



**ʔehdzo Got'ine Gots'ë Nákedí**

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Heather Bourassa, Chair  
Sahtú Land Use Planning Board  
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***Delivered via email***

February 17, 2017

***RE: Proposed Sahtú Land Use Plan Amendment Application, January 9, 2017***

Dear Heather:

We are writing to express concern with the proposed amendments to the Sahtú Land Use Plan, and once again reiterate our support for rezoning the lands within Proposed Conservation Initiative (PCI) Zone 41 – Nááts'ihch'oh as Conservation Zones, *not* Special Management Zones.

Special Management Zoning of the PCI Zone 41 lands would not adequately account for the extensive compilation of scientific and traditional knowledge evidence and the thoroughgoing consultation undertaken in establishing the original Nááts'ihch'oh National Park Reserve (NPR) Boundaries – all of which weighed the mineral development potential of the areas under review in relation to wildlife conservation and cultural values. In its capacity as the main instrument of wildlife management in the Sahtú Region, the ʔehdzo Got'ine Gots'ë Nákedí (Sahtú Renewable Resources Board - SRRB) delivered a letter to the Sahtú Land Use Planning Board (SLUPB) on June 29, 2015 noting that no new evidence has been presented to support changing the original PCI designation (or equivalent Conservation Zoning) of the areas in question. Over a year later, we would like to emphasize that this remains the case.

The SLUPB has indicated that it “was not part of the park reserve development process and cannot comment on the final boundary decision. Through the amendment process the Board is looking to make a decision(s) on how to re-zone the lands that are left out of the park reserve.”<sup>1</sup> A significant amount of time and thought was put into the establishment of Nááts'ihch'oh, yet this is not represented in the current amendment application. It would seem there is no clearer mandate on how to rezone the lands than the February 17, 2012 Nááts'ihch'oh Ratification Draft approved by

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<sup>1</sup> p.4, SLUPB Staff Report: June 16, 2016 Tulita Public Meeting Summary Nááts'ihch'oh Amendment Process: [https://sahtulanduseplan.org/sites/default/files/tulita\\_public\\_meeting\\_summary\\_report\\_june\\_16\\_2016.pdf](https://sahtulanduseplan.org/sites/default/files/tulita_public_meeting_summary_report_june_16_2016.pdf)

members of the Tulít'a District Dene and Métis Land Corporations and the Sahtú Secretariat Incorporated, which would have seen the lands now designated as PCI Zone 41 all included within the park boundary.<sup>2</sup> At a minimum now, the PCI Zone 41 lands should be made Conservation Zones. The preferred solution would be to expand the NPR boundary to include the areas previously removed from the February 17, 2012 Ratification Draft, with the support of Canada and the GNWT. The PCI designation should be maintained while this is being considered.

Protecting the PCI Zone 41 area from fragmentation is consistent with the obligations to the Sahtú Dene and Métis under the SDMCLCA regarding protection and conservation of wildlife and wildlife habitat. As the Supreme Court noted in *Mikisew v Canada*, treaty protected harvesting rights may require protection of unfragmented habitat, since Aboriginal harvesting rights can be affected by a diminution in the quantity and quality of the wildlife due to “fragmentation of wildlife habitat, disruption of migration patterns, loss of vegetation, increased poaching because of easier motor vehicle access to the area and increased wildlife mortality due to motor vehicle collisions” (para 44).

As Tulít'a Dene Band Chief Frank Andrew stated at the Tulít'a Public Meeting June 16, 2016, “Nááts’ihch’oh, it’s a very sacred mountain, that’s why we need to protect it. We didn’t want any additional developments, that’s why we went this far with it. If a Park, the mountain will never be touched, my Elders have always talked about it. The people believe Nááts’ihch’oh needs to be protected, that’s why they went through Parks [establishment process]. The National Park was supposed to protect this very important place.”

At the same meeting, Tulít'a Land Corporation President Clarence Campbell similarly reiterated “We thought the whole area was going to be a park, everything. We went to Ottawa and thought all the land would be protected, but all of a sudden it came to us looking like that [the final Nááts’ihch’oh National Park Reserve boundary, with Zone 41 lands left out]. Today I still can’t understand why they didn’t listen to what we said.”

The SRRB is concerned that the current proposal does not respect previous consultation with the Sahtú Dene and Métis regarding the important role of the park in habitat conservation. As the recent Yukon Court of Appeal decision in the Nacho Nyak Dun case confirmed, a process for altering or varying a negotiated a land use plan under a modern land claims agreement must respect earlier consultation outcomes. To do otherwise risks violating Aboriginal consultation principles and risks undermining dialogue and reconciliation.

To date, limited discussion of cumulative effects has been incorporated into the amendment process for the PCI Zone 41 lands, though the Sahtú Land Use Plan was specifically designed to address cumulative impacts. The Tulít'a and Norman Wells ʔehdzo Got’ine (Renewable Resources Councils – RRCs) have repeatedly expressed strong concerns over the past year regarding cumulative impacts on the Northern Mountain caribou in these areas. This indicates that the protection of their habitat in these areas, which includes highly sensitive corridors and calving and

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<sup>2</sup> As noted in the SLUPB Background Report: Amending the Sahtu Land Use Plan following the creation of the Nááts’ihch’oh National Park Reserve:

[https://sahtulanduseplan.org/sites/default/files/slupb\\_background\\_report\\_april\\_17\\_2015.pdf](https://sahtulanduseplan.org/sites/default/files/slupb_background_report_april_17_2015.pdf)

post-calving grounds, should be given the greatest weighting possible. We recommend that the approval bodies give added consideration to the high bar set in recent court cases for accommodating aboriginal inputs regarding special values, and regarding the requirement for robust consultation and accommodation of concerns with respect to cumulative effects of development on treaty-protected harvesting rights.

We emphasize the extreme ecological sensitivity of this area, which encompasses the headwaters for the South Nahanni River watershed and habitat for wide-ranging and vulnerable wildlife including caribou, Dall's sheep and mountain goats, and large carnivores such as grizzly bears and wolverines. In the interest of ecological connectivity and maintaining the protective value of the areas included in the National Park, the areas excluded from the National Park need to be afforded the highest degree of protection. It does not make sense that the areas negotiated for the Park would now be given even less protection under the Sahtú Land Use Plan.

Northern Mountain Caribou are designated a species of Special Concern under the federal Species at Risk Act, and though slated to be assessed by the NWT Species at Risk Committee in March 2019, recently received an upgraded NWT General Status Rank of Sensitive. The Norman Wells and Tulít'a RRCs as well as the Ross River Dena Council, in partnership with the SRRB and NWT Environment and Natural Resources, are poised to develop a conservation plan for Mountain Caribou. The plan will include a scientific and traditional knowledge research and monitoring plan to add to the existing body of knowledge about these caribou, and to serve as an important resource for the NWT Species at Risk Assessment.

The proposed designation of these areas as Special Management Zones could introduce risk that development approvals may pre-empt or undermine both community-driven and legislated wildlife management processes. The SRRB recommends maintaining PCI designations would allow time for the SLUPB to receive and address any new evidence and consultation inputs more fully through its five year review process.

Thank you for your careful consideration of the issues raised in this submission.

Máhsı cho,



Michael Neyelle

**Copies to:**

Ethel Blondin-Andrew, President, Sahtú Secretariat Inc.

Louis Sebert, NWT Minister of Lands

Wally Schuman, NWT Minister of Environment and Natural Resources

Catherine McKenna, Federal Minister of Environment and Climate Change

Carolyn Bennett, Federal Minister of Indigenous and Northern Affairs