



**SAHTU Land & Water Board**  
P.O. Box 1  
Fort Good Hope, NT  
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February 24, 2012

Ms. Heather Bourassa  
Chairperson  
Sahtu Land Use Planning Board  
P.O. Box 235  
Fort Good Hope, NT  
X0E 0H0

Our File: SLUPB  
Your File:

Dear Ms. Bourassa,

**Re: Sahtu Land Use Plan - Draft 3  
Post Workshop Comments from the Sahtu Land & Water Board**

Thank you for giving the Sahtu Land and Water Board an opportunity to comment on Draft 3 of the Sahtu Land Use Plan. The SLWB comments are follow up comments from discussions which took place at the Sahtu Land Use Planning Board's three workshops.

Continuous with the SLWB's previous correspondence, the provided comments are based on the regulatory functions and limitations of the SLWB within the Sahtu Settlement Area.

**Respectfully,**

Original Signed

**Larry Wallace  
Chairperson**

Copied to: Angela Plautz, Regulatory Policy Advisor, Mackenzie Valley Land and Water Board  
Shannon Ward, Manager, Policy, Planning and Communications, Mackenzie Valley Land and Water Board

## **GENERAL COMMENTS**

- It will be difficult to make a conformity determination for the majority of Conformity Requirements (CR) during the completeness check due to the ongoing nature of the CR requirements. How does the Sahtu Land Use Planning Board (SLUPB) envision these ongoing conformance checks to be made?
- Comments provided by the Sahtu Land and Water Board (SLWB) (November 25, 2010) on Draft 3 still apply.
- The jurisdictions of the SLUPB and the SLWB need to be better defined. Further, any conflicts between the Final Agreements, Acts, and the Sahtu Land Use Plan (the Plan) should be clarified (e.g. security provisions).
- Duplication of processes should be minimized. The CR's which are duplicative with the SLWB process should be removed or reworded to pertain to those activities not requiring an authorization from the SLWB.
- The SLUPB should consider if it will be determining conformity on land and water uses below threshold levels, and how the information on the project will flow to the SLUPB.
- The SLUPB document, "Revised CRs and Implementation Detail for Workshop 3" was used for providing the below comments.

## **SPECIFIC COMMENTS**

### **CR #1 LAND USE ZONING & CR #2 PROTECTION OF SPECIAL VALUES**

CR #1 and CR #2 are critical to a completed regulatory system in the Sahtu. The SLWB supports CR #1 and CR #2 as both CRs will provide clarity to Sahtu residents, regulators, and proponents. These CRs are beneficial to the regulatory system as it is currently functioning.

### **CR #3 PROJECT SPECIFIC MONITORING**

Part 1 - Not all monitoring programs fall under the authority of the Land and Water Boards (LWB) (e.g. monitoring of wildlife populations). It is recommended that the Implementation Guide specify the types of monitoring plans that are required by regulators to help clarify the monitoring expectations of the Plan.

Certain monitoring programs are required by the LWBs. The most common monitoring program is the surveillance network program (SNP) that is usually required as a condition of a water licence. Land use permits do not usually include conditions that require monitoring programs. If a monitoring program is required as a condition, it needs to fall within the LWBs' authority (i.e. section 26 of the Mackenzie Valley Land Use Regulations (MVLUR)).

It will be difficult to conduct a conformity determination for this CR during the completeness check. In most cases, monitoring programs aren't finalized until the water licence and/or land use permit is issued. The monitoring program submitted with the application will most likely change during the review process, particularly for water licence applications. The monitoring program might also change throughout the life of the project.

Part 2 - With respect to reporting requirements of the LWBs, this CR is redundant. All documents, including reports, are placed on the public record, unless a motion to protect the confidentiality of information is filed with and approved by the Board. Confidentiality is covered by the LWB's Rules of Procedure.

#### **CR #4 COMMUNITY ENGAGEMENT & TEK**

This CR is duplicative with the procedure that the SLWB currently follows. For all activities requiring a land use permit and water licence with the SLWB, community engagement and TEK studies must be completed. The SLWB recommends referencing the LWB Engagement Guidelines for all activities requiring a land use permit and water licence for which the SLWB will make the adequacy determination. The SLUPB should consider if it wants to make adequacy determinations for all other activities not requiring a Land Use Permit or Water License.

#### **CR #5 COMMUNITY BENEFITS**

Community benefits are negotiated and managed by the district Land Corporations. These AIB agreements are required for all Sahtu Private Lands, however often other agreements are created for work done on Crown lands. The SLWB only ensures that the AIB agreements are in place. The SLUPB should ensure that the districts Land Corporations are comfortable releasing the terms of the agreements for the Planning Board to assess conformity. Also the Planning Board should consider how it intends to monitor these agreements through the life of the project should it be judging conformity, further if the planning board is suggesting that AIB-like agreements are in place for projects on Crown lands it should create a set of guidelines prior to the implementation of the Plan.

#### **CR #6 COMMUNITY LAND USE MONITORS**

The SLWB does not have the jurisdiction to require this in the terms and conditions of a land use permit or water licence. Hiring of a community land use monitor can be/is often included in the negotiating of the AIB agreement. This CR may not always be achievable, for example if there are not enough monitors. The SLWB recommends the SLUPB reword this CR to encourage the hiring of community land use monitors.

#### **CR #10 WILDLIFE**

This is an important CR and applicants should obtain and provide the latest information on species of concern in the land use permit application; however, it is not clear who is going to approve the wildlife management plan (the LWBs' authority is limited by section 26 of the MVLUR), when the management plan is going to be approved, and how and when the CR conformity determination is going to be made. Furthermore, compliance and enforcement of this CR should be clarified, as Aboriginal Affairs and Northern Development Canada will only enforce conditions that are within the LWBs' authority.

Roles and responsibilities of the LWBs, Environment and Natural Resources, and the Renewable Resource Councils relating to this CR need to be clarified.

#### **CR #13 CLOSURE AND RECLAMATION**

Part 1 - The *Northwest Territories Waters Act* (NWTWA) states that the Board "may" require security, which allows the SLWB to take Security at the Boards discretion. Does the Plan trump the NWTWA? There are provisions in the *Mackenzie Valley Resource Management Act* (MVRMA) and the NWTWA that outline how security is to be set by the LWB's and maintained by the Minister. During the application review process, the LWB's consider evidence from affected parties, governments, and the proponent to determine the amount.

Part 2 - The LWB's have a process in place for the closure and reclamation of a site which depends on the scope of the project. The LWB's are developing guidelines about the level of input that is required during the development of the plans. Once the plans are submitted to the Board, they are sent out for comments. During this process, closure and reclamation goals and objectives are developed. A closure and reclamation plan may change throughout the life of the project. The approval of these plans should be left up to the LWB's as they currently are.