

The federal Guidelines state that "Service to the public and not adherence to market rates influences the remuneration of the highest executive levels". The NWMB provides a service to the public as important as that of any board, tribunal or commission in Nunavut and its members should receive remuneration equal to their peers in the NIRB and NWB. The inequity leads to the perception that the Government of Canada values highly those bodies such as the NIRB and NWB, which facilitate the activities of industry in Nunavut, but does not take as seriously the IPG responsible for the management of the resource most closely connected to the day-to-day welfare of Inuit.

In my view the disparity is simply an aberration that must be corrected, for the sake of providing "fair and reasonable remuneration", as required by Article 5.2.20. Whether this will require reclassification of the Board, changes to the classification criteria themselves, or simply moving the NWMB out of the classification structure altogether and into the realm of contract (where it was originally) I leave to the parties to decide.

Canada has suggested that reclassification of the Board or increasing its honoraria may have broader implications for wildlife management boards in other jurisdictions. I would be surprised if there are bodies in the other territories the scope and scale of whose activities are truly comparable to that of the NWMB in Nunavut. It seems to me to be a singular case. However, it is for Canada to decide on the measure of remuneration for members of those other bodies, and I do not offer a view on the broader question.

The HTOs in each of the 28 communities of Nunavut are funded by Canada through the NWMB. Under Article 5.7.13 of the NLCA, it is provided that:

Adequate funding for the operation of HTOs and RWOs shall be provided by the NWMB.

The HTO is a central body in Inuit communities. In a 1993 Report by RT & Associates, it was reported that 90% of Nunavut households relied on harvesting of country food.¹ In addition to the assistance it provides for subsistence hunters, trappers and fishers in the community, the HTO also assists in the application for and distribution to beneficiaries of benefits under the NLCA. As well it supervises, monitors and reports harvesting activity in the community and outpost camps, provides a regulatory role for local guides and outfitters, and can sue on behalf of an Inuk.

These are only some of the formal responsibilities that have been imposed on the HTOs. Each HTO has a locally-elected Board and a single staff position. Having met with the members of the HTOs in both Pangnirtung and Clyde River, I can report that their accommodations are rudimentary. This appears to be the state of affairs throughout Nunavut. The Aarluk Consulting Report of 2004 summarized the plight of the HTOs in the following terms, a characterization that has not been disputed by any party:

HTOs, which, for the most part, are one-person operations, are also responsible for a much broader range of obligations, programs and services than originally conceived, but without a concomitant increase in resources, staffing, training, or policy support. Expectations and demands are growing: neither resources nor capacity, by and large, are keeping pace.

¹ Légaré, supra note 17 at p. 132.

It may be true that, once a consistent professional presence is established in most or all of the HTOs, a more accurate assessment can be made of particular community and regional needs, and the available funds can be redistributed to better serve the wildlife management goals of the NLCA. However, for the time being, it makes sense to me to fund all of the 27 HTOs equally, and at a level sufficient to address these concerns.

The role of HTOs can be expected to evolve as the Inuit struggle to maintain their connection to the land. It is routinely predicted that the subsistence economy based on hunting, fishing and trapping will disappear. But it never does. I do not think that its place in Nunavut is likely to diminish. It is desirable that each HTO be able to maintain a strong and consistent presence, with long-term staff and officers in place and properly supported. A strong professional core in the HTOs will also diminish the risk of program abuses that are said to have occurred in the past.

In the 5 Year Review in 1999, it was noted that both the RWOs and the HTOs identified a need for more resources for HTOs. Nevertheless, the Review listed the funding obligations as being met on an ongoing basis, apparently because the HTOs were unable to clearly articulate their needs.

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As I have suggested, until a level of funding sufficient to support a stable, long term management and board is in place in each community and some expertise and experience has been gained, even basic project and budget proposals will be difficult to put together.

Predicting the HTOs' needs over a 10 year period is not easy. HTO funding must be sufficient to enable them to attract qualified staff, including at least one full-time equivalent position for each HTO at a competitive rate of pay. So also HTO funding must be sufficient to provide fair and reasonable honoraria for HTO Board members, and to provide them with the office and facility support necessary to operate professionally, to the extent that the environment will permit. In my view a substantial increase is appropriate. I am persuaded that the level of funding recommended in the Aarluk report represents the minimum level of support required to enable the HTOs to fulfill their role under the NLCA. I would expect that the Government of Nunavut will continue to top this up at an amount at least equal to the current level in recognition of the HTOs' important role in the communities.

The NWMB and the Implementation Panel must oversee the development of the wildlife management system into a cohesive Territory-wide organization. It may be that, as this effort unfolds, the NWMB may wish to reallocate the HTOs' funds to better address regional and community circumstances. But this should be approached with caution. If the system is to recover from its recent troubles, it must be done from the grass roots up, with good management in the HTOs as well as with improved oversight from above.

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Regional Wildlife Organizations (RWOs) are mandated under Article 5, Part 7 of the NLCA to provide a forum for coordinating and regulating Inuit harvesting at a regional level. Ideally, the RWOs provide a conduit through which the Board's decisions are acted upon in the communities; they also represent the interests of their communities and regions to the Board.

All parties agree that the RWOs are crucial to the success of a renewed wildlife management regime in Nunavut. The parties also agree that a 'fresh start' for the RWOs means adequate funding and other initiatives to streamline management practices. At present, the parties are agreed that the appropriate funding for each RWO is \$230,000 per year. It would therefore appear that the parties do not require my guidance here.

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Article 11.4.1 of the NLCA provides:

A Nunavut Planning Commission (NPC) shall be established with the major responsibilities to:

establish broad planning policies, objectives and goals for the Nunavut Settlement Area in conjunction with Government;
develop, consistent with other provisions of this Article, land use [³] plans that guide and direct resource use and development in the Nunavut Settlement Area; and
generally, fulfill the objectives of the Agreement in the manner described, and in accordance with the general principles mentioned in Section 11.2.1, as well as such additional functions as may be agreed upon from time to time by Government and the DIO.”

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The size of the Commission may vary, but the Agreement requires that the Inuit nominate a number of members equal to the total number recommended by the governments of Canada and Nunavut. The members are then appointed by the Minister of Indian Affairs and Northern Development on the basis of these recommendations and nominations; the Minister also appoints a chair, nominated by the members.

The NPC's main function is to develop land use plans, policies and objectives to guide resource use and development throughout Nunavut.

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The Planning Commission has for several years been mapping wildlife populations, migratory routes, human use, waste sites and areas of archeological significance. This mapping work combines the traditional knowledge of the Inuit with the best available science, fed through the latest computer mapping technology; its objective is to produce a comprehensive land use plan for each of the NPC's six planning regions.

The NPC, in its 10-year funding submission, says:

The past two years has seen a major shift in how the Commission collects data, we have moved towards a methodology which involves doing map biographies which substantively increases the accuracy of our data for use in making land use decisions. Over time it will be an important tool which will enable communities to make informed decisions based on traditional land use and occupancy. A recent operational planning session identified that it will take up to 12 years to produce land use plans for each region in Nunavut. As a result of that session the Commission is considering a Nunavut wide planning process which could effectively create a Nunavut Land Use Plan in the next 4-6 years provided that sufficient staff and resources to fully consult with communities, stakeholders, industry and government are available to the

³ The term "land use" also includes water, wildlife and offshore areas.

Commission. Sub regional plans could then be produced later under the umbrella of the Nunavut Plan. Our focus over the last few years has been in the West Kitikmeot which the Commission has found extremely challenging; the absence of land use planning legislation for Nunavut has frustrated and delayed successful land use planning in the Region. Recently the Government of Nunavut and Canada has agreed to meet and work on 11.4.1 issues at the senior level which should provide needed guidance in broad policies and goals for land use planning. This should enable all parties to move forward towards ensuring that land use planning is implemented in Nunavut.

The NPC has also said:

High commodity prices could open up huge areas and result in accelerated development in the Arctic. Road developments such as the Bathurst Project and the Keewatin to Manitoba Road have the potential to open up valuable resources which will involve marine and overland issues. Pressures from oil and gas exploration and development namely the community of Coral Harbour request to remove the moratorium on oil and gas could open these areas up for development. Diamond interests in the West Kitikmeot are developing along with gold prospects out of Rankin Inlet. Increased development will certainly result in a requirement for increased monitoring of both the ecosystem and social environment. Projects such as this will certainly put a strain on the NPC and its resources. Our submission for the 10 year period has taken into account normal increases in workload but consideration has to be given to the NPC when considering the volume of development activity. The land use planning process is doing its best to keep up to a rapid and constantly evolving development climate.

In my view the proposal to complete the Nunavut Land Use Plan in 4 to 6 years is sound and funding ought to be provided. Nunavut is undoubtedly experiencing an unprecedented rush for prospecting permits, mineral leases and claims. But the rate and extent of future industrial development on the Arctic frontier is not something known to any of us. Nunavut may or may not be on the cusp of extensive mineral development. I think the NPC must, however, proceed as if it were. The sooner land use planning is completed, the better the prospects for orderly development.

Canada has offered approximately \$3.3 million per annum. However, the NPC itself has now submitted, in response to Canada's last proposal, a proposed budget of \$3,890,855.09. There is a gap of \$591,703.41.

The NPC has indicated that it needs additional funds (beyond those proposed by Canada) in order to open and staff an office in Iqaluit (the NPC's headquarters are in Cambridge Bay), professional training for Board members and staff, beefing up communications, data acquisition and digitizing, map biographies, etc.

The disagreement between the two sides' budget figures is premised on particular line items, many of which are related to the proposed establishment of an office in Iqaluit.

The establishment of an Iqaluit NPC office may well be a good idea. But Canada has, as yet, had little opportunity to consider the proposal and no opportunity to advise me as to the government's position. This is another area, therefore, that could and should be resolved through negotiation among the parties.

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NTI has suggested that I should make recommendations regarding the funding of NPC to enable it to play its part in developing a general monitoring plan pursuant to Article 12.7.6 of the NLCA, which provides:

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There is a requirement for general monitoring to collect and analyse information on the long term state and health of the ecosystemic and socio-economic environment in the Nunavut Settlement Area. Government, in co-operation with the NPC, shall be responsible for developing a general monitoring plan and for directing and co-ordinating general monitoring and data collection. The NPC shall:

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in accordance with the plan, collate information and data provided by industry, government departments and agencies, amongst others;