



## Beverly and Qamanirjuaq Caribou Management Board

15 January 2019

Director General, Assessment and Regulatory Affairs  
Canadian Wildlife Service  
Environment and Climate Change Canada  
351 St. Joseph Blvd  
Gatineau, QC K1A 0H3

By email: [ec.registrelp-sararegistry.ec@canada.ca](mailto:ec.registrelp-sararegistry.ec@canada.ca)  
[ec.leprpn-sarapnr.ec@canada.ca](mailto:ec.leprpn-sarapnr.ec@canada.ca)  
[ec.sarnt-lepnt.ec@canada.ca](mailto:ec.sarnt-lepnt.ec@canada.ca)

### **Information Request re: Proposed Federal “Threatened” Listing of Barren-ground Caribou**

I am writing to request a response from Environment and Climate Change Canada (ECCC) to some initial questions and comments from the Beverly and Qamanirjuaq Caribou Management Board (BQCMB or Board) regarding the proposed listing of barren-ground caribou as a threatened species under the federal *Species at Risk Act (SARA)*. For clarity, please note that this submission does not provide the Board’s position or comprehensive comments on the listing proposal. We will comment more fully on implications of the listing proposal after we receive a response to our questions and uncertainty is reduced.

The attached questions and comments arose primarily from discussions during the BQCMB’s spring and fall 2018 meetings, which followed a presentation by ECCC staff on this listing proposal at the Board meeting in early May. These questions are also informed by discussions during and after other meetings over the past year, including those held in communities in Nunavut (Kivalliq and Kitikmeot regions) and northern Saskatchewan. Some of the questions have been raised repeatedly by BQCMB members and others who participated in these meetings. In each case ECCC staff were unable to provide answers that satisfied Board members.

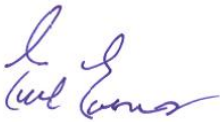
Additional questions are based on our review of the consultation document that was circulated by ECCC in February 2018 (“Consultation on Amending the List of Species under the *Species At Risk Act - Terrestrial Species - January 2018*”). We found this document to be helpful, but too much uncertainty remains concerning the impacts of the proposed listing of barren-ground caribou on harvesting and related activities. As a result, the BQCMB is currently unable to formulate a position on the proposal.

We are requesting that ECCC develop clear answers to these questions *in plain language* and bring your responses and the results of your consultations to the spring 2019 BQCMB meeting, which will be held April 30-May 2 in Winnipeg. The Board is hopeful that it will be able to submit more comprehensive comments on the federal listing proposal following that meeting.

We appreciate this opportunity to make a submission requesting additional information. We are also grateful for the efforts made by ECCC staff from both Northern and Prairie regions to provide the BQCMB with information on this matter for our bi-annual Board meetings, as well as their ongoing engagement.

If you have any questions about this letter, please contact Leslie Wakelyn, BQCMB Contract Biologist ([wakelyn@theedge.ca](mailto:wakelyn@theedge.ca)), or Ross Thompson, BQCMB Executive Director ([rossthompson@mymts.net](mailto:rossthompson@mymts.net)).

Sincerely,



Earl Evans  
BQCMB Chair

Attachment

cc.

Athabasca Denesuline Né Né Land Corporation  
Government of Nunavut, Department of Environment  
Government of the Northwest Territories, Environment and Natural Resources  
Kivalliq Wildlife Board  
Lutsel K'e Dene First Nation  
Manitoba Sustainable Development  
Northlands Denesuline First Nation  
Northwest Territory Métis Nation  
Nunavut Tunngavik Incorporated  
Nunavut Wildlife Management Board  
Saskatchewan Ministry of Environment  
Sayisi Dene First Nation

**Attachment: Initial Questions and Comments from the BQCMB regarding the Proposal to List Barren-ground Caribou as a Threatened Species under the Federal *Species at Risk Act (SARA)***

**Key Information Provided to the BQCMB**

The following selected excerpts from the Consultation Document<sup>1</sup> and similar information provided to the BQCMB in the presentation by ECCC staff in May 2018 have raised questions and resulted in a need for clarification. (Questions and requests for clarification are provided below.)

***From “Significance of the Addition of a Species to Schedule 1” (p. 10):***

- a) “SARA establishes legal protection for individuals as soon as a species is listed as Threatened, Endangered or Extirpated, and, in the case of Threatened and Endangered species, for their residences. This applies to species considered federal species or if they are found on federal land.”
- b) “In the territories, the protection for species at risk on federal lands applies only where they are on lands under the authority of the Minister of the Environment or the Parks Canada Agency.”
- c) “SARA’s protection for individuals makes it an offence to kill, harm, harass, capture or take an individual of a species listed as Extirpated, Endangered or Threatened. It is also an offence to damage or destroy the residence of one or more individuals of an Endangered or Threatened species . . . The Act also makes it an offence to possess, collect, buy, sell or trade an individual of a species that is Extirpated, Endangered or Threatened.”
- d) “The application of protections under SARA to a species at risk on non-federal lands requires that the Governor in Council make an order defining those lands. This can only occur when the Minister is of the opinion that the laws of the province or territory do not effectively protect the species.”
- e) “Recovery planning . . . involves the different levels of government responsible for the management of the species. . . These include federal, provincial and territorial governments as well as Wildlife Management Boards. Recovery strategies and action plans are also prepared in cooperation with directly affected Indigenous organizations.”

***From “Who is consulted, and how” (p. 9):***

- f) “Some eligible species at risk are found on lands where existing land claims agreements apply that give specific authority to a Wildlife Management Board. In such cases, the Minister of the Environment will consult with the relevant board. “
- g) “SARA requires that recovery measures be prepared in consultation with those considered to be directly affected by them.”

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<sup>1</sup> Consultation on Amending the List of Species under the *Species At Risk Act* - Terrestrial Species - January 2018.

- h) “Environment and Climate Change Canada consults on listing with the governments of the provinces and territories with lead responsibility for the conservation and management of these wildlife species.”

***From Consultation Document Glossary (p. 16-17):***

- i) “Federal land: Any land owned by the federal government, the internal waters and territorial sea of Canada, and reserves and other land set apart for the use and benefit of a band under the *Indian Act*.”
- j) “Wildlife Management Board: Established under the land claims agreements . . . , Wildlife Management Boards are the “main instruments of wildlife management” within their settlement areas. In this role, Wildlife Management Boards not only establish, modify and remove levels of total allowable harvest of a variety of wildlife species, but also participate in research activities, including annual harvest studies, and approve the designation of species at risk in their settlement areas.”

**BQCMB Comments and Questions**

**A. Primary general questions**

- 1) Which lands are considered to be “federal lands” under the federal SARA in each jurisdiction of the historic Beverly and Qamanirjuaq caribou ranges? (Please refer to Map 1 attached.)

We request clarification regarding lands currently administered by the federal government in Nunavut, lands in the NWT recently devolved to the GNWT, First Nation reserve lands in Saskatchewan and Manitoba, and lands subject to ongoing negotiations for Treaty Land Entitlement settlement agreements and land claim agreements.

- 2) What are the implications of listing under SARA for harvesting opportunities and rights?

The Board is interested in responses regarding both the most general case and for Indigenous peoples specifically, including the Inuit, Dene, Cree and Metis peoples that have historically harvested and/or currently harvest Beverly and Qamanirjuaq caribou.

- 3) What is meant by “consultation” under SARA?

We would like to know more about the roles that would be played in decision-making for listing and recovery planning processes by the various parties that would be impacted or which have authority for caribou management. These parties would include the BQCMB and relevant Indigenous organizations, wildlife management boards and governments from across the Beverly and Qamanirjuaq ranges.

## **B. Additional specific questions**

### ***Jurisdiction of SARA***

- 1) According to the definition, the Nunavut Wildlife Management Board (NWMB) is the only wildlife management board recognized under the federal *SARA* for the historic Beverly and Qamanirjuaq caribou ranges. The NWMB is the “main instrument of wildlife management” in Nunavut, and has an established and proven co-management process for establishing harvest restrictions where necessary.
  - We request that you:
    - a) confirm that ECCC recognizes the existing authority and role of the NWMB.
    - b) clarify the jurisdiction of the federal *SARA* in the Nunavut Settlement Area regarding:
      - approving a designation of species at risk,
      - establishing, modifying or removing levels of total allowable harvest, and
      - playing a role in harvest management.

### ***Automatic prohibitions against killing or harming caribou upon listing***

- 2) Please clarify on what federal lands on Beverly and Qamanirjuaq caribou range automatic prohibitions against killing or harming caribou would apply.
- 3) What impact would listing have on caribou harvesting in the following areas, which are located on Beverly and Qamanirjuaq caribou range in the NWT and/or Nunavut (see Map 2):
  - Wood Buffalo National Park and proposed Thaidene Nëné National Park Reserve,
  - Queen Maud Gulf Migratory Bird Sanctuary and McConnell River MBS,
  - Thelon Wildlife Sanctuary,
  - Thelon and Kazan Heritage River areas, and
  - Interim Measures Agreement lands.
- 4) What impact would listing have on caribou harvesting in the following areas located on Beverly and Qamanirjuaq caribou range in Saskatchewan and Manitoba:
  - Wapusk National Park,
  - First Nation reserve lands, and
  - provincial lands not under the authority of the Minister of the Environment or the Parks Canada Agency?
- 5) Would automatic prohibitions apply to:
  - territorial lands in NWT that were recently (2014) devolved to the GNWT,
  - federal lands to be devolved to the Government of Nunavut,
  - Inuit-owned lands in Nunavut?
- 6) Would there be areas with exemptions to automatic prohibition against killing or harming caribou by Indigenous people on federal lands and would these apply for all Indigenous peoples with established or asserted rights or only where rights have been established through finalized Treaty Land Entitlement settlement agreements and land claim agreements?

### ***Possible future restrictions on harvest on non-federal lands***

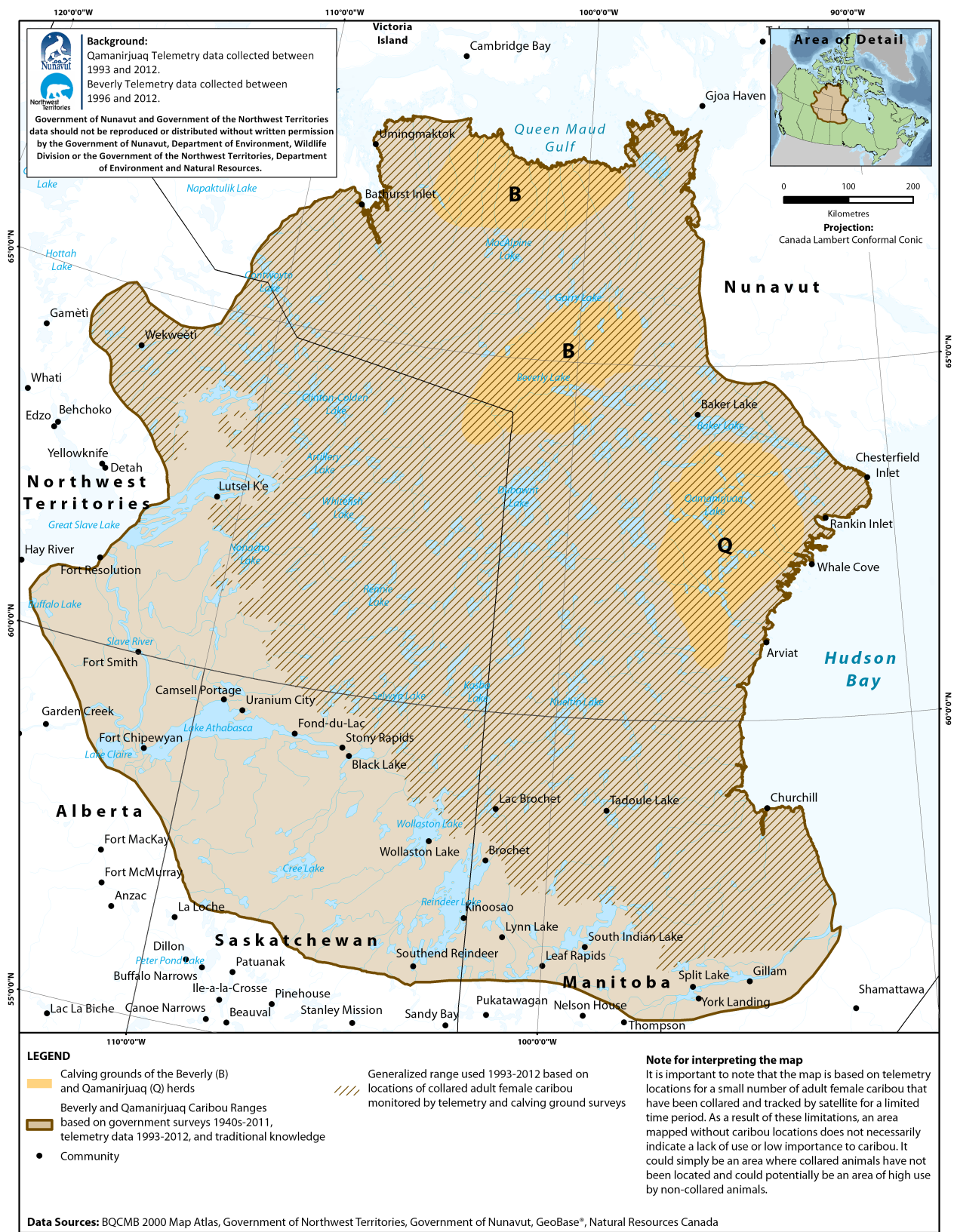
- 7) If ECCC decides that future restrictions on harvest are needed on non-federal lands under SARA, what is meant by “the Minister of the Environment will consult with impacted WMBs and Indigenous organizations”?
- What role would WMBs and Indigenous organizations play in decision-making processes?
  - What role would governments responsible for caribou management play in decision-making processes?

### ***The consultation process***

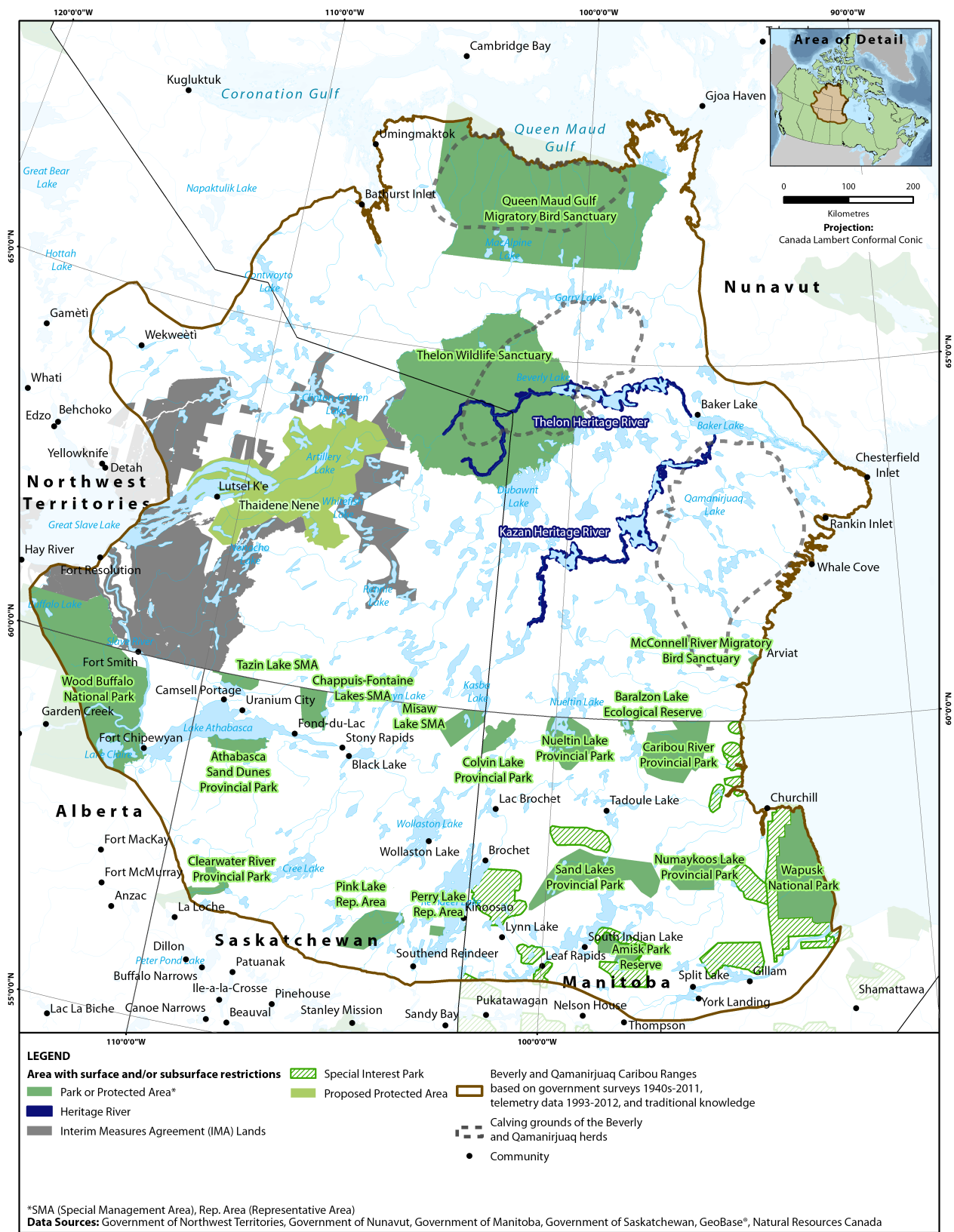
- 8) Regarding the joint ECCC/GNWT consultation package distributed to NWT, Saskatchewan and Manitoba community and regional organizations and to Nunavut Tunngavik Inc. in Sep/17:
- How were communities identified to be eligible for receipt of the consultation package?
  - What type of follow-up was conducted by ECCC after circulation of this written information?
  - Did GNWT hold in-person meetings with community and regional organizations across the Beverly and Qamanirjuaq ranges? If so, where and when were these meetings held and was information provided about both the territorial and federal caribou listing proposals?
- 9) How is ECCC providing information and collecting input on the proposed federal listing of barren-ground caribou from communities across the Beverly and Qamanirjuaq ranges?
- Was written information provided to community and regional organizations specifically on the proposed listing of caribou, or only with the proposed amendment for all 21 terrestrial species?
  - What follow-up was conducted or is planned for ECCC’s in-person presentations made to Hunters and Trappers Organizations in the Kitikmeot and Kivalliq communities and at regional meetings for northern Saskatchewan and Manitoba communities?
  - How will input received during community consultations be used to inform the recommendations made to the Minister on the federal listing of barren-ground caribou?

### ***Recovery Planning***

- 10) What would “involvement” of governments responsible for the management of barren-ground caribou and “cooperation” with directly affected Indigenous organizations mean in terms of roles, responsibilities and decisions made during recovery planning?
- 11) Who would pay the costs of activities required for this involvement and cooperation, including participation in recovery planning meetings?



Map 1. The Beverly and Qamanirjuaq caribou ranges based on caribou distribution information from government surveys (1940-2011), tracking collared adult female caribou by telemetry (1993-2012) and traditional and local knowledge of caribou harvesters. (From: BQCMC 2014. Beverly and Qamanirjuaq Caribou Management Plan 2013-2022)



Map 2. Protected areas and other areas with restrictions on land use within the Beverly and Qamanirjuaq caribou ranges in 2013. (From: BQCMB 2014. Beverly and Qamanirjuaq Caribou Management Plan 2013-2022)