

BEVERLY AND QAMANIRJUAQ CARIBOU MANAGEMENT BOARD

12 January 2009

Leslie Payette
Manager Environmental Administration
Nunavut Impact Review Board
P.O.Box 1360
Cambridge Bay NU X0B 0C0

Dear Ms. Payette:

RE: Draft EIS Guidelines for Uravan Minerals Inc.'s Garry Lake Project Proposal

On behalf of the Beverly and Qamanirjuaq Caribou Management Board (BQCMB), I am providing a response to the NIRB's 20 November 2008 request for comments on the Draft EIS Guidelines for Uravan's Garry Lake project. These comments are provided in accordance with the mandate of the BQCMB, which is to advise governments and caribou range communities on conservation and management of the Beverly and Qamanirjuaq caribou herds and their ranges.

Background

The BQCMB is very concerned about Uravan's proposal to expand their exploration activities on the core traditional calving ground of Beverly caribou. Concerns have been outlined in our previous submissions to NIRB on this file (see letters dated 23 April, 9 June and 29 October 2008), and our letters are posted on NIRB's ftp site under the Uravan review.

Since these letters were submitted, more information about the status of the Beverly herd has been provided by the Government of the Northwest Territories (GNWT). This information indicates that the herd has undergone a ***serious population decline***. We have previously provided this information to the NIRB in two different formats.

- a) In our presentation to the Public Scoping and EIS Guideline Development Workshop for this Part 5 Review in early November. The full Powerpoint presentation (slides plus notes) was provided to NIRB at that time, and the text from the slides was included in an appendix to the workshop report.
- b) A BQCMB press release about the Beverly population decline, distributed in late November with a Backgrounder providing more details about the herd's decline, the Board's concerns and their recommendations for increased conservation measures. Both of these documents are provided as attachments to this letter (see Attachment 1 and 2).

We see from postings on your ftp site that numerous comments have been received by NIRB from the public in response to news about the decline of the Beverly caribou herd provided by the BQCMB's press release and subsequently reported by numerous media. Public input received by NIRB thus far indicates consistent public opposition to allowing mineral exploration and development activity on the Beverly calving ground.

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Previous Recommendations to NIRB by the BQCMB

In the interests of clarity and making our recommendations easily accessible, I have listed all previous recommendations made to the NIRB by the BQCMB regarding Uravan's Garry Lake project proposal in an attachment to this letter (see Attachment 3).

We recognize that some of the recommendations made by the BQCMB are beyond the mandate of the NIRB, but nevertheless believe these issues should be raised during the review of this project proposal, particularly given the absence of: a) a protected areas strategy for Nunavut; b) an adaptive land use planning process that is able to incorporate new information for making required timely revisions to regional land use plans; and c) a process to improve Caribou Protection Measures to make them more effective for protecting caribou, including necessary monitoring and enforcement capabilities.

Following are the main recommendations previously made by the BQCMB to NIRB for actions that the NIRB itself can take regarding the Uravan proposal currently undergoing review. We urge the NIRB to implement these recommendations.

1. NIRB should use a precautionary approach when making decisions that will likely affect caribou, particularly caribou herds that have declined or are currently declining.
2. NIRB should not recommend issuance of any permits for exploration or development activities on the traditional calving ground of the Beverly caribou herd.
3. NIRB should recommend to the federal government that Uravan's Garry Lake project proposal not be approved; NIRB should recommend to the Minister that Uravan's application be rejected.
4. NIRB should require that the assessment of cumulative effects of human land use activities on barren-ground caribou that is conducted occurs at a regional scale (i.e., larger than individual project areas). The assessment should include all activities occurring on calving and post-calving areas, and should also consider the accumulating effects on caribou that may result from human land use activities across the caribou ranges (i.e., in Nunavut, the NWT and northern Saskatchewan).

The BQCMB's Presentation to the NIRB's Scoping and EIS Guideline Workshop

News about the Beverly herd's serious decline does not change the nature of the BQCMB's recommendations to the NIRB; however, it does signal an ***increased urgency for necessary conservation measures***. Some of the key points from the BQCMB's presentation to the NIRB Public Scoping and EIS Guideline Development Workshop that explain this urgent need are provided below.

- ***The Beverly herd is in an extremely vulnerable state.*** The survey numbers for the Beverly herd show a massive decline between the 1990's and 2008, from 286,000 caribou in 1994 to perhaps only hundreds. Its continued existence as a distinct herd is in doubt.
- It is important to remember that there are still some cows calving on the Beverly calving ground; the numbers are small but studies have shown that calving ground fidelity is a very persistent behaviour in barren-ground caribou. ***Caribou herds can recover from very low numbers.***
- One very important factor that must be considered when making any decisions about what activities should be allowed on the Beverly caribou range is ***ecological resilience***, which is the ability of an individual or a population to absorb or adjust to environmental stresses.

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- Resilience in an individual caribou is high if it is young, healthy and in good condition, and low if it is sick or in poor condition.
- A caribou herd has good resilience when its numbers are healthy, it has good recruitment of young, and it has options for moving to new high quality areas if decreased habitat quality or disturbance occur (e.g., from fire, exploration or development).

By these standards, ***the Beverly herd has essentially no resilience***. Its numbers are low and have declined rapidly, calf production is poor, and a portion of the herd may already have abandoned its traditional range.

- Common sense tells us that we should not further worsen this herd's perilous situation by allowing mineral exploration to increase on the calving ground OR during the periods when caribou are most vulnerable. However, ***Uravan is proposing to:***
 - increase its mineral exploration activities on the ***core Beverly calving ground, the herd's most essential habitat***
 - operate when caribou that are ***particularly vulnerable***, including pregnant caribou, caribou with newborn calves, and post-calving caribou, will likely be using the area (May-June and July to mid-September)
 - request ***release from the Caribou Protection Measures*** (to allow exploration to continue between May 15 and July 15), which is the only tool currently available that was designed to provide protection for caribou on the core calving ground.
- During surveys conducted in 2008, the only areas with calving cows were found just south of Garry Lakes in the area of Uravan's mineral claims (see map, Attachment 4).
- If Uravan is allowed to increase its exploration activities on the calving ground, other companies will already active in this area will likely increase their exploration activities as well. The cumulative effects of exploration activities on the calving ground would then be accelerated.
- ***We need to give the Beverly herd every opportunity to recover.***

Comments on the Draft EIS Guidelines

The draft guidelines are very detailed and comprehensive, and incorporate a lot of the advice received by NIRB from the BQCMB and others in response to your request for comments on the Draft Scope and during the Public Scoping and EIS Guideline Development Workshop.

Section 12.5.5 of the NLCA outlines nine specific issues the NIRB must take into account during the review of a project proposal. Most of these appear to be covered adequately by the EIS guidelines, with particular emphasis given to "(d) steps which the proponent proposes to take to avoid and mitigate adverse impacts" and "(g) the monitoring program that the proponent proposes to establish, or that should be established, for ecosystemic and socio-economic impacts".

A few areas in which the BQCMB believes the EIS guidelines and/or other aspects of the Review process could be improved are outlined below.

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- ***Lack of knowledge concerning the Beverly caribou herd***

The Beverly caribou herd has not been well-studied in recent times, and there are a lot of information gaps concerning various aspects of the herd's ecology. This means that some of the information that the NIRB has asked Uravan to provide may not be available. Therefore identifying knowledge gaps may be a substantial and important part of this EIS. The importance of documenting knowledge gaps and their affect on any assessments and conclusions made should be made clearer in the guidelines.

- ***Definition of study areas***

Under Sec. 6.4 Spatial Boundaries, the draft guidelines “suggest” the general spatial boundaries to be used to define the local and regional study areas (p. 20). Further description is provided for the Local Study Area (LSA) that provides a fairly clear indication of what the NIRB would like to see Uravan use as their LSA for this EIS. In contrast, the boundaries of the Regional Study Area (RSA) are left to Uravan to determine based on a rather vague description of an area “that may be relevant to the assessment of any wider-spread effects of the project”.

The BQCMB would like NIRB to provide more clarity to Uravan in terms of the area they should use for their RSA for this EIS. The area chosen will affect many aspects of the EIS and its assessments and conclusions. The draft guidelines have directed Uravan to provide much information with reference to the RSA, including descriptions of aspects of the biophysical environment, such as caribou habitat (Sec. 11.2.3a), cumulative effects (Sec. 11.2.6a) and Inuit and Aboriginal harvesting (Sec. 11.2.7c). They also ask for analysis to be conducted in terms of the RSA for caribou habitat (Sec. 14.1.3e), cumulative effects (Sec. 14.1.6c) and socio-economic and cultural impacts (Sec. 14.2e). The definition of RSA is much too important to this EIS and this review to be left as a vague direction in the EIS guidelines.

- ***Biophysical impacts on caribou and caribou habitat (Sec. 14.1.2 and 14.1.3)***

These sections require a few corrections and revisions as follows:

- Sec. 14.1.2 (p. 37) – There is a sentence missing before the list, which should say something about what the list is to apply; items c and d say the same thing using slightly different wording; item g should be more specific in terms of what time frame is to be used. (For instance, does the NIRB expect Uravan to forecast future effects of climate change on Beverly caribou?); analysis of the implementation and effectiveness of Caribou Protection Measures (CPM) should be required in terms of impacts on caribou (i.e., moved from Sec. 14.1.3e to this section).
- Sec. 14.1.3 (p. 38) – Assessment of project activities should include their potential impacts on use of habitat by caribou (i.e., behavioural aspects), not just direct impacts on habitat; emphasis on potential impacts from airborne traffic on habitat does not seem appropriate (or needs clarification); it is not clear what is meant by “habitats with varying levels of protection for Beverly caribou”; reference to CPM is not suitable under this section, as CPM do not provide habitat protection, but are intended to protect caribou from disturbance caused by exploration activities (i.e., this should be moved to Sec. 14.1.2).

- ***Definition of development***

It should be clear that the NIRB is including “exploration and development” when it uses the term “development”. This is important in terms of the analyses of cumulative effects of the project that the NIRB has directed Uravan to conduct under Sec. 14.1.6, including what will be considered as “probable future development” and “How development impacts accumulate in caribou” will be assessed (14.1.6d).

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- ***Compensation for loss of food security and traditional lifestyle.***

There does not seem to be adequate direction in the guidelines concerning the NLCA requirement (Sec. 12.5.5) to address “(e) steps the proponent proposes to take, or that should be taken, to compensate interests adversely affected by the project”. Compensation is not addressed in the draft guidelines under Sec. 14.1.1 Inuit and Aboriginal harvesting (p. 40) or 14.2 Socio-Economic and Cultural Impacts (p. 40).

The EIS should establish if Uravan is prepared to take steps to “to compensate interests adversely affected by the project”, which in our view would include compensating traditional users of Beverly caribou in Nunavut, the NWT and Saskatchewan. A recent socio-economic study of Beverly and Qamanirjuaq caribou conducted for the BQCMB estimated the net economic value of the annual harvest of Beverly caribou at approximately 5 million dollars. The cost of compensation for the loss of traditional lifestyle that would result from a loss of caribou harvesting opportunities would need to be assessed.

- ***Socio-economic and cultural impacts (Sec. 14.2)***

Direction provided under the analysis of socio-economic and cultural impacts should be more consistent, or the reason it is not consistent should be clarified. For instance, in the draft guidelines Uravan is directed to analyze the impacts to the traditional way of life only “of residents of the Kivalliq Region” in (a), in (c) and (f) it is not clear which communities should be included, and in (e) communities in the RSA are specified.

The BQCMB advises that all communities and groups that will be potentially affected by impacts to Beverly caribou should be included in all socio-economic and cultural impact assessments for this project.

- ***Eliminating potentially adverse impacts***

According to the NIRB’s 20 November letter and the NIRB’s *Guide to the Preparation of Environmental Impact Statements*, “An EIS also provides for the identification and development of mitigation measures – measures designed to control, reduce, or eliminate potentially adverse impacts of an activity or project.” The BQCMB believes that the outcome of applying the precautionary principle to protect Beverly caribou at this time can lead to only one appropriate mitigation measure – that which would **eliminate** potentially adverse impacts of the project.

We advise that the only way to eliminate potentially adverse impacts to the Beverly caribou herd from Uravan’s proposed project is to abandon plans for further exploration on the traditional calving ground. This mitigation measure should be specified in the EIS guidelines as an option to be addressed through the EIS.

Comment on the Review Process - Transboundary impacts

Section 12.11.2 of the NLCA directs NIRB, the GN, and the federal government to deal with transboundary impacts as follows:

“Without limiting the jurisdiction of NIRB or EARP as set out in this Article, the Government of Canada and the Territorial Government, assisted by NIRB, shall use their best efforts to negotiate agreements with other jurisdictions to provide for collaboration in the review of project proposals which may have significant transboundary ecosystemic or socio-economic impacts.”

A project which causes negative effects to Beverly caribou on the calving ground has the potential to contribute to the decline or restrict the recovery of Beverly caribou, and will therefore have

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transboundary ecosystemic and socio-economic impacts in the NWT and Saskatchewan portions of the herd's range. NIRB has acknowledged this by including in the draft guidelines:

- under Sec. 6.4 Spatial Boundaries, directions to Uravan to consider the complete annual range of the Beverly caribou herd (p. 19) and use of a Regional Study Area that includes area outside Nunavut for assessing cumulative biophysical and socio-economic effects (p. 20).
- Under Section 14.1.6 Cumulative effects of the project, instructions to "give due consideration to transboundary impacts, including the effects of the project outside Nunavut. . ." (p. 39)

However, to our knowledge, agreements have not been negotiated with governments or regulatory agencies in the NWT and Saskatchewan for collaborative review of this project proposal. This appears to be a violation of the NLCA requirement outlined in Sec. 12.11.2.

This is a precedent-setting review that needs to send a clear message to industry about the appropriateness of conducting mineral exploration and development activities on caribou calving grounds. As outlined in the *Guide to the NIRB Review Process*, one of the functions of the NIRB's review process is to determine "whether Project Proposals should proceed" (p. 2). ***The BQCMB therefore advises that the NIRB should determine, on the basis of its review, that this project should not proceed.***

Thank you for the opportunity to provide further input for this project review. Please let me know if you require further information or have any questions about these comments from the BQCMB.

Sincerely,

[original signed by]

Leslie Wakelyn
BQCMB Biologist

cc: Albert Thorassie, BQCMB Chairperson
Chair, Baker Lake HTO Board
Florence Catholique, Manager, LKDFN Wildlife, Lands and Environment Department
Ron Robillard, Chief Negotiator, Athabasca Denesuline