



THE SAHTU SECRETARIAT INCORPORATED

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Ms. Heather Bourassa
Chair
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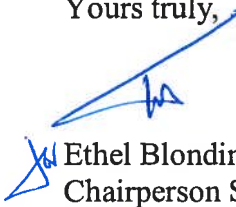
Dear Ms. Bourassa:

RE: SSI Comments on February 5, 2013 Draft of Sahtu Land Use Plan

Thank you for the opportunity to review the captioned revised draft of the Sahtu Land Use Plan (the "Plan"). The Sahtu Secretariat Incorporated (SSI) considers the work being done by the Sahtu Land Use Planning Board (the "Board") to be of significant importance to the future of the Sahtu region and we look forward to completion of the Plan as a milestone in the implementation of the Sahtu Dene and Métis Comprehensive Land Claim Agreement. We are pleased to advise that our review indicates that the February draft is a significant improvement over Draft 3 of the Plan. SSI acknowledges and recognizes the hard work and commitment of the Board and its staff. SSI is also optimistic that once the Board has heard from the approving authorities on the February draft it will be able to finalize the Plan and submit it for approval in the near future.

In order to assist the Board to finalize the Plan, SSI has worked with the Board, Sahtu communities and the other approving authorities and has prepared comments on the February draft. Those comments are attached as an appendix to this correspondence. I trust that they will be of assistance to the Board as it completes the important task of finalizing the Plan. Please do not hesitate to contact me or my staff if we can be of further assistance to the Board.

Yours truly,



Ethel Blondin-Andrew
Chairperson SSI

cc: AANDC
GNWT

Attach.

APPENDIX

SSI Comments on February 5, 2013 Version of Sahtu Land Use Plan

SSI's primary concerns are in relation to section 2.2 and CRs# 12 and 15 of the Plan. Details are below:

- SSI recommends that section 2.2 of the Plan page 19, paragraph 5 should be revised to include the following wording:
“For clarity, upon the establishment of a park or protected area which encompasses some but not all of a PCI, the SLUPB will engage the approving parties with regard to alternate zoning for all portions of the PCI. Information documented on the values of the PCI during the park or protected area establishment process should be used to set out special management conditions for the portion of the PCI excluded from the park or protected area.”
- SSI recommends that CR# 12 should be revised to read as follows. Any changes to the text of the Plan should be consistent with the following wording:
"When required by a land use permit or water licence issued by the Land and Water Board, financial security must be posted and maintained with the Minister of Aboriginal Affairs and Northern Development. The Land and Water Board will ensure that closure and reclamation plans are in accordance with legislation and regulation."
- SSI recommends that CR# 15 should be revised to read as follows. Any changes to the text of the Plan should be consistent with the following wording:
“Regulators shall ensure that:
 - (a) Applicants proposing land use activities in the Great Bear Lake Watershed engage Deline community organizations in order to understand the cultural and environmental values set out in the Water Heart - the Great Bear Lake Watershed Plan;**
 - (b) Any land-use activities permitted in the watershed are consistent with the maintenance of the area as self-sustaining ecosystems; and**
 - (c) Any land use activity requiring a land use permit or water licence includes a site specific monitoring program consistent with CR #11.**

SSI has other comments on the text of the February Plan set out below:

Definitions:

- “Action” this definition includes the following sentence. “By approving this Plan, the approving Parties agree to make reasonable efforts to complete all actions pertaining to them.” The sentence should be removed.
- The definition of "Conformity Requirement" should read means a requirement of this Plan that is to be "addressed" through the issuance of licences, permits, other authorizations, and dispositions.
- The definition of "disposition" should be amended by removing the words "and includes an equivalent interest".
- The definition of "land owner" should be supplemented by words which reference private land owners. In future, it is likely that parties other than district land corporations, the territorial or federal governments may own land in the Sahtu.

Chapter 1: No comments.**Chapter 2:**

- section 2.3 of the Plan should also make reference to the possibility of private land owners in addition to district land corporations and the federal or territorial governments.
- Section 2.7 of the Plan, paragraph 1 page 25 indicates that the Plan has legal effects pursuant to the provisions set out in section 2.5, 5.2 and 5.3 of the Plan. Section 2.5 of the Plan deals with "Plan Exemptions". It is hard to see how section 2.5 which deals with exemptions gives legal effect to the Plan. This section seems primarily to describe land-use activities to which the plan does not apply and therefore upon which it has no legal effect.
- Part D of section 2.5 seems to omit references to water licenses and the deposit of waste into water. The focus of the discussion in that part is almost exclusively land-use.
- In section 2.7 on page 25, paragraph 2 the Board again indicates that approving parties have an obligation to make efforts to ensure that Actions are undertaken simply as a result of Plan approval. In SSI's view, plan approval should not be interpreted to require any subsequent action on its part.

Chapter 3:

- SSI agrees with the comments made by the GNWT about the language set out in CR# 2.

Chapter 4:

- Section 4.1 again includes suggestions that Actions are mandatory. This text should be revised.
- SSI may wish to provide additional comments on some of the other Actions and Recommendations found in this chapter.

Chapter 5:

- in section 5.2, page 55, last paragraph seems to misunderstand the way the regulatory process works. A regulator does not generally have discretion to decide which authorization to grant. In most cases a specific application is made for a specific license, permit or authorization. The regulator only determines whether or not to issue the authorization for which the application was received. It is quite rare, for regulator to decide that an applicant really doesn't need the licence they applied for and instead to issue them some different kind of permit or authorization. This text should be reviewed.
- The first full paragraph on page 56 is also problematic. The assumption built into the paragraph appears to be that authorizations are issued in order to implement the Plan. This may be a fine distinction, but I suggest that authorizations are issued to permit the activities which are subject to the regulatory framework that establishes the authorization. The regulator's concern with respect to issuance of the authorization is simply to ensure that it is in conformity with the Plan. The regulator and its authorizations are not to be enlisted as agents for the implementation of the Plan
- Section 5.5 of Plan addresses Enforcement. The first sentence of that section suggests that the enforcement powers of regulators are subject to s. 46(1) of the MVRMA and that enforcement authorities must carry out these authorities in accordance with the Plan. This mischaracterizes the effect of s.46(1). Enforcement activities are not actions which are subject to the Plan. This sentence should be removed from section 5.5.

These are the SSI comments of the February, 2013 draft of the Plan.