

1. What is the nature of the Government of Nunavut's jurisdiction/authority over Polar Bear and Polar Bear harvesting in the NMR? Please provide your analysis and information on the legal basis for this authority/jurisdiction.

- The Nunavik Inuit Land Claims Agreement (NILCA) describes how jurisdiction/authority is to be shared for wildlife management in the NMR. The Government of Nunavut (GN) is a signatory to NILCA and a party to the NILCA Implementation Plan. By its agreement as a signatory, the GN assumed the obligations, jurisdiction and authority described for it in NILCA.
 - The NILCA definitions of “Government” and “Minister” could refer to either the Government of Canada (GoC) or the Government of Nunavut (or both) or their relevant Ministers, respectively, as the context requires. NILCA states where Government and the Minister shall have a role.
 - Under NILCA, Government retains ultimate responsibility for wildlife management [Article 5.1.2 (j)]. This responsibility is exercised by the appropriate Minister(s) in deciding whether to accept, disallow, or vary management decisions made by NMRWB. The Governments are responsible for implementing NMRWB decisions.
- The Government of Nunavut has jurisdiction over the islands within the NMR owing to the transfer of those islands to the NWT and then to Nunavut when it was formally established as a territory in 1999. The federal *Nunavut Act* establishes that Nunavut includes “the islands in Hudson Bay, James Bay and Ungava Bay that are not within Manitoba, Ontario or Quebec” [s. 3 (b)].
- The Government of Nunavut has authority over polar bear owing to the application of the Nunavut *Wildlife Act* in those areas of the NMR that are within Nunavut. The *Wildlife Act* applies throughout Nunavut, and not just to the Nunavut Settlement Area [s. 6(1)].
- The federal *Nunavut Act* confers legislative authority to the Nunavut Legislature for wildlife matters, including “the preservation of game in Nunavut” [s. 23(1)(s)].
 - This authority is subject to the restriction that “The Legislature may not make laws under section 23 that restrict or prohibit Indians or Inuit from hunting, on unoccupied Crown lands, for food game other than game declared by order of the Governor in Council to be game in danger of becoming extinct” [s. 24].

- Polar bear is listed under the Game Declared in Danger of Becoming Extinct Order, which continues in Nunavut per s. 249 of the federal *Budget Implementation Act, 2018, No. 1*.
- The Nunavut Legislature is also empowered to make laws “for the purpose of implementing the [Nunavut Agreement] or any other land claims agreement with an aboriginal people as may be designated by order of the Governor in Council” [s. 25].
 - Reasonable restrictions on Inuit harvesting of polar bears can be justified for conservation, public health, or public safety purposes under both NILCA [s. 5.5.3] and the Nunavut Agreement [s. 5.3.3].

2. From the GN’s perspective, who is the “Minister Responsible” to whom the NMRWB would submit their management decisions on Polar Bear as per Part 5.5 of the NILCA? And if it is both the Minister within the GN and the Government of Canada, how would a difference in position between the two ministers be managed?

- As stated by staff at the 2024 Montreal Non-Quota Limitations Meeting and frequently noted in correspondence with the Boards, there is overlap between the relevant federal and GN Ministers. For matters clearly under federal jurisdiction for the marine environment (i.e., beluga management), these matters would go solely to the federal Minister. Where there are overlapping jurisdictional concerns (e.g., for polar bears), then the matter must be addressed to both Ministers. The relevant GN and GoC Ministers must both be considered “Ministers Responsible” for NMRWB polar bear management decisions.
- As for how a difference of opinion would be settled between the two Ministers, that is a hypothetical question. Presumably this would be addressed through each Minister’s staff providing input for their justification on a specific issue, followed by ministerial level discussions.
- The GN would work with the GoC to resolve disagreements and allow for joint ministerial decisions, where possible. However, it is open to either Government to reject or vary a decision, even if the other Government is prepared to accept it. Implementation can only occur after both Governments accept the decision.

3. From the GN’s perspective, which government (Government of Nunavut or Government of Canada) would be responsible for implementing decisions as per 5.5.10 and 5.5.21 of the NILCA? Again, please provide the legal analysis and information to explain the legal basis for the government of Nunavut’s role in NMRWB decision implementation.

- Both Governments have implementation responsibility for polar bears. The GoC and GN are responsible for implementing decisions under s. 5.5.10 and s. 5.5.21, respectively, to the extent the decision falls within their jurisdiction. Polar bears fall within both GoC and GN jurisdiction.
- The GN would have a role in the decision-making process as per s. 5.5.14-5.5.21, 5.5.22, and 5.5.23 of NILCA.
- The GN has management responsibility for “wildlife” as defined under the Nunavut *Wildlife Act*, s. 2. This wildlife management jurisdiction covers all species (except fish and marine plants) unless that jurisdiction is exclusively occupied by the GoC under federal law; for example, GoC retains jurisdiction for marine mammals, like beluga, under the *Fisheries Act* (which defines “fish” as including all “marine animals”) and the *Marine Mammal Regulations*.

Nunavut *Wildlife Act*, s. 2:

"wildlife" means the flora and fauna to which this Act applies under subsections 6(2) and (3), including all parts and products from wildlife;

6. (1) This Act applies throughout Nunavut.

Application to wildlife and habitat

(2) This Act applies in respect of

(a) all terrestrial, aquatic, avian and amphibian flora and fauna that are wild by nature or wild by disposition;

(b) all parts and products from wildlife; and

(c) all habitat of wildlife.

Exception

(3) This Act does not apply to

(a) a species that is a fish, as defined in section 2 of the Fisheries Act (Canada);

(b) a marine plant, as defined in section 47 of the Fisheries Act (Canada);

or

(c) a bacterium or virus.

Domestic animals

(4) This Act applies to domestic animals where specifically provided.

- 4. Finally, if responsibility for implementation is shared between the Government of Nunavut and the Federal Government, how are the Government of Nunavut and the Government of Canada going to work together to fulfill these shared responsibilities? What mechanisms and instruments are currently in place to ensure the Government of**

Canada and Government of Nunavut are fulfilling their shared obligation to implement NMRWB decisions?

- The GN is committed to fulfilling its obligations under NILCA. The land claims agreements are the main instruments to ensure that governments are fulfilling their legal obligations.
- The GN and GoC both participate on many interjurisdictional committees/working groups/etc from the staff level to ministerial level. Both also participate in NMRWB/EMRWB matters where appropriate. Ultimately, how the two governments work together is a matter to be resolved between them.
- Implementation Panels/Committee exist for relevant land claims; information can be brought to their attention for action or to address any lack of action. See also the NILCA Implementation Plan.
- The GN currently relies on funding support from the GoC, as negotiated from time to time, to implement its responsibilities under NILCA. The GoC assumed responsibility to fund NILCA implementation via NILCA s. 23.4.1-2 and the NILCA Implementation Plan. Adequate funding is necessary to support GN environmental obligations, including licensing, harvesting related information collection, enforcement of wildlife legislation, general environmental monitoring and land use planning.
- The GN can utilize tools under its *Wildlife Act* and regulations to implement NMRWB decisions within Nunavut. However, for cross-jurisdictional species like polar bears, coordination with other jurisdictions on implementation – e.g., research, monitoring, and the enforcement of any harvesting restrictions – becomes essential.
- Once a final NMRWB decision has been made and accepted by the Minister (as per s. 5.5.21), the decision will be put into regulation under the Nunavut *Wildlife Act*, to address harvesting that takes place in areas under Nunavut jurisdiction by Nunavik hunters.
- For harvest monitoring, Nunavik harvesters would normally have to report their harvest to the nearest Nunavut wildlife officer. We recognise this is impractical and is something that needs to be discussed and addressed by all affected parties and management authorities.
- The best solution will be for harvest reporting by Nunavik hunters to be done in their respective communities; this was raised at the Montreal meeting as something that the Anguvigaq would like to take ownership of. Staff indicated their general support for this proposal in principle, with the understanding there would need to be further discussions on how to best address this. We look forward to continuing these discussions.