>137</sup> *Ibid*.

[111] A final important point to note regarding the *Interim Management Agreement* is that the exact geographical jurisdiction under which authorizations are required is not defined in that agreement. The authorizations form in the agreement refers to harvesting “in the Dela Got’İne Traditional Territory within the area described in regulations under the *Wildlife Act* as S/BC/01.”<sup>138</sup> However, Dehlá Got’İne Traditional Territory is not defined.

## Law

[112] In its submissions, ENR provided legal arguments for why Colville Lake cannot be legally allowed to issue authorizations to Dene harvesters from other communities.<sup>139</sup> In its final submissions, Colville advanced opposing arguments.<sup>140</sup> The respective positions on each of these issues are summarized below:

### Regarding *SDMCLCA* section 13.5.2

[113] The *SDMCLCA* provides that:

13.5.2 The Board may, in accordance with this chapter, establish, modify or remove total allowable harvest levels from time to time in the settlement area but shall establish or modify such levels only if required for conservation and to the extent necessary to achieve conservation. Unless a total allowable harvest is established, the quantity of the harvest by participants may not be limited.

[114] ENR argued that Colville’s Plan involves a limit on the quantity of harvest, which, according to section 13.5.2, can only be limited through a TAH.<sup>141</sup> Colville responded that authorizations under its plan do not involve a total limit on the quantity of the harvest, but rather involve conditions on how the harvest is to be carried out and obligations to report on the harvest.<sup>142</sup>

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<sup>138</sup> Behdzi Ahda First Nation et al., *Interim management agreement between Behdzi Ahda First Nation, Ayoni Keh Land Corporation, Colville Lake Renewable Resources Council and the Government of the Northwest Territories*, *supra* note 12 at Appendix 1.

<sup>139</sup> GNWT, *ENR Undertakings: Sahtú Ragóʔa and Approaches to Wildlife Harvesting Colville Lake Public Listening*, *supra* note 136 at 1.

<sup>140</sup> Dehlá Got’İne, *Closing Submission to the SRRB: Public Listening - Sahtú Ragóʔa and Approaches to Wildlife Harvesting* (February 12, 2020), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>141</sup> GNWT, *ENR Undertakings: Sahtú Ragóʔa and Approaches to Wildlife Harvesting Colville Lake Public Listening*, *supra* note 136 at .1

<sup>142</sup> Dehlá Got’İne, *Closing Submission to the SRRB: Public Listening - Sahtú Ragóʔa and Approaches to Wildlife Harvesting*, *supra* note 140 at 8-9, s 8-41.



### Regarding *SDMCLCA* section 13.4.1

[115] The *SDMCLCA* provides that:

13.4.1 Participants have the right to harvest all species of wildlife within the settlement area at all seasons of the year subject to limitations which may be prescribed in accordance with this agreement.

[116] ENR argued that any restriction on quantity of harvest must be to "the minimum extent necessary."<sup>143</sup> Colville Lake responded that Colville authorizations would not constitute a restriction on the quantity of the harvest but rather a restriction on the method of harvest. Colville Lake also argued that, even if Colville authorizations imposed a numerical restriction, ENR has improperly read the term "to the minimum extent necessary" into the *SDMCLCA*.<sup>144</sup> Colville further argued that the requirements introduced by the SRRB or established by RRCs that are properly enacted in accordance with chapter 13 are "limitations prescribed in accordance with the agreement."<sup>145</sup>

### Regarding *SDMCLCA* section 13.8.23(a)(i) and 13.9.5

[117] The *SDMCLCA* provides that:

13.8.23 In furtherance of its purpose as the main instrument of wildlife management in the settlement area, the Board shall have the power to:

(a) establish policies and propose regulations in respect of:

(i) the harvesting of wildlife by any person, including any class of persons.

13.9.5 The Board shall consult regularly with Renewable Resources Councils with respect to matters within the Board's jurisdiction. Government and the Board may jointly delegate authority to Renewable Resources Councils, upon terms and conditions established by government and the Board.

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<sup>143</sup> GNWT, *ENR Undertakings: Sahtú Ragóʔa and Approaches to Wildlife Harvesting Colville Lake Public Listening*, *supra* note 136 at 1.

<sup>144</sup> Dehlá Got'İne, *Closing Submission to the SRRB: Public Listening - Sahtú Ragóʔa and Approaches to Wildlife Harvesting*, *supra* note 140 at 9-10, s 43-47.

<sup>145</sup> *Ibid* at 13, s 62.

[118] ENR argued that RRCs exercising the power to issue authorizations would be a delegation of the SRRB's powers, under section 3.8.23(a)(i), to establish wildlife policies and propose harvesting regulations.<sup>146</sup> Colville argued that these powers are not delegated but are in fact the exercise of the RRC powers provided for in section 13.9.4 of the *SDMCLCA*.<sup>147</sup>

#### **Regarding *SDMCLCA* section 13.8.5**

[119] The *SDMCLCA* provides that:

13.8.15 It is intended that there be no duplication in the functions required for the public management of wildlife.

[120] In its submissions, ENR advanced alternative arguments that RRCs cannot exercise the power to issue authorizations due to section 13.8.15 of the *SDMCLCA*, which requires that there be no duplication in the functions required for the public management of wildlife.<sup>148</sup> ENR argued that "the power to enact legislation rests with the GNWT and the power to form policy is assigned to the Board," implying that RRCs cannot exercise the functions proposed in Colville's Plan, as they will usurp the role of ENR and/or the SRRB.

#### **Regarding *SDMCLCA* section 13.9.4**

[121] The *SDMCLCA* provides that:

13.9.4. A Renewable Resources Council shall have the following powers:

(b) to manage, in a manner consistent with legislation and the policies of the Board, the local exercise of participants' harvesting rights including the methods, seasons and location of harvest.

[122] ENR argued that the power to manage the exercise of participants harvesting rights, granted to RRCs under section 13.9.4(b), is limited to "local participants."<sup>149</sup> ENR defined "local participants" as the participants from a particular Sahtú community, rather than a specific area. Colville argued that if *SDMCLCA* intended "local" to be interpreted

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<sup>146</sup> GNWT, *ENR Undertakings: Sahtú Ragóʔa and Approaches to Wildlife Harvesting Colville Lake Public Listening*, *supra* note 136 at 1.

<sup>147</sup> Dehlá Got'ıne, *Closing Submission to the SRRB: Public Listening - Sahtú Ragóʔa and Approaches to Wildlife Harvesting*, *supra* note 140 at 13-14, s 63-72.

<sup>148</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 41.

<sup>149</sup> GNWT, *ENR Undertakings: Sahtú Ragóʔa and Approaches to Wildlife Harvesting Colville Lake Public Listening*, *supra* note 136 at 2.

as the GNWT suggests it would have said so clearly, and it would not have used the term "local" to the opposite effect so many times throughout the *SDMCLCA*.<sup>150</sup>

## Findings

### Finding 4.1

*[123] The SRRB finds that renewable resources council (ʔehdzo got'ine) authorizations are not a limit on the quantity of the harvest within the meaning of the Sahtú Dene and Métis Comprehensive Land Claim Agreement, section 13.5.2.*

[124] There are numerous provisions within the *SDMCLCA* that empower the SRRB and RRCs to manage various aspects of the harvest of wildlife in the settlement area. If every form of management of wildlife was considered to be a "limitation on the quantity of the harvest," all of these provisions would be rendered in conflict with section 13.5.2, which clearly states that the imposition of the TAH is the only means through which the quantity of the harvest can be limited. This cannot be what is intended by the *SDMCLCA*.

[125] Local RRC authorizations are a conservation mechanism that ensures culturally appropriate harvesting and considers numerous factors beyond merely a harvest "head count." For example, these authorizations incorporate Indigenous law on respectful harvesting methodology, such as protocols for minimizing wounding without killing and prohibiting wastage. Likewise, hunter education is prioritized, as well as maintenance of critical cultural connections between Dene and caribou. The conservation methods reflected in the proposed Colville authorization process are consistent with the overall *SDMCLCA* obligations to ensure wildlife and wildlife habitat conservation.

[126] Simply focusing on quantities of harvest and assuming that quotas are the only legally valid mechanism for ensuring appropriate harvest overly constrains the full toolbox of conservation approaches, which would inhibit the intended conservation outcomes of the *SDMCLCA*.

[127] The SRRB agrees with ENR's assertion that section 13.5.2 should be interpreted as requiring that any TAH limits on harvest should be used "as minimally as possible." The language of the *SDMCLCA* reflects well-established principles in Canadian law that any attempt to restrict (or "infringe") Indigenous harvesting rights must infringe the right to the minimum degree possible, and that alternatives which

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<sup>150</sup> Dehlá Got'ine, *Closing Submission to the SRRB: Public Listening - Sahtú Ragóʔa and Approaches to Wildlife Harvesting*, *supra* note 140 at 14-17, s 73-82.

achieve the same necessary conservation or safety outcomes as harvest quotas must be used where feasible.<sup>151</sup>

#### Finding 4.2

*[128] The SRRB finds that local renewable resources councils (ʔehdzo got'jne) issuing harvesting authorizations is a power that flows from section 13.9.4 of the Sahtú Dene and Métis Comprehensive Land Claim Agreement, and is not a delegation of the SRRB powers pursuant to sections 13.8.23(a)(i) and 13.9.5.*

[129] The *SDMCLCA* states, in section 13.9.4, that RRCs have the authority to manage the local exercise of participants' harvesting rights. The focus of Colville's Plan is the method by which this local exercise of RRC jurisdiction occurs. In the SRRB's view, there is no need to "delegate" powers that are already expressly provided for as RRC powers in the *SDMCLCA*.

[130] The SRRB notes, moreover, that local harvesting authorizations already occur in the NWT. Updates to the *Big Game Hunter Regulations* provide examples of alternative approaches to authorizing harvesting. For instance, ENR amended the regulations to recognize the authority of the Tłıchq Government and some specific First Nations (rather than ENR) to issue caribou tags as a mechanism of authorizing harvest.<sup>152</sup> Furthermore, the *Big Game Hunter Regulations* have been amended to allow the Acho Dene Koe Band and the Nahanni Butte Dene Band to allocate tags to non-community harvesters, so long as they communicate the numbers to ENR.<sup>153</sup>

[131] These examples demonstrate the capacity within the current *Big Game Hunting Regulations* to allow for community-issued authorizations, including authorizations concerning harvesters from other communities. The SRRB finds, therefore, that existing regulations provide an established and successful method of empowering communities to issue harvesting authorizations. It also finds that amending the regulations would be an effective method of ensuring community conservation planning is grounded in the law in the Sahtú.

[132] An approach supporting local RRC authorizations of harvesting is already reflected in and consistent with the existing *Interim Management Agreement* between ENR and Colville Lake.

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<sup>151</sup> See *R v Sparrow*, [1990] 1 R.C.S. at page 1119; and for the same principle applied in the context of Treaty, see *R v Badger*, [1996] 1 SCR 771 at 72 and 97.

<sup>152</sup> *Big Game Hunting Regulations*, NWT Reg 019-92. See for example section 20(2); section 20(3); and Part 5B, *Caribou, Barren Ground*, conditions 3 and 4.

<sup>153</sup> *Ibid*, Part 5A, Conditions.

[133] Therefore, the SRRB concludes that RRC exercise of the authority to manage local harvesting rights (*SDMCLCA*, section 13.9.4), through the method of a community conservation plan, is not a delegation of the SRRB's authority under sections 13.8.23(a)(i) and 13.9.5. To the contrary, it is consistent with the *SDMCLCA* and existing precedents in regulations and interim agreements, and should be appropriately reflected in the *Wildlife Act* regulations.

### Finding 4.3

[134] The SRRB finds that local renewable resources councils (ᑭᕐᕈᕋᓂᓄᓇ ᑭᕐᕈᕋᓂᓄᓇ) issuing harvesting authorizations under section 13.9.4 of the Sahtú Dene and Métis Comprehensive Land Claim Agreement is not a duplication of powers as described in section 13.8.15.

[135] The SRRB finds that local RRCs exercising the powers granted to them under the *SDMCLCA* is not a duplication of powers as described in section 13.8.15. The SRRB finds that RRC development of community conservation plans, which are then supported in law by the GNWT, is the exact type of co-management arrangement intended by the *SDMCLCA*, but especially the wildlife chapter. The SRRB notes that section 13.8.1(c) specifically states that wildlife shall be managed in accordance with this agreement including its objectives, which include providing Sahtú Dene and Métis with the right to “participate in decision making concerning wildlife harvesting and management,”<sup>154</sup> and involving “participants in a direct and meaningful manner in the planning and management of wildlife and wildlife habitat.”<sup>155</sup>

[136] While community conservation planning may be a relatively recent policy development in the Sahtú, the *SDMCLCA* anticipated this very development and the role of Dene and Métis co-management of wildlife within the region. This development is reflected in the policies and recommendations of the SRRB and is required to achieve the objectives of the land claim.

### Finding 4.4

[137] *The SRRB finds that the “local” nature of renewable resources council (ᑭᑲᑦᑯᑦᑯᑦᑯᑦ) authority under section 13.9.4(b) of the Sahtú Dene and Métis Comprehensive Land Claim Agreement is a reference to local geographic area and not local participants.*

<sup>154</sup> *SDMCLCA*, *supra* note 2, s 1.1.1.

<sup>155</sup> *SDMCLCA*, *supra* note 2, s 13.1.1.

[138] The GNWT argued that the term “local” in section 13.9.4(b) refers to local participants rather than local areas. This argument is not supported by the language of the *SDMCLCA* or by Canadian legal definitions of “local.”

[139] The *SDMCLCA* does not define “local.” Moreover, in numerous places, it provides RRCs with powers or responsibilities that are not limited to participants from a specific Sahtú community.<sup>156</sup> In Canadian law, the word “local” is defined in relation to place or geographic locations, not populations.<sup>157</sup>

[140] The SRRB finds that the reference to the “local” exercise of RRC powers should, therefore, be understood as a reference to the place and region over which an RRC has authority rather than to a specific group of participants.<sup>158</sup>

#### Finding 4.5

*[141] The SRRB finds that interim agreements are an effective and legitimate way to transition towards community conservation planning and to advance the goal and intent of the land claim.*

[142] The evidence presented during the Colville 2020 Public Listening Session established that ENR and Colville Lake have already entered into an interim agreement, which provides for a system through which Colville is currently issuing caribou harvest authorizations. The SRRB supports the approach taken by ENR and Colville in developing the *Interim Management Agreement* and encourages this approach to be applied elsewhere in the Sahtú settlement area.

## Recommendations

#### Recommendation 4.1

*[143] The SRRB recommends to the Minister that the Colville Lake Renewable Resources Council be granted the power to issue authorizations to all types of harvesters in the entire Sahtú Barren-ground Caribou Area 01 (S/BC/01), subject to a periodic review of the status and location of Ɂədə (Bluenose West caribou).*

[144] The Minister has already agreed to a system allowing the Colville RRC to grant authorizations under the *Interim Management Agreement*. As described in Finding 4.5,

<sup>156</sup> *Ibid.* See, for example, section 13.4.6 – 13.4.7; 13.4.13; 13.5; 13.7.1; 17.7.7; 14.1.17.

<sup>157</sup> See, for example, the definition in *Black’s Law Dictionary* (1968): “Relating to place, expressive of place, belonging or confined to a particular place.”

<sup>158</sup> The SRRB notes that the *SDMCLCA* does not specifically delineate the boundaries between the regions.



the SRRB supports such interim agreements as an effective way to transition towards CCP. As described in Findings 4.1-4.4, the SRRB finds that issuing authorizations to all types of harvesters in a local area represents a valid exercise of RRC power under the *SDMCLCA*.

[145] As described in Decision 1.2, the success of CCP requires a comprehensive interregional planning system. For this reason, and in light of the strong Dene tradition of caribou stewardship in the Sahtú, the SRRB concludes in Finding 1.2 and Decision 1.2 that Colville has primary responsibility for Ɂədə in Area S/BC/01. Colville's stewardship role over Ɂədə in the S/BC/01 area will depend on the location of the animals. For example, if Ɂədə move closer to Fort Good Hope and that community begins to play a stewardship role again, there will need to be an arrangement for both communities to issue authorizations under cooperating community conservation plans, which would require review and approval by the SRRB.

#### Recommendation 4.2

*[146] The SRRB recommends to the Minister that a new Hı́dó Gogha Śenégots'ı́á ʔeʔa (Community Conservation Planning Regulation) be created under the Wildlife Act to entrench the community conservation planning approach in NWT law.*

[147] By creating a new regulation, the Minister will ensure CCP is grounded in territorial law, addressing concerns around the enforceability of community conservation plans and showing that all co-management partners are equally committed to the Sahtú approach to conservation. The SRRB further recommends that such a regulation should have an appropriate Dene name, such as *Hı́dó Gogha Śenégots'ı́á ʔeʔa (Community Conservation Planning Regulation)*.

#### Recommendation 4.3

*[148] The SRRB recommends that the Interim Management Agreement between Colville Lake and NWT Environment and Natural Resources continue to be in effect until Hı́dó Gogha Śenégots'ı́á ʔeʔa (Community Conservation Planning Regulation) comes into force.*

#### Recommendation 4.4

*[149] In the event that Hı́dó Gogha Śenégots'ı́á ʔeʔa (Community Conservation Planning Regulation) is not in place by the Interim Management Agreement's current date of expiry (May 31, 2021), the SRRB recommends the agreement be extended to such time as the regulation, or its equivalent, is in place.*

[150] Recommendations 4.3 and 4.4 will ensure that the progress that has been made in the transition towards CCP in the Sahtú region is not lost in the event of delays in the creation or implementation of *Hıdó Gogha Sėnégots'ıá ʔeʔa*.

#### Recommendation 4.5

[151] *The SRRB recommends that an interim management agreement to implement Délıne's Belare Wıle Gots'ė ʔekwė (Caribou for All Time) plan be made between Délıne and NWT Environment and Natural Resources.*

[152] An interim management agreement between Délıne and ENR can address aspects of Délıne's Plan that have not been implemented, as discussed in detail below.

## 5. Enforcement Mechanisms

[153] Enforcement mechanisms are a vital aspect of CCP as they ensure compliance with the plans. In order for CCP to succeed in the Sahtú region, co-management partners must find enforcement mechanisms that are mutually agreeable for all partners.

## Evidence

[154] In *ʔekwė hé Dene Ts'ııı – Sustaining Relationships*, the SRRB requested that Délıne and the GNWT "immediately begin a process for determining whether and how the restorative justice code for ʔekwė ʔeʔa hegerıchá gha góʔ (enforcement) in Délıne's *Belare Wıle Gots'ė ʔekwė* will be recognized as an 'Alternative Measures' option under the *Wildlife Act*."<sup>159</sup>

[155] Existing provisions of the *Wildlife Act* stipulate that:

**105.** In this Part, "alternative measures" means measures other than judicial proceedings used to deal with a person who is alleged to have committed an offence;

**167.** (1) Alternative measures may be used to deal with a person alleged to have committed an offence if the following conditions are met:

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<sup>159</sup> *ʔekwė hé Dene Ts'ııı Sustaining Relationships. Final Report of the ʔehdzo Got'ıne Gots'ė Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwė (Caribou) Hearing 2016, supra note 1 at 97.*

(a) the measures are part of a program of alternative measures authorized by the Minister of Justice;

(4) Alternative measures may include the making of an agreement containing any terms and conditions, including terms and conditions

(a) in relation to matters referred to in section 157;

(b) recommended by a local harvesting committee, renewable resources board or Aboriginal organization;...<sup>160</sup>

[156] At the Colville 2020 Public Listening Session, ENR submitted that alternative measures (as proposed by the SRRB) can only be used after a person is charged with an alleged offence under the *Wildlife Act*, and that there are a variety of conditions that must be satisfied for alternative measures to be used. ENR indicated that alternative measures may not be appropriate to the CCP context; they suggested the use of restorative justice measures, such as a sentencing circle, would be more appropriate.<sup>161</sup>

[157] Délıne provided evidence about the ways in which the community is implementing their *Belare Wıle Gots'ę ęekwę ęęa* (code). Under the ęęa, Délıne has adopted a three-step approach that privileges education. The plan first provides for mentoring, or a “buddy system,” to teach Délıne Got'ıne ęęa, as well as social and financial incentives including Dene Ts'ıı Awards and support for Dene béré kats'ııwe (alternative harvest). In cases where a person does not comply with ęęa, the plan advises a restorative sentencing circle. ENR enforcement is used only as a last resort. The Délıne Panel reaffirmed this approach at the Colville 2020 Public Listening Session. However, it was noted that because of the decreased availability of caribou since 2016, there has been little need to invoke this aspect of Délıne Got'ıne ęęa.

If our people or our hunters or our children are not doing the things that they should be doing, then it's our fault. We go out and help them do the right thing, and I think that is so beautiful. – Walter Bezha, Délıne Panel<sup>162</sup>

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<sup>160</sup> *Wildlife Act*, SNWT 2013, c30, s 105; 167.

<sup>161</sup> GNWT, *ENR Responses to Information Requests; Round No. 1 Colville 2020 Public Listening*, *supra* note 121, at Additional Materials, page 1.

<sup>162</sup> *Colville 2020 Public Listening: Sahtú Ragóęa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 161: 2-5.

[158] No evidence was provided in the 2020 Public Listening Session to indicate that ENR and Délı̨ne have discussed any restorative justice measures such as a sentencing circle, *Wildlife Act* alternative measures, or other options since the publication of *ᑭᑭᑦ ሃᑦ ᑤᑦ ᑭᑦᑭᑦ – Sustaining Relationships* in 2016.

[159] Colville's Plan calls for ENR "to be invited to assist the RRC in enforcing the Dehlá Got'ı̨ne ᑭᑦᑦ ᑭᑦᑦ." <sup>163</sup> Colville's ᑭᑦᑦ ᑭᑦᑦ grants the RRC the power to appoint peace officers. <sup>164</sup> In turn, it grants peace officers "the power and protections provided to a peace officer by law" <sup>165</sup> and the power to administer oaths and affirmations and take and receive all affidavits and statutory declarations. <sup>166</sup>

[160] Colville's ᑭᑦᑦ ᑭᑦᑦ also allows the RRC to appoint a justice committee to address violations of the law. <sup>167</sup> The committee is to be composed of no less than three members, who must have knowledge of Dehlá Got'ı̨ne traditional laws. <sup>168</sup> ᑭᑦᑦ ᑭᑦᑦ empowers the Justice Committee to enforce violations of the law with sanctions, including "bans from harvesting in the Dehlá Got'ı̨ne traditional territory, participating in harvest education classes, community services hours, fines and referrals to ENR officers/NWT courts." <sup>169</sup>

## Law

[161] ENR argued that the GNWT can only enforce community conservation plans if they are reflected in GNWT legislation. <sup>170</sup> ENR also stated that "[i]n the NWT, *Wildlife Act*-related restrictions or requirements can only be enforced on the public through the *Wildlife Act*, and by ENR Officers. Any action or aspect of enforcement with regards to compliance with the *Wildlife Act* must be conducted by ENR Officers." <sup>171</sup> ENR says that the provisions of Colville's ᑭᑦᑦ ᑭᑦᑦ that deal with authorizations and enforcement create obligations that are not legally enforceable. <sup>172</sup>

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<sup>163</sup> Colville Lake Renewable Resources Council, *Dehlá Got'ı̨ne Ts'ı̨duweh ᑭᑦᑦ ᑭᑦᑦ*, 2019 / *Dehlá Got'ı̨ne Ancient Caribou Law*, 2019 *supra* note 5 at s 28.

<sup>164</sup> *Ibid* at s 29.

<sup>165</sup> *Ibid* at s 30 (1).

<sup>166</sup> *Ibid* at s 30 (2).

<sup>167</sup> *Ibid* at s 35.

<sup>168</sup> *Ibid* at s 36.

<sup>169</sup> *Ibid* at s 38.

<sup>170</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 39.

<sup>171</sup> *Ibid* at 41.

<sup>172</sup> *Ibid*.

[162] ENR agreed, nonetheless, to Colville issuing authorizations under the *Interim Management Agreement*.<sup>173</sup> Questioned on this possible contradiction at the 2020 Public Listening Session, ENR stated:

While the *Wildlife Act* may say you need a tag attached, we're trying to find a way that meets the spirit and intent of the authorization agreement in the short term while we figure out what we do in the long term. – Brett Elkin, ENR<sup>174</sup>

[163] ENR argued that alternative measures under the *Wildlife Act* may only be used after a person is charged with an alleged offence under the *Act*.<sup>175</sup> This means that, in ENR's view, alleged offences related to community conservation plans cannot be enforced by ENR unless they are also offences under the *Act*.

## Findings

### Finding 5.1

[164] *The SRRB finds that community conservation planning is the most effective tool for achieving conservation in the Sahtú and that effective local enforcement is an essential part of community conservation planning. Effective local enforcement is an insufficiently explored option under existing or amended GNWT legislation.*

[165] The GNWT contends that the restorative justice approach for Ɂekwé ɁeɁa hegerɁchá gha góɁɁ (enforcement) in Délı̨ne's *Belare Wile Gots'é Ɂekwé* plan and the RRC enforcement provisions in Colville's *Dehlá Got'ı̨ne Ɂədə ɁeɁá* are unenforceable.

[166] The territorial *Summary Conviction Procedures Regulations* are clear, however, that violations of GNWT regulations such as the *Big Game Hunting Regulations* and the *Wildlife Licences and Permits Regulations* are offences under the *Wildlife Act*.<sup>176</sup> An offence of harvesting without proper RRC authorization would thus be enforceable if the *Wildlife Act* regulations were amended to provide for RRC authorizations.

<sup>173</sup> Behdzi Ahda First Nation et al., *Interim Management Agreement between Behdzi Ahda First Nation, Ayoni Keh Land Corporation, Colville Lake Renewable Resources Council and the Government of the Northwest Territories*, *supra* note 12, s 4.1; 4.2. Note that the interim agreement is silent on enforcement, however.

<sup>174</sup> *Colville 2020 Public Listening: Sahtú RagóɁa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36, 369.

<sup>175</sup> *Colville 2020 Public Listening: Sahtú RagóɁa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43, 264:1-6.

<sup>176</sup> *Summary Conviction Procedures Regulations*, NWT Reg 014-92, Part 17. *Big Game Hunting Regulations*, NWT Reg 019-092, Division 1; and *Wildlife Licences and Permits Regulation*, NWT Reg 027-92, Division 7.

## Finding 5.2

[167] *The SRRB finds that interim agreements are an effective and legitimate way to transition towards community conservation planning.*

[168] The SRRB recognizes that further discussion may be required to determine the best options for the creation of a new regulation and/or amendments to existing *Wildlife Act* regulations. In the interim period, until new and/or amended regulations are in place, the existing *Interim Management Agreement* between ENR and Colville Lake is an effective way to support the CCP process.

## Recommendations

### Recommendation 5.1

[169] *The SRRB recommends that the Wildlife Act regulations be amended to provide for alternative measures for pre-sentencing diversion to the culturally appropriate restorative justice processes provided for in the Colville Lake and Délı̨ne community conservation plans (as determined by the communities in consultation with ENR).*

[170] The SRRB notes that nearly five years have passed since the Minister accepted the SRRB's recommendations regarding Délı̨ne's community conservation plan including the need for subsequent regulatory amendments. These amendments have not yet occurred. The SRRB will evaluate progress on this matter at the next public listening session.

[171] A regulatory amendment to provide for pre-sentencing diversion could be included as a part of the *Hı́dó Gogha Sė́nė́gots'ı́á ȤeȤa* proposed by the SRRB in Recommendation 4.2. In addition or alternatively, the *Wildlife Act* could be amended to more explicitly recognize the validity of pre-sentencing restorative justice alternatives (in addition to the existing "alternative measures" for post-conviction sentencing alternatives). This would be consistent with other restorative justice models successfully and increasingly used in other legislation, notably the *Criminal Code*.

[172] Amendments to the *Wildlife Act* and regulations would require further GNWT discussion with Colville Lake and Délı̨ne to identify the appropriate culturally-grounded process for enforcement of their community conservation plans and the legislative amendments required to create the space for these judicial alternatives. This would ensure the enforceability of the Délı̨ne and Dehlá Got'ı̨ne community conservation plans, which include restorative justice models consistent with Dene culture.

## Recommendation 5.2

[173] *The SRRB recommends that the Interim Management Agreement between Colville Lake and ENR be amended to address enforcement in the period before the Hıdó Gogha Sėnégots'ıá ʔeʔa comes into force.*

[174] In the event that amendments to the regulations are not in place by the date of expiry of the current *Interim Management Agreement* between Colville Lake and ENR, the SRRB recommends that the agreement be extended to such time as the required regulations are in place, as stated in Recommendation 4.4.

## 6. Total Allowable Harvest

[175] Total allowable harvest, or TAH, is the mechanism that allows for limiting the quantity of harvest under the *SDMCLCA*. It is, however, a controversial tool in the Sahtú region. The SRRB heard extensive evidence that the TAH has not succeeded in producing successful conservation outcomes, as is discussed below.

### Evidence

[176] In *ʔekwé hé Dene Ts'ııı – Sustaining Relationships*, the SRRB determined that the conditions did not exist to invoke a TAH on ʔehdaııa ʔekwé.<sup>177</sup> The SRRB determined a TAH should be a conservation mechanism of last resort, stating that "decisions imposed from outside the communities to control harvesting are a measure of last resort that should be used only when Indigenous people can no longer self-regulate."<sup>178</sup> In analyzing the evidence and coming to its decision, the SRRB found that TAH has less potential of successfully achieving conservation outcomes than other available options.<sup>179</sup>

[177] The SRRB endorsed Délıne's plan based on evidence presented during the 2016 hearing. The SRRB also committed to assessing the need for a TAH if an annual review and assessment of CCPs in the Sahtú region demonstrates that conservation concerns for ʔehdaııa ʔekwé are not being adequately addressed.<sup>180</sup> These recommendations were accepted by the Minister.<sup>181</sup>

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<sup>177</sup> *ʔekwé hé Dene Ts'ııı Sustaining Relationships. Final Report of the ʔehdzo Got'ıne Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016, supra note 1 at 77.*

<sup>178</sup> *Ibid* at 29.

<sup>179</sup> *Ibid* at 77.

<sup>180</sup> *Ibid* at 79.

<sup>181</sup> ENR Letter to SRRB, "SRRB Report July 28, 2016: Hearing Decisions and ENR Response" (September 26, 2016).



[178] At the 2020 Public Listening Session in Colville Lake, there was considerable evidence provided by community parties that TAH was ineffective and detrimental as a tool for conservation and was rejected by the communities in the Sahtú.

We don't talk about threshold, TAH ... It's like talking about residential school. It hurts our people. Those things are such a thorn in our people's history. – Walter Bezha, Délıne Panel<sup>182</sup>

For quite some time, you know, we've been watching what's happening in areas where they have a total allowable harvest, and we really don't agree with what's happening in those areas. And for us, it's really hard to let somebody else manage and oversee something that you live on a daily basis. – Joseph Kochon, Colville Panel<sup>183</sup>

As we go through the land claims, we see total allowable harvest is the last thing that you could do to manage the caribou. There's a whole range of things that we could have done before that that hasn't been done, so these are the things that we're starting to do now. – David Codzi, Colville Panel<sup>184</sup>

How do people live? Do you consider when you put on total allowable harvest, and that means the community that accepts that have to live under a restriction? And if there's no caribou, they have nothing to give to their family to eat ... what you're doing is you're displacing poverty from one area to the other. You're putting the responsibility on the neighbours to feed their neighbours. – Ethel Blondin-Andrew, Indigenous Leadership Initiative<sup>185</sup>

[179] ENR reiterated, in its written submissions to the Colville 2020 Public Listening Session, that it supports the Délıne plan and their approach to caribou management:

ENR's response was to support the Délıne plan and approach taken to caribou management, recognizing that management of a caribou herd, including the very sensitive management of Indigenous harvest, is most likely to succeed if it is rooted in ways

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<sup>182</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, supra* note 36 at 157:13-18.

<sup>183</sup> *Ibid* at 41:4-10.

<sup>184</sup> *Ibid* at 68:3-8.

<sup>185</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, supra* note 43 at 323:16-20; 324:4-7.

of managing that are community-based, consistent with traditional laws, and broadly supported.<sup>186</sup>

[180] Nonetheless, in its final written submissions to the Colville 2020 Public Listening Session, ENR returned to calling for a TAH for both Bluenose West and Bluenose East caribou:

If the SRRB recommends that there should be no total allowable harvest for the BNW and BNE herds there would be no formal management or regulation of the harvest of BNW and BNE herds, by participants from certain Sahtú communities. This would not change unless and until each Sahtú community has its own plan that applies to both barren-ground caribou herds and each plan is formally approved by the SRRB and the Minister of ENR. As Tulít'a, Norman Wells and Fort Good Hope have yet to propose their own plans, the SRRB should not remove the total allowable harvest for the BNW herd at this time and there should be a total allowable harvest for the BNE herd.<sup>187</sup>

[181] In the same submission, ENR stated further:

[T]he harvest management regulations currently in place for the BNW herd, along with other management actions being taken, are required for conservation and restrict the exercise of Aboriginal rights to the least extent possible while still addressing the need for conservation.<sup>188</sup>

## Law

[182] Section 13.5 of the *SDMCLCA* outlines how the SRRB may limit the quantity of the harvest.<sup>189</sup> As stated in section 13.5.2 of the *SDMCLCA* and confirmed by the SRRB in *ᑭᑭᑭᑭ ᑭᑭ ᑭᑭ ᑭᑭᑭᑭ – Sustaining Relationships*, the SRRB may establish, modify, or remove TAH levels from time to time in the settlement area, but shall establish or modify such levels “only if required for conservation and to the extent

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<sup>186</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 39.

<sup>187</sup> GNWT, *ENR Final Written Arguments: Sahtú Ragóʔa and Approaches to Wildlife Harvesting*, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>> at 4.

<sup>188</sup> *Ibid.*

<sup>189</sup> *SDMCLCA*, *supra* note 2, s 13.5

necessary” to achieve conservation.<sup>190</sup> Section 13.5.2 further states that, unless a TAH is established, the quantity of the harvest by participants may not be limited.<sup>191</sup>

[183] While the SRRB is the chief instrument of wildlife in the Sahtú region<sup>192</sup> and has the power under section 13.8.23 to establish policies and propose regulations in respect of the harvesting of wildlife by any person, including any classes of persons,<sup>193</sup> RRCs are also given powers in section 13.9.24 of the *SDMCLCA*.<sup>194</sup> RRC powers include managing, in a manner consistent with legislation and the policies of the SRRB, the local exercise of participants harvesting rights including the methods, seasons, and location of the harvest.

[184] Applying the principles of modern treaty interpretation, the above provisions of the *SDMCLCA* need to be understood in light of the overall objectives of the land claim.<sup>195</sup> These objectives include:

- 1.1.1 (c) to recognize and encourage the way of life of the Sahtú Dene and Métis which is based on the cultural and economic relationship between them and the land;<sup>196</sup>
- 1.1.1 (f) to provide the Sahtú Dene and Métis with wildlife harvesting rights and the right to participate in decision making concerning wildlife harvesting and management;<sup>197</sup> and
- 1.1.1 (g) to provide the Sahtú Dene and Métis the right to participate in decision making concerning the use, management and conservation of land, water and resources.<sup>198</sup>

[185] The objectives of chapter 13, entitled “Wildlife Harvesting and Management,” must also be used in interpreting and applying the chapter 13 provisions of the land claim. The wildlife harvesting and management objectives include:

<sup>190</sup> *ᑕᑦᓄᑦ ᓃᑦ ᑕᑦᓄᑦ ᑕᑦᓄᑦ ᑕᑦᓄᑦ Sustaining Relationships. Final Report of the ᑕᑦᓄᑦ ᑕᑦᓄᑦ ᑕᑦᓄᑦ ᑕᑦᓄᑦ (Sahtú Renewable Resources Board) Bluenose East ᑕᑦᓄᑦ (Caribou) Hearing 2016, supra note 1 at 73; SDMCLCA, supra note 2, s 13.5.2.*

<sup>191</sup> Ibid, s 13.5.2.

<sup>192</sup> *Ibid*, s 13.8.1

<sup>193</sup> *Ibid*, s 13.8.23.

<sup>194</sup> *Ibid*, s 13.9.24.

<sup>195</sup> *First Nation of Nacho Nyak Dun v. Yukon*, 2017 SCC 58, at paras 36-38.

<sup>196</sup> *SDMCLCA*, *supra* note 2, s 1.1.1(e)

<sup>197</sup> *Ibid*, 1.1.1 (f).

<sup>198</sup> *Ibid.*, 1.1.1 (q).

- 13.1.1 (d) to respect the harvesting and wildlife management customs and practices of the participants and provide for their ongoing needs for wildlife;<sup>199</sup> and
- 13.1.1 (e) to involve participants in a direct and meaningful manner in the planning and management of wildlife and wildlife habitat.<sup>200</sup>

[186] Finally, the common law provides precedent on when and to what degree the Crown is justified in infringing treaty rights. Leading cases such as *R v Sparrow* and *R v Badger* establish the principle that, where Crown action has the potential to infringe Aboriginal and Treaty rights, the Crown is required to consider and proceed with alternatives that most minimally impair Aboriginal rights, subject to a justification analysis which considers the objectives of the statutory regime.<sup>201</sup> These common law Aboriginal consultation obligations, including minimizing and justifying infringements, are not displaced by the statutory regimes that implement modern land claim agreements.<sup>202</sup>

## Findings

### Finding 6.1

*[187] The SRRB finds that the Sahtú Dene and Métis Comprehensive Land Claim Agreement does not require the imposition of a total allowable harvest if there is an alternative that can meet conservation goals while more minimally impairing Dene and Métis rights.*

[188] The evidence shows that TAH is a significant infringement of the Aboriginal rights of Sahtú participants. As required by the common law in *R v Sparrow* and *R v Badger*, this infringement is not justified and is not legally valid if there is an alternative that can meet the intended goal—in this case, conservation—while more minimally impairing rights.

<sup>199</sup> *Ibid*, 13.1.1(d).

<sup>200</sup> *Ibid*, 13.1.1(e).

<sup>201</sup> See *R v Sparrow*, [1990] 1. R.C.S. at page 1119. For the same principle applied in the context of Treaty, see *R v Badger*, [1996] 1 SCR 771 at para 97.

<sup>202</sup> See, for instance, *Beckman v Little Salmon/Carmacks First Nation*, 2010 SCC 53, which confirmed the principle that the Crown's consultation obligations continue in the case of modern land claim agreements. The SCC held in that case that, where modern treaty rights holders continue to possess express modern treaty rights to harvest on their traditional lands and where it is obvious Crown decisions may adversely affect traditional Aboriginal economic and cultural activities, there is a requirement to determine the nature and extent of adverse effects on the treaty harvesting rights and minimize and justify infringements.

## Finding 6.2

*[189] The SRRB finds that community conservation planning can meet conservation goals without expressly limiting the quantity of the harvest.*

[190] The evidence shows that conservation measures are most effective when they have the support of the communities in which the measures are being imposed.

## Finding 6.3

*[191] The SRRB finds that community conservation planning is the most effective tool for achieving conservation in the Sahtú region, and that it minimally impairs rights.*

[192] TAH has been ineffective in the Sahtú region and has not led to successful conservation outcomes. It is a significant infringement of Aboriginal rights and one which is not justified by successful conservation outcomes, nor is it the alternative that most minimally impairs rights. Community conservation planning is the most effective tool for conservation in the Sahtú region, and it minimally impairs harvesting and cultural rights protected by the *SDMCLCA*.

## Finding 6.4

*[193] The SRRB finds that, so long as conservation outcomes can be achieved through the use of community conservation planning, it is inappropriate to impose a total allowable harvest.*

# Decision

## Decision 6.1

*[194] The SRRB has decided that it will remove the total allowable harvest in Sahtú Barren-ground Caribou Hunting Area 01 (S/BC/01), once Colville's community conservation plan has been completed and approved. The SRRB will regularly review the conservation outcomes under the community conservation planning approach. The SRRB reserves the right to re-apply the total allowable harvest if required for effective conservation.*

[195] The SRRB will re-visit the decision to assign to Colville Lake responsibility for managing Ɂəde within Area S/BC/01, based on a periodic review of the location of Ɂəde within the area. If and when Ɂəde are found to have returned to the Fort Good Hope

area, the Fort Good Hope ʔehdzo Got'İnə will need to develop a community conservation plan for ʔədə within its area.

## Recommendations

### Recommendation 6.1

*[196] The SRRB recommends that the Big Game Hunting Regulations be amended to remove the tag required for Aboriginal harvesters in Sahtú Barren-ground Caribou Area 01 (S/BC/01) and Area S/BC/03 (as they are currently named), as the tagging requirement will be replaced by the authorization and permissions system under Hıdó Gogha Sėnėgots'ıá ʔeʔa (Community Conservation Planning Regulation), described in Recommendation 4.2 of this report.*

[197] Once their community conservation plans are fully implemented, Délıne and Colville Lake will be fully responsible for issuing authorizations in their respective traditional stewardship areas: S/BC/03 for Délıne and S/BC/01 for Colville Lake. Tagging requirements will no longer be necessary in these areas, as they will fully transition to community conservation planning.

### Recommendation 6.2

*[198] The SRRB recommends that Colville Lake work with harvester groups in neighbouring regions in developing and adapting their community conservation plan to address shared conservation goals.*

[199] The SRRB recognizes the importance of cross-regional coordination. Conservation that is community-led and includes collaboration and coordination with neighbouring regions will be most effective in meeting conservation goals. The SRRB encourages this cross-regional coordination.

## 7. Zoning Issues

[200] The separation of wildlife management into distinct zones and areas is a standard tool of contemporary government wildlife conservation practice. The SRRB made it a policy priority to work with ENR and co-management partners to address concerns regarding the zones and areas laid out in the *Big Game Hunting Regulations* for caribou.<sup>203</sup> These concerns include overlap issues, Dene naming issues, and changes to zone and area definitions. While overlap issues were not discussed

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<sup>203</sup> ʔekwé hé Dene Ts'İlı Sustaining Relationships. Final Report of the ʔehdzo Got'İnə Gots'ė Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016, *supra* note 1 at 92.

extensively at the Colville 2020 Public Listening Decisions, concerns about zones and areas remained an important issue.

## Evidence

[201] The *Dehlá Got'íne ʔədə Plan* includes a map that shows wildlife management areas “as defined by the GNWT.”<sup>204</sup> Délíne's *Belare Wíle Gots'é ʔekwé* plan refers to the GNWT-defined wildlife management areas as “ʔehdaɭla ʔekwé Area” and “Neregha ʔekwé Area.”<sup>205</sup> However, both plans also use Dene names for harvesting areas, demonstrating the importance of naming in the CCP approach. Specifically, naming is a sign of community roles in harvest regulation.

[202] Délíne's *Belare Wíle Gots'é ʔekwé* plan refers to Bluenose East caribou as ʔehdaɭla ʔekwé.<sup>206</sup> ʔehdaɭla is a reference to the place (Caribou Point) associated with that population.<sup>207</sup> Dene language place names were shared throughout the 2020 Public Listening Session. Unfortunately, these were not always reflected in transcripts except to note that Dene language was used. Colville Chief Wilbert Kochon reminded the group of the value of place names:

Our Elders, they visualize when they see and they know. And when they talk about the land, they know the names so well ... They know all the names of the lake and certain ground. – Wilbert Kochon, Colville Panel<sup>208</sup>

[203] Délíne's *Belare Wíle Gots'é ʔekwé* quotes youth Ted Mackeinzo:

When on a hunting trip or just going out on the land, you should involve youth. Describe the land, the names and the importance of the area. Please describe it in both Dene language and English so the youth can better understand and gain knowledge and wisdom.<sup>209</sup>

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<sup>204</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá*, 2019 / *Dehlá Got'íne Ancient Caribou Law*, 2019 *supra* note 5 at 6.

<sup>205</sup> Délíne ʔ Délíne ʔekwé Working Group, *Belare Wíle Gots'é ʔekwé / Caribou for All Time: A Délíne Got'íne Plan of Action for 2019-2021*, *supra* note 7 at 41.

<sup>206</sup> *Ibid* at 10.

<sup>207</sup> *Ibid* at 22.

<sup>208</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 167:1-3, 7-8.

<sup>209</sup> Délíne ʔ Délíne ʔekwé Working Group, *Belare Wíle Gots'é ʔekwé / Caribou for All Time: A Délíne Got'íne Plan of Action for 2019-2021*, *supra* note 7 at 19.



[204] The *Dehlá Got'íne ʔədə Plan* emphasizes mapping as an aspect of Indigenous knowledge documentation.<sup>210</sup> The plan lists the Dene Nation Mapping Repatriation project, which includes place names, as a valuable knowledge source.<sup>211</sup>

[205] The *Species Status Report: Porcupine Caribou and Barren-ground Caribou* (2017) quotes Walter Bezha, of Délíne:

Our history is written on the land, in the place names and stories, in the language. ... And unless you speak the language, you will not fully understand the stories. I'm always searching for stories. That's where our knowledge comes from. That's how knowledge in my area is passed on.<sup>212</sup>

[206] Colville Lake is located in the barren-ground caribou area the GNWT designates as S/BC/01 in the *Big Game Hunting Regulations*. S/BC/02 is an additional barren-ground caribou area in the Sahtú region. It is a small area located on the west side of the Mackenzie River, adjacent to S/BC/03 and the Gwich'in zone and encompassing the newly designated Ts'udə Níłíné Tuyeta Territorial Protected Area, soon to be overseen by a management board composed of K'áhsho Got'íne and ENR appointees tasked with developing a management plan. There are currently no tagging requirements for barren-ground caribou in Area S/BC/02.

[207] At the 2016 Bluenose East ʔekwé Hearing, the SRRB heard considerable evidence of the importance of place names in reflecting the structures of Indigenous ecological knowledge, governance, and law.<sup>213</sup> Thus, the SRRB made it a policy priority in *ʔekwé hé Dene Ts'íłı – Sustaining Relationships* to work with ENR and co-management partners in the Sahtú and Wek'èezhìi regions to address concerns regarding the zones and areas for caribou outlined in the *Wildlife Management Zones and Areas Regulations*. These concerns included overlap issues, Dene naming issues, and possible changes to zone and area definitions in the regulations.<sup>214</sup>

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<sup>210</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne ʔədə Plan*, *supra* note 4 at 20.

<sup>211</sup> *Ibid* at 26.

<sup>212</sup> Species at Risk Committee, *Species Status Report: Porcupine Caribou and Barren-ground Caribou (Tuktoyaktuk Peninsula, Cape Bathurst, Bluenose-West, Bluenose-East, Bathurst, Beverly, Ahik, and Qamanirjuaq herds) Rangifer tarandus groenlandicus in the Northwest Territories* (Yellowknife, NT: Species at Risk Committee, April 2017).

<sup>213</sup> *ʔekwé hé Dene Ts'íłı Sustaining Relationships. Final Report of the ʔehdzo Got'íne Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at 88.

<sup>214</sup> *ʔekwé hé Dene Ts'íłı Sustaining Relationships. Final Report of the ʔehdzo Got'íne Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at 92.

[208] There was evidence provided at the Colville 2020 Public Listening Session that the caribou have crossed the Mackenzie River, near Fort Good Hope, in the past.<sup>215</sup>

## Law

[209] Wildlife Management Areas S/BC/01, S/BC/02, and S/BC/03 are defined in the *Wildlife Management Zones and Areas Regulations* of the *Wildlife Act*.<sup>216</sup> The names reflect a convention used by ENR to categorize lands by land claim, species ecotype, and geographical sub-divide. This convention is used across the NWT and applied in other regulations, including the *Big Game Hunting Regulations*.

## Findings

### Finding 7.1

[210] *The SRRB finds that the current names of the barren-ground caribou wildlife management areas under the Wildlife Management Zones and Areas Regulations are inconsistent with Dene values and are inappropriate for use in the Sahtú region.*

[211] The ability of Dene communities to fully participate in territorial caribou management decisions and to know that those decisions appropriately represent their cultural contexts is not enhanced when alphanumeric conventions (such as “S/BC/1”) are used to identify caribou.

### Finding 7.2

[212] *The SRRB finds that use of Dene naming conventions, as an alternative to alphanumeric codes, is culturally appropriate and more likely to assist Dene communities in efforts to support and participate in conservation initiatives.*

[213] S/BC/02 was a topic of consideration at the 2007 Bluenose West Hearing. The hearing report recommended eliminating the area now called S/BC/02 (then called S/BC/03) and reducing the Sahtú barren-ground caribou management areas to just two: S/BC/01 and S/BC/02.<sup>217</sup> This change would “reflect the annual distribution of the Bluenose West herd and the Bluenose East caribou herd” and “make monitoring and

<sup>215</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 18:14-24.

<sup>216</sup> *Wildlife Management Zones and Areas Regulations*, RRNWT 1990, c. W-15, Schedule B, Part 6.

<sup>217</sup> SRRB, *Report on a Public Hearing Held by the Sahtú Renewable Resources Board & Reasons for Decision on the Setting of a Total Allowable Harvest for the Bluenose-West Caribou Herd*, November 2007, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

enforcement more straightforward.”<sup>218</sup> In its response to the 2007 hearing report, ENR accepted this recommendation and provided an option for rezoning, noting that “ENR will follow up with the Board and Councils to obtain comments.”<sup>219</sup> There is no recent evidence that this has been done.

### Finding 7.3

*[214] The SRRB finds that there have been barren-ground caribou in Sahtú Barren-ground Caribou Area 02 (S/BC/02) and that there is subsequently a need for re-analysis of existing data, identification of gaps, and outlining of potential new knowledge as a basis for conservation planning.*

[215] At the Colville 2020 Public Listening Session, Norman Wells panelist Roger Odgaard shared evidence that barren-ground caribou have been (and may still be) in the area designated S/BC/02:

I’m going to say really quickly what Edward told us in Fort Good Hope almost ten years ago at a caribou meeting in Colville Lake. This is what he said: “My dad told me that caribou were going to cross the Mackenzie River and after that they were going to disappear. Thank you; that’s it. That’s what he said in Fort Good Hope ten years ago, and they did, they crossed the river and they disappeared, so TK says a lot.”<sup>220</sup>

[216] The community evidence regarding the presence of ʔədə in Area S/BC/02 indicates that the SRRB may need to revise its 2007 recommendation that S/BC/02 be eliminated. However, the evidence currently on the public record about this is inadequate to make a determination about conservation requirements in that area. Evidence gathering combined with conservation planning will be necessary in order to move forward. Ts’udé Nl̓l̓né Tuyeta occupies a large proportion of S/BC/02. The protected area’s new management board will be required to prepare a management plan that accounts for any caribou conservation requirements. This presents an ideal opportunity to address gaps in knowledge and decision-making.

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<sup>218</sup> *Ibid* at 22.

<sup>219</sup> GNWT, *ENR Response to SRRB Hearing Report; Bluenose West Caribou Herd* (May 29, 2008), available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>> at 4.

<sup>220</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 18:14-24.

## Recommendations

### Recommendation 7.1

*[217] The SRRB recommends that Sahtú Barren-ground Caribou Area 01 (S/BC/01) be renamed Gow'ı ʔədə Nënë (Barren-ground Caribou Land), with the name change reflected in the Wildlife Management Zones and Areas Regulations and in any other enactment that references this area.*

### Recommendation 7.2

*[218] The SRRB recommends that Sahtú Barren-ground Caribou Area 02 (S/BC/02) be renamed Tuyeta ʔədə Nënë (Caribou Land), with the change reflected in the Wildlife Management Zones and Areas Regulations and in any other enactment that references this area.*

### Recommendation 7.3

*[219] The SRRB recommends that Sahtú Barren-ground Caribou Area 03 (S/BC/03) be renamed ʔehdaɭla ʔekwé Nënë (Caribou Point Caribou Land), with the change reflected in the Wildlife Management Zones and Areas Regulations and in any other enactment that references this area.*

[220] The current names of the barren-ground caribou management areas under the *Wildlife Management Zones and Areas Regulations* are inconsistent with Dene values, do not assist in helping the communities to understand the applicable geographic areas and caribou being referenced, and are inappropriate for use in the Sahtú region.

### Recommendation 7.4

*[221] The SRRB recommends that Fort Good Hope and Colville Lake Renewable Resources Councils, SRRB, NWT Environment and Natural Resources, and Environment and Climate Change Canada collaboratively develop a work plan to address knowledge gaps regarding Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta ʔədə Nënë [Caribou Land]) through non-invasive Indigenous knowledge and science.*

[222] This work plan should address evidence and questions raised by the relevant zoning decisions arising from the 2007 Bluenose West Hearing. It should further consider evidence presented at the Colville 2020 Public Listening Session that the caribou crossed the river and seek other evidence regarding the presence of caribou in the area. The completed work plan should be presented for review and approval at

the public listening session on knowledge about caribou and landscapes planned for 2021.

#### Recommendation 7.5

*[223] The SRRB recommends that the Ts'udé Nı́łné Tuyeta Management Board lead the development of a community conservation plan for caribou in Sahtú Barren-ground Caribou Area 02 (S/BC/02) (to be renamed the Tuyeta Ǿədə Nënë [Caribou Land]).*

[224] Although the Tuyeta Ǿədə Nënë does not exactly match the Ts'udé Nı́łné Tuyeta Territorial Protected Area, the SRRB considers that any plans made for the protected area would likely be appropriate for the larger Tuyeta Ǿədə Nënë and acceptable to the community leadership and GNWT, who both participate in the Ts'udé Nı́łné Tuyeta Management Board.

## 8. Wildlife Act Residency and Hunter Education Requirements

[225] The issue of eligibility to harvest in the Sahtú is an ongoing and important issue for local harvesters. Land claim participants from Sahtú communities provided evidence that they are not against sharing with visitors to the Sahtú, but expressed concern about the lack of knowledge of Dene ǾeǾá for respectful harvesting, as well as concern that resident hunters disrupt the food systems of the regional Dene and Métis communities.

### Evidence

[226] There is no resident or non-resident harvest for barren-ground caribou.<sup>221</sup> Resident and non-resident hunters can, however, harvest other caribou in the region. Resident harvest of tǾdzı and shúhta goǾepé is tracked using the voluntary resident hunter survey.<sup>222</sup> As non-resident and non-resident alien hunters must use the services of a licenced outfitter and guide to hunt big game, including caribou, their harvest is tracked through mandatory outfitter reporting. According to ENR, this reporting approach “provides good, long term information on resident hunter harvests throughout the NWT.”<sup>223</sup> Definitions of resident, non-resident, and non-resident alien hunters are provided in the “Law” section below.

[227] Resident hunters can purchase tags for tǾdzı for the entire Sahtú region outside the outfitter areas with a bag limit of one caribou, male only, during the 15 July-15

<sup>221</sup> *Big Game Hunting Regulations*, NWT Reg 019-092, Part 6.A. Caribou, Boreal.

<sup>222</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 5.

<sup>223</sup> *Ibid.* 5.

December period.<sup>224</sup> At the 2020 Public Listening in Colville Lake, ENR provided evidence that they estimate the actual resident harvest to be 22 boreal caribou per year.<sup>225</sup>

[228] Resident hunters can purchase tags for shúhta goṛepé for Outfitter Areas S/OT/01-05 with a bag limit of one caribou during the 15 July-31 January period.<sup>226</sup> Non-resident and non-resident alien harvesters can also harvest shúhta goṛepé with a licensed guide in the S/OT/01-05 areas with a bag limit of one caribou during the 25 July-31 October period. Total resident harvest of mountain caribou in the Northwest Territories was estimated to be about 45 animals each year between 2011 and 2015.<sup>227</sup> Non-resident harvest of mountain caribou throughout the entire Mackenzie Mountain range (including Dehcho and Gwich'in regions) averaged 165 bulls per year.<sup>228</sup>

[229] At the 2020 Public Listening in Colville Lake, panels from the Sahtú communities provided evidence that they are not against sharing with visitors to the Sahtú. They expressed concern, however, about the lack of knowledge of Dene ṛeṛá for respectful harvesting. They also expressed concern that resident hunters may disrupt the food systems of the regional Dene communities.

For new people, we always try to invite them out on our hunts and just teach them the culture a little bit. The stuff here in the store costs too much. So just to help them out sometimes, we offer them meat ... Wow, they love caribou, so we can't stop them from that, but we always share with them, and they share back with us. So Colville, the way we do things is we always like to share what we have. And when you're talking about residency is that some of the teachers here are first year, but they're really respectful. That's what I see in some of the people that come up here. And just the ones that are not respectful, we probably won't even help them ... but the people that are respectful and really respect our culture, we're going to share with them. – Wilbert Kochon, Colville Panel<sup>229</sup>

And how can we look at the government and some of the things that they have for laws, like the one year residency – how can we look at that and help you if there is going to be a need to repeal

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<sup>224</sup> *Big Game Hunting Regulations*, NWT Reg 019-092, Part 6.A. Caribou, Boreal.

<sup>225</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 28.

<sup>226</sup> *Big Game Hunting Regulations*, NWT Reg 019-092, Part 6.B. Caribou, Northern Mountain.

<sup>227</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 21.

<sup>228</sup> *Ibid*

<sup>229</sup> *Colville 2020 Public Listening: Sahtú Ragóṛa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 99:6-25.

some of the stuff that doesn't work for us that we didn't want. We didn't want it. We told them we didn't want it, and they still put it in there .... The world is a changing place, and climate change has provided us with more than one challenge. Is it possible that maybe the government might take it upon itself, with the advice from ENR, to look at other factors like mining, oil and gas, repealing faulty or inappropriate legislation, like the permitting residency clause for the *Wildlife Act*? ... Why is it that every meeting I went to, people said, "We don't want the one-year residency." I remember that so clearly. We don't want it. We don't think it works. It's not for us. And in the end, the Minister went ahead and did that. What kind of collaboration is that? And what can you do to change that? – Ethel Blondin-Andrew, Indigenous Leadership Initiative<sup>230</sup>

And then we also have big game hunters, our hunters, and Ross River hunters, all going there to the same place because it's the best caribou hunting area in the whole NWT now for everybody, and that's the Níó Nę P'ęné [Trails of the Mountain Caribou] area, and that's also one of the biggest issues we got with caribou right now .... There's a few initiatives going on that are dealing with that issue right now. Of course, there's the ENR check station, there's the Ross River people that started working with Tulít'a and Norman Wells and the Renewable Resource Board. The RRC people came up with a voluntary checklist for resident hunters, non-resident hunters, anybody coming across the 222 border. It's a voluntary checklist that tells them how to traditional hunt, how to respect their food, where they can go, where they can't go, if and just to report what they did, what they shot. And so that initiative is there. – Roger Odgaard, Norman Wells Panel<sup>231</sup>

The population of people going into the mountain is getting too great. It has an effect on wildlife ... The influx of people could also be much aided by repealing the one-year residency permit and

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<sup>230</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 96, lines 1-7; Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 320:11-17 and 24-25; 321:-6.

<sup>231</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 23:16-21; 33:7-19.



replace it with three-year residency permit. – Leon Andrew, Indigenous Leadership Initiative<sup>232</sup>

## Law

[230] According to the *Wildlife Act*, a person is eligible to obtain a resident hunting license when they have been “ordinarily resident in the Territories for the 12 month period immediately preceding that time.”<sup>233</sup> Section 48(1) of the *Wildlife Act* further states, “unless exempted by the regulations, a person shall not hunt or otherwise harvest wildlife until he or she has successfully completed an approved harvester training course.”

[231] The *Big Game Hunting Regulations* under the *Wildlife Act* provides differential harvest restrictions depending on whether the harvester is a resident,<sup>234</sup> non-resident,<sup>235</sup> non-resident alien,<sup>236</sup> Aboriginal harvester,<sup>237</sup> holder of a general harvest licence,<sup>238</sup> or holder of a special harvest licence.<sup>239</sup>

[232] Section 46(2) requires the Minister to request advice from local harvesting committees and renewable resources boards during the development of course materials. Section 47 allows for the Minister to “facilitate local involvement in the delivery of harvester training courses.”

[234] The *Wildlife General Regulations* under the *Wildlife Act* identify categories of resident hunters that are not required to take the harvester training course:

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<sup>232</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 152:4-12.

<sup>233</sup> *Wildlife Act*, SNWT 2013, c30, s 1, “resident.”

<sup>234</sup> A “resident” means a Canadian citizen or permanent resident who has been ordinarily resident in the NWT for 12 months. Only somebody who is “resident” by this definition may obtain a resident hunting licence. See the *Wildlife Act*, SNWT 2013, c30, s 1; 24(1)(a).

<sup>235</sup> A “non-resident means” a Canadian citizen or permanent resident who has not been ordinarily resident in the NWT for 12 months. See the *Wildlife Act*, SNWT 2013, c30, s 1, 24(1)(b).

<sup>236</sup> A non-resident alien means a person who is not a Canadian citizen or a permanent resident as defined by the *Immigration and Refugee Protection Act*. A non-resident alien may obtain a non-resident alien hunting license. See the *Wildlife Act*, SNWT 2013, c30, s 1; 24(1)(c).

<sup>237</sup> An “Aboriginal harvester” is “a person who has an Aboriginal or treaty right to harvest wildlife in an area of the Northwest Territories does not require a licence or permit to exercise that right in that area and is not required to pay a fee to do so.” See the *Wildlife Act*, SNWT 2013, c30, s 17 (1) and the *Big Game Hunting Regulations*, NWT Reg 019-092, section 1.

<sup>238</sup> A person is eligible to apply for a general hunting licence if they (a) have an Aboriginal or treaty right to harvest wildlife in the NWT and (b) are a member (or are eligible to be a member) of a prescribed Aboriginal organization in the NWT. See the *Wildlife Act* section 22.

<sup>239</sup> A person is eligible to apply for a special harvester licence subject to lands claim agreement; the *Wildlife Act* and regulations; and the conditions on the licence. See the *Wildlife Act*, SNWT 2013, c30, s 25 (3).

- Residents holding a resident hunting licence in the previous 5 years;<sup>240</sup>
- Residents proving they held a hunting licence in another Canadian jurisdiction in the previous 5 years;<sup>241</sup> and
- Residents proving they passed a hunter training course from another Canadian jurisdiction.<sup>242</sup>

## Findings

### Finding 8.1

*[235] The SRRB finds that the current residency requirements in the Wildlife Act are a serious concern in the Sahtú region.*

[236] The evidence shows significant opposition to the one-year residency requirement from the Sahtú Dene communities. In the view of Sahtú Dene harvesters, the short residency requirements under the *Wildlife Act* increase the amount of problematic harvesting taking place in the Sahtú region. The SRRB finds that there is a significant amount of harvesting taking place in the Sahtú region that is not consistent with Dene values.

### Finding 8.2

*[237] The SRRB finds that harvester education, including local involvement in the delivery of training programs, can be an effective means of ensuring that resident and non-resident hunters respect Dene protocols.*

[238] The SRRB and ENR have had positive experiences in collaboratively delivering the Hunter Education course at Dene Ts'ı́lǫ School on several occasions with ENR during 2017-2020. Harvester training that integrates information about Dene Ɂeʔá approaches to respectful harvesting is an effective way to ensure that both resident and non-resident hunters have knowledge of and respect Dene protocols for caribou harvesting. This is consistent with the *SDMCLCA* objectives of respecting the harvesting customs of land claim participants and involving participants in a direct and meaningful manner in wildlife planning and management.<sup>243</sup>

<sup>240</sup> *Wildlife General Regulations*, NWT 115-2014, s 5.4(1)(c).

<sup>241</sup> *Wildlife General Regulations*, NWT 115-2014, s 5.4(1)(d)(i).

<sup>242</sup> *Wildlife General Regulations*, NWT 115-2014, s 5.4(1)(d)(ii).

<sup>243</sup> *SDMCLCA*, *supra* note 2, s 13.1.1(d) and (e).

## Decision

### Decision 8.1

*[239] The SRRB has decided that the 2021 public listening session will include a full discussion of the role that residency requirements and hunter education play in fostering or inhibiting respect for Dene protocols in the Sahtú region.*

[240] The SRRB's findings show that residency requirements and respect for Dene protocols are an important issue in the Sahtú region. The SRRB recommends exploring this issue in the 2021 public listening session, to allow a full canvassing of the perspectives, evidence, and potential solutions to address this important issue.

## 9. Special Harvesting Areas

[240] Special harvesting areas are established under the *SDMCLCA* to protect the rights of the Sahtú Dene and Métis to harvest fish, moose, and migratory birds within the settlement area.<sup>244</sup> Non-participants are prohibited from harvesting in special harvesting areas.<sup>245</sup> Maps of special harvesting areas are provided in appendix J.

## Evidence

[241] Janet Winbourne's presentation about the Sahtú Harvest Study that took place between 1998 and 2005 indicated that Sahtú Dene and Métis harvest over 80 wildlife species.<sup>246</sup> The harvest calendar (Figure 4) produced using harvest study data indicates complex Dene and Métis seasonal harvesting systems (though it does not accurately present the nuances of local ecological adaptations).<sup>247</sup> Community panels at the Colville 2020 Public Listening Session provided evidence that in order to maintain food security, Sahtú communities are promoting a return to these more diversified harvesting systems, with more emphasis being placed on "alternative species" while there is reduced availability of caribou.

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<sup>244</sup> *Ibid*, s 13.4.4.(a).

<sup>245</sup> *Ibid*, s 13.4.4.(b).

<sup>246</sup> Janet Winbourne, *Sahtú Harvest Study Presentation: Colville 2020 Public Listening* (January 22, 2020), available on the public registry for the SRRB 2020 Colville Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>247</sup> Jennie Vandermeer and Deborah Simmons, *Sahtú Got'ch'ádí Calendar 2018: Dene Béré* (Tulít'a, NT: ʔehdzo Got'Inę Gots'ę Nákedı (Sahtú Renewable Resources Board), 2018), 5. Cited in Winbourne, *Sahtú Harvest Study Presentation: Colville 2020 Public Listening*, *ibid*.

[242] This means the protection of Sahtú beneficiary access to alternative species will gain new primacy. It also places in a new light the importance of special harvesting areas provided for under Section 13.4.4(b) and further described in appendix E, schedules V, VI, and VII of the *SDMCLCA*<sup>248</sup> to protect the rights of the Sahtú Dene and Métis to harvest fish, moose, and migratory birds within the settlement area. However, special harvesting areas have not been implemented or enforced, since there are no regulations under the territorial *Wildlife Act* (for moose) nor under the federal *Fisheries and Migratory Birds Convention Acts* to operationalize them.

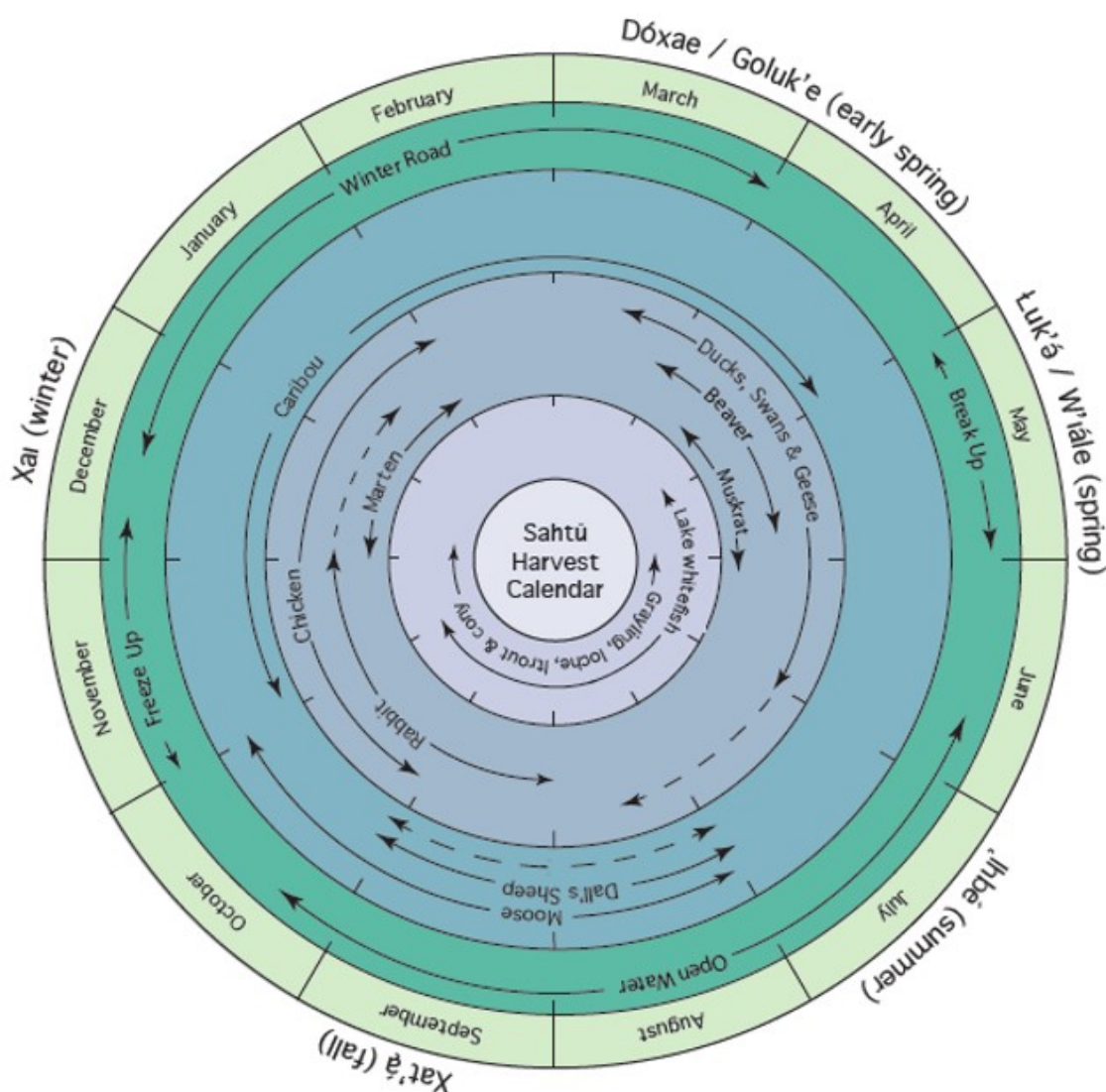


Figure 4: Sahtú Harvest Calendar. Source: Sahtú Got'ich'ádii - Dene Béré (Traditional Foods) Calendar 2018.

<sup>248</sup> *SDMCLCA*, *supra* note 2.

You know, times are changing. There's more other animals around than there was back then. You know, food staple, there's more moose around than previous years ... There's more woodland caribou. We had woodland caribou up on the hill all summer long. You know, so we're starting to see more other animals, therefore ... the [barren-ground] caribou we will take would be probably less than previous years, when we were solely relying on that. – David Codzi, Colville Panel<sup>249</sup>

People still fish year-round. And we eat meat year-round ... And that food security for us is good on the land. - Chief Wilbert Kochon, Colville Panel<sup>250</sup>

In springtime the ducks come back, waterfowl. And if you do kill one duck, you're eating fresh meat right there, and that's what the creator has created for us already. – Richard Kochon, Colville Panel<sup>251</sup>

Maybe we have to train our people to hunt moose again, just like we had to train our people to hunt muskox. There's muskox right there in our backyards, and yet it's not as easy as just saying they're available for people to harvest .... [In the past] they harvested what mother earth provides. And Dél̓n̓ę we're so happy because we have the lake and the fish. This year I probably ate more fish ... than I probably did ever since I can remember ... And I forgot about caribou. Besides, I should anyway, I'm diabetic so I should be eating fish, right? ... So that's how you do it. You monitor and do all those things by harvesting what's available .... What we do in Dél̓n̓ę is we try to do things, harvest other animals, concentrate on harvesting other animals, going somewhere else. Like, fish, we got tonnes of fish, so we go after that and not pay too much attention to harvest ʔekw̓ę because, like I said, we don't really have any access to that .... The other thing is the moose harvest is going up. I think we harvest more moose. We probably harvested more fish this past year than we have say in the last ten years. I think this year we had fish pretty well all summer. We have

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<sup>249</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 117:20-25; 118:1-4.

<sup>250</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 48:19-23.

<sup>251</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 138:13-16.

huge [fish]—you've got to see it. Last year, we had this fishing derby where ... in an eight-hour period we caught over a hundred fish ... I was amazed myself. When we did the fishing derby in the summer we should have put some controls on how much fish people were taking .... And I think those things, celebrating, appreciating the resource we have, at least makes it a little easier for people to take their minds off caribou, really it does, it helps ... I like to harvest geese, have two hundred geese, you know, we'll pay for it and we'll give it to our people. And they would enjoy that.  
– Walter Bezha, Délıne Panel<sup>252</sup>

We haven't seen caribou in our area for numerous years, so we had to adapt to different species of harvesting, which is moose, and we've done that ... in a good way, I guess, because everybody has adapted fine, but we've still got some concerns ... We're in full support of Colville Lake. – Daniel Jackson, Fort Good Hope Panel<sup>253</sup>

People used to make a living out of the herring [cisco]. The people used to make dry fish. It used to be 120 to 150 a bale. They put that away for the winter .... And I don't think my people from Good Hope came to Colville Lake this winter, but we still survive. There's more moose than what I seen when I was just a young person growing up. There's a lot of moose. – Thomas Manuel, Fort Good Hope Panel<sup>254</sup>

Anyways, then a few years later I got married, lived out on the land, had children. There was no caribou where we went, but the fish lake was good. We live on fish for three falls, and then we moved to another lake and finally come to caribou, north of Good Hope, and we practically live on caribou and fish all winter. – Michel Lafferty, Fort Good Hope Panel<sup>255</sup>

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<sup>252</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 199:20-24; 143:16-25; 144:1-4; 157:19-24; 169:12-24; 170:10-13; 206:11-14.

<sup>253</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 218:4-11.

<sup>254</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 42:7-11. Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*. 233:18-22.

<sup>255</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 183:5-11.

Another one that we have outstanding since the land claim ... And what is designated in Tulít'a district is two special harvest areas. One is in the Old Fort Point area, and I believe it's for the moose, that they want to have control of the moose hunting in that area, and another one is for fishing at Bennett Field. It's between Déljñę and Tulít'a where people used to go there for fishing, that anybody have access today with jet boat. And we don't know if everybody's overfishing that area or we don't have no information about Old Fort Point, if we're overharvesting the area, by people that's not a beneficiary. We don't know.

So, I guess those kind of things I don't know where to start. I know I've been asking this question, but I don't know where I can get an answer, to get the resource to implement it so, that way, we have a guardianship program that could play a role in that area where they can be the eye and ear of the area ....

I guess, one time when the land selection happened, and I guess people were asked to look at land, what is so important to them. This is why they said, okay, Old Fort Point, bring the history back to the people that come down, you all are hunting and whatever they do around that area. We want to have it in the protected area, special harvest area they call it, where we can control – like, the moose population's very good, high, in that area. And another area that we're talking about is the Bennett Field area where it's fishing for grayling. People used to be there at one time.

And I know this is our – two outstanding issues I know under the land claim still outstanding yet. And I know have never been implemented yet. So that's the question I wanted to ask is: Where do you get resource to implement a special harvest area? .... I'd sure like to see that, if that could be turned over to RRCs, that we manage or start controlling what we are trying to regulate the caribou, so the moose. – Gordon Yakeleya, Tulít'a Panel<sup>256</sup>

Living in Norman Wells, you know, we hunt moose. We have relationship with caribou but we have to go right to the mountains to be able to visit them, hunt, and very few of us do that every year, and we rarely see them down by the river shore, and now we're starting to. We're starting to see them in places that we don't see, starting to see more muskox now appear everywhere, and

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<sup>256</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 280:21-25; 281:1-18; 282:5-24; 286:22-25.



they're starting to get more aggressive. – Jaryd McDonald,  
Norman Wells Panel<sup>257</sup>

Eighty different species are harvested in the Sahtú . Paul Wright told Leon, he said one day, we use 27 different species, he said, but that's just what he was counting in his head. He just said that casually one day. He's an Elder ....

Rotating land relief, if you use a river or a creek and there's no more fish, then it's all fished out. If you go to a place and there's no more animals there, give it a break, change around, eat other mammals, eat like rabbits instead of caribou, eat fish instead of ducks, or whatever the animals are ... replenish the land. You don't have to starve yourself. You can manage it in the way that your ancestors did, and then you want to hunt in rhythm with the animal cycles. - Ethel Blondin-Andrew, Indigenous Leadership Initiative<sup>258</sup>

There's real diversity in people's food systems. They were harvesting over eighty different species, and they all did it at slightly different timings and in slightly different ways. And the diversity was really fantastic to see. – Janet Winbourne, Independent Consultant<sup>259</sup>

## Law

[243] Special harvesting areas are established under section 13.4.4(b) of the *SDMCLCA* to protect the rights of the Sahtú Dene and Métis to harvest fish, moose, and migratory birds within the settlement area. Pursuant to section 13.4.4(b) of the *SDMCLCA*, “Persons who are not participants may not have access to such areas in (a) for the purpose of harvesting wildlife where such harvesting would be inconsistent with the special harvesting by participants.” The particular harvesting areas and rights of the Sahtú Dene and Métis are described in appendix E, schedules V, VI, and VII of the *SDMCLCA*.

[244] Special harvesting areas are located within the settlement area, but outside Sahtú settlement lands, where Sahtú Dene and Métis have exclusive harvesting rights. Special harvesting areas have not been reviewed since they were established under the *SDMCLCA* in 1993, nor are there regulations under the territorial *Wildlife Act* (for

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<sup>257</sup> *Ibid* at 17:23-25; 18:1-6.

<sup>258</sup> *Ibid* at 153:9-15; 156:14-24.

<sup>259</sup> *Ibid* at 41:11-16.

moose) or under the federal *Fisheries and Migratory Birds Convention Acts* to implement or enforce them.

## Finding

### Finding 9.1

*[245] The SRRB finds that special harvesting areas are of renewed importance during this period of reduced availability of caribou harvest.*

[246] Community panels at the Colville 2020 Public Listening Session provided evidence that in an effort to maintain food security, Sahtú communities are promoting a return to more diversified harvesting systems. This includes a greater emphasis on alternative species when there is reduced availability of caribou. The extensive evidence summarized above indicates an emerging reliance on moose, fish, fowl, and other game.

## Recommendation

### Recommendation 9.1

*[247] The SRRB recommends that ʔehdzo got'ıne (renewable resources councils), NWT Environment and Natural Resources, and the SRRB undertake community conservation planning workshops in each of the three Sahtú districts (K'áhsho Got'ıne District; Tulít'a District; and Délıne District) to develop proposals for implementation of special harvesting areas, including any required regulations, prior to the 2024 public listening session.*

[248] CCP workshops will provide an opportunity for participants to share feedback on the current usage of special harvesting areas. These discussions, to take place jointly with ENR and the SRRB, will lead to proposals on how this important part of the *SDMCLCA* can be fully implemented.

## 10. Capacity Support for Community Conservation Planning

[249] In 2016, the SRRB determined that community conservation planning (CCP) is the best approach to conservation for the region, based on the evidence provided.<sup>260</sup> ʔehdzo got'ıne are pivotal in the development and implementation of community-based

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<sup>260</sup> ʔekwé hé Dene Ts'ııı Sustaining Relationships. *Final Report of the ʔehdzo Got'ıne Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at 51-52.

conservation plans. In order for ʔehdzo got'ɲę to develop, implement, and evaluate community conservation plans, they require sufficient capacity and funding.

## Evidence

[250] In *ʔekwé hé Dene Ts'ı́lı – Sustaining Relationships*, the SRRB determined that CCP is currently the most effective wildlife conservation approach in the Sahtú region. Community panels at the Colville 2020 Public Listening Session emphasized the history and persistence of cultural diversity in the Sahtú, where languages, legal orders, and systems of governance vary from community to community, and thus warrant community-specific conservation plans. Evidence regarding the capacity required to develop and implement community plans is founded in the two regional CCP workshops that took place prior to the Colville Public Listening Session: October 29-31 in Tulít'a, and November 5-7 in Colville Lake (for descriptions of these workshops, see appendix A), as well as subsequent local activities to develop presentations.

[251] There was strong participation in both regional CCP workshops from all five Sahtú communities and both Joseph Kochon (Colville Panel) and Douglas Yallee (Tulít'a Panel) mentioned the value of these workshops at the Colville 2020 Public Listening Session. The workshops provided an overview of the public listening process and the role of communities, and introduced participants to two basic CCP tools: situation analysis and results chains. For many, this was their first introduction to the CCP toolbox, and it was not possible to fully develop understanding and competencies in the range of CCP tools.

[252] At the Colville 2020 Public Listening Session, ENR was asked about the training that may be needed to support community planning and plan implementation, and provided the following response:

I think from what I've seen and the direction we get right now, I think both with the new Legislative Assembly and our own department, there is a continued or, if not, enhanced desire to take this very collaborative approach and work with our partners, build on co-management, build on working on these new techniques. So what that means, I can't commit we'll take this training or that training, we'll do this with our staff. But the best I can give is my honest belief that we're committed to this and we're working on trying to take that approach, which means, you're right, trying to train staff. How do we do that? What that training is? I guess we'll have to figure it out. We're open to discussions and advice. Because the spirit and intent is to go that way. We just have to figure out how do you actually do that with a large

staff? And what does that training look like? So I can't commit to specifics, other than the fact that is kind of the direction I understand us to be going. – Brett Elkin, ENR<sup>261</sup>

[253] Community panels at the Colville 2020 Public Listening Session provided evidence about the funding supports required to properly implement the CCP approach, including harvest regulation initiatives. ENR recognized that it would be appropriate to provide training for wildlife officers and other ENR employees in the Sahtú and at headquarters as co-management partners.

We want to make sure that the funding are just there ... The RRCs don't really have that much money. – David Codzi, Colville Panel<sup>262</sup>

So yes, we do need some really good funding help. If we have to, we can create our budgets going forward, how to ensure that whatever laws that we put into place for our people are respected and carried on. So a lot of these things, we're doing with whatever we have. – Joseph Kochon, Colville Panel<sup>263</sup>

I hope you guys will listen to us and give us your support for more funding so we can make it easier for a lot of us, so we can see we can have caribou for the future, for the next generation. – Gordon Yakeleya, Tulít'a Panel<sup>264</sup>

We don't have enough money to do what we want to do for our people, to work for our people, do things for our people. We don't have the money .... We don't have the resources like the government people do have. – Douglas Yallee, Tulít'a Panel<sup>265</sup>

## Law

[254] Chapter 29 of the *SDMCLCA* concerns implementation. Section 29.2.2 stipulates that the Implementation Committee is composed of three members, one from each of the GNWT, Canada, and the Sahtú Tribal Council (now known as Sahtú

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<sup>261</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 386:10-25; 387:1-7.

<sup>262</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 84:18-20.

<sup>263</sup> *Ibid* at 98:20-25; 99:1.

<sup>264</sup> *Ibid* at 287:5-8.

<sup>265</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 204:8-11, 23-24.

Secretariat Incorporated – SSI). Section 29.2.3 assigns Canada, the GNWT, and SSI, through the Implementation Committee, responsibility for overseeing and providing direction to guide implementation of the *SDMCLCA*.

## Findings

### Finding 10.1

*[255] The SRRB finds that the communities currently lack sufficient capacity and funding to fully participate in community conservation planning and plan implementation in the Sahtú region.*

[256] The evidence at the Colville 2020 Public Listening Session shows that ʔehdzo got'Inę struggle with capacity to carry out their intended roles under the land claim. Even prior to proposals for a CCP approach in the region, the SRRB documented concerns with SSI and Canada that ʔehdzo got'Inę were insufficiently resourced to perform their intended functions under the *SDMCLCA*. ʔehdzo got'Inę require sufficient capacity to participate in CCP and, particularly, in plan implementation in the Sahtú region. Conservation outcomes depend upon the allocation of adequate resources for ʔehdzo got'Inę.

### Finding 10.2

*[257] The SRRB finds that co-management partners require training to appropriately support community-led development and implementation of conservation plans.*

[258] As acknowledged by ENR at the Colville 2020 Public Listening Session, training is required so that co-management partners can effectively support robust planning processes and implement approved plans.

## Decision

### Decision 10.1

*[259] The SRRB has decided that there needs to be further capacity support and program funding for community conservation planning and plan implementation in the Sahtú region.*

[260] CCP requires an organized, systematic approach to development, implementation, and evaluation of conservation plans. Local working groups need to meet on a regular basis, and they need to be able to pursue core activities associated with their plans. Regional training will be needed through at least the coming four years

to support CCP and to allow it to take root and thrive as part of the regional culture of caribou conservation.

[261] The SRRB commits to working collaboratively with ENR to develop a coherent framework for ENR to support CCP as a co-management partner, including staff training initiatives and consideration of any new staffing requirements and job descriptions, with an aim to produce a framework document by March 31, 2021. The SRRB has initiated both formal and applied training with the Conservation Coaches Network and is committed to continuing training for SRRB staff to ensure that co-management partnerships are strong and well-coordinated in supporting the CCP approach.

[262] The SRRB will facilitate the presentation of a detailed proposal to SSI and the Sahtú Implementation Committee addressing funding, capacity, and program supports required for properly implementing the new CCP regime. This proposal will be delivered by March 31, 2021.

## Conclusion

[263] This year, the SRRB launched a series of five public listening sessions to answer the question, “What are the most effective ways to conserve caribou?” The public listening sessions are an opportunity to address five priority “hot topic” issues related to caribou conservation, and together constitute a hearing proceeding. The public listening series, which will span 2020 to 2024, will also support the development and flourishing of the community conservation planning approach in the Sahtú region, as well as dialogue and coordination with harvester groups and wildlife management authorities in other regions.

[264] The first public listening session, which took place in Colville Lake in January 2020, addressed the central question, “What is the most effective way to regulate the harvest of caribou?” The Colville proceedings produced a rich body of Indigenous knowledge evidence and science-based evidence about ten key issues in caribou conservation. Following a careful weighing of this evidence, the SRRB has issued eight decisions and eighteen recommendations related to caribou harvest regulation in the Sahtú region. The SRRB’s decisions and recommendations are based on a holistic and biocultural approach to caribou conservation.

[265] The SRRB has developed a work plan, available in appendix K, to guide the activities of the SRRB, Ɂehdzo got'ine (renewable resources councils), and co-management partners over the coming months and years.

[266] In considering the evidence from previous hearings and concerns expressed in other contexts, the SRRB has identified four additional topics and associated questions

to be considered at annual public listening sessions between 2021 and 2024. The SRRB will invite each of the remaining four Sahtú communities to co-host in turn one of these sessions. Currently, the four topics for future consideration as presented at the Colville 2020 Public Listening Session are:

- Predators and Competitors
- Knowledge about Caribou and Landscapes
- Wildfires and Climate Change
- Caribou and the Mixed Economy

[267] Planning has already begun to support interested parties in addressing each of these topics, in the hope of providing as much time to prepare as possible. As the proceedings evolve and events unfold in our region and beyond, the topics may evolve – and the sequence may also change. It is further expected that through the public listening sessions the discussions toward the shared goals of maintaining healthy caribou populations and Dene/Métis ways of life will evolve. Questions not resolved on one hot topic might be taken up again in future sessions. As a result, the final hearing report on the public listening series will bring together the combined evidence to identify any new findings and resulting decisions or recommendations. The final report will represent a holistic understanding of priority caribou conservation issues and required actions in the Sahtú region.

[268] The SRRB takes its responsibilities under chapters 13 and 14 of the land claim agreement very seriously and looks forward to working with the parties to support actions following from the SRRB's decisions and recommendations. The SRRB is greatly encouraged by the level of commitment shown by all the parties to achieving a shared vision for healthy caribou and people in the Sahtú region.



# Table of Authorities

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Note that all of the Colville 2020 Public Listening transcripts and submissions are posted on the SRRB's public registry at [www.srrb.nt.ca](http://www.srrb.nt.ca).

## Colville 2020 Public Listening Transcripts

*Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3. January 21, 2020.*

*Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3. January 22, 2020.*

*Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3. January 23, 2020.*

## Colville 2020 Public Listening Written Submissions

Andrew, Leon, and Ethel Blondin-Andrew. *Indigenous Leadership Initiative Presentation; Colville 2020 Public Listening. January 22, 2020.*

Barnaby, George. *SRRB Chair Closing Remarks; Colville 2020 Public Listening. January 23, 2020.*

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Behdzi Ahda First Nation, Ayoni Keh Land Corporation, Colville Lake Renewable Resources Council, and GNWT. *ʔəde 2019-2021 Interim Management Agreement. December 20, 2020.*

Bezha, Walter. *Déłıne Panel's Response to Undertaking from Indigenous Leadership Initiative. January 22, 2020.*

Colville Lake Renewable Resources Council. *Dehlá Got'ıne Tseduweh ʔəde Ah'ah / Ancient Caribou Law. October 21, 2019.*

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———. *Colville Lake Parties Response to Information Requests; Round No. 1 Colville 2020 Public Listening. December 17, 2019.*

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- Dél̓n̓e Got̓̓n̓e Panel. *Dél̓n̓e Panel's Closing Remarks; Colville 2020 Public Listening*. January 23, 2020.
- Dél̓n̓e ʔehdzo Got̓̓n̓e. *Dél̓n̓e ʔehdzo Got̓̓n̓e Responses to Information Requests; Round No. 2 Colville 2020 Public Listening*. January 16, 2020.
- . *Dél̓n̓e ʔehdzo Got̓̓n̓e Responses to Information Requests; Round No. 1 Colville 2020 Public Listening*. January 26, 2020.
- Dél̓n̓e ʔekwé Working Group. *Belare Wíle Gots'é ʔekwé / Caribou for All Time: A Dél̓n̓e Got̓̓n̓e Plan of Action for 2019-2021*. October 6, 2019.
- . *Belare Wíle Gots'é ʔekwé; Workplan and Budget*. October 25, 2019.
- GNWT. *ENR Assistant Deputy Minister Letter to SRRB Re Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting*. December 3, 2019.
- . *ENR Responses to Information Requests; Round No. 1 Colville 2020 Public Listening*. December 17, 2019.
- . *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*. January 17, 2020.
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- Norman Wells Renewable Resources Council. *Norman Wells Renewable Resources Council Presentation; Colville 2020 Public Listening*. January 18, 2020.
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- . *Ross River Dena Council Responses to Information Requests; Round No. 1 Colville 2020 Public Listening*. December 10, 2019.
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# Appendices

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The SRRB decided to undertake an innovative approach to participatory decision-making according to its powers under section 13.8.21 of the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*. The SRRB is addressing the question “What is the most effective way to conserve caribou?” through a series of five hearings, referred to as “public listening sessions.”

This new approach is inspired by the introduction of hot topics during the hearings documented in *Taking Care of Caribou*, the management plan prepared by the Advisory Committee for Cooperation on Wildlife Management (ACCW).<sup>266</sup> It also draws upon issues identified in *ᑭᓇᐱᓄᓐ ᓴᓂᓪᓯᓚᓐ ᐸᓇᓂᓪᓰᓚᓐᓴᓐ - Sustaining Relationships*, the report from the 2016 Bluenose East ᑭᓇᐱᓄᓐ Hearing,<sup>267</sup> as well as subsequent planning and engagements with Sahtú communities.

To achieve the goal of maximizing Sahtú community participation in this process, and to address concerns raised during previous hearings in the Sahtú region, the SRRB is using the term “public listening sessions” instead of hearings. Listening is intended to denote active acknowledgement and accommodation of the full range of evidence presented.

<sup>267</sup> ʔekwé hé Dene Ts'ílí Sustaining Relationships. Final Report of the ʔehdzo Go't'ine Gots'é Nákedí (Sahtú Renewable Resources Board) *Bluenose East ʔekwé (Caribou) Hearing* 2016. *supra* note 1.

The SRRB revised its *Rules for Hearings* in preparation for the Colville 2020 Public Listening Session.<sup>268</sup> In accordance with its rules, the SRRB took steps to ensure that the process, while procedurally fair, accommodates Dene and Métis cultural rights and values for good decision-making. This includes providing mechanisms to allow individual ɬehdzo got'ɪnɛ (renewable resources councils) to participate in a meaningful way and working with communities to ensure that the design of each public listening session is culturally appropriate.

It was important to be able to discuss the public listening process with the parties so that all fully understood how they could participate. This was a key topic for the two community conservation planning (CCP) workshops in October and November 2019. Aspects of the process were also shared in a series of public notices (a total of 16 were posted). In a letter to the SRRB, ENR also submitted a series of questions about the process,<sup>269</sup> to which the SRRB responded in writing.<sup>270</sup> The *Rules for Hearings*, public notices, and correspondence about process were posted to the public registry to ensure that all parties and the public had access to the same information.

### Public Hearing Firsts

The Colville 2020 Public Listening Session broke new ground in a number of respects in order to address the SRRB's aim to gather the best available evidence and enhance the fairness of the proceeding in a cross-cultural context. While we did the best we could, there's always room for improvement and we look forward to continuing to strengthen our public listening processes over the coming years.

Firsts for this event in the Sahtú (and possibly in some cases beyond), included:

- Most registered parties (for an SRRB hearing)
- Most parties from other jurisdictions (for an SRRB hearing)
- First regional CCP workshops
- First live graphic recordings
- First caucus sessions during a hearing
- First inclusion of Dene orthography in transcripts

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<sup>268</sup> SRRB, *Rules for Hearings*, October 23, 2019, available on the Public Registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

<sup>269</sup> GNWT, *ENR Assistant Deputy Minister Letter to SRRB re Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting* (www.srrb.nt.ca: SRRB, December 3, 2019).

<sup>270</sup> SRRB, *SRRB Letter to ENR's Assistant Deputy Minister re Responses to ENR Questions and Comments; Colville 2020 Public Listening Session on Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting* (December 6, 2019).

- First posting of oral proceedings in two languages on the public registry
- First hearing in partnership with a community

## Community Partnership

In its processes, the SRRB is required by the *SDMCLCA* to work closely with Ɂehdzo got'ɁnɁ, who advise the SRRB on local wildlife issues. The SRRB intends to work with each of the five Ɂehdzo got'ɁnɁ in turn to organize and support the five public listening sessions, which will each be hosted in a separate community.

Colville Lake offered to host the first public listening session, since the topic of approaches to harvesting regulation is one of particular importance to that community. The SRRB accepted the offer, taking into consideration which of the five public listening sessions are best suited for the specific issues of interest for each of the five Sahtú communities.

In addition to taking an active role in providing logistical support for the inaugural public listening session, which took place in January 2020, Colville was prepared to present their community caribou plan for review by the SRRB and other parties, and for submission to the SRRB's decision-making process. This is appropriate, as the SRRB is required to review and approve all wildlife management plans in the Sahtú region (not just management plans proposed by ENR). In 2016, in both its July report on Ɂekwé (Bluenose East caribou) and its October report on final reasons for decision on Ɂekwé conservation, the SRRB invited all the Sahtú communities to present community management plans to the SRRB for review based on a series of questions posed to the communities at that time. Colville is the first community after DélɁnɁ to have completed a plan for consideration by the SRRB.

The SRRB partnered with Colville to assure maximum community participation and best available community evidence to inform the SRRB's decision making, and in order to ensure that the SRRB can fully review and understand Colville's proposed plan and law.<sup>271</sup> The SRRB considers this to be procedurally fair and appropriate in the context of its mandate and consultation requirements under the *SDMCLCA*. However, for the purpose of this report, the SRRB has rigorously maintained its discretion to make independent decisions based on the full range of evidence from all parties.

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<sup>271</sup> SRRB, *Rules for Hearings*, October 23, 2019, available on the Public Registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>, s 4.11.



## Community Conservation Planning Workshops, Community Preparedness Workshops, and Caucus Space

The SRRB exercised its discretion under its *Rules for Hearings* to hold regional and local CCP workshops. Two workshops were convened during October and November 2019, facilitated by Stuart Cowell (Conservation Coaches Network) and Kirsten Jensen (community conservation planner with SRRB). Each of the communities also had opportunities to develop their presentations at local community preparedness workshops. A third opportunity for parties and the public to prepare for the public listening was the recognized space provided for caucus sessions prior to and during the public listening event.

The CCP workshops, preparedness workshops, and caucus space were critical in helping regional and community leaders understand and prepare for the initial public listening session. As well, they gave rise to questions that were used in developing the SRRB's two rounds of information requests. They further provided the "ethical space"<sup>272</sup> necessary to support an even playing field for communities in establishing the scope of the public listening session, and in developing and presenting evidence to the SRRB. They helped leaders develop ideas for current and future CCP work based on the values and knowledge of Sahtú Dene and Métis.

The regional CCP workshops applied an adaptation of the healthy country planning (HCP) approach developed by Australian Indigenous communities.<sup>273</sup> HCP is, in turn, an adaptation of the Open Standards for the Practice of Conservation.<sup>274</sup> HCP offers a toolbox for ensuring that culture, as well as people and their knowledge are central to CCP. During the local workshops and in caucus during the Colville 2020 Public Listening Session, communities had an opportunity to further develop their presentations using HCP tools.

### CCP Workshop 1 – Healthy Country Planning Basics

Tulít'a, October 29-31, 2019

This introductory workshop provided an overview of the public listening process, including the role of the communities. Jennie Vandermeer developed a graphic recording illustrating the public listening process that participants found very helpful.

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<sup>272</sup> For a discussion of ethical space, see Indigenous Circle of Experts, "We rise together. Achieving Pathway to Canada Target 1 through the creation of Indigenous Protected and Conserved Areas in the spirit and practice of reconciliation," (Queen's Printer Ottawa, 2018). [www.conservation2020canada.ca/ice](http://www.conservation2020canada.ca/ice).

<sup>273</sup> For background on the HCP approach, see [www.ccnetwork.com/resource/healthy-country-planning](http://www.ccnetwork.com/resource/healthy-country-planning).

<sup>274</sup> The Open Standards are available at [cmp-openstandards.org](http://cmp-openstandards.org).

There was general agreement that graphic recording will go a long way to improving the comprehension of presented evidence as well as the decision-making process.

Participants identified a number of priority concerns with respect to caribou conservation, such as fire management, caribou collaring, and industry impacts. This underscored the need for more than one public listening session to properly address the range of community concerns. The workshop also served as an introduction to HCP. This involved looking at what planning is and why we do it. Participants were introduced to HCP tools for telling their stories, including conceptual models for situation analysis and results chains. These are also useful tools for the development of community conservation plans.

## CCP Workshop 2 – Healthy Country Planning for a Public Listening

Colville Lake, November 5-7, 2019

This larger workshop provided a hands-on opportunity for community participants to begin preparing contributions for the Colville 2020 Public Listening Session. Three delegates were invited from each of the Sahtú communities. Colville Lake participation was also enhanced by attendance of several elders as well as the high school class. This was an excellent educational opportunity, as the youth got to learn not only how planning works but also about the land claim and the power it gives to the communities. More importantly, they were able to learn their story and hear about traditional laws from the leaders and elders.

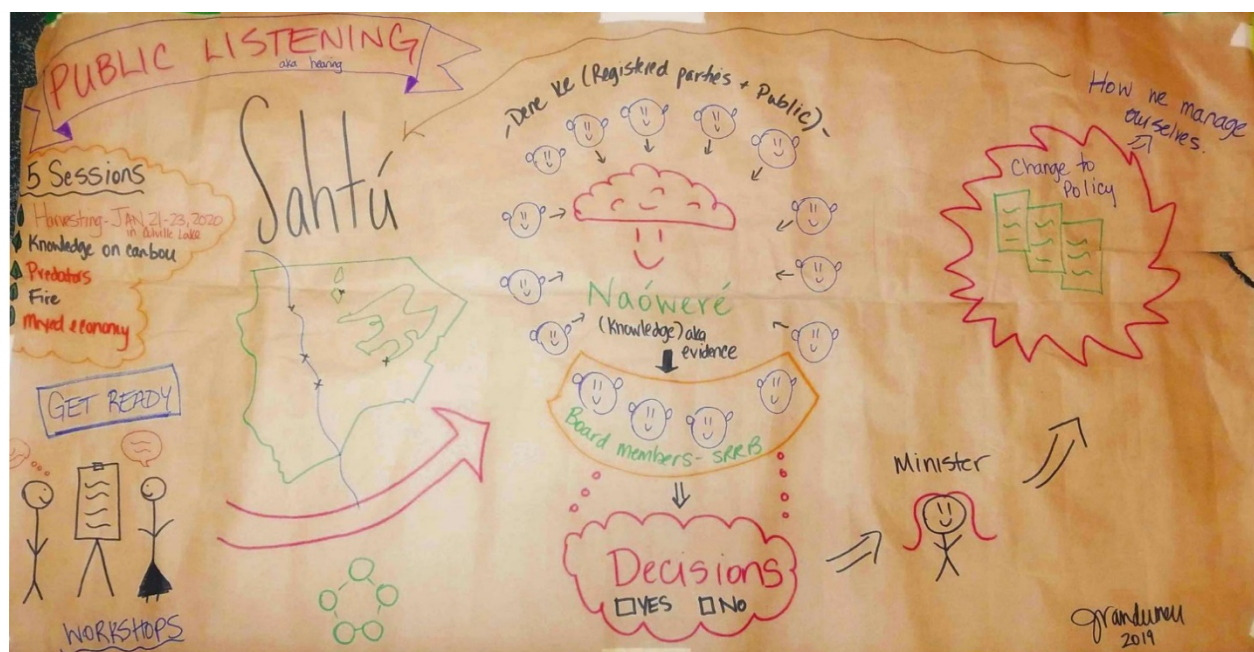


Figure 5: Graphic recording - Overview of the SRRB Public Listening series for CCP Workshops. Credit: Jennie Vandermeer.

Just as in CCP Workshop 1, it was necessary and very useful to go through the public listening process once more. Participants in the first workshop were able to present what they had learned the previous week and speak to the process in their own words. This brought out more questions for the information request process. Following this, Colville Lake leaders were able to present their plan. A healthy discussion took place on the similarities in traditional laws as well as challenges that communities are facing and changes they want to see.

This provided an excellent jumping off point for discussing some of the key points that could be presented by the communities at the public listening sessions. Kirsten Jensen provided a quick overview of what planning is. The group experimented with an example of using “the WHY story” (situation analysis) to determine the key parts of the story of traditional knowledge about caribou. The same process was done with “the WHAT story” (results chains). Communities were able to test out their theories on how

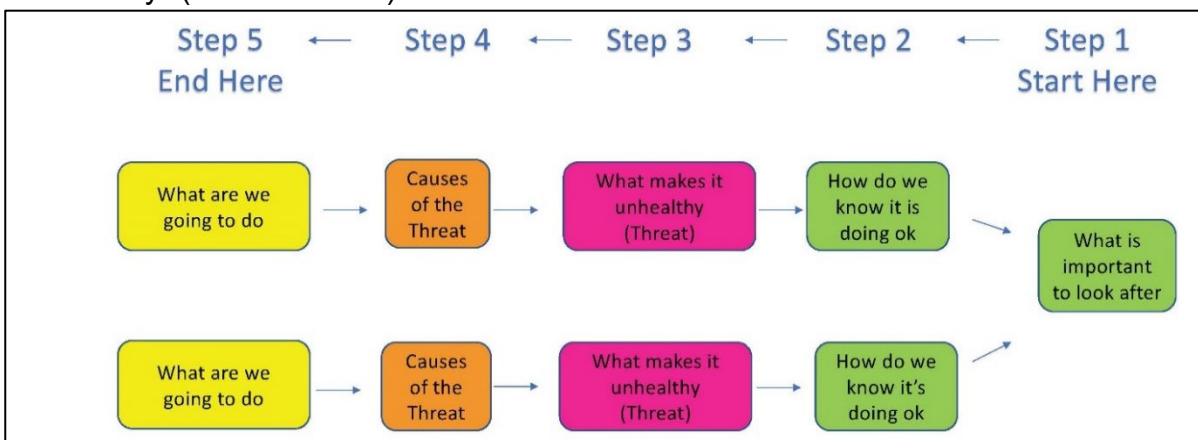


Figure 7: The WHY story – why do we want to do something? Healthy Country Planning situation analysis exercise. Credit: Stuart Cowell and Kirsten Jensen.

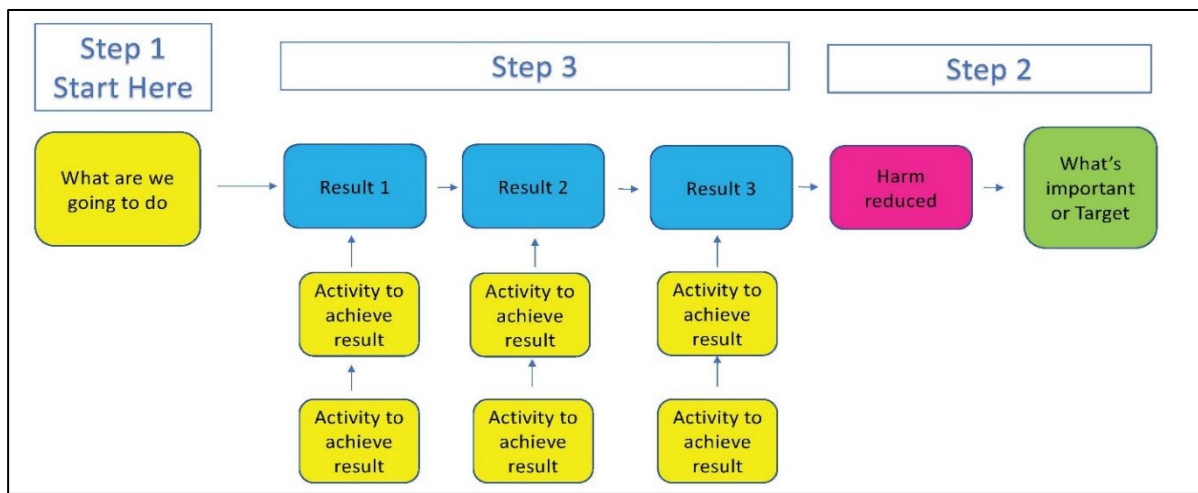


Figure 7: The WHAT story: What will we do and how will it help? Healthy Country Planning situation analysis exercise. Credit: Stuart Cowell and Kirsten Jensen.

the strategies they have been considering would actually produce results and have an impact on harvest law and caribou conservation in the Sahtú.

## Community Preparedness Workshops

Fort Good Hope, Délı̨ne, Norman Wells, Tulı́t'a  
November 28, 2019 to January 16, 2020

Further planning was done in each of the communities during the community preparedness meetings. Participants from the two CCP workshops along with other community members met locally to again go over the public listening process and goals. They also discussed the topics they wanted to present at the public listening, decided who would participate on behalf of their community, and considered the logistics of getting to Colville. At these meetings, we could already see the capacity built through the regional workshops, since less time was spent on explaining the public listening process, and more time was spent on considering what the community wanted to present at the public listening. Interestingly, discussions also turned to current or future development of their own community conservation plans, and the benefits they could imagine coming from developing plans for their homelands.

## Caucus Space

The concept of caucuses is relatively unfamiliar in the Sahtú context, although members of the Sahtú Youth Network (SYN) had gained experience in the value of caucusing over the past several years through other activities including on the land programs and various workshops. The Colville 2020 event was the first hearing proceeding where caucus spaces were formally provided as part of the agenda, and not surprisingly it was SYN that took advantage of this opportunity to prepare their presentation and questions for the parties and panels.

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*“A caucus is a group of people with common interests that may wish to meet together to pool knowledge. This can be helpful if the group wishes to prepare a presentation at the Public Listening Session. This agenda provides opportunities for caucuses to take place if there is interest and desire. Caucus groupings may be (but are not limited to) Community, Party, Youth, Elders, Women, or Hunters.” – from the Colville 2020 Public Listening Agenda<sup>275</sup>*

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<sup>275</sup> Sahtú Ragóʔa (Hunting Law) and Approaches to Wildlife Harvesting Agenda. January 13, 2020, available on the public registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>.

## Other Processes and Evidence

The SRRB also exercised its discretion to take notice of other processes or evidence relevant to the current hearing,<sup>276</sup> including:

- The Wek'èezhì Renewable Resources Board's Bluenose East Hearing in Behchokò on April 9-11, 2019,<sup>277</sup> and *Reasons for Decision Report*.<sup>278</sup>
- The Nunavut Wildlife Management Board's Bluenose East Hearing in Kugluktuk on March 2-3, 2020.<sup>279</sup>
- *Yúnethé Xá ʔethën Hádl*, Łutsël K'é Dene First Nation's caribou stewardship plan, finalized and shared with the SRRB on February 10, 2020.<sup>280</sup>
- Relevant literature with which the SRRB is well-acquainted, given its expertise as a wildlife policy board, where the parties had not provided evidence-based rationale for their proposals and where the SRRB was confident that the parties would not be prejudiced by that evidence.

## Principles and Scope

Nearly a quarter century after signing the land claim agreement that created the SRRB, the 2016 Bluenose East ʔekwé Hearing marked a turning point in the SRRB's approach to exercising its mandate. It was at that hearing that we reviewed a community conservation plan for the first time. Furthermore, in the SRRB's report on that hearing, *ʔekwé hé Dene Ts'ìl - Sustaining Relationships*, we formally adopted CCP as our approach for caribou conservation in the region.<sup>281</sup>

This is the second hearing proceeding to take place in the Sahtú in the context of the region's CCP approach. As described in the 2016 hearing report, the approach to weighing the evidence is biocultural.<sup>282</sup> This means it is based on the interdependence between Indigenous peoples and caribou. The approach foregrounds youth participation – paying special attention to the overarching objective of the *SDMCLCA* for the present and future “to recognize and encourage the way of life of the Sahtu Dene and Metis

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<sup>276</sup> *SDMCLCA*, *supra* note 2, s 13.8.18 and 13.8.23(g); SRRB, *Rules for Hearings*, October 23, 2019, available on the Public Registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>> s 3.6- 3.7; PR SRRB Rules-Guiding Documents 2, 5.

<sup>277</sup> The public registry for this hearing can be found at [www.wrrb.ca](http://www.wrrb.ca).

<sup>278</sup> Wek'èezhì Renewable Resources Board, "Report on a Public Hearing Held by the Wek'èezhì Renewable Resources Board, 9-11 April 2019, Behchokò, NT & Reasons for Decisions Related to a Joint Proposal for the Management of the Sahtu Ekwé (Bluenose-East Caribou) Herd, corrected edition," (August 1, 2019), June 16, 2019.

<sup>279</sup> Public registry: [www.nwmb.com](http://www.nwmb.com).

<sup>280</sup> Łutsël K'é Dene First Nation, *Yúnethé Xá ʔethën Hádl; Caribou Stewardship Plan*, *supra* note 57.

<sup>281</sup> *ʔekwé hé Dene Ts'ìl Sustaining Relationships. Final Report of the ʔehdzo Got'ìne Gots'é Náked* (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016, *supra* note 1.

<sup>282</sup> *Ibid*, 3.



which is based on the cultural and economic relationship between them and the land.”<sup>283</sup>

As the first of its kind to assert the CCP approach, the 2016 hearing report was unusually thorough and detailed, encompassing the breadth of evidence provided with respect to Ɂekwé (Bluenose East caribou) conservation by way of four main topics, 14 themes, and 39 decisions. The SRRB notes that while it serves as an important precedent, the wide-ranging and high-level nature of the 2016 decisions made them difficult to implement. This report builds on the evidentiary foundation established by that report, and takes a focused approach to weighing evidence related to the central question of the Colville 2020 Public Listening Session regarding caribou harvest regulation. The SRRB’s objective for the current report is to provide decisions that are very practical, serving as a form of workplan for co-management partners.

An exception to this focused scope is the SRRB’s special consideration of the totality of the *Dehlá Got’íne Ɂədə Plan*<sup>284</sup> and *Ts’íduweh Ɂədə ɁeɁá*<sup>285</sup> (referred to collectively as Colville’s Plan). Colville requested that the SRRB consider approving their plan, which includes various caribou conservation measures in addition to harvest regulation provisions.

The SRRB is cognizant that there is plenty to learn from the diverse and evolving best practices and experiences in caribou harvest regulation from other jurisdictions, and thus welcomed participation from ENR and other parties based outside the region.

Valuable evidence was provided that extended beyond the scope of the central question for the Colville 2020 Public Listening Session. This evidence will be considered by the SRRB based on its relevance to each of the future sessions, and will also be part of the evidence considered for the final report that will be compiled based on all five planned public listening sessions.

## Colville 2020 Panels and Parties

As described in the agenda for the public listening session, “A community panel is composed of the combined parties from an individual community.”<sup>286</sup> Panels and parties are listed below in several categories:

- Sahtú community panels (5)/parties (10)
- Other parties attending the public listening session (5)

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<sup>283</sup> SDMCLCA Section 1.1.1(c).

<sup>284</sup> Colville Lake Renewable Resources Council, *Dehlá Got’íne Ɂədə Plan*, *supra* note 4.

<sup>285</sup> Colville Lake Renewable Resources Council, *Dehlá Got’íne Ts’íduweh Ɂədə ɁeɁá*, 2019 / *Dehlá Got’íne Ancient Caribou Law*, 2019 *supra* note 5.

<sup>286</sup> SRRB, “Sahtú RagóɁa and Approaches to Wildlife Harvesting Agenda,” *supra* note 275 at 1.

- Other parties not attending the public listening session (4, all but one of which did not contribute submissions)

Although they provided a submission, the Łutsël K'é Dene First Nation is not listed as they were not a party to the Colville session.

### Sahtú Community Panels/Parties

- Colville Panel
  - Ayonih Keh Land Corporation
  - Behdzi Ahda First Nation
  - Colville Lake Renewable Resources Council
- Délıne Panel
  - Délıne ʔehdzo Got'ıne (Renewable Resources Council) and Délıne Got'ıne Government (Joint Party)
- Fort Good Hope Panel
  - Fort Good Hope ʔehdzo Got'ıne (Renewable Resources Council)
  - Yamoga Land Corporation
- Norman Wells Panel
  - Norman Wells Renewable Resources Council
- Tulı́t'a Panel
  - Tulı́t'a Dene Band
  - Tulı́t'a ʔehdzo Got'ıne (Renewable Resources Council)
  - Tulı́t'a Land Corporation

### Other Parties Attending the Public Listening Session

- Indigenous Leadership Initiative
- Inuvialuit Game Council
- NWT Environment and Natural Resources (ENR)
- Sahtú Dene Council (Elder delegates)
- Sahtú Youth Network (SYN)

### Other Parties Not Attending the Public Listening Session

- Acho Dene Koe First Nation (no submission)
- Dehcho First Nations (no submission)
- Kugluktuk Angoniatit Association (no submission)
- Ross River (Tu Łıdlini) Dena Council (submissions provided)



## Types and Scope of Submissions

There were multiple opportunities to provide submissions in various formats. Notably, different parties, organisations, and individuals chose to participate in different ways and to different degrees, whether solely as observers, or providing written or oral submissions specifically prepared for the public listening session, or providing other types of evidence. In total, there were opportunities to contribute twelve types of submissions. Nineteen individuals or organisations provided submissions. Understandably, Colville as the hosting community provided the broadest range of submission types.

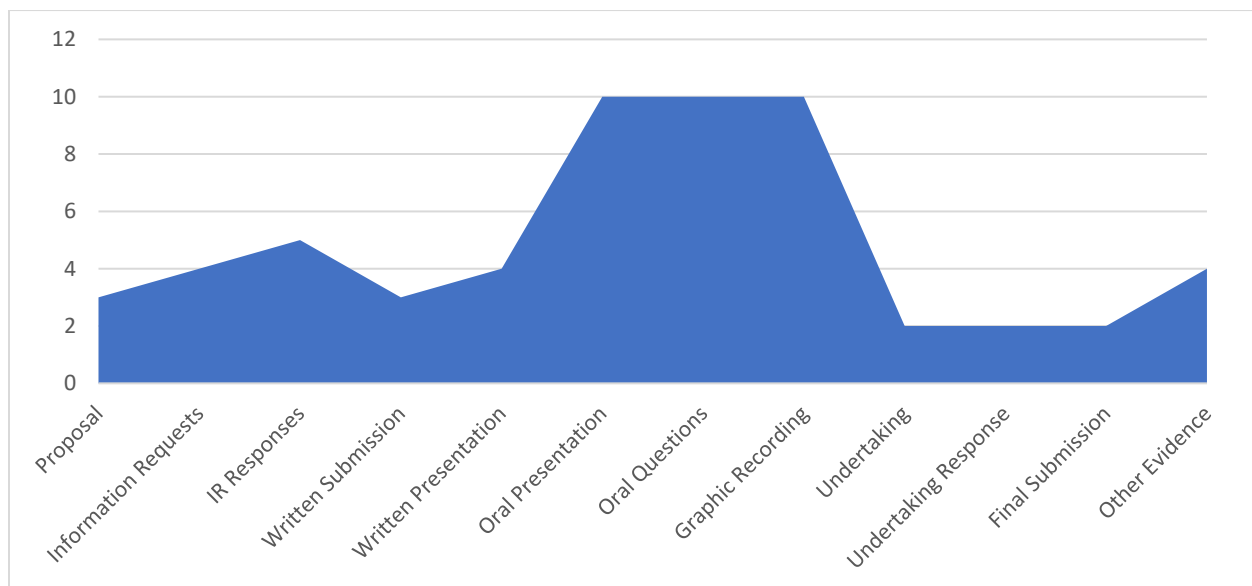


Figure 8: Number of contributors by type of submission. Total contributors = 19

## Milestones and Timelines

The following milestones and timelines in 2019-2020 marked the hearing proceeding. Note that the SRRB exercised its discretion to adaptively modify timelines as necessary during the proceeding. Documentation associated with these events is posted on the SRRB's public registry at [www.srrb.nt.ca](http://www.srrb.nt.ca).

*Table 2: Colville 2020 Public Listening Milestones and Timelines*

Milestone	Timeline 2019-2020
Joint SRRB and Colville Announcement of January 21-23 Public Listening Session to Sahtú Leaders and ENR	September 26
Public Notice of Colville 2020 Public Listening Session	October 3
Distribution of Colville Lake Caribou Plan	October 21
Pre-Public Listening Teleconference #1	October 25
Identification of Parties Round 1	November 4
Regional CCP Training Workshop, Tulít'a	November 5-7
Regional CCP Workshop to Prepare Presentations	November 12-14
Local Preparation Activities	November 18-January 17
Information Requests Round 1	November 25
Responses to Information Requests Round 1	December 17
Information Requests Round 2	December 20
Responses to Information Requests Round 2	January 10
Pre-Public Listening Teleconference #2	January 13
Deadline for Written Presentations	January 17
Public Listening in Colville Lake	January 21-23
Deadline for Final Written Arguments	February 12
SRRB Report with Reasons for Decision Released	March 31

Table 3: Contributions by Party, Organization, or Individual

Party, Organisation or Individual	Status	Proposal	IR	IR Responses	Written Submission	Written Presentation	Oral Presentation	Oral Questions	Graphic Recording	Undertaking	Undertaking Response	Final Submission	Other Evidence
Acho Dene Koe First Nation	Party	N	N	N	N	N	N	N	N	N	N	N	N
Colville Lake Panel	3 Parties	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N
Dehcho First Nations	Party	N	N	N	N	N	N	N	N	N	N	N	N
Déjıne Panel	2 Parties	Y	N	Y	N	N	Y	Y	Y	N	Y	N	N
Fort Good Hope Panel	2 Parties	N	N	N	N	N	Y	Y	Y	N	N	N	N
Indigenous Leadership Initiative	Party	N	N	N	N	Y	Y	Y	Y	Y	N	N	N
Inuvialuit Game Council	Party	N	Y	Y	N	N	Y	N	Y	N	N	N	N
Janet Winbourne	SRRB Advisor	N	N	N	N	Y	Y	Y	Y	N	N	N	N
Kugluktuk Angoniatit Association	Party	N	N	N	N	N	N	N	N	N	N	N	N
Łutsël K'é Dene First Nation	Observer	N	N	N	N	N	N	N	N	N	N	N	Y
Norman Wells Panel	1 Party	Y	N	N	N	Y	Y	Y	Y	N	N	N	N
NWT Environment and Natural Resources	Party	N	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y
Sahtú Dene Council (Elder delegates)	Party	N	N	N	N	N	Y		N	N	N	N	N
Sahtú Youth Network	Party	N	N	N	N	N	Y	Y	Y	N	N	N	N
Tłıchų Government	Observer	N	N	N	N	N	Y	Y	Y	N	N	N	N
Tu Łıdłıı ((Ross River) Dena Council	Party	N	N	Y	N	N	N		N	N	N	N	Y
Tulı't'a Panel	3 Parties	N	Y	N	N	N	Y	Y	Y	N	N	N	N
Wek'eezhii Renewable Resources Board	Observer	N	N	N	Y	N	N	N	N	N	N	N	Y
Wildlife Management Advisory Council - NWT	Observer	N	N	N	Y	N	N	N	N	N	N	N	N

## Oral, Written, and Visual Interpretation Across Cultures

The SRRB took care to consider how to accommodate the cross-cultural and multi-lingual nature of a formal proceeding in the Sahtú context. Interpretation was provided by oral, visual, and written means, as follows:

- In preparation for the public listening session, the SRRB encouraged the parties to prepare a list of three to five key terms and concepts in either their Indigenous language or English related to their presentation, with explanations. Opportunities were provided to discuss terms during the session, and terms were documented on flip charts (these and other terms are included in the Dene kədə/glossary to this report).
- Oral interpretation was provided in Sahtú Dene language dialects as well as Tłıchǫ language. For the Sahtú language, interpretation was offered in two main dialects.
- Visual interpretation was provided by graphic recorder Sam Bradd ([drawingchange.com](https://drawingchange.com)). Graphic recorders listen closely, synthesize, and draw proceedings in real time. Graphic recording is not evidence in itself, but can assist with communication by helping participants see patterns. Graphic recordings were reviewed and orally approved for the record by each of the presenting parties, and were included in the public registry along with written presentations.
- For the first time, a special effort was made to include Dene orthography as part of the transcripts, although there were technical difficulties with this that remained unsolved as of the date of the public record closure on February 12.

## Embracing Diversity

The Sahtú's cultural diversity is reflected in linguistic diversity. Dialects vary both within and among communities, varying more or less depending on both family or community history. The dialects of Fort Good Hope and Colville are distinct but related, known respectively by the Dene terms for the communities, K'áhsho (Big Arrow) and Dehlá (End of the Treeline) Got'ıne. The Dene and Métis communities of Délıne and Tulı'ta encompass four related place-based dialects: Délıne (Where the Waters Flow), K'áalǫ (Willow Lake), Dəgho (Mackenzie River) and Shúhta (Mountain) Got'ıne. In this report, the SRRB celebrates this diversity by including the term used by the party or individual providing evidence.



## Appendix B - Presentations and Other Submissions by the Parties

The 17 parties to the Colville 2020 Public Listening Session variously contributed to the process, either as panels or individually. A few confirmed parties located outside the Sahtú did not contribute oral or written submissions, and were unable to travel to Colville. However, they may have monitored the proceedings posted on the public registry, attended the two pre-session teleconferences, or participated by teleconference during the session. Their awareness and support for the proceeding was appreciated. Others provided oral presentations and responses to questions during the session that were graphically recorded and transcribed. A third category of participants took advantage to varying extents of the opportunities to provide pre-session written submissions, responses to information requests, written presentations, and final arguments.

As the hosting panel and the sole party presenting a comprehensive *ᓇᓇ* proposal for approval by the SRRB, Colville contributed the first, hour-long presentation at the 2020 Public Listening Session. The ENR presentation of 1.5 hours was another focal point of the proceeding on the second afternoon, encompassing evidence about all three ecotypes within the region, as well as issues related to the territorial frameworks for harvest regulation. The other 13 panels and parties were given shorter half-hour windows to present. In addition, SRRB Technical Advisor Janet Winbourne remotely presented an assessment of the Sahtú Harvest Study. The SRRB exercised its discretion to recognize elders sponsored by the Sahtú Dene Council who wished to speak at various points in the proceedings.

In a penultimate session, members of the public were provided with an opportunity to present. Notably, non-party delegates of the Inuvialuit Game Council and Tłıchǫ Government as well as several elders contributed comments during that portion of the proceeding. During the final day, time was set aside for parties to review, validate, and formally approve their graphic recordings before the final closing remarks by the parties and the chair.

In this section, we provide summaries of contributions by the parties, along with their approved graphic recordings. Colville Lake and ENR are featured first, followed by the other panels and parties, the SRRB's technical advisor, and the public.

### Order of Presentations

1. Colville Panel
2. NWT Environment and Natural Resources
3. Délı̨ne Panel
4. Fort Good Hope Panel
5. Tulı́t'a Panel
6. Norman Wells Panel
7. Sahtú Youth Network
8. Indigenous Leadership Initiative
9. SRRB (Technical Advisor Janet Winbourne, Sahtú Harvest Study)
10. Public Comments

## Colville Panel Presentation

*David Codzi, Joseph Kochon, Chief Wilbert Kochon*

The Colville 2020 Public Listening Session foregrounded presentation of the proposed *Dehlá Got'jne ʔədə Plan*<sup>287</sup> and *Ts'jduweh ʔədə ʔeʔá* (Ancient Caribou Law)<sup>288</sup>, or Colville's Plan. As the first presenters of the proceeding, Colville leaders began by reflecting on the community's commitment to preparing a plan based on their ts'jduweh (ancient laws) for approval by the SRRB. The plan is based on the core value of respect for ʔədə, and cross-generational knowledge transmission is prioritized. Members of the Colville Panel emphasized that they support a collaborative approach to conservation with co-management partners including the SRRB and ENR. Nine principles and six goals are outlined in the plan, charting a path forward. The *Interim Management Agreement* signed with ENR in December allows Colville to work with ENR, the SRRB, and other parties "while we move towards fully implementing" the *Dehlá Got'jne ʔədə Plan* and *Ts'jduweh ʔədə ʔeʔá*. The agreement includes a traditional knowledge and limited license agreement permitting information sharing with ENR. Finally, Colville summarized *Ts'jduweh ʔədə ʔeʔá*, including provisions for monitoring and enforcement, and sanctions for those who violate *Dehlá Got'jne ʔeʔá*.

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You know, we've been here such a long time that we become part of the natural order of things with the wildlife. We're part of nature. And you know, we've been responsible and been respectful in how we deal with our wildlife around us. We want to make sure that we keep that mindset as we go forward. That's the whole reason we're doing these things. We have to be responsible about what we do and respectful. – David Codzi<sup>289</sup>

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<sup>287</sup> Colville Lake Renewable Resources Council, *Dehlá Got'jne ʔədə Plan*, *supra* note 4.

<sup>288</sup> Colville Lake Renewable Resources Council, *Dehlá Got'jne Ts'jduweh ʔədə ʔeʔá*, 2019 / *Dehlá Got'jne Ancient Caribou Law*, 2019 *supra* note 5.

<sup>289</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 25:22-25; 26:1-6.

## NWT Environment and Natural Resources Presentation

*Jan Adamczewski, Rohan Brown, Kevin Chan, Brett Elkin, Heather Sayine-Crawford*

The ENR Panel's presentation had two parts. Part 1 included an overview of: wildlife management and the co-management process; the NWT *Wildlife Act*, how it was developed, and what it contains; an explanation of the NWT *Species at Risk Act*; and a section on harvest monitoring. Part 2 considered the status and management of caribou in the Sahtú based on both traditional and scientific knowledge, including information on mountain caribou, boreal caribou, and the Bluenose West and Bluenose East herds of barren-ground caribou.

Both the *Wildlife* and *Species at Risk Acts* recognize Aboriginal and Treaty rights. During the development of the *Wildlife Act*, every community and organization involved, including the SSI and SRRB, talked about the importance of safe and respectful conduct on the land, and even more importantly, respectful hunting. There is agreement about the value of the Hunter Education course for new hunters and youth.

When wildlife cross more than one land claim area or traditional harvesting area, affected co-management boards work together to agree on management actions, such as harvest management approaches. There needs to be coordination to ensure population-wide management. The NWT Conference of Management Authorities and the Advisory Committee for Cooperation on Wildlife Management (ACCWM) play this role.

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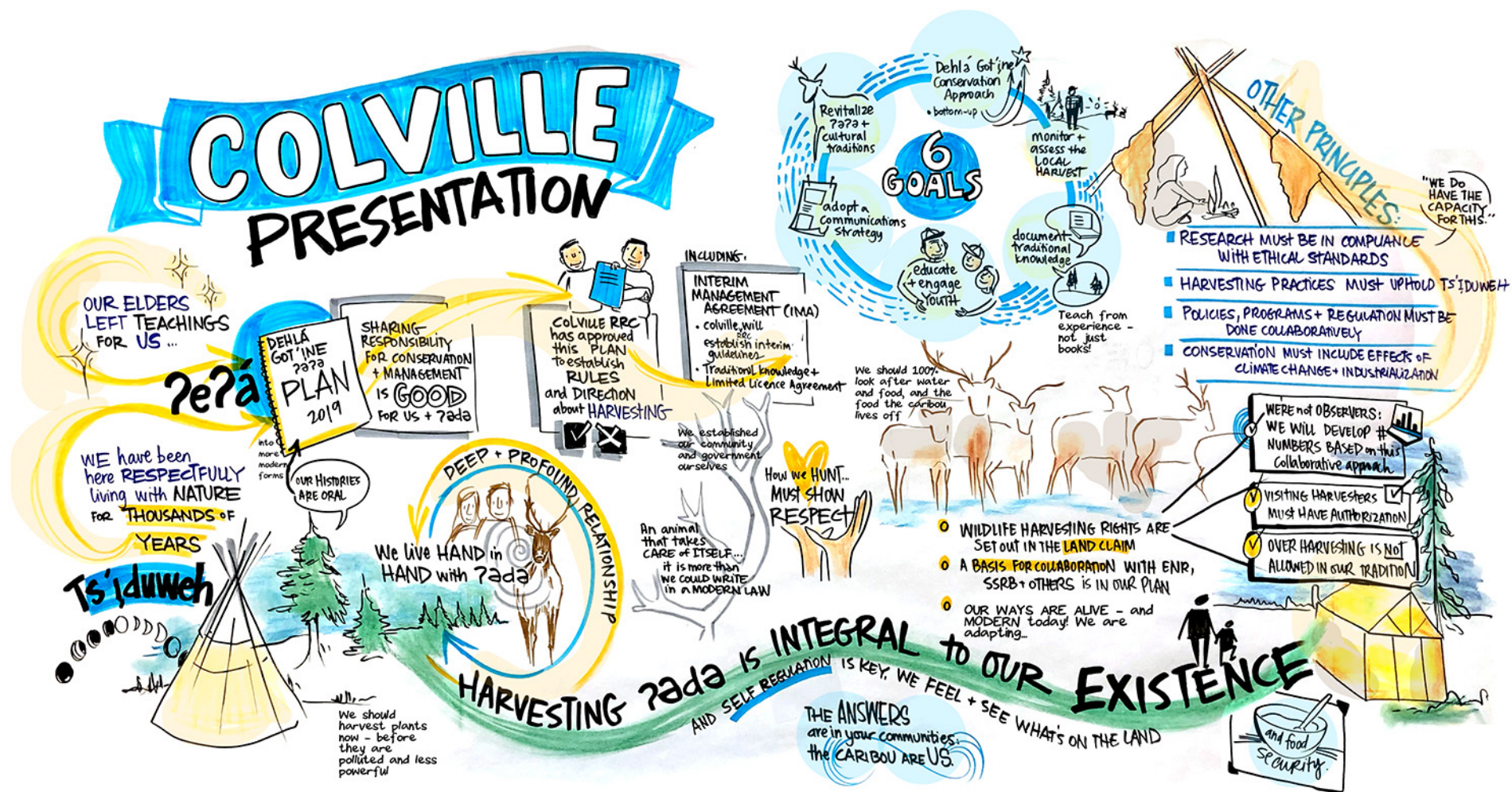
ENR is supportive of community conservation plans as an effective approach for wildlife and harvest management. We are willing to assist communities to develop and, where appropriate, implement those plans. – Jan Adamczewski<sup>290</sup>

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<sup>290</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 221:3-7.





Colville 2020: Public Listening: on Dene Ragóʔa (Hunting Laws) and Sahtú Approaches to Wildlife Harvesting January 21-23, 2020

LIVE GRAPHIC RECORDING | Drawing Change  
Sam Bradd



# DEPARTMENT OF ENVIRONMENT and NATURAL RESOURCES

## CARIBOU



3 TYPES OF CARIBOU in the SAHTU

### BOREAL CARIBOU

- est. 6000-7000
- Species at Risk: Threatened
- critical habitat protection required
- ENR estimates annual harvest is 3% of entire population

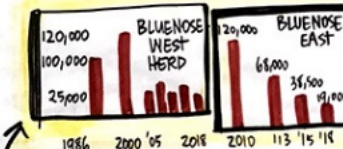
### BARREN GROUND

#### Barren-Ground Caribou

- migratory, travelling thousands of km
- population have large natural fluctuations often over decades



- increasing
- slow decline
- stable
- rapid decline



RESPONSIBILITY FOR MGT: WRRB, SRRB, GN + GNWT

• Tlicho Gov't + GNWT submitted a new mg't plan (2019): WRRB determined new TAH of 193 BNE

TAH OF 4%

SHARED Co-mgt With WMAC, GRRB, SRRB, GNWT

#### SPECIES AT RISK: Barren Ground Caribou

- Federal: COSEWIC (2016) threatened; SARA - pending
- TERRITORIAL:
  - SARC (2017) threatened
  - CMA (2018) threatened

SRRB took a DIFFERENT approach: Dettling's Belare Wile Gots'g 7e Kwe - CARIBOU FOR ALL TIME PLAN

Harvest target of 150 80:20 bulls to cows

### NORTHERN MOUNTAIN

• latest est. 21,800?



#### Made in the NORTH approach:



#### QUESTIONS ISSUES From Panelists:

- TAG system
- Impact of mining/industrial dev
- Does a TAH exist in the Sahtu

How do we make this WORK (re legislation/enforcement not yet in the Act)



- Provides the TOOLS for conservation of wildlife + habitat
- Recognizes Indigenous + Treaty rights

When wildlife cross boundaries, co-management Boards can work TOGETHER eg. ACCWM has management plan for 3 caribou HERDS

Wildlife Act includes SAFE + RESPECTFUL ETHICAL practices

## COLLABORATIVE CO-MANAGEMENT IS THE FOUNDATION



## Déline Panel Presentation

Walter Bezha, Gina Dolphus, Alfred Taneton, Hannah Taneton

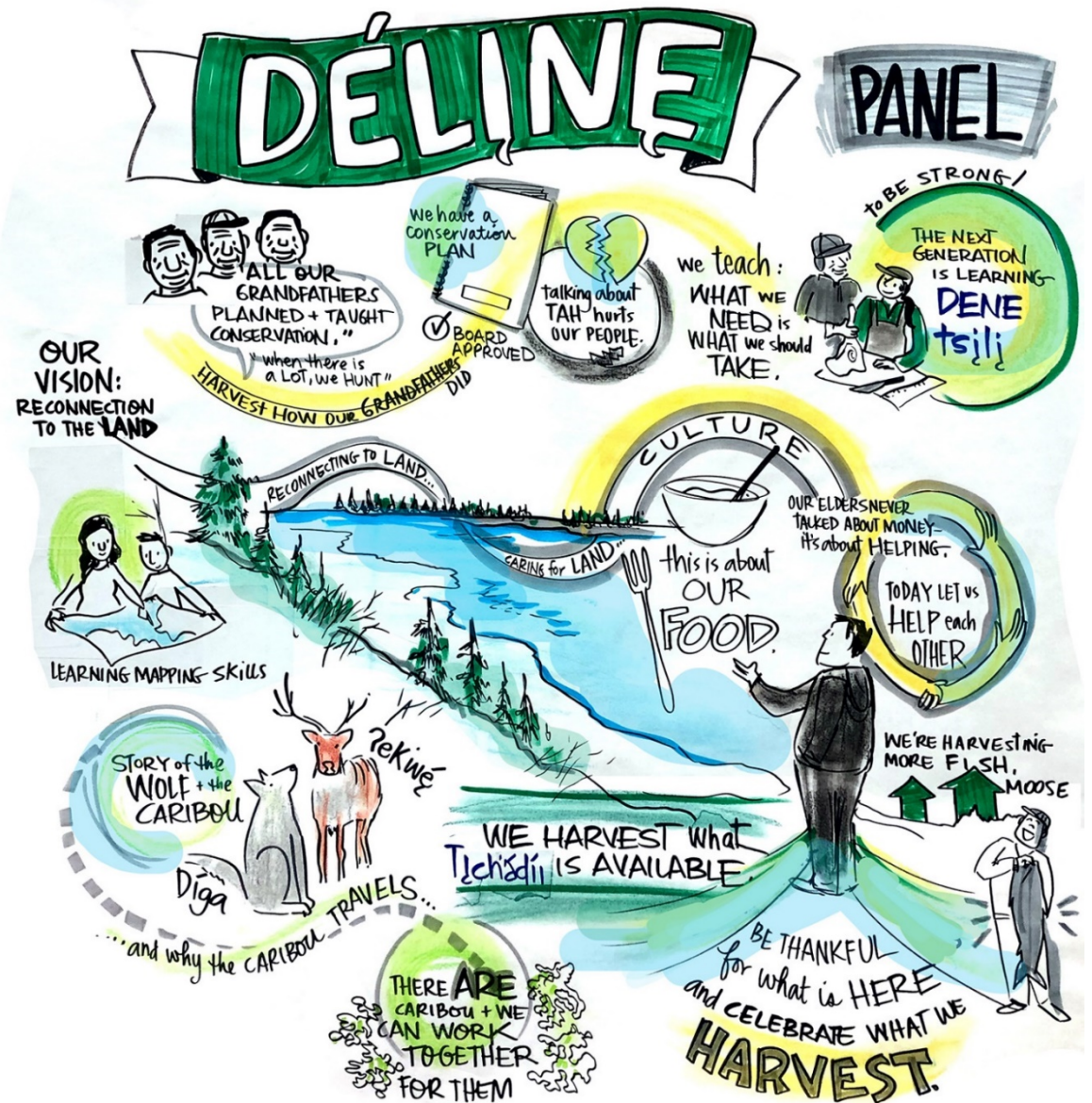
The Déline Panel expressed appreciation for Colville's Plan, and described the initiatives their community as a self-governing nation is taking in conservation planning. This includes asserting Dene concepts of conservation, which encompass the ideas of respect and Dene ts'ı́ı, or Dene ways of life – behaving as the grandparents would.

A key conservation practice outlined in Déline's *Belare Wile Gots'ę Țekwę – Caribou for All Time* plan is harvesting only what is available (Țası́ı góhı́ı, if there's a lot, you hunt), including alternative species.

Elder Alfred Taneton told the story of how caribou and wolf came to an agreement that caribou would be free to roam if wolf would share them as food for other animals and people. He also reminded those in attendance of the prophet Țehtséo Țeréya's warning that in the future it will be difficult to survive on the land, so we need to be thankful and help each other.

Celebrate and honour those people that are still hunting the way their grandfathers had, and providing food for everybody else. – Walter Bezha<sup>291</sup>

<sup>291</sup> Colville 2020 Public Listening: Sahtú RagóȚa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, supra note 36 at 144:12-15.



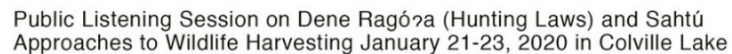


*John Cotchilly, Daniel Jackson, Gabe Kochon,  
Thomas Manuel, Frank T'seleie*

Frank T'seleie summarized impacts of colonial intrusion on Dene peoples, including famine due to overharvesting, epidemics, and abuse in residential schools. Elder Gabe Kochon shared a personal experience of suffering under colonial harvest restrictions in the past.

Panel members highlighted that Dene people have their own laws. They have maintained sustainable harvesting traditions dating many generations to when people used caribou fences. They would carefully monitor wildlife and make decisions based on that information about whether to harvest or leave the wildlife to recover.

We have to think in a new way in the future, where we free ourselves from the burdens of colonialism, where you have no freedom to exercise what you already know. – *Frank T'selele*<sup>292</sup>

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Sam Bradd | Change

<sup>292</sup> *Ibid* at 223:11-14.

## Tulít'a Panel Presentation

Chief Frank Andrew, Frederick Andrew, David Etchinelle, Gordon Yakeleya, Douglas Yallee

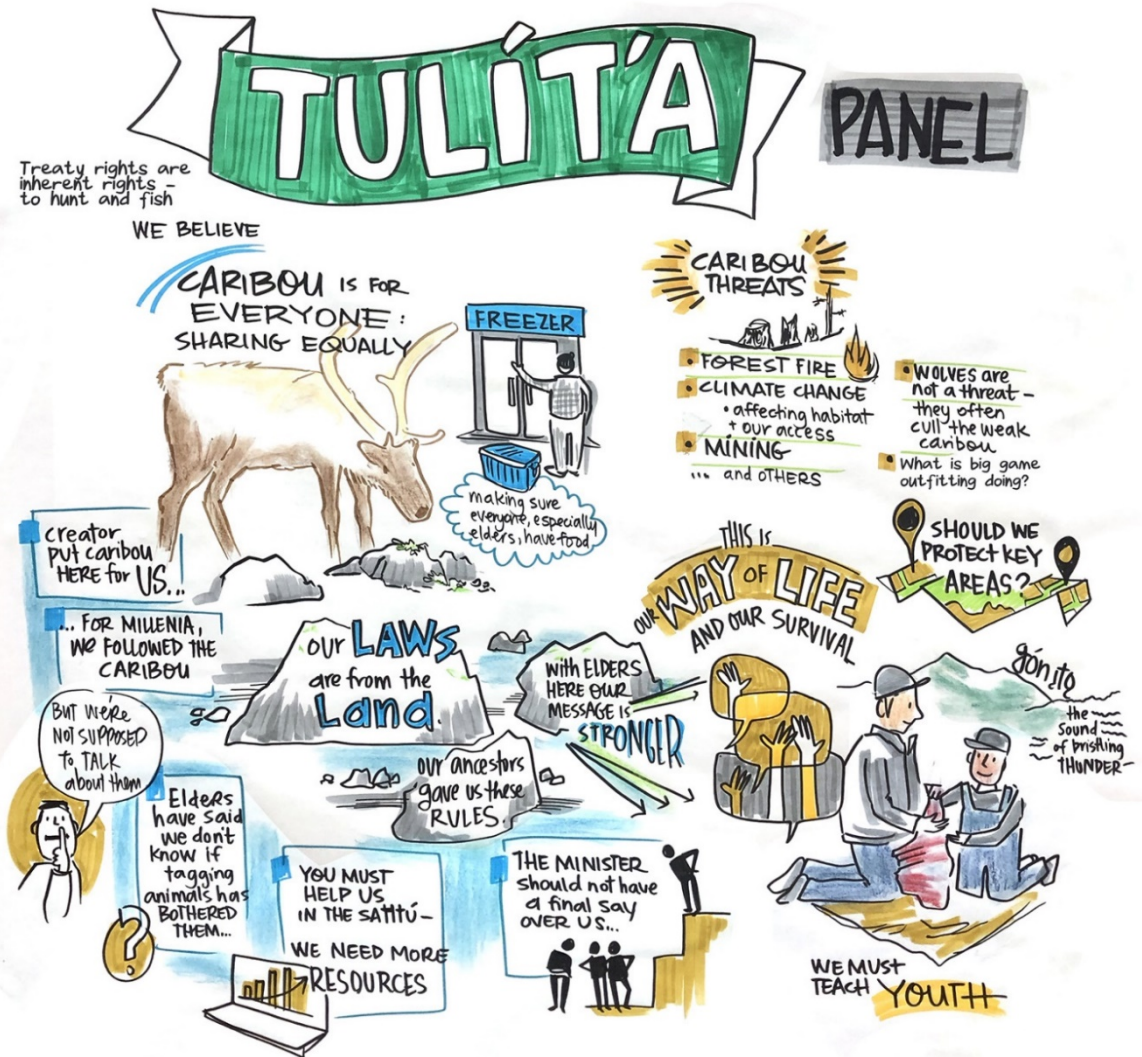
The Tulít'a Panel emphasized that caribou were given to people by the Creator. When a caribou is given to a hunter, the meat must be shared, especially with people like single mothers and elders who don't have a provider. The community freezer used to be a good means of sharing meat.

The panellists noted that outsiders don't know Dene laws. A land claim agreement was settled in 1993 so that Dene and Métis could restore their power. Sahtú communities, they argued, need to use that power. When government has all the power, that's when Dene and Métis start to lose their young people and they stop going out on the land.

The Tulít'a Panel called for help in addressing this. Young people need to be able to learn on the land, they observed, so they can carry harvesting traditions forward. There are strong laws that must be learned and practiced, including laws about treating caribou and caribou blood with respect, and not talking about caribou.

When people go ... out into the mountains, there's no wildlife officers, and there's no garbage, and it's just pure, it's just beautiful. And they look after it, and so that the animals – it's all there. – David Etchinelle<sup>293</sup>

<sup>293</sup> Ibid at 276:23-25; 277:1-4.





## Norman Wells Panel Presentation

Edward Oudzi, Jaryd McDonald, Roger Odgaard, Jazmine Plummer, Stuart Pope

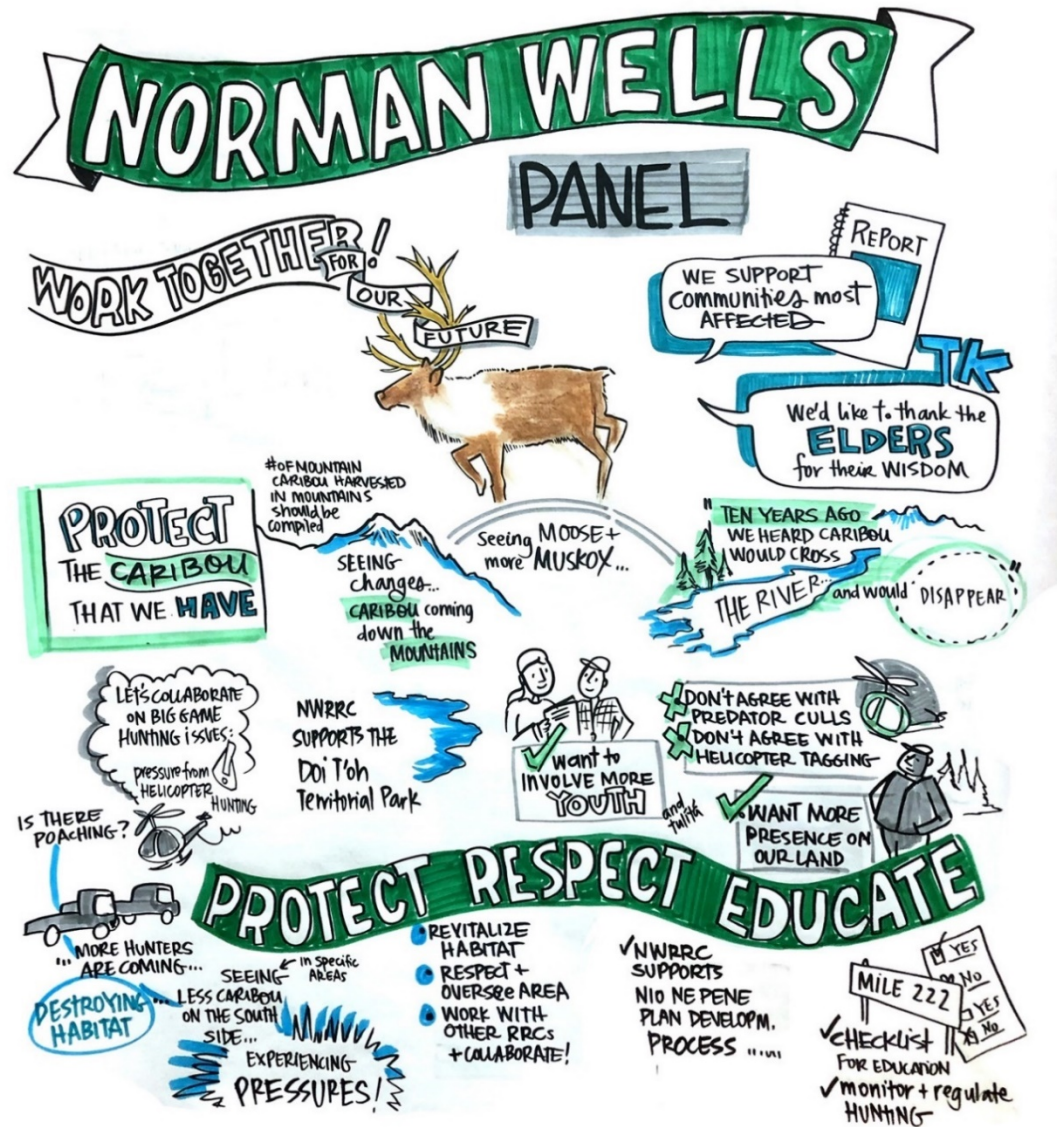
Elder Edward Oudzi opened the Norman Wells Panel's presentation, giving glimpses of Dene survival on the land with a story about two of his long walks across his Sahtú homeland – one from Colville Lake to Norman Wells, and another when his Skidoo broke down.

Norman Wells expressed an acute caribou conservation concern. The community embraces actions to protect, respect, and educate for revitalization of caribou populations and habitat, with a focus on youth.

Each community should be supported to lead stewardship of the caribou population with which they have the closest relationship. For Norman Wells, this is shúhta goʔepé. There appear to be fewer shúhta goʔepé south of Turéhj Deé (Twitya River), and more of them to the north where there is less hunting pressure.

A planning process that brings together the communities of Norman Wells, Tulít'a, and Tu Łidlini (Ross River, Yukon) in their shared mountain homeland is a priority. Harvest regulation measures similar to those developed by Tu Łidlini should be adopted for the Sahtú.

**Our principles: pass on traditional harvesting practices, promote education, and help the youth. – Roger Odgaard<sup>294</sup>**



Public Listening Session on Dene Ragóʔa (Hunting Laws) and Sahtú Approaches to Wildlife Harvesting January 21-23, 2020 in Colville Lake

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<sup>294</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 20:8-10.

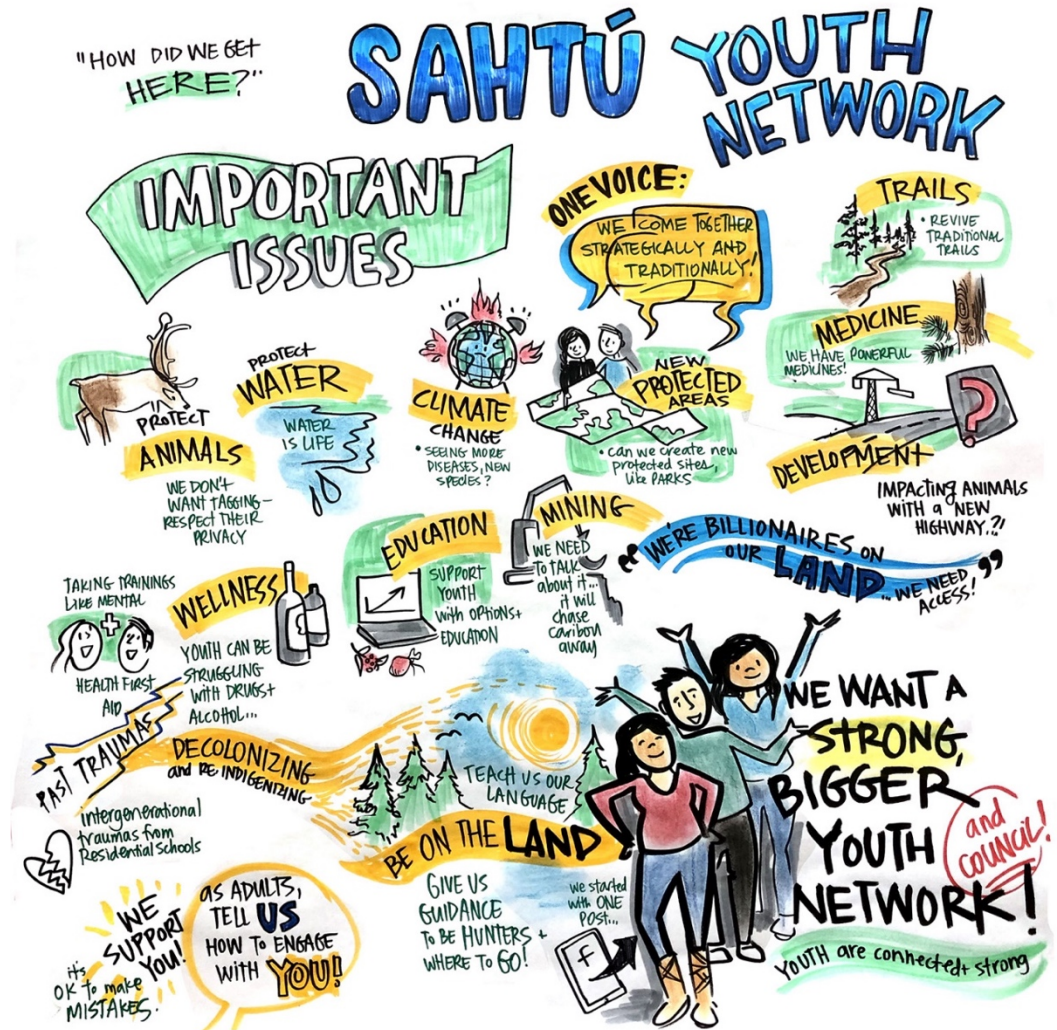
## Sahtú Youth Network Presentation

Fayth Baton, Naomi Gully, Jeanette Tobac-Kakfwi, Kyanna Lennie-Dolphus, Jaryd Macdonald, Shaylynn Mackeinzo, Dakota Orlas, Kody Orlas, Jasmine Plummer, CoraLynn Rabisca, Hannah Taneton, Rosanne Taneton, Lacey Wrigley

The Sahtú Youth Network (SYN) highlighted the need to train beginner hunters about the land, the old trails and hunting areas, traditional medicines, and other ancestral teachings. Youth want more opportunities to get together with other youth so they can have a strong voice on issues such as climate change, Indigenous Protected and Conserved Areas (IPCA), potential mining in the mountains, the possible effects of the highway, and the use of collars on wildlife.

They also want support for learning on the land, as well as their efforts in formal education, and they want acknowledgement of their contributions and achievements in both worlds.

The youth today are not the same as they were back then. We are caught between the past and the future. We're caught between knowing what our grandparents taught us and knowing what is coming up in the future, and that's a hard thing to realize, but we're going to have to if we want our people to move ahead for our future. - Jaryd McDonald<sup>295</sup>



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<sup>295</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 83:18-25; 84:1-2.



## Indigenous Leadership Initiative Presentation

Ethel Blondin-Andrew with Leon Andrew

The Indigenous Leadership Initiative Panel spoke about the importance of the Nío Nę P'ęnę area to shúhta goʔepé (mountain caribou) and Shúhtaot'ıne (Mountain Dene). The mountains are a place of peaceful co-existence with the land, the air, the animals – a source of life for every living thing.

The Nío Nę P'ęnę Begháré Shúhta Goʔepé Narehʔá – *Trails of the Mountain Caribou* plan<sup>296</sup> outlines five program areas that are meant to help protect shúhta goʔepé from the influx of people and ensure that traditional areas, practices, and ʔeʔa (laws) are kept intact and passed on to the next generation.

What can be done, the ILI Panel asked? The land needs a chance to replenish itself. The people need to hunt in rhythm with the natural cycles. People need to be conscious of the changing world we live in and manage ourselves accordingly.

The evidence of our trusted stewardship is that we are still here and the caribou are still here ... We have seen many many challenges over the centuries and generations. However, we have survived. And part of that is how we live in harmony with the land, water, air, and animal species. That fits into Nío Nę P'ęnę. – Ethel Blondin-Andrew<sup>297</sup>

# Nío Nę P'ęnę Begháré Shúhta Goʔepé, Narehʔá



Public Listening Session on Dene Ragóʔa (Hunting Laws) and Sahtú  
Approaches to Wildlife Harvesting January 21-23, 2020 in Colville Lake

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<sup>296</sup> Nío Nę P'ęnę Working Group (compiled by Janet Winbourne), *Nío Nę P'ęnę Begháré Shúhta Goʔepé Narehʔá / Trails of the Mountain Caribou Plan*, *supra* note 6.

<sup>297</sup> Colville 2020 Public Listening: *Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 152:24-25; 153:4-8.

## Sahtú Harvest Study Presentation

*Janet Winbourne*

The Sahtú Harvest Study was a census-type survey that was conducted in all five Sahtú communities from 1998 to 2005. The study, which involved a total of 802 people, was a requirement of the *Sahtú Dene and Métis Comprehensive Land Claim Agreement*.<sup>298</sup> It was intended to estimate the number of animals, fish, and birds harvested by Sahtú Dene and Métis for a period of five years, to provide information for fish and wildlife management and to protect harvesting traditions.

Information was documented in harvest counts and locations for over 80 species. Between 2013 and 2019 the results of the study were reviewed, statistically analyzed, and finalized before being presented to Sahtú elders and harvesters in small group verification sessions for interpretation.

The Sahtú Harvest Study presentation highlighted lessons learned and conclusions drawn from the study review and analyses. The results were found to vary in reliability and accuracy by species, by year, and by community. In many cases, community members stressed that the total estimated harvests were not a good representation of known harvesting patterns and needs. Reasons provided included: distrust regarding use of the information, recall failure, low participation some years, and unusual events that affected harvesting patterns, such as proximity of caribou to a community or availability of wage labour.

The findings demonstrate that while harvest studies can help us better understand some aspects of Sahtú Dene and Métis food systems, the utility of count-based surveys for defining harvest regulation systems, or minimum needs levels, is limited and should not be used without the stories or context surrounding the data. In addition, study methods and monitoring programs with full community support produce the best results.

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<sup>298</sup> Canada, *SDMCLCA*.

## Presentations by Other Parties and the Public

*Jim Elias (Inuvialuit Game Council); Michel Louis Rabesca, Louis Wedawin, Joseph Lazare Zoe (Tłıchq elders); Richard Kochon (Dehlá Got'ıne elder)*

This session gave voice to delegates from neighbouring jurisdictions and highlighted the role that Indigenous peoples have as eyes and ears of the land and stewards of huge caribou landscapes, with ancient knowledge carried forward in stories and practice. There is agreement that the environment is changing, and common action is needed for caribou conservation. This is key for food security as well as spiritual and cultural well-being. Youth have a key role as present and future leaders.

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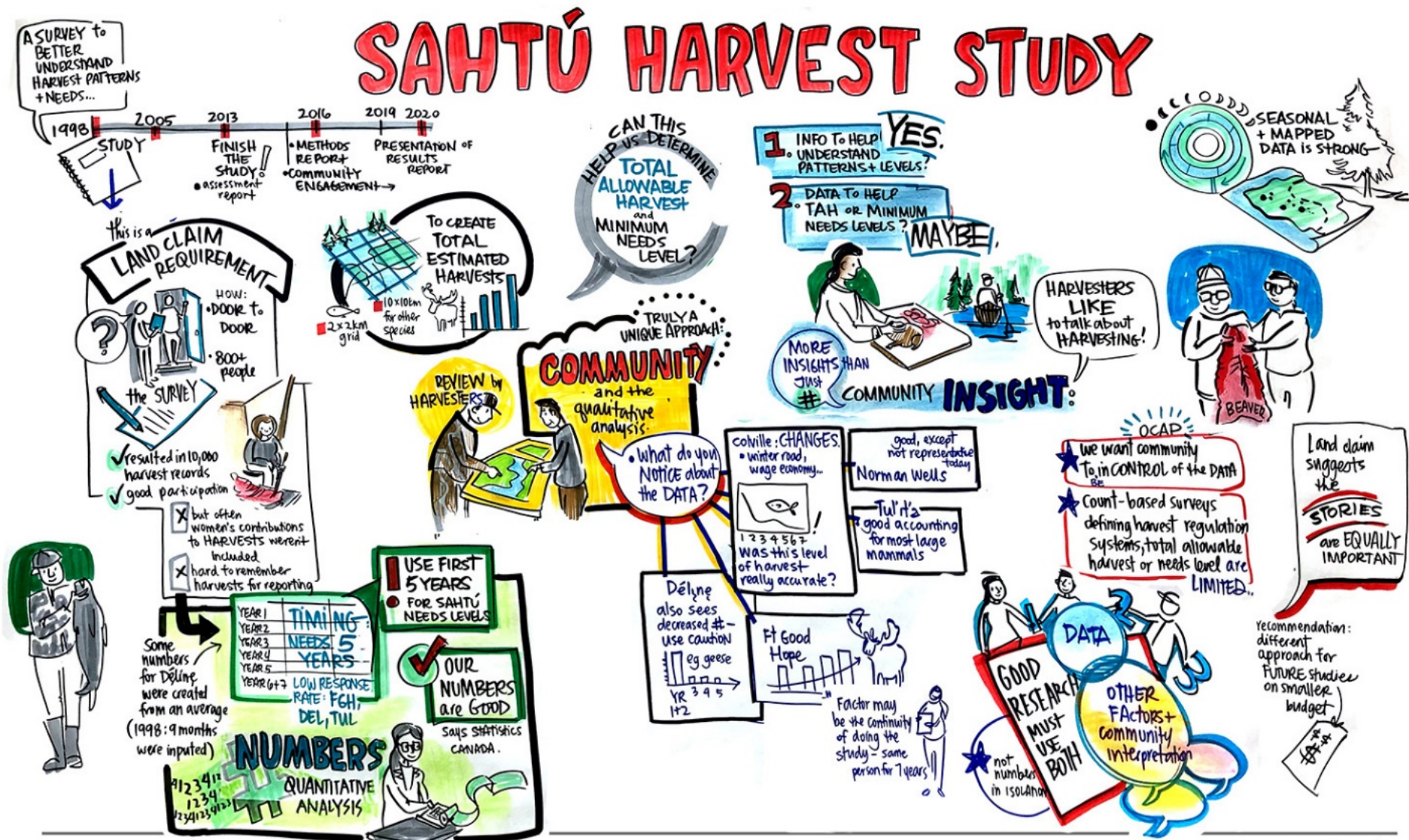
We all have to work together. If not, things don't get done right and sometimes don't get done at all ... If we don't all sit at the same table, we'll do six different plans and different things which might not be what another group disagree with and that, so we have to sit at the same table and come to some sort of an agreement where it'll work out for everybody. – *Jim Elias*<sup>299</sup>

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<sup>299</sup> 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 100:3-4; 101:4-9.





Colville 2020: Public Listening: on Dene Ragóʔa (Hunting Laws) and Sahtú Approaches to Wildlife Harvesting January 21-23, 2020

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PRESENTATIONS  
from Tlicho,  
Inuvialuit Game  
Council

# OTHER PARTIES AND THE PUBLIC



WHAT IS THE MOST EFFECTIVE WAY  
TO REGULATE THE HARVEST OF CARIBOU?



OUR  
ANCESTORS  
TAUGHT US A

**GOOD  
LIFE**



Back then, you  
would see a  
CARIBOU and  
WOULD BE HAPPY

EDUCATION  
OF YOUNG  
PEOPLE is  
KEY!

we are thankful  
to the people in  
COLVILLE MAHSI!



WE MUST CARE FOR  
**WILDLIFE**  
and the  
LAND

LISTEN TO  
ELDERS

**THE LAND IS  
CHANGING**

I grew up on  
the LAND

We can visualize  
ANY PLACE



**WORK  
TOGETHER**

ENR  
must listen  
to INDIGENOUS  
LEADERS

to strengthen  
the way forward  
for EVERYONE



it's OUR  
WAY OF  
LIFE



all MEAT  
was  
SHARED

are we  
talking about  
the caribou  
too much?

How can these  
NUMBERS  
be ACCURATE?

it has been  
PREDICTED  
WILDLIFE WILL  
DECLINE...

how could a  
tag be an answer?  
the GOVERNMENT  
will do what it wants -

**NO ONE  
LISTENS**

Colville 2020: Public Listening: on Dene Ragóʔa (Hunting Laws) and Sahtú Approaches to Wildlife Harvesting January 21-23, 2020

LIVE GRAPHIC RECORDING | Drawing  
Sam Bradd | Change



## Appendix C – Literature Review

In coming to its decisions and recommendations for the Colville 2020 Public Listening Session, the SRRB has gone to considerable effort to gather and share on its public registry a wide variety of evidence related to the central question of the proceeding, “What is the most effective way to regulate the harvest of caribou?” As encouraged in the SRRB’s *Hearing Rules*,<sup>300</sup> the evidence has been presented in a variety of formats, including orally (through the public listening proceedings), in transcripts of the oral proceedings, in written submissions from the parties, in graphic recordings, and in previously published literature recommended to the SRRB for consideration.

The public registry for the Colville 2020 Public Listening Session includes public notices (15), transcripts (one for each day of the session), rules and policy documents (4), and relevant websites (9). Additional evidence provided on the public registry includes contributions by the parties and relevant documents, listed in Table 4.

Table 4: Types and numbers of documented items on Colville 2020 Public Listening Registry

Item Type	# Items
<b>Contributions by the Parties</b>	<b>0</b>
Proposals for Decision, Information Request Responses, and Supporting Documentation	28
Written Public Listening Presentations and Graphic Recordings	20
Final Submissions	2
<b>Relevant Documents</b>	<b>0</b>
Co-Management, Indigenous Governance, and Caribou Harvest Regulation (listed as “General” in the public registry)	18
ᑲᑦᑲᑦ/ᑲᑦᑲᑦ/ᑲᑦᑲᑦ (Barren-ground Caribou)	22
ᑲᑦᑲᑦ (Boreal Woodland Caribou)	5
Shúhta Goᑲᑦᑲᑦ (Mountain Caribou)	7
Harvest Studies and Monitoring	9
<b>Total</b>	<b>111</b>

For the purpose of brevity and to reflect the prime intention of the Colville 2020 Public Listening Session to gather input from the parties and the public, the main report on the session selectively highlights the most relevant written and oral (via transcripts) submissions from the parties and the public. However, all of the documentation provided on the public registry was important in forming context and support for the

<sup>300</sup> SRRB, *Rules for Hearings*, October 23, 2019, available on the Public Registry for the SRRB Colville 2020 Public Listening Session, online: SRRB <<https://www.srrb.nt.ca/>>, s 12.

SRRB's decisions and recommendations. This appendix provides brief reflections on the five collections of relevant documents posted to the public registry by the SRRB:

- Co-Management, Indigenous Governance, and Caribou Harvest Regulation;
- ʔədə/ʔekwé/Nódele (Barren-ground Caribou);
- Shúhta Goʔepé (Northern Mountain Caribou);
- Tódzı (Boreal Caribou); and
- Harvest Studies and Monitoring.

## Co-Management, Indigenous Governance, and Caribou Harvest Regulation

The “General” section of the relevant documents in the public registry may be grouped into three main topics:

- Wildlife management history and co-management
- Indigenous harvest relationships
- Indigenous stewardship and law

Together, these documents situate the central question of the Colville 2020 Public Listening Session in relation to both historical experience and current scholarship in Indigenous environmental governance. The general section also includes several documents related to the 2020 public listening process; these are noted in appendix A.

## Wildlife Conservation History and Co-management

It is helpful to reflect on the historical context of contemporary conservation challenges as a way of evaluating how decisions made in the present might address lessons learned in the past. There is a growing literature on the history of wildlife management in the North and also more recent experiences in wildlife co-management in the three territories. Not surprisingly, harvest regulation features centrally in this literature.

A key text for understanding the evolution of colonial wildlife management in the NWT is historian John Sandlos's book *Hunters at the Margin: Native People and Wildlife Conservation in the Northwest Territories*,<sup>301</sup> which is based on his more detailed 2004



Figure 9: Why is co-management so ineffective?  
Source: Urquhart, 2012. 108.

<sup>301</sup> Sandlos, J., 2011. *Hunters at the Margin: Native People and Wildlife Conservation in the Northwest Territories*. UBC Press.



doctoral dissertation<sup>302</sup> (chapters 6, 7, and the conclusion are shared on the Colville 2020 public registry). Drawing from archival sources, Sandlos focuses on conservation efforts for three species that were thought to be threatened with extinction at various points between 1894 and 1970 – wood bison, muskoxen, and caribou – and traces how these efforts led to increasing discord between Indigenous peoples and wildlife managers. The two chapters on caribou demonstrate how central this species, and the Indigenous peoples who depend on caribou, have been to the formation of wildlife management institutions in the NWT. Moreover, Sandlos makes the case that coercive caribou conservation programs in the decades following the 1955 caribou crisis “seemed to have been designed as much to weaken the political and cultural sovereignty of northern Aboriginal people as they were intended to save an endangered species.”<sup>303</sup>



Figure 10: *The Future of Co-Management*. Source: Urquhart, 2012. 110.

Dene and Métis evidence provided during the 2007, 2016, and 2020 hearing proceedings indicates that memories of this colonial conservation history remain strong. Chapter 13 of the *Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA)*, “Wildlife Harvesting and Management,”<sup>304</sup> and the *SDMCLCA* implementation plan<sup>305</sup> contain traces of that history. Both documents adopted a primarily science-based harvest regulation system and neglected to accommodate Indigenous harvest laws.

However, it should be recognized that the collaborative management institutions (established as the Sahtú Renewable Resources Board and Renewable Resources Councils) and associated consultative mechanisms envisioned in chapter 13 of the *SDMCLCA* do represent an important effort to move beyond colonial wildlife management systems. Urquhart considers the decades-long experience of co-management in an illustrated article, “The Null Hypothesis: Co-management doesn’t Work,” originally prepared as a presentation for the 2010 North American Caribou Workshop. Urquhart concludes, “Co-management organizations struggle mightily to

<sup>302</sup> John Kurt Sandlos, “Northern Wildlife, Northern People: Native Hunters and Wildlife Conservation in the Northwest Territories, 1894-1970” (Doctor of Philosophy York University, 2004).

<sup>303</sup> *Ibid* at 484.

<sup>304</sup> *SDMCLCA*, *supra* note 2.

<sup>305</sup> Canada, *Implementation Plan for the Sahtú Dene and Métis Comprehensive Land Claim Agreement 2004-2014* (Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, 2004).

benefit caribou on the land. But their best efforts frequently go nowhere” – including with respect to harvest regulation.<sup>306</sup> Notwithstanding this bleak picture, Urquhart gives reason for hope. Pointing to initiatives by the Selkirk First Nation (Yukon Territory) such as an annual May gathering to pool harvest data and knowledge, he suggests, “It may not directly affect caribou but greater cooperation and less friction in the future is bound to have some benefits on the land.”<sup>307</sup> Urquhart was writing in the context of a growing critical literature on co-management. Notably, anthropologist Paul Nadasdy had published his book *Hunters and Bureaucrats* based on the experience of Dall’s sheep co-management with Kluane First Nation, Yukon Territory.<sup>308</sup>

A 2005 article by Natcher, Davis, and Hickey draws on work undertaken with the Little Salmon Carmacks First Nation (Yukon Territory) to explore how cultural differences and power inequities within a co-management system can give rise to “hidden” conflicts. Natcher, Davis, and Hickey find that “historical and continuing conflicts, based largely on cultural differences and colonial histories, continue to limit the overall effectiveness of the CRRC [Carmacks Renewable Resources Council] and equitable collaboration has yet to be achieved.”<sup>309</sup> At the same time, the authors conclude that this insight about the role of relationships in a multi-cultural co-management context was in the process of being used to promote positive change.

Writing from the experience of Nunavut land claims implementation, Arviat beneficiary Thomas Suluk and his research collaborator Sherry Blakney highlight the disjuncture between expectations of the land claim and co-management, and realities experienced in the communities. In the 2000s, decision-making power largely remained in the hands of an externally-based co-management institution (the Nunavut Wildlife Management Board [NWMB]). This gave rise to a number of examples where communities would find ways to maintain their harvesting practices through “creative acts of resistance.” The

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<sup>306</sup> Doug Urquhart, “The Null Hypothesis: Co-management doesn’t Work,” *Rangifer*, no. Special Issue 20 (25-28 October, 2010).

<sup>307</sup> *Ibid*, 112.

<sup>308</sup> Nadasdy, P., 2003. *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-state Relations in the Southwest Yukon*. UBC Press.

<sup>309</sup> David C Natcher, Susan Davis, and Clifford G Hickey, “Co-management: Managing Relationships, not Resources,” *Human Organization* 64, no. 3 (2005). 248.

authors urge co-management partners to revisit the original vision behind the comprehensive land claim and consider how this can be realized.<sup>310</sup>

Again writing from experiences in the Yukon, Padilla and Kofinas explore a celebrated example in which Indigenous knowledge and the protocol to “let the leaders pass” was adopted by the Porcupine Caribou Management Board as the basis for formal hunting regulations. The authors point to a number of factors leading to the failure of this effort, including the lack of fit between Indigenous knowledge and the state regulatory and enforcement systems, changes in community practices, and new self-government initiatives that may prevent consensus in co-management. However, there were positive learning outcomes, leading the Porcupine Caribou Management Board to “rethink its core functions as a co-management board.”<sup>311</sup>

### Indigenous Harvest Relationships

Paul Nadasdy’s understanding of Indigenous relationships with wildlife has developed through research with the Kluane First Nation. For example, he has come to understand their harvesting relationships with animals as a form of gift exchange. This social relationship tends to be ignored or negated in wildlife management systems, or at best is considered just a metaphor. The Indigenous knowledge that arises from this relationship is thus excluded from those systems, even in the context of co-management where “traditional ecological knowledge” policies assert that this knowledge must be recognized and accommodated in decision-making. In Nadasdy’s words, “It seems to me that the only way to avoid contributing to the disempowerment of aboriginal peoples in this way is for us to build a theoretical framework that can accommodate the possibility that there might be some literal truth to what hunters tell us.”<sup>312</sup>

Recognition of Indigenous harvesting as the exercise of social relationships with animals also requires recognizing animals as thinking beings that make decisions, including reacting to poor behaviour on the part of

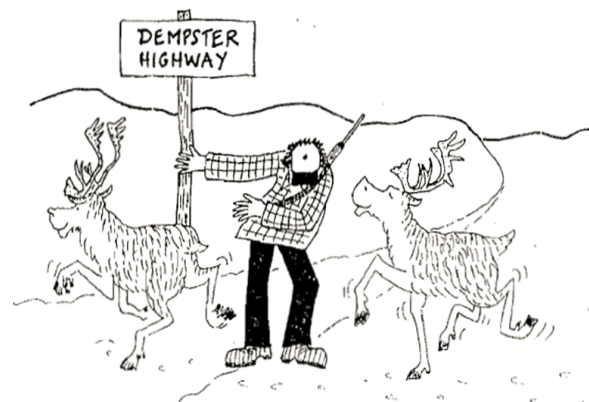


Figure 11: “Let the Leaders Pass.” Credit: Doug Urquhart. Source: Padilla and Kofinas, 2014.

<sup>310</sup> Thomas K Suluk and Sherrie L Blakney, “Land claims and resistance to the management of harvester activities in Nunavut,” *Arctic* (February 1, 2008).

<sup>311</sup> Elisabeth Padilla and Gary P Kofinas, ““Letting the leaders pass”: Barriers to using traditional ecological knowledge in comanagement as the basis of formal hunting regulations,” *Ecology and Society* 19, no. 2 (2014). 12.

<sup>312</sup> Paul Nadasdy, “The gift in the animal: the ontology of hunting and human–animal sociality,” *American ethnologist* 34, no. 1 (2007). 37.

people. In recognizing these relationships as real, it becomes possible to properly account for the ethics of Indigenous people's harvesting behaviour. Moreover, conceiving of animals as people leads to new insights about Indigenous hunting practices when there is a conservation concern as a means of maintaining the relationships toward a time when animals decide to return.

Drawing on work with members of the Lac du Flambeau Band of Lake Superior Chippewa Indians (LDF) in 2007 and 2008, Nicholas Reo and Kyle Whyte shed light on the importance of traditional moral codes or values in guiding a community's contemporary practices for hunting white-tailed deer. These values are introduced in the article as they are introduced or taught to young hunters by their older family members, beginning with hunting safety and protocols for respecting land and deer (not littering, making spiritual offerings, and sobriety, respectful meat processing) and moving on to selective harvesting; sharing; and prohibitions against greed or waste.

Reo and Whyte challenge arguments made by others that technologies such as guns and motorized transportation lead to "technologically induced environmental distancing" that can erode traditional practices and associated values. On the contrary, the Lac du Flambeau study concludes that "traditional moral codes are transmitted in such ways as to help communities generate innovative practices for the challenges they face."<sup>313</sup>

Innovation is a key theme for Flora Holt in "The Catch-22 of Conservation," an article based on work with Huarani people of Ecuador. She notes that Huarani tend to integrate innovative conservation measures in response to pressures on their food systems, but these changes were often perceived by non-Indigenous protectionists as in themselves threatening. "Locals are caught in a conservation Catch-22, and as they broaden their economic activities and technologies for survival in changing circumstances, this is taken as evidence they have lost their 'natural conservationist' tendencies."<sup>314</sup> Holt reminds us that conservation is an ongoing learning process for all, and should involve culturally respectful knowledge sharing between Indigenous communities and biologists.

A collectively authored paper published in the respected journal *Conservation Biology* in 2016 makes a powerful call for greater consideration of the human dimensions of conservation by "mainstreaming social science" in conservation science, policy, and practice. Social sciences, the authors argue, can contribute to conservation policy and practice in diverse ways, serving instrumental, descriptive, reflexive, and generative

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<sup>313</sup> Nicholas James Reo and Kyle Powys Whyte, "Hunting and morality as elements of traditional ecological knowledge," *Human Ecology* 40, no. 1 (2012). 25.

<sup>314</sup> Flora Lu Holt, "The catch-22 of conservation: Indigenous peoples, biologists, and cultural change," *Human Ecology* 33, no. 2 (2005). 209.

purposes. They can help to evaluate conservation practices (instrumental); situate them in historical context (descriptive); ask critical questions about the basis for conservation models (reflexive); and produce innovative approaches (generative). The authors point to a number of barriers to mainstreaming social sciences in conservation, notably that “conservation organizations and institutions are often configured for natural sciences, not social sciences.”<sup>315</sup> Conservation social sciences, if rigorously engaged in combination with natural sciences, can create openings for different worldviews, supporting co-production of knowledge (including Indigenous knowledges and science) and collaborative communities of practice. Thus, they can arguably contribute to efforts to decolonize wildlife conservation.

### Indigenous Stewardship and Law

In the 1970s, anthropologist Scott Rushforth worked with the community of Délı̨ne (then Fort Franklin) to explore Dene knowledge and governance in hunting contexts. This and other more recent research in Indigenous governance and law is helpful in considering how Indigenous harvest regulation can be accommodated within a co-management framework. In “The Legitimation of Beliefs in a Hunter-Gatherer Society,” Rushforth applies analysis of Dene terms related to knowledge to demonstrate that there is a clear distinction between direct (primary) and indirect (secondary) experience. Primary experience is more highly valued and is considered to be a source of authority. However, it is not considered appropriate for knowledge holders to tell people what to do, and those who are considered proud, bossy, or lazy are not well respected. Those who are capable, hardworking, experienced, generous, and humble are considered legitimate leaders.<sup>316</sup> These qualities arguably still inform how people look to community knowledge holders for leadership in a caribou conservation context.

The Sahtú region has learned much from the “healthy country planning” approaches developed by Australian Indigenous communities. George Wilson, Melanie Edwards, and Jennifer Smits provide evidence supporting the importance of Indigenous roles in wildlife conservation based on the Australian experience.<sup>317</sup> They argue understanding and accommodating Indigenous law is a critical component of harvest regulation and wildlife conservation in Indigenous traditional territory. This work is bolstered by recent

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<sup>315</sup> Nathan J Bennett et al., “Mainstreaming the social sciences in conservation,” *Conservation Biology* 31, no. 1 (2017).

<sup>316</sup> Scott Rushforth, “The legitimation of beliefs in a hunter-gatherer society: Bearlake Athapaskan knowledge and authority,” *American Ethnologist* 19, no. 3 (1992).

<sup>317</sup> George R Wilson, Melanie J Edwards, and Jennifer K Smits, “Support for Indigenous wildlife management in Australia to enable sustainable use,” *Wildlife Research* 37, no. 3 (2010).

scholarship in Indigenous law that provides important insights into methodologies for learning law on the land<sup>318</sup> and for interpreting law through stories.<sup>319</sup>

In preparation for an Indigenous talking circle convened at the 2018 North American Caribou Workshop in Ottawa, a small working group prepared a discussion paper and “Indigenous Calls to Action” for caribou. These documents together may serve as a reference point for understanding the role of Indigenous peoples in caribou conservation. They call for taking steps toward decolonization and reconciliation. A series of eight areas of action are identified. Of special relevance is the call for “support for Indigenous-led conservation and stewardship initiatives in which Indigenous leaders, experts and community members have a defining role in protecting and conserving cultural keystone species like caribou, in ways that are based on the principles, values, laws, and protocols inherent in Indigenous cultures and knowledge systems.”<sup>320</sup> The Calls to Action also highlight the need to include the “health of relationships with caribou, the land and each other” in the definition of well-being. This bears critical relevance when considering the topic of harvest regulation.

### ᑭᑭᑭ/ᑭᑭᑭ/ᑭᑭᑭ (Barren-ground Caribou)

The collection of documents related to the harvest regulation of ᑭᑭᑭ/ᑭᑭᑭ/ᑭᑭᑭ is the most substantial of the three caribou collections in the public registry because conservation concerns regarding ᑭᑭᑭ/ᑭᑭᑭ/ᑭᑭᑭ are the longest standing. Indeed, Sandlos notes that these concerns date to the late nineteenth century, following the collapse of the vast bison populations in the United States and southern Canada. The Far North was the last place in North America where large herd animals such as barren-ground caribou remained in any numbers, and hunter-naturalists from Britain and the United States were attracted to experience and preserve that idealized “wilderness Eden.”<sup>321</sup> While promoting a gentlemanly “sportsman’s code” and “rational,” science-based wildlife conservation with roots in agricultural principles of stock management, these hunter-naturalists tended to be deeply critical of Indigenous harvesting practices. This perspective informed the first protective wildlife legislation specific to the Northwest

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<sup>318</sup> John Borrows, “Outsider education: Indigenous law and land-based learning,” *Windsor Yearbook of Access to Justice*, 33 (2016).

<sup>319</sup> Val Napoleon and Hadley Friedland, “An inside job: engaging with indigenous legal traditions through stories,” *McGill Law Journal/Revue de droit de McGill* 61, no. 4 (2016).

<sup>320</sup> Indigenous Statement Working Group, “Working Together: Indigenous Involvement in Caribou Stewardship” (17th North American Caribou Workshop, 2018).

<sup>321</sup> Sandlos, *Hunters at the Margin: Native People and Wildlife Conservation in the Northwest Territories*, *supra* note 301, 143.



Territories in 1894, followed by more stringent restrictions imposed under the *Northwest Game Act* of 1917 and again in 1929.<sup>322</sup>

When biologists A.W.F. Banfield and John Kelsall raised the alarm about an impending caribou crisis in the 1940s and 1950s, the primary blame for declining populations was placed on Indigenous hunters, and they were subjected to further restrictions by the NWT Council—then the governing body of the Northwest Territories—which had been granted authority to create game regulations in 1949 with repeal of the *Northwest Game Act*. These restrictions were met by widespread anger and resistance among Indigenous nations. When the limited success of these legislative measures became apparent, efforts shifted toward applying other tactics aimed to control and transform hunting cultures, including importation of other foods, conservation education programs, and encouragement to give up nomadic livelihoods in favour of “modernisation” and wage employment in settlements.<sup>323</sup>

### Co-Management and Cross-Regional Planning

With the signing of the *SDMCLCA* in 1993, Dene and Métis harvesting rights in the Sahtú region were re-enshrined in law and further protected through the co-management system. The SRRB was established, and between 1998 and 2005 the SRRB conducted a harvest study as the basis for defining the basic subsistence needs level for Sahtú beneficiaries. The SRRB also participated in community engagement for and the development of a draft co-management plan for the Cape Bathurst, Bluenose-West, and Bluenose-East caribou herds, along with the Government of the NWT. The SRRB then entered into a cooperation agreement for co-management of these herds with the Wildlife Management Advisory Council (NWT), Gwich'in Renewable Resources Board, and Tuktut Nogait National Park Management Board.<sup>324</sup>

In 2006, ENR reported that, in their view, the Bluenose West caribou herd (ᑭᐃᐃᐃ) had declined significantly and that urgent management actions were required. ENR put forward a proposal for a total allowable harvest (TAH). As required under the land claim agreement, the SRRB convened a hearing in Fort Good Hope on November 21-23, 2007. The resulting report made eleven recommendations, of which seven related to harvest regulation, monitoring, and modelling. In particular, the SRRB set a TAH based

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<sup>322</sup> Sandlos, "Northern Wildlife, Northern People: Native Hunters and Wildlife Conservation in the Northwest Territories, 1894-1970," *supra* note 302 at Chapter 5, *La Foule! La Foule!* 305-370.

<sup>323</sup> Sandlos, "Northern Wildlife, Northern People: Native Hunters and Wildlife Conservation in the Northwest Territories, 1894-1970," *supra* note 302 at Chapter 6, *Saving Caribou, Managing People*. 371-436.

<sup>324</sup> GNWT, *Bluenose Caribou Management Plan Community Consultations*, (1996). GNWT, *Draft, Co-Management Plan for the Cape Bathurst, Bluenose-West, and Bluenose-East Caribou Herds* (GNWT, 1999), <https://accwm.com>. GNWT, *Bluenose Caribou Herds Management Cooperation Agreement*, (2000).



on 4% of the 2006 Bluenose West herd population estimate.<sup>325</sup> When this decision was approved by the Minister of ENR and put into the *Wildlife Act* regulations, it was the first restriction of Dene and Métis harvest since the *SDMCLCA* came into force.

The Advisory Committee for Cooperation on Wildlife Management (ACCWM) was formed in 2008 with participation of six member boards including the SRRB. It was decided to prioritize development of a new management plan to address conservation concerns regarding the Cape Bathurst, Bluenose West, and Bluenose East caribou herds. Between 2007 and 2013, a series of public engagements were held in communities in the Northwest Territories and the western portion of the Kitikmeot Region of Nunavut. Seventeen communities in six land claim areas took part in the meetings. *Taking Care of Caribou*, a management plan for Cape Bathurst, Bluenose West, and Bluenose East caribou was delivered to the Minister of ENR in 2014, along with two companion documents: a community engagement report and technical (science-based) report.<sup>326</sup> Since that time, the ACCWM has met annually to assess the status of the herds and develop action plans.<sup>327</sup> The SRRB has invited Colville and Délı̨nę to contribute directly to those meetings, since they are considered the lead stewards of ɾəðə (Bluenose West barren-ground caribou) and ɾehdaɭla ɾekwé (Bluenose East barren-ground caribou). As a signatory to the *Taking Care of Caribou* plan and the annual consensus-based action plans, the SRRB is responsible for ensuring the Sahtú approach informs and is informed by these cross-regional processes.

In 2015, the SRRB received proposals from both ENR and Délı̨nę for conservation of Bluenose East ɾekwé based on evidence of their decline or reduced availability. These proposals included recommendations for regulation of beneficiary harvest, and thus triggered the SRRB to call a public hearing in Délı̨nę on March 1-3, 2016. A key outcome of the hearing was approval of Délı̨nę's caribou conservation plan by the SRRB. At that time, the SRRB also decided that in the Sahtú region, community conservation planning (CCP) is the most effective approach to caribou conservation.<sup>328</sup>

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<sup>325</sup> SRRB, *Report on a Public Hearing Held by the Sahtú Renewable Resources Board & Reasons for Decision on the Setting of a Total Allowable Harvest for the Bluenose-West Caribou Herd*, *supra* note 217.

<sup>326</sup> Advisory Committee for Cooperation on Wildlife Management, *Taking Care of Caribou: the Cape Bathurst, Bluenose-West, and Bluenose-East barren-ground caribou herds management plan*, *supra* note 31. Advisory Committee for Cooperation on Wildlife Management, *We have been Living with Caribou all our Lives: a report on information recorded during community meetings for: 'Taking Care of Caribou - the Cape Bathurst, Bluenose-West, and Bluenose-East Barren-Ground Caribou Herds Management Plan'* (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, October 2014). Advisory Committee for Cooperation on Wildlife Management, *Technical Report on the Cape Bathurst, Bluenose-West, and Bluenose-East Barren-ground Caribou Herds* (2014).

<sup>327</sup> The most recent ACCWM action plans for Cape Bathurst, Bluenose West and Bluenose East caribou are available online at [accwm.com](http://accwm.com).

<sup>328</sup> SRRB, *Report on a Public Hearing Held by the Sahtú Renewable Resources Board & Reasons for Decision on the Setting of a Total Allowable Harvest for the Bluenose-West Caribou Herd*, *supra* note 217.

In response, the Minister of ENR requested that the SRRB vary its decisions on harvest.<sup>329</sup> However, the SRRB provided a supplementary report, with added rationale for the decisions on harvest.<sup>330</sup> On February 22, 2017, a final letter was received from the Minister accepting the SRRB's decisions.<sup>331</sup>

Meanwhile, the Committee on the Status of Endangered Wildlife in Canada (COWEWIC) and the NWT Species at Risk Committee (SARC) had been hard at work assessing the status of barren-ground caribou in Canada and in the NWT, respectively. As discussed in appendix E, both committees determined that barren-ground caribou are threatened. In the NWT, the Conference of Management Authorities (CMA) accepted SARC's assessment,<sup>332</sup> and barren-ground caribou have been listed accordingly. Barren-ground caribou are still under consideration for listing at the federal level. As required under the NWT *Species at Risk Act*, a recovery strategy was accepted by the CMA on April 8, 2020.<sup>333</sup>

### Community Conservation Planning: Łutsël K'é and Kugluktuk

The SRRB has taken note of two key developments related to barren-ground caribou in the North since the Colville 2020 Public Listening Session: the Łutsël K'é Dene First Nation's (LKDFN) *Yúnethé Xá ʔetthên Hádi; Caribou Stewardship Plan*<sup>334</sup> was approved for publication, and the NWMB convened a hearing to reduce the TAH for Bluenose East caribou.<sup>335</sup> Of special interest are the oral and written submissions by the Kugluktuk Agoniatit Association (KAA), which had prepared a "Draft Integrated Community Caribou Management Plan" prior to the NWMB's 2016 Bluenose East Hearing.<sup>336</sup>

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<sup>329</sup> GNWT, *ENR Minister Letter to SRRB: SRRB Report July 28, 2016: Hearing Decisions and ENR Responses* (www.srrb.nt.ca, September 26, 2016).

<sup>330</sup> *ʔekwé hé Dene Ts'ı́l Sustaining Relationships. Final Report of the ʔehdzo Got'ı́ne Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1.

<sup>331</sup> GNWT, "ENR Minister Letter to SRRB: Toward a Visionary Cross-Regional Approach to Caribou Conservation in the NWT," *supra* note 120.k

<sup>332</sup> NWT Conference of Management Authorities, *Consensus Agreement on Listing Barren-Ground Caribou (Rangifer tarandus groenlandicus)* (NWT Conference of Management Authorities, 2018).

<sup>333</sup> For the SARC Status Report and Assessment, the Recovery Strategy, the CMA Consensus Agreement to approve the Recovery Strategy, and other relevant information, see [www.nwt-speciesatrisk.ca/species/barren-ground-caribou](http://www.nwt-speciesatrisk.ca/species/barren-ground-caribou).

<sup>334</sup> Łutsël K'é Dene First Nation, *Yúnethé Xá ʔetthên Hádi; Caribou Stewardship Plan*, *supra* note 57.

<sup>335</sup> The NWMB had not yet published its decisions arising from this hearing at the time of writing this report. The hearing registry can be found at [www.nwmb.com](http://www.nwmb.com).

<sup>336</sup> Kugluktuk Angoniatit Association, *KAA Submission to the Nunavut Wildlife Management Board re Bluenose East Caribou*, *supra* note 56.

## *Łutsël K'é*

*Yúnethé Xá ʔetthën Hádi* acknowledges the groundbreaking efforts of the Délı̨nę Got'ı̨nę Government in developing and implementing their caribou conservation plan: "Their plan, and others, inspired us to develop our own caribou stewardship plan."<sup>337</sup> The plan quotes Shonto Catholique explaining how he came to the idea that LKDFN should make their own plan to help the Bathurst ʔetthën while attending the 2018 North American Caribou Workshop in Ottawa, learning that Indigenous people from all over face similar challenges and hearing about Délı̨nę's community conservation plan.<sup>338</sup>

*Yúnethé Xá ʔetthën Hádi* was developed through a series of five "ʔetthën Talks," public meetings to which all LKDFN members were invited. The four main themes of the ʔetthën Talks were: the state of the herds and should LKDFN hunt ʔetthën (barren-ground caribou); respectful nálze (hunting) practices; ʔetthën stories, laws, and names; and monitoring and enforcement. Focused on Łutsël K'é Dene relationships with Bathurst, Beverly-Ahiak, and Qamanirjuaq ʔetthën, a fifteen-point nálze policy was incorporated into the plan. Based on acute concerns about the "significant and continued decline" of Bathurst ʔetthën, there was consensus at the ʔetthën Talks that LKDFN members "should 'give the herd a rest' and stop hunting the Bathurst ʔetthën because the herd is not doing well and needs to recover."<sup>339</sup>

According to the nálze policy, LKDFN members are prohibited from harvesting this herd for two years starting January 1, 2020, and respectfully requests that other Indigenous peoples not harvest from this herd during the same period. The plan does permit harvesting of Beverly-Ahiak and Qamanirjuaq ʔetthën, with specific conditions: bedzi chó (male) harvest is encouraged (but not male leaders); harvest of bedzi ʔáze (calves) and ts'uda bechą dá is prohibited.

Similar to the approach taken in Délı̨nę's *Belare Wı̨le Gots'ę ʔekwę* plan, Community Harvesters Assistance Program (CHAP) funds are used to encourage harvesting other k'ech'aǵı̨ (animals), as well as for sewing and hide tanning. Funds from other sources are allocated for ʔetthën health sample kits, ʔejéré (muskox) hide purchases, and family hunts, and supports are to be provided for harvesting and sharing infrastructure, including a community freezer, trails, and cabins. Participation in ENR's wolf harvest incentive program is permitted. The nálze policy includes a request for non-LKDFN members entering nuwé néné (LKDFN traditional territory) to provide information about hunting plans to their Wildlife, Lands and Environment Department (WLED), noting that the information will help the LKDFN "monitor nálze in our nuwé néné and help ensure

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<sup>337</sup> Łutsël K'é Dene First Nation, *Yúnethé Xá ʔetthën Hádi*; *Caribou Stewardship Plan*, *supra* note 57 at 7.

<sup>338</sup> *Ibid* at 9.

<sup>339</sup> *Ibid* at 25.

the safety of hunters.” Both LKDFN members and non-members are asked to provide detailed harvest information.<sup>340</sup>

*Yúnethé Xá ʔetthēn Hádı* also includes a sixteen-point nálze protocol based on LKDFN principles and knowledge,<sup>341</sup> as well as policies for education and communication, monitoring, and enforcement. The enforcement policy establishes a Discipline Committee empowered to sanction those who violate the *Wildlife Act* or *Yúnethé Xá ʔetthēn Hádı*. A role is assigned to Łutsēl K'é Dēnesųłíné Guardians to document and report violations of these laws.

### *Kugluktuk*

The NWMB convened a hearing in Kugluktuk on March 2-3, 2020, to consider the Government of Nunavut’s *Proposal to Modify the Total Allowable Harvest of Bluenose East Caribou From 340 to 107 and to Establish a Male-Only Harvest Non-Quota Limitation*.<sup>342</sup> This hearing followed the NWMB’s first hearing on Bluenose East caribou in 2016, after which a TAH of 340 was established for that herd in Nunavut. The KAA was the sole registered community party within Nunavut, based on their relationship with Bluenose East caribou. The SRRB, along with other wildlife management authorities responsible for Bluenose East caribou, were listed as parties. The Délı̄ne Got’ı̄ne Government also registered as a party, and presented at the hearing.<sup>343</sup>

In its written submission to the NWMB’s 2020 Bluenose East hearing, the KAA outlined decisions made at a community meeting on August 28, 2019. A motion was made to support a 1:1 female and male caribou harvest, with a TAH of 250, noting that “people need meat throughout the whole year; as well as hides for clothing and bedding.”<sup>344</sup> The male-only harvest would restrict access within the annual harvest calendar. The KAA submission expressed concerns about the impact that reducing the Bluenose East harvest could have with respect to harvest of other species such as Dolphin Union caribou and moose. The KAA provided an update on progress in ongoing discussions with the Government of Nunavut regarding their *Bluenose East Caribou Management Plan*, which had been submitted in June 2019 (the plan was not submitted for consideration at the hearing). The KAA submission concludes by stating that “lowering the TAH to 107 bulls only

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<sup>340</sup> *Ibid* at 26-27.

<sup>341</sup> *Ibid* at 29-31.

<sup>342</sup> Nunavut Wildlife Management Board, *NWMB Bluenose East Public Hearing Invitation* (www.nwmb.com: Nunavut Wildlife Management Board, December 13, 2019). Available on the NWMB’s public registry, www.nwmb.com.

<sup>343</sup> Transcripts from this hearing are available on the NWMB’s public registry at www.nwmb.com.

<sup>344</sup> Kugluktuk Angoniatit Association, *KAA Submission to the Nunavut Wildlife Management Board re Bluenose East Caribou*. December 4, 2019. 1. Available on the NWMB’s public registry, www.nwmb.com.

would have a drastic negative impact on a growing community. People need country food, it is much healthier and preferred.”<sup>345</sup>

## Shúhta Goʔepé (Northern Mountain Caribou)

Shúhta goʔepé (northern mountain caribou) were listed as special concern under the federal *Species at Risk Act* in 2005. As required under the *Act*, a management plan for this population was completed in 2012. The federal threatened status of shúhta goʔepé was re-examined and reconfirmed in 2014.

In the NWT, SARC assessed shúhta goʔepé as a species of special concern in the NWT in April 2020 on the basis that “the species may become threatened if negative factors are neither reversed nor managed effectively.”<sup>346</sup> Public engagement is currently underway for possible listing of northern mountain caribou.

The main negative factors include vulnerability to climate change and human disturbance. The assessment notes that in the Sahtú and Gwich’in regions, population declines or displacement have been observed by Indigenous knowledge holders, especially over the past 10-12 years. SARC also noted positive influences with respect to shúhta goʔepé, including planning work done by Tulít’a, Norman Wells, and Tu Łidlini (Ross River, Yukon) to address conservation concerns, which resulted in the *Nío Nę P’ęné Begháré Shúhta Goʔepé Nareʔa – Trails of the Mountain Caribou* plan (“Nío Nę P’ęné Plan”), as well as protection of caribou and habitat within Nahanni National Park Reserve in the Dehcho region and Nááts’ıhch’oh National Park Reserve in the Sahtú.<sup>347</sup>

The Nío Nę P’ęné Plan<sup>348</sup> was drafted during a workshop at Dechenla Lodge in the K’á Té (Willow Flats) area, in July 2017. The plan was extensively reviewed and revised through a series of community engagement sessions and has been submitted to the leadership organisations of the three partnering communities for review and approval.

The Nío Nę P’ęné Plan is driven by a two-part vision that “Shúhtaot’ıne [Mountain Dene of the Tulít’a district], Métis, and Tu Łidlini Dena continue to peacefully co-exist with

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<sup>345</sup> *Ibid* at 2.

<sup>346</sup> Species at Risk Committee, *Species Status Report for Northern Mountain Caribou (Woodland Caribou [Northern Mountain Population]) (Rangifer tarandus caribou) in the Northwest Territories* (April 2020). 3.

<sup>347</sup> Species at Risk Committee, *Species Status Report for Northern Mountain Caribou (Woodland Caribou [Northern Mountain Population]) (Rangifer tarandus caribou) in the Northwest Territories*, *supra* note 346 at 3-4. The draft *Northern Mountain Caribou* status report was still under review by SARC before the Colville 2020 record closed in February 2020, so this version was provided on the registry. The final report and updates on the listing process are available online at [www.nwt-speciesatrisk.ca/species/northern-mountain-caribou](http://www.nwt-speciesatrisk.ca/species/northern-mountain-caribou).

<sup>348</sup> Nío Nę P’ęné Working Group (compiled by Janet Winbourne), *Nío Nę P’ęné Begháré Shúhta Goʔepé Nareʔa / Trails of the Mountain Caribou Plan*, *supra* note 6.

shúhta goʔepé in an ecologically diverse and healthy mountain landscape as they have for thousands of years; and Shúhtaot'ine, Métis, and Tu Łidlini Dena are travelling, harvesting, sharing, and gathering throughout their territory, keeping Dene kədə (language), Dene ts'ıłı (ways of life), and Dene ʔeʔa (law).<sup>349</sup>

The plan describes nine key threats<sup>350</sup> to shúhta goʔepé in the mountains of the Tulít'a district, several of which are relevant to the topic of caribou harvest regulation, including:

1. Changing environment from climate change
2. Poor hunting practices
3. Awareness and respect for Dene/Métis laws
4. Increased motorized access, noise and disturbance
5. Lack of use and transmission of Indigenous knowledge
6. Mining and exploration
7. Poor policy coordination and implementation
8. Lack of capacity
9. Contaminants

To address these threats, the plan identifies six program areas and associated actions and measures of success. Of special interest for this report is the program area in education and communication of Dene/Métis laws, which addresses concerns about lack of knowledge and skills for complying with Dene ʔeʔa.

In accordance with the Níó Nę P'ęné plan, the Tu Łidlini (Ross River) Dena Council developed a written protocol for hunters in their traditional territory and implemented a hunting authorization and reporting system. A notice was published, addressed to “those hoping to hunt in the Ross River Dena Area,” that included: a moratorium on hunting in specific areas identified with Indigenous place names and on a map; an outline of hunting seasons and protocols specific to caribou, moose, and sheep; an overview of Dena laws; and a hunting report form.<sup>351</sup>

## Tɔdzı (Boreal Caribou)

Tɔdzı (boreal caribou) were listed as threatened under the federal *Species at Risk Act* in 2003; a national recovery strategy was finalized in 2012. SARC submitted its first *Status Report and Assessment of Boreal Caribou in the NWT* that same year. The report assessed boreal caribou as threatened based on evidence that “the population size is small and there is a decline in population size such that it could disappear from

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<sup>349</sup> *Ibid* at 16.

<sup>350</sup> *Ibid* at 30-41.

<sup>351</sup> Ross River Dena Council, *Notice to Those Hoping to Hunt in the Ross River Dena Area*. (Ross River, YK: Ross River Dena Council, 2018).



the Northwest Territories in our children's lifetime."<sup>352</sup> The main threats identified were various kinds of human disturbance as well as fire and other climate change related factors.<sup>353</sup> In the Sahtú, potential disturbance could include petroleum development, construction of an all-weather road, or fire.<sup>354</sup> Traditional and community knowledge evidence from the Sahtú was that the population was stable or increasing.<sup>355</sup>

Boreal caribou were listed as threatened in the NWT in 2014. As required under the territorial *Species at Risk Act*, a recovery strategy was developed and accepted by the CMA in 2017.<sup>356</sup> The focus of the recovery strategy was habitat protection to address the primary threats. To this end, a framework for range planning was developed by ENR through engagement with wildlife management authorities and community leaders.<sup>357</sup> At the time of preparing this report, steps are being taken to develop a work plan for range planning in the Sahtú region. No t̥d̥z̥i harvest restrictions for Sahtú beneficiaries are currently contemplated.

## Harvest Studies and Monitoring

Beginning in the 1970s, harvest studies were considered a critical tool for understanding subsistence needs levels. Initially, the focus was primarily on defining compensation owed for infringements on Indigenous harvest rights. With the signing of comprehensive land claim agreements in the 1980s and 1990s, harvest studies became a critical tool for understanding subsistence needs levels as a means of ensuring that Indigenous harvest rights were not infringed upon in cases where conservation concerns triggered harvest regulation measures.<sup>358</sup> For this reason, comprehensive land claim agreements settled in the North during that period included requirements to conduct harvest studies. The best available social science methods were applied to developing designs for harvest studies. In 1985, for example, Peter Usher et al published *An Evaluation of Native Harvest Studies in Northern Canada*.<sup>359</sup> The community of Fort Good Hope

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<sup>352</sup> Species at Risk Committee, *Species Status Report: Boreal Caribou (Rangifer tarandus caribou) in the Northwest Territories* (Yellowknife, NT, 2012), iii.

<sup>353</sup> *Ibid* at iii-iv.

<sup>354</sup> *Ibid* at iv.

<sup>355</sup> *Ibid* at xix.

<sup>356</sup> Conference of Management Authorities, *Recovery Strategy for the Boreal Caribou (Rangifer tarandus caribou) in the Northwest Territories. Species at Risk (NWT) Act Management Plan and Recovery Strategy Series* (Yellowknife, NT: Government of the Northwest Territories, 2017).

<sup>357</sup> GNWT, *A Framework for Boreal Caribou Range Planning* (Yellowknife, NT: Environment and Natural Resources, Government of the Northwest Territories, 2019).

<sup>358</sup> Usher and Wenzel note that the term "native harvest survey" seems to have come into common use as a result of the implementation of the James Bay and Northern Quebec Agreement of 1975, involving the Cree and Inuit of northern Quebec and the federal and provincial governments." Peter J Usher and George Wenzel, "Native harvest surveys and statistics: A critique of their construction and use," *Arctic* (1987).

<sup>359</sup> Peter J. Usher et al., *An Evaluation of Native Harvest Survey Methodologies in Northern Canada. Environmental Studies Revolving Funds Report No. 004* (Ottawa, ON, April, 1985).



played a significant role in this study,<sup>360</sup> and thereby contributed to the development of best practices in harvest study methodologies.

Wildlife management authorities like the SRRB and the NWMB adopted methodologies adapted from those established for the Inuvialuit and Gwich'in settlement areas. In 2001, the Government of Nunavut in partnership with a range of wildlife management authorities sought to benefit from Usher's expertise through a review of the NWMB's completed harvest study. The review aimed to "assess the scope and nature of future needs for harvest and other related data, and to advise on appropriate and cost-effective methods for collecting them."<sup>361</sup> In their report, Usher and Brooke reflect on the history of harvest studies since the 1970s, pointing out commonalities that they refer to as the "Canada model."<sup>362</sup>

Usher and Brooke's summary description of the Canada model is worth quoting in full here for its relevance to the design of the Sahtú Harvest Study:

All of these surveys are designed as multi-year, repetitive surveys conducted at monthly intervals, for all species, with a goal of census coverage (100% sample). The result is an annual estimate of the harvest of each species for each community, based on twelve monthly estimates. These "kill surveys" typically provide standardized estimates of the harvest of all species by community by year, and especially since the early 1990s, also provide the location of kills.<sup>363</sup>

The authors conclude by highlighting the high expectations that diverse parties in Nunavut have for use of harvest study data, while warning that "the data have not yet been tested against these expectations,"<sup>364</sup> and pointing to the need for further assessment work. The report outlines nineteen recommendations for improving Canada model methods.<sup>365</sup> However, the high cost of implementing the model and any improvements is emphasized. There is another approach, the "Alaska model," which features occasional annual surveys, as well as the inclusion of contextual information. The Alaska model could potentially reduce costs and response burden, while also serving a wider variety of interests. Usher and Brooke recommend considering a mixture of the Canada and Alaska models.<sup>366</sup>

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<sup>360</sup> *Ibid.*

<sup>361</sup> Peter J Usher and Lorraine Brooke, *Assessment of options for collecting statistical data on wildlife harvesting in Nunavut* (Peter J. Usher Consulting Services, 2001), 1.

<sup>362</sup> *Ibid* at 6.

<sup>363</sup> *Ibid* at 6.

<sup>364</sup> *Ibid* at 45.

<sup>365</sup> *Ibid* at 46-49.

<sup>366</sup> *Ibid* at 51-52.

Efforts to evaluate harvest studies in other jurisdictions are also instructive. In an analysis of a 2009 workshop on harvest data from Yukon First Nations, Master's student Michel Lavallée showcases co-management institutions as a mechanism for bringing together traditional and scientific management systems, and reflects on successes and failures in collaborative harvest monitoring efforts.<sup>367</sup> In particular, Lavallée analyzes the failure of the Coordinated Harvest Management Program (CHMP) due to "poor participation."<sup>368</sup> The key barrier to participation identified was lack of trust, although lack of participant funding also contributed. Development of a harvest monitoring system needs to protect hunter confidentiality. Lavallée argues that building a robust harvest monitoring system requires trust-based relationships, standardized harvest data forms and databases, and partnerships to marshal limited resources.

Based primarily on the experience of the Inuvialuit Fisheries Joint Management Committee, Bell and Harwood explore lessons learned.<sup>369</sup> They codify five steps<sup>370</sup> that have guided them in harvest-based monitoring studies: (1) formulate a scientific research or long-term monitoring question that can reasonably be answered by analyzing data from harvests or harvested specimens; (2) design the program according to scientific and Indigenous protocols; (3) determine respective partner roles for delivery of the field program; (4) conduct the field work; and (5) analyze data and communicate results. Like Lavallée, they emphasize the importance of mutual trust, respect, and good communication between science and Indigenous knowledge partners.

In recent years, new and innovative models in harvest monitoring have emerged. For example, based in the Bolivian Kaa-lyá del Gran Chaco National Park, Noss et al explore a way of addressing the high cost of harvest surveys and problems with data quality through "relatively simple participatory methods" as a basis "for generating information on long-term trends and for creating a context for community discussion of formal wildlife management."<sup>371</sup> This kind of methodology may fit well with the CCP approach adopted within the Sahtú region. In 2012, the SRRB learned that the Northern Tutchone peoples in the Yukon including the Selkirk First Nation (Pelly Crossing), Little Salmon/Carmacks First Nation (Carmacks), and Nacho Nyak Dun First Nation (Mayo) identified a "trusted biologist" to work with them in design and implementation of their

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<sup>367</sup> Michel Thomas Lavallée, "Yukon First Nation wildlife harvest data collection and management: lessons learned and future steps" (Master of Sustainable Environmental Management University of Saskatchewan, 2010).

<sup>368</sup> *Ibid* at 3.

<sup>369</sup> Robert K Bell and Lois A Harwood, "Harvest-based monitoring in the Inuvialuit Settlement Region: steps for success," *Arctic* (2012).

<sup>370</sup> *Ibid* at 425-428.

<sup>371</sup> Andrew J Noss, Imke Oetting, and Rosa Leny Cuéllar, "Hunter self-monitoring by the Isoseño-Guaraní in the Bolivian Chaco," *Biodiversity & Conservation* 14, no. 11 (2005). 2679.

harvest monitoring system, and instituted an annual “May Gathering” modelled on traditional harvest monitoring and management processes.<sup>372</sup>

In 2012, the SRRB initiated a process to assess the Sahtú Harvest study and prepare a work plan for completion. Led by Independent Consultant Janet Winbourne, this work is nearing completion and promises to add to the body of literature on approaches to harvest studies and harvest monitoring.

## Appendix D – The *Dehlá Got’íne ʔədə Plan*

The *Dehlá Got’íne ʔədə Plan* includes the ʔədə Declaration, a set of nine guiding principles, and a list of six goals that are discussed in detail in the main part of the plan. Here we provide these three lists for easy reference, followed by the two sections on harvest monitoring and regulation, and a table assessing the plan in relation to the components listed by the SRRB in *ʔekwé hé Dene Ts’íli – Sustaining Relationships*.<sup>373</sup>



### Dehlá Got’íne ʔədə Declaration<sup>374</sup>

1. We are the Dehlá Got’íne. Dehlá Got’íne were placed on Dehlá Got’íne traditional territory by Newełs’íne. We have governed Dehlá Got’íne land for centuries, since time immemorial.
2. The ʔədə were placed on Dehlá Got’íne traditional territory by Newełs’íne. Newełs’íne gave us the gift of the ʔədə for us to take.
3. It is the Dehlá Got’íne responsibility to take care of the ʔədə and it is the responsibility of the ʔədə to take care of us.
4. We carry the history of Dehlá Got’íne grandfathers and grandmothers who carried the history of their grandfathers and grandmothers over an immense expanse of time and space.
5. Dehlá Got’íne ancestors taught the Dehlá Got’íne how to maintain our relationship with the ʔədə so that the ʔədə will take care of Dehlá Got’íne through all Dehlá Got’íne hardships.
6. If Dehlá Got’íne abandon Dehlá Got’íne responsibilities with the ʔədə, then Dehlá Got’íne will lose the gift of the ʔədə.
7. The ʔədə are the Dehlá Got’íne connection to Dehlá Got’íne land and Dehlá Got’íne are part of the natural cycle of the ʔədə.

<sup>372</sup> Walter Bayha and Deborah Simmons, *Wildlife Management Decision-Making from the Ground Up. Notes on the Northern Tutchone May Gathering. May 23-25, 2012* (www.srrb.nt.ca: SRRB, 2012).

<sup>373</sup> *ʔekwé hé Dene Ts’íli Sustaining Relationships. Final Report of the ʔehdzo Got’íne Gots’é Nákedí (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, *supra* note 1 at

<sup>374</sup> Colville Lake Renewable Resources Council, *Dehlá Got’íne ʔədə Plan*, *supra* note 4 at 1.

8. Dehlá Got'íne ʔədə are to be respected according to Dehlá Got'íne ʔeʔá.

#### Principles to Guide ʔədə Conservation<sup>375</sup>

1. The Dehlá Got'íne have a deep and profound relationship with ʔədə, and hold the inherent right to protect wildlife and the land according to Dehlá Got'íne ʔeʔá and customs.
2. Traditional Knowledge is the baseline knowledge that is required as the “leading edge” to guide all efforts toward ʔədə conservation, including harvesting.
3. Conservation decisions are to be guided by Dehlá Got'íne knowledge, and the advice of Dehlá Got'íne elders and land stewards.
4. Research, will be undertaken only if in compliance with ethical standards of research, and in accordance with Dehlá Got'íne ʔeʔá.
5. Harvesting practices that are contrary to Dehlá Got'íne ʔeʔá are prohibited.
6. Local harvest will be self-regulated, according to local conservation plans, as prescribed by the SRRB in 2016, and entrenched in the draft *Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá*,
7. Policies, programs and decisions in regards to ʔədə conservation will be developed and acted upon collaboratively, recognizing that sharing responsibility for the conservation and management of ʔədə is mutually beneficial.
8. Conservation partners will address all potential impacts on ʔədə, including the effects of climate change and industrial activities.
9. Conservation must adopt a balanced approach that accommodates Dehlá Got'íne traditional customs and practices, including Dehlá Got'íne harvesting ʔeʔá.

#### Dehlá Got'íne Planning Goals<sup>376</sup>

1. Revitalize Dehlá Got'íne ʔeʔá, and cultural traditions as they relate to wildlife conservation, including Dehlá Got'íne way of life, Dehlá Got'íne Ts'íduweh relationship with the land and with ʔədə, and Dehlá Got'íne harvesting customs and practices.
2. Formalize our existing community-based conservation approach that recognizes the Dehlá Got'íne and Colville RRC right to meaningfully participate in the conservation of ʔədə. This includes direct involvement in collecting and assessment of information and knowledge, and being a key participant in the decision-making process, consistent with the *SDMCLCA*.
3. Monitor and assess the local harvest of ʔədə, in accordance with the draft *Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá*, 2019.
4. Document Dehlá Got'íne traditional knowledge about ʔədə and their habitat, and other parts of the ecosystem, using local knowledge, and appropriate science as

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<sup>375</sup> *Ibid* at 5.

<sup>376</sup> *Ibid* at 7.

agreed to by the Colville Lake RRC. Obtain information from Dehlá Got'íne conservation partners about the impact of industrial activities on ʔədə and use all of this information to help Dehlá Got'íne make decisions to protect ʔədə.

5. Educate Dehlá Got'íne youth about the old ways and the new ways, and involve Dehlá Got'íne youth in conservation of ʔədə.
6. Adopt a communication strategy to share knowledge, involve the community, and keep the community apprised of deliberations and decisions about ʔədə conservation.

### How do we monitor the ʔədə harvest in the Dehlá Got'íne area?<sup>377</sup>

1. Encourage volunteer reporting. We will encourage all harvesters to report their harvest to the RRC.
2. Colville RRC will continue to hire Dehlá Got'íne monitors from each of the 4 Dehlá Got'ínes to monitor harvesting in the Dehlá Got'íne traditional territory, and for any Dehlá Got'íne harvester if they see someone violating the law, to inform the RRC, so the RRC can address the matter in a manner that follows the Dehlá Got'íne ʔədə ʔeʔá, 2019.
3. RRC to collect harvest data during the Arake Tue harvest expedition.
4. Request the harvesters and trappers to record their ʔədə observations and share their information with the RRC.
5. Require supervised harvesting of Sahtu beneficiaries who are not Colville Lake members, as prescribed in the Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá.
6. The RRC will maintain harvest data, and share such information in accordance with the Implementation Agreement and the associated Data Sharing Agreement.

These provisions will help assure harvesters that this is their ʔədə plan and that they will have representatives making recommendations and decisions on their behalf, that sensitive information will be protected, and that harvesting of ʔədə is being carried out in a respectful manner in accordance with the Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá.

### Authorizing the Harvest of non-Dehlá Got'íne<sup>378</sup>

The harvest of ʔədə be authorized by Colville Lake RRC in accordance with this Plan and the Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá – which we have put into written form. The RRC will be responsible for all matters related to the harvest of ʔədə in the Dehlá

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<sup>377</sup> *Ibid* at 16.

<sup>378</sup> *Ibid* at 16.

Got'ine traditional territory. The RRC may establish policies and procedures and set conditions related to harvest of ʔədə by Dehlá Got'ine, other Sahtu Beneficiaries, and other Indigenous persons authorized by the Colville Lake RRC.

Dehlá Got'ine are authorized to harvest ʔədə for personal and family needs and for sharing, using traditional hunting methods.

Other Sahtu Beneficiaries, and other Indigenous persons authorized by the Colville Lake RRC may hunt under direct supervision of Dehlá Got'ine. These outside harvesters are required to hunt respectfully and may be subject to additional conditions or limits imposed by the RRC.

Under the Implementation Agreement, ENR and Colville Lake will develop protocols for working together to regulate the harvest in accordance with this Plan.

## Assessment of the *Dehlá Got'ine ʔədə Plan*

The following table considers how the *Dehlá Got'ine ʔədə Plan* addresses the components of a community conservation plan outlined in the SRRB's *ʔekwé hé Dene Ts'ı́ı – Sustaining Relationships*.<sup>379</sup> Items requiring completion for the plan to be considered complete are highlighted in orange.

Figure 12: Assessment of the *Dehlá Got'ine ʔədə Plan*

SRRB Component	Treatment in <i>Dehlá Got'ine ʔədə Plan</i>	Assessment
1. Identification of key issues and knowledge gaps in ʔekwé conservation		
a. Education	<p><b>Goal 5:</b> “Educate Dehlá Got'ine youth about the old ways and the new ways, and involve Dehlá Got'ine youth in conservation of ʔədə,” includes 6 initiatives.<sup>380</sup></p> <p><b>Goal 6:</b> “Adopt a communication strategy to share knowledge, involve the community, and keep the community apprised of deliberations and decisions about ʔədə conservation.”<sup>381</sup></p>	Education and communication are highlighted as priorities through two goals.
b. Habitat	<p><b>Goal 4:</b> “Document Dehlá Got'ine traditional knowledge about ʔədə and their habitat, and other parts of the ecosystem, using local knowledge, and appropriate science as agreed to by the Colville Lake RRC ... use all of this information to help Dehlá Got'ine make decisions to protect ʔədə.” Various holistic means are outlined, including traditional knowledge</p>	This component will be further developed at the public listening session on knowledge about caribou and landscapes.

<sup>379</sup> *ʔekwé hé Dene Ts'ı́ı Sustaining Relationships. Final Report of the ʔehdzo Got'ine Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ʔekwé (Caribou) Hearing 2016*, supra note 1 at

<sup>380</sup> Colville Lake Renewable Resources Council, *Dehlá Got'ine ʔədə Plan*, supra note 4 at 23.

<sup>381</sup> *Ibid* at 24.



SRRB Component	Treatment in <i>Dehlá Got'íne ʔədə Plan</i>	Assessment
	documentation, ground based monitoring, data management, and scientific studies. <sup>382</sup>	
c. <i>Land-use activities</i>	<b>Goal 4:</b> “Obtain information from Dehlá Got'íne conservation partners about the impact of industrial activities on ʔədə and use all of this information to help Dehlá Got'íne make decisions to protect ʔədə.” <sup>383</sup>	This component will be further developed at the mixed economy public listening session.
d. <i>Harvesting, including promotion of alternative harvest</i>	<b>Goal 1:</b> “Revitalize Dehlá Got'íne ʔeʔá, and cultural traditions as they relate to wildlife conservation, including Dehlá Got'íne way of life, Dehlá Got'íne <i>Ts'jduweh</i> relationship with the land and with ʔədə, and Dehlá Got'íne harvesting customs and practices.” <sup>384</sup> <b>Goal 3:</b> “Monitor and assess the local harvest of ʔədə, in accordance with the draft <i>Dehlá Got'íne Ts'jduweh ʔədə ʔeʔá</i> , 2019.” <sup>385</sup> Missing from the plan is discussion of the complex seasonal harvesting systems that are evident in the results of the Sahtú Harvest Study as presented at the Colville 2020 Public Listening Session.	Colville has received a package with the finalized results of the Sahtú Harvest Study for consideration with respect to knowledge about harvesting systems and promotion of alternative harvest. <i>See also 4.f. harvest plan based on self-regulation.</i>
2. Dene concepts and terminology related to conservation issues, programs, and actions	The plan includes a glossary of four key Dehlá Got'íne concepts. Additional concepts and terms were discussed during the Colville 2020 Public Listening Session. <sup>386</sup>	It is expected that the community will continue to develop and promote Dehlá Got'íne concepts and terms.
3. Research and conservation programs, actions, and timelines for addressing priority issues and knowledge gaps	<b>Goal 2</b> includes an outline of the Dehlá Got'íne approach to conservation, and describes a pathway for formalizing collaborative conservation initiatives with the SRRB and ENR as required by the <i>SDMCLCA</i> . <sup>387</sup> The plan includes a research and monitoring plan as part of <b>Goal 4</b> . <sup>388</sup>	A detailed workplan with timelines is not provided. It is expected that this will be provided following plan approval.
4. Approaches for self-regulation and regional/cross-regional accountability in plan implementation		
a. <i>Harvesting zones</i>	The plan scope is “Dehlá Got'íne traditional territory,” inclusive of the area labelled as “S/BC/01” in the <i>Wildlife Management Zones and Areas Regulations</i> . <sup>389</sup> The boundary of the Dehla	For the purpose of SRRB decisions, the scope of the plan is assumed to be

<sup>382</sup> *Ibid* at 17-22.

<sup>383</sup> *Ibid* at 17-22.

<sup>384</sup> *Ibid* at 9-10.

<sup>385</sup> *Ibid* at 15-16.

<sup>386</sup> *Ibid* at 1.

<sup>387</sup> *Ibid* at 11-14.

<sup>388</sup> *Ibid* at 17-22.

<sup>389</sup> *Ibid* at 6.

SRRB Component	Treatment in <i>Dehlá Got'íne ʔədə Plan</i>	Assessment
	Got'íne traditional territory is not included with the plan. The S/BC/01 area includes Fort Good Hope and part of Délíne District. A formal written agreement with Fort Good Hope with respect to Colville jurisdiction has not been submitted. However, Fort Good Hope has repeatedly asserted on the record that they recognize Colville's jurisdiction with respect to ʔədə. Délíne has included in the <i>Belare Wíle Gots'é ʔ s'é</i> plan reference to a maximum harvest of 50 ʔekwé (Bluenose West caribou). <sup>390</sup> The SRRB has been informed that this was determined by written agreement with Colville Lake.	S/BC/01, since this is the only mapped area. Assuming that Délíne's plan encompasses S/BC/03, the one barren-ground caribou area lacking a plan is S/BC/02.
b. <i>Monitoring</i>	<b>Goal 3</b> describes the benefits of harvest monitoring in providing evidence and support for self-regulation. "The RRC will maintain harvest data, and share such information in accordance with the Implementation Agreement and the associated Data Sharing Agreement." <sup>391</sup> The plan includes methods for obtaining harvest information. <b>Goal 4</b> includes a detailed description of the ground-based Dehlá Got'íne system for monitoring ʔədə, combining traditional knowledge and science. <sup>392</sup>	The SRRB requires an outline of the Dehlá Got'íne plan for reporting including types of information to be provided, how the validity of data will be demonstrated, and timelines for reporting.
c. <i>Measures for supporting compliance</i>	Measures for supporting compliance are detailed in <i>Dehlá Got'íne ʔədə ʔeʔá</i> .	Highlighted as a priority.
d. <i>Youth programming</i>	Considerable thought has been put into youth programming in relation to <b>Goal 5</b> , Education. <sup>393</sup>	Highlighted as a priority.
e. <i>Progress evaluation</i>	The plan does not explicitly include a progress evaluation component.	The SRRB requires an evaluation plan.
f. <i>A harvest plan based on self-regulation</i>	The <i>Dehlá Got'íne ʔədə Plan</i> and <i>Ts'jduweh ʔədə ʔeʔá</i> together provide a detailed code for respectful and safe harvesting. These documents outline a harvesting approach with community oversight and accountability through harvest reporting and data-sharing agreements. <b>Goal 1</b> in the plan notes the importance of "family-based systems of harvesting." <sup>394</sup> Oral evidence was	The SRRB requires written confirmation of the plan for caribou conservation and food security (alternative harvest).

<sup>390</sup> Délíne ʔ Délíne ʔekwé Working Group, *Belare Wíle Gots'é ʔekwé / Caribou for All Time: A Délíne Got'íne Plan of Action for 2019-2021*, *supra* note 7 at 28; 43.

<sup>391</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne ʔədə Plan*, *supra* note 4 at 16.

<sup>392</sup> *Ibid* at 17-22.

<sup>393</sup> *Ibid* at 23.

<sup>394</sup> *Ibid* at 9.

SRRB Component	Treatment in <i>Dehlá Got'íne ʔədə Plan</i>	Assessment
	provided at the Colville 2020 Public Listening Session about how the community intends to maintain food security in the context of ongoing ʔədə conservation measures; this evidence was not provided in the plan.	
5. Consideration of the appropriate seasons of harvest and harvest locations and zones	The plan asserts that supporting partners (Colville, ENR, and SRRB) will “seek to restrict or prohibit disturbances ... on the calving grounds and calving migration routes during the calving season.” <sup>395</sup> The examples of disturbances listed do not include harvesting. The plan notes that since 1990, a community harvest has taken place at ʔarakə Túé (Horton Lake) in September. <sup>396</sup> Section 25 of the ʔeʔá states that harvesting is prohibited within 1 km of the Fort Good Hope-Colville Lake winter road for safety reasons. <sup>397</sup>	The harvest area is assumed to be S/BC/01 per the map description on page 6 of the plan. Zoning and seasons will likely be further developed during the 2021 public listening session.
6. Community sharing protocols and agreements with other users within and beyond the Sahtú, including a protocol for implementation reporting	The plan primarily sets out the system for regulating harvest by visitors to Dehlá Got'íne traditional territory, and a protocol for data sharing, including harvest reporting. The plan also cites the management plan, outlined in <i>Taking Care of Caribou</i> , which was prepared by the Advisory Committee for Cooperation on Wildlife Management. <sup>398</sup>	The plan is silent on the procedure for sharing the overall ʔədə harvest among communities and regions.
7. Community coordination in developing plans	The plan focuses on partnership with the SRRB and ENR. <b>Goal 6</b> also identifies an aim to develop a communications protocol to “work together to achieve conservation of ʔədə by understanding our shared responsibilities for ʔədə management.” <sup>399</sup>	This is an early phase of planning in the Sahtú. It is expected that coordination of plans will be an overall outcome of the public listening series to 2024.

<sup>395</sup> *Ibid* at 13.

<sup>396</sup> *Ibid* at 20.

<sup>397</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne Ts'íduweh ʔədə ʔeʔá, 2019 / Dehlá Got'íne Ancient Caribou Law, 2019*, *supra* note 5 at 5.

<sup>398</sup> Advisory Committee for Cooperation on Wildlife Management, *Taking Care of Caribou: the Cape Bathurst, Bluenose-West, and Bluenose-East barren-ground caribou herds management plan*.

<sup>399</sup> Colville Lake Renewable Resources Council, *Dehlá Got'íne ʔədə Plan*. 24.

## Appendix E – The Conservation Picture: Caribou



There is considerable evidence of conservation concerns related to the three caribou ecotypes that inhabit or travel through the Sahtú region. In this appendix, we summarize evidence from the Colville 2020 Public Listening Session, including cross-cutting Indigenous/community knowledge and scientific evidence related to all three caribou ecotypes, as well as evidence specific to individual ecotypes (while acknowledging that the definition of the ecotypes is not always agreed upon). We've emphasized providing illustrative quotes from the transcripts because these are less accessible than the written submissions. The biocultural approach adopted by the SRRB considers caribou health and the wellbeing of Indigenous peoples and ways of life to be connected. Therefore, appendix G, "The Conservation Picture: People," should be read as a companion to this appendix.

### All Caribou

The Sahtú is fortunate to possess a diverse landscape that is home to three caribou ecotypes, each with their own sub-populations. Communities understand this diversity, but also consider the totality of "caribou" (ᐱᐃᐃᐱᐃᐃᐃᐃᐃᐃ or known to scientists as *rangifer tarandus*) as a valued species in our region. The three ecotypes are ᐱᐃᐃᐱᐃᐃᐃᐃᐃᐃ (barren-ground caribou), ᐃᐃᐃᐃ (boreal caribou), and ᐃᐃᐃᐃ ᐃᐃᐃᐃᐃᐃᐃᐃ (mountain caribou). ᐱᐃᐃᐱᐃᐃᐃᐃᐃᐃ are considered by scientists to be two herds, Bluenose West and Bluenose East, based on distinct calving grounds, and there have been specific status assessments and decision-making processes for these herds. ᐃᐃᐃᐃ ᐃᐃᐃᐃᐃᐃᐃᐃ are also considered by scientists to include a variety of herds, but in the Sahtú there are no distinct conservation approaches for these. There are ᐃᐃᐃᐃ sub-populations, but status assessment and the NWT *Recovery Strategy for Boreal Caribou*<sup>400</sup> considers the population as a whole.

All the caribou ecotypes are federally and/or territorially listed as species at risk:

- ᐱᐃᐃᐱᐃᐃᐃᐃᐃᐃ have been listed as threatened<sup>401</sup> in the NWT. They have been federally assessed as threatened and are under consideration for federal listing by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).
- ᐃᐃᐃᐃ are listed as threatened both territorially and federally.

<sup>400</sup> Conference of Management Authorities, *Recovery Strategy for the Boreal Caribou (Rangifer tarandus caribou) in the Northwest Territories*, *supra* note 356.

<sup>401</sup> Łá lak'ónq xae kúhye wíle ade gha sǫq̃n̄ (Tulít'a and Dél̄n̄ dialects); líla horéno xai egúhyé behúle rágud̄i (K'áhsho Got'ín̄ dialect); might disappear within 100 years. Sahtú Elders et al., *Kəᐃᐃ Nít'q Benats'ad̄i - Xəᐃᐃ Ríh̄et'q Herats'éd̄i - Remember the Promise*, *supra* note 30 at 26.

- Shúhta goʔepé are federally listed as special concern.<sup>402</sup> They have been assessed as special concern by the NWT Species At Risk Committee (SARC), and are now under consideration for listing by the Conference of Management Authorities.

A number of concerns about the impact of ecological change on caribou populations and people have been raised since the first SRRB caribou hearing in 2007. Key cross-cutting impacts include climate change and wildfires, predators and competitors, industrial development and other human impacts. These are addressed in the plans and other documents available on the SRRB's public registry. They will also be discussed in more detail in future public listening sessions.

Some of the most important indicators of ʔədə/ʔekwé/ʔepé status articulated by Sahtú community members are the people's relationship with them, conveyed through stories and placenames. For example, Joseph Kochon explained that the name of the Behdzi Ahda First Nation relates to the caribou head shape of the point where the Colville Lake community is located ("you'll see the eyes, the ears, and the mouth, the nose").<sup>403</sup>

Several speakers spoke about the importance of respectful human behaviour in maintaining healthy social relationships with ʔədə/ʔekwé/ʔepé. Joseph Kochon noted that elders tell us not to talk about caribou, because "*it's sacred to us.*" The consequences of disrespectful behaviour are grave. In the words of Colville Chief Wilbert Kochon, "The way the Elders speak, sometimes they go back in the ground when they're not happy and not treated well, and so I really believe that."<sup>404</sup> The injunction against hitting caribou with a stick is consistently repeated in the Sahtú – each community has its own specific story highlighting the consequences of such a breach of respect.

I know the caribou. One time, we used to get it from Bluenose West that migrate to Brackett Lake. Used to do that every year. I remember my mom talked about it. Until a person had wounded the caribou and ran out of shells, didn't know what to do, so he took a stick and clubbed it to death. This animal was not supposed to be hit by anything, but this person did. [It wasn't] until 1986 they came back to Brackett Lake, I remember. – Gordon Yakeleya, Tulít'a Panel<sup>405</sup>

<sup>402</sup> Bek'e k'énadets'ewə (Tulít'a and Délı̨nę dialects); bek'e k'ı̨naʔəɖits'ewe gha got'ódéʔa (K'áhsho Got'ı̨nę dialect); we need to keep an eye on it. Sahtú Elders et al., *Kədə Nit'q Benats'adı - Xədə Ríhəʔ'q Herats'ádi - Remember the Promise*, *supra* note 30.

<sup>403</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 130:13-14.

<sup>404</sup> *Ibid* at 131:8-11.

<sup>405</sup> *Ibid* at 261:8-17.

Other stories indicate the meaning that caribou are able to communicate through their behaviour, offering themselves as a gift in response to people's respectful practices and wise decisions.

During the last big gathering we had at Sahtú region, when everybody left, out of nowhere a caribou came up at the airport and run ahead of me from the airport all the way down. And there's a lake behind my house. It ran across there, stood behind my house, and it was digging in the ground there. So I watched it. After that, it went back where it came from, back up the road, right to by the airport, and then it took off. It's really hard to interpret that, but it's a really special animal .... Us Aboriginal people, when we hunt, caribou always comes back to us. That's what we're respecting, you know. – Joseph Kochon, Colville Panel<sup>406</sup>

When I went to the barrenland, I was on top of a big high hill, and you could see everywhere ... This is where I ran down the hill. The caribou just came up to me, just right there, and I just couldn't believe it ... Caribou came right up to me and then I got one and that's all I needed .... My mother have always said that, too, and my dad. The animals know you. The caribou knows you. But they provide for a lot of people, and they tell the story. – Chief Wilbert Kochon, Colville Panel<sup>407</sup>

## ʔədə (Bluenose West Barren-ground Caribou)

The area that ʔədə travel through in the Sahtú region is currently known as the S/BC/01 under the NWT *Wildlife Management Zones and Areas Regulations*.<sup>408</sup> These caribou also travel through the northeastern part of the Délı̨nę District as well as the Gwich'in and Inuvialuit regions, including Tuktoyaktuk National Park, crossing the Sahtú and Inuvialuit border. They are harvested by 13 communities across the three regions of their range. They are known to have a special relationship with the communities of Paulatuk and Tuktoyaktuk. Elders note that ʔədə have been known to cross Dəogha (the Mackenzie River), and they have observed ʔədə in the area known in S/BC/03.

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<sup>406</sup> *Ibid* at 128:8-19. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 28:6-8; 23-25. 29:

<sup>407</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 131:20-22; 132:3-4. 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 163:11-14.

<sup>408</sup> *Wildlife Management Zones and Areas Regulations*, RRNWT 1990, c. W-15.



Harvesting ɣədə in the S/BC/01 area is currently subject to regulations arising from SRRB decisions following the 2007 Bluenose West Hearing.<sup>409</sup>

Colville provided evidence during the 2020 Colville Public Listening Session that the population of ɣədə is stable and the caribou remain as fat as always. Fort Good Hope deferred to Colville in their assessment. As Daniel Jackson put it, “We haven’t seen caribou in our area for numerous years, so we had to adapt to different species of harvesting.”<sup>410</sup>

This evidence is supported by monitoring information provided to the ACCWM. Reports from the communities of Paulatuk and Tuktoyaktuk via the Wildlife Management Advisory Council – NWT (WMAC-NWT) indicate that the caribou are abundant and fat, though according to Paulatuk there are perhaps fewer calves than in previous years. WMAC-NWT noted concerns from Inuvik about a lack of availability of caribou. This concern was echoed by Délı̨nę in that there were virtually no caribou sighted at Neregha (the north shore of Sahtú/Great Bear Lake) where they would usually have been. The Inuvialuit Game Council (IGC) provided an outline of conservation concerns and steps taken to conserve caribou in their region, including harvest regulation and establishment of protected areas.<sup>411</sup>

From the time you start talking about decline of caribou herd, Colville Lake have always said we don't agree with what has been presented to us. We've always participated in some of the surveys. And in our hearts, we know that we're not wrong because we spend a lot of time on the land. Right to this day, a lot of us, we spend time on the land with the caribou. If the caribou was in trouble, somehow they'll communicate with us. So that's why we hang onto our way of life, our traditional way of doing things. Very important. – Joseph Kochon, Colville Panel<sup>412</sup>

When the caribou started declining, everybody was worried, you know, and it was really good to see that in our region people were worried enough about the caribou to put limitations on ourselves .... And some of the elders in our region, they've noticed declines in caribou before. We just lost an elder out of Tuk who was near a

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<sup>409</sup> *Big Game Hunting Regulations*, NWT Reg 019-092.

<sup>410</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 218:4-6.

<sup>411</sup> Advisory Committee for Cooperation on Wildlife Management, *Action Plan for the Bluenose West Caribou Herd 2019/2020 – Orange Status* (Yellowknife, NT: Advisory Committee for Cooperation on Wildlife Management, January 2019).

<sup>412</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 30:9-21.

hundred years old, and she told stories about this being the second time the caribou went away. – Jim Elias, Inuvialuit Game Council<sup>413</sup>

Evidence provided by ENR and member boards of the ACCWM, which included the *Action Plan for the Bluenose West Caribou Herd 2019/2020*,<sup>414</sup> addresses ten monitoring criteria outlined in *Taking Care of Caribou*, ACCWM's 2014 plan for Bluenose West, Bluenose East, and Cape Bathurst caribou.<sup>415</sup> The consensus of ACCWM is that the population is stable. However, they designated the population “orange zone,” or intermediate and decreasing, according to the thresholds identified in *Taking Care of Caribou*, since there was evidence of a significant decline of 75% from over 100,000 animals to around 25,000 in 2005 and 2006. They estimate that the current population remains at that low level.

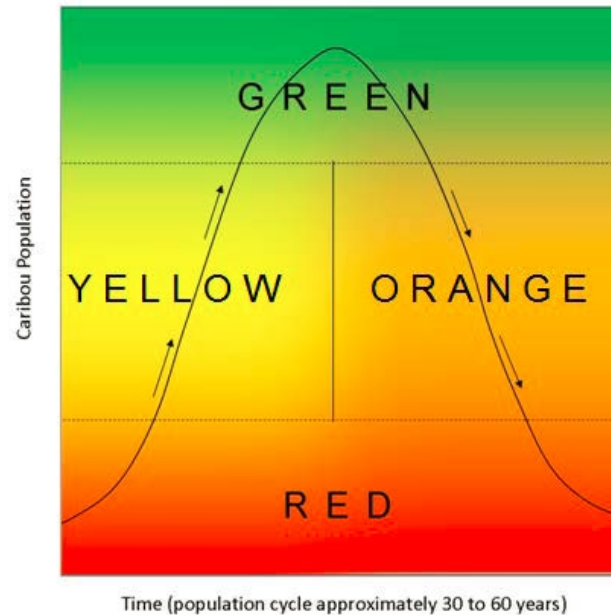


Figure 13: Diagram showing “stop light” approach for indicating caribou status. From the *Taking Care of Caribou Plan* (ACCWM, 2014).

## ᑭᑭᑭᑭᑭᑭ ᑭᑭᑭᑭ (Bluenose East Barren-ground Caribou)

ᑭᑭᑭᑭᑭᑭ ᑭᑭᑭᑭ travel through the area known as S/BC/03 under the NWT *Wildlife Management Zones and Areas Regulations*.<sup>416</sup> This encompasses the Délı̨ᑭ District on the east side of Sahtú (Great Bear Lake). These ᑭᑭᑭᑭ have historically spent time at ᑭᑭᑭᑭᑭᑭ in falltime. They travel southward to Tłı̨chʼo and Akaitcho Treaty 8 territory for the winter, where they are known as Sahtı̨ ᑭᑭᑭᑭ (Tłı̨chʼo) or Ɂetthēn (Dëne Sų́líné). In springtime, they head north to their calving grounds in the Kitikmeot region of Nunavut, homeland of Kitlinermiut people of Kugluktuk, where they are called tuktu.

<sup>413</sup> Colville 2020 Public Listening: Sahtú Ragóʼa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 211:16-20; 212:2-6.

<sup>414</sup> Advisory Committee for Cooperation on Wildlife Management. 2019. *Action Plan for the Bluenose West Caribou Herd 2019/2020 – Orange Status*, *supra* note 411.

<sup>415</sup> Advisory Committee for Cooperation on Wildlife Management, *Taking Care of Caribou: the Cape Bathurst, Bluenose-West, and Bluenose-East barren-ground caribou herds management plan*, *supra* note 31.

<sup>416</sup> *Wildlife Management Zones and Areas Regulations*, RRNWT 1990, c. W-15.

ʔehdaɭa ʔekwé are harvested by nine communities across the four regions of their range. Harvesting ʔekwé in the S/BC/03 area is currently subject to Déljñé's harvesting code outlined in the *Belare Wile Gots'é ʔekwé* plan, which was approved by the SRRB based on evidence from the 2016 Bluenose East ʔekwé Hearing.<sup>417</sup>

Evidence provided by communities, member boards of the ACCWM, and ENR for the ACCWM's 2019 status assessment is that ʔehdaɭa ʔekwé have become unavailable, having declined by about 50%, from nearly 40,000 to less than 20,000, since 2015 – and even more drastically if the 2010 population estimate of about 120,000 is considered. Like Déljñé, Kugluktukmiut noted to the Nunavut Wildlife Management Board that caribou were not coming near the community so “observations were limited.”<sup>418</sup> The Tłıchq̓ community of Wekweètì reported that “there are less animals than before and they are seen in smaller groups than before.”<sup>419</sup> For this reason, the ACCWM's 2019/2020 Bluenose East action plan considers these ʔekwé to be in the red zone, or low.<sup>420</sup>

At the Colville 2020 Public Listening Session, Tłıchq̓ elders Michel Louis Rabesca<sup>421</sup> and Louis Wedawin<sup>422</sup> both testified to a major decline of caribou in their area, which includes both “Sahtı ʔekwò” and Bathurst caribou. Michel Louis Rabesca spoke about the suffering that the resulting harvesting restrictions have caused to their people.<sup>423</sup>

In Sahtú and Bear Lake, Sahtú Dene doesn't have caribou because there isn't any caribou. – Walter Bezha, Déljñé Panel<sup>424</sup>

In our area the caribou in the huge decline .... Now that the government has a control ... they want to be a boss of everything. Now they shut the – no hunting. And a lot of people are suffering because of that, even the little kids. They banned the hunting, even some of our own people. But some of those, the widows that are without a husband ... they are pitiful because there is nobody there to hunt for them. We were brought up with the caribou. It's

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<sup>417</sup> Déljñé First Nation, Déljñé ʔehdzo Got'jñé (Renewable Resources Council), and Déljñé Land Corporation, *Belare Wile Gots'é ʔekwé / Caribou for All Time: A Déljñé Got'jñé Plan of Action 2016*, *supra* note 52.

<sup>418</sup> Advisory Committee for Cooperation on Wildlife Management, *Bluenose East Monitoring Table; Status Meeting 2019*. 1.

<sup>419</sup> *Ibid* at 2.

<sup>420</sup> Advisory Committee for Cooperation on Wildlife Management. 2019. Action Plan for the Bluenose East Caribou Herd 2019/2020 – Red Status. Yellowknife, NT.

<sup>421</sup> *2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 110:21-25.

<sup>422</sup> *Ibid* at 119:22-25.

<sup>423</sup> *Ibid* at 111:2-13.

<sup>424</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 144:4-5.

part of us and it's part of our blood. It's in our system. – Michel  
Louis Rabesca, Tłıchq̓ elder<sup>425</sup>

## Shúhta Goʔepé (Mountain Caribou)

Shúhta goʔepé live in the mountain areas of the K'áhsho Got'ıne and Tulít'a Districts, which are also shared homelands with Gwich'in as well as Tu Łıdlini Dena and other neighbouring communities centred in the Yukon Territory. There are also shúhta goʔepé living within Náats'ıhch'oh National Park Reserve. The NWT *Wildlife Management Zones and Areas Regulations*<sup>426</sup> locate five outfitter areas in the mountains of the Sahtú (plus one area centred in the Gwich'in zone but crossing into the Sahtú, and one area that crosses into the Dehcho zone).

The NWT *Big Game Hunting Regulations* restrict resident, non-resident, and non-resident alien harvesters to hunt one animal only during limited seasons (15 July-31 January for residents, and 25 July-31 October for all non-residents).<sup>427</sup> No resident or non-resident hunting is permitted within Náats'ıhch'oh National Park Reserve. In the NWT as a whole, NWT residents harvested on average an estimated 45 shúhta goʔepé each year between 2011 and 2015. An average of 165 shúhta goʔepé were harvested per year in the NWT from 1991-2017. ENR scientists believe more research is needed to verify population status.<sup>428</sup>

The *Nío Nę P'ęné Begháré Shúhta Goʔepé Nareʔa – Trails of the Mountain Caribou Plan*<sup>429</sup> (“Nío Nę P'ęné Plan”) jointly developed by the Tulít'a and Norman Wells ʔehdzo Got'ıne and Tu Łıdlini Dena Council arises from conservation concerns about shúhta goʔepé within the Tulít'a District, where the Canol and Howard's Pass roads provide access for visiting hunters, leading to rapidly expanding all-terrain vehicle trails in recent years. Norman Wells noted that restrictions on harvesting other ʔedə/ʔekwé/ʔepé ecotypes along with restrictions on hunting other species like moose seem to be stimulating increased harvesting of shúhta goʔepé.<sup>430</sup>

Norman Wells, Tu Łıdlini Dena Council, and the Indigenous Leadership Initiative provided evidence that there seem to be fewer caribou in localized areas, and possibly more elsewhere. The Norman Wells Panel clarified that there are fewer shúhta goʔepé

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<sup>425</sup> 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 110:22-23, 25; 111:1-10.

<sup>426</sup> *Wildlife Management Zones and Areas Regulations*, RRNWT 1990, c. W-15, Schedule B, Part 6.

<sup>427</sup> *Big Game Hunting Regulations*, NWT Reg 019-092.

<sup>428</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8.

<sup>429</sup> Nío Nę P'ęné Working Group (compiled by Janet Winbourne), *Nío Nę P'ęné Begháré Shúhta Goʔepé Nareʔa / Trails of the Mountain Caribou Plan*, *supra* note 6.

<sup>430</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 20:23. Norman Wells Renewable Resources Council, *Norman Wells Renewable Resources Council Presentation: Colville 2020 Public Listening* ([www.srrb.nt.ca](http://www.srrb.nt.ca): Norman Wells Renewable Resources Council, January 18, 2020). 10.

south of Turéhj Deé in the area encompassed by the Nío Nẹ P'ẹnẹ Plan, and possibly more north of Turéhj Deé.<sup>431</sup>

We are concerned about mountain caribou. We have worked closely with Tulít'a RRC [ʔehdzo got'ɪnɛ] for past ten years. There has been a huge influx of Tulít'a people in our traditional territory. A lot of hunting pressure on caribou. Climate change is also a concern for us. We find that caribou numbers are declining. – Tu Łidlini Dena Council<sup>432</sup>

The population of people going into the mountain is getting too great. It has an effect on wildlife and why we think it's important to have some land set aside for the caribou starting with Indigenous protected area. – Leon Andrew, Indigenous Leadership Initiative<sup>433</sup>

Jaryd McDonald (Norman Wells Panel) indicated that his family has noticed changes in shúhta goʔepé distribution:

My Uncle Johnny, me, and all my family, we noticed in the past few years ... instead of having caribou at the foot of the mountains, caribou are starting to come down to the little lakes, and they've never stayed too long on the lake or the little islands, and now they're starting to stay right on the islands right till after the river – or the lake unthaws. And so that's something different I've noticed.<sup>434</sup>

ENR stated that from their perspective, current and long term population trends for shúhta goʔepé are unknown.<sup>435</sup> The Indigenous Leadership Initiative as well as Norman Wells indicated concern that if action is not taken to address current impacts, there may be future declines and even extinction such as has happened with so many other species in the world.<sup>436</sup>

## Tɔdzı (Boreal Caribou)

Tɔdzı live throughout the Dəogha (Mackenzie River) valley in the Sahtú region. The tɔdzı range includes the Sahtú zone as demarcated in the current NWT *Big Game*

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<sup>431</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 22:22-23. Norman Wells Renewable Resources Council, *Norman Wells Renewable Resources Council Presentation; Colville 2020 Public Listening*. 10.

<sup>432</sup> Ross River Dena Council, *Ross River Dena Council Responses to Information Requests; Round No. 1 Colville 2020 Public Listening*, *supra* note 42 at 1.

<sup>433</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 152:4-9.

<sup>434</sup> *Ibid* at 17:11-21.

<sup>435</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 20.

<sup>436</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 19-20; 153-154.

*Hunting Regulations.* Residents with a tag are permitted to harvest one male only during 15 July-15 December.

ENR pointed to Indigenous and community evidence compiled by the NWT Species at Risk Committee indicating that t̥dzı populations may be stable or even increasing in the Sahtú.<sup>437</sup> However, they are designated threatened both in the NWT and federally, in part due to threats in other regions in the territory and Canada. There was little specific discussion of t̥dzı by community panels, elders, or other parties, likely since there is little contention about the current hunting regulations. Legislated federal and territorial recovery plans have been completed for t̥dzı. In compliance with these plans, Sahtú communities plan to participate in a range planning effort in partnership with ENR and the SRRB.

There's more woodland caribou. We had woodland caribou up on the hill all summer long. – David Codzi, Colville Panel<sup>438</sup>

The boreal caribou are scarce and far and few between. There's not like lots of them. The point about them being sensitive and volatile is that they're small, little herds, anywhere from two, three to twenty, right? And they can get wiped out pretty quick. – Roger Odgaard, Norman Wells Panel<sup>439</sup>

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<sup>437</sup> GNWT, *ENR Submissions to the SRRB: Colville 2020 Public Listening Session*, *supra* note 8 at 26.

<sup>438</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 117:24-25.

<sup>439</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 74:23-25; 75:1-4.



## Appendix F – NWT Hunting Regulations: Barren-ground Caribou Wildlife Management Areas Map<sup>440</sup>

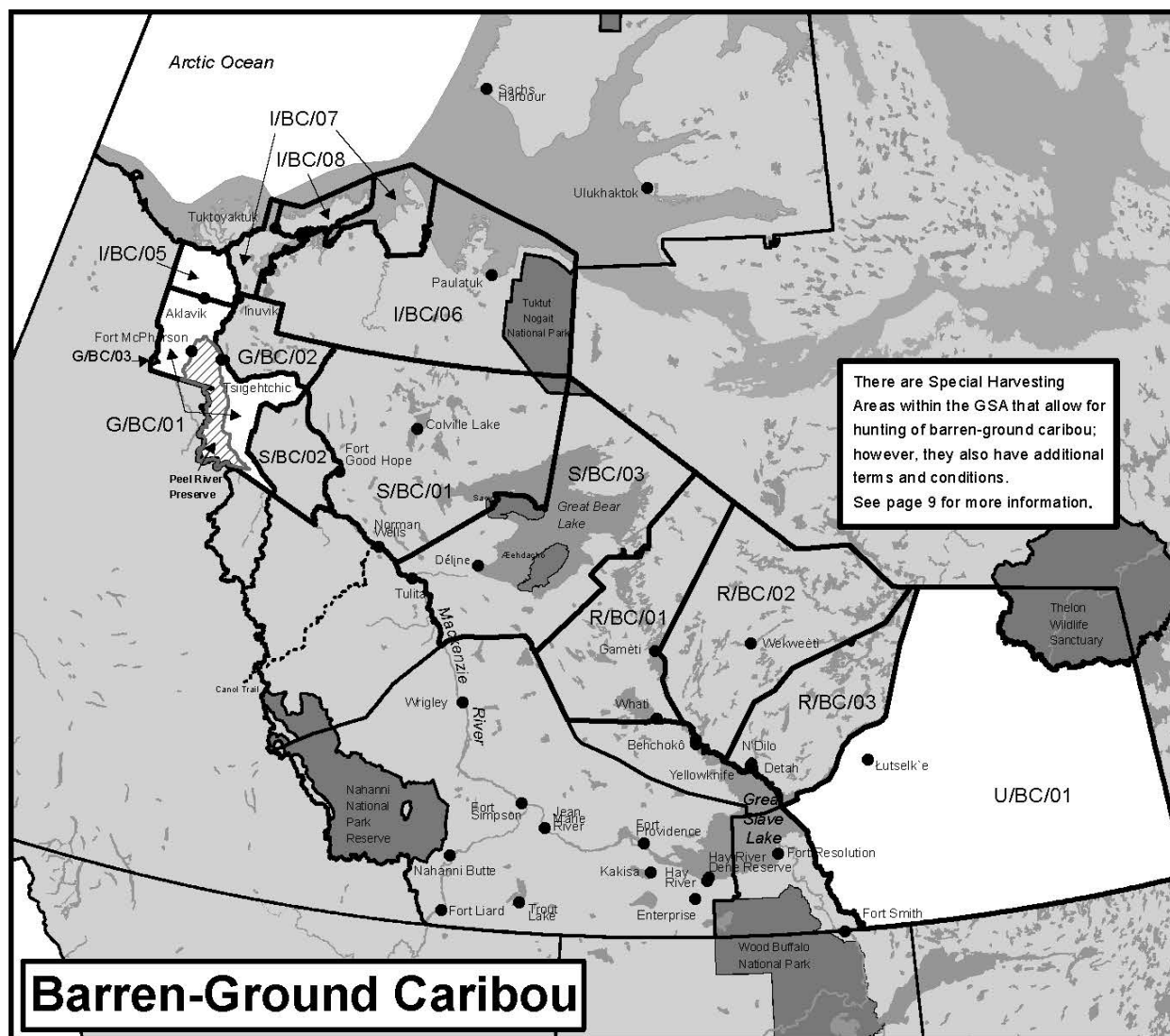


Figure 14: NWT Barren-Ground Caribou Hunting Zone Regulations. Source: Government of the NWT.

<sup>440</sup> GNWT, "Northwest Territories Summary of Hunting Regulations, July 1, 2019 to June 30, 2020," (Yellowknife, NT: GNWT, 2019).



## Appendix G – The Conservation Picture: People

There was a remarkably extensive evidence provided on the status of Dene ts'ı́ı́ (ways of life) in the context of the Colville 2020 Public Listening Session and its focus on caribou harvest regulation and caribou conservation. The priority placed on this topic indicates that in the Sahtú region wildlife conservation is understood by way of a biocultural perspective highlighting relationships between well-being of people and caribou.

The NWT Bureau of Statistics provides some indicators of the health of Dene ts'ı́ı́ in the Sahtú, including the number of individuals over 15 years of age who have hunted or fished, and number of people who speak an Indigenous language. According to these statistics, the percentage of Indigenous language speakers over 15 declined by more than a third from 85.6% to 51.7% between 1989 and 2014. A similar percentage, 49.9% hunted or fished in 2013 and the number declined slightly to 45.6% in 2018, but may be considered stable at this time. The number of households eating Dene béré (country food) declined about 10% between 1998 and 2018 from 44.5% to 35.2%.<sup>441</sup>

ENR has published a *Sustainable Livelihoods Action Plan, 2019-2023*<sup>442</sup> based on extensive community engagement, including open houses in Délı́ne and Fort Good Hope, as well as several regional meetings, a public survey, and an advisory committee workshop that included a Sahtú Secretariat, Inc. delegate. The vision articulated in the action plan is, “NWT residents have the opportunities to connect with and experience the land in ways that are meaningful to them.” Two goals of the action plan particularly pertinent to the subject of the listening session are: “The number of people with harvesting and on-the-land skills and knowledge is increased”; and that “NWT residents have access to safe, culturally appropriate and quality country foods.” Principles guiding the action plan were reflected in much of the evidence provided at the Colville 2020 Public Listening Session, including: food security, knowledge, respect and responsibility, community-driven, and ecological integrity, biodiversity and resilience.

The Sahtú Harvest Study which was presented at the Colville 2020 Public Listening Session is uneven in terms of accuracy of data, but does provide a picture of complex and diverse Dene béré systems in each of the districts of the Sahtú.<sup>443</sup> Evidence provided by all the community panels is that these systems can be strengthened while measures are taken to conserve caribou for future generations.

There was recognition but little discussion of the role of women with respect to Dene ts'ı́ı́ and caribou conservation, despite the fact that a question about the role of women was included as part of Round 1 Information Requests. Although the majority of SYN participants were young women, there was only one woman participant representing a community panel at the Colville 2020 Public Listening Session. The topic of gender as

<sup>441</sup> These and other statistics can be found online at [www.statsnwt.ca](http://www.statsnwt.ca).

<sup>442</sup> GNWT, *Sustainable Livelihoods Action Plan 2019-2023*, *supra* note 48.

<sup>443</sup> Winbourne, *Sahtú Harvest Study Presentation: Colville 2020 Public Listening*, *supra* note 246.

an aspect of Dene ts'ı́lį continues to be a gap in regional discussions about caribou conservation. This gap was indicated in Janet Winbourne's reflections on the template that was used for the design of the Sahtú Harvest Study:

The studies didn't capture the activities of the women very well, so women's harvests are under-represented in the results. There's no foods that are traditionally harvested by women also, so no plants at all, no berry picking, not even ... wood harvesting is covered by the study. It's really just things with a heartbeat. – Janet Winbourne<sup>444</sup>

Evidence regarding the status of Dene ts'ı́lį and Dene béré systems tended to be focused on concerns about the well-being and training of youth as future leaders, stewards, and providers for the communities. Youth education, well-being, and participation in on the land and governance processes are considered indicators of the resilience or even resurgence of Dene ts'ı́lį. *ǂekwé hé Dene Ts'ı́lį – Sustaining Relationships*<sup>445</sup> included a section on youth and two related decisions:

Hearing Decision 9: The SRRB will prioritize research that both involves youth and explores youth learning and environmental leadership as a part of robust community conservation initiatives.

Hearing Decision 13: finds that there is strong consensus in the Sahtú Region that youth involvement is critical for the success of community ǂekwé conservation plans. The SRRB will prioritize support for regional and local youth environmental leadership initiatives that can support community visions for youth education and participation.

The Colville 2020 Public Listening Session benefitted from participation of SYN as a formally recognized party, with nine active participants. Evidence provided by all community panels and SYN is that there continues to be grave concerns about wellness and knowledge transmission across generations related to spirituality, Dene language, harvesting skills, safety, and access to Dene béré. Several spoke about the ongoing impacts of residential schools and other aspects of colonialism, and reflected on approaches to support youth in reclaiming their identity, skills, knowledge, and governance role. SYN delegates offered insights about the role of the network in supporting youth to self-organize and have their own voice. The role of SYN delegates at the public listening was in itself considered to be an indicator of growing strength for Dene ts'ı́lį and caribou conservation. ENR noted that the NWT Hunter Education

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<sup>444</sup> 2020 Public Listening: Sahtú Ragóǂa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 23:24-25; 24:1-5.

<sup>445</sup> ǂekwé hé Dene Ts'ı́lį Sustaining Relationships. Final Report of the ǂehdzo Got'ı́neǂ Gots'é Nákedı (Sahtú Renewable Resources Board) Bluenose East ǂekwé (Caribou) Hearing 2016, *supra* note 1.

curriculum, which was developed with help from Sahtú knowledge holders, is available for community use in training youth.<sup>446</sup>

And to find a way to integrate it [our law] into the schools. That's going to be done by our leadership, so that's [going] to take some time to integrate into the schools. We know it's the right thing to do, because today's day and age, that's one tool available to us is to educate our young people and make sure that they respect our way of life, and know it inside out .... We're still trying to find a way to communicate with some of our youth. I guess they've been pushed aside for too long and sometimes leadership has so much responsibilities and everything, they forget about that. So we'll try to do whatever we could to try to work with our youth and give them more voice .... So I guess overall just encourage you [SYN] to continue on. The more voices we hear, we can find a way to support you in any way possible, because today's day and age we're having a hard time try to communicate with our youth. Families are not communicating with their youth, so it's really important that you continue on. – Joseph Kochon, Colville Panel<sup>447</sup>

It's the parents' responsibility to teach their way of life to their children. In the past, it just went to a few people to do, and then the parent is sitting off to the side without any responsibility for those things. And we're going to make sure that is brought back to the house and it's a part of the household. – David Codzi, Colville Panel<sup>448</sup>

And so for the future, we want to teach our youth, and we want them to live a good life to survive. And that's why we are taking the road we are taking, the initiative and management. – Chief Wilbert Kochon, Colville Panel<sup>449</sup>

Our kids are learning to go to school and constantly they are not listening to their elders because it's mostly in English. And ʔehtséo [the Prophet Ayha] had said that you are not going to even have any control over your children if you don't follow these .... It's going to be very difficult for the future of our children now that we

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<sup>446</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 273-274.

<sup>447</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 120:21-25; 122:1-4; 111:1-7; 95:13-19.

<sup>448</sup> *Ibid* at 105:18-24.

<sup>449</sup> *Ibid* at 282:2-5.

still have time, and we teach our children, and then teach them well, and then because they are going to take over .... Children are important. And just recently we start bringing our youth with us and we continue to do that, they will take our spots, everything about our land, the story about the land if and then that is how they will go in their path. – Alfred Taneton, Délıne Panel<sup>450</sup>

And we love young people. When I tease young people, they laugh. We want to help them in that way. We want our young people to grasp something. We take them to the land. And we go out on the land and we teach them everything that they're going to survive on. – Leon Modeste, Délıne Panel<sup>451</sup>

Many of us gone through residential school, and you see the issues that a lot of our own people [have dealt with as a result]. So we have this huge thing called – I don't want to use the word “healing” ... The term nats'erjju, is probably as close to healing as I could get it. But it doesn't mean healing like the definition of healing ... In our language, what it means is re-connecting with the land ... The greatest thing about the Dene people is it's always about spirituality. You can't get away from it. I used to think I can when I was an officer. Well, you can't. They live it. Everything they do has a relation with that, and that's the challenge we have today, to bring back our grandfathers' teaching. I'm not talking about bringing all the kids to church. I'm talking about a simple thing as saying thank you when you catch a fish and sharing it with your grandfather, and go running to Alfred and say, grandpa, I caught a fish. I want to give it to you. We've lost that .... Whenever they catch something, they'd bring it to an elder, right? We lost that. We don't do that. We don't share enough .... When is the last time a child shot a moose or a caribou the first time and we celebrated? He cooked the head and brought it to everybody? We don't do that anymore, so we've got to bring that back .... We need the youth to tell us, you know, how to do things with them, how to communicate with them ... What you want the leaders to do. And tell us. You

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<sup>450</sup> *Ibid* at 172:4-10, 15-19. *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*. 90:13-18.

<sup>451</sup> *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3*, *supra* note 36 at 251:5-10.

know, leaders should be doing things that you think maybe get done better. That has to happen. – Walter Bezha, Délı̨nę Panel<sup>452</sup>

My mother also went to residential school in the 1920s... she never did talk about it much, but she relayed to me that she was taken to residential school when she was five years old and didn't return home until she was a teenager, and by that time she had forgotten who her parents were. Imagine living your whole life not really knowing if you are given back to the right parents. So those kind of traumatic historical events that we went through in [residential school] and the result is we're having a hard time communicating with our youth. And I wanted to make that clear, the reason why we're here, because it relates to our culture and language. And I'm really encouraged and you [SYN delegates] really give me hope for the future, that you're really anxious and eager to learn, and I like that. – Frank T'seleie, Fort Good Hope Panel<sup>453</sup>

And so when we teach our children out in the bush and they learn both ways, then they will be better for their future. – Joe Bernarde, Tulít'a Panel<sup>454</sup>

That would make it a lot safer for our younger people, so we can teach them our culture, what our ancestors have done so they can understand the area where they're going to. – Gordon Yakeleya, Tulít'a Panel<sup>455</sup>

We got to try to do it ... how we used to do it long ago, you know? Even just paddling around here or wherever, paddling, you don't need gas. Those are the things I think we should try to start picking back up and try to go that way ... those are the things I think about, how we could start teaching our young people to do that. Yeah, I want us to be Dene, I want us to be strong. That's what it really means to me, Dene ts'ı̨l̨. Be a Dene, I think that's

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<sup>452</sup> *Ibid* at 188:18-25; 189:1-9; 191:13-25; 192:1-7, 14-17. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, 97:2-5.

<sup>453</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 101:18-25; 102:1-11.

<sup>454</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 173:16-18.

<sup>455</sup> *Ibid* at 263:13-16.



what he's talking about, you know? – Chief Frank Andrew, Tulít'a Panel<sup>456</sup>

I want to commend the youth network that are here with us ... I like what they're doing. It's good for them to be at the table here with us today. – Doug Yallee, Tulít'a Panel<sup>457</sup>

There's a lot of mental issues that are coming up in the youth, and you know, some of it is biological. A lot of it comes from our elders and the trauma they endured. But it's good that we're all working together. You know, that's how you heal, the goods and the bads .... To me the youth is important as well. That's what we're here for. You know, if it all ended today ... everybody sitting at this table has had their chance to experience the caribou, live with them, love them, and so that's why we're at this table, is to make sure that our youth can one day have that as well. – Stuart Pope, Norman Wells Panel<sup>458</sup>

We have our own funded youth centre, and it's not just a youth centre where kids go hang out and stuff. Well, it's that, too, but they have a youth council on there. And then we have them sitting on the school boards, and then we have a youth representative in the Hamlet Council.

.... Who's going to take over when all these elders are passed on and gone? We need the middle-aged people and the youth to keep following in the footsteps so we don't lose all that stuff 'cause we feel it and we see it that all our elders are passing on ... our elders are passing on really fast .... The biggest thing like this, on, like, regulating harvesting of our caribou and stuff, I can't express enough, and it's been said here a couple of days, is education, education. We need our leaders to go into the schools. We need the government agencies and that to go into the schools, update everything. – Jim Elias, Inuvialuit Game Council<sup>459</sup>

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<sup>456</sup> *Ibid* at 298:13-25.

<sup>457</sup> 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 205:2-6.

<sup>458</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 125:18-24; 126. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 208:17-23.

<sup>459</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 127:14-20. 129:14-22. Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3, *supra* note 51 at 103:10-16.

It's really great to see so many youth sitting up here and talking to everybody in the room, and you're doing an amazing job .... As of January 1st this year, the Hunter Education course is legislated requirement for new hunters in the NWT. The course is online. It's free, and it's available right now. Anyone with Aboriginal or Treaty rights does not have to take the course, but we have heard from communities, including communities in the Sahtú, that they would like their youth and new or inexperienced hunters to take the course. The hunter education course can be tailored to communities, and can be adjusted to include region-specific hunting values and practices. – Heather Sayine-Crawford, ENR<sup>460</sup>

We as adults that went to residential school, that dealt with a lot of issues, we need to take the responsibility, too .... You have to be honest with each other. You have to stop blaming each other, and you have to stop pointing fingers. Nobody but nobody will heal and find the right direction to go in until you accept responsibility, until you say this is my responsibility. This is what I did. This is what I own. Every one of us, even if we're a granny or a baby or a young child or a chief or just a teacher, we all own part of what happens to our community. Every one of us is a builder in that community, and none of us can heal if we're not honest, if we don't accept the responsibility. So I'm saying to you I feel responsible for the things that happened in my community. What am I doing to help? What am I doing to help people, you know? My grandmother taught me generosity. My mother taught me generosity. I get very upset when I hear people are hiding meat from each other because I try not to do that. I work on meat all summer, and I'm a giver. I've learned how to give from a young age. Be generous. You'll never be sorry. You'll never do the wrong thing by giving to people, by helping them, and by not blaming them and pointing fingers and saying, you did this, you did that. Don't do that. Hold each other up, don't pull each other down. – Ethel Blondin-Andrew, Indigenous Leadership Initiative<sup>461</sup>

A lot of young youth struggle with anxiety, depression, suicidal thoughts. So I think that's why some go to alcohol, drugs. Youth nowadays really need help. I spoke about that in the meetings I did in Délı̨ne, and I was actually really surprised how much youth

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<sup>460</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 130:4-6; 201:17-25; 202:1-4.

<sup>461</sup> *Ibid* at 133:17-19, 21-25; 134:1-25.

came up to me, and some of them shed tears to me. And I felt so proud because I got so much criticism from it to speaking to my own people and then they taught about youth this and youth that but once I spoke right after, I got criticized and I got put down. So I went to another meeting and then another one and then I talked about it more. And, you know, I honestly just looked at the people that came up to me and, you know, rewarded me and they hugged me. Even the elders gave me respect. and that's such an amazing feeling. – Shaylynn Mackeinzo, SYN<sup>462</sup>

We want to get one more on the land harvesting with the youth, we want to bring more youth out to show them how to do it properly .... I want to get more youth involved in monitoring, want to partner, yes, Tuli't'a, Dél̓n̓ę, it don't matter, you know. We got to teach all the kids today about how to do things. Want to teach them the right way ....

I was about eighteen years old, when we first started this [SYN], and I like when we all got together in Tuli't'a, and we all had our voice, one voice as a youth, and everyone talked about their differences and everything. Yes, we have many differences, but we all talked as one, and we all got to hear each other and what our problems were ....

It's my land, too. It's all of our land. We share it. We share the animals .... But yes, we would like everybody to encourage the youth today to get more out, to notice the purpose of the land, to see that they are billionaires in their own land, just because we have this land, because we share it, you know. That makes us a powerful people today.

And I can guarantee you, the youth today are not the same as they were back then. We are caught between the past and the future. We're caught between knowing what our grandparents taught us and knowing -- to teach what is coming up in the future, and that's a hard thing to realize, that we don't want to go this far and ahead in the future, but we're going to have to if we want our people to move ahead for our future. – Jaryd McDonald, SYN<sup>463</sup>

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<sup>462</sup> Colville 2020 Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, *supra* note 36 at 108:21-25 109:1-15.

<sup>463</sup> Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3, *supra* note 43 at 70:7-10, 22-25; 71; 80:1-8.

Drugs and alcohol is a big thing. It's tearing our youth apart, you know. We lost a couple of our friendships last year just from drinking. – Roseanne Taneton, SYN<sup>464</sup>

Revive old trails and hunting areas, teaching the youth how to get there, and the do's and don'ts about it, travelling. And I know right now, in Fort Good Hope, they're slashing out old trails that our ancestors used. I think that's something to really look forward to this group to bring everybody to our communities to teach about these trails, because we all once travelled to each community through these trails.

But we want to become more involved with SYN initiatives around the Sahtú and help. We want to get more youth together, get to know each other. And when we came together in Tulit'a, this group brought in all kinds of connections from each of our communities. When we come together, we have so much similar ideas and goals for our communities, traditionally, strategically, and on what we can do and come together ....

We were once taken away .... And that's where we are, lost with our identities. We're trying to gain back our identities, our language, our cultures, our traditions. So you help us while we're helping you, if that makes any sense ... We're growing to understand the old ways.

And we can't just go back, like, how it was, but we can modernize it, as much as we don't want to say that. It is what it is and I really hope we can find a balance and come together in all aspects and all walks of life and be a part of what we're doing here. – Jeannette Tobac-Kakfwi, SYN<sup>465</sup>

Just with our traditional practices and lessons, and also revitalizing the language, because now it is fading and all the kids are just distracted with technology and TV, cell phones, and they're all getting lazy and they all seem bored and are struggling, with the new communities, with, for example, depression or post or past trauma ...

I guess we just started getting more involved with the youth, and communicating with them also, because they feel like their leadership may not support them or listen to them or hear what they have to say. So I encourage all leaders from each community

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<sup>464</sup> *Ibid* at 85:14-17.

<sup>465</sup> *Ibid* at 78:5-24; 105:3-17.

to get more involved with their youth and try to teach them our traditional ways and take them out on the land more and just teach them the practices and lessons .... Just be always there and just to acknowledge their achievements or accomplishments that they've made and just to be there for the youth and just help them with our culture and language.

That will be our main priority because it's fading and just to preserve our culture and language, we have to give more effort into doing it with the youth. So also teaching them all the traditional campsites and all the fish lakes and the hunting spots and how to skin caribous and how to trap and how to just be Dene, – Dakota Orlas, SYN<sup>466</sup>

We still want more youth to be involved in our network. We want to create a bigger, stronger leadership program for our youth in each community and how we want to build and plan our future and how we want to get involved in many meetings and what's going to happen in the Sahtú and what's going to happen for our future and for the next generations to come.

We would like to learn a lot about the caribou and what – about on the land, the water, and many concerns that's happening in our communities I'm just ... thankful to learn a lot of the stories and ... how everyone wants to teach the youth how to harvest and to take care of our animals, and also the land. ....

As youth together we're really strong and helping and supporting one another, and we need the help and guidance to get the strength and be strong as our ancestors were, and how we want to be ... take a stronger role and be great leaders to our own community and be also good role models .... And it's the idea of the Sahtú Youth Network that we had small voices but now I feel like being together made us really stronger than we are today. – Hannah Taneton, SYN<sup>467</sup>

I don't think that we notice that in order to get involved, we have to meet the halfway instead of expecting them to give us everything. And we don't really realize that times are much, much easier now than they were back then. And I think that the depression that the teenagers are feeling now is because we have everything easier now. It's not like we have to wake up, get wood, get water, and go

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<sup>466</sup> *Ibid* at 87:10-25; 88:1, 25; 89:1-7.

<sup>467</sup> *Ibid* at 90:24-25; 91:1-8; 94:11-17; 99:9-12. *Colville 2020 Public Listening: Sahtú Ragóʔa (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 1 of 3, supra* note 36 at 155:10-14.

hunting to feed ourselves to live. Now we have running water. If we wanted to eat but didn't want to cook, we can just order something. We can lay in bed all day and still survive. But back then, we had to go out and get everything by ourselves, and I think that the reason we're depressed and everything now is because we're not doing anything. We don't have anything to do. ....

I would like to say thank you to everyone here because as youth we think that we're not acknowledged or listened to and most times think that we're excluded from the plans and decisions made for our future, but this whole week has been everything we could have asked for. All of you have listened, acknowledged, encouraged, and respected everything that we had to say. We were included, we were welcomed, and we were heard, and as youth that means so much to us and we are extremely grateful. – Lacey Wrigley, SYN<sup>468</sup>

## Appendix H – Community Conservation Plan Requirements



The following overview of required community conservation plan components was developed to provide context for the SRRB's Decision 7 in *ᑕᑭᑭᑦ ሐᑦ ᐃᑦᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ* – *Sustaining Relationships*, namely: “The ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ (Sahtú Renewable Resources Board) accepts the principle of ᑕᑥᑕᑦᑕᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ k'áokerewe (caribou self-regulation), as reflected in community conservation plans, as the best foundation for Bluenose East ᑕᑥᑕᑦᑕᑦ conservation at this time.”<sup>469</sup>

### From *ᑕᑥᑕᑦᑕᑦ ሐᑦ ᐃᑦᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ* – *Sustaining Relationships* (Figure 5)

In order to be deemed complete and ready for review by the SRRB, community conservation plans must include, but not be limited to, the following components:

1. Identification of key issues and knowledge gaps in ᑕᑥᑕᑦᑕᑦ conservation with respect to:
  - a. Education

<sup>468</sup> Colville 2020 Public Listening: *Sahtú Ragóᑕᑦᑕᑦ (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 2 of 3*, *supra* note 43 at 121:6-23. Colville 2020 Public Listening: *Sahtú Ragóᑕᑦᑕᑦ (Hunting Laws) and Approaches to Wildlife Harvesting Transcript Day 3 of 3*, *supra* note 51 at 225:11-21.

<sup>469</sup> *ᑕᑥᑕᑦᑕᑦ ሐᑦ ᐃᑦᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ Sustaining Relationships. Final Report of the ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ ᑕᑦᑕᑦᑕᑦᑕᑦᑕᑦ (Sahtú Renewable Resources Board) Bluenose East ᑕᑥᑕᑦᑕᑦ (Caribou) Hearing 2016*, *supra* note 1 at 44 (Decision 7 and Figure 5).



- b. Habitat
  - c. Land-use activities
  - d. Náts'ezé (harvesting), including promotion of Dene béré kats'ı̄nı̄we (alternative harvest)
- 2. Dene concepts and terminology related to conservation issues, programs, and actions
- 3. Research and conservation programs, actions, and timelines for addressing priority issues and knowledge gaps
- 4. Approaches for Ɂedets'ę k'áots'erewe (self-regulation) and regional/cross-regional accountability in plan implementation, including:
  - a. Náts'ezé zones
  - b. Monitoring
  - c. Measures for supporting compliance
  - d. Youth programming
  - e. Progress evaluation
  - f. A harvest plan based on Ɂedets'ę k'áots'erewe
- 5. Consideration of the appropriate seasons of harvest and harvest locations and zones
- 6. Community sharing protocols and godı kehtsı̄ (agreements) with other users within and beyond the Sahtú, including a protocol for implementation reporting
- 7. Community coordination in developing plans

Where a community conservation plan has not yet been established, it must be completed within 120 days of a formal request from the SRRB. Where a revision to an existing plan is formally requested based on new evidence about Ɂekwę status, it must be completed within 90 days. Plans and revisions will be approved by the SRRB, within 60 days of receipt. If plans or revisions are not completed according to these timelines, interim measures will be put in place, in consultation with affected communities, within 60 days of the original deadline; this may include implementation and enforcement of mechanisms identified in the *SDMCLCA*, such as a total allowable harvest.

## Appendix I – Délı́nę Harvest Monitoring and Enforcement Protocol



The Délı́nę plan outlines an ı́ęęa (protocol or code) for harvest monitoring and enforcement of harvest regulation measures for ı́ekwé (barren-ground caribou). An overview of the protocol is provided in the main plan document,<sup>470</sup> and more thoroughly outlined in the appended “Délı́nę ı́ekwé Code, 2019-2021.”<sup>471</sup> The same protocol is also provided in the 2016 version of the plan.<sup>472</sup>

### From “Délı́nę ı́ekwé Code, 2019-2021”

1. Délı́nę Got'ı́nę who participate in harvest of ı́ekwé and who harvest ı́ekwé in that harvest shall, as soon as possible after ı́ekwé is killed, provide an ı́ekwé Health Sample Kit to the Délı́nę ı́ehdzo Got'ı́nę.
2. Délı́nę Got'ı́nę shall be compensated \$50 for each ı́ekwé Health Sample Kit provided.
3. If Délı́nę Got'ı́nę do not provide an ı́ekwé Health Sample Kit in accordance with Section 33, that person shall provide the following information to the Délı́nę ı́ehdzo Got'ı́nę:
  - a. the number of ı́ekwé harvested.
  - b. whether ı́ekwé harvested were yárégo [young bulls] or ts'ı́da [females].
  - c. where ı́ekwé were harvested.
  - d. any other information required by a person designated by the Délı́nę ı́ehdzo Got'ı́nę.
4. When, as determined by the Délı́nę ı́ehdzo Got'ı́nę or the ı́ehdzo Got'ı́nę Gots'é Nákedı, the number of harvested ı́ehdaı́la ı́ekwé [Bluenose East barren-ground caribou] reported reaches 100, the Délı́nę ı́ehdzo Got'ı́nę shall call a community meeting to plan for the harvest of the remainder of ı́ekwé as described in Section 6 of this Code, and closure of ı́ekwé gha máhsı ts'ı́ıwe [ceremonial harvest] once that level is reached.
5. The Délı́nę ı́ehdzo Got'ı́nę shall prepare, for any community meeting convened under Section 36, the following information:
  - a. a proposal for public discussion of ı́ekwé gha máhsı ts'ı́ıwe.
  - b. information regarding the Dene Ts'ı́ıı [Being Dene] award.

<sup>470</sup> Délı́nę ı́ehdzo Got'ı́nę ı́ekwé Working Group, *Belare Wı́le Gots'é ı́ekwé / Caribou for All Time: A Délı́nę Got'ı́nę Plan of Action for 2019-2021*, *supra* note 7 at 30-31.

<sup>471</sup> *Ibid* at 46-47 (Appendix D).

<sup>472</sup> Délı́nę First Nation, Délı́nę ı́ehdzo Got'ı́nę (Renewable Resources Council), and Délı́nę Land Corporation, *Belare Wı́le Gots'é ı́ekwé / Caribou for All Time: A Délı́nę Got'ı́nę Plan of Action 2016*, *supra* note 52 at 26 (Appendix B); 33-34 (Appendix C).

- c. a proposal for Dene béré kats'ıŋıwe [alternative harvest] for the remainder of the year.
  - d. a proposal for the process for determining the allocation of the remaining 50 Ɂekwé for the year.
  - e. a review of the percentage of yárégo and ts'ída Ɂekwé harvested to date for the year.
  - f. suggested measures to be undertaken by the Délıŋe Ɂehdzo Got'ıŋe and other wildlife management authorities if someone harvests Ɂekwé after the total Ɂekwé gha máhsı ts'ıŋıwe target of 150 Ɂekwé is reached.
6. The Délıŋe Ɂehdzo Got'ıŋe shall keep a record of the number of Ɂekwé harvested and reported under Sections 33 and 35 as well as other known information about Ɂekwé harvested but not reported under Sections 33 and 35.
  7. The Manager of the Délıŋe Ɂehdzo Got'ıŋe shall meet at least once each month with the Chief of Délıŋe First Nation, NWT Environment and Natural Resources staff and Ɂehdzo Got'ıŋe Gots'é Nákedı staff to report on the record under Sections 33 and 35 of Ɂekwé harvested in the previous month and to confirm the total monthly Délıŋe harvest numbers for that month.
  8. The Délıŋe Ɂehdzo Got'ıŋe shall report the final numbers for each month to the Ɂehdzo Got'ıŋe Gots'é Nákedı following the confirmation of the total monthly Délıŋe harvest under Section 39.
  9. A representative of each of the Délıŋe Ɂehdzo Got'ıŋe, the Ɂehdzo Got'ıŋe Gots'é Nákedı and the Department of Environment and Natural Resources shall meet together at least once each calendar year to evaluate the record of Ɂekwé harvested and determine the final total Délıŋe Ɂekwé harvest number to be provided to other wildlife authorities.

## Appendix J – Special Harvesting Areas Maps by District



The following three maps highlight special harvesting areas identified in the *SDMCLCA* by district (Déḻṉę, Fort Good Hope and Tulít'a). The maps were prepared for this report by GIS Specialist Justin Stoyko of the Sahtú Land Use Planning Board.

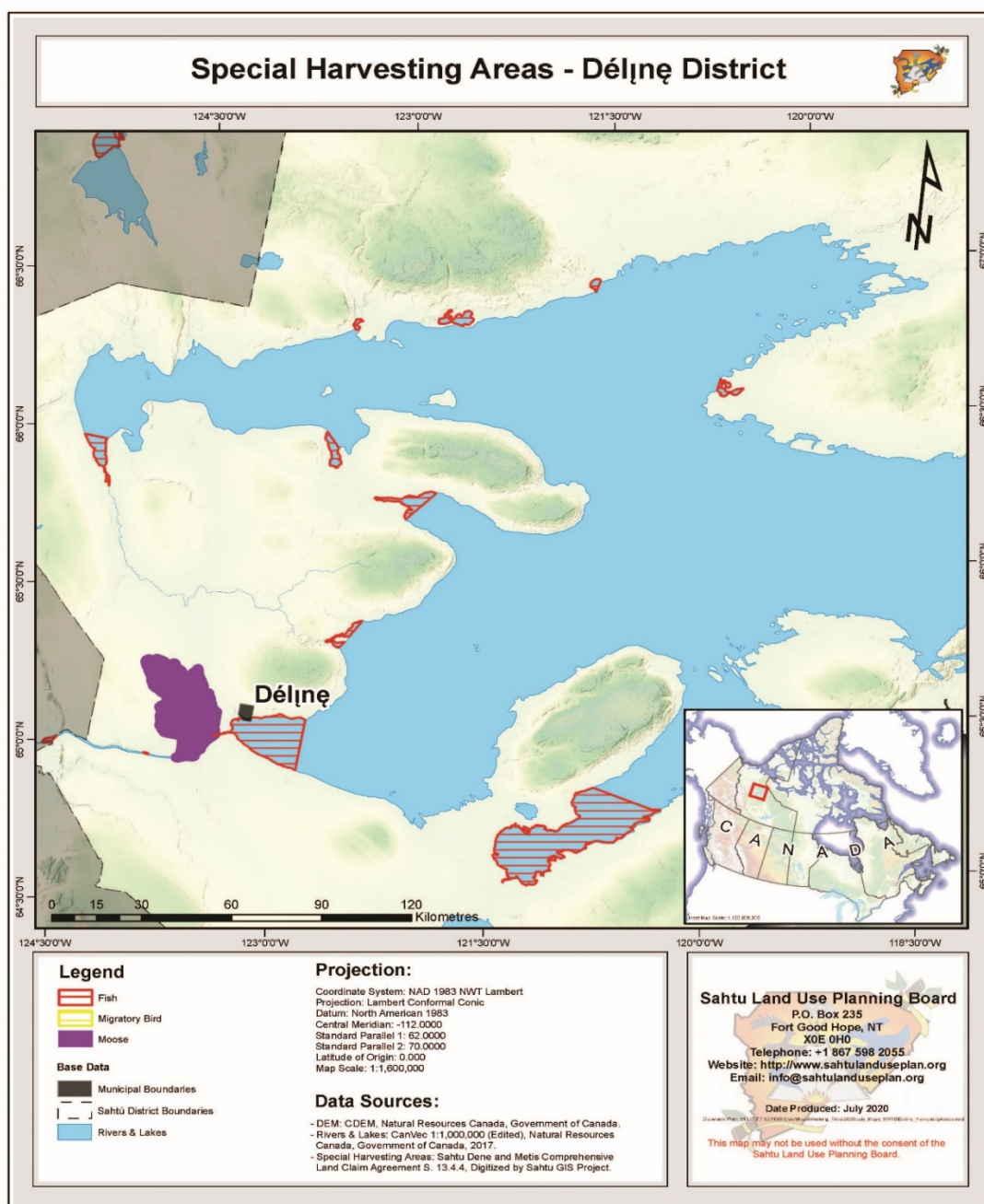


Figure 15: Special Harvesting Areas - Déḻṉę District. Source: Sahtú Land Use Planning Board, 2020.

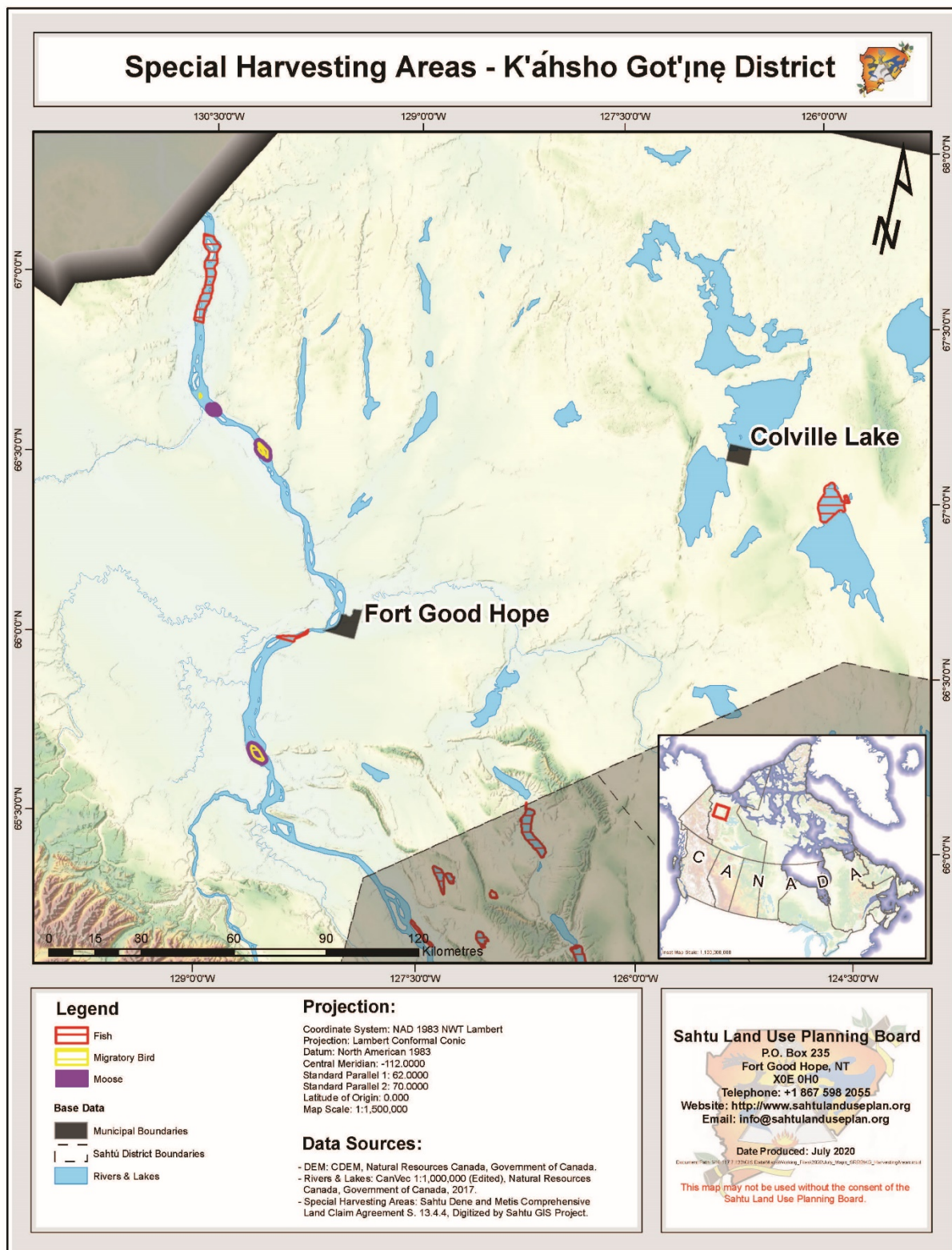


Figure 16: Special Harvesting Areas - K'áhsho Got'ıne District. Source: Sahtu Land Use Planning Board, 2020.



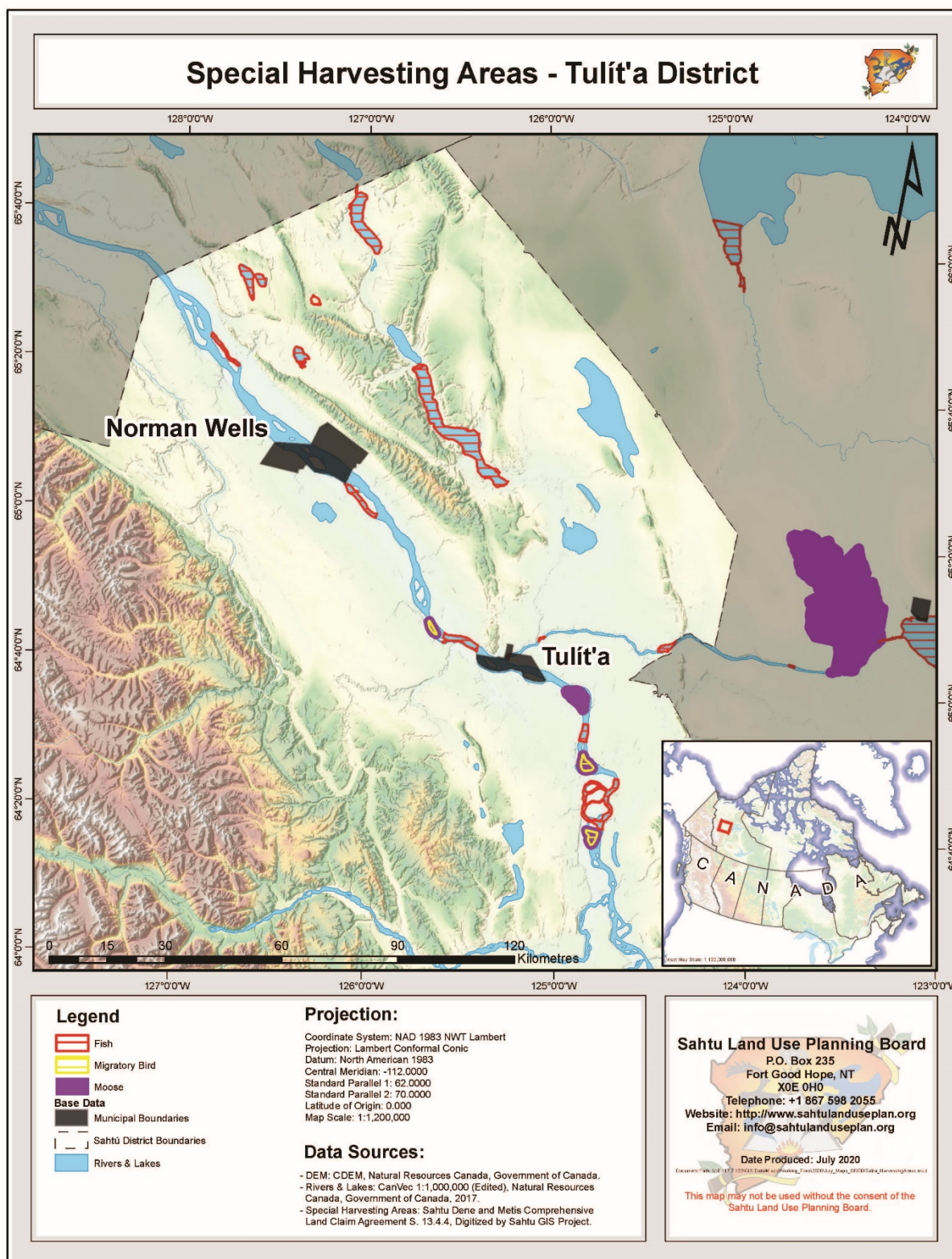


Figure 17: Special Harvesting Areas - Tulit'a District. Source: Sahtú Land Use Planning Board, 2020.





## Appendix K – Summary of Actions Arising from this Report

The following table provides a listing of lead agencies and projected timelines for putting into action the seven decisions and nineteen recommendations arising from the Colville 2020 Public Listening Session.

Table 5: Summary of Actions Arising from this Plan

Item #	Action	Lead Agency	Timeline
<b>1. The Conservation Picture</b>			
D1.1	The SRRB has decided that harvest regulation for all caribou populations must be subject to community conservation planning measures.	?ehdzo Got'ıne (RRCs)	Ongoing
D1.2	The SRRB recognizes the importance of having a comprehensive intraregional community conservation planning system based on Sahtú Indigenous governance systems. In this context, the SRRB has decided that Colville is the Sahtú community with primary responsibility for Ɂadə (barren-ground caribou) stewardship in Sahtú Barren-ground Caribou Area 01 (S/BC/01). Colville shares stewardship with Fort Good Hope within Area S/BC/02 where there may also be Ɂadə. Délıne is the Sahtú community with primary responsibility for Ɂekwé (barren-ground caribou) stewardship within Area S/BC/03.	?ehdzo Got'ıne (RRCs)	Ongoing
D1.3	The SRRB decides that youth will be invited to play meaningful roles in the entire process for future public listening sessions.	SRRB	2021-2024
R1.1	The SRRB recommends that a proposal for harvest regulation of shúhta goɁepé (mountain caribou) be co-developed by Tulıt'a and Norman Wells for submission to the SRRB for consideration as part of the 2021-2024 series of Public Listening Sessions.	Tulıt'a and Norman Wells Renewable Resources Councils	2024 (or sooner)
R1.2	The SRRB recommends that a Dene béré (country food) campaign be collaboratively developed by the Ne K'ə Dene Ts'ııı (Living on the Land) Forum in accordance with the NWT's Sustainable Livelihoods Action Plan, 2019-2023 as well as conservation objectives embodied in community caribou plans.	NKDT Forum	2021
R1.3	The SRRB recommends that communities and the Sahtú Dene Council continue to develop Ne K'áđı Ke (Keepers of the Land) programs to support implementation of community conservation plans.	Indigenous governments	2021
<b>2. Dehlá Got'ıne Ɂadə Plan and Ts'ıduweh Ɂadə ɁeɁá (Colville Lake)</b>			
D2.1	The SRRB will approve Colville's Plan as a Sahtú community conservation plan following Colville's submission and the SRRB's subsequent assessment of the outstanding components of the community conservation plan: outline of Ɂadə (caribou) monitoring and harvest monitoring	Colville	2021

Item #	Action	Lead Agency	Timeline
	information to be provided and reporting timelines; the plan for caribou conservation and food security (alternative harvest); and an evaluation framework.		
<b>3. Belare Wile Gots'ę ʔekwé and Dene Béré Belare Wile Plans (Délįnę)</b>			
D3.1	The SRRB approves the 2019 edition of the <i>Belare Wile Gots'ę ʔekwé (Caribou for All Time)</i> plan, pending evidence that the plan has been formally approved by the Délįnę Got'įnę Government and Délįnę ʔehdzo Got'įnę (Renewable Resources Council).	Délįnę Got'įnę Government	2021
<b>4. Authorizations</b>			
R4.1	The SRRB recommends to the Minister that the Colville Lake Renewable Resources Council be granted the power to issue authorizations to all types of harvesters in the entire S/BC/01 area, subject to a periodic review of the status and location of ʔadə (Bluenose West caribou).	ENR	2021
R4.2	The SRRB recommends to the Minister that a new <i>Hįdó Gogha Sėnégots'įá ʔeʔa (Community Conservation Planning Regulation)</i> be created under the Wildlife Act to entrench the community conservation planning approach in NWT law.	ENR	2024
R4.3	The SRRB recommends that the <i>Interim Management Agreement</i> between Colville Lake and NWT Environment and Natural Resources continue to be in effect until <i>Hįdó Gogha Sėnégots'įá ʔeʔa</i> comes into force.	Colville-ENR	Ongoing
R4.4	In the event that <i>Hįdó Gogha Sėnégots'įá ʔeʔa</i> is not in place by the Interim Agreement's current date of expiry (May 31, 2021), the SRRB recommends the Interim Agreement be extended to such time as the regulation, or its equivalent, is in place.	Colville-ENR	Ongoing
R4.5	The SRRB recommends that an interim agreement to implement Délįnę's <i>Belare Wile Gots'ę ʔekwé (Caribou for All Time)</i> plan be made between Délįnę and NWT Environment and Natural Resources.	Délįnę-ENR	2021
<b>5. Enforcement Mechanisms</b>			
R5.1	The SRRB recommends that the <i>Wildlife Act</i> regulations be amended to provide for alternative measures for pre-sentencing diversion to the culturally appropriate restorative justice processes provided for in the Colville Lake and Délįnę community conservation plans (as determined by the communities in consultation with ENR).	ENR	2024
R5.2	The SRRB recommends that the <i>Interim Management Agreement</i> between Colville Lake and ENR be amended to address enforcement in the period before the <i>Hįdó Gogha Sėnégots'įá ʔeʔa</i> comes into force.	Colville-ENR	2021
<b>6. Total Allowable Harvest</b>			
D6.1	The SRRB has decided that it will remove the total allowable harvest in Area S/BC/01, once Colville's community conservation plan has been completed and approved. The SRRB will regularly review the	SRRB	2021

Item #	Action	Lead Agency	Timeline
	conservation outcomes under the community conservation planning approach. The SRRB reserves the right to re-apply the total allowable harvest if required for effective conservation.		
R6.1	The SRRB recommends that the <i>Big Game Hunting Regulations</i> be amended to remove the tag required for Aboriginal harvesters in the S/BC/01 and S/BC/03 areas (as they are currently named), as the tagging requirement will be replaced by the authorization and permissions system under the <i>Hjódó Gogha Sėnégots'ı́á ʔeʔa</i> ( <i>Community Conservation Planning Regulation</i> ) described in Recommendation 4.2 of this report.	ENR	2024
R6.2	The SRRB recommends that Colville Lake work with user groups in neighbouring regions in developing and adapting their community conservation plan to address shared conservation goals.	Colville	2021
<b>7. Zoning Issues</b>			
R7.1	The SRRB recommends that Area S/BC/01 be renamed Dehlá ʔədə Nėné (End of the Treeline Land), with the name change reflected in the Big Game Hunting Regulations and in any other enactment that references this area.	ENR	2024
R7.2	The SRRB recommends that Area S/BC/02 be renamed Ts'udá Nılǵné Tuyeta ʔədə Nėné (Ramparts River and Wetlands Caribou Land), with the change reflected in the Big Game Hunting Regulations and in any other enactment that references this area.	ENR	2024
R7.3	The SRRB recommends that Area S/BC/03 be renamed ʔehdaǵla ʔekwé Nėné (Caribou Point Caribou Land), with the change reflected in the Big Game Hunting Regulations and in any other enactment that references this area.	ENR	2024
R7.4	The SRRB recommends that Fort Good Hope and Colville Lake Renewable Resources Councils, SRRB, NWT Environment and Natural Resources, and Environment and Climate Change Canada collaboratively develop a workplan to address knowledge gaps regarding Area S/BC/02 (to be renamed the Ts'udá Nılǵné Tuyeta ʔədə Nėné/Ramparts River and Wetlands Caribou Land) through non-invasive Indigenous knowledge and science.	Fort Good Hope ʔehdzo Got'ı́nẹ (RRC)	2024
R7.5	The SRRB recommends that the Ts'udá Nılǵné Tuyeta Management Board lead the development of a community conservation plan for caribou in Area S/BC/02 (to be renamed the Ts'udá Nılǵné Tuyeta ʔədə Nėné/Ramparts River and Wetlands Caribou Land).	Ts'udá Nılǵné Tuyeta Management Board	2024
<b>8. Wildlife Act Residency and Hunter Education Requirements</b>			
D8.1	The SRRB decides that the 2021 Public Listening Session include a full discussion of the role that residency requirements and hunter education play in fostering or inhibiting respect for Dene protocols in the Sahtú region.	SRRB	2021

Item #	Action	Lead Agency	Timeline
<b>9. Special Harvesting Areas</b>			
R9.1	The SRRB recommends that ʔehdzo Got'ıne (Renewable Resources Councils), NWT Environment and Natural Resources, and the SRRB undertake community conservation planning workshops in each of the three districts (K'áhsho Got'ıne District; Tulít'a District; and Délıne District) to develop proposals for implementation of special harvesting areas, including any required regulations, prior to the 2024 Public Listening Session.	ʔehdzo Got'ıne (RRCs)	2024
<b>10. Capacity Support for Community Conservation Planning</b>			
D10.1	The SRRB has decided that there needs to be further capacity support and program funding for communities in order to carry out community conservation planning and plan implementation in the Sahtú region.	ENR	Ongoing

# Colville 2020

## Public Listening

