



October 22, 2010

Judith Wright-Bird
Chairperson, Sahtu Land Use Planning Board
Box 235,
Fort Good Hope, NWT
X0E 0H0
(delivered electronically)

Dear Ms. Wright-Bird:

Re: CAPP Comments on Draft 3 Sahtu Land Use Plan

CAPP appreciates the opportunity to provide comments on Draft 3 of the Sahtu Land Use Plan (Plan). We further appreciate the efforts by the Planning Board and staff in arranging consultations with our industry. Our comments below are intended to assist the Planning Board in their deliberations as they move towards finalization of the Plan.

On the whole, CAPP believes the third draft is an improvement over previous versions and that a number of refinements have been realized that will provide industry with greater certainty moving forward. In particular, we believe the following areas are positive and should be maintained or enhanced:

- CAPP continues to generally support the vision of the Plan, and in particular the recognition that the Plan should promote economic development opportunities.
- The Plan designated conservation zones are generally small and localized reflecting sites of important cultural/ecological value. We believe this appropriately captures important conservation values while preserving flexibility to respond to new opportunities in the future.
- The cumulative effects approach is practical, recognizing that further work needs to be done and proposing a process to explore cumulative effects/thresholds moving forward
- The proposal for a Sahtu Working Group is a good suggestion and should include a general mandate for addressing issues around implementation, in addition to the actions and recommendations identified in the Plan.
- Developing the Conformity Requirement Implementation Guide is an important step to test the how the Plan will be implemented and what the expectations will be for demonstrating conformity. However we believe it needs continued work before finalization.

2100, 350 – 7 Avenue S.W.
Calgary, Alberta
Canada T2P 3N9
Tel (403) 267-1100
Fax (403) 261-4622

403, 235 Water Street
St. John's, Newfoundland and Labrador
Canada A1C 1B6
Tel (709) 724-4200
Fax (709) 724-4225

- A number of the actions and recommendations will provide additional clarity from communities, government and regulators on expectations for proponents (e.g. through the creation of guidelines) or initiate valuable planning exercises (e.g. creation of Economic Development Strategy, non-renewable resource assessment).

While recognizing the improvements over previous drafts, we believe there are a number of areas where is opportunity for continued refinement to better achieve Plan objectives. Without addressing these we are concerned that the transition period for Plan implementation may be unduly complicated and create confusion. In our comments below, we have highlighted some of those areas generally, and in the attached table we have provided comments on specific Conformity Requirements, Recommendations and Actions.

Access to Resources – Integration with other planning processes

CAPP is concerned about the opportunity to access resources and pursue economic development activities given the prohibitions on activity in conservation zones and Proposed Conservation Initiatives. However we recognize that the Proposed Conservation Initiatives (which tend to be larger scale zones) are driven through the separate Protected Areas Strategy (PAS). CAPP believes that the multiple planning processes in the same region make it difficult to engage in a comprehensive regional discussion of options for land use that balance conservation values and economic development objectives.

As a practical means to address this duplication of process, CAPP recommends the Planning Board consider:

1. Requesting that a representative from each PAS designated Working Group sit on the Sahtu Working Group to ensure that as PAS areas proceed through their process they are informed by regional values and objectives. This will also help address the situation likely to arise as the boundaries of the PAS areas change over time.
2. Requesting that all work on PAS areas that do not yet have a sponsoring agency cease to be worked through the PAS and be turned over to the Planning Board for consideration. This will require consent by the parties advancing the PAS areas but would serve to consolidate the planning processes underway.

Implementation – Integration with existing review processes

CAPP has concerns that the current process of conformity determination will add increased complexity to the early stages of project review. In particular, we are concerned about:

1. Concurrent timing of the conformity determination – whereby a project undergoing preliminary screening would be undergoing conformity determination at the same time. Proponents and regulators should not have to dedicate the time and resources required to screen a project if it is ultimately found to not conform.

2. Unclear accountabilities for making the conformity determination – the Plan appears to suggest that either the Sahtu Land and Water Board or the Planning Board will make the conformity determination.
3. Lack of defined timeline for making a conformity determination or how it fits within the 42 day preliminary screening timeline.

CAPP suggests that the Plan needs to provide for a sequential conformity determination process with a defined timeline and clear accountability for who will conduct the determination. It is CAPP's belief given the nature of the conformity criteria that the Land and Water Board are best placed to perform this function, or the Plan should establish clear criteria for referral to the Planning Board if required.

Implementation – Overlap with existing mandates and processes

CAPP supports the goal oriented approach taken to the conformity requirement. However we are concerned that the goals articulated for several conformity requirements overlaps with existing requirements for projects. Most notable, CR #8 calls for mitigation of general environmental impacts. Where the CRs duplicate existing mandates, CAPP fails to see how the Plan adds any value over and above the existing requirements, and is concerned that expectations for demonstrating conformity will essentially duplicate existing process. For these CRs, CAPP recommends removing them, clarifying what the value add of the Plan requirements is or articulating them as overall plan goals but not requiring associated information requirements.

In sum, we believe the Plan continues to develop in a positive direction and congratulate the Board on their efforts to date. We do however believe there is room to further refine the Plan to provide greater clarity and smoother implementation. We trust our comments above will help the Board in this respect.

CAPP intends to present at the Public Hearing in Normal Wells and would be pleased to discuss our comments further at that time.

Sincerely,



Mike Peters
Manager, Northern Canada Operations
Canadian Association of Petroleum Producers

**Appendix 1 - CAPP Comments on Draft 3 Sahtu Land Use Plan
Specific Comments on Conformity Requirements, Actions and Recommendations**

Plan Section #	Reference	Comment
2.3.1; 2.3.2	Exemptions	Exemption from portions of the Plan should continue throughout the life of the pre-approved activity even when authorizations or dispositions require renewal or amendment IF compliance with certain sections of the Plan would cause the project to be rejected. Industry must have certainty that the capital outlay and project can proceed throughout its life.
CR#1	Land Use Zoning	<p>2 (a) in order to transport gas lawfully produced...” – Suggest this should be a broader reference to include all petroleum products i.e. oil; condensate & produced water</p> <p>2 (a) or to connect authorized pipelines “in adjacent zones” – Suggest the wording be broadened to recognize that the pipeline may not be coming from an adjacent area</p>
Definitions P 43	Bulk water removal	For greater clarity, CAPP suggests that oil and gas related activity should be specifically identified as an “industrial activity”.
Definition P 44	Oil & Gas Exploration & Development	Consistent with our comment on CR #1 above, suggest the definition should clarify that access across CZ and PCI is permitted to carry out permitted uses elsewhere (i.e. not exclusively in an adjacent zone).
CR#2	Engagement & TK	<p>Suggest this CR needs to exempt renewals or new permits replacing expired ones where consultation will already have taken place</p> <p>Suggest removing “and potentially affected community members”. As written, it sounds as though proponents are responsible for consultation with all community individuals. Through consultation with community organizations, proponents should identify any affected community members.</p>

		<p>Suggest that the CR should clarify that in person meetings are not required, but that the opportunity was provided if requested.</p> <p>Suggest removing subsection 2. The evaluation of community engagement and TK incorporation is more appropriately the jurisdiction of the Sahtu Land and Water Board. Alternatively, subsection 2 should be re-worded to “in a manner that considers and where appropriate addresses community concerns...”</p>
CR #4 and CR #7 (Table 8)	Setbacks & sensitive periods	How will these setbacks be implemented in practice? For example, the goat habitat setback appears to prohibit activity in the entire south east Sahtu based on the map of goat range on page 91 of the Background Report. Further, it is unclear how year round activity (e.g. production facilities) will be accommodated. Some flexibility will be required.
CR #8	General Environmental Impacts	This CR is redundant with existing environmental legislation. It is unclear what is being requested of proponents that is different from existing processes and we suggest it be deleted. We believe that CR #14 more appropriately addresses zone specific issues.
CR #10	Timber	Suggest the CR should be re-worded to capture that proponents should work with communities to identify opportunities where timber could be made available. As written, it is unclear what is meant by “remaining usable resources” and “distributed to”. If the intent is that the oil and gas industry should provide incidental harvest to communities, CAPP suggests this is an unnecessary additional cost to impose on all projects.
CR #12	Mineral lick	Consistent with our comment on Table 8, some flexibility will be required with this setback.
CR #13	Reclamation	In subsection 2, there is confusion as to whether the plan is suggesting the expectations should be set in consultation with residents and communities or whether the ultimate success of the reclamation efforts should be determined by residents and communities. The

		<p>evaluation of regulatory requirements should be conducted by responsible authorities.</p> <p>Reclamation expectations should be determined before determining the security, then returned (or portions of it returned) as expectations have been met.</p>
CR #13 (p.65)	Reclamation	Suggest clarification should be sought on whether INAC applied the NWT Mine Site Reclamation Policy to O&G or referenced it as something to be referred to.
CR #15	Monitoring	Suggest that the Plan needs to acknowledge that monitoring programs should be scaled to fit the scale of activity proposed.
R #2 P 73	Monitors	While recognizing this is only a recommendation, suggest that their needs to be flexibility based on the scale of activity being conducted.
Action 9 P 276	TK Guidelines	Suggest regulators should be identified to participate and industry consulted in their development.
Figure 4 P 288	Conformity	Does the applicant have an opportunity to appeal decision of non-conformity?
Table 11 P 291	NEB	The NEB also regulates COGOA.