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Your file - Votre référence

Our file - Notre référence

7392-10-2

July 31st, 2009

Judith Wright-Bird, Chair
Sahtu Land Use Planning Board
P. O. Box 235
Fort Good Hope, NT
X0E 0H0

Dear Ms. Wright-Bird:

Re: The Departmental Review of the Draft 2 Sahtu Land Use Plan, April 30th, 2009

Indian and Northern Affairs Canada [INAC] is pleased to submit its comments on the Draft 2 Sahtu Land Use Plan [Plan], pursuant to your letter of April 30th, 2009. The review was carried out by our internal Working Group, with representation from the NWT Region and from Headquarters in Ottawa.

I would like to commend the Sahtu Land Use Planning Board with respect to the work that was put into consultations with residents of the Sahtu Settlement Area [Area], regional organizations, government, industry, and non-governmental organizations, without which this Plan would not exist.

The Department's core comments are contained in the section **Key Issues And Recommendations**, and address the following topics: Zoning, Great Bear Lake Watershed Management Plan, Non-Renewable Resource Development, Mackenzie Gas Pipeline, and Legal Issues [Great Bear Lake Watershed Management Plan, Grandfathering Existing Rights, Conformity Requirements, Consultation, Impact and Benefits Agreements and Benefits Plans, Reclamation and Abandonment, Extraction of Granular Resources, and Monitoring].

Regarding the Great Bear Lake Watershed Management Plan, the Board should keep in mind that it is not a land use plan and does not have legal force or effect. Land use planning in the Sahtu must therefore be integrated into a single Sahtu Land Use Plan with consistent language throughout that conforms to the regulatory regime.

Regarding the Conformity Requirements [CRs], the Department views land use planning, environmental assessment and regulation as together constituting the 'regulatory regime' for operators in the North. The intention is that these phases be complementary and serve to clarify and facilitate the regulatory process. To ensure that this will be the case, it is important for the Board to carefully review the CRs to ensure that they do not unnecessarily create overlapping and duplicative processes with the regulatory boards, and that conformity checks can be effected quickly and transparently.

Regarding the Mackenzie Gas Pipeline [MGP], it is important that the Board be cognizant of the federal process for responding to the Joint Review Panel Report, anticipated in late 2009. When preparing subsequent drafts of the Land Use Plan, the Board must ensure that the Plan does not conflict with commitments included in the government response.

Regarding Consultation, the Board needs to more clearly distinguish between Crown consultation based on impacts to existing or asserted Aboriginal and treaty rights ["s. 35 consultation"], consultation requirements under the Mackenzie Valley Resource Management Act (MVRMA) [and the definition of "consultation" in that Act], consultation pursuant to the Sahtu Dene and Metis Comprehensive Land Claim Agreement (SDMCLCA) [the definition of which is identical to that in the MVRMA], consultation pursuant to the Mackenzie Valley Land and Water Board's Public Engagement Guidelines, and consultation undertaken for reasons of good governance and policy. The Board must better define and distinguish between consultation required under the SDMCLCA and MVRMA and that required pursuant to CR #6.

In summary, once the Board has assessed INAC's comments on these and other issues addressed throughout the attached document, our officials would be pleased to meet with the Board and staff to discuss matters in more detail.

INAC looks forward to supporting the Board throughout the exciting and challenging period leading to preparation of the subsequent Draft 3 Plan.

Should you have any questions concerning this submission, please contact myself or Marc Lange, Manager, Environment and Conservation Division, at (867) 669-2588 [or at Marc.Lange@inac-ainc.gc.ca].

Sincerely,

Trish Merrithew-Mercredi

Trish Merrithew-Mercredi
Regional Director General
Northwest Territories Region

Attachment

Cc Ethel Blondin-Andrew, President, Sahtu Settlement Inc.

The Honourable J. Michael Miltenberger, Minister of Environment and Natural Resources, Government of the Northwest Territories

DRAFT 2 SAHTU LAND USE PLAN - COMMENTS FROM THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

1. BACKGROUND, PURPOSE AND OBJECTIVES

The Sahtu Land Use Planning Board [the Board] submitted the Draft 2 Land Use Plan [the Plan] to the Department of Indian Affairs and Northern Development [the Department; INAC] on April 30th, 2009. The INAC Working Group, with representation from the NWT Region and from Headquarters [Ottawa] has undertaken this comprehensive review of the Plan.

The purpose of this document is to provide the Board with a comprehensive report resulting from INAC's review, analysis and internal discussions related to the Plan. These comments reflect the concerns the Department has with the Plan and are intended to assist the Board in developing and submitting the Draft 3 Land Use Plan scheduled for early 2010.

2. SCOPE OF THIS REVIEW

The Plan was reviewed according to INAC's three primary objectives, which include:

I. To review Draft 2 for completeness and accuracy, particularly regarding the Sahtu Dene and Metis Comprehensive Land Claim Agreement [SDMCLCA], the Mackenzie Valley Resource Management Act [MVRMA] and other existing legislation, regarding INAC's responsibilities and the regulatory roles of others.
II. To review Draft 2 in terms of INAC's positions on priority issues, programs, projects, and proposals, ensuring that relevant policies and legislative initiatives are adequately addressed and referenced.
III. To review Draft 2 in terms of professional regional land use planning principles and practices, ensuring that the document is comprehensive, integrated, and balanced. There should be internal consistency between all land use policies and related strategies, ie, between all land use categories.

3. KEY ISSUES AND RECOMMENDATIONS

Zoning:

1. The Sahtu Land Use Planning Board should be commended for the changes in Land Use Zones in comparison to the previous draft. Draft 2 of the Plan is a definite improvement over Draft 1, is overall more consistent with the relevant provisions of both the SDMCLCA and the MVRMA, and is more evenly balanced between conservation and development than in previous draft Plans. As a general rule, future drafts of the Plan should strive for consistency with the SDMCLCA and MVRMA, especially with respect to the definitions used, specific prohibitions and restrictions on access, roles and responsibilities of government and regulatory authorities, and wording on prohibited and permitted uses.

2. The Department is concerned that various Proposed Conservation Initiative [PCI] and Conservation Zones (CZ) areas are situated in areas of high mineral or petroleum potential. Three areas currently zoned as PCI are following the NWT PAS process: Shuhtagot'ine

Nene PCI #15, Ts'ude niline Tu'eyeta PCI #17 and Edaiila PCI #6. For these areas, detailed studies of the values of the area will be completed prior to the establishment of a protected area. Non-renewable resource assessments for mineral and oil and gas potential are competed as a requirement of the PAS process. The completion of the mineral assessments includes new field research and sampling to provide additional information regarding the mineral potential of the area. These values, together with cultural, ecological and renewable resource values, will be considered by the candidate area working group to help them make recommendations about the final boundary, level of protection and overall management of the area. Recognizing that the PAS process will result in better understanding of the values of the area, and allow the working group to make informed decisions about these three PCI areas, the Department is not requesting any changes to the PCI zones at this time.

3. Regarding the sub-section "Protected Areas and Conservation Initiatives" on pages 69-74 of the Plan, there may be differences in the initial study area boundaries proposed by communities for PCI areas and the final Protected Area boundaries. The Department recommends that any lands excised from the final protected area boundary due to their mineral and energy potential be zoned as general use or special management to allow for economic development. However, the Department acknowledges that there may be other reasons that areas are excised, and there may be reasons [e.g. cultural values] the Board would want to zone excised areas as conservation zones. Therefore the Board should consider adding a zoning review process to the Plan, which would be conducted subsequent to the establishment of a protected area, to examine the specific values of the excluded areas and zone them accordingly. Such a review should consider the overall regional zoning balance, the assessments conducted through the protected area review process, and the recommendations of the parties involved in the establishment of the protected area.

4. Regarding the Board's request for feedback on the question of dual designation under the Plan [3rd paragraph top pg. 70], the Board should leave open the option of 'double designating' completed protected areas as conservation zones, in order to provide subsurface protection to the protected area [excluding national parks, national park reserves and national historic sites where the Plan cannot apply]. This double designation approach is one option being considered by the federal government on a case-by-case basis for proposed protected areas under Environment Canada [Canadian Wildlife Service] designation. If and how the Plan might apply to protected areas after formal establishment should not be determined in a blanket policy by the Board now, but rather determined on a case-by-case basis through discussions between the Board and the parties involved in the establishment of the protected area.

5. Several Conservation Zones [18, 24, 29, 31, 33, 40 and 45] are located in areas of high or moderate to high petroleum potential. For the most part, these areas are fairly small in size [ranging from 11km2 to 600km2] and are largely surrounded by general use zones. The Department recognizes that most of these areas are currently zoned as CZ due to their cultural significance and value [including burial sites, spiritual sites, traditional trails and gathering places]. The Department also understands that CR #23 clarifies that transportation and infrastructure development is allowed in all zones, subject to the condition that options for avoiding CZ are evaluated and used if feasible. Accessibility for existing and new developments is therefore not an issue with these areas, however, due to their locations and proximity to known petroleum resources, the Board should consider, (i) if limited,

conditional seismic activity may be appropriate in some portions of these areas to help delineate adjacent reserves, and (ii) if directional drilling [without surface disturbance] may be compatible with some of these zones.

Regarding the Little Chicago site #29 [Conservation Zone # 38], there is a barge landing site, airstrip and staging site on the east side of the Mackenzie River that has historically been used by the oil and gas and mining industry since at least the 1960's; plus the earlier historical significance of prospectors from Chicago [USA] during the Klondike days. This site may also be one selected for the Mackenzie Gas Project as a suitable barge landing site/staging/airstrip site. It would be unfortunate to not allow industry to continue to stage equipment at this barge landing site and to use the airstrip, otherwise a new site would have to be chosen, thus the removal of trees, etc. Companies wishing to use this site would still be required to go through the Sahtu Land and Water Board and obtain land use/water permits.

Great Bear Lake Watershed Management Plan [GBLWMP]**:**

The GBLWMP was forwarded to the Board in 2005 by the GBL Working Group, for review and inclusion in the draft Sahtu Land Use Plan. The GBL Working Group expected the Watershed Management Plan to be refined through the Board's public consultation process. The Working Group recommended that the Watershed Management Plan ultimately form part of the approved Sahtu Land Use Plan, and that the policies, conditions and prohibitions in Chapter 4 - Land Use: The Special Management Zone, and in Chapter 5 – Land Use: Neh Karrila K'ets'edi [Conservation Zones and Protected Areas] be given legal force through the approval and implementation of the Sahtu Land Use Plan.

The Department supports incorporating those parts of the GBLWMP from Chapters 4 and 5 which are relevant and enforceable into the Plan. Incorporating the core aspects of the GBLWMP into the Sahtu Land Use Plan would be in keeping with the original recommendation from the GBL Working Group, whereby the core aspects would encompass the policies, conditions and prohibitions from Chapters 4 and 5. The Department is prepared to work with the Board in evaluating and translating these specific components for inclusion in the Draft 3 Plan in terms of the Department's jurisdiction and mandate, and prefers putting aside the Executive Summary from the GBLWMP in favour of going directly to these two priority Chapters.

In preparing the Draft 3 Plan, the Board may have to expand the special section on the Great Bear Lake Watershed Management Plan [in Section **3.3.2 Land Use Zone**] on pages 80 and 81 and the Chapter 4 Zone Descriptions sub-section **4.2 Great Bear Lake Watershed Zones** on page 111. It might also mean that there may need to be more than one CR devoted to it, over and above **CR #1** on page 80.

Having regard to the foregoing, the statement in sub-section **1.7.1 Location** on page 9: "To avoid inconsistencies in direction between these two documents, the remainder of this plan does not apply within the Great Bear Lake Watershed" is not the preferred approach of the Department, nor is it consistent with the fact that a single land use plan is contemplated by both the SDMCLCA and MVRMA. In this regard, **CR #1 [on pgs. 80 & 81]** does not contain the necessary detail that other CRs in the Plan contain. As there will no longer be the issue of inconsistencies between the Watershed Management Plan and the Land Use Plan, section 1.7.1 may need to be revised, as well

as the sentence in bold at the bottom of page 82, in the sub-section **General Use Terms** regarding the non-applicability of Terms beyond **CR #1**.

In summary, all land use planning in the Area must be integrated into a single plan with consistent language and approach throughout. Accordingly, the Great Bear Lake Watershed should not be treated as an entirely different sub-region from all other sub-regions in the Sahtu Settlement Area and, indeed, having two entirely separate plans with two entirely separate approaches will give rise to conflict between the two rather than avoid it. Having two separate approaches also reduces the effectiveness of the Plan.

Non-Renewable Resource Development:

Clients of the Department will require further guidance and clarity with respect to how industry will be expected to operate in the Area. Clear operational guidance to industry would be helpful in future drafts. With specific regard to minerals, the Plan effectively balances "Go" [General Use and SMZ] and "No-Go" [Conservation Zones-CZ and Proposed Conservation Initiatives-PCI] for the Sahtu Settlement Region as a whole [~80%-20% split]. However, key areas with good mineral potential [Cordilleran and Slave-Bear geologic provinces] also exist in PCIs.

In order to create and maintain a viable exploration and mining industry, according to the Minerals and Metals Policy of Canada, as much land as possible should be made available to mineral explorers. The current zoning in the Plan could result in a less viable mineral sector in the SSA due to restricted access to land.

Regarding the Conformity Requirements [CRs], particularly from a resource development perspective in the Area, the Department views land use planning, environmental assessment and regulation as together constituting the 'regulatory regime' for operators in the North. The intention is that these phases be complementary and serve to clarify and facilitate the regulatory process. To ensure that this will be the case, it is important for the Board to carefully review the CRs to ensure that they do not unnecessarily create overlapping and duplicative processes with the regulatory boards, and that conformity checks can be affected quickly and transparently.

Mackenzie Gas Pipeline:

Regarding the Term for the MGP on pages 89 & 90 of the Plan, specifically the second sentence of first paragraph, in terms of the word "before", if the operators have the Certificate of Public Convenience and Necessity before the Plan is approved, the MGP corridor may be exempted so that it would not necessarily have to conform to the Plan. If this Certificate is not in place prior to Plan approval, the Board should address in greater detail how the Plan could affect the project and related pipeline routing. In the Draft Interim Dehcho Land Use Plan, the corridor is an identified zone.

Regarding the second sentence of the second paragraph, "The final decision on whether or not the pipeline will be approved rests with the Joint Review Panel and the National Energy Board" is incorrect. The correct wording should be: "…..rests with the responsible Ministers under the MVRMA and responsible or designated authorities under the CEAA [i.e. the NEB]. The JRP will make a *recommendation* to government on whether the pipeline may proceed.

Legal Issues:

1. Great Bear Lake Watershed Management Plan

The GBLWMP contains a number of mandatory directions to appropriate authorities and others to do certain things independent of any particular application for an authorization. These sorts of directions potentially cross the line into the jurisdiction of government and regulatory authorities in that they neither guide the Board in determining conformity with the Plan pursuant to section 47 of the MVRMA, nor are they restricted to the issuance of licences, permits, or other authorizations relating to the use of land or waters or the deposit of waste by First Nations, departments and agencies of the federal and territorial governments as stipulated in section 46. Further, the GBLWMP must clearly define what is expected of First Nations, departments and agencies of government, and other regulatory authorities where it states that something should be done or avoided; e.g., Caribou Protection Measures [Part 4.7], and "Below Threshold" work in the Great Bear Lake Watershed [Part 4.9]. There is a lot of language in these sections from Chapter 4 to the effect that something "should" be done or that government is "urged" to do something. It is doubtful whether these sorts of recommendations could be enforced against government, a First Nation, or regulatory authority in the context of an approved land use plan. While these may be laudatory initiatives, it is beyond the power of the Board to compel a First Nation, government or regulatory authority to do these things or otherwise enforce a land use plan which recommends that such things be done.

Finally, to the extent that the GBLWMP purports to deal with lands within community boundaries [e.g., the prohibition against the installation of community wharves and docks], it is outside the scope of the MVRMA as Part 2 of that Act dealing with Land Use Planning does not apply to land situated within the boundaries of a local government [section 34 of the MVRMA].

2. Grandfathering Existing Rights

Regarding Section 1.7.5 Exempt Activities on pages 10 and 12 of the Plan, further detail and clarification is needed with respect to how and to what extent existing 3rd party interests will be protected. In that the Board recognizes more work on this issue is required, the Plan needs to more clearly define "interests", "existing uses" and "activities", and distinguish these from "interests". Also, is it the Board's intention that all existing interests/uses/activities in place when the Plan is approved will be able to proceed to development, or would they proceed to development subject to the provisions of the Plan? If so, what about 3rd party interests that currently exist in areas which will be zoned as conservation zones? Does the fact that development is prohibited in such zones mean that even existing interests would not be able to proceed all the way to development?

As a general rule, any provisions in the SLUP which deal with existing rights must be consistent with the applicable provisions of the SDMCLCA [e.g., s. 19.5.2(a) regarding administration of interests on Sahtu lands and s. 21.4 dealing with commercial access to existing interests]. There is nothing in the SDMCLCA which "grandfathers" all existing rights or interests so as to make them immune from future regulation, or otherwise exempts such interests from the provisions of an approved land use plan.

With respect to Map 2 - Existing Uses on page 11 of the Plan, this map is only a "snapshot" in time of existing interests. Some of these interests will lapse, new interests will continue to be issued [subject to the provisions of the Plan, and as a result this map will become out of date very quickly.

3. General Comments on Conformity Requirements [CRs]

Generally speaking, the Department's position is that the CRs must be consistent with the guiding principles in s. 35 of the MVRMA and s. 25.2.4 of the SDMCLCA, and must be related to the "conservation, development and use of land, waters and other resources in a settlement area" as set out in s. 41(2) and 41(3) (c) of the MVRMA. Any CRs which incorporate or reflect specific provisions of federal statutes or regulations [e.g., the MVRMA, SARA, NWT Waters Act] should be consistent with that legislation and specifically use the same definitions. Finally, the land use plan would be more effective if CRs were also listed collectively and referenced in a summative annex.

Summary of Comments on Specific CRs:

CR#1 – Great Bear Lake Watershed Management Plan. As noted the Great Bear Lake Watershed Management Plan is not in itself a land use plan and does not have legal force or effect. Land use planning in the Sahtu must be integrated into a single Sahtu Land Use Plan with consistent language throughout that conforms to the regulatory regime.

CR #3 – Mackenzie Gas Pipeline. Regarding the Mackenzie Gas Pipeline [MGP], it is important that the Board be cognizant of the federal process for responding to the Joint Review Panel Report, anticipated in late 2009. When preparing subsequent drafts of the land use plan, the Board must ensure that the plan does not conflict commitments included in the government response

CR #4 – Species at Risk. Care should be taken to not paraphrase Species at Risk legislation. References to SARA [and other legislation] are acceptable, provided the Board makes the authority of the legislation clear. It would be helpful for the Board to include a discussion of existing legal requirements in this respect under the SARA, the *Fisheries Act* and the *Migratory Birds Convention Act*, as well as the territorial *Species at Risk (NWT) Act* which was recently passed. The implementation date for the latter *Act* is currently projected for January 2010.

CR #5 - Karst Topography. Clarification is needed on this CR. Is it the topography which may require special measures or would *"mitigate impacts within areas of karst topography"* be better wording?

CRs #8, 9, 10, & 11 – General Environmental Considerations. Matters relating to appropriate technology would be regulated by the National Energy Board experts for oil and gas operations. New technology might not be appropriate in all circumstances, may place undue burden on local contractors to invest in new equipment, and is not necessarily better because it is new. Also, the Board indicates that these special management terms apply within Special Management Zones, Conservation Zones, and Proposed Conservation Initiatives. In doing so, it implies that there are no requirements to minimize environmental

footprints, limit alien species, or alter permafrost in areas of General Use. These CRs may therefore be misleading by suggesting that such special terms do not apply elsewhere.

CRs # 8 and #9 – General Environmental Considerations. Suggest adding the words "where appropriate" to these CRs. CR # 9 could be difficult to define and to qualify, and to whom is it directed? The wording of this CR is inconsistent with the zoning of the Little Chicago Conservation Zone #38. [See comments on the Little Chicago CZ re **Map 5.** and **Table 3.**

CRs #12 and 13 – Water. Suggest adding the words "as required under existing regulations".

CR # 14 – Wildlife. Is it necessary for all applicants to meet with all listed organizations? The Department recommends that the word "will" be changed to the word "should". Otherwise, how will this be monitored by the Board? Will there be a checklist indicating that an applicant has met with each and every group? Are all groups applicable to all type of activities? To what extent will the applicant have to satisfy each group? It is obviously in the best interest of an applicant to meet with the local agencies; however, should this be a requirement of the Plan? Could data be available online, as with Community Conservation Plans in the ISR? Perhaps a code of best practises should be included as an Appendix in the Plan.

CRs #15 & 16 – Wildlife. The Board should discuss how these requirements relate to existing land use permit and water licence requirements and the requirements of federal and territorial Species At Risk legislation. How will applicants demonstrate that their land use activities will not have a significant adverse impact and to whom will they demonstrate this? Could there be a list of best practices made available by the various organizations listed in CR #14?

CR #16 – Wildlife. This CR is highly prescriptive. The Board needs to confirm if Environment and Natural Resources [GNWT] and Canadian Wildlife Service approve of these listed setback distances. The Board should also clarify if it has the ability to accept a variance to these setbacks under special circumstances. This CR indicates avoidance of significant habitat features and applying setbacks when the areas are occupied during sensitive life cycles. However, there are no guidelines for calving areas which are included as such features in the first sentence. Does this mean that these areas are to be avoided all year-round? Could operators use such areas in the fall or winter, provided they demonstrate their activities did not have significant environmental effects?

CR #18 – Monitoring. Is it appropriate for an applicant to establish a monitoring program in advance of a proposed project being assessed and permitted through environmental assessment and regulatory phases? Is it too preliminary?

CR #19 – Reclamation and Abandonment. How can this CR be reconciled with regulatory requirements, who determines the acceptability of recovery conditions, and how long might recovery apply after termination or abandonment?

CR #23 - Transportation and Infrastructure Corridors. The Board may want to include a reference stating that this CR will apply to proposed National Park areas [like Náátsihch'oh] until such time as they are promulgated, when roads for non-Park purposes will not be

permitted. Also, once a PCI becomes established as a Protected Area, the development of roads in certain locations may no longer be appropriate.

4. Consultation

With respect to the use of the term “consultation” in “Community Consultation” [Section 3.3.3, pgs. 92 & 93], the Board needs to more clearly distinguish between Crown consultation based on impacts to existing or asserted Aboriginal and treaty rights ["s. 35 consultation"], consultation requirements under the MVRMA [and the definition of "consultation" in that Act], consultation pursuant to the SDMCLCA [the definition of which is identical to that in the MVRMA], consultation pursuant to the Mackenzie Valley Land and Water Board's Public Engagement Guidelines, and consultation undertaken for reasons of good governance and policy. The Board must better define and distinguish between consultation required under the SDMCLCA and MVRMA and that required pursuant to CR #6.

The statement on page 92 of the Plan to the effect that "While the responsibility for consultation always rests with the Crown, it is generally carried out by the applicant wishing to explore for or develop the resource" is not correct. The responsibility for section 35 consultation always rests with the Crown, and never with third parties such as developers or applicants. However, third parties may consult with a designated Sahtu organization in the course of exercising rights or interests in the Sahtu Settlement Area, or when providing notice to or obtaining access to such rights and interests [see, e.g., the requirement to consult in Chapter 22, "Subsurface Resources", s. 22.1.3].

With respect to A #2 and A #3, the Department believes that these requirements are outside of the powers of the Board as set out in s. 43 of the MVRMA. While these may be laudable policy goals, they are not a description of permitted or prohibited uses of land, waters and resources. Further, recent case law dealing with s. 35 consultation has moved beyond using fiduciary duty as the basis for Crown consultation and has relied instead on the "honour of the Crown", a much broader concept.

5. Impact and Benefits Agreements [Mining] and Benefits Plans [Oil & Gas]

The Department is of the view that the SDMCLCA does not require a mineral producer to negotiate an impact and benefit agreement with the nearby communities. In this regard, there are two provisions in the SDMCLCA which are relevant. First, the rights of commercial access guaranteed in section 21.4 are subject to any access agreement that the participants and a rights-holder enter into [see sections 21.4.1(d), 21.4.2(d), and 21.4.6(a)]. These sections speak of an agreement of a designated Sahtu organization and do not use the term “impact and benefits agreement”; however, the agreements contemplated by these sections could very well be similar in substance to what are now understood as “impact and benefits agreements”. Note that “impact and benefits agreements” is not a defined term in the SCMCLCA.

Second, Chapter 22 only requires that developers consult with the Sahtu Tribal Council [now the Sahtu Secretariat Incorporated] with respect to certain activities and, in the case of oil and gas exploration, with respect to the matters listed in section 22.1.3 (a) to (h). Note that this

section provides that "such consultations are not intended to result in any obligations in addition to those required by legislation."

In other words, it cannot strictly be said that the SDMCLCA requires "impact and benefits agreements" and it is therefore beyond the Board's mandate and jurisdiction to require such agreements as a condition of land use. Having said this, it is important that the Board needs to better explain when the agreement of a designated Sahtu organization is required under the SDMCLCA and when consultation with the Sahtu Secretariat Incorporated is required with respect to exploration for oil and gas or minerals.

6. Reclamation and Abandonment

As INAC's preferred term is "closure and reclamation", it is recommended that this section in the plan on page 98 be re-named, including all other similar references throughout the Plan.

With regards to CR #19 and # 20, although it is recognized that the Board can set goals for the level of reclamation desired for areas affected by development, these should be restricted to guidance for the appropriate regulatory authority - the MVLWB.

As currently written, CR #19 would, regardless of development size, require a proponent to restore all areas affected of the site to their pre development state once business on the site has been completed. All affected areas, as stated in this CR, could include: camp wastes; waste water; waste rock; all tailings; process water; and all buildings. Requiring all proponents to remove all waste from the sites and reclaim the affected areas to its pre-activity state is unachievable and will be prohibitive for any future economic development in the region. Regarding CR #20, this is an excellent goal; however, requiring full remediation costs upfront as securities for all activities [as in CR #19] could be beyond the means of companies undertaking smaller projects with minimal impacts, and therefore prohibitive to economic development as well.

It is up to the MVLWB to determine the level of reclamation required, if any, upon review of the specific project, in consultation with the MVEIRB and the SLUPB [Board]. There is room in land use permits, water licences and other authorizations for tailoring such monitoring programs to a particular company or project. Accordingly, the Board should clarify their intent to require adequate reclamation prior to the return of security for every project.

Currently CRs #19 and #20 are unachievable; therefore, they should be modified for proponents to be able to attain achievable goals.

7. Extraction of Granular Resources

CR #24(1) on pages 100-101 is consistent with the SDMCLCA and clearly falls within section 41(2) & (3)(c) of the MVRMA as a "permitted or prohibited use of land, water and resources." Further, section 46 of the MVRMA requires the federal government to carry out its powers in accordance with the Plan when issuing quarrying permits within the Sahtu

Settlement Area, and INAC's issuance of permits pursuant to Regulations will have to be exercised having regard to the Plan once it is approved.

With respect to CR #24(2) regarding extraction of granular resources and the need to consult with the Land Corps, First Nation, and Renewable Resource Council of affected communities to identify the important ecological and cultural sites for which the zone was designated and demonstrate that their activities will not adversely impact these values, the Department is of the view that CR #24(2) can properly be included in the Plan since it relates to the "conservation, development and use of land, waters and other resources." However, as noted above in 4, the Board needs to define what kind of consultation is required here [e.g., as defined in the SDMCLCA?] and the wording of the CR could be tightened up somewhat, e.g., see s. 4.5.2 of the Gwich'in LUP and specifically the "Conditions for Heritage Resources." The wording for this section is preferable to that in the SLUP as it is more precisely worded and more clearly linked to the "use" of land, waters, etc.

8. Monitoring

Although it is within the jurisdiction of the Board to set goals for the level of monitoring required for each project, such a requirement should be in proportion to the environmental impacts of exploration/development activities. In other words, the potential monitoring requirements could be out of proportion to the potential impacts, particularly for activities that do not require permitting, and therefore such programs may not be appropriate or necessary for every project.

Accordingly, it should be up to the MVLWB to determine the level of monitoring required, if any, upon review of the specific project, in consultation with the MVEIRB and the Board. There is room in land use permits, water licences and other authorizations for tailoring such monitoring programs to a particular company or project. In other words, in considering every application for a land use permit, lease, or water licence, regulatory authorities [MVLWB] would consider whether a site-specific research and monitoring program were necessary in order to document the impacts of the proposed activities on the ecological and cultural values identified for the zone in which the activity is proposed.

Editorial and Format Recommendations:

1. Definitions used in the Plan should be consistent [if not identical] to those used in the SDMCLCA and MVRMA. Where provisions of the Plan relate to specific federal or territorial statutes, policies or programs [e.g., Species at Risk, Wildlife Act, Protected Areas Strategy], the definitions used in the Plan should be consistent with the definitions used in those statues, policies or programs. Also, the Plan needs to be more precise and detailed in all of its descriptions of the boards and processes created under the MVRMA, as well as the respective roles of the boards and government as set out in that Act.

2. For the ease of the reader, a summary listing or table of all the Conformity Requirements, Actions and Recommendations should be included, perhaps in an Appendix. The use of coloured tabs would also greatly help the reader.

3. The readability and user-friendliness of the Plan is an issue. It is an extremely lengthy document and contains much history, explanation, and exposition. It is difficult to determine at a glance what actions, prohibitions, permitted uses, recommendations, and conformity requirements are applicable to any particular zone or region. It will be important for readers, industry or anyone else, to quickly navigate through the Plan to zero in on those most important components and tools that they will need to reference in order to operate in the Area. Perhaps a more detailed table of contents or index could address these problems, or perhaps the comprehensive summary of all conformity requirements and prohibitions [noted in 1 above], as well as all related zones [Map 16 – Land Use Zones, Table 10 – Zone Descriptions] could be included as an appendix, annex, or executive summary.

4. The maps are difficult to read, at least in the scale reproduced in the Plan, and many of them may soon be out-of-date as rights and interests lapse and new ones are issued, new Protected Areas are created, and new regulatory authorizations are issued. It could be that links to accessible web-based GIS maps would be a complementary or preferred approach to resolving this issue. INAC understands that additional maps will be added to Draft 3, including individual zone maps as part of the Zone Descriptions.

5. The document should be rigorously reviewed for spelling, grammar and other editorial issues, especially the spelling of proper Sahtu place names in the Slavey language to ensure that they are spelled correctly and the proper accents included. For example, names like Shúhtagot'ine Néné, Náátsihch'oh and Ts'ude niline Tu'eyeta are spelled incorrectly several times in the document and missing accents. Further, the use of "they" and "it" needs to be reviewed throughout the document.

6. Once maps are included in the Plan, INAC will have to verify that the boundaries identified are consistent with those of the Sahtu Dene and Metis Comprehensive Land Claim Agreement.

   The Implementation Branch is currently processing several amendments that will slightly alter the boundaries. How does the Department ensure that these boundary changes will be reflected in the Plan? Should there be a provision in the Plan to account for these amendments or any others that are significant to the Plan?

7. **Chapter 2 – Description of the Sahtu Settlement Area** is interesting background information and may be better located in one of the later Chapters, allowing the heart of the Plan – **Chapter 3 – The Plan** to be located closer to the front-end of the document. Similarly, **Chapter 4 - Zone Descriptions** are also interesting and give a good, quick summary of each Zone, but may be better located following **Plan Approval & Implementation** or in an Appendix.

4. SPECIFIC COMMENTS, RECOMMENDATIONS & EDITORIAL SUGGESTIONS
[By Section & Page Numbers]

Acronyms – Pg. vii
The commonly used acronym for the Sahtu Dene and Metis Comprehensive Land Claim Agreement is SDMCLCA.

Definitions - Pg. viii & ix
Suggest including definitions for the following: (a) Adaptive Management Practises [**CR #8** on page 96]; (b) Exploration; and (c) Prospecting

"land use activities": typo – change the 'of' near the end if the definition to 'or'.

Regarding the definition of "wildlife" on page ix, the Board may wish to review the *Species at Risk Act* definition of wildlife: ''wildlife species'' means a species, subspecies, variety or geographically or genetically distinct population of animal, plant or other organism, other than a bacterium or virus, that is wild by nature and (*a*) is native to Canada; or (*b*) has extended its range into Canada without human intervention and has been present in Canada for at least 50 years. The NWT *Wildlife Act* definition of wildlife: "wildlife" means a vertebrate, except a fish as defined in the *Fisheries Act* [Canada], that in its natural range is found wild in nature and is naturally occurring in the Territories, and any part of that vertebrate and includes an egg of that vertebrate; *[faune, faunique, gibier,animal de la faune* ou *animaux sauvage]*).

The Plan definition seems to be limited to animals. Is this intentional? The term 'ferae naturae' could be replaced with a more common term.

1.6 Methods and Analysis – Pg.7
First paragraph, last sentence should read: "At the end of 2007, the Board once again lost staff and **there was a** major turnover of Board members."

1.7 Scope and Application of the Sahtu Land Use Plan

1.7.1 Location – Pg.7
Add a note that the Plan does not apply to Saoyu-?edacho National Historic Site.

Map 1. Sahtu Plan Area - Pg. 8
Legend indicates an all-weather road identified by a red line, but there is no all-weather road on the map.

Map 2. Existing Uses - Pg. 11
The oil and gas EL's are somewhat out of date. Recommend updating. The Legend indicates a pipeline; however, the Norman Wells pipeline is not clearly defined. In addition, the legend indicates "PPL" - presumably this is the Imperial production facility. Perhaps it is the scale of map printed off, however, the production facility does not appear highlighted on the Map. Also, the map should indicate the extent of the field as indicated by the Norman Wells Proven Area in addition to the existing pipeline. The shape file for the Proven Area [PA] can be obtained from INAC: it is the PA which defines the extent of the existing production rights with regard to the oil field.

1.7.6 Land Ownership – Pg. 12, and **2.2 Land Ownership And Organization** – Pgs. 14 & 15
It would be useful for the Board to mention the Sahtu-owned parcels outside the Sahtu region [in the northern Dehcho] and explain if they fall under any planning regime.

1.8 Regulatory Context - Pg. 13 Para. 2
The Board cannot establish new regulatory requirements without existing regulations being amended. It can only establish where certain regulations do/do not apply, i.e. the *NWT/NU Mining Regulations* would not apply in a zone where mining exploration and development is not an authorized use as per the Plan, except for existing rights.

1.9 Document Overview – Pg. 13
This section seems to be in an awkward spot - suggest moving it towards the front of the document, probably after **1.1 Introduction** on page 1.

Chapter 2 – Description of the Sahtu Settlement Area

2.3 People of the North
2.3.2 Sahtu Communities - Pg. 16
This is an interesting Section and provides a nice succinct overview of the SSA. However, the numbers in the first paragraph don't match the numbers in section **2.3.3 – Population Demographics** – Pgs. 18 & 19. These population numbers need to be consistent throughout the Plan.

Third paragraph on page 17, second sentence re Sir John Franklin: Sir John Franklin did not establish a trading post at the present location of the community of Déline. In 1825 Franklin established a staging area and winter quarters near the location of the present-day community as a base for his Second Arctic Land Expedition and named it Fort Franklin. While the expedition members did trade for meat and other provisions with local Dene, this base was not a trading post in the traditional sense and was never used by the Hudson's Bay Company as such.

2.3.3 Population Demographics - Pg. 18
This Section would benefit by including some sort of historic trend analysis for each community and a forward looking analysis of what the current demographics portray for the future. Also, some information on intra and extra-regional migrations would be helpful in setting the stage for economic challenges/opportunities in the short, medium and long-term.

2.3.4 Culture – Pgs. 20-28
This is another interesting Section that provides some good background information.

Ongoing Relationship with the Land – Pg. 25
Typo in fourth sentence: 'brining' should be 'bringing'.

Map 5. Heritage Sites from "Places We Take Care Of" - Pg. 26 and **Table 3.** – Pg. 27
Table 3 on page 27 needs to be completely revised as the reader does not know exactly where certain sites are located. Suggest adding a column that indicates which LUP zone the area corresponds to [or is located within]. Specifics comments: (1) Ramparts should be labelled as a PCI; (2) Saoyu-?ehdacho should be labelled as a National Historic Site or removed from the table altogether; and (3)

the only areas that should be labelled PCI are: Shuhtagot'ine Nene, Ts'ude niline Tu'eyeta, Naatsihch'oh, and Edaiila.

This map showing sites from "Places We Take Care Of" is different from the one in the "Places We Take Care Of" January 2000 Report, particularly the site #7 area [Shúhtagot'ine Néné] which is larger in the Plan compared with the area shown in the earlier report.

Map 6. Major and Regional Watersheds of the Sahtu Settlement Area – Pg. 32
This Map is very dark and should be easier to read. Also, the legend needs to be color-coded and expanded to include the colors of the watershed sub-districts.

Table 4. Ecozones of the Sahtu Settlement Area – Pg. 37
Typo in the Taiga Plains Ecozone, under the Mean Daily January, change the '-3 C' to '-30 C'.

2.5.6 Mining – Pg. 57
Typo in second paragraph, first line: change the 's' in 'identifies' to a 'd' – 'identified'.

2.4.6 Wildlife - Paragraph 4 - Pg. 43
With respect to the old cut-lines, people in the communities use some of these lines for access. Will these trails, used by local residents, be excluded from the calculations of the cumulative effects of seismic lines in the Area? The current draft document referenced in this paragraph is a "guidance" document for seismic lines in the NWT.

Important Wildlife Areas – Pg. 44
The draft GNWT report needs more context. This wildlife Section could include a discussion of listed species at risk, and the implications of such listing for land management. Table 6 on page 46 mentions COSEWIC status, but this has less legal force than the SARA status.

2.5 Economic Development - Pg. 50
This Section as a whole is not as complete as similar Sections throughout the document. It lacks a critical discussion of what has driven the economy of the Sahtu in the past and what the future opportunities are.

2.5.3 Tourism/Outfitting - Paragraph 1 - Pg. 50
While tourism is the NWT's largest renewable resource industry, it is in an order of magnitude less than that of mining and oil and gas. In the 2nd sentence, replace the word "exports" with "sector of the economy".

Given that the tourism industry would like to see the wilderness aspect maintained, there is a need to broaden the market outside of the Hunter/Fisher/wilderness hiker and/or canoer if tourism is to make a more meaningful contribution. The Board could help here by identifying in the Plan smaller areas/times of year when locally, more intensive tourism could be viable [more mountain lodges, better maintained/easier access trails around lodges, multi-day cruises on Great Bear] while leaving larger areas for more wilderness focussed adventure enthusiasts.

2.5.5 Oil and Gas - Paragraph 2 - Pg. 55
In addition to Imperial Oil's Norman Wells production facility, there is also the Paramount Cameron Hills production facility, in the Dehcho territory.

The Norman Wells field does not always ship over $500 million - this is dependent on price. Of greater importance is the declining production from the field. The Board should focus more on how it will facilitate the exploration required to replace the declining Norman Wells field.

The Mackenzie Gas Project (MGP) - Pg. 55
This Section indicates a stated goal of moving gas in 2010 - this is clearly not feasible.

Map 13. Hydrocarbon Potential of the Sahtu Settlement Area – Pg. 56
On the Hydrocarbon front, the NWT Geoscience Office released the Peel Plain and Plateau Geological atlas in early June. These publications shed considerable insight into several petroleum plays in the region in a non-quantitative sense. The data-intensive scientific approach to the Peel group will go much farther towards illuminating the petroleum potential of an area than any resource modeling analysis based on incomplete information in a grossly underexplored area.
The Peel digital atlas and program volume are available from our website:
http://gateway.nwtgeoscience.ca/browseC.php?R_ID=16521 and
http://gateway.nwtgeoscience.ca/browseC.php?R_ID=16501

2.5.6 Mining - Paragraph 1 - Pg. 58
This Section makes no mention of the 50 years of continuous mineral production from the numerous mines on the east side of Great Bear Lake and the role of this in the establishment of the Mackenzie River Barge transport system. While the Board could point to a desire to not repeat past environmental practices, the long history of production points to the need for the Board to identify this as a key area of the Plan where continued mineral exploration should be encouraged.

The recent large-scale activity for diamonds in much of the Sahtu is not referenced, the data collected and filed with the NWT Geoscience Office will be publically available in the next three years or so and will provide a tremendous opportunity for the Board to encourage/work with the Geoscience Office in the use of this data to encourage additional exploration, perhaps for commodities other than diamonds, using the same data.

Much of the mining Section is a general discussion of the sub-surface rights issuance process which could be referenced instead of filling the document with additional text. This information is repeated [more accurately] later in the Plan on pg. 87. For instance, it is incorrectly asserted that mineral claims do not confer mineral rights, which they do. A recorded mineral claim clearly confers "rights" on the holder. Subsection 27(1) of the Northwest Territories and Nunavut Mining Regulations give the holder of a recorded mineral claim the exclusive right to prospect on, remove minerals from, or develop a mine on land within the boundaries of a recorded claim. The last sentence should therefore read: "Neither prospecting permits nor mineral claims confer any surface rights or land tenures. Prospecting permits do not confer mineral rights, but mineral claims do."

2.5.6 Mining - Paragraph 2 - Pg. 58
In the first sentence, if a mineral company during its exploration program discovers that it might have a significant mineral bearing ore body, they "may choose to stake a mineral claim within their prospecting permit." [new wording]

2.5.6 Mining - Paragraph 2 - Pg. 58
New last sentence: "A claim may be good for up to 10 years, provided that the mineral company has paid the appropriate amount of deposit and fees and completed the appropriate amount of work on the claim."

Map 14. Draft Mineral Potential of the Sahtu Settlement Area – Pg. 59
In early June, the NWT Geoscience Office provided some shape files to staff of the Board, and the metallogenist provided a rationale of how to look at these from a mineral deposit standpoint rather than the commodity-based mineral deposit mapping [MDM] model. Staff of the NWT Geoscience office find MPM a potentially very misleading tool for land assessment in areas with almost no data, so are working with staff of the Board to enable them to better understand the metallogeny of their area.

2.5.7 Transportation & Infrastructure - Pg 60
This Section needs to include a discussion of the interdependence of transportation infrastructure and economic activity. Over and above the attention given to conservation and protected areas in the Plan, the Board needs to place greater emphasis on the promotion of economic development and industrial activity in the Area.

2.6 Regulatory Environment

2.6.1 Legislation
First paragraph: (SLCA) now becomes (SDMCLCA)

This Sub-Section should include a discussion of Part 6 of the MVRMA [CIMP and Audit], which provides the decision support mechanism for Parts 2, 3, 4, and 5 of the MVRMA. The CIMP and Audit are legislated and land claims obligations which are central to the intended functioning of the MVRMA as an integrated system of land and water management, and should not be grouped with voluntary initiatives at the end of this Section on pages 74 & 75.

Second paragraph states: "The Act [MVRMA] establishes the Sahtu Land Use Planning Board under Part 2, the Sahtu Land and Water Board under Part 3……." As it is really the SDMCLCA that established those two Boards and the MVRMA just implements the obligations, this distinction should be clarified.

2.6.2 Co-Management Boards

Sahtu Renewable Resources Board (SRRB) – top Pg. 62
The discussion of the SRRB should include the source of the board's authority, i.e., the Sahtu claim.

Sahtu Land and Water Board (SLWB) - Pg. 62
Recommend last sentence read as follows: "Under the *Mackenzie Valley Resource Management Act*, it issues…"

Insert between SLWB and MVLWB – Pg. 62
The discussion of the *MVRMA* needs to include a full discussion of Part V; the current draft Plan does not seem to mention preliminary screening. The role of LWBs, certain Sahtu organizations,

municipal governments and various territorial and federal government agencies as preliminary screeners is an important part of the regulatory system which the Plan needs to examine in the context of Plan Implementation**.**

2.6.5 Government of Canada - Pg. 65

Indian and Northern Affairs Canada (INAC)
First sentence: Rather than paraphrasing the responsibilities of INAC, use the INAC mandate instead, and similarly for all federal departments mentioned in the Plan. There is a piece on the INAC mandate on the Headquarters website: http://www.ainc-inac.gc.ca/ai/index-eng.asp

The list of legislation administered by INAC has several gaps, notably the MVRMA, the *Northwest Territories Waters Act*, the *DIAND Act*, and in the first line, delete the words "*the Northwest Territories and Nunavut Mining"* so that it reads: *The Territorial Lands Act and Regulations*. This wording is more general and inclusive of all the sets of Regulations, including Quarrying, Mining, Lands, etc.

Regarding the fourth bullet listed for "its core programs and responsibilities….", "Develop mineral and oil and gas" needs to be expanded to clarify INAC's role, as INAC doesn't develop mines or oil and gas projects.

First sentence of last paragraph: Delete "and permits" from "approving Type A licences and permits from land and water boards." The LWBs are the final decision-makers on all land use permits, and INAC has no authority to approve or deny land use permits.

Last paragraph**:** The description of INAC's role with respect to MVEIRB is incorrect. It should be something along the lines of: "responding on behalf of all Responsible Ministers to recommendations made by the Mackenzie Valley Environmental Impact Review Board."

The Responsible Minister environmental assessment role is missing from the descriptions of GNWT-ENR [page 63], EC [page 66], DFO [pages 65 & 66], and other federal agencies.

Canadian Nuclear Safety Commission - Pg. 67
It should be noted that the Canadian Nuclear Safety Commission does not regulate exploration for uranium until advanced stages [underground exploration development].

Somewhere in this Section **2.6.5**, Natural Resources Canada should be added to the Government of Canada listing of departments and agencies. They issue an authorization for blasting.

2.6.6 Integration of the Plan & Other Planning Initiatives - Pg. 68
A number of pages are devoted to conservation initiatives without inclusion of references as to how the Plan integrates with economic planning initiatives. These should therefore be added to the document.

Last paragraph on page 69: regarding the references that Nacho Nyak Dun want traditional trails protected, if these trails are included as Conservation Zones, then mention this. If not, mention that they are not under any special management regime.

Current Protected Areas in the Sahtu – Pgs. 70 & 71
Second paragraph on page 71 re *Saoyu-?ehdacho*: Keep the language consistent: "The Plan ~~no longer~~ **does not** apply within this area."

Steps of the NWT Protected Areas Strategy – Pg. 72
Re Step 4: If required, the sponsoring agency can apply for interim protection of the candidate Protected Area via an Interim Land Withdrawal. This means that the area is off-limits to new development while the community and sponsoring agency evaluate the area.

Re Step 5.: Begin the bullet with: "A Candidate Area Working Group is established."

Current Protected Areas Initiatives – Pgs. 72 & 74
Second sentence of first paragraph on page 72: "… are subject to the Plan until they are ~~approved~~ **formally established. If and how the Plan may apply to these areas after formal establishment will be determined on a case-by-case basis."**

Second bullet, top of page 74: "Several small sites…" Comment 1: These files have all been inactive under the PAS for several years. The Board should check with the communities of Norman Wells and Tulita to see if these should be identified as PCI or CZ. Comment 2: What happens to PCIs if the areas are never established as Protected Areas, or no further work to establish the areas as Protected Areas is completed? Will they remain PCIs in the Plan until the next five-year review and then be reclassified as CZs?

Map 15. Proposed Conservation Initiatives – Pg. 73
This Map is difficult to read – the reader cannot see the boundaries of the PCI zones. Maps 18 to 22 are also difficult to read.

Chapter 3 – The Plan

3.1 Vision - Pg. 76
Third bullet of second paragraph: When it says "Community control over land use" did this mean over lands within the community boundary or do they mean areas of which are near the effected community?

In terms of the listed bullets here, there are no explicit statements in support of the mining industry, although the 4th and 6th bullets do implicitly include the non-renewable resource sector.

3.2 Land Use Issues and Goals – Pgs 77 & 78
Some of the goals seem to be more community driven and may be better suited in community land use plans rather than a regional land use plan.

Numbered list on page 78 re 12. c.: Is this the Sahtu *Environmental* Monitoring Program addressed in **A #5** on page 94? If so, add a qualifier that it will use the CIMP Framework.

3.3 Direction for Land Use

3.3.2 Land Use Zoning

Table 8. Overview of Land Use Zones - Pg. 80
The Sahtu Land Use Planning Board should be commended for the changes in Land Use Zones in comparison to the previous draft, whereby the Plan is more evenly balanced between conservation and development.

3.3.3 Terms

General Use Terms

Bulk Water Removal – Pgs. 83, 86 & 87
The policy document "A Policy Respecting the Prohibition of Bulk Water Removal from Major River Basins in the Northwest Territories" prohibits the removal of any bulk water except for short-term health and safety needs as outlined on pages 86 and 87. Even though policies are not legally binding, the Minister of Indian Affairs and Northern Development is still responsible for approving any Type A water licence [which bulk removal would require]. The Minister provided the Boards in the NWT with a written policy direction that accompanied the prohibition that indicated he would not sign on a water licence that contradicts his own policy. Situations whereby prohibitions such as this [last sentence of the Section on page 87] duplicate existing policy should be avoided, so as not to be redundant. The Board may therefore want to take another look at this issue.

Include a definition or statement explaining that bulk water removal is any amount greater than 40 liters.

Map 16. Land Use Zones - Pg. 84 and **Table 10. Zone Descriptions** – Pg. 85
Re Table 10 Zone Descriptions: It is confusing to have GBLWMP zones listed separately from the rest of the zones. The subtotal numbers under % of Plan Area are not accurate unless you also add in the zones from the GBLWPM zone. For example the figure 17.46% of the Plan in PCI zones does not include the Edaiila PCI zone [an additional 3.15%]. The real total % of the Plan in PCI zones is the sum of these two numbers [20.61%].

Map 16. Land Use Zones - Pg. 84
The establishment of the Shúhtagot'ine Néné PCI #15, southwest of Tulita along the Keele River, may have significant implications for the oil and gas industry. This PCI is just west of Husky Oil Significant Discovery Licences 138 to 140, and may have implications for future development in the area.

Mineral Exploration and Development - Paragraph 3 - Pg. 87
Proposed wording for first sentence: "Mineral exploration and development in the Sahtu Settlement Region is administered by the *Northwest Territories and Nunavut Mining Regulations*, whereby…

Proposed wording for second sentence: "Once the claim is recorded by the Mining Recorder, it gives the holder of a recorded mineral claim the exclusive right to prospect on, remove minerals from, or develop a mine on land within the boundaries of a recorded claim."

The wording of the third sentence is not consistent with the wording in the first paragraph of Section **2.5.6 Mining** on page 58 which states that "neither prospecting permits nor mineral claims confer any mineral rights, surface rights or land tenures". Suggest that the wording be consistent, either use "confer" or "grant".

Power Development and **Commercial Forestry** – Pg. 88
What about small scale new power development projects and timber licences by outfitter and tourism operators in CZ or PCI zones?

Karst Topography - Pg. 91
In the last sentence of this paragraph, the reference to the map should be specific to Map 20.

Water Quality - A #1 - Pg. 91
Currently INAC uses the Canadian Council of Ministers of the Environment [CCME] Guidelines.

Traditional Use & Significant Cultural Sites – CR #7 – Pg. 91
Regarding the non-interference with "burial sites", how will this work, i.e., will there be buffer zones around them? The Board may wish to note in this discussion that CR #7 is also a requirement of the *Mackenzie Valley Land Use Regulations.*

Monitoring – Pgs. 93 & 94
Top paragraph of page 94 – first complete sentence should read: "…..project-specific**,** ~~and resource-specific~~ **community-based, and government** monitoring initiatives, to…..".

Second paragraph, insert a new third sentence right after "….current monitoring activities." "**It will also include the development and promotion of standard monitoring protocols so that environmental information from multiple sources can be comparable."** New wording for the next sentence: "It ~~includes both scientific~~ **promotes the use of both western science** and traditional knowledge, ~~studies~~ and addresses…."

Third paragraph, new second sentence: "**However, the SRRB receives CIMP funds every year."** New wording for the now fourth sentence: ~~The information collected through~~ "CIMP could ~~provide~~ **assist in providing** a starting….." New last sentence for the third paragraph: **"The monitoring and reporting protocols and resources available through CIMP can contribute to meeting Sahtu-specific monitoring needs."**

Last sentence of first paragraph: This sentence doesn't make sense and should be reworked. First sentence of third paragraph on page 94: Contrary to this statement, the Sahtu **do** have representation on CIMP - they just didn't participate. CIMP does provide funding to have people attend working group meetings, etc.

Economic Benefits – R #3 - Pg. 95
Does this Recommendation apply to all land use activities as defined on page viii? Does this mean negotiation of IBA for things like claim-staking or geological mapping? Perhaps the Board could consider language like: "provide opportunities, where possible, to participate in activities that will provide an economic benefit to communities or its residents."

The language in **R #3** is not consistent the fourth paragraph on page 58 [Section **2.5.6** Mining] which states that: "Before a mine can be constructed, the developer must negotiate an Impact and Benefit Agreement with the nearby communities."

Underground River (Applies to Zone 13 – Underground River Only) – Pgs 98 & 99
R #5 top of page 99: It is up to the community of Coville Lake to decide if it would like to complete further work on this area. If the community does want to complete further work, it should approach the PAS regarding further work.

4.1 Information Sources – Pgs. 102 to 104
Last line on page 103: The PAS website is incorrect: ~~www.pas.nwt.ca~~ **www.nwtpas.ca**

Last sentence of fifth paragraph on page 104: What was the breakdown of the "15%" of residents surveyed [elders, youth, male/female]?

Map 17. Zoning and Sahtu Settlement Lands - Pg. 105
Why is the colour for Zones #3, #24, #29, #31 and #42 a different shade in Map 17 [light colour], as compared to Map 23 on page 112 [red]?

Map 18. Zoning and Existing Mineral Rights – Pg. 106
The legend is incorrect regarding Coal. The areas shown on this Map are not Coal claims but Coal **Licences**. There is no such thing as a Coal claim.

Map 19. Zoning and Existing Oil and Gas Rights – Pg. 107
This map is outdated - ELs 397, 399 and 426 are no longer active. Suggest obtaining latest information from the INAC website or contact the INAC Geomatics Officer - Neil Rask, at 819 934-9394.

Map 20. Zoning and Karst Areas – Pg. 108
The legend needs to include something for the road. It is not possible to identify if it's an all-weather road or winter road.

4.4 Special Management Zones

9. Dehcho (Mackenzie River) SMZ - Pg. 115
This SMZ provides a buffer on Mackenzie River. Will this zoning provide access problems for oil and gas explorers who may wish to offload supplies along the Mackenzie? In most cases, the offloading of equipment would trigger an application for a LUP under the MVRMA, therefore operators will be strictly monitored.

4.5 Proposed Conservation Initiatives [PCIs]

Ecological Importance – Pg. 126
Fourth paragraph: Rearrange wording: "**Within or adjacent to the area,** the zone ~~also~~ covers 11 smaller watersheds and contains 11 International Biological Programme [IBP] sites**."**

Applicable Terms – Pg. 128
Suggested revised wording: "All of the terms of the Plan apply within this area. **As part of the Protected Areas Strategy process, the Candidate Area Working Group may seek discussion with the Board as to whether or not the Plan or any portion thereof should continue to apply to the Protected Area post establishment."**

16. Doi T'oh Park (Canol Heritage and Dodo Canyon Trail) - Pgs. 128 to 130
Applicable Terms – Pg. 130
Delete the reference to the PAS in the Applicable Terms. The area is not proceeding through a PAS process. The GNWT Department of Industry, Tourism and Investment has indicated to INAC that they would like to proceed with steps laid out in s. 17.3 of the Sahtu Dene and Metis Comprehensive Land Claim Agreement to create a territorial park within this area. Surface crown lands are currently reserved to the GNWT. INAC's Contaminants and Remediation Directorate [CARD] is assessing locations along the trail for evidence of contamination to determine whether remediation is warranted and whether such a project would be eligible for funding under the Federal Contaminated Sites Action Plan, or otherwise subject to a risk management/monitoring approach. Resolution of issues around contamination would remove impediments to the ultimate permanent transfer of land to GNWT. It should be noted that remediation, if warranted, may involve use of heavy equipment and other temporary activities that are generally inconsistent with a designation of a conservation area, but would result in improved quality of the land and environment.

While the Canol Trail represents much history for the Sahtu area dating back to the Second World War, if mining and/or oil and gas resources were to be discovered to the west of Norman Wells, the Canol Trail would be a natural shipping route. Rather than disturb land adjacent to the Canol Trail, why not use this trail to move potential supplies to market?

17. Ts'ude niline Tu'eyeta (Ramparts River and Wetlands) Pgs. 130 to 132
Conservation Initiative Status – Pg.130
Second Paragraph: "A Working Group meeting was held in August 2008 to begin drafting the ~~cooperative~~ management **plan** ~~agreement~~ for the area, with discussions resuming in March 2009."

Ecological Importance – Pgs. 130 & 131
Ecological features of this zone [Pg. 131]: #3: comment: CWS has also identified this area as an important bird area. #4 "Critical raptor nesting area according to DIAND" comment: really? What source/reference from within INAC?

Economic Importance – Pg. 132
3rd line: "Minerals fieldwork in the zone was conducted in July 2007 **and 2008**. The report is expected in **December** 2009."

Applicable Terms – Pg. 132
Suggested revised wording: "All of the terms of the Plan apply within this area. **As part of the Protected Areas Strategy process, the Candidate Area Working Group may seek discussion with the Board as to whether or not the Plan or any portion thereof should continue to apply to the Protected Area post establishment."**

4.6 Conservation Zones [CZs]

24. Stewart Lake and Tate Lake CZ's - Pgs. 140 & 141
There are two significant discoveries [Husky SDL 138 and 139] which are adjacent to Sahtu Private Lands and in the proposed CZ. How does the Sahtu plan to benefit from the economic development opportunities identified in this area and how will future exploration be carried out?

27. The Smokes CZ – Pgs. 143 & 144
From the map "Map: Draft 2 Zoning Poster - 60 inch" this CZ looks to be within the Tulita community boundary.

28. Bear Rock CZ – Pgs. 144 & 145
From the map "Map: Draft 2 Zoning Poster - 60 inch" this CZ looks to be within the Tulita community boundary.

46. Lac Des Bois CZ
First bullet top of page 168: Critical Wildlife Are**a** [missing the letter 'a']

Chapter 5 – Plan Approval & Implementation

5.1 Plan Approval – Pg. 171
Second sentence: "Minister" should be plural – "Ministers."

5.2.1 Roles and Responsibilities

Sahtu Land Use Planning Board – Pgs. 173 & 174

Conformity Determination Process
First complete sentence top of page 174: Although the work in establishing clear processes will be an on-going and shared responsibility, it may be worthwhile for the Board to being diagramming those elements that are known, such as based in existing legislation, for inclusion in the Draft 3 Plan. Staff of the Board are encouraged to review the Gwich'in Land Use Planning Board's document entitled: "Policies and Procedures for the Management of the Gwich'in Land Use Plan" from November 2006, particularly their Figure 1 – Generalized Best Practices Regarding Conformity with the Land Use Plan.

SSI and Sahtu District Land Corporation – Pg. 175
Line 2 of the first sentence: Add Sayou-?ehdacho National Historic Site to the excluded areas.