June 20, 2018

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act FLR/64/2018

On May 23, 2018, the Department of Fisheries and Land Resources (FLR) received your request for access to the following records:

“All records of any nature (notes, messages, discussion papers, background docs, emails and attachments, transcripts etc.) that relate to the following: 1) The rationale involved in the decision made by the GNL to reject the Endangered Status recommendation, put forth by the 2017 COSEWIC Assessment Report, with respect the George River Caribou Herd. Information to include, but shall not be limited to, a copy of the official response to the COSEWIC report and/or recommendations. 2) The May 2, 2018 phone interview between CBC Labrador Morning and Minister Gerry Byrne 3) Clarification on if, or how, the recently released Federal Caribou Plan will impact the protection and conservation of the George River Caribou Herd, if at all”

Clarification email was sent on June 5, 2018 to revise the request to the following:

“All and all material provided to the Minister regarding GRCH since the COSEWIC report was received to May 24, 2018. As well please provide a response to whether or not the province has to adhere to the federal recovery strategy. Please provide any communications records ie. Key messages provided to Minister Byrne relating to his CBC GRCH interview. Please provide an update of the current status for the GRCH and update of any work happening relating to GRCH”.

Please be advised that a decision has been made by the Deputy Minister for FLR to provide access to the requested information. Redactions have been made under Section 29 Policy advice or recommendations. You will find a copy of responsive material attached.

“All and all material provided to the Minister regarding GRCH since the COSEWIC report was received to May 24, 2018.”

Please see attached record.

“As well please provide a response to whether or not the province has to adhere to the federal recovery strategy.”

No responsive records.
“Please provide any communications records ie. Key messages provided to Minister Byrne relating to his CBC GRCH interview.”

Please see attached record.

“Please provide an update of the current status for the GRCH and update of any work happening relating to GRCH”.

The Department of Fisheries and Land resources will complete a population census this summer and work is ongoing in relation to the George River caribou.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P.O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that this letter will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement's website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-4797 or by email at JasonWhiteway@gov.nl.ca

Sincerely,

[Signature]

Jason Whiteway
ATIPP Coordinator
Right of access

8. (1) A person who makes a request under section 11 has a right of access to a record in the custody or under the control of a public body, including a record containing personal information about the applicant.

(2) The right of access to a record does not extend to information excepted from disclosure under this Act, but if it is reasonable to sever that information from the record, an applicant has a right of access to the remainder of the record.

(3) The right of access to a record may be subject to the payment, under section 25, of the costs of reproduction, shipping and locating a record.

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.
(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

**Direct appeal to Trial Division by an applicant**

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).
Information Note
Department of Fisheries and Land Resources

Title: Listing of the George River and Torngat mountains caribou herds as *Endangered* under the Endangered Species Act.

Issue: Considering a listing under the *Endangered Species Act* for the George River Caribou Herd (GRCH) and the Torngat Mountains Caribou Herd (TMCH). This note was prepared at the request of the Minister of Fisheries and Land Resources to provide information to Premier’s office.

Background and Current Status:
- The GRCH has long been used by indigenous groups, residents, non-residents and businesses in Labrador and Quebec as a source of food, recreational activity, and economic benefit. Caribou on the Ungava Peninsula have important social, dietary and cultural ties to many different indigenous groups. At peak population, close to 45,000 caribou were harvested annually.

- Management of the GRCH is the responsibility of the Governments of Newfoundland and Labrador (NL) and Quebec (QC).

- The GRCH has undergone a significant population decline in the recent past. In 1993, the population was estimated to be 775,000. This declined to 385,000 animals in 2001. The most recent population estimate from a July 2016 census was 8,938 animals; a population decline of greater than 99.5% since 1993.

- The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) is an independent body comprised of science experts, who meet twice a year, to assess status of any wildlife in Canada that may potentially be at risk and to make recommendations to the Federal Minister of Environment and Climate Change Canada. COSEWIC met (April 23-29, 2017) for their spring Wildlife Species Assessment Meeting; included on the list of species assessed was the Eastern Migratory Caribou unit. This unit is comprised of migratory Woodland Caribou from Manitoba, Ontario, Quebec and Labrador.

- The Province and the federal government received the formal recommendation for listing of GRCH as endangered from COSEWIC on October 24, 2017. Torngat Mountains Caribou unit was assessed at the fall COSEWIC Meeting in Ottawa in November of 2016, and was also included in the October 24th, 2017 report as endangered.

- Section 8 of the provincial *Endangered Species Act* (ESA), provides that the Lieutenant-Governor in Council (LGIC), shall, within 90 days (January 24, 2018 deadline) of the minister receiving an assessment by COSEWIC, either give the minister approval to designate the species in the recommended category, designate the species in a different category and release to the public the reason for using a different category, or make no designation and release to the public the reason there will be no designation.

- Should the herd be listed under the provincial ESA, prohibitions against, killing, harming or harassing animals would immediately come into effect, a recovery team would be required, and a recovery plan would have to be developed within one year of listing.

- In addition to the province being required to consider designating the species as endangered under provincial legislation, the federal government, through the federal
Species at Risk Act (SARA) is required make a public response on the COSEWIC recommendation and the federal intent to proceed with listing and commence a 150 day consultation period. The federal Minister of Environment and Climate Change Canada has nine months in total to make a listing decision. This means that the provincial response is required before the federal response.

- The provincial ESA suggests habitat protection, where appropriate, but does not obligate the province to put habitat protection in place. However, SARA requires the province to delineate and protect critical habitat, if it is listed as endangered under SARA.

**Analysis:**
- This is the first time the committee has examined the status of caribou belonging to the Eastern Migratory Unit and has assessed the unit as endangered.

- The COSEWIC recommendations are public and stakeholders will be anticipating an endangered listing under both the ESA and SARA.

- On October 17, 2017 the Ungava Peninsula Caribou Aboriginal Round Table (UPCART) released a management strategy for the GRCH. All of the indigenous groups with a connection to this herd have signed the management strategy. This strategy will be considered in the context of the proposed listing.

- UPCART is a “self-organized” round table of all the Indigenous Peoples of the Ungava Peninsula, formed in 2013, to act as an advisory body for the conservation and management of the caribou of Ungava. Membership includes Nunatsiavut Government, NunatuKavut Community Council, and Innu Nation from Labrador, and the Cree, Naskapi, Inuit and Innu of Quebec, including six Quebec communities with asserted Aboriginal rights in Labrador.

**Action Being Taken:**
- Key messages are attached. Minister of Fisheries and Land Resources will speak to this issue in the media.
- Intergovernmental and Indigenous Affairs has been advised and has been provided with a copy of the COSEWIC Annual Report.
Annex A

Fisheries and Land Resources
George River Caribou Endangered
May 1, 2017

Summary
In the annual report released October 24, 2017 the Committee on the Status of Endangered Wildlife in Canada has made a recommendation to the Government of Newfoundland Labrador and the federal government to list the Eastern Migratory caribou population (George River Caribou Herd) and the Torngat Mountain Caribou Herd (TMCH) as Endangered.

Key Messages
• The committee on the Status of Endangered Wildlife in Canada (COSEWIC) met in released its annual report on October 24, 2017. The Eastern Migratory caribou population (George River Caribou Herd) and the Torngat Mountain Caribou Herd (TMCH) were recommended for an Endangered listing under Federal and Provincial legislation.

• We appreciate the work of COSEWIC and the advice they provide to the Newfoundland and Labrador and other jurisdictions across Canada on the status of wildlife.

• With the reception of this recommendation the Provincial Government will formally begin consideration of these herds for listing under our Endangered Species Act.

• The COSEWIC assessment further confirms that the need for conservation of the George River Herd Caribou herd is paramount. We would like to take this opportunity to remind residents that the hunting ban for the George River Caribou remains in effect and is essential to the herd’s recovery.

• The Government of Newfoundland Labrador is already working diligently to collect scientific data, monitor the herds, and maintain current protective measures.

• The Government of Newfoundland Labrador remains committed to work with indigenous governments, communities and organizations as well as our colleagues in the federal government, Quebec to make sound decisions about future conservation strategies and ensure we do everything we can to recover the George River Herd.
KEY MESSAGES

Fisheries and Land Resources
Provincial response to federal report on critical boreal caribou habitat
May 1, 2018

Summary:

- Environment and Climate Change Canada has released its *Progress Report on Unprotected Critical Habitat for the Woodland Caribou Boreal Population in Canada*.
- Federal efforts to support caribou recovery have focused on protecting habitat, leaving the pressing matter of unsanctioned harvesting unaddressed.
- Unlike the situation in almost all other jurisdictions, the habitat of boreal caribou of Labrador (Red Wine Mountains, Lac Joseph and Mealy Mountains herds) is effectively pristine. The average level of human disturbance across the range of all three herds is two per cent.
- The decline and continued low abundance of these herds has been driven by a combination of natural population cycles and unsustainable and unsanctioned harvesting.

Anticipated Questions:

- Why have the Provincial and Federal Governments failed to protect Labrador caribou?

Key Messages:

- Although well intended, the Federal Government’s one-size-fits-all national strategy focusing on habitat protection and range planning, rather than on addressing the unsanctioned harvest, may be counterproductive for the herds in Labrador.
- Boreal herd recovery efforts in Labrador are hampered by the human and financial resource challenges that accompany the vastness and remoteness of the landscape. To maximize their effectiveness, all available resources must be carefully managed and address the primary threat to recovery: elimination of the unsanctioned harvest.
- For many years provincial officials have identified harvesting as the key threat to boreal caribou herds in Labrador, noting the habitat for these animals is well above the federal guideline of being 65 per cent intact.
- Despite clear communication that the primary risks to the boreal herds of Labrador is unsanctioned harvesting, and at the expense of more relevant
recovery actions, almost all federal government communications and actions have continued to focus on a habitat threat that does not exist.

Secondary Messages:

- Since 2009, provincial officials have continually sought federal collaboration on enforcing the *Endangered Species Act* with respect to the harvesting of boreal caribou in Labrador, the movement of the harvested animals across the Quebec border, and stakeholder engagement. Only in 2016 did the federal government agree to engage stakeholders on the status of boreal caribou and to start working with the province on a stewardship-based approach to reduced harvesting.

- Boreal caribou found in southern Labrador, specifically the Lac Joseph, Red Wine Mountains and Mealy Mountains caribou herds, are considered *Threatened* and have been protected under the Newfoundland and Labrador *Endangered Species Act* since July 2002. The herds were also listed as *Threatened* under the federal *Species at Risk Act* in June 2003.

- A broader, deeper partnership with the Government of Canada focused on specific, realized threats to the herds is the only way to conserve boreal caribou in Labrador.

**Prepared by:** FLR Communications

**Approved by:** FLR Executive