



Heidi Wiebe
Sahtu Land Use & Planning Board

July 30, 2009

Dear Heidi,

The NWT & Nunavut Chamber of Mines has reviewed the latest Draft of the Sahtu Land Use Plan and is pleased to provide comments. This document has generated significant interest from mining and mineral exploration companies that are currently operating in the Sahtu. As a group that promotes economic development in the NWT, we are very interested in land use planning processes. Our organization met with Board representatives on June 30 in Yellowknife, and many of the following points have already been expressed to your staff. We were grateful for the opportunity to present our views on this important document and feel that the meeting with your Board was productive and enlightening for both parties.

The Chamber represents mineral and business interests across the Northwest Territories and Nunavut. Its members are engaged in prospecting and exploring for minerals, development and production of mineral deposits, and the business sector that services development opportunities. It promotes development that is carried forth in a socially responsible manner and adheres to standard operating practices that protects the fragile northern ecosystem. At the same time, the Chamber champions a fair and clear regulatory system so that economic development can be allowed to proceed without unnecessary hurdles. We believe that a proper land use plan will help to alleviate some of our issues with the regulatory system. We strongly support land use policies that favour resource development, but we also recognize the need for land protection, which includes key environmental, heritage, and cultural values.

That said, the Chamber and its members have significant concerns with the current Sahtu Land Use draft. While generally better written, and includes far more geographical detail (which was woefully lacking in the older drafts), this version still lacks important details on potential for a mineral industry in the Sahtu. The draft also imposes many conditions on mineral activity, which one could consider yet another layer of regulatory complexity. As we will point out, many of those conditions are unnecessary in the scheme of the overall regulatory process and established industry practices, and will more than likely discourage mineral investment in the region. In general, the document continues to read not as a 'Land Use' plan, but a 'Conservation' plan where mineral exploration and development is allowed to proceed not as part of a regional vision, but by default where no other interests (eg: traditional uses of the land) or considerations are at stake. It uses an outdated assumption that development opportunities, subsistence

activities, and conservation cannot coexist and it uses this assumption to justify significant limits on economic uses of the land. The Chamber believes that our industry has progressed to a stage where many of those concerns can be addressed through an environmental review process and regulatory system and should not be automatically restrictive at the start.

Grandfathering:

The plan states repeatedly that existing uses cannot all be grandfathered since this would limit the ability of the Sahtu to manage land use in the region. This creates a great amount of uncertainty for any potential developer. Essentially, although a company has existing permits and licences for exploration, there is no guarantee that these will be renewed. Mineral exploration and development is all about investment for future anticipated payback. There is only negative value to a company until resources are produced. Therefore, why would a company explore for the remainder of a 2 to 5 year permit without there being some assurances that if they find a deposit, they will be allowed to mine it? The elimination of the ability to advance those areas through progressive stages of development is the opposite of ‘respecting existing rights’. This is effective expropriation of these prospecting permits and should be regarded as such. Considerable work may be needed to develop compensation policies.

The discussion of Exempt Activities (1.7.5) is confusing in this regard. It states that current permits will be honoured but that permit renewals will be subject to the discretion of the regulatory authorities. The length of time for which such permits and licenses are issued is much shorter than the time frame for development, therefore it effectively nullifies the grandfathering provision. Under Existing Uses (2) of 1.7.5, purpose b) appears contradictory to purposes c) and d). The latter two uses imply that existing rights and permits will be honoured but the former implies that these will be subject to the discretion of the plan administrators.

Transboundary Planning:

Sec 2.4.5 Ecoregions, pg. 38, para. 4.

“Most of these regions are transboundary, i.e. they extend beyond the SSA into the Yukon, Nunavut or other settlement regions in the NWT. This points to the necessity for transboundary planning”

We don’t believe that there is a necessity for transboundary planning. The fact that people have drawn lines on maps delineating areas of similar characteristics doesn’t automatically trigger a need for different regulatory bodies to engage in costly planning exercises. There is no legal requirement, no scientific basis, or ethical standard that would necessitate transboundary planning in this situation. The statement is without basis and we suggest it be stricken from the report.

Caribou Research:

Sec. 2.4.6 Wildlife, pg 43, para. 6

““Research by Alberta’s Boreal Caribou Research Program in the northeast of the province.....”

If scientific evidence is quoted it should be referenced. Also, the inference here is that this same effect results in the Sahtu. There is no research or evidence of similar results in the Sahtu and

that should be clearly stated. In its current form this statement amounts to the misuse of scientific research to support a particular opinion leading to a desired outcome. If it is to be used, the full context and limitations of the research need to be outlined and the applicability to the Sahtu explained and justified.

Impact Benefit Agreements:

Sec. 2.5.6 Mining, pg. 58, para. 4

“Before a mine can be constructed, the developer must negotiate an Impact and Benefit Agreement with the nearby communities”

There is no legal requirement or economic imperative that requires a project proponent to negotiate such an agreement. These agreements are done as a result of the willingness of companies and communities to work together for mutual benefit.

Dual Designation of Conservation Zones and Protected Areas:

Pg 70: “The Board is interested in hearing feedback on whether or not dual designation under the Plan and sponsoring legislation is desired and possible.”

Many of our member companies are exploring on properties located within proposed Protected Areas. With a dual designation, it would completely sterilize the area, and would conclusively take away every ‘grandfathered right’ that claim or permits holders carry. We would like to again stress that it is completely contradictory to allow for ‘grandfathered rights’ and then not allow them to occur in the manner they were granted.

Tailing Lakes:

Sec 3.3.3 Terms, pg. 92 Community Consultation

Para. 3 “...where consultation requirements should be better defined, such as when fish bearing lakes are designated as Tailings Impoundment Areas.”

This is a deliberately alarmist and provocative statement that has no linkage to the Sahtu Land Use Plan. It makes no reference to the extensive consultation requirements and regulatory reviews that are required to achieve MMER Schedule 2 amendments. The implication is that somehow eight lakes in the Sahtu were designated as TSAs without consultation. In fact none were proposed in the Sahtu. In reference to the footnote “This became a public issue in 2008....”, it became a public issue because anti-mining NGO’s exploited the public’s lack of specific knowledge regarding the review and assessment process to make misleading public statements about the level of review, assessment and impact of mining operations. This statement regarding turning lakes into tailings areas should be stricken from the report.

Special Management Terms:

Pg. 96 Special Management Terms, para. 8

“CR#12: Applicants must ensure that waste and waste water from land use activities is treated before being deposited in the environment to prevent contamination or alteration of water quality in the receiving water body.”

This statement is confusing. The “environment” is broader than just the receiving water body. Is the plan referring to discharges directly to water, or any discharge to any part of the environment? If the latter, this is far too restrictive. Any small-scale early stages development project will have environmental releases (not to water) in the form of smoke from camps, sumps for greywater, pithouses, and in the example of mineral exploration cuttings from exploration drilling. It is not feasible for early stage projects to import expensive and advanced treatment systems; it would be like taking a sewage treatment plant and industrial incinerator on a camping trip; unnecessary overkill. Inclusion of this recommendation for Special Management Zones will effectively make them Conservation Zones since no one will be able to meet the overly restrictive requirements to do work in a Special Management Zone. If it is made clear that this refers to releases directly to surface water, this is a requirement that early-stage mineral exploration projects can accommodate.

Pg 97, para. 1

“CR #14: Applicants will meet with ENR, CWS and SRRB.....”

Meetings are unnecessary to accomplish the objective of this recommendation and provide an avenue for significant delay should one party have a policy or political stance in regards to the project or proponent. It should be revised to say that “Applicants should (not will) request the most current information on the location of caribou.....”

In its role as the gatekeeper for the regulatory process in the Sahtu, would not also the Sahtu LUP Board be a repository of this information that can be made available to developers?

“CR #15: Applicants will demonstrate that the proposed land use activities will not have a significant adverse effect on key wildlife species....”

This requirement is addressed in the Environmental Assessment Process and having it in the SLUP is redundant and potentially confusing.

“CR #16: Applicants will avoid significant habitat features....”

The specific setbacks listed in this term are too prescriptive and should take into account different geographical realities. For example, raptors will not be nesting in the high mountain areas during March-May as it is still too cold, so there would be no need to restrict exploration during that time period in that type of terrain. There needs to be more flexibility in this condition, and once again we believe that these prescriptive terms are not necessary at a land use level and would be assessed on a case by case basis during permitting.

The effect of such prescriptive set-back areas will be the potential alienation of significant portions of mineral claim areas. Consider what could happen if you have a mineral claim where there is a bird nest within 500m of every bear den which is within 800m of every mineral lick, and so on. These types of requirements need to be evaluated on the ground before they are implemented as part of wildlife protection on a work site.

Pg. 98 , para. 4

“CR #19: ...applicants will restore all areas affected to the condition they were in before the authorized land use activities began.”

This is an impossible standard. Nature is dynamic and landscapes change naturally over time. To require an applicant to restore lands to their original state is asking the impossible. Climate change, wildfire, landslides and avalanches, floods, diseases and parasites (eg: pine beetle), and other land users are all factors that change landscapes and are beyond the control of a Project Applicant. You cannot expect Project operators to have omnipotent powers that can reverse the forces of nature. Restoring lands to functional ecological form that is compatible with the local ecosystem is a reasonable, practical expectation.

“Unless required for safety reasons, materials and waste will not be buried on site.”

This condition goes against convention and regulated industry practice. There are appropriate guidelines that ensure that waste disposal is done properly and safely, and to demand that all waste, no matter how benign, be removed from a project site sets back years of regulatory advancement in the field of waste management. It is unreasonable to demand that all material brought into a site be backhauled as part of remediation, especially when you look at the economics of backhauling. Mineral exploration typically backhauls all waste as dictated by its land use permits, so this phase of mineral development can accommodate this condition. However, larger mining projects build licensed landfills. This is the case across Canada and the N.W.T. Waste management plans are an accepted part of a mine’s operating procedures and can be done safely and without environmental affects. Furthermore, what is the definition of waste? Does this include waste rock and tailings? We recommend that the SLUP Board review this condition and consult appropriate INAC and regulatory guidelines as it relates to waste management issues.

Transportation and Infrastructure:

CR #23 – page 100 “Appropriate mitigation measures are used to minimize the area affected and the intensity of disturbance to ecological and cultural values.”

What mitigation measures will be applied, who will be measuring the intensity of disturbance to ecological and cultural values, and what formula will be used in how it would be mitigated?

Access to Granular Materials:

CR #24 – without access to quarry and granular materials, the allowance for access corridors across Conservation Zones is meaningless. Access to quarry and granular materials must be similarly guaranteed.

Mineral Potential:

We are pleased to learn that an updated mineral potential map will be included in the next drafts. We were also happy to hear of plans for an additional map that shows mineral showings across the Sahtu. One of the areas that are not represented at all in terms of mineral potential is the east

arm (McTavish) of Great Bear Lake, where all of the Sahtu's mineral production has historically come from. Geologically, we call this the Great Bear Magmatic Zone (GBMZ), and it is host to significant mineral deposition. In the past three decades a new ore deposit model has been evolving called IOCG (iron-oxide copper gold) and several have been identified in the GBMZ, including on claims now being explored by Alberta Star Development near Port Radium. Several world class copper and gold deposits of IOCG-type are now being mined in Australia, Argentina, and Brazil, and closer to home the NICO deposit in the Tlicho is in the permitting stage. We don't believe that the mineral potential of this particular region in the Sahtu is represented at all in the Land Use Plan, and there is certainly no discussion on how the Sahtu can capitalize on on-going exploration and development efforts there.

We also stress that Mineral Potential calculations are not always 100% accurate. Consider that a geologist in the 1950s had looked at the Lac de Gras area and, seeing it only as a large granite pluton with no mineral emplacement structures, categorized it as low potential for mineralization. The geologic model that would have theorized that diamond kimberlite pipes could be found in ancient cratonic rocks, and the detailed sampling techniques that led prospectors to actually find those pipes, did not exist in the 1950s. The point is that new geologic models are constantly being advanced that add to our knowledge of what the rocks may hold. Similar situations have happened in a Sahtu in the last two years. The Colville Lake area, not traditionally seen as favourable to diamond pipes, is now being identified as good prospecting ground, and some pipes have been intersected by drilling. The model now suggests that those old cratonic rocks extend further beneath the Interior Platform than originally believed. This is something that the Sahtu need to keep in mind when they are restricting development in areas that today suggests there is no potential.

It is interesting to note that almost half of the NWT's GDP comes from the diamond mines. It is also interesting that prices of commodities change as our knowledge of their use and the value to society develop. Minerals that have no known use and therefore were thought to be of little value are now highly sought for new uses: witness the value of the rare earth minerals at Thor Lake which can be used in a number of ways to actually reduce environmental impact.

Mineral Development Opportunities:

What is most evident in the SLUP is that the overlying objective is environmental and cultural value protection. Although mineral resource development is mentioned briefly, it is very evident that it is not an objective, but essentially is permitted by default where other considerations are not at stake. Mineral deposits are very rare and are highly dependent on the existence of favourable geology. Therefore, if there is a genuine desire for mineral resource development, there must be some consideration for the geology in the early stages of land use planning, when zoning is determined. At least in the manner the plan and land use zones are discussed, there does not appear to be any consideration of mineral potential. This leaves the reader with the impression that it is not important. Essentially, the only areas where resource extraction is permitted are the General Use Zones and potentially in the Special Management Zones. When the Great Bear Lake Watershed Management Plan is added in, it removes even more area from possible development. Most notably off-limits is the Hornby Basin and adjacent rocks on the eastern and northern shores of Great Bear Lake and the Mackenzie Mountains of the southwest. The result is that virtually all of the areas of interest for mineral exploration are in protected areas. The areas zoned as general use exhibit very limited potential. If that is the case, the

question to ask is whether the SLUP Board and the people of the Sahtu region want economic development and are willing to compromise on some of the zoning to allow that, or if the conservation of such areas is the priority, in effect they are saying 'no' to mining development (and its economic benefits).

In this regard the vision of the plan appears unrealistic and hypocritical with respect to self sufficiency. If the objective is to make the Sahtu region self sufficient, where will the revenue come from to do that? Administering the plan and the region, the regulatory costs, and the costs of the social programs all require money. The question the SLUP Board and the people of the Sahtu region that it represents must ask is "Are the renewable resource-based industries that are endorsed and promoted by this plan capable of generating enough revenue to make the region self sufficient and still provide the benefits to the region that the people desire?". If not then two options exist - either encourage development of your natural endowment including mineral resources and petroleum that can realistically deliver those benefits, or else scale down the services and benefits expected.

Conclusions and Recommendations:

The current draft of the SLUP represents an outdated approach to Land Use Planning that will simply add another layer to an already complicated economic development approval process. The Chamber believes this plan will unfortunately achieve little more than another level of bureaucracy in the already 'broken' regulatory and board system in the NWT.

The foundation of the proposed plan is the assumption that economic, subsistence, and conservation uses of the land are in direct competition and that one needs to be excluded (economic) in deference to the others. This fundamental assumption is without merit or evidence. All three can co-exist on the landscape and often times act in synergy for the creation of mutual benefits of all parties. The approach of cutting up the land into 'go' and 'do not go' zones needs to be abandoned. It should be replaced with a process in which valued landscape components and uses are identified and **Best Management Practices** developed that mitigate potential conflicts between land users in regards to these valued components. This approach is already in use in a number of specific circumstances within the plan (Mackenzie Valley Pipeline and Access Corridors in proposed Conservation Zones). This demonstrates that the Plan authors consider this a viable approach. This approach should be dramatically expanded and in fact should constitute the core of the plan.

In view of the current zoning designations, a bias towards oil and gas development is evident and bias against mineral development is similarly evident. The Mackenzie Valley Pipeline is allowed to advance even in conservation zones but mineral claims and prospecting permits are extinguished since the development pathway is cut off by refusing to allow the progression of rights from prospecting permit to mineral claim to mineral lease. In addition, the majority of the high oil and gas potential areas are covered by General Use Zones and the majority of high mineral potential areas are covered by Conservation Zones. In the logical evolution of this approach, the sustainable economic development of the region will be put at risk; subject to the cycles of a single industry (oil and gas). A balanced approach involving a diversity of industry is more sustainable and less risky to the economy of the region.

The Chamber of Mines and its members have agreed to form a working group of companies to participate in the land use planning process. Collectively we represent operations at all stages of development; from grassroots exploration to operating mines. This group of companies also represents a diversity of mineral interests including diamonds, uranium, zinc, lead, and tungsten. We have access to information, databases, and maps related to mineral occurrences and potential in the Sahtu and the expertise to interpret this information. We understand the potential environmental and social impacts of mining and mineral exploration work and are well advised in industry best practices for mitigation of negative impacts. We are willing to make our expertise and resources available to the Board for the land use planning process. We feel that a land use plan that provides opportunity for responsible development of mineral resources will contribute to sustainable economic growth in the region will have a better chance of approval by all levels of government.

The Chamber provides the following recommendations:

- 1) **Prescriptive conditions** be removed from the land use plan on the understanding that many of these conditions (eg: wildlife habitat setbacks and remediation standards) will be assessed on a case by case basis during the permitting and/or environmental review process, or are already achieved as standard operating practices under existing guidelines and/or regulations. The Board runs the risk of doing the work of MVEIRB if they decide to bring these conditions into play.
- 2) The Sahtu Land Use Board adopt **Best Management Practices** on all lands in the Sahtu, which industry will be happy to contribute to and adopt as part of its operating procedures. Many of the Special Management prescriptive requirements should be modified to something that compels the proponent, the various community boards and government agencies to work together in developing standard operating procedures for the protection of wildlife and wildlife habitat that take into account the presence of species, the nature of the work, the season of the work, the abundance of the species and habitat in the work area and the impact of the mitigations on operational flexibility. The Chamber believes that the mining and mineral industry has entered a new era where many of our companies operate under world standards (for example, ISO:14001:2004, Environment Management Systems) and the PDAC e3 guidelines for mineral exploration.
- 3) We recommend that Conservation Zones in the Sahtu be organized so that government-funded **geological investigation** can continue. The Chamber hopes that one day our northern geology will be better understood to promote responsible decisions on what ground should be permanently protected. If a process is in place to evaluate conservation zones using very basic geochemical and bedrock mapping programs (similar work is done as part of the MERA and NRA assessments of proposed PAS conservation zones and national parks), then we will have better data when the time comes to review the Sahtu Land Use Plan. This will require discussion with INAC Minerals Directorate, the NWT Geoscience Office, and the Geologic Survey of Canada to determine if funds are available to conduct this work.

- 4) The Sahtu Land Use Plan should include a **vision for economic development** in the Sahtu. The plan needs more detailed information on mineral potential, known deposits, and a type of game plan that foresees these developments in the near future, including possible corridors for hydro lines and road access. Two major projects, the Howard's Pass and Mactung deposits, lie within the Sahtu, however because of regulatory issues both will likely be permitted on the Yukon side of the border. This will result in a huge economic loss to the Sahtu. The current draft of the plan continues to come across as a conservation plan and not a land use plan. The Sahtu should be embracing the mineral potential of the Tulita Mountain area and envisioning infrastructure and support for those two mining projects and potential projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Vaydik". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Mike Vaydik
General Manager
NWT & Nunavut Chamber of Mines