



Yukon
Ombudsman

Wildlife harvest quota system change for outfitters

Investigative Report



Wildlife harvest quota system change for outfitters

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Pursuant to section 11 of the *Ombudsman Act*

Authority: Department of Environment

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Summary

On June 2nd, 2025, an outfitter (Complainant) complained to the Ombudsman that the Department of Environment (Authority) unfairly ended multi-year quota allocations for wildlife harvesting.

The Authority made this unexpected decision as part of its quota modernization initiative announced in late-2021 and implemented in early-2022, as well as its alleged section 54 legal obligation under the *Wildlife Act*.

The Ombudsman decided to investigate this matter and, on examination of the records, the investigator considered five issues: the Authority's reasons for making the quota system change, the alternatives available to it, its engagement efforts, the fairness of the quota system transition, and the fairness of the new quota system.

The investigator made the following findings:

- 1) The Authority's reasons for moving from a multi-year quota system to an annual one were principally the result of First Nations' input into wildlife management and licensed hunting between 2015 and the end of 2021. This led to the Authority's realization that the long-standing multi-year quota system did not conform with the *Wildlife Act*, requiring it to make immediate and substantive changes to the quota system.
- 2) The Authority reasonably considered alternatives to the imposition of annual quotas. This included possible *Wildlife Act* avenues to accommodate multi-year quota agreements, as well as setting out and weighing several quota options.
- 3) The Authority had a duty of procedural fairness to ensure that it provided advance notice of the quota system change so that outfitters could plan for business purposes, as well as meaningful opportunities for the outfitters to participate and be heard in the decision-making process prior to that change. It fell short of this duty, the result of which was procedurally unfair.
- 4) The transition did not notably affect the wildlife harvest available to outfitters so no unfairness occurred in that regard. Harvest numbers are the bottom line from a commercial perspective. However, the transition unfairly affected the Complainant and, to a similar degree, the outfitters as a group because of what they had to do to manage the abrupt change due to the quota system transition. That said, the Authority took reasonable measures to adjust the transition process to minimize whatever unfairness arose from transitioning to an annual quota process.

- 5) The Authority's current annual quota process embodies fairness, transparency and equity. It now engages with outfitters and First Nations over quota allocations and has been working on a multi-party participation process for revising the [Guidelines](#). However, there are significant areas known to the Authority, such the need to provide the public with more quota information, as well as the need for a consistent First Nations consultation process on harvest allocations, in which it can make improvements.

As such, the investigator made the following three recommendations:

- 1) The Authority should ensure that it engages in a timely and meaningful manner with the outfitters, as a group or individually as required, when it implements its plan to revise the [Guidelines to establish Outfitter Quotas](#) (Guidelines).¹ To that end, it must provide outfitters with sufficient and reasonable notice of this engagement process.
- 2) The Authority, in continuing to work with the outfitters on quota allocations, should provide them with a reasonable opportunity to be heard in this engagement process before making any decisions that affect their business interests.
- 3) Any decisions made by the Authority about the [Guidelines](#) revision initiative should take into reasonable consideration the outfitters' needs and circumstances.

The Authority, on receipt of the Report accepted the recommendations.

¹ In 1996, the Yukon government Cabinet created a set of guidelines to govern the establishment of multi-year quotas for big game outfitting concessions.

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Complaint

On June 2nd, 2025, an outfitter (Complainant) alleged that the Department of Environment (Authority) unfairly decided to end multi-year forward-looking quota allocations for wildlife harvesting. (Complaint)

For context, the Authority made this decision as part of its quota modernization initiative announced in 2021 and implemented in 2022, as well as its alleged section 54 legal obligation under the *Wildlife Act*.

Jurisdiction

Section 11 authorizes the Ombudsman to investigate a complaint received, subject to subsection 12(1). Having considered subsection 12(1), the Ombudsman has the necessary jurisdiction.

Explanatory Note

All section references in this investigation report (Report) are to the *Ombudsman Act* unless otherwise stated.

All references to an ‘authority’ mean an authority as set out in Schedule A of the *Ombudsman Act*.

Sections Cited

None cited in analysis.

Statutes Cited

Ombudsman Act, RSY 2002, c.163

Wildlife Act, RSY 1986, c.178

Wildlife Act, SY 2001, c 25²

Wildlife Act, RSY 2002, c.229

Concession and Compensation Review Board Regulations, OIC 1984/066

² This is the same statute as that cited in the RSY 2002 c.229 Unofficial Consolidation of the Statutes of Yukon.

Cases and Documents Cited

Cases

[Kaska Dena Council v. Yukon \(Government of\)](#), 2019 YKSC 13

[Ross River Dena Council v Yukon \(Government of\)](#), 2015 YKSC 45

Documents

[Guidelines to establish Outfitter Quotas](#)

Background

Guidelines

[1] In 1996, the then-Cabinet approved the [Guidelines to establish Outfitter Quotas](#) (Guidelines). Their purpose was to establish multi-year quotas for big game outfitting concessions by placing ceilings on the number of wildlife that outfitters could harvest and still leave room for harvesting by First Nations and resident licensed hunters.³ The [Guidelines](#) allowed for multi-year quotas and associated roll-over provisions,⁴ but they also had to apply to moose and caribou,⁵ and be consistent with the spirit of Yukon land claim agreements.

[2] In 2012, the Authority worked with the Renewable Resource Councils⁶ and outfitters on Outfitter Quota Meeting Procedures (Meeting Procedures) that established a standardized framework to assist in the organization and conduct of outfitter quota negotiations.⁷

[3] In 2016 and 2017, the Authority met on several occasions with the Yukon Outfitters Liaison Committee (YOLC) about reviewing and amending the [Guidelines](#), as prompted by a Yukon Outfitter Association concern that only the Meeting Procedures should be reviewed for the purpose of

³ The Yukon government of the day did not impose any outfitter quotas on the Liard First Nation and Ross River Dena Council Traditional Territories.

⁴ The [Guidelines](#) recommended multi-year quotas of three to five years to give commercial outfitting operations medium-term security to the particular wildlife resource, well-defined allocation formulas, and a conservation process to sustain the resource. It also recommended a roll-over in the final year of the quota.

⁵ Moose and caribou quotas were to be established by 1997. Grizzly bears and goats were already on a multi-year quota system with future quotas to apply to sheep for conservation purposes.

⁶ Yukon has 10 such councils established as part of Yukon First Nation final agreements. Each is concerned with renewable resource management (*e.g.*, fish, wildlife, habitat, and forestry) in particular Traditional Territories and also provides the Yukon Fish and Wildlife Management Board with local traditional knowledge, advice, and technical information.

⁷ Revised and renamed as the Outfitter Quota Negotiation Procedures in January of 2016, although correspondence in 2020 still uses the former name.

arriving at an all-party common interpretation of them. The Authority wanted to proceed with an internal review of both the [Guidelines](#) and the Meeting Procedures because they contained areas that required updating and posed ongoing implementation challenges. The Yukon Outfitters Association only wanted to modify the harvest management plan component with a focus on understanding how species management plans and species guidelines would influence the production of harvest plans.

[4] The Authority also advised that it was taking a different approach to working with First Nations in sorting out how, for example, it was implementing quotas in areas yet without them. In the Authority's view, its relationship with First Nations was evolving and First Nations wanted to be involved in wildlife resource management.

Court Actions

[5] In 2015, the Ross River Dena Council (RRDC) unsuccessfully took the Yukon government (YG) to court over the Authority's issuance of hunting licences in its Traditional Territory.⁸

[6] In 2017, the Kaska Dena Council (KDC), a registered BC society incorporated in 1981 to represent BC Kaska First Nations, unsuccessfully took YG to court asserting that YG had a duty to consult and accommodate the KDC prior to issuing hunting licences in the Yukon part of the Kaska Traditional Territory.⁹

Public Overtures

[7] In 2016 and 2017, the RRDC publicly called on YG for action on what it called over-hunting in its Traditional Territory. It threatened to block access by what it called outsider hunters and place a limit on moose harvesting by licensed hunters. In 2018, the RRDC again warned non-Kaska hunters that they would need a RRDC permit before hunting moose and caribou on its Traditional Territory.

[8] In 2021, the RRDC stated that it had an inherent right to manage hunting in the Kaska Traditional Territory and that both it and the Liard First Nation (LFN) were concerned with over-hunting.

⁸ *Ross River Dena Council v. Yukon (Government of)*, 2015 YKSC 45.

⁹ *Kaska Dena Council v. Yukon (Government of)*, 2019 YKSC 13.

Other Overtures

[9] In 2020, the Council for Yukon First Nations Land Resources Director's Committee advised the Authority that it had concerns with outfitter management and quota guidelines and intended to pursue them at the Yukon Forum's Fish and Wildlife Working Group.¹⁰

[10] In 2021, the LFN advised the Authority that any decision to impose moose and caribou quotas on those outfitters operating in Kaska Traditional Territory would require meaningful consultation, on a government-to-government basis. The Yukon Outfitters Association added that, given the financially devastating effect of COVID-19 on the outfitters' businesses in 2020 and its unknown effect for 2021, the quota decision was ill-timed. It also expressed concerns about some questionable actions by the Authority that pointed, in its view, to a steady erosion of the [Guidelines](#).

Legal Realization

[11] In 2021, the Authority unexpectedly learned that it did not have power under the [Wildlife Act](#) to allow for multi-year quotas and associated roll-overs. It could only impose conditions on an annual operating certificate, all of which expired every March 31 after issuance. This prevented it from assigning multi-year quotas and over-quotas as per its long-standing practice under the [Guidelines](#). As such, all quotas had to be renewed annually prior to the next hunting season. The Authority then prepared several options for the legal conformity of quotas.¹¹

Pivot Point

[12] On November 3rd, 2021, the Authority's Deputy Minister sent the Complainant and other outfitters a letter¹² advising them that, in addition to other things, it intended to embark on a consultative [Guidelines](#) revision initiative but, in the immediate, had to discontinue the multi-year quota system in favour of an annual one due to a [Wildlife Act](#) conformity problem.

¹⁰ The Yukon Forum is a platform for holding regular meetings between leaders of YG, Yukon First Nations and the Council of Yukon First Nations. Its goal is to build strong government-to-government relations and collaborate on shared priorities. The Fish and Wildlife Working Group is a subset of this entity.

¹¹ This Report will examine them in its Issues analysis.

¹² Entitled. 'Modernizing the approach to wildlife harvest allocations'.

Interim Process¹³

[13] Immediately following the above letter and into 2025, the outfitters, including the Complainant, expressed their concerns about the quota system change and challenged the Authority's legal position on the [Wildlife Act](#) in several forums.

Issues

[14] There are five issues for investigation.

- 1) What were the Authority's reasons for moving from a multi-year quota system to an annual one?***
- 2) What alternatives, if applicable, did the Authority consider?***
- 3) What engagement, if any, did the Authority undertake with outfitters in making the transition?***
- 4) Did the transition unfairly affect outfitters?***
- 5) Is the Authority's current annual quota process fair, transparent and equitable?***

Issue 1 – What were the Authority's reasons for moving from a multi-year quota system to an annual one?

The Guidelines Period

[15] The evidence shows that the multi-year quota system used by the Authority under the current [Wildlife Act](#)¹⁴ preceded the Complaint by almost 30 years. The multi-year system was set

¹³ This is the term used by the Authority to identify the 'new' quota process that followed the one established under the [Guidelines](#). The Authority intends to use this term until it convenes the [Guidelines](#) review initiative, after which time, the process and name may change. As such, this Report will use the term Interim Process.

¹⁴ RSY 2002, c.229.

out in the [Guidelines](#) established in 1996¹⁵ under the 1986 [Wildlife Act](#)¹⁶ and carried forward when new legislation was passed in 2001.¹⁷

[16] According to the Authority, the [Guidelines](#) have historically presented challenges because there are significant areas within that lack guidance. For example, it took some 25 years to get all outfitters on caribou and moose quotas as required by the [Guidelines](#). Additionally, the number of appeals received prior to the change to the Interim Process indicates that the quota process did not always have agreement by all the parties, including outfitters.

[17] According to the Complainant, however, these agreements were the product of unanimous agreement by many parties, including the Authority, and they worked without issue from 1996 onwards. Suffice it to say that both the Complainant and Authority, in having different viewpoints, demonstrated the breadth of what the [Guidelines](#) were designed to cover, encompassing as it did, commercial harvesting and wildlife resource management inclusive of other users.

[18] Under the multi-year quota system, the Complainant received two quota agreements from the Authority on October 31st, 2017, one for caribou and one for moose, for the period 2018-2022. Both agreements set out a harvest total for the full period at a rate not to exceed a specified number per year (*i.e.*, the over-quota).¹⁸

[19] These type of quota agreements essentially gave outfitters medium-term security (*i.e.*, three to five years) with the added benefit of them always knowing what the quota was for a designated species at least a one year in advance, and oftentimes five to six years in advance. It also gave them a process in 2012 to guide the conduct of their quota negotiations.¹⁹

[20] From the outfitters' perspective, the multi-year quota system and associated over-quotas continued to work well and, barring any conservation issues, were expected to remain in place for the foreseeable future. For the Complainant, this meant that once their 2018-2022 quota agreements neared expiry, they would enter into negotiations for a new five-year set. However, the

¹⁵ The [Guidelines](#) are composed of 10 recommendations, all of which inform its quota process.

¹⁶ RSY 1986, c.178.

¹⁷ [Wildlife Act](#), SY 2001, c.25. This statute was completely transferred for reference into the RSY 2002 Unofficial Consolidation of the Statutes of Yukon (c.229).

¹⁸ Over-quotas refer to maximum number of big game animals an outfitter can take in a given hunting season. For example, they may have a five-year moose quota agreement that allows them to harvest five moose per year for a total of 25 over the full term. However, they can take (for example) an over-quota of eight in any of the five years provided they do not exceed the 25 moose total. This gives them commercial flexibility to manage their advance client bookings in good or bad years.

¹⁹ The then-new Meeting Procedures governed the [Guidelines](#) quota process.

situational climate that had initially resulted in the creation of the [Guidelines](#) and quota negotiation framework had been slowly changing.

[21] When the [Guidelines](#) first came into effect, four Yukon First Nations²⁰ had signed their Final Agreements two years previous and the rest were expected to follow shortly afterwards. As such, the [Guidelines](#), as a wildlife management policy, seemed to work because it was the product of outfitter and First Nations consultation that, in addition to other things, recognized the importance of the outfitter industry and the need for a quota system to be consistent with the spirit of the Final Agreements.²¹

[22] By 2005, nine years into the [Guidelines](#), 11 of the 14 Yukon First Nations had signed Final Agreements.²² To date, three Yukon First Nations have yet to settle their land claims, inclusive of both the LFN and RRDC.

[23] When the last Final Agreement to date was signed in 2005, the RRDC and LFN had no outfitter moose and caribou quotas on their Traditional Territories, although there were several outfitters who had been operating in this area for many years. Since then, the land claims process has become more complex, along with its considerations of wildlife resource and conservation management in the face of a growing Yukon population and, in turn, increased hunting pressures.

[24] This has resulted in First Nations, including the RRDC and LFN, wanting a greater hand in harvest allocation decisions that affect the viability of subsistence hunting in their Traditional Territories. For them, this meant having substantive input into the process by which the Authority annually issued hunting licences.

[25] The evidence provides the following Kaska examples that began, collectively, to inform the Authority's need to modernize the [Guidelines](#).²³

[26] In 2015, some 10 years after the last Final Agreement had been signed, the RRDC asserted its Aboriginal rights concerning subsistence hunting and its fundamental reliance on having a sustainable wildlife population to underpin it. As such, it took YG to the Supreme Court of Yukon arguing that YG had a duty to consult with and, if appropriate, accommodate the RRDC prior to YG's

²⁰ The Champagne and Aishihik First Nations, First Nation of Na-Cho Nyäk Dun, Teslin Tlingit Council, and Vuntut Gwitchin First Nation signed their respective Final Agreements on May 29, 1993.

²¹ See [Guidelines](#) recommendations 2 and 3.

²² The Carcross/Tagish First Nation signed its Final Agreement on October 22, 2005.

²³ This Report acknowledges that, from the Authority's perspective, maturation of the Final Agreements and growing case law concerning YG's duty of consultation were also concurrently occurring but the evidence informing their effect on the [Guidelines](#), for purposes of this Report, is primarily Kaska-centric.

[Authority's] annual issuance of hunting licences in the Ross River area, as part of the Kaska Traditional Territory.

[27] The Court found that [the Authority] had substantially consulted and accommodated the RRDC in that area in the past and should continue to do so.²⁴ It added, however, that [the Authority] would benefit by convening regular and predictable, (*i.e.*, annual) consultations with RRDC when considering its annual hunting regulations. In the Court's view, this would be an effective and reliable way of ensuring that RRDC's claims to title and hunting rights within the Ross River area were recognized.²⁵

[28] Although the RRDC was unsuccessful in court, it continued to pursue a course of action in support of its inherent wildlife management rights.

[29] In the meantime, the Authority met on several occasions with the YOLC to discuss the need to review the [Guidelines](#) and identify those areas requiring revisions, in large measure because of the evolving relationship between it and First Nations in respect of wildlife management decisions.

[30] Some nine months later, in 2017, the RRDC publicly called on YG for action on what it called over-hunting in its Traditional Territory. It based this challenge on what it perceived to be excessive harvest results by outside hunters, especially from the Northwest Territories and other parts of Yukon, when compared to unsuccessful harvests by RRDC hunters. As such, it considered blockading a main access area used by licensed hunters and to place a moose quota on them.

[31] Some 10 months later, in 2018, the RRDC placed a full-page ad in a Whitehorse newspaper warning non-Kaska licensed hunters that they would need Kaska moose and caribou hunting permits to hunt on Kaska Traditional Territory, although it remained undecided on enforcement.

[32] The evidence shows that these actions reinforced the Authority's growing awareness that it had to modernize the [Guidelines](#) sooner than later for reasons that included the need for a substantive government-to-government approach to wildlife resources management.

[33] A month later, the KDC took YG to the Supreme Court of Yukon arguing that [the Authority] should have consulted with it before issuing annual hunting licences on Kaska Traditional Territory, something that local media reported as indicative of rising tension about Yukon hunting rights.²⁶

[34] When the Court reached its decision in the spring of 2019, it found that [the Authority] did not need to consult with the KDC because, as a society, it had no Aboriginal rights-bearing authority

²⁴ [Ross River Dena Council v Yukon \(Government of\)](#), 2015 YKSC 45 at paras. 1 and 95.

²⁵ *Ibid.* at para. 99.

²⁶ [Kaska Dena Council v. Yukon \(Government of\)](#), 2019 YKSC 13.

to bring the action, nor any authorization from the legitimate rights-holding groups in the Kaska First Nations (e.g., LFN or RRDC). In addition, it left to another day any resolution of the fundamentally differing views held by YG and the Kaska First Nations about sovereignty, jurisdiction, title and ownership.²⁷

[35] However, this case served to emphasize that the Authority very much needed to examine and revise the [Guidelines](#), silent in terms of the Authority's obligations to consult with First Nations. In considering this need, the Authority also learned internally that the multi-year and over-quotas in the [Guidelines](#) did not conform with the [Wildlife Act](#), the Outfitter Quota Appeal Committee had no legislative basis²⁸, and that YG was not meeting First Nations consultation obligations by relying instead on quota meeting input from Renewable Resources Councils.²⁹

[36] In the spring of 2020, the Council of Yukon First Nations (CYFN) became involved by putting the Authority on notice that its Land Resources Director's Committee intended to raise concerns about outfitter management and quota guidelines at the [next] Yukon Forum. In response, the Authority decided to attend and discuss the need for [Guidelines](#) modernization.

[37] Following this meeting, in the fall of 2020, the Authority decided to begin the process of imposing moose and caribou quotas on those outfitters who had never had such a quota and operated exclusively or principally on Kaska Traditional Territory.³⁰ In doing so, it intended to apply the [Guidelines](#) and Meeting Procedures as currently worded, with quota imposition to begin at the start of 2021.

[38] It then notified affected outfitters and the LFN about upcoming moose quota meetings to that end. The LFN responded that it would be present only as an observer because, in its view, attending did not constitute meaningful consultation insofar as protecting its Aboriginal right concerning hunting and resource stewardship. It clearly stated that it would participate on a government-to-government basis, not as an interest group.

[39] The outfitters also responded quickly. They acknowledged the quota initiative but wanted it delayed for as long as possible, citing such reasons as the financially devastating effect of COVID-19 on their businesses.

²⁷ *Ibid.* at paras 145 and 151.

²⁸ The [Guidelines](#) established the Outfitter Quota Appeal Committee.

²⁹ At such meetings, an Authority representative was generally in attendance to provide technical support and related advice.

³⁰ For clarity, this did not include the Complainant because they operated with quotas but their concession area was not located on Kaska Traditional Territory.

[40] They also cited concerns about decisions by the Authority's Minister (Minister), one of which would require moose hunting permits in an important area within the Kaska Traditional Territory despite documented recommendations and opposition. The other was the sudden cancellation, during an Authority and RRDC wildlife management dispute, of being able to hunt caribou in a particular herd on the eve of its 2018 season and, from 2019 forward, the setting of a zero caribou quota for outfitters.

[41] In addition, they cited their concern about the Authority's noticeable delay in presenting factual responses to some public statements issued by the RRDC that questioned, inaccurately in their view, the effect of outfitter hunting on wildlife populations in its Traditional Territory.

[42] Another concern included the Authority's vague reasons for bringing its intent to modernize the [Guidelines](#) to the Yukon Forum's Fish and Wildlife Working Group. This action, in their view, served as evidence that some entities wanted to drive a wedge between the outfitters and First Nations.

[43] All of the above strongly indicated to the outfitters that the Authority was steadily wearing the [Guidelines](#) away despite them having worked well for some 25 years [at the time], inclusive of its multi-year quota system. The Authority was cognisant of these concerns but took the view that the [Guidelines](#) presented challenges and needed reform. In the meantime, it continued with the moose quotas process over the next months because the [Guidelines](#) had called for their imposition [in Kaska Traditional Territory] by 1997.

[44] The Authority also became firmly convinced that the [Wildlife Act](#) did not allow for multi-year quotas and associated over-quotas. In its view, any continued issuance of multi-year quota agreements under the [Guidelines](#) would fetter the Minister's legal authority.

[45] A few weeks later, the RRDC was again in the news. Both it and the LFN were concerned about over-hunting by outfitters at the expense of subsistence hunters. The RRDC felt that the non-Indigenous outfitters operating in the area attracted trophy hunters from all over the world and, as a result, hurt the moose and caribou resource. The Authority responded publicly that licensed hunters could not be excluded from Kaska Traditional Territory and did not need First Nations hunting permits. In turn, the RRDC and LFN objected to the inadequate consultation process undertaken by the Authority in respect of the quota allocation.

[46] Such was the situation that, taken in its whole from about 2015 onwards, resulted in the Authority moving, slowly at first, away from the [Guidelines](#) and then, as momentum increased, substantially departing from them in favour of a new harvest allocation system. In the investigator's view, this momentum marked the end of the [Guidelines](#) period.

The Pivot Point

[47] This is the short period in which the Authority actively disengaged from the multi-year quota process, as implemented under the [Guidelines](#), and moved to the Interim Process.

[48] In mid-September of 2021, the Authority put together an internal [Guidelines](#) revision plan that would run until September of 2022. It viewed the new harvest allocation system, as envisaged by the plan, as the reasonable successor to the [Guidelines](#). The system reflected both the evolutionary path and current reality in which land claims and Final Agreements had to be interpreted in a manner consistent with reconciliation and, in doing so, the Crown [as represented by the Authority] having to act honourably.

[49] As such, design of the new system had to embody a wildlife management approach that focused on co-management with First Nations, rather than one driven principally by the Authority. It also had to take into consideration increased hunting pressures based on a growing population and better access to various wildlife areas. In addition, it had to incorporate Indigenous knowledge with western-based scientific data into wildlife conservation and harvest plans which, in turn, had to be flexible and adaptive.

[50] The design also had to offer a reasonable degree of commercial certainty for outfitters through procedurally fair quota assignment that factored in the effects of climate change, especially as it affected wildlife populations, territories and related ecosystems. Finally, it had to balance subsistence harvesting with licensed hunting while managing inherent conflicts of interest, especially when it came to moose, caribou and bison.

[51] The Minister weighed this plan and decided to adopt it. This meant that the Authority would soon work with First Nations, the Yukon Fish and Wildlife Management Board, Renewable Resource Councils, the Yukon Outfitters Association, and the public to launch quota process modernization.

[52] By embarking on this initiative, the Authority would have the opportunity, in its view, to meet its consultation obligations because First Nations would be involved in how quota allocations are made. It would also show First Nations that the majority of the harvest share was for subsistence hunting which, in turn, provided an opportunity for First Nations to input subsistence harvest information into wildlife management decisions.

[53] It would also serve, when revising the [Wildlife Act](#), to place the licensed hunter harvest share into the greater context of the Authority having to sustain the wildlife population and maintain subsistence harvest rights. This, in turn, would provide certainty to all user groups so that licensed residential hunters and outfitters could better plan their hunts.

[54] Finally, the initiative would set out the necessary context for revising the [Guidelines](#). This context included a possible clash between what it termed ‘modern values’ and a [Guidelines](#) result that allocated to outfitters 25 to 50 per cent of the licensed harvest share in an area of conservation concern. It also included the Authority’s First Nations consultation obligation, silent in the [Guidelines](#), to ensure that outfitter quotas conform with current legislation.

[55] In October of 2021, the Authority first advised the YOLC about the initiative at a meeting³¹ and, one week later on November 3rd, advised outfitters by letter of its intent to proceed with the [Guidelines](#) revision initiative. In that letter, it provided the following reasons for doing so:

- bring the 25-year old [as of 2021] [Guidelines](#) into conformity with the [Wildlife Act](#);³²
- reflect the Authority’s Yukon First Nations (YFN) consultation obligations;
- integrate modern adaptive management tools;
- infuse them with interpretive clarity; and
- bring consistency across both outfitting concessions and big game species.

[56] It did not elaborate on these succinct reasons but then advised that it had made three decisions to the effect that:

- it would implement [Wildlife Act](#) compliant outfitter quotas starting in 2022 but unexpired quota terms would remain in place for that particular season;
- it would review expired quotas annually unless there was a conservation concern (in which case it would notify the outfitter to discuss a quota amendment); and
- outfitters who did not currently have a caribou and/or moose quota would soon receive an Authority invitation to establish them.

[57] This change from a long-standing quota system to a new one came, however, with no substantive warning to the outfitting industry. In the investigator’s view, the culmination of an

³¹ The Authority stated that the Interim Process would consist of several initiatives, such as establishing outfitter quotas in 2022 that aligned with the [Wildlife Act](#), imposing moose and/or caribou quotas in 2022 on those outfitters who had never had them, extending quotas for those who had them in the past one year at a time with similar conditions (subject to any conservation issues), and ceasing to offer multi-year quotas and associated roll-overs because they did not conform with the [Wildlife Act](#). In addition, the grizzly bear quota process would remain unchanged for 2022, as would goat, sheep and bison quotas (where applicable), other than now renewing them on an annual basis.

³² This is a reference to the [Wildlife Act](#), RSY 2002, c.229. The [Guidelines](#) were established in 1996 under the old [Wildlife Act](#), RSY 1986, c.178.

evolution that effectively began in 2015 with a growing awareness of the Authority's consultation obligations in respect to managing wildlife resources on First Nations Traditional Territories.

Conclusion Issue 1

[58] I find that the Authority's reasons for moving from a multi-year quota system to an annual one were principally the products of transformational change between 2015 and the end of 2021 in the way in which the Authority and both the RRDC and LFN approached wildlife management jurisdiction in the Kaska Traditional Territory. This was reinforced by case law in the same period, all of which required the Authority to act honourably in its interactions with First Nations, the goal being reconciliation.

[59] In turn, this crystallized, from the Authority's perspective, in the decision to abide by the *Wildlife Act* for reasons of land claims conformity, the need to incorporate evolving wildlife management practices into a new Yukon-wide harvest allocation policy, and having to respect First Nations subsistence harvest rights. It also crystallized in the need to address hunter pressures and patterns, as well as the need to take a consistent, transparent approach to outfitter quota allocations. This included the requirement to meet its First Nations consultation duties when imposing moose and/or caribou quotas on those outfitters operating on Kaska Traditional Territory who had never had such quotas.

Issue 2 – What alternatives, if applicable, did the Authority consider?

[60] When the Authority became aware that it did not have the legal authority under the *Wildlife Act* to allow for multi-year quotas and associated over-quotas as conditions of an outfitter's operating certificate, it looked at several quota allocation alternatives.

[61] It considered, for example, the applicability of section 50, something that the outfitting industry asserted could allow for multi-year quota agreements. However, it discarded that choice because, in the Authority's view, it was not in the broad public interest in the context of wildlife resource management to accommodate multi-year quotas by re-issuing outfitting concessions for less than a 10-year term.³³

³³ Concessions are long-standing commercial enterprises that require tenured stability and predictability. Such tenure allows outfitters to plan their operations and adjust their business models with some degree of certainty. It also allows the Authority a reasonable period in which to manage land use and conflicts in respect of wildlife resources.

[62] It also considered revising section 54 but decided instead to address the whole of the *Wildlife Act* in the greater context of its *Guidelines* revisions initiative.³⁴

[63] It then settled on preparing a set of options in June of 2021 to bring its quota process into conformity with the legislation. According to the evidence, this was premised on the legal issue of no longer being able to establish multi-year quotas, inclusive of over-quotas being available annually.

[64] Option 1

[65] This option³⁵ looked at maintaining the status quo of multi-year quotas and over-quotas. It would meet outfitter expectations that they could continue to operate with the business certainty and flexibility such quotas allowed, provide fairness between individual outfitters, allow more time to build a new quota establishment process inclusive of First Nations consultation and multi-party engagement, and facilitate the consistent handling of all quotas.

[66] However, the Authority discarded it because adoption of this option would still put it offside the *Wildlife Act*, delay needed *Guidelines* reform,³⁶ and risk, via possible First Nations legal challenges, its new policy of consulting with First Nations on all outfitter quotas.

[67] Option 2

[68] This option, transitional in nature, looked at establishing new quotas as annual quotas without over-quotas but, at the same time, allowing multi-year quotas to expire naturally. It would also align with the Authority's current practice of providing one-year extensions to multi-year quotas, with some outfitters being familiar with that approach. In addition, the new quotas would conform with the *Wildlife Act*.

[69] However, this mixed quota result could result in inconsistent management across all outfitting concessions, potentially creating a competitive business advantage for those with multi-year terms. Single-year quotas would be contrary to the *Guidelines*, would require a new system to manage grizzly bear and bison quotas, both of which are calculated annually, and, more importantly, require public discussion.

³⁴ This Report acknowledges that amending legislation is a complicated process involving many considerations but, despite this, revising section 54 is a reasonable option, whatever the political appetite.

³⁵ The Authority identified it as Option 1. However, it identified the second and third ones as Option 2a and 2b respectively, with no clear reason as to why. As such, this Report will refer to them as options 2 and 3 for sake of convenience.

³⁶ The *Guidelines* do not consider settled and non-settled First Nations.

[70] In addition, any negotiations involving outfitters, First Nations, and Renewable Resource Councils on multi-year quotas and roll-over could be seen as the Authority acting in bad faith when quota finalization did not occur until the Authority had fulfilled its consultation obligations with the applicable First Nation.

[71] For these reasons, the Authority discarded this option.

[72] Option 3

[73] This option looked at establishing annual quotas only. In the Authority's view, this offered one important and distinct advantage in that all quotas would conform with the *Wildlife Act*. As such, all outfitters would be subject to this conformity.

[74] It also had other attributes. It incorporated the Authority's consultation obligations that required a higher level of First Nations participation on wildlife management decisions. Such decisions had to consider Indigenous, local and scientific knowledge, the continuing need to manage and sustain wildlife resources in the face of increased hunting pressures, and the demand for quota allocation transparency.

[75] However, choosing this option risked outfitter resentment over the termination of multi-year quotas. In addition, resentment would likely occur for the same reasons set out in Option 2.

[76] Despite this, the Authority chose Option 3, knowing that it would require substantive public discussion because, in its view, neither the Fish and Wildlife Board, the Renewable Resource Councils nor the Yukon Outfitters Association would support single-year quotas in the absence of such discussion.

Conclusion Issue 2

[77] I find that the Authority reasonably considered alternatives to the imposition of annual quotas. This included possible *Wildlife Act* avenues to accommodate multi-year quota agreements, as well as setting out and weighing three quota options.

Issue 3 – What engagement, if any, did the Authority undertake with outfitters in making the transition?

[78] From a fairness lens, engagement is a process in which a deciding entity, on a matter of policy and legislation, seeks and incorporates viewpoints and concerns from several sources, such as affected groups, interested parties, and the public. It seeks such input to support the making of an informed, transparent, and accountable decision. The exchange of information and discussion

leading to that decision helps to build consensus, as well as addressing and strengthening relationships.

From the Pivot Point and to the Interim Process Period

[79] There is evidence that the Authority discussed, on several occasions with the YOLC, the need to revise the [Guidelines](#) and Meeting Procedures in 2016 and 2017, but it did not actively commence an engagement process for its revision initiative. There is also further evidence that it advised the outfitting industry about its initiative to impose [Guidelines](#)-mandated quotas in areas that were yet to have them.

[80] There is, however, no evidence prior to what I have termed the ‘Pivot Point’ in late 2021 that the Authority, prompted by the legislative issue, took any substantive steps—including notice—to advise the outfitting industry about its decision to move from a multi-year quota system to an annual one without any external discussion or an engagement process.

[81] The only overture occurred, in the investigator’s view, when the Authority sent letters to the directly to outfitters on November 3rd, laying out its reasons for a need to develop a new approach to wildlife harvesting allocation.

[82] That said, I have two fairness issues with this overture.

[83] The first concerns the Authority’s announcement of the [Guidelines](#) revision initiative via the letter, noting that it only offered five sparsely-worded reasons for setting out to modernize the [Guidelines](#), as if these reasons were self-evident in and of themselves. This letter constituted the first-ever notice to the outfitting industry about the initiative. Since administrative fairness refers to the standard of impartial and reasonable conduct that public organizations must uphold, the Authority had a duty to elaborate on its reasons in the letter.

[84] Such elaboration would have given outfitters a chance to understand why the Authority was exploring a new harvesting framework, as well as an important opportunity to participate meaningfully in the decision-making process. In turn, this would have given the Authority a chance to gather essential information that, duly considered, would inform its decision to modernize the [Guidelines](#). One would expect, therefore, that the Authority would then follow this announcement with an engagement framework, inclusive of a general date.

[85] However, that is not what happened.

[86] The outfitter letter went significantly farther than the YOLC meeting. It further announced, with no prior warning, that the Authority had already made several decisions. These amounted to

three key actions, starting in 2022.³⁷ As mentioned, they consisted of the imposition of *Wildlife Act*-compliant outfitter harvest quotas effective in the next season, the imposition of annual quotas rather than multi-year quotas and roll-overs, as well as the imposition of moose and caribou quotas for those outfitters who had not previously had them.

[87] The mere contemplation of these actions prior to any implementation of them would, in the investigator's view, be sufficient to underpin a subsequent consultative process with the outfitters because a new allocation approach tied to a *Guidelines* revisions initiative had the serious potential to affect outfitter business enterprises in a significant way. The Authority's announcement of actions already taken, with no prior notice or opportunity whatsoever to provide input into such a fundamental change, was unfair.

[88] Except for the imposition of moose and caribou quotas, which the *Guidelines* had originally contemplated and the Authority had already set in motion, the November 3rd overture amounted to an illusion of procedural fairness. Until the outfitters received it, they had no knowledge of the Authority's intent to modernize the *Guidelines* or, more importantly, its critical decision to end the multi-year quota system.

[89] Administrative fairness also includes decision-making transparency and the provision of a clear decision rationale. It must also provide for sufficient notice, allow an individual to be heard in processes that affect them, ensure that decisions are made without bias, and be considerate of the individual's needs and circumstances.

[90] The outfitters had no substantive knowledge that the Authority was going to discontinue multi-year quota agreements in favour of annual quotas almost immediately following the letter. The evidence shows that they saw this unexpected decision as undermining their industry with no warning or engagement on the matter.

[91] The effect of this decision was predictable. In the time that followed, the Authority found itself responding to angry outfitter queries about the details of the Interim Process and its effect on them. What is significant about this is that the Authority knew it could not offer any details because they had yet to be formulated and finalized. It could only repeat the cryptic reasons for the change and state that, until it put in place a multi-party engagement process, it would, for example, extend

³⁷ The Yukon hunting season straddles two parts of a calendar year because some wildlife can be harvested in the fall (e.g., moose and caribou), some in the spring (e.g., elk), and some at various times in both segments (e.g., bears and wood bison). While this Report, for sake of simplicity, will refer to the start of a particular calendar year, such as 2022, the full season is actually consecutive parts of 2022-23.

quotas for those who had them for the next season, as well as continue to impose moose and caribou quotas for those who had never had them.

[92] Announcing a new annual-based harvest quota system went to the heart of the way in which outfitters had long conducted their business. Had the Authority notified them when it first learned about the *Wildlife Act* conformity issue in the spring of 2021, it could have prepared them for a very likely quota system change and sought their feedback. As the Authority prepared the ground for legal compliance, it could have advised them about the near-future need to embark on a *Guidelines* revisions initiative that would include their participation. These actions, months prior to the November 3rd letter, would have embodied some degree of procedural fairness.

[93] However, had the Authority notified the outfitters at that time, it would have been procedurally unfair had it then sought their feedback all the while knowing that *Wildlife Act* conformity meant the end of multi-year quota agreements. The Authority would have had to be open to other compliance possibilities that might meet the interests of outfitters.

[94] While the evidence shows that it did work with YG lawyers to identify legal alternatives, provide funds to the Outfitter Quota Appeal Committee to seek a legal opinion on section 50 of the *Wildlife Act*, and offer to hear alternative solutions from outfitters, none of this changed the fact that, in its waiting until November 3rd to advise the outfitters about the quota system change, it is unclear what the outfitters could have meaningfully contributed to the *Guidelines* revisions initiative when a major outcome had already been decided. The Authority's couching of this decision as the Interim Process, as if to imply that something more substantive and openly consultative was yet to follow, was hollow in the outcome.

[95] Taken together, the Authority's decision-making approach in late 2021 was procedurally unfair because it did not provide the outfitters with any advance notice that it was seriously contemplating a significant quota system change nor any opportunity to participate and be heard on a matter of great importance to their businesses. In particular, it gave them no chance to absorb the change, no sufficiently substantive information to help outfitters understand the nature the decision and the process leading to it, and no opportunity to present their information prior to it being made. In addition, it did not effectively explain, communicate nor sufficiently document to the outfitters the reasons for this quota decision, one taken well in advance of setting out and beginning the *Guidelines* revision initiative.

[96] By December 30th, the Authority had firmly adopted, as its principle reason for the quota decision, the non-debatable legal requirement to conform with the *Wildlife Act*, something that did not allow for 'evergreen provisions' in the final year of a multi-year quota agreement as per the

Guidelines. In short, the Authority had entrenched itself solely in a legal position that, in its view, left no other recourse. In other words, its position was not open to question, no matter any party's perspective on it.

[97] However, evidence shows that the Authority's initial position did soften somewhat.

[98] In the months that followed the November 2021 quota announcement, significant discussion occurred between the Authority and outfitters, amongst individual outfitters, at YOLC meetings, and in the Outfitter Quota Appeal Committee and Concession and Compensation Review Board hearings. While this did not satisfy the Authority's duty of procedural fairness because, as discussed, it had already made its critical quota decision with no notice nor opportunity to be heard on the matter prior to that decision, this interaction did have some positive effects.

[99] For example, the Authority in May of 2022 modified its initial approach to quota-setting in the Interim Period to one that allowed outfitters who had had multi-year quota agreements with over-quotas to keep this flexibility, albeit on an annual basis, by determining each new year's quota based on the previous four-year harvest tally.

[100] The Authority also created a liaison officer position for about a year to provide outfitters with more direct access to senior management and an alternate way to be heard. In addition, it made available its senior harvest negotiator available to the outfitters and the Yukon Outfitters Association to explain the Interim Process calculations.³⁸

Conclusion Issue 3

[101] The Authority provided its brief five-point rationale for initiating a **Guidelines** review and seeking feedback from the entities affected by this plan, especially outfitters in the context of the Complaint. However, I find that the Authority had a concurrent duty of procedural fairness to ensure the following:

- 1) provide notice to the outfitters so they had a chance to plan and prepare their businesses for the quota system change; and
- 2) provide meaningful opportunities for the outfitters and associate entities (*e.g.*, the Yukon Outfitters Association, the YOLC) to participate and be heard in the decision-making process prior to the quota system change.

³⁸ The Authority advises that this official is still available for such assistance.

[102] Taking some after-the-fact remedial measures was commendable but did not alter this duty. In deciding abruptly to move from a multi-year quota system to an annual one, starting in 2022, with no prior awareness of the significant paradigm change nor any opportunity for input from those affected by it, the Authority fell short of its duty. The decision in this context was therefore procedurally unfair.

Issue 4 – Did the transition unfairly affect outfitters?

[103] In the early to mid-part of 2022, the Authority outlined the Interim Process that would be in place until it found a longer-term solution. In its view, the Interim Process was designed to provide outfitters with what it termed medium-term security.

[104] Under it, outfitter quotas would remain the same from year-to-year unless legal, environmental or socio-economic facts necessitated a change. For outfitters who had had multi-year quota agreements prior to 2022, their annual quotas, considered to be non-fixed quotas, would be calculated on the basis of their last multi-year quota agreement signed by all parties. As such, the annual quota is applied as if the concession holder is always in the last year of a multi-year quota. It is calculated as the ‘allocation over five years minus the harvest from the previous four years, up to a maximum that is equal to the agreed-upon over-quota or roll-over’.

[105] Despite the certainty that multi-year quotas brought to the outfitting industry, the Authority stated that the *Wildlife Act* required the issuance of operating certificates on an annual basis only. Those who had never had multi-year quota agreements were given quota numbers set above their harvest levels in previous years to account for never having had any roll-overs.

[106] In response to this, many outfitters quickly expressed their dissatisfaction, something acknowledged by the Authority in late May of 2022.

Complaint

[107] **The Outfitter Quota Appeal Committee Appeal**

[108] The Complainant

[109] The Complainant first appealed the transition to the Outfitter Quota Appeal Committee set out under the [Guidelines](#) in June of 2022. They queried why the Authority now took the position that multi-year quotas and over-quotas, after a long and successful history, had to end. The Complainant's dispute was not the quota numbers imposed but rather the span of the quota period.

[110] They also stated that the [Guidelines](#) long provided for medium-term security in the form of three to five year quotas, subject to any conservation concerns. In addition, the Meeting Procedures mandated negotiations for a new agreement prior to the expiry of the old one. This allowed an outfitter, in the Complainant's view, to know what their quota would be at least one year in advance which provided for effective wildlife management and business sustainability. Outfitters needed to plan and book their clients on a multi-year basis. A multi-year quota system that incorporated annual harvest limits within the quota allocation gave them the necessary planning flexibility to run their businesses with some reasonable degree of predictability over the period.

[111] The Authority

[112] The Authority provided its own submission, asserting that the factors raised by Complainant for continuing multi-year quotas as per the [Guidelines](#) had no legal basis under the [Wildlife Act](#). In addition, it asserted that the YFN Final Agreements did not establish sharing formulas for harvest allocations between subsistence hunters and outfitters. It also asserted that Interim Process allowed outfitters to estimate coming years which, in turn, allowed for future planning.

[113] The Authority therefore took the position that, until the Minister considered and decided on the Outfitter Quota Appeal Committee's recommendations, the quota imposed on the Complainant's 2022 operating certificate would remain in effect. It also noted in its assertions that the Outfitter Quota Appeal Committee had no legal authority and could not stand in the way of the Minister's authority to impose quotas.

[114] The Outfitter Quota Appeal Committee's Recommendations

[115] After concluding its hearing in March of 2023, the Outfitter Quota Appeal Committee recommended that the quota, including its terms, should be adjusted to remain consistent with the

spirit and intent of the [Guidelines](#). In making this recommendation, it acknowledged that the [Guidelines](#) were not in conformity with the [Wildlife Act](#) and that the Authority's non-enforcement of this part of the legislation was a long running error. It also acknowledged that the Authority's 'drastic change in approach' to discontinue multi-year quotas was having a significant effect on the outfitting industry. As such, it suggested that the Authority interpret the [Wildlife Act](#) more liberally in favour of the [Guidelines](#) when exercising them after 2022.

[116] The Recommendation Result

[117] Following the Outfitter Quota Appeal Committee's recommendation, the Minister told the Complainant that section 50 of the [Wildlife Act](#) could be used to provide for multi-year quotas rather than an outfitter's annual operating certificate. However, the Minister took the position that it only authorized the imposition of conditions, including quotas, on an outfitting concession at the time it was issued and would be in place for 10 years without any possible change during this period. In the Minister's view, a 10-year quota was too long a time for effective wildlife conservation and management purposes, noting that such timing might not serve all species and herds. In addition, it did not meet the Authority's First Nations consultation obligations.

[118] The Minister added that the Authority could not impose a multi-year quota through a document outside an operating certificate, thus effectively closing any possible [Wildlife Act](#) interpretive issues that might indicate otherwise.

[119] For these reasons, the Minister decided that, despite the recommendation, the quota imposed by the Authority on the Complainant's annual operating certificate was reasonable, appropriate and consistent with its authority under subsection 54(3) of the [Wildlife Act](#). In making this decision, the Minister stated that, in responding the outfitter need for predictability and consistency, quotas would not change over a five-year period unless a conservation issue arose.³⁹

[120] In addition, the Interim Process, as with multi-year quota agreements, would use a calculation for those outfitters who had previously had an over-quota.

[121] **The Concession and Compensation Review Board Appeal**

[122] Some four months later, the Complainant approached the Concession and Compensation Review Board regarding their 2023 operating certificate. In having no choice but to accept the

³⁹ I infer this to mean that the Interim Process, like the multi-year system, would inherently create variations from year to year but they would be predictable based on the previous year's harvest. Should an outfitter not want to see such variation, then it follows that the Authority would have to implement fixed quotas that, subject to conservation concerns, would preclude flexibility because they would not change from year to year.

Authority's decision to discontinue the [Guidelines](#) forward-looking multi-year quotas, they asked it to consider a 'reverse' multi-year quota allocation specifically for grizzly bears. To that end, they had devised a quota system based on a model, known as Ramona's system,⁴⁰ that had been in place in Yukon since 2005 and complied with the [Wildlife Act](#).

[123] Ramona's System

[124] The system is as follows: the Authority looks at the population at a given time and, assuming a 50:50 sex ratio, decides that two per cent of females and six per cent of males can be harvested sustainably every year. It then calculates the sustainable harvest over three years.

[125] As such, it allocates the full sustainable harvest to the outfitter for the next three years. However, if during the previous three years, more bears were killed (in total, including all harvest, road kills, and conflict kills) than what is sustainable, then the new three-year allocation is adjusted accordingly.

[126] The Complainant, as an illustration, stated that they would be allocated one grizzly bear in the first year, another one in the second year, and one more in the third year for a total of three over that period. It would then revert to one for the fourth year. In their view, this was a poor system that did not reflect actual harvest opportunities.

[127] The Complainant then laid out their reverse-looking version of Ramona's system in relation to their business. It meant removing the allocation and harvest from the first year and then adding each year's annual allocation to that number. This would give them maximum commercial flexibility and be biologically sustainable.⁴¹

[128] The Concession and Compensation Review Board's Recommendation

[129] The Concession and Compensation Review Board, after due consideration, recommended that the one-year quota placed on the Complainant's operating certificate under the Interim Process be returned to its historic quota of three years.

⁴⁰ There is no reference as to why it was named as such.

⁴¹ For example, in 2022, they would first deduct that year's harvest from that year's quota, followed by deducting the other types of kills (*i.e.*, defence of life and property, motor vehicle collisions) [Other Mortality Count] in 2020. The result of this calculation became their 2023 quota. The Complainant then explained that the 2024 quota calculation would be the product of subtracting the 2021 Other Mortality Count from the 2023 quota, followed by adding the annual allocation. In support of their proposed system, the Complainant provided some hypothetical numbers. Assuming that their 2022 quota was six grizzly bears, they harvested one. The Other Mortality Count was also one. Both leave four, added to which is the Authority's annual allocation of two for a 2023 quota of six. In the Complainant's view, this reverse-looking system followed Ramona's system and respected the sustainability of the grizzly bear population.

[130] The Recommendation Result

[131] The Minister responded to the Complainant by confirming that, despite the recommendation, the Complainant's one-year quota would remain in place.

[132] The quota processes under the [Guidelines](#) prior to 2022 and the Interim Process implemented in 2022 can be found in the Appendix that accompanies this Report.

What were the Effects of the Transition?

[133] The Authority's Predicament

[134] When the Authority learned about the effect of subsection 54(5) of the [Wildlife Act](#), having unknowingly overlooked this unchanged provision for almost 30 years in favour of multi-year quota agreements under the [Guidelines](#), it had no choice but to comply immediately with it. In doing so, the Authority did not act in any disingenuous manner because neither the Minister nor the Authority over which they administer can act outside the law.

[135] However, once the Authority became aware of the provision's legal effect on the [Guidelines](#), it had a reasonable duty, on behalf of the Complainant and their fellow outfitters, to look elsewhere in the [Wildlife Act](#) in case the legislation provided for multi-year quota agreements outside subsection 54(5). As such, it examined section 50 but, for the reasons already stated, decided that the provision did not support the goal of managing a wildlife resource, the sustainability of which was subject to many competing pressures.

[136] That said, the sudden transition affected the Complainant in several adverse ways.

[137] The Complainant's Predicament

[138] The Complainant was used to a [then] 20-year old system that, in their view, afforded their commercial enterprise a reasonable degree of certainty and predictability. In contrast, the new system had the appearance of introducing apprehension and volatility into their business, especially a business model predicated on advance bookings over a period of years, and their associated flexibility.

[139] The evidence shows that the Authority's November 2021 announcement of the change-over came with virtually no warning to the Complainant who still had another year in their multi-year quota agreement. This had the effect of the Complainant calling into question the Authority's motive because the announcement was sparse in setting out its reasons for moving to the Interim

Process. As far as the Complainant was concerned, the multi-year quota agreements worked very well; in short, if the system was not broken, then why did the Authority feel a need to fix it?

[140] Transition Effect on the Complainant

[141] I have set out above that administrative fairness refers to the standard of impartial and reasonable conduct that public organizations must uphold. I would add that it ensures that people are treated with respect and due process. This means encompassing an unbiased decision-maker, the right for individuals to be heard, transparency in decision-making processes, and the provision of clear reasons for decisions. As such, it allows people to be heard in processes that affect them, ensuring decisions are made without bias and acting consistently with the rules that apply, as well as making decisions that are considerate of the individual's needs and circumstances and based on relevant information.

[142] In my view, subjecting the Complainant to the interim process with no warning prior to the November 3rd, 2021 letter fell short of such administrative fairness.

[143] The Complainant was initially taken unawares by the November 3rd, 2021 letter that announced the immediate change from the long-standing multi-year quota system to an annual one. It comes as no surprise, therefore, that they resisted this transformative policy shift.

[144] The Interim Process uses a quota calculation method that the Authority characterized as being transparent in its approach (*i.e.*, this year's quota equals the term allocation minus the previous four years' harvest with an annual maximum that cannot exceed the over-quota). However, this transparency does not offer, in the Complainant's view, the same harvest flexibility over a multi-year term nor the same degree of practicality needed to run a commercial operation that depended on them using their quota in a fully effective manner.

[145] To illustrate, the Complainant compared the multi-year quota system to the Interim Process. In the former, one could have a quota of three animals over three years, to be used as needed. In the latter, one would have a quota of one in the first year and, if they did not harvest that animal, then two in the second year or, if again no harvest, three in the third year. Although both systems have an average of one per year, the business implications are significant.

[146] Because they conduct a client-oriented enterprise, varying levels of harvest success or the degree of interest shown by clients are always difficult to predict. In a multi-year quota system, an outfitter could at least pace their efforts over the remaining term to account for these factors. Under the Interim Process, that flexibility was notably curtailed by using a calculation method that fixed the next annual quota based on the previous four years' harvest numbers. Such flexibility was

also open to a risk of the Interim Process becoming cyclic in nature if the outfitter did not harvest their exact quota every year which would require them to resolve this situation by having to underharvest on a consistent basis.

[147] In practical terms, the Complainant could still book clients one to three years in advance under the Interim Process but not having their previous long-standing flexibility meant that they were more exposed than before to the unpredictability of their business. Client interests in a particular species, as well as harvest successes, vary from year to year. In the past, the Complainant could adjust their operation (*e.g.*, crew hires, camp set-ups, client interest accommodation) but now they had to book a given number of a particular species in a given year to fill their quota and, in some cases, sell discounted hunts to fill empty bookings to maximize the value and benefit of each animal.

[148] Prior to the Interim Process, the Complainant could also accumulate their quotas of a particular species and travel to a remote part of their concession from time to time to accommodate a client's interest. After the transition, they realized that hunting a species on an irregular basis, especially one assigned small quotas, started a cycle that, once begun, perpetuated itself. In their view, this eliminated the flexibility to engage in this type of hunt, the result of which increased their business risk and limited their options.

[149] The Complainant asserted, in hindsight, that they lost business because of their higher caribou harvest in 2022. Even though the 2018 to 2022 multi-year agreement had naturally expired, it continued to affect the Complainant's future allocation for the subsequent five years.⁴² In addition, their 2023 harvest of six caribou adversely affected them because, had they known that it would significantly impact their next quota, they would not have harvested that number. They thought that, since their overall harvest was low, they were doing well.

[150] Taken together, it was somewhat possible to plan ahead after the transition but, for the reasons stated, it became significantly more difficult and added new risks to a type of business already subject to a high degree of commercial unpredictability. In examining the quota issues and how the Complainant addressed them from late 2021 onwards, they had no choice but to set aside, as they did, the emotional effect of the transition and take as pragmatic approach as possible.

[151] Transition Effect on the Outfitters in General

[152] Since this investigation stems from the Complaint and not the outfitting industry, it remains somewhat unclear if the change from a multi-year quota system to an annual one under the Interim

⁴² That said, they still had a quota of 25 caribou over five years.

Process unduly disadvantaged outfitters as a group. For example, many outfitters did not use their over-quotas on a general basis and, as a result, always had the same over-quota value on their operating certificate.

[153] However, it follows that the transition significantly affected each outfitter in having immediately to adjust to an annual quota system and plan their client bookings accordingly. It also follows that some outfitters, like the Complainant, had to bear the quota consequences of their previous harvests based on the reasonable assumption that, up to the Authority's sudden announcement, the [Guidelines](#) quota system and its forward-looking flexibility would continue for the foreseeable future.

[154] In addition, each outfitter had to spend time and resources to understand the Interim Process as quickly as possible because, despite the Authority's admission about the lack of important details after the announcement, their businesses significantly depended on coming to terms with a new way of operating. Similarly, they had to spend time and resources to push back against the unexpected change.

[155] As such, they continued to press for some Interim Process flexibility into well into 2025, despite the Authority's apparent inflexibility on the transition matter.

[156] The Authority's Choices in Hindsight

[157] In the first place, the Authority was not overly forthcoming in its explanation for the transition. As mentioned, it took the bare overview that the [Guidelines](#) required modernization to bring them into conformity with the [Wildlife Act](#) and the Authority's First Nations consultation obligations, as well as requiring a rewrite for clarity. What it should have done was to take an eminently transparent approach by elaborating on its reasons so that the Complainant and their fellow outfitters, whether they agreed or not with the rationale, understood why the system had to be changed right away.

[158] For example, the Authority could have put itself into the boots of the outfitters who, as per the evidence, respected the subsistence needs of First Nations, had no substantive understanding of the Authority's duty to consult with First Nations on wildlife management and the allocation process in their respective Traditional Territories.

[159] As such, the Authority could have told them that, over the course of some years, it had come to a better appreciation of its First Nations consultation obligations in respect of wildlife resource management and its effect on licensed and unlicensed hunters, residents and non-residents, and outfitting concessions. This caused it, in turn, to look at the [Guidelines](#) and the

Wildlife Act, learning, in the process, that the *Guidelines* did not address the consultation requirements and that the legislation did not provide for multi-year quota agreements.

[160] It then could have stated that it had decided to embark on a *Guidelines* review initiative that would seek feedback from various participants including the Complainant and their fellow outfitters but, because of the immediate legal compliance issue, it had no choice but to discontinue the multi-year quota system and implement a new one starting in 2022.

[161] In the absence of such clarity, some outfitters felt that abruptly changing the multi-year quota system to an annual one was done intentionally by the Authority because it somehow held the outfitting industry in disregard. In their view, these feelings seemed reinforced by the concurrent decision to impose quotas on those outfitters who had never had them at a time when COVID-19 was significantly affecting the industry in a negative way.⁴³

[162] In the second place, when the Authority first learned in the spring of 2021 about the *Wildlife Act* compliance issue and its quota effect on outfitter operating certificates, it should have immediately advised the outfitters about this situation, even if it had not yet reached any definitive conclusions. This would have alerted the outfitters to a serious problem affecting their businesses and given them a chance to be part of the task leading to the Interim Process transition, however prickly that task might have been. It also would have given the Authority the chance to formulate and test its options with the very ones affected by the legal conformity issue, despite having to reserve its right to make the final decision.

[163] In the absence of these actions, the Complainant and their fellow outfitters looked to their own devices. Some were of the view that the Authority should have sought a *Wildlife Act* amendment to allow for multi-year quota agreements.⁴⁴ Some directly engaged the Authority in correspondence and discussion based on what they perceived to be the unfairness of moving from a proven quota system to a new one. Some decided to take their concerns to various forums, including the Outfitter Quota Appeal Committee and Concession and Compensation Review Board, based on their assertions that the Authority had wrongly changed the quota system and, as a result, short-changed some of their quotas during the transition. That said, all of them had to make quick business adjustments going into 2022.

⁴³ I note that the *Guidelines* called for imposing these quotas by 1997. The fact that the Authority may have chosen an inopportune time to bring these outfitters into alignment with the general quota process may be open to question but I make no judgement on the Authority's decision because these outfitters long knew that this alignment was due at some point.

⁴⁴ The evidence shows that, while the Authority did draw up a plan for several amendments, there was no appetite to amend subsection 54(5), although this remains an option in the investigator's view.

Did the Authority Adjust the Transition to Minimize any Unfairness?

[164] The evidence shows that the Authority, in swiftly and consistently receiving feedback from the Complainant and other outfitters about the transition from the multi-year quota system to the annual one, did make some adjustments while still remaining in compliance with the *Wildlife Act*.

[165] Originally, it was going to proceed with fixed annual quotas, such as five caribou each year. However, at the behest of many outfitters, the Authority decided to introduce some flexibility. As previously mentioned, it created a way for those outfitters who had previously had multi-year quota agreements with over-quotas in them to access those over-quotas.

[166] In the case of grizzly bears, it adjusted the way in which it had allocated grizzly bear quotas since 2005 because the quota process did not comply with the *Wildlife Act*. The new process resembled the old one but conformed with the legislation. Although an outfitter's grizzly bear quota would continue to be imposed as an annual condition of their operating certificate, the Authority based the quota on a calculation method that still starts with an outfitter's grizzly bear allocation for the next three years, determines a base allocation value, and makes adjustments to turn any base allocation decimals into whole numbers. This calculation method results in a constant three-year allocation that allows outfitters, despite only receiving single-year quotas, to predict their quotas over the next two years, noting that quotas for years two and three are not guaranteed.

[167] In addition, the Authority announced that quotas would not change until such time as it had a new process in place or a conservation issue arose that needed to be addressed. The intent, according to the evidence, was to provide outfitters with certainty to the degree possible under the Interim Process. For example, in the case of a conservation issue, it would try to give outfitters as much advanced notice as possible before it made a change.

[168] The Authority also decided to stay as close as possible to the Interim Process whenever it did need to modify quotas, as long as this did not put it in contravention of the *Wildlife Act*.

[169] Taken together, the Authority took these measures to provide as much predictability and flexibility as possible within the strict boundaries of the legislation. Given this limitation, its actions served to mitigate, to some extent, the unfairness that arose from abruptly making the quota system change.

Did the Outfitters Gain or Lose from the Transition?

[170] Using moose and caribou as an example, the Authority provided empirical evidence that the harvest numbers within the Guidelines Period of 2016 to 2019 were comparable with those

following the transition during the period from 2021 to 2024.⁴⁵ On an annual basis, the caribou harvest decreased on average by 1.5 animals per outfitters concession.⁴⁶ Similarly, the moose harvest showed no average difference per outfitter concession.⁴⁷

[171] These numbers show, in my view, that the net harvesting effect of the transition on outfitters for the period stated was not significant in the outcome.

Conclusion Issue 4

[172] I find that the transition did not notably affect the wildlife harvest available to outfitters so no unfairness occurred in that regard. Harvest numbers are the bottom line from a commercial perspective. I also find, however, that the transition unfairly affected the Complainant and, to a similar degree, the outfitters as a group because of what they had to do to manage the abrupt change due to the unexpected transition (*i.e.*, pivot point).

[173] That said, I find that the Authority took reasonable measures to adjust the transition process to minimize whatever unfairness arose from transitioning to an annual quota process.

Issue 5 – Is the Authority’s current annual quota process fair, transparent and equitable?

Fairness, Transparency and Equity

[174] Through a fairness lens, a process is only fair if it results a proper balance of conflicting interests (*i.e.*, a process that balances the different needs and perspectives of all involved parties). It is based on a standard of what is right and proper.

[175] Such a process must also be transparent. That means acting with impartiality and openness, something that requires unbiased decisions, the equal treatment of all parties, and the clear communication of all processes and criteria. It also requires open communication, accountability, and the consistent application of rules and procedures without bias or hidden motives.

[176] Finally, the process must be equitable. This means placing a reasonable and balanced emphasis on fairness that is based on individual circumstances and needs, rather than a strict

⁴⁵ 2020 is excluded because of the COVID-19 effect on commercial harvesting.

⁴⁶ The Authority attributed this decrease from a total of 118 animals to 93 in part to reducing quotas over time due to conservation issues and the fact that some caribou herds shifted their ranges, making them less available for harvesting.

⁴⁷ The Authority stated that the two periods each netted 240 animals harvested per year.

application of rules. In turn, this may require different treatment for different people to achieve a just outcome.

[177] The evidence shows that there were many conflicting and competing interests at play from approximately 2015 forward. I will canvass both the First Nations and outfitter perspectives, and then how the Authority tried to balance them in favour of an annual quota process that was fair, transparent and equitable.

[178] The First Nations

[179] The evidence shows that the RRDC and LFN had serious concerns about how the Authority issued hunting licences that, in their view, allowed licensed hunters to compete unfairly with subsistence hunters for finite wildlife resources in the RRDC and LFN's Traditional Territories. As such, they wanted significant input into the Authority's quota process.

[180] The Outfitters

[181] The evidence shows that the outfitters operated for many years under the [Guidelines'](#) multi-year quota system and, in their view, it worked well because, based on a business premised primarily on advance client bookings, they could plan ahead within the term of their agreement by adjusting their quota allocations. As such, they took the Authority's unexpected decision to change the quota system as certain proof that it no longer took them seriously in a climate that seemingly prioritized the needs of First Nations and others over outfitters.

[182] The Authority

[183] The evidence shows that, between 1996 and 2021, the Authority seemed content to issue multi-year quota agreements based on the wildlife management practices of the time. When it learned, however, that this long-standing practice did not conform with the [Wildlife Act](#), it decided to change the quota system with virtually no warning to outfitters.

The interim Process

[184] In considering the above, the current quota system under the Interim Process appears to have struck a balance between the respective competing interests. The Authority now engages with affected outfitters and First Nations when establishing annual quotas. Such engagement is neither arbitrary nor inexact because it is informed by accepted wildlife management standards, First Nations traditional knowledge, and commercial considerations.

[185] In addition, the quota process is based on each successive annual quota on an outfitter's previous four-year tally. Despite the issues that the Complainant and the outfitting industry have with this calculation method, it does allow for dialogue with the Authority where there may be concerns that need to be resolved to the extent possible.

[186] The quota numbers themselves are based on wildlife resource data, as well as any conservation issues that may arise from time to time. They are also subject to consultations with affected First Nations. These consultations take into consideration the needs of their subsistence hunters so that the final numbers imposed on an outfitter's annual operating certificate, along with those numbers available to other licensed hunters, do not compromise the sustainability of the species at hand.

[187] Transparency appears in outfitter appeals to the Outfitters Quota Appeal Committee or the Concession and Compensation Review Board should a dispute arise. Such entities have clear and consistent decision-making parameters and procedures that are publicly available. In examining the evidence that includes a hearing by each of them, I am satisfied that both entities diligently and impartially discharged their respective duties.

[188] The current quota system is also equitable because it considers the respective needs and concerns of the outfitters, First Nations, licensed hunters and the public. The Authority, in first announcing in late 2021 that it would be embarking on a [Guidelines](#) revision initiative, has since been acting on it by designing and implementing a participation plan that invites the viewpoints and concerns of both interested parties and the public. It follows that such viewpoints and concerns will be based on individual circumstances and needs.⁴⁸

[189] Once considered and weighed by the Authority, the resulting guidelines and policies, all of which must adhere to the [Wildlife Act](#), may nevertheless reflect different treatment for different parties. However, this treatment would still be equitable in that the considered outcome is both right and fair in the context.

Room for Improvement

[190] That said, the evidence shows room for much improvement. The Interim Process, while finding its way into the informed lexicon of, for example, the First Nations, outfitters, the Yukon Outfitters Association, the YOLC, the Renewable Resources Councils, the Yukon Fish and Wildlife

⁴⁸ In March of 2023, the Authority began work on building a wildlife harvest allocation framework based on an extensive multi-party engagement process. In acknowledging that no such framework existed prior to this initiative, its goal was to create a transparent decision making process about wildlife allocation.

Management Board, the Outfitter Quota Appeal Committee and Concession and Compensation Review Board, it is not well known or understood by the public.

[191] Procedural fairness requires that a decision-making entity provides opportunities to participate in a meaningful way and be heard. The reason is straight-forward. Decisions made by such an entity can significantly affect individuals. Central to this, therefore, is the importance of giving them relevant information so they can understand the issue, its decision parameters, and its ramifications. The public entity, in turn, needs to hear from them so that it may gather all relevant details and concerns to make a fair and informed decision.

[192] As such, the Authority needs to share more information on the Interim Process with the general public, especially given its intent to build on this quota model when revising the [Guidelines](#). This information sharing could include, in the investigator's view, making quota numbers available to the public.

[193] There is also no clear guidance on what the allocations of a particular wildlife resource should be in the case of licensed and unlicensed hunters, residents and non-residents, and between outfitting concessions. The Authority, however, is cognisant of this issue and agrees that there is a need for a broader harvest allocation framework, including the need to bring some additional species into a quota allocation process.

[194] There is also no clear and consistent process set out for consulting with First Nations on quota allocations for each concession, nor are there any allocation guidelines or subsistence harvest information to inform allocations. In addition, the Authority and some First Nations are at odds as to the hierarchy of allocations as between licensed and subsistence hunters.

[195] Some concessions also overlap with as many as seven Traditional Territories, making it very difficult to meet with the respective parties for purposes of obtaining consensus on an annual quota allocation. Moreover, some First Nations do not want to be involved in the current quota allocation process at this time.

[196] In the investigator's view, consulting with First Nations on such allocation issues cannot be understated, especially in the context of subsistence hunters and outfitters, both of whom rely on a fair and equitable allocation of wildlife resources. It follows that setting out a well-defined, uniform, and trusted consultation process by the Authority, and in cooperation with First Nations, is fundamental to revising the [Guidelines](#).

Conclusion Issue 5

[197] For these reasons, I find that the Authority's current annual quota process embodies fairness, transparency and equity. It now engages with outfitters and First Nations over quota allocations and has been working on a multi-party participation process for revising the [Guidelines](#). However, there significant areas known to the Authority, such as the need to provide the public with more quota information, as well as the need for a consistent First Nations consultation process on harvest allocations, in which it can make improvements to the Interim Process.

Findings

[198] In summary, I make the following findings.

Issue 1

The Authority's reasons for moving from a multi-year quota system to an annual one were principally the products of transformational change between 2015 and the end of 2021 in the way in which the Authority and both the RRDC and LFN approached wildlife management jurisdiction in the Kaska Traditional Territory. This led to the Authority's realization that the [Guidelines](#) multi-quota system did not adhere to the [Wildlife Act](#), requiring the Authority to make substantive changes to the quota system autonomously and with speed.

Issue 2

The Authority reasonably considered alternatives to the imposition of annual quotas. This included possible [Wildlife Act](#) avenues to accommodate multi-year quota agreements, as well as setting out and weighing three quota options.

Issue 3

The Authority provided its brief five-point rationale for initiating a [Guidelines](#) review and seeking feedback from the entities affected by this plan, especially outfitters in the context of the Complaint. However, I find that the Authority had a concurrent duty of procedural fairness to ensure the following:

- 1) provide notice to the outfitters so they had a chance to plan and prepare their businesses for the quota system change; and

- 2) provide meaningful opportunities for the outfitters and associate entities (*e.g.*, the Yukon Outfitters Association, the YOLC) to participate and be heard in the decision-making process prior to the quota system change.

Taking some after-the-fact remedial measures was commendable but did not alter this duty. In deciding abruptly to move from a multi-year quota system to an annual one, starting in 2022, with no prior awareness of the significant paradigm change nor any opportunity for input from those affected by this, the Authority fell short of its duty. The decision in this context was therefore procedurally unfair.

Issue 4

The transition did not notably affect the wildlife harvest available to outfitters so no unfairness occurred in that regard. Harvest numbers are the bottom line from a commercial perspective. I also find, however, that the transition unfairly affected the Complainant and, to a similar degree, the outfitters as a group because of what they had to do to manage the abrupt change due to the unexpected transition (*i.e.*, pivot point). In addition, I find that the Authority took reasonable measures to adjust the transition process to minimize whatever unfairness arose from transitioning to an annual quota process.

Issue 5

The Authority's current annual quota process embodies fairness, transparency and equity. It now engages with outfitters and First Nations over quota allocations and has been working on a multi-party participation process for revising the [Guidelines](#). However, there are significant areas known to the Authority, such the need to provide the public with more quota information, as well as the need for a consistent First Nations consultation process on harvest allocations, in which it can make improvements.

Recommendations

[199] This Report is the product of an outfitter complaint that the Authority unfairly ended multi-year quota allocations for wildlife harvesting. In investigating this matter, I have become aware of a greater context in which the Authority's fairness obligations to the outfitter and the outfitting industry must also include its responsibilities to both First Nations and the general public.

[200] In some respects, these obligations and responsibilities align in that the Interim Process is a way in which the Authority views the management of finite wildlife resources and makes decisions that significantly affect licensed and unlicensed hunters, residents and non-residents, and outfitting

concessions. In other respects, they do not align because the Authority must not only conform with the *Wildlife Act*, it must also consult with First Nations from a constitutional perspective when making these decisions and, as such, some Indigenous considerations may come before commercial ones.

[201] However, the complaint comes from an outfitter and the recommendations must be outfitter-specific, despite the Authority's other considerations that lend themselves to a [Guidelines](#) review. I therefore make the following recommendations:

- 1) The Authority should ensure that it engages in a timely and meaningful manner with the outfitters, as a group or individually as required, when it implements its plan to revise the [Guidelines](#). To that end, it must provide outfitters with sufficient and reasonable notice of this engagement process.
- 2) The Authority, in continuing to work with the outfitters on quota allocations, should provide them with a reasonable opportunity to be heard in this engagement process before making any decisions that affect their business interests.
- 3) Any decisions made by the Authority about the [Guidelines](#) revision initiative should take into reasonable consideration the outfitters' needs and circumstances.

Report Regarding Investigation of Complaint

[202] We provided the Authority the opportunity to make representations about our draft report and our preliminary recommendations in accordance with section 17. We received representations from the Authority on March 11, 2026, and considered them as part of this report.

[203] We are reporting the results of our investigation along with our recommendations to the Authority as required under section 23.

Report of the Ombudsman if No Suitable Action taken

[204] As per section 25, if the Ombudsman believes that the Authority has taken no suitable action within a reasonable time in response to the opinions, reasons and recommendations made under section 23, then the Ombudsman may, after considering any reasoned response by the Authority, submit a report to the Commissioner in Executive Council and later to the Legislative Assembly about the matter as the Ombudsman considers appropriate.

Complainant to be informed if No Suitable Action taken

[205] As per section 26, if the Ombudsman makes recommendations and then believes that the Authority has taken no adequate or appropriate action within a reasonable time, then the Ombudsman shall inform the Complainant of the recommendations and may make any additional comments that they consider appropriate. In any event, the Ombudsman shall inform the Complainant within a reasonable time about the result of the investigation.



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