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Yellowknife, NT X1A 2R3

June 27, 2003

Raymond Taniton, Chair  
Sahtu Land Use Planning Board  
PO Box 235  
Fort Good Hope, NT X0E 0H0

Dear Raymond:

Re: DIAND Review of the **Sahtu Preliminary Draft Land Use Plan**

The Sahtu Land Use Planning Board submitted the Preliminary Draft Land Use Plan to the Department of Indian Affairs and Northern Development on January 6, 2003. A Working Group was formed with representation from six Directorates in the NWT Region, and three in Headquarters, Ottawa, to undertake a comprehensive review of the Plan.

The purpose of the attached compilation of comments is to provide the Board with a comprehensive report resulting from DIAND's review, analysis and internal discussions related to the document. These comments are intended to assist the Board in preparing the next iteration of the Plan and, ultimately, in seeking final approval.

The Department commends the Board with respect to the work that was put into the process of consultation with Sahtu beneficiaries, organizations and institutions of public government, without which this Plan would not exist. The description of the planning process, especially participatory planning, is quite thorough and, although DIAND does have some comments regarding the manner in which the Plan describes this process, the Board should be commended. DIAND is also very pleased with the recognition in the plan of the need for sub-regional plans in general, and the Great Bear Lake Regional Plan in particular. However, DIAND's overall recommendation is that the Plan requires fundamental reworking in terms of legislative issues, consistency and effectiveness of presentation.

Given the likelihood that the Board will have to go through a few more iterations of the Plan prior to final approval, DIAND would like to assure the Board of its continued assistance in developing a Plan which achieves this objective. In this regard, when the Board is in the process of assessing all of the comments received on the Plan, it may be an opportune time for representatives of the Department to travel to Fort Good Hope to meet with the Board and staff to discuss these substantive comments in detail. DIAND looks forward to supporting the Board throughout this pivotal period.

If you have any questions concerning this submission in the meantime, please contact myself or

David Livingstone, Director, Renewable Resources and Environment.

Yours sincerely,

Bob Overvold  
Regional Director General  
Northwest Territories

**SAHTU PRELIMINARY DRAFT LAND USE PLAN - COMMENTS FROM THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT - June 27, 2003**

**EXECUTIVE SUMMARY**

The Sahtu Land Use Planning Board submitted the Preliminary Draft Land Use Plan to the Department of Indian Affairs and Northern Development on January 6, 2003. A Working Group was formed with representation from six Directorates in the NWT Region, and three in Headquarters, Ottawa, to undertake a comprehensive review of the Plan.

The purpose of this document is to provide the Board with a comprehensive report resulting from DIAND=s review, analysis and internal discussions related to the document. These comments are intended to assist the Board in preparing the next iteration of the Plan and, ultimately, in seeking final approval. This review document is divided into three primary sections according to DIAND=s three primary objectives as described in the policy document: Land Use Plan Review/Approval Process. A fourth section has been included to address general issues which the Working Group identified concerning the format and content of the Plan.

An overview of DIAND=s key findings is provided as an introduction to each of these three sections to provide context for the detailed observations. Overall, DIAND=s primary recommendation is that the Plan requires fundamental reworking in terms of legislative issues, consistency and effectiveness of presentation.

The first section, Legislative Conformity, focusses on review of the Plan for completeness and accuracy with reference to the Land Claim Agreement and the Mackenzie Valley Resource Management Act. The key areas identified by the Working Group included terminology and areas where the Plan imposed more stringent restrictions than provided for in the legislation. The second section addresses the Plan=s relationship with a number of priority areas, including the Protected Areas Strategy, the processes for Mineral and Energy Resource Assessments, and the need for resolution of trans-boundary issues.

In the third section, the focus is on the need for the Plan to be an easy reference tool for policy makers and land managers implementing the policy directions and provisions contained in the Plan. The current multi-layered zoning system is cumbersome and should be clarified and simplified. In the next iteration of the Plan, it should be clear that there are two primary goals for land use - (1) protection of biological and heritage resources and, (2) multiple land use, keeping in mind that the regulatory system is in place to provide for what is largely described in the Special Management Areas. Lack of clarity in the Plan surrounding access issues and issues concerning implementation of the Plan also need to be addressed.

Given the likelihood that the Board will have to go through a few more iterations of the Plan prior to final approval, DIAND would like to assure the Board of its continued assistance in developing a Plan which achieves this objective. In this regard, when the Board is in the process of assessing all of the comments received on the Plan, it may be an opportune time for representatives of the Department to travel to Fort Good Hope to meet with the Board and staff to discuss these substantive comments in detail. DIAND looks forward to supporting the Board throughout this pivotal period.

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**SAHTU PRELIMINARY DRAFT LAND USE PLAN -  
COMMENTS FROM THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN  
DEVELOPMENT**

June 27, 2003

**BACKGROUND**

**The Sahtu Land Use Planning Board (the Board) submitted the Preliminary Draft Land Use Plan (the Plan) to the Department of Indian Affairs and Northern Development (DIAND) on January 6, 2003. A Working Group with representation from six Directorates in the NWT Region, and three in Headquarters, Ottawa was formed to undertake a comprehensive review of the Plan. The results of this review are compiled below.**

**SCOPE OF THIS REVIEW**

The purpose of this document is to provide the Board with a comprehensive report resulting from DIAND=s review, analysis and internal discussions related to the Plan. These comments are intended to assist the Board in preparing the next iteration of the Plan and, ultimately, in seeking final approval.

This review document is divided into three primary sections according to DIAND=s three primary objectives as described in the policy document: Land Use Plan Review/Approval Process.

- (I) To review draft and proposed land use plans for completeness and accuracy regarding the Sahtu Dene and Metis Comprehensive Land Claim Agreement and related Implementation Plan, and the MVRMA, particularly in terms of DIAND=s legislated responsibilities contained therein.*
- (II) To review draft and proposed land use plans in terms of DIAND=s positions on priority issues, programs, projects, and proposals, ensuring that relevant policies and legislative initiatives are adequately addressed and referenced. [eg sustainable development, cumulative impacts, general monitoring, and environmental assessment].*
- (III) To review draft and proposed land use plans in terms of professional regional land use planning principles and practices, ensuring that the documents are comprehensive, integrated, balanced, and community-based. There should be internal consistency between all land use policies and related strategies, ie between all land use categories.*

An overview of DIAND=s key findings is provided as an introduction to each of these three sections to provide context for the detailed observations. A fourth section has been included to address general issues which the working group identified concerning the format and content of the Plan.

Overall, DIAND=s primary recommendation is that the Plan requires fundamental reworking in terms of legislative issues, consistency and effectiveness of presentation.

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## **1.0 Legislative Conformity**

This section focusses on review of the Plan for completeness and accuracy with reference to the Land Claim Agreement and the Mackenzie Valley Resource Management Act. The key areas identified by the Working Group included terminology and areas where the Plan imposed more stringent restrictions than provided for in the legislation.

- (I) To review draft and proposed land use plans for completeness and accuracy regarding the Sahtu Dene and Metis Comprehensive Land Claim Agreement and related Implementation Plan, and the MVRMA, particularly in terms of DIAND=s legislated responsibilities contained therein.*

### **1.1 Consistency with Existing Legislation**

- 1.1.1 The term "conservation area" has a specific meaning in the land claim agreement as "...areas set aside under federal or territorial legislation". Since this is not the case with what is termed "Conservation Areas" in the Plan, another term needs to be developed, for example, Aconservation zone@.
- 1.1.2 Processes described under the MVRMA and the SCLCA should refer back to the original documents and should not be paraphrased.
- 1.1.3 Canol Trail/Dodo Canyon and Kelley Lake are addressed in the SCLCA. Specifically, section 17.3.1 (e) states that "to the extent that legislation permits subsurface exploration and development within territorial parks, this provision shall not prevent government from authorizing subsurface exploration and development ...". Therefore, this area cannot be restricted under the wording applied to the Conservation Areas (Zones).
- 1.1.4 DIAND also noted key discrepancies between recommendations in the Plan and recommendations of the Sahtu Heritage Places and Sites Joint Working Group. In a number of instances, the Plan imposes more stringent restrictions on areas than those recommended in the report of the Joint Working Group, entitled APlaces we take care of@. The Joint Working Group was mandated to develop these recommendations under the Sahtu Comprehensive Land Claim Agreement [SCLCA], and it is evident that a great deal of work went into their report. Out of respect for these recommendations, in the next iteration of the Plan, it should be evident how the Board developed the proposed Conservation Areas (Zones) and Special Management Areas using the work of the Joint Working Group as a starting point, including references to all other sources of information as well. (See related comments in 3.1.1.)

- 1.1.5 It is recommended that the Plan refer to documents that have been approved by the Sahtu Implementation Committee on issues related to co-management, governance, etc. This would ensure accuracy and consistency in the descriptions of land claim related issues (e.g. boards, parties, approvals, etc.). Also, it should be clearly explained that the Sahtu Secretariat Incorporated [SSI] is one of the three governments to whom the Plan will be eventually submitted for approval.
- 1.1.6 It is not clearly explained how the Plan fits into the system of integrated land and resource management contemplated by chapter 25 of the Sahtu Claim and by the MVRMA. In particular, the Plan's discussion of the MVRMA system omits Part 6 of the Act, which requires the development of a method of monitoring cumulative impacts and periodic, independent, public environmental audits. Both the NWT Cumulative Impacts Monitoring Program [NWT CIMP] and the audit will provide information and analysis that will be useful to the Board.
- 1.1.7 Regarding land ownership, Sahtu settlement lands and the District Land Corporations are mentioned in the Plan, but are not shown on a map, and it is not explained how the proposed land use designations overlap with Sahtu surface and subsurface ownership. There should also be a discussion of how permitting processes may differ between Sahtu and Crown land, and a discussion of mineral and oil and gas rights issuance and how these processes may interact with the land use planning process. It should be clearly noted that the Plan applies to private Sahtu lands as well as to Crown lands. A map of Crown lands, Sahtu private lands (surface and subsurface), other land ownership, and existing land withdrawals (surface and subsurface) is essential.
- 1.1.8 The descriptions of the MVEIRB in the text on page 34 and in Figure 9 are not entirely correct or complete, and Figure 9 is confusing as it could be read that the MVL&WB and MVEIRB are not MVRMA Boards. Figure 9 duplicates much of the text on page 34.

## **1.2 Focus on Land and Water Regulation**

- 1.2.1 The Plan could be written in a less prescriptive manner with respect to terms and conditions for land and water regulation if the Plan more clearly explained the decision-making roles of the regulatory authorities, as based in legislation. The existing regulatory framework and authorities, such as the Sahtu Land and Water Board, could address many of the environmental and heritage resource values and issues through terms and conditions attached to permits and authorizations. Many of the terms and conditions that the Plan proposes to apply to the SMAs are regulatory in nature. These should be left to the SL&WB to prescribe in a land use permit or water license. This would provide for a more focused and issue-driven set of terms and conditions relevant to broader planning issues. It is difficult to determine, as currently drafted, who carries the role and responsibility for each proposed term or condition. Moreover, the Plan does not discuss which if any of the proposed terms or conditions are already in use by the relevant authorities. This exemplifies the difficulties

of trying to regulate through general terms and conditions in a land use plan, and the overall approach could be greatly simplified.

- 1.2.2 A possible solution for consideration by the Board here would be to consider identifying priority requirements in the section on the Special Management Areas where there is reason for the regulatory system to apply regulations in a more stringent manner. The key here is the understanding of being able to apply compliance to a land use plan prior to permit issuance, and being able to enforce any terms and conditions under appropriate legislation. It is important to keep in mind that the conformity check with the Plan will take place prior to the Water Licence and Land Use Permits being issued as part of the environmental and socio-economic review process of a development application.

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## **2.0 Integration of Plan with Existing Policies, Programs, Strategies and Processes**

This section addresses the Plan's relationship with a number of priority areas, including the Protected Areas Strategy, the processes for Mineral and Energy Resource Assessments, and the need for resolution of trans-boundary issues.

- II. To review draft and proposed land use plans in terms of DIAND's positions on priority issues, programs, projects, and proposals, ensuring that relevant policies and legislative initiatives are adequately addressed and referenced. [eg sustainable development, cumulative impacts, general monitoring, and environmental assessment].*

### **2.1 The Northwest Territories Protected Areas Strategy**

- 2.1.1 There should be a clearer relationship throughout the Plan to the Northwest Territories Protected Areas Strategy [the PAS] and other processes for protected areas. This would be facilitated if there was a section on Parks and Conservation Areas (Zones) in the document.
- 2.1.2 The topic of Long Term Protection And The Protected Areas Strategy on page 83 isn't given adequate discussion but has important implications throughout the Plan, in particular to the Conservation Areas (Zones) section on pages 58 to 62. In the section on page 83, it appears that adequate consideration has not been given to the goal of the Plan in protection of the land. The meaning of protection and short-term vs. long-term protection needs to be more adequately discussed than currently described. (Clear definitions of protection, development, and other key terms would assist greatly in articulating the vision of the Plan, as discussed below in 4.1.) The section states that a land use plan can provide short-term protection by limiting development. It is therefore assumed that protection equates to lack of development. In the Plan, areas are set aside as Conservation Areas (Zones) that are off limits to development. However, the section on page 83 seems to imply that the Conservation Areas (Zones) aren't in need of long-term protection. It is not clearly explained why these Areas (Zones) are not in need of long-

term protection if the reasons for making them Conservation Areas (Zones) are valid.

- 2.1.3 In addition, there is not really an adequate discussion concerning the difference in protection under the PAS and under the Plan. The section on page 83 focuses on the difference as being short-term vs. long-term. If a land use plan continues to renew the Conservation Areas (Zones) eternally, then that would certainly provide long-term protection. (If they are not to be renewed, then that leads the reader to question the basis for the importance of setting such a strict land use designation.)
- 2.1.4 Key differences between the PAS and land use planning that are important and haven't been explored in this section include the following points: a.) A site advanced under the PAS, to come under territorial or federal legislation, is managed as opposed to just shut off from development. Areas that advance under the PAS are likely to bring economic development opportunities through tourism and job creation. Areas set aside under the Plan will remain economically neutral; b.) An area set aside under the Plan prohibits future development, but does not stop any existing grandfathered activities from occurring, principally because there is no capacity to compensate existing rights holders and prevent all development; c.) An area set aside under the PAS would undergo extensive assessment of the potential for non-renewable resource development and would potentially adjust boundaries to accommodate economic development opportunities - this assessment has not been built into the Plan.
- 2.1.5 If these important considerations were adequately clarified throughout the Plan, it could negate having the Chapter 7 section at all. For example, the process by which communities put forward the Special Management Areas on pages 63 to 72 is unclear and also open-ended (e.g. Other sites that may be identified by the community). This process should be explained further, including linkages to the life-cycle of the Plan and the PAS.

## **2.2 Mineral and Energy Resource Assessments**

- 2.2.1 Another key issue is the complication apparent between existing processes, such as with Nahanni, Sayou/Edacho, Tuktut Nogait and the Ramparts, and proposed conservation designations in the Plan. In the Plan it is stated that mineral exploration is not permitted in the noted Parks and Conservation Areas (Zones). It is existing policy that National Parks must proceed through the Mineral and Energy Resource Assessment [MERA] process and the PAS uses the Non-Renewable Resource Assessment process. Both of these processes require "mineral exploration" so they cannot be overly-restricted by the Plan, and this was one of the mining industry's primary issues of concern.
- 2.2.2 In addition, boundaries change during the course of park negotiations and a final withdrawal is determined in the establishment of the park under legislation. If the Plan was still in effect at that time, it would impose additional layers of restriction upon any lands that were released from the original boundary decisions and could hinder negotiations. All of the areas referred to 2.2.1 should therefore not be grouped under the Conservation Areas (Zones) section. Rather, they should be indicated under a separate colour scheme on the map and it

should be noted that these areas have the surface and sub-surface lands withdrawn.

- 2.2.3 Until such time as the Canadian Mining Regulations are revised, any land under an approved land use plan which is zoned such that mineral exploration and development are not permitted, would need to be withdrawn by Order-in-Council pending completion of CMR revisions. Assuming the amendments to the Canadian Mining Regulations are approved by Parliament and in effect prior to the completion and approval of the final Sahtu Land Use Plan, then this Order-in-Council requirement would not be an issue.

## 2.3 Cumulative Impacts

Given the pace and scale of development pressures in the Sahtu region and the NWT in general, the potential for land and water uses to have cumulative impacts on the environment is significant. The Plan does not use the word >cumulative= at all and does not address how the Plan could assist in understanding and managing biophysical, social, cultural, and economic impacts. Revisions to the Plan should include a discussion of cumulative impacts in the context of the MVRMA integrated resource management system and trans-boundary land uses. Land use planning can play a vital role in managing cumulative impacts by setting the context and laying the groundwork for land and water regulation and environmental assessment decisions. This role is touched on in the Plan but needs to be made more explicit.

## 2.4 Trans-Boundary Land Uses

### The Proposed Mackenzie Gas Project & Pipeline

- 2.4.1 The Pipeline Development section should be moved from Chapter 7 and addressed throughout the Plan in considerable more detail than at present, particularly in terms of a permitted use. Additionally, a separate section of the Plan should be developed and labeled ***Oil and Gas Development***, with a sub-section focusing on the Mackenzie Valley Natural Gas Pipeline. DIAND believes that the primary, long-term resource management issue for the Board will be how to manage oil and gas development within the context of land use planning and the current regulatory regime. The pipeline will therefore be the major mechanism for further oil and gas development in the Sahtu Region (i.e. feeder lines connecting with the main Mackenzie Valley Natural Gas Pipeline).
- 2.4.2 More specifically, in terms of the pipeline, the Board should turn their attention to what terms and conditions should be considered for this type of development for both the Conservation Areas (Zones) and the Special Management Areas. From DIAND=s experience with the Gwich=in Land Use Plan, certain associated developments are needed to support a pipeline, and how these associated developments will be managed in these Areas (Zones) is vitally important.
- 2.4.3 DIAND suggests that the Board review the current routing maps from the Mackenzie Gas

Project which show the proposed pipeline location and associated developments (i.e. camps, barge landings, new roads, staging areas, and gravel pits). Conducting this exercise should provide the Board with a better idea as to the nature of the pipeline development.

- 2.4.4 Finally, the issue of access for the pipeline and other oil and gas development should be considered by the Board.
- 2.4.5 For the general information of the Board, the Mackenzie Gas Project recently submitted a Preliminary Information Package to regulators. Upon completing the conformity check and assuming that it is successful, the regulatory review and environmental assessment will begin immediately. As outlined in the Cooperation Plan, this process will be completed within 36 months, possibly before the approval of the final Sahtu Land Use Plan.

### **Land Uses in Adjacent Jurisdictions**

- 2.4.6 As with the PAS and the proposed Mackenzie Gas Project, the Chapter 7 sections on Caribou Management and Trans-Boundary land uses, key issues for residents and Sahtu beneficiaries, should be addressed throughout the next version of the Plan, not left unresolved as currently described. Considerable more detail on these priorities is therefore required much earlier in the Plan.
- 2.4.7 There should be a reference to a map (eg. Map 5) or ideally a separate map showing the neighbouring regions and where available, their existing and proposed land use designations. More discussion of traditional use overlaps is required, including a recognition of processes underway or proposed with the Gwich'in and other neighbouring Aboriginal peoples and governments.
- 2.4.8 Concerning the first paragraph on page 82 in the Trans-Boundary Issues section of Chapter 7, the importance of the Nahanni watershed in the Deh Cho Process needs to be mentioned, and an update on the interim land withdrawals and the establishment of the Deh Cho Land Use Planning Committee need to be added.
- 2.4.9 Concerning the second paragraph in the same section, there is no Ainterim measures agreement@ in the Tlicho/Dogrib area. Also, an update reflecting the initialling (or signing, as applicable) of the Tlicho Agreement needs to be added. Note: There are no Tlicho lands *immediately* adjacent to the SSA, so the final sentence of this paragraph should be deleted.

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## **3.0 Professional Land Use Planning Principles and Practices**

The Plan should be an easy reference tool for policy makers and land managers to implement the policy directions and provisions contained in the Plan. The current multi-layered zoning system is cumbersome and should be clarified and simplified. In the next iteration of the Plan, it should be

clear that there are two primary goals for land use - (1) protection of biological and heritage resources and, (2) multiple land use, keeping in mind that the regulatory system is in place to provide for what is largely described in the Special Management Areas. Lack of clarity in the Plan surrounding access issues and issues concerning implementation of the Plan also need to be addressed.

***III. To review draft and proposed land use plans in terms of professional regional land use planning principles and practices, ensuring that the documents are comprehensive, integrated, balanced, and community-based. There should be internal consistency between all land use policies and related strategies, ie between all land use categories.***

### **3.1 Clarification and Simplification Of Zoning System and Land Use Designations**

3.1.1 It is not clear in the front end of Chapter 5 what Acriteria@, such as scientific and ecological significance, cultural importance, etc. the Board used to determine why a specific area was chosen to be a CA/SMA/MUA, and there are major inconsistencies between the formats of these three categories. See 3.1.2 below for suggestions to clarify these inconsistencies. A table would also be very useful showing how all the important sites identified in the various planning exercises to date, both Board activities and others, such as the IBP Sites and the APlaces We Take Care Of@, have been designated in the Plan.

3.1.2 The Board might want to reconsider the Aoverview@ in Chapter 5, which seems to be a list of planning assumptions and/or Board policy, and consider instead a consistent framework for this Chapter which could include the following:

- a) the vision of the Board based on a synthesis of mandate, stakeholder interests and community visions;
- b) a guide to the zoning system, including criteria for each zone, how to use the plan, and rules for each;
- c) a general overview of the Conservation Areas (Zones) and the Special Management Areas, including percentages, general criteria, and identification of CAs and SMAs; and
- d) a general overview of the Multiple Use Areas, including percentages, general criteria, and application of the regulatory system.

In the Gwich=in Land Use Plan, the logical framework includes reasons for designation; location-boundary; detailed cultural & biophysical description; map of each area; rationale of the Board; and discrete terms and conditions that may not necessarily be considered in a land use permit/water license issued by the GL&WB.

3.1.3 Concerning the Great Bear Lake Special Management Area on pages 66 to 68, the boundary of the Area on Map 8 needs to be the watershed boundary for Great Bear Lake, not an average buffer of land around the Lake. Because the final Land Use Plan will provide for the protection of the land, including the GBL watershed through the incorporation of priority watershed protection principles and related provisions, it is a significant opportunity to

advance many of the watershed protection objectives of the GBL Working Group. As such, the Great Bear Lake Special Management Area is not being pursued through the Protected Areas Strategy because it will not lead to a land withdrawal of the surface and sub-surface rights.

The GBL Working Group was in consensus that, to the extent feasible, the GBL Management Plan should be incorporated into and given legal force through the Sahtu Land Use Plan. The effort to prepare a Draft GBL Management Plan is currently being undertaken for the overall Working Group by the recently created Technical Working Group. In light of this effort, it is likely that the content of this entire section will have to be revised to reflect the substance of the eventual Great Bear Lake Management Plan. Since the GBL watershed extends beyond the SSA, any trans-boundary concerns on adjacent land use issues will eventually be addressed by the Technical Working Group.

- 3.1.4 The Special Management Areas in Chapter 5 contain a sub-designation called *Intensive Traditional Use Areas*, which for all intents and purposes appears to restrict any land use outside of tourism and traditional use. It may be advantageous to simply include these as *Special Management Areas* since they are so similar.
- 3.1.5 The useful definitions on page 55 in Chapter 5 should be included in a *Glossary* Appendix for quick and easy reference. The definitions need to be reviewed as some are written awkwardly, such as the one for Low Impact Tourism and Recreation. The term *development* should be defined in the Glossary as well. The SCLCA talks about *development activity* and *development proposal*. To be consistent with the legislation, it should be referenced in full: *Development activity* is defined as *Any private, local, territorial or federal government undertaking, or extension thereof, on land or water*. It is also recommended that the definitions in other land use plans and published documents be used for comparison purposes here, starting with the approved land use plans of the Nunavut Planning Commission.

## **3.2 Access Implications**

- 3.2.1 A great deal of concern has been identified with respect to issues of access in the Plan. As currently presented, there is a perception that Multiple Use Areas are "islands" which are not accessible to industry due to the restrictions surrounding them. This is perhaps a misinterpretation, but indicates that clarity in this area is needed. This has implications to the Crown for possible regulatory-takings and compensation. If the intent is not to deny access, this should be clearly stated as the uncertainty has negative investment implications. Some of the conditions for the proposed Conservation Areas (Zones) would actually prohibit permitted multiple use, for example, mining activity dependent upon using ice roads. Future iterations of the Plan should therefore consider how industry would access and use the Multiple Use Areas other than by air, including inter-linkages between projects. The questions of accessibility, storage and transportation of materials to and from exploration sites and routes which can be utilized to conduct this activity also need to be addressed.

- 3.2.2 Concerning existing development and an understanding of what is on the ground now, and how these developments will be treated under the Plan, much more information needs to be integrated into all the discussions in Chapter 5. Although it is recognized that "development activities that have current licences...will be allowed to continue regardless of which land use...", further reading on page 57 suggests that no such activity will be permitted within Special Management Areas (SMA) "...surface and /or subsurface development..SMA may prohibit all forms of development...". A quick analysis of existing licences that fall within areas proposed for limited use points to the fact that this creates a lot of uncertainty for industry.
- 3.2.3 Concerning the fifth bullet on page 54 and the Grand-fathering in@ of existing activities, a rights holder should have guaranteed access to claims and leases regardless of where they are so that the right can be exercised. Presently, the Plan allows for grand-fathering but depending on where the right lies, it does not guarantee access.
- 3.2.4 The oil and gas potential for some of the proposed conservation zones is considered high. Precluding oil and gas activities in these areas may have a significant economic impact on the local business opportunities and may have other socio-economic ramifications. The rationale for prohibiting sub-surface development activities is unclear as there are modern techniques to develop sub-surface oil and gas deposits by horizontal or directional drilling from outside the boundary of a conservation zone, with minimal environmental disturbance.
- 3.2.5 The rationale for prohibiting low impact exploration activity, as opposed to full mineral development, is unclear. Perhaps exploration companies could be regulated appropriately through such guidelines as seasonal restrictions, with the actual development of discoveries prohibited within the Conservation Areas (Zones).
- 3.2.6 It is not possible to tell from the maps or the descriptions exactly what areas the SMAs cover - for example, how wide are the buffers along the Mackenzie River and around Great Bear Lake?

### **3.3 Mineral Information**

- 3.3.1 There is a wealth of baseline information on the various renewable and non-renewable resources available on the Sahtu Land Use Planning Board web site, however, it is unclear whether mineral resource potential has been considered in the designated land uses or not. It appears from the consultation list that sufficient consultation with the hard-rock mining industry did not occur. For instance, were claim holders contacted?
- 3.3.2 Mineral and energy potential is not portrayed at all. The Plan should therefore include a lot more "baseline information" on the mineral resources of the region. There are several well known and documented mineral deposits in the Sahtu that should be the focus of some discussion regarding how to deal with access and future development opportunities.

Regarding the proposed Nahanni Headwaters Conservation Area (Zone) for example, the Howards Pass and Mactung deposits are currently sub-economic but contain globally significant resources of Lead/Zinc and Tungsten. Land use planning around these deposits is complicated as they are trans-boundary, with significant portions in the Yukon. The east shore of Great Bear is also an area which has seen recent attention for a class of deposits (Iron Oxide, Copper, Gold) that have been successfully developed in Australia. Although most of the prospective geology is south of the Sahtu, mineral potential here should be considered, and of course now there is the new focus on diamonds in the North Sahtu.

### 3.4 Plan Implementation

- 3.4.1 More clarity is needed in Chapter 6, particularly with regards to conformity assessment processes and the differences between exceptions and amendments. The requirement for clarity in this important area has been part of the approval process for the Gwich'in Land Use Plan, particularly where the exceptions process has been fully addressed to clarify that it is similar to a "minor variance". The exceptions process will therefore maintain the general intent and purpose of the Plan. The exceptions process cannot change a land use designation, so some of the questions on page 75 do not seem to fit with an exception, such as AIs the land use something the Board did not consider?@
- 3.4.2 The entire section on Conformity With The Land Use Plan on page 75 in Chapter 6 could be re-written in a more straightforward and clear manner. It is somewhat repetitive and broken up into one sentence paragraphs. In the third paragraph it is stated A...will require groups to follow...@ Use of the term Agroups@ is vague and has no meaning. It is important to use the guiding sections under the Claim and MVRMA for clarity - in this case refer back to section 25.2.9 AUpon approval of a land use plan, those authorities with jurisdiction to grant licences, permits, leases or interests relating to the use of land and water in the settlement area shall conduct their activities and operations in accordance with the plan@. It is also important to keep in mind that the Plan relates only to activities that are permitted, or licenced, and that it is those bodies that issue permits, licences, etc that will be conforming with the Plan. This also relates to use of terms Arestricted, acceptable, etc@. The correct terms to use are Apermitted@ and Anot permitted@.

Also in the third paragraph, it is stated AAlso, conformity means agencies will carry out the various recommendations contained within the LUP@. This text is not acceptable. Recommendations are just that, Arecommended@- they are stated using the term Ashall@ and there is no obligation to carry out a recommendation.

In the fourth paragraph, it is stated that proponents and regulatory groups Ashould@ consult with the Board. According to section 47 (1) of the MVRMA, there is no *requirement* for applications to be provided to the Board for screening/review, so how is the Board going to be able to ensure that proposed activities conform with the plan? Replace the term Aregulatory groups@ with Aregulatory authorities@; remove Ashould understand they@; and replace Ato be in conformity with@ to Ato conform to@. In the fifth paragraph remove Ahas final say@- and again, use words from legislation

as per MVRMA - A decision is final and binding subject to section 32". Rights issuance (oil and gas, minerals) should also be discussed.

- 3.4.3 The Amendments section and the Monitoring And Review section on pages 76 and 77 respectively seem out of sequence, since amendments and five-year reviews are discussed before the >unresolved issues= in Chapter 7. The sections on Sub-Regional Planning, Long Term Protection And The Protected Areas Strategy, and Socio-Economic Impact Assessment in Chapter 7 should be integrated with the discussion of plan implementation and review. The provisions for carrying out a Plan review, after 3 years for example given unforeseen circumstances, should also be described pursuant to section 50 of the MVRMA, including the requirement that this process will happen at least every 5 years.
- 3.4.4 In step IV of The Next Steps on page 84, it is unrealistic to assume that it is possible to proceed from a Preliminary Draft Plan to a Final Draft Plan. Many years of experience in Nunavut with the Nunavut Planning Commission, and with the Gwich=in Land Use Plan, have clearly demonstrated that it takes at least three, if not four iterations to have a final Proposed Plan actually approved. Therefore, this will likely take the Board one to two years to accomplish. Implementation needs to be added to this table as a number VII.

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#### **4.0 Overall Report Format: Structure and Information Gaps**

- 4.1 As currently drafted, it is difficult for the reader to decipher what the overall vision is for the Sahtu Settlement Area with respect to land use planning. Generally, the report fails to establish a clear and concise vision of how the Sahtu region will achieve balanced and sustainable development which will foster economic growth while satisfying social and environmental concerns.

DIAND is aware that the Board went to great lengths during the consultation and data gathering phase of the process to define its vision and has in theory designed a land use planning classification system that could address this vision, but unfortunately, the document doesn=t paint a coherent picture of this for the reader. It appears that the Board used a Astakeholder@ approach based primarily on community interests and valued ecosystem components, but it is not well developed, as there is a disconnect between the vision and the land use designations. As such, DIAND believes there is an overall lack of clarity and coherence in the Plan as currently written and that the Plan needs considerable attention in this area.

- 4.2 To rectify this situation in the broadest context, in the next draft the Department recommends that the Board consider highlighting the key issues facing the Sahtu Settlement Area in order to set the stage for the proposed land use classifications. DIAND also recommends that a more comprehensive and balanced presentation of baseline information and maps for the SSA, specifically on renewable, non-renewable and heritage resources be provided in the next draft Plan. Finally on this issue, the Department strongly recommends the development of consistent and simplified models for land use zones, as well as consistent and simplified key recommendations and actions required to implement and enforce the

Plan. Such a clear planning framework that sets out a logical method for land use designation could be similar to those of the Gwich'in Land Use Plan [Gwich'in Land Use Plan] and the Keewatin Regional Land Use Plan [NPC] which take an issues approach and clearly threads that throughout the documents.

- 4.3 There is inadequate coverage in Chapter 2 on Sahtu baseline information respecting:
- \$ renewable resources (water, fish, wildlife, forest);
  - \$ heritage resources;
  - \$ non-renewable resources (oil/gas, mining);
  - \$ regional infrastructure, including past and present development activities (e.g. roads, abandoned mines, etc );
  - \$ traditional economy (fur harvesting, subsistence/mixed economy);
  - \$ tourism;
  - \$ and community and political development (self-government).

These significant information gaps leave the reader without a full geopolitical snapshot of the Region. The inclusion of additional maps, as mentioned in 4.5, with explanatory text, would do much to fill these gaps.

- 4.4 There could be a more thorough analysis and synthesis of information, particularly in the physical environment [pg 19], the historical environment [pg 21] and the socio-economic environment [pgs 24-30]. This could be accommodated in separate chapters devoted to the natural [biophysical] environment and to the social environment, and the Board could consider incorporating existing socio-economic information with information on the traditional economy. This would better reflect the spirit and intent of the SCLCA and the Amixed@ economy found in most communities of the SSA. Improved socio-economic data could then be linked to specific recommendations and actions in the heart of the Plan. Because the socio-economic information is useful in providing a picture of the communities in the future, including the relevant population data, there should be stronger linkages to proposals for the development of renewable and non-renewable resources. For example, the proposed Nahanni Headwaters Conservation Area (Zone) has potential for small scale seasonal extraction of semi-precious gems (tourmalines, etc.) which could be a reasonable community-based industry, but not if it=s a restricted activity.

- 4.5 Given the quantity and quality of the information assembled by the Board and the Sahtu GIS project, the quality of the maps is very disappointing. The maps do not appear to have been produced by the Sahtu GIS Project. Most of them are incomplete, and in many cases could be more fully integrated with the text than at present. The maps in the electronic (pdf) version of the Plan are not legible. A number of useful maps produced by the Sahtu GIS Project, such as those on oil and gas seismic information, mineral potential, and traditional use should be included from the Board website <http://www.sahtulanduseplan.com/gis/maps/index.html>. A copy of the Interim Atlas mentioned on pg 86 would likely be useful for most reviewers.

- 4.6 While the focus on Board process is important, some or all of it may be better suited to a background document or Appendix. The majority of Chapter 3 on process could therefore

be re-worked or relocated. Much of the content on pgs 38-41 mirrors aspects of the planning approach exemplified in Chapter 2. Integration of select areas of the two Chapters is another option.

- 4.7 The use of traditional knowledge in the Plan could be improved - where it has been used, for example in the use of quotations, their placement seemed to be inappropriate and not always in the spirit of co-management, such as the quote on pg 31.
- 4.8 The presentation of major programs in Chapter 3 [vision, information collection, current land use, resource mapping, future land use, communications] focuses on process and actions rather than outcomes. The extensive description of the administration of these programs is questionable and perhaps should be contained in a background document or Appendix to the Plan.

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### **Next Steps**

Given the likelihood that the Board will have to go through a few more iterations of the Plan prior to final approval, DIAND would like to assure the Board of its continued assistance in developing a Plan which achieves this objective. In this regard, when the Board is in the process of assessing all of the comments received on the Plan, it may be an opportune time for representatives of the Department to travel to Fort Good Hope to meet with the Board and staff to discuss these substantive comments in detail. DIAND looks forward to supporting the Board throughout this pivotal period.