

Porcupine Caribou Management Board

Minutes of Meeting

December 17 and 18, 2012
Whitehorse, Yukon

In attendance

Members/Staff

Joe Tetlich, Chair
Marsha Branigan, Government of the Northwest Territories
Kelly Milner, Government of Yukon
Mike Gill, Government of Canada
Steve Taylor, Tr'ondëk Hwëch'in
Wilbert Firth, Gwich'in Tribal Council
Steven Buyck, Nacho Ny'ak Dun
Charles Pokiak, Inuvialuit Game Council (Alternate)
David Frost, Vuntut Gwitchin (Alternate)

Roberta Joseph, Trondek Hwechin (Alternate)
Steven Charlie, Government of the Northwest Territories (Alternate)
Torrie Hunter, Government of Yukon (Alternate)
Deana Lemke, Executive Director

Mike Sutor, Government of Yukon
Dorothy Cooley, Government of Yukon

Welcome and Opening Prayer

The Chair, Joe Tetlich, called the meeting to order at 9:20 a.m. and welcomed everyone to the meeting, including those in attendance from the community. Roberta Joseph offered an opening prayer. All participants introduced themselves.

Review Agenda

The Agenda was reviewed by the Board and approved.

Motion to accept agenda
Moved by Mike Gill
Seconded by Kelly Milner
Carried

Review Minutes and Action Items

The Minutes of the October 22 and 23, 2012 meeting were approved by the Board and the action items were reviewed and discussed.

Motion to accept Minutes of the October 22 and 23, 2012 meeting as distributed

Moved by Wilbert Firth

Seconded by Mike Gill

Carried

The action items were reviewed and discussed.

Chair's Report

Joe Tetlich advised of his recent activities and meetings he participated in, presenting information related to the Board, co-management and the Harvest Management Plan:

- Participated in the CARMA meeting December 2-4, 2012; PCMB presented a poster on the HMP.
- Participated in the IPCB meeting (video-conference) held December 4, 2012.
 - The PCTC workplan was discussed. There will be opportunity for further input on this plan since its approval was deferred to the IPCB's spring meeting.
 - The HMP was discussed, particularly in terms of how it might be brought over to Alaska. There is discussion about Joe travelling to some Alaskan communities to discuss the HMP and similar planning in Alaska.

Administrative and Financial Report

The Executive Director provided an administrative and financial report. The variance report was reviewed.

- ED participated in the CARMA meeting held Dec. 4-6, 2012 in Vancouver.
- ED attended the IPCB meeting (video-conference) held December 4, 2012.

Strategic Framework

The Board sent letters to all stakeholders acknowledging their feedback on the Strategic Framework (SF). The draft SF was sent to stakeholders for review and comment by December 15, 2012. We have not yet received responses from all Parties.

Harvest Management Plan

A letter was sent to all Parties outlining who has not yet submitted data and reminding of the deadline and the impact of not meeting deadlines on other HMP IP timelines (Milestones chart). Parties were also reminded of the AHM February 12-14, 2013 in Inuvik, NWT.

Peel Watershed Plan

The Board has been invited to provide comments on the Peel Watershed Plan that is currently out for public consultation by the Government of Yukon. The deadline for comment is February 25, 2013. Board members feel strongly that the Board should provide comments with respect to the significance of the Peel area to the PCH. Members will provide comments to ED by January 15, 2013.

Action 2012-13: Members will respond to the ED with comments on the Peel Watershed Plan by January 15, 2012.

Hunter Education Package

A draft Hunter Education Package was provided to members for review and comment by January 31, 2013.

Action 2012-14: Members will respond to the ED with comments on the draft Hunter Education package by January 31, 2012.

Dempster Regulations

Joe Telichi provided an overview of the history of the Dempster regulations to date. There has been extensive discussion about Dempster regulations for decades now. An outline of the chronology with respect to Dempster issues provided in members' meeting information kits was reviewed.

- Concerns were raised years ago by FN communities with respect to ethical hunting of the PCH.
- Before the Dempster Highway went in, the First Nations and Inuvialuit used those areas traditionally for thousands of years. The caribou have not made it over to the upper Peel area for many years. It is not known precisely why that is the case – if it has to do with the Dempster or otherwise.
- Numerous workshops and extensive communications with communities took place.
- The Elders were saying that we needed to incorporate traditional knowledge with scientific knowledge in the recommendations made by PCMB.
- The Board has struggled with Dempster Highway issues for many years and put forward recommendations based on those discussions. Safety

and conservation were primary issues that drove the recommendations in the past.

- A questionnaire was used when we undertook the HMP community engagement meetings in 2008. Significant feedback was received.

Each of the 1997 PCMB recommendations related to the current Dempster Highway regulations were reviewed and the rationale for the recommendations.

Corridor

Recommendation: To address hunter safety, littering and irresponsible hunting practices and to be consistent with traditional aboriginal hunting practices, there be a 500-metre no-hunting corridor on either side of the centre line of the Dempster Highway from km 68 to the Peel River for all hunters.

Current regulations

Yukon: No person shall hunt big game animals within 500 metres of the centre line of the Dempster Highway from km 68 to the Yukon-NWT boundary. Through a policy decision, the 500-metre corridor is not enforced for all caribou hunters.

NWT: No corridor is in place; was never implemented because communities did not support this.

Positions of Parties

IGC: don't support the corridor.

EC: no strong position re the Dempster Highway regulations; defer to Parties who represent harvesters and those who need to implement regulations; need to be consistent with conservation and safety practices.

NND: this was supposed to be reviewed following a three-year phased-in implementation; we are doing a good job of education and communication; don't feel the corridor is needed at this time; caribou numbers are high; we haven't harvested caribou for many years; we don't use skidoos because they scare the caribou; harvesting without a corridor would be simpler; we do not support this recommendation; everyone is aware of where and where not to shoot.

TH: over the past few years we have made a good effort to consult with our membership, clear that we do not support this corridor; there is hardly any safety in a corridor that's only 500 m; safety lies with the person behind the gun; with skidoos out there, people are roaring around chasing the caribou all over the place; if other FNs carry on with the corridor that is their decision; TH has had a continuous position to not support the corridor right from the beginning – our position has not changed at all; TH has taken on responsibility to provide education to our citizens for many years; there doesn't seem to be a strong support for this; only one party implemented the regulations – all others haven't.

VGG: community supports the corridor and wants it to continue in place; should safety be left solely in the hands of the hunters? Community feels that no other option was presented to deal with safety concerns; if the only option is either to have a corridor or not have a corridor, then VGG supports the corridor.
GNWT: don't have a strong position one way or another; look to co-management bodies to provide advice; they feel it should not be supported.

GTC: don't support the corridor; Appendix C of the PCMA talks about traditional use of areas; Dempster was a traditional trail we used to go from watershed to watershed and hunters hunted right from the trail.

GY: don't have a definitive position; looks to this Board who made recommendations in the first place as to whether the regulations should be continued; if they aren't supported, it's pointless to have these regulations in place; because it's still a regulation on the books but it's not being enforced, GY has a certain liability with that.

It was agreed that more discussion should be had with respect to hunter safety and whether or not the corridor is the best or only way to address the safety issues. Many safety issues are addressed through laws of general application.

Torrie clarified that there hasn't been many caribou on the road to make it a safety issue in the past few years, which is due to the current migration patterns of the caribou. There were safety issues in the past when licensed hunters had to go 1 km from the road and, at the same time, aboriginal hunters were not required to go 1 km from the road.

There was discussion about what "littering" means. Leaving gut piles along the highway is a concern and might be what was previously mean by the use of the word "litter". Torrie said the law doesn't distinguish what litter is.

Roberta suggested there be an increase in firearms safety courses in the communities as they are lacking.

David talked about the need for more hunter education regarding hunter safety, not just the firearms acquisition course.

The hunter education course and firearms safety course is mandatory for all non-FN people born in 1989 or after.

The HEED course has been offered, which deal with safety concerns and ethical hunting practices; these could be tailored to the needs of the communities. There are relevant components in the PCH hunter education package that is currently being developed.

Steve B. talked about how the \$250 cost for the firearms safety course is prohibitive.

Torrie clarified that when GY presents the HEED course, the firearms certification course is free.

Justification for the Board to recommend removal of the corridor:

- It creates conflict beyond any of our control, especially when it ends up going to court.
- Through our experience with HMP, we can see how much further ahead our communities are with taking responsibility as Parties and individuals.
- Through HMP process, all have exercised jurisdiction to educate community members.
- In order to address concerns arising out of the 500-m corridor, would be best to address issues through education and communication.
- NWT doesn't have a corridor; rescinding the GY regulation would make it consistent in Yukon and NWT.
- The Native User Agreement may address issues related to hunting practices by First Nations and Inuvialuit.
- Gut pile and safety issues should be addressed through Parties coordination of efforts; some positive programs are currently in place (laws of general application, etc.).

The Board's recommendations will be forwarded to Parties for review and comment. Then the recommendations will be finalized and go forward.

Once GY and GNWT receive the Board's recommendation they may need to do government-to-government consultation.

Motion to make a Board recommendation to rescind 500-m corridor regulation.

Moved by Steve Taylor

Seconded by Steve Buyck

Carried unanimously

Let the leaders pass closure

Recommendation: The highway be closed to all hunting for one week in October. The Board asks that emergency closure regulation be used to implement the one-week closure with the exact dates to be determined by YTG biologists. The Board also recommends that YTG be responsible for communication for the dates of the closure.

Current regulations

Yukon: The one-week closure is deemed not enforceable for subsistence harvesters and has therefore not been implemented in Yukon since 2006.

NWT: Let the leaders pass closure has not been enforced since 2005.

GTC has implemented voluntary closures since 2005, but these are not enforced.

Positions of Parties

IGC: one-week closure should be eliminated unless the “leaders” can be clearly defined and who would be in the position to make the determination about when they would be passing.

GC: support the closure in theory, but are not directly impacted and it’s not clear who the leaders are, so will defer to the other members.

NND: when you look back the last 10-15 years, caribou were coming to the highway earlier. Now, depending on when they come, we don’t have an opportunity to harvest caribou because they are in the rut. We don’t like to harvest cows. Would the harvest be stopped for one week when the caribou get to each of the Parties’ respective communities?

TH: have concerns re the closure timing since that is their best time to hunt; however, the bulls are rutting during that time. Letting the leaders pass scenario should start as soon as caribou leave the 1002 lands. When the caribou reach the Dempster, they have already reached their wintering grounds. This regulation should be rescinded.

VGG: supports the community decision to keep the regulation in place.

GNWT: no clear position at this time; would like to hear what other perspectives are; this recommendation came from the Aboriginal parties to begin with, so we need to hear what they have to say; if this regulation stays in place the closure should be in all areas of the migratory route.

GTC: thinks the regulations need to be rescinded.

GY: because this came from FNs originally as the first use of TK that was used to create a regulation, it’s up to the communities to determine what they would like to see happen.

Joe spoke about his concern with rescinding all of the current regulations that were based on past Board recommendations. He expressed particular concern with the prospect of rescinding the let the leaders pass regulation since it was based on traditional knowledge from the elders.

Steve B: there are other effects on Dempster

Roberta: feel this would best be addressed by each Party how they see fit and through their established processes. An original issue behind this regulation was conservation of the herd. The closure impedes our ability to meet our community harvesting needs.

Joe clarified that one of the reasons the closure was adopted was so caribou could head to the upper Peel area, which was their traditional winter habitat; this hasn't happened since the highway was put in. The regulation wasn't implemented for conservation reasons.

Mike G. asked: if these regulation are rescinded, what will hunting on the Dempster look like? Do we need to consider alternative means to address the issues?

Kelly added that the highway creates a linear disturbance. If these regulations don't address the needs created through that disturbance, what are some alternatives?

David said that in Old Crow, even though it's not regulated, there is a traditional practice of not harvesting the first caribou that arrive. This is currently respected as well.

Mike G. suggested having a one-week closure that is invoked only if the caribou reach the highway at a certain time, before it is too close to the rutting season.

Roberta said TH does not support the regulation. In future, if there are conservation concerns, we have the HMP that is to be implemented as required.

Is it an option to apply to more northerly areas where a closure is more applicable to migration?

Wilbert: our people know what the leaders are – the first bulls that show up at once. Then the cows follow. A clear definition was always an issue among the Parties. This could be defined as a traditional hunting practice under the HMP Native User Agreement. Then, if necessary, legislation may be recommended.

Steve C.: the Native User Agreement could deal with a hunting closure for all communities in the range when they migrate through each community.

Roberta: the regulations were supposed to be put in place only for a three-year period and then reviewed; the review hasn't been done until now. Things have changed since the regulations were put in place – e.g. final agreements, FNs taking on more responsibility for their own citizens, the HMP.

Mike G: perhaps there needs to be a discussion with the elders regarding the definition of “leaders” – it appears it may be different depending on the community – it is context-specific.

Charles: when leaving the calving grounds, the bulls are first (leaders) to head to the wintering grounds. The cows are the leaders when they go to the calving grounds.

Steve B.: let the leaders pass was so the caribou could reach the Peel, but that is in the northern section.

Kelly: if we think it's important not to disturb the migration, perhaps we need to focus on what would be a more appropriate tool to address that concern.

David: if the caribou arrive at the northern part of the highway first, that first group could be considered leaders.

Mike: it's about adaptive management. We need to identify some clear next steps. Perhaps it's more targeted outreach and education or more research involving the elders to get a sense of exactly how this should work with letting the leaders pass.

There was discussion regarding the purpose of the HMP Native User Agreement, which is to determine allocation among the user communities. It can't be presumed that topics such as traditional practices will be dealt with through this forum. The Board needs to continue to be mindful of its mandate and ensure that these issues are addressed. Perhaps a workshop could be held to discuss traditional practices such as the letting the leaders pass.

Torrie: there hasn't been an issue in recent years because the caribou haven't arrived at the highway in large numbers. Focused hunting pressure on the road does turn the caribou from the highway. He knows this from personal experience. It will happen again when there are great numbers of caribou that hit the highway with many hunters focusing on the caribou.

Roberta: there have been no studies to determine why the caribou have not been migrating to the Peel area in recent years (e.g. food sources declined; permafrost melting releasing methane gas, etc.). I have seen caribou crossing the highway and lingering even with hunters around on the highway.

Kelly: we should be mindful of the need to incorporate traditional knowledge into our decision-making. We will also need to figure out how to address the issues related to migratory disturbance. If that is best done through a workshop, we need to determine what that would look like.

Motion to make a Board recommendation to rescind the let the leaders pass regulation.

Moved by Steven Buyck

Seconded by Wilbert Firth

Carried unanimously

Off-road vehicles/snow machines

Recommendation: The use of snow machines be permitted only between Nov. 1 to April 30 from km 68 to the Peel River. The current legislation restricting use of ATVs be unchanged. The definition of "harassment" be clarified to make it more enforceable.

Current regulations

Yukon: No person shall operate a vehicle, other than a snowmobile, in an 8 km wide corridor either side of the Dempster Highway from km 68 to the NWT border other than designated egress points. This is enforced on all licenced hunters, but we have elected to not enforce this provision on subsistence harvesters as it could be considered a harvest limitation.

Dempster Development Act also prohibits use of motorized vehicles so if not hunting for subsistence, cannot use ATVs either. Licensed hunters will not be allowed to use ATVs at all, regardless of what PCMB recommends on subsistence hunter use of ATVs. This legislation existed prior to the Wildlife regulations which still applies to licensed hunters are ATV users. Even if an Aboriginal person can be charged if they are not harvesting at the time.

NWT: No person shall operate a motorized vehicle in the Dempster Highway SMA until the season opens in fall/winter until the following June 15. Opens when ENR determines ground is frozen and snow depth at six stations is at least six inches. Unless there is significant ecological damage, we do not pursue charges. This regulation is not being enforced. Applies to all hunters.

TH: There has been much education done about snow machine use; people know they shouldn't use their machine without adequate snow cover. There are other habitat impacts (e.g. Northern Cross) that are not being managed that are greater than snow machine impacts. Harvest time is much shorter than that; the overall footprint of any habitat loss is very insignificant in comparison.

Kelly said that this seems to be a habitat issue more than a caribou/wildlife issue – would something like a habitat protection area work?

Positions of Parties

IGC: ATVs are being used more frequently and there is concern about the habitat deterioration. Tracks should be used on the ATVs and limit effects on tundra. There should also be adequate snow cover on frozen ground. Once a road is built to Tuk, there will need to be regulations to protect the area.

TH: our traditional territory has increased hunting when there is caribou hunting; there isn't concern about local hunters but there are concerns about those who are not traditional harvesters of PCH. There has been an increased interest in PCH hunting by southern Yukoners. Many vehicles with skidoos are seen coming into Dawson, leaving with caribou. This is a concern, not with subsistence harvesters, but others.

GC: whether the regulation is on the books or not, it is still being enforced on non-aboriginal hunters. If we can't regulate it for everyone, we should promote better practices through education, such as adequate snow cover before snow machines can be used; no ATVs used off road.

NND: support the regulation; there should be adequate snow cover, not enforced on a certain date. If other communities have concerns, we can be flexible on this issue.

Torrie clarified that there is not a connection to a specific date, but a minimum snow cover.

TH: we all have our own jurisdictional responsibilities. If we felt there was a concern we would address it in our traditional territory and monitor it. Not many of our harvesters use snow machines. This legislation is more limited than motor vehicle legislation. We do not support this regulation. There should be more communication even though we are in the green zone. We are concerned about snow cover and the ground being adequately frozen before off-road vehicles (ORVs) are used, which can be addressed in our own laws. There should be no tolerance for harassment of caribou.

VGG: supports regulation and further discussion regarding adequate snow cover.

GNWT: no clear position; we look to communities for direction. We do seek clarity. If it is decided to be kept in regulation, there would need to be consultation. There are errors the wording of our regulation as it stands which would need to be corrected if the regulation is maintained.

GTC: don't support the regulation; the snow cover was not adequately defined. We do not support ATV or snow machine use unless there is adequate snow cover.

GY: if the regulation is removed for subsistence harvesters they will remain for licensed harvesters under *Dempster Area Development Act*. This is a land and habitat issue and we are concerned about the damage to the terrain. If this regulation was to remain in place, further consultation would be required with First Nations. This is one of the only places in the territory where GY can restrict ORVs. The Dempster is a very sensitive area and we may not see the full results of the damage in our lifetime, but it will be there. If we restrict licensed hunters and not aboriginal hunters, this could backfire on us in the future. GY sees it as very important to protect this area.

Mike: How much ORV has there been in recent times without adequate snow cover?

Torrie: we've seen a significant increase in ATV usage on the northern part of the highway. Caribou are now arriving in the summer and hunters are using ATVs during the summer period.

Wilbert: they never used to use skidoos or ATVs – they would walk in and pack out their harvested caribou.

It is clear that all parties agree there should be adequate snow cover and frozen ground for ORV use. The divergence is in what tool to use to meet that goal.

Roberta: the Board should recommend that a Dempster Highway disturbance study be undertaken.

Marsha: need to make sure to separate concerns – harassment from habitat damage.

Mike: doesn't agree that a study is necessary – we are agreeing to a number of points that need to be addressed.

Steve B.: we need to see the big picture, should have some workshops to identify important areas where terrain should be protected. More education and awareness should be promoted around caring for sensitive areas.

Torrie: ORV use and habitat damage is a territory-wise issue; however, the Dempster Highway actually has a tool to address this at present.

Roberta: we're not really taking seriously the damage done by others, not just aboriginal harvesters. Harvesting is a short season and limited damage is being done. Other damage is considerably more significant.

Kelly: we are focusing on subsistence harvesters because we already have a regulation in place to deal with licensed hunters. Our concern is with habitat protection.

***Motion to rescind the snow machine regulation.
Moved by Steve Taylor
Seconded by Charles Pokiak***

***Vote:
Canada: no
IGC: yes
NND: abstain
TH: yes
VGG: no
GNWT: yes
GTC: yes
GY: no
Motion carried by a vote of 4-3; 1 abstained.***

The Board discussed the need to identify the critical/sensitive habitat areas and explore how habitat can be protected.

TH has an environmental damage act under which they can charge citizens for damage done in their territory.

The Board has a responsibility to facilitate a consistent message as part of their communication activities. Perhaps a brochure could be developed targeted to community members. Some members lack confidence that this will be sufficient to address the concerns, so this issue should be monitored and revisited in future.

The mechanisms currently in place in each jurisdiction that address damage to land and harassment should be clarified.

GNWT and GY outlined their consultation processes that are triggered once Board recommendations regarding regulations are received.

Next Meeting and Closing Prayer

The next Board meeting will be held in Inuvik on the afternoon of Feb. 11, the day prior to the AHM on Feb. 12-14. The next Board meeting is tentatively scheduled for February 27 and 28 in Dawson

GNWT is hosting a collaring workshop will be held in Inuvik February 17 and 18, 2013. GY is discussing hosting a similar workshop in Old Crow.

Regional RRC meeting will be held in Aklavik January 14-6, 2013.

The meeting was adjourned at 3:45 p.m. and a closing prayer was offered by Joe Tetlichi.