



NOV 26 2020

Mr. Gordon Blackned
Chair
Eeyou Marine Region Wildlife Board
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Mr. Robert Moshenko
Vice-Chair
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Subject: Final Decisions on the Establishment of the Total Allowable Take and Non-Quota Limitations for Beluga in the Nunavik Marine Region

Dear Mr. Blackned and Mr. Moshenko:

First, I would like to thank you for your letter of September 28, 2020, informing me of your final decisions on the establishment of the total allowable take (TAT) and non-quota limitations (NQLs) for belugas in the Nunavik Marine Region (NMR).

I have taken the time to analyze your decisions in depth, as well as the potential implications of the proposed changes. I am grateful for your work. In addition, I would like to commend the members of the Eeyou Marine Region Wildlife Board (EMRWB) and the Nunavik Marine Region Wildlife Board (NMRWB) (hereinafter referred to as the Boards) and their staff for the careful thought and deliberation that they have put into each of the decisions on the conservation of the eastern Hudson Bay (EHB) beluga stock. You have responded to several of the concerns that I raised following your initial decision. Working together in a spirit of co-management, we have made significant progress in fine-tuning the beluga management system for the NMR.

I would like to reiterate the importance of careful protection of Indigenous harvesting rights, and also of the principles of conservation that underpin the wildlife management systems in the *Nunavik Inuit Land Claims Agreement (NILCA)* and the *Eeyou Marine Region Land Claims Agreement (EMRLCA)*. It is only by working toward both of these objectives at the same time that we can succeed. Maintaining the health of beluga stocks, vital to numerous communities, and rebuilding the eastern Hudson Bay stock are priorities for me. I am certain that, in the long term, they will allow us to guarantee the harvesting rights and food security of Inuit and Cree communities.

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The Boards' decisions represent a fundamental change to the beluga management system. Even when change is highly desirable, its effects are not always easy to predict. In the context of a declining population, I think you will agree that our actions must be guided by prudence. In this light, I am concerned that the Boards have not gone as far as I think is necessary to implement changes to the management system in a more gradual and incremental way, in order to mitigate the risks to the EHB beluga stock.

Given the difficulty of these management decisions and the importance that co-management partners have a full understanding of each-other's objectives and risk tolerances, I will reiterate the request that the Boards explore the use of the Department's precautionary approach decision framework, in order to reduce the level of risk and uncertainty associated with management decisions. Although the Boards have expressed initial concerns about whether the framework fits the treaty context, it is worth exploring whether the framework, perhaps with some adaptation, could serve us well.

Despite the progress the Boards have made in responding to the issues I raised in my initial decision, I remain troubled that the first objective established by the Boards is the maintenance of the EHB beluga stock at around 3,000 individuals, which is approximately 400 fewer than the number estimated in 2016. This change in management objectives would mean accepting a decrease of roughly 12 per cent in the size of the stock, which is already endangered (COSEWIC 2004). Managing toward a decline in the abundance of the EHB beluga stock would run contrary to the guiding principles of the Agreements. This change in objectives would also undermine the major efforts and sacrifices made by hunters in the last 15 years, which have allowed the stock to increase from an estimated abundance of 3,000 animals in 2001 to 3,400 animals in 2016.

Consequently, pursuant to section 5.5.12 of the NILCA and section 15.3.7 of the EMRLCA, I am varying the Boards' final decision and maintaining the management objective established in the previous management plan, namely that the probability of a decline in abundance from 3,400 animals must not exceed 50 per cent during the next five years. I hope that the Boards, in collaboration with the Department and all the co-management partners, will quickly continue to collaborate on additional measures that will allow rebuilding of the stock as prescribed in the NILCA and EMRLCA.

Your letter includes four resolutions and a document laying out the reasons for your final decision. Each of the four resolutions has a section on the establishment of the TAT and another on the establishment of the NQLs. My responses to your decisions, as cited in the following resolutions, can be found below, along with my reasons for varying the decision where applicable. Please note that the decisions in the four resolutions were combined for the sake of conciseness.

- *NMRWB Resolution #2020-09-04: Resolution of the NMRWB to Establish a Total Allowable Take for Beluga within the Eastern Hudson Bay Arc Region and Non-Quota Limitations that apply in the JOINT INUIT/CREE ZONE;*
- *EMRWB Resolution #2020/21-23: Resolution of the EMRWB to Establish a Total Allowable Take for Beluga within the Eastern Hudson Bay Arc Region and Non-Quota Limitations that apply in the JOINT INUIT/CREE ZONE;*
- *NMRWB Resolution #2020-09-05: Resolution of the NMRWB to Establish a Total Allowable Take for Beluga within the Eastern Hudson Bay Arc Region and Non-Quota Limitations within the Inuit Zone;*
- *NMRWB Resolution #2020-09-06: Resolution of the NMRWB to Establish a Total Allowable Take for Beluga within the Eastern Hudson Bay Arc Region and Non-Quota Limitations within the Nunavik Marine Region.*

Decisions related to the establishment of the total allowable take (TAT)

1. *The NMRWB, jointly with the EMRWB hereby establish a TAT of 24 beluga within the Eastern Hudson Bay Arc Region, the boundaries for which are set out in Appendix B, from May 1st to November 30th of each year.*

The eastern Hudson Bay Arc region (Arc) is the most sensitive one in terms of the EHB beluga stock, and requires the most effective control of hunting effort. Consequently, establishing a TAT for this specific area is an essential part of any Hudson Bay beluga management approach. I agree with the Boards' conclusion that the establishment of a TAT is necessary and is the most effective way of conserving and protecting the declining EHB beluga stock.

However, I have varied your final decision, reducing the TAT of 24 EHB belugas that you established for the Arc region from May 1 to November 30 of each year to a TAT of 20 EHB belugas for the Arc region during this period. The rationale for varying this decision is linked to concerns over the way that the TAT was determined, i.e., on the basis of the average annual harvests in the Arc region from 2014 to 2019.

My difficulty with this approach is that average annual harvests have resulted in a rate of EHB harvests that are too high to be sustainable on an ongoing basis. By using the average annual harvests in the entire NMR from 2014 to 2019 to estimate the EHB beluga harvest, we average 21 belugas harvested during the fall hunt in Hudson Strait and 27 belugas harvested during the spring hunt in the other areas. The addition of 24 belugas in the Arc region would bring the total harvest to 72 belugas. This number greatly exceeds the maximum annual harvest of 58 EHB belugas recommended by the Department's scientists and is incompatible with the achievement of the management objective.

Based on the assumption that future harvests outside the Arc region are likely to be similar to those over the last six years, which would mean 51 EHB belugas annually, the annual TAT in the Arc region should be less than 10 animals in order to respect the management objective and, at a minimum, to maintain the stock at a stable level.

Therefore, reducing the TAT for EHB belugas in the Arc region is essential, as I see it. As noted above, the Department's analysis indicates that the annual TAT should not exceed 10. However, given the importance of the beluga hunt to the communities, I have decided to establish a TAT of 20 individuals. In my view, this decision represents a compromise between our shared obligations to meet communities' harvesting needs and to rebuild the declining EHB beluga stock.

2. *Upon the request of a LNUK, the RNUK, or the Cree Trappers Association, the NMRWB, and the EMRWB where required, may permit a portion of the aforementioned TAT not harvested in one year to be carried over and added to the TAT for the following year. In any given year the portion of the unused TAT carried over cannot exceed 10 belugas.*

I have varied the decision so that the maximum non-harvested portion of the TAT that can be carried over from one year to the next must not exceed 25% of the TAT. For reasons that I will explain, I believe that the potential carry-over of 10 belugas set by the Board is too high. Ten individuals is 50 per cent of the annual TAT that I have established with this decision. Whether a TAT is reached in any given season depends on a number of conditions, and several external factors can influence hunting success. However, the failure to reach the TAT can be a warning sign indicating decreased resource availability. When I look at past harvests and hunting efficiency, and consider both the importance of the harvest and the efforts and resources that harvesters dedicate to it, it seems highly likely that the failure to reach the TAT could well demonstrate a significant reduction in resource availability. Consequently, a thorough understanding of the reasons why the TAT was not reached is essential, since it could be a sign of irreversible changes in stock dynamics. In the context of a declining population, caution is warranted. Therefore, I have decided that the maximum non-harvested portion of the TAT that can be carried over from one year to the next to be reduced to 25% of the TAT, which will help to take into account the uncertainty in the reasons affecting hunting success.

3. *In the event that the TAT for the Eastern Hudson Bay Arc Region is exceeded in any given year, the number of beluga harvested in excess of the TAT will be subtracted from the available TAT for the following year. In addition to the reduction of the TAT for the following year, the NMRWB and the EMRWB encourage the LNUK and Cree Trappers Association within the Eastern Hudson Arc Region to develop mechanisms to respond to people that over harvest, in accordance with Inuit or Cree laws and practices.*

I accept this decision on TAT overages, which responds to the concerns raised. I also support the Boards' recommendation that solutions be sought in order hold the people responsible for the overages accountable. I encourage the LNUKs, the RNUK and the Cree Trappers' Association to develop management measures and harvest regulation techniques in keeping with the principles and powers described for them in the Agreements. I am convinced that the development, implementation, and compliance with management measures cannot be achieved without everyone's involvement.

- 4. Beluga harvested in accordance with the Kuujuaaraapik Pilot Project which occurs annually during the period of December 1st to June 15th and within the co-ordinates described in Appendix D, are exempt from the application of the Eastern Hudson Bay Arc Region TAT.*

I accept this decision. I share the Boards' opinion on the importance of this pilot project and the need to sample all the belugas harvested in order to better understand beluga stock dynamics. Therefore, I expect the Board and the Department, in partnership with all the co-management partners, the RNUK and the LNUKs, to make the necessary efforts to ensure the highest possible sampling rate. Pending the outcome of the genetic analyses, it would also be prudent to discuss alternative options if the results reveal that some belugas harvested as part of this pilot project are from the eastern Hudson Bay stock.

- 5. The allocation of the said TAT shall be made in accordance with the applicable provisions of the NILCA and the EMRLCA, including those provisions of the Cree/Inuit Overlap Agreement.*

This is, of course, appropriate.

Decisions related to the implementation of non-quota limitations (NQLs)

- 1. In order to protect the EHB beluga during their fall migration, the NMRWB hereby establishes a NQL of an annual seasonal closure of beluga harvesting within the Hudson Strait area, the boundaries for which are set out in Appendix C, starting on September 1st and reopening on October 31st. Following October 31st, each respective LNUK in the Hudson Strait, upon the direction of Elders and in accordance with Inuit knowledge and practices may further decided when to reopen the harvest.*

I have varied this decision so that a close time for the hunt in Hudson Strait is added to the annual seasonal closure from September 1 to October 31, so that no harvesting can take place between December 1 and February 1 the next year. I also ask that additional measures to control hunting effort be implemented in each Hudson Strait community.

Since quotas (TAT) have been in place in Hudson Strait for many years, and given how transformational this new management approach is, it is difficult to predict the resulting changes in future harvesting patterns. Given the status of this stock, an increase in the EHB beluga harvest would be unacceptable. Therefore, I believe that it is essential to implement additional measures to control hunting effort outside the closure period to ensure the protection of the EHB beluga. Consequently, I added a close time for the hunt so that no activities can take place between December 1 and February 1 the next year. However I note that this, on its own, would likely not be sufficient to manage harvest effort. Therefore, recognizing the strong interest in and value of Indigenous-led stewardship, I also ask each Hudson Strait community to identify and implement measures for controlling the hunting effort in November as well as adequate monitoring mechanisms to collectively ensure that conservation objectives are respected.

In particular, the planning of the fall hunting effort must take account of the level of harvesting in spring and summer and must be carried out every year before the November 1 opening. Controls on hunting effort can take different forms, including controlling the number of hunting days, hunting areas and subareas; requiring hunting techniques such as the use of harpoons to minimize the risk of losing wounded animals; and other methods to avoid EHB belugas being taken. These are some examples of harvest management measures that would allow us to achieve our objective.

I offer the support of my Department if we can assist in identifying the most appropriate measures. All the conservation and harvest management measures to reduce the EHB beluga harvest during the fall hunt could be included in a hunting plan developed by each LNUK in collaboration with the RNUK, in accordance with the principles and powers described in sections 5.7.2 (c) and 5.7.4(c) and (g) of the NILCA.

2. *The NMRWB and EMRWB hereby support the continued application in the NMR of the following NQL's as set out in the Marine Mammal Regulations SOR/93-56:*
 - a. *No person shall disturb a beluga whale, except when beluga hunting;*
 - b. *no person shall attempt to kill a beluga except in a manner that is designed to kill it quickly;*
 - c. *no person shall hunt for beluga without having on hand the equipment necessary to retrieve it;*
 - d. *no person who kills, or wounds, a beluga shall fail to make a reasonable effort to retrieve it without delay, nor shall he abandon or discard it;*
 - e. *no person who kills a beluga shall waste any edible part of it;*
 - f. *no person shall kill a beluga calf (dark in colour and less than 2 m in length), or an adult beluga that is accompanied by a calf.*

I accept this decision.

3. Pursuant to paragraphs 5.2.3(e) and 5.5.3(a) and (c) of the NILCA and pursuant to paragraphs 13.2.1(e) and 15.2.1(a) and (c) of the EMRLCA the NMRWB and the EMRWB hereby establish in the NMR the following NQL's in relation to the use of nets for harvesting beluga:
 - a. nets shall be removed when not under constant surveillance; and
 - b. any calves, and females with calves, that have been netted and are found alive shall be released from nets as soon as possible and whenever it is safe to do so.

I accept this decision.

4. The NMRWB and the EMRWB hereby approve the continued prohibition to harvest at the Little Whale River estuary. The NMRWB hereby approves the continued prohibition to harvest at the Nastapoka River estuary and at the Ungava Bay Mucalic estuary, which boundaries are set out in Appendix C, C and D respectively, it being understood that:
 - a. On a case by case basis, the NMRWB may, jointly with the EMRWB, open Little Whale River. On a case by case basis, the NMRWB may open the Nastapoka River estuary and the Ungava Bay Mucalic estuary for limited harvesting activity;
 - b. approval of harvesting shall require an application from communities that traditionally accessed the estuaries and shall include a Little Whale River Estuary Harvest Plan, a Nastapoka Estuary Harvest Plan or a Mucalic Estuary Harvest Plan;
 - c. any approved harvest at the Little Whale River estuary and Nastapoka River estuary would count against the TAT, as the Little Whale River estuary and the Nastapoka River estuary are within the Eastern Hudson Bay Arc Region;
 - d. the proposed harvests are to focus on harvesting activity designed to ensure the full access of rights holders, especially women and children, to access the cultural and intergenerational knowledge sharing that occurs through beluga harvesting; and
 - e. prior to the approval of any application to harvest at the Little Whale River estuary, the NMRWB, jointly with the EMRWB, will provide a mechanism for impacted parties, including but not limited to the Government of Canada and Indigenous rights holders, to give submission in relation to the application; prior to the approval of any application to harvest at Nastapoka River estuary and the Mucalic estuary, the NMRWB will provide a mechanism for impacted parties, including but not limited to the Government of Canada and Indigenous rights holders, to give submission in relation to the application.

This decision and the additional details provided by the Boards appear to respond to some of my concerns, but they are worded such that there is a risk of ambiguity that I must clarify. I believe that in these decisions, the Boards are laying out their process to consider a request to reopen an otherwise closed area on a case-by-case, and I support and accept this approach. However, it should remain clear that any future decision by the Boards to reopen an otherwise closed area would be a decision governed by s. 5.5.6 of the NILCA or s. 15.3.1 of the EMRLCA, as applicable. Accordingly, any such Board decision would require a further ministerial decision under s. 5.5.16 of NILCA or s. 15.3.3 of the EMRLCA, as applicable.

However if the Boards had a different intent, I would be unable to accept a Board decision that in effect delegated to the Boards alone the decision to re-open a closed area without the matter returning for a ministerial decision. This is not within my authority to do and would be inconsistent with the two Agreements.

5. *The NMRWB and EMRWB hereby require 100 per cent reporting to the federal Department of Fisheries and Oceans (DFO) and/or Uumajuit Wardens of all beluga harvested in the NMR and hereby require harvesters to take all steps necessary to obtain biological samples from all beluga harvested within the NMR.*

I accept this decision. Achieving our conservation objectives and implementing management measures requires the control and monitoring of harvests in order to ensure the quality and reliability of the data. If required, I will expect the Boards to collaborate closely with the RNUK and the LNUKs to improve harvest reporting and sampling methods and procedures and to ensure that the instructions required are communicated to hunters. The goal of all of this is to ensure the best possible monitoring of hunting activities.

6. *Monitoring of harvesting activity, monitoring of stock populations and health, and compliance with the decisions herein, is integral to the effectiveness of management measures and is imperative to these decisions meeting the management objectives as defined by the NMRWB and the EMRWB, and consequently, the decisions herein are subject to the terms of the Monitoring Plan appended to the Reasons for Final Decisions.*

I agree with the Boards' observation that monitoring is essential to the effectiveness of management measures.

While I have for the most part accepted the management regime that this Monitoring Plan was designed to support, I have also modified the management approach in certain important respects. Therefore, in order to serve the function envisioned by the Boards, the Monitoring Plan that was appended to the Boards' Reasons for Final Decisions must be updated to take

into account the final management approach. In that process of updating, I would ask the Boards to adopt a risk-averse approach by examining reasonable scenarios of expected harvests of EHB animals, and to pay special attention to lowering the threshold that would trigger the Board's decision making process.

On that basis, I modify this decision in the following two ways: first, I clarify that the decisions herein are not subject to a monitoring plan, but rather the monitoring plan must be subject to these decisions, meaning the decisions themselves take precedence. Second, the monitoring plan that must be implemented is not the version that was previously appended, but rather an updated version of the Monitoring Plan that takes into account the changes to the management approach. Likewise, the reference to the Monitoring Plan in #7 must also be understood as a reference to a revised and updated version of the Monitoring Plan.

7. *The NMRWB and EMRWB shall, re-evaluate the foregoing decisions and consider the adoption of additional or varied measures to ensure the fulfilment of beluga management objectives where, prior to the expiration of the foregoing decisions:*
 - (a) Certain circumstances defined in the aforementioned Monitoring Plan are triggered; and*
 - (b) harvesting levels of Eastern Hudson Bay beluga throughout the NMR and in areas outside the NMR where Eastern Hudson Bay beluga migrate, reach a level of take that it at odds with the objectives of the foregoing decisions.*

I support this approach, noting that the reference to the Monitoring Plan must be understood as a reference to a revised and updated version of the Monitoring Plan. With respect to the reference in (b) to "the objectives in the foregoing decisions," in my view based on the principles in the Agreements, our management objectives must include the revitalization of the EHB beluga population. Therefore, to the extent this is not already explicit, I have varied this decision so that the Boards should re-evaluate the management approach and consider the adoption of additional or varied management measures if, for any reason, it appears necessary in order to avoid allowing the probability of a decline in beluga abundance from the current 3,400 animals to exceed 50 per cent during the next five years.

To avoid a further decline of the stock, it is essential that harvesting levels of EHB belugas show a downward trend, during the next management cycle. This would demonstrate to me the effectiveness of the proposed management measures in preventing a decline in the EHB beluga population.

As I said in my letter of July 23, I agree with the Boards' decision to establish harvest thresholds within the Monitoring Plan that, when exceeded, would trigger an immediate review of the measures in place. However, the Boards have indicated that they will tolerate

harvests up to a certain level that could result in an additional decline in the EHB beluga stock, which is unacceptable. Given that it is difficult to predict the impact of changes to the management system on hunting effort, greater prudence is required, particularly to take account of potential errors in implementing this system.

In my view, it is crucial that the Boards re-evaluate their decisions before a further decline in the stock occurs. Consequently, I am varying this threshold by reducing it to 58 EHB belugas in a season. This threshold is linked to the harvest level that Departmental scientists recommend in order to maintain a stable stock. This threshold will allow the Boards to be quickly alerted of potential problems, giving them sufficient time to take action should it be required.

8. *The NMRWB shall, in collaboration with the EMRWB, make best efforts to ensure that parties to the co-management system with responsibility in relation to the monitoring and implementation of the foregoing decisions, as well as representatives of those with rights and interests in relation to beluga (specifically Nunavik Inuit and Cree of the Eeyou Istchee) meet annually with the NMRWB and EMRWB to evaluate the effectiveness of the foregoing decisions and their implementation.*

I support this initiative by the Board. Indeed, I encourage efforts to facilitate collaboration and discussions among all stakeholders linked to the beluga. Since the management of wildlife resources occurs in a dynamic environment, such meetings provide an opportunity for all participants to present new information on Hudson Bay beluga to the Boards. This will provide the Boards with the best available information in order to make informed and transparent decisions.

9. *Beluga harvesting season shall be from February 1 of one year to January 31 of the following year.*

I accept this decision.

10. *The foregoing decisions shall be effective for a period of five (5) years from their coming into force, unless additional information presented to the NMRWB and the EMRWB required the foregoing decisions to be revised or modified.*

I accept this decision.

11. *The foregoing decisions shall come into force upon their approval by the Minister in accordance with the provisions under part 5.5.13 of the NILCA and section 15.3.8 of the EMRLCA.*

I have varied this decision so that these decisions come into force on February 1, 2021.

Since there is presently an interim decision that is in effect until January 31, 2021, and considering the need for some implementation planning that will follow my final decision, I would like to maintain this decision until the end of the 2020 season in order to ensure stability and avoid implementing major changes to the management system while the season is in progress. Indeed, several of the proposed measures represent fundamental changes to the beluga management system. To ensure the success of the implementation of this new approach, it is essential that all partners thoroughly understand the changes and identify the impacts that they could have on their activities in order to prepare themselves accordingly. It is important to take the time needed to ensure the effective implementation of the management approach. The success of this implementation will hinge on the ability of the partners involved in beluga management to work together.

Lastly, I would like to reiterate the importance of holding discussions among all partners before the next hunting season in order to identify measures that will allow rebuilding of the EHB beluga stock. In addition, I expect each LNUK to develop control mechanisms to deal with the eventuality of someone exceeding the harvest limits or engaging in wastage, in keeping with traditional Inuit practices and rules. I also expect the LNUK for the Hudson Strait communities, in collaboration with the RNUKs, to establish measures to control hunting effort in the fall in accordance with the principles and powers granted to them in sections 5.7.2 (c) and 5.7.11 of the NILCA. Before the start of the hunting season, I also expect the Board, in partnership with the RNUK and the LNUKs, to make the necessary efforts required to ensure that these mechanisms are in place and that the relevant information has been communicated to the hunters, in order to ensure the highest harvest reporting and sampling rates possible. Clear protocols and a description of each party's roles and responsibilities are essential to the harmonious implementation of the next management plan. At the same time, I hope that discussions will continue on the adoption of a precautionary approach to the management of the EHB beluga.

Like you, I believe that the current working group on the Nunavik beluga will be an effective group for coordinating the communication and implementation of this new beluga management system. The Department is determined to support, and collaborate with, the Boards and their staff in this work. I am convinced that the development and implementation of and compliance with beluga management measures cannot be achieved without everyone's involvement.

Please do not hesitate to contact the Department's staff in the Quebec Region if you have any questions.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized initial 'B' followed by a long horizontal line extending to the right.

The Honourable Bernadette Jordan, P.C., M.P.
Minister of Fisheries, Oceans and the Canadian Coast Guard

c.c. Sylvain Vézina, Acting Regional Director General, Quebec Region