



July 27, 2018

Ms. Heather Bourassa, Chair
Sahtu Land Use Planning Board
PO Box 235
Fort Good Hope, NT X0E 0H0
Email: chair@sahtulanduseplan.org

Dear Ms. Bourassa,

Re: *Opinion Paper: Sahtu Land Use Plan ... A look back to move forward*

Thank you for the opportunity to participate in the process to review the past five years of the existing Sahtu Land Use Plan, and to provide our comments for your consideration as you prepare to amend the Sahtu Land Use Plan for the next five years. Our NWT & Nunavut Chamber of Mines (the Chamber) has taken an active interest in land use planning and the encouragement of responsible mining in the Sahtu since the land claim was settled. We are pleased to continue to provide our thoughts as the land use planning process advances.

We have read your *Opinion Paper: Sahtu Land Use Plan, The First 5 Years: A Look Back to Move Forward* and have gathered additional industry perspectives to provide this submission for your consideration.

Your *Opinion Paper* provides some key observations that need to be addressed, in particular:

- **Oil and gas exploration has declined significantly:** “The SLUP was finalized during a period of high [oil and gas] exploration interest in the Central Mackenzie Valley. The oil and gas industry was an active planning partner at the time. From the time following the SLUP’s approval, this exploration interest has waned, changing the tenor of the conversation on economic development and public investment in the SSA.” Some recent GNWT changes to open up the tenure granting process may also affect this.
- **However, the GNWT has also recently changed its method for seeking oil and gas exploration interest, and this may change the perspective people have of the land.** GNWT no longer requires a call for nominations for companies to express interest in NWT petroleum lands, and companies can express interest in NWT petroleum lands at any time. While not all lands are available or able to be included in a call for bids, e.g. protected areas, interim land withdrawals,

indigenous owned subsurface, etc. SSI can, for example, work out a business deal with a proponent directly, there is no need for a competitive call for bids process in their case, so a proponent is assured of getting the land they want and not worry about getting out bid by some other company.

- **Conservation Initiatives have advanced:** Currently over 50% of the Sahtu region is off limits to resource development, an extraordinary amount of land. The Nááts'ihch'oh National Park Reserve of Canada was established (2014) and the establishment of the final boundaries excluded very high mineral potential lands to allow for future development. The Tsá Tué UNESCO Biosphere Reserve was established quite unexpectedly by the community of Délı̨nę to protect Great Bear Lake and its watershed. We understand this designation was not anticipated by GNWT and the SLUPB, and was done outside of land use planning and other government processes. More initiatives are on the table, and there could be more pressures under caribou protection.
- **Infrastructure Development has been approved:** SLUP development considered existing and major infrastructure proposals. This included the proposed Mackenzie Gas Pipeline, approved prior to the SLUP, as well as an all surface highway through the valley. However, there has been minimal activity to advance these projects and this should be reflected in new land use planning work.

In light of these changing circumstances in the Sahtu region, your *Opinion Paper* draws an important conclusion that “the 5-Year Review becomes an opportunity to revisit old issues with new eyes, and for experienced Planning Partners to consider new ideas and paths forward.” To this end, and to help provide the Sahtu with new ideas for responsible, economic and sustainable development around land use, we would like to share the following thoughts and recommendations.

Non-renewable resource development is the foundation of the entire NWT’s economy, and the Sahtu region can help sustain and grow its benefits.

While oil and gas exploration and production was once significantly important in the Sahtu, it has waned drastically to the point that production has stopped. Members tell us that this is due primarily to the complex regulatory landscape present in the NWT. While global commodity prices are growing strong enough to support major exploration projects around the globe, the NWT continues to lag because of regulatory timelines and uncertainty.

While mining and mineral exploration are contributing upwards of 40% of the total territorial gross domestic product, virtually all of the mineral resource benefits are coming from outside of, and to the west of the Sahtu planning region. Mining has the ability to overcome the complex and lengthy regulatory process because of the long-term mine life and long-term planning that accompanies mine development.

From a high level perspective, the NWT is challenged economically today, in no small part because of high costs and investment challenges here in the NWT. Some of the regulatory

challenge was identified in the recent Fraser Institute report: *Permit Times for Mining Exploration in 2017*¹. It reports that:

“Of the three regulatory measures, regulatory duplication and inconsistency is the one that appears to be having the greatest negative effect on investment attractiveness, and the situation has been deteriorating. This concern appears to be greatest in British Columbia, the Northwest Territories [our emphasis added], Nova Scotia, Nunavut, and Ontario.

We understand the economic effects are being especially felt in the Sahtu region, which has relied on oil and gas development as a key economic driver.

The Sahtu has an opportunity to attract new mineral investment and to attract back oil and gas industry investment.

Because of its diverse geology the Sahtu region is one of a few fortunate places on the globe where exploration for oil and gas (requiring sedimentary rock) and exploration for mining (in all rock types) can happen in the same region. An approach that encourages both would bring in improved investment and the infrastructure built by oil and gas would make mining more competitive, and vice versa.

Making the Sahtu region competitive and attractive to resource development can be done, but will require adjustments to land use planning, and a plan for strategic actions to attract and support resource development.

Building on this thought, we would like to see “the tenor of the conversation on economic development” changed in the SSA, and supportive actions taken through the next Sahtu Land Use Plan to embrace and support mineral development in the Sahtu.

Some Chamber of Mines Recommendations

- Zone 41 high mineral potential lands that were excluded from the final Naats’ihch’oh National Park Reserve boundary because of their high mineral potential should be opened to resource exploration and investment.
- Development opportunities in the Tsa Tué UNESCO Biosphere Reserve must be clarified and strong support provided if development is possible.
- The geological information on the Sahtu must be updated with the help of the Geological Survey of Canada and the Northwest Territories Geological Survey, and then incorporated into land use planning.
- While the Mackenzie Valley Highway is receiving some funding, it is not enough yet to construct the highway. A Sahtu resource (mining and oil and gas) development strategy, along with an amended and supportive SLUP, would help the region generate the significant investment and returns needed to justify completion of the highway. This, in turn, could also reduce costs and make mining investment even more attractive.

¹ [Permit Times for Mining Exploration in 2017](#), by A. Stedman and K.P. Green, Fraser Institute, 2018

- The Canol Heritage Trail could again become an important access route at some point in time. Ensure that the work on the heritage aspects do not compromise the Sahtu region's ability to use the Canol Trail again for resource development and other economic development purposes.
- Reconsider Mactung for its development potential. Mactung is one of the world's highest quality tungsten deposits. The exploration project straddles the Yukon/NWT border, and we have been led to believe that the majority of the tungsten deposit lies on the NWT side. While the tungsten market currently is not strong, in early 2018 the United States Government published a list of 35 "critical minerals" which it says are "vital to the nation's security and economic prosperity". They define a critical mineral as: "a non-fuel mineral or mineral material essential to the economic and national security of the US, the supply chain of which is vulnerable to disruption." Tungsten is included on that list, and since China is the main reason why the tungsten market has been disrupted, there might be a resurgence in tungsten mining. Mactung could finally become a mine. A supportive SLUP would be essential.
- No more protected areas should be developed in the Sahtu, and consideration should be given to opening previously protected lands for development. Conservation zones, national parks, national historic sites, and proposed protected areas have closed over 50% of the Sahtu to development. Such a high amount of land closed off limits to development removes investment and development possibilities. Even the government of Canada in its Conservation 2020 initiative, is seeking to protect only 17% of the land under its international commitments. Resource development needs access to land, and protected areas make access to land impossible, and can even compromise access to lands that are open to development.

Chamber Responses to Questions in the *Opinion Paper*

In regards to questions provided in the *Opinion Paper*, we are pleased to provide the following comments.

Do the vision and goals still reflect the values of the region?

"Building a Vision for the Land" is an interesting title for the work that was released in November 2000. A better direction statement that could be adopted for today's work would be: "Building a Vision for the People by using the Land Wisely" to reflect that the land is there to help us as it has since time immemorial, and can still do if we do it right/responsibly.

The current Vision is four paragraphs long with over 300 words. Vision statements are generally relatively short, often easily memorisable so ordinary people can remember and even recite it, and is ambitious. We suggest adopting a much shorter and ambitious version that speaks to using the land to build a future for the residents who are also guardians of the land. The two are interrelated and interdependent.

The current Goals are interspersed with Action Items, and you might consider removing the goals and stating them separately. With the current plan, this would create a short and manageable list of four Goals. When added to a short and ambitious Vision statement, the two would make a relatively succinct introduction to a new/amended plan. Everything afterwards, including Actions, grows from that.

Is the Plan achieving the vision and goals of the region and of the individual zones?

The *Opinion Paper* makes an excellent observation that the goals are not measurable. This should be corrected in the amended/new plan.

For example (and we mention this elsewhere in our submission), the mineral potential of the Sahtu region is quite good. However, there has been very little mineral exploration investment, which could be improved with the creation of a supportive land use plan and a focused regional mineral development strategy.

While measuring how many “conformity determinations” were made, which is important, we believe bigger goals should be measured. The current Goal 4 is to “Increase the economic self-sufficiency of the region through sustainable development”. While we agree that that goal’s wording is not very amenable to direct measurement, finding ways to measure how the new plan is helping or blocking economic development would be most helpful, in order to ensure the plan is effective. For example, measure the progress of mineral tenure acquisition and mineral investment in the region, and test it against the plan. Is it helping or hindering? We can tell you that over the life of the last land use plan, there have been few mineral claims staked in the Sahtu and mineral exploration investment in the region is minuscule. We are not aware that anyone has ever asked if the plan is to blame or plays a role in that.

In regards to why not, the *Opinion Paper* references Section 1.5 of the current SLUP, which states that: “The Dene and Metis people’s vision and goals are holistic, covering all aspects of their future aspirations.” While the SLUPB should by all means consider the Dene and Metis people, this wording focuses only on the land claimant and beneficiaries of the region. The Land Use Plan is a document for public governance, ie, it represents the interests of all residents of the region, and the plan’s vision and goals must consider all residents, including those who are non-Indigenous. In fact, the Sahtu land claim states that one of the principles that shall guide land use planning in the settlement area is “to protect and promote the existing and future well-being of the residents and communities of the settlement area having regard to the interests of all Canadians.” This implies that the interests of all residents of the region must be considered, as well as beyond to all Canadians.

We suggest that the Sahtu region also carries some responsibilities to contribute back to the NWT as well, given that royalties from resource development from other NWT regions are shared with Sahtu residents. This kind of sharing makes the NWT stronger together, and consequently the land use plan should also support resource development that will similarly see Sahtu benefits shared with other regions.

The Sahtu land claim mandates another principle for land use planning is to “provide for the ... utilization of land, resources and waters” to promote the future well-being of residents. The new plan should require that performance should be measured. You may not wish to explain exactly what to measure other than it measures economic and environmental performance, and that the SLUPB designed a report to the satisfaction of the Parties (GNWT, Canada, SSI) and then submit a report that fulfils those requirements annually, so as to allow changes to be made to the improve performance.

Is the Plan achieving the purpose established for it under SDMCLCA and the MVRMA?

Both the Sahtu Dene Metis Comprehensive Land Claim Agreement (SDMCLCA) and the Mackenzie Valley Resource Management Act (MVRMA) speak to the important goal of protecting the economic, social and cultural well-being of residents and communities. While the *Opinion Paper* suggests the SLUP is achieving its purpose under the land claim agreement and the MVRMA, the degree of success is hard to measure.

To this end, we would like to provide an example where more timely work on the SLUP, along with other supportive actions, could have made a difference to residents’ economic well-being.

In late 2014, the final boundaries of Naats’ihch’oh were permanently defined as the area became a National Park Reserve. The new boundaries were set purposefully in order to exclude high mineral potential (Zone 41) lands from the park so that they would not be lost from development opportunity in perpetuity along with the Park. These lands could be obvious targets for mineral exploration with hope for mine discovery and the subsequent benefits that would bring to the region.

The responsibility for categorizing the Zone 41 high mineral potential lands under the SLUP was passed over to the SLUPB.

It is now mid-2018, and no decision on the Zone 41 lands land use status has emerged from the SLUPB. While the economy has declined during the last four years since the park was created, and despite the regulatory safeguarding that the MVRMA provides, no decision has been forthcoming from the SLUPB to open those lands.

Some industry observers would use this as an example to say that the SLUP is not achieving the purpose established for it under SDMCLCA and the MVRMA.

While your *Opinion Paper* provides no recommendation, we believe the Zone 41 history identifies the need for time limits to be placed on plan amendments.

Have there been any exception or amendment requests that signal a need for a change?

We have flagged three issues below.

High Mineral Potential Zone 41 Lands

The Zone 41 issue that we have identified above is acknowledged in this section of the *Opinion Paper*. Please refer to that for our recommendation on timelines.

We are also pleased to see the Board's own recognition and additional recommendations for a variety of changes that could prevent this situation from happening in future.

Tsá Tué UNESCO Biosphere Reserve

The Tsá Tué UNESCO Biosphere Reserve was created in 2016. There was no advance notice that we in the industry were aware of, and we understand it was done outside of the purview and blessing of the Government of the Northwest Territories. Even your *Opinion Paper* states that "This designation was unanticipated..." by the SLUPB.

At 93,000 square kilometres, the area of Tsá Tué is hugely significant. It comprises 33% of the entire Sahtu settlement region of 280,238 square kilometres, and Tsá Tué is larger than the province of New Brunswick.

We are surprised that there is only the one reference that Tsá Tué was "unanticipated" in your *Opinion Paper*. We recommend this is another item for further study to prevent such surprises in future, without further transparent discussion before the decision is made.

We are quite confused by what this Biosphere Reserve means to exploration and development. It appears to defer in some fashion to the Sahtu Land Use Plan, but just how is unclear.

What is clear, however, and this might be cause of alarm to Déline and to residents of the greater Sahtu, is that Tsá Tué has now received an international, very high level environmental designation which industry investors will not want to invest in. We believe that virtually all investors will be concerned that should they invest, international attention against their presence in such a high profile and sensitive area will compromise their ability to work. The community of Déline might be encouraged to signal formally to the world that they do support development in Tsá Tué, or parts of it, but that might be no guarantee that it will then happen given the new sensitivities.

GNWT changes to oil and gas tenure issuance

The GNWT has recently changed its method for seeking oil and gas exploration interest, and this may change the perspective people have of the land.

GNWT no longer requires a call for nominations for companies to express interest in NWT petroleum lands, and companies can express interest in NWT petroleum lands at any time. While not all lands are available or able to be included in a call for bids, e.g. protected

areas, interim land withdrawals, Indigenous-owned subsurface, etc. SSI can, for example, work out a business deal with a proponent directly, there is no need for a competitive call for bids process in their case, so a proponent is assured of getting the land they want and not worry about getting out bid by some other company.

Is there new information available that needs to be considered in land use decisions?

Our Chamber members say there is clear evidence that the regulatory structure in the NWT is pushing investment away from the Sahtu, as one member describes “in a fairly catastrophic way”. The Land Use Plan is part of that regulatory complexity and should therefore be simplified and updated to encourage investment to allow for economic opportunity for the people of the Sahtu.

People of the Sahtu, and in fact all Northerners, should feel safeguarded by the stringent northern regulatory regime under the Mackenzie Valley Resource Management Act with all of its public scrutiny and oversight, and its strict requirements that development not create significant adverse environmental effects.

Have there been changes in Proposed Conservation Initiatives that need to be updated in the Plan?

We have flagged two changes for plan consideration.

Land Access

Resource development needs access to land, and protected areas make access to land impossible. They can also make access difficult if not next to impossible if they block transportation access to lands that are open to development.

Changes in conservation initiatives have resulted now in over 50% of the Sahtu being closed to resource development through conservation zones, national parks, national historic sites, and proposed conservation initiatives or protected areas.

Removing over 50% of the land from potential development is overly protective; even the government of Canada in its *Conservation 2020* initiative is planning to protect only 17% of Canada, an amount Canada and many other countries committed to under the international Convention on Biological Diversity.

The Sahtu is disadvantaging itself and its residents to investment possibilities and economic benefits with this high an amount of land off limits to resource development.

We do not believe the land is at significant risk from development, given that the Sahtu already exercises strong regulatory control over its lands. Under the MVRMA co-management regulatory system delivered by the Mackenzie Valley Review Board and the Sahtu Land & Water Board, resource developers have to follow stringent rules to protect the environment.

Our strong advice is to not advance additional conservation initiatives if you want to increase resource development opportunities for the Sahtu region and its residents. In

addition, consideration should be given to remove protections where there is attractive mineral potential in them.

Caribou Protection

The NWT Government has begun work on a Boreal Caribou Range Plan Framework that will support the creation of Regional Boreal Caribou Range Plans, including one for the Sahtu.

There is risk that boreal caribou management could trump the land use plan, and in fact could create new areas that require some level of protection. To prevent that, and to get a coordinated approach, the SLUP Board should integrate their work with the GNWT so as to create a simple system that coordinates boreal caribou range planning into land use planning.

No additional conservation areas should be developed until the boreal caribou range planning determines where and if caribou need their own protected areas.

Are there areas of ambiguity that can be better clarified?

In our last previous submission to the SLUP Board regarding the amendment application for the Zone 41 lands (February 17, 2017), we provided a number of observations and recommendations for changes. We are not aware if those changes were ever made, and encourage the board to revisit them as they work on a new plan.

Outcome of the Five-Year Review

We support the SLUP Board's determination that amendments are required.

Our Chamber's concluding thoughts

In addition to our "*Some Chamber of Mines Recommendations*" earlier in this document, we would make the following additional observations and recommendation.

The Sahtu Land Use Plan must support and complement efforts by the Sahtu region to grow and strengthen its economy.

The Sahtu region has tremendous opportunity to diversify and grow its economy by attracting mineral exploration investment that could lead to mining. It is, after all, in the Sahtu where mining in the NWT began some 85 years ago.

That means that recognition must be given to the needs of the industry for clear, certain and supportive access to land, and to rules that do add risk and uncertainty to investors once they have begun to invest their moneys in the region.

The amount of Sahtu land that is off limits to resource development is inordinately high at over 50% in the region, and will not maximize resource development opportunities. This amount of protection should be discussed through the land use planning process, with the

goal to decrease it, for research has shown that many of the various zones under the SLUP could have high mineral potential, but exploration and development is prohibited in these highly prospective areas. Pressures to further increase protection and alienation of land to developers should be avoided.

We continue to recommend that the Sahtu develop its own *Sahtu Regional Mineral Strategy* that would complement and take advantage of efforts under the NWT Mineral Development Strategy for the benefit of not only the Sahtu, but all of the NWT. While this is outside of the land use planning work, the land use plan should then reflect the needs and recommendations of that strategy.

It's important that the land use plan be amended to be more supportive of resource development to help improve the economics of the Sahtu region. This will help deliver on the obligations and requirements of the MVRMA and Sahtu land claim to protect the economic, social and cultural well-being of residents and communities.

We are hopeful that our comments in this submission will be helpful to the Sahtu Land Use Planning Board as they create a new plan. We know that process won't occur overnight, and we would be pleased to provide any additional information you may require to generate a great new Sahtu Land Use Plan.

Yours truly,

NWT & NUNAVUT CHAMBER OF MINES



Tom Hoefler
Executive Director

c.c.: Danny McNeely, MLA – Sahtu
Tom Jensen, Deputy Minister, GNWT – Industry, Tourism & Investment
Joe Dragon, Deputy Minister, GNWT – Environment & Natural Resources
Willard Hagen, Deputy Minister, GNWT – Lands
Wilfred McNeely Jr., Grand Chief of Sahtu Dene Council
Charles McNeely, Chair, Sahtu Secretariat Incorporated
Orlena Modeste, Executive Director, Sahtu Secretariat Incorporated