

Sahtu Land Use Planning Board

Technical Workshop 3

January 31 – February 2, 2012

Yellowknife, Northwest Territories

Attendees

Sahtu Land Use Planning Board:

Danny Bayha – Co-Chair
Arthur Tobac – Co-Chair
Heidi Wiebe – Plan Development Lead
Richard (Dick) Spaulding – Legal Counsel
Collin Bayha – Member
Edna Tobac – Executive Director

Behdzi Ahda First Nation/Ayoni Keh Land Corporation:

Judy Kochon

Deline Land Corporation:

Gina Dolphus
Tom Nesbitt

Deline Renewable Resources Council:

Russell Kenny
Peter Menacho
Elder Leo Modeste

Fort Good Hope Renewable Resources Council:

Roger Boniface

Mackenzie Valley Land and Water Board:

Angela Plautz

Fort Norman Metis Land Corporation:

Dyanne Doctor

Gwich'in Land Use Planning Board:

Sue McKenzie

K'asho Got'ine Band:

Chief Wilfred McNeely, Jr.

Mackenzie Gas Project:

Shirley Harley – Observer

Norman Wells Land Corporation:

Roger Odgaard
Cece McCauley

Sahtu Land and Water Board:

Paul Dixon
Angela Love
Crystal Thomas

Sahtu Renewable Resources Board:

Walter Bayha

Sahtu Secretariat Incorporated:

Ethel Blondin-Andrew
John Donihee – Legal Counsel

Tulita Land Corporation:

Gordon Yakeleya
Doug Yallee
Leon Andrew
Edward McCauley
Judith Wright-Bird
Maurice Mendo
Joe Bernarde

Tulita Renewable Resources Council:

Fred Andrew

Yamoga Land Corporation:

Heather Bourassa
George Barnaby
Lucy Jackson
Harry Harris
Paul T'Seleie

Government of the Northwest Territories – Environment and Natural Resources:

Michelle Swallow
Zaka Ullah
Patrick Clancy
Kris Johnson
Joel Holder
Jim Sparling
Todd Paget
Loretta Ransom

Government of the Northwest Territories – Transportation:

Roshan Begg
Rhonda Batchelor
Darren Campbell

Aboriginal Affairs and Northern Development Canada:

Lindsay Armer
Matt Bender
Tina Gear
Tessa Button
Greg Yeoman
Steve Skinner
Angie Norris
Boyan Tracz
Scott Duke – Legal Counsel

Canadian Wildlife Service:

Paul Latour

Department of Fisheries and Oceans:

Ruari Carthew
Bruce Hanna

Canadian Association of Petroleum Producers:

Phil Langille

Chamber of Mines:

Tom Hoefer
Adam Vivian

ConocoPhillips:

Cyril Jenkins
Eric Hansen

Explor:

Marty Swaggar
Jesse Tigner

Husky:

Ken Hansen
Cheryl McLean

MWH:

Jenica von Kuster

Selwyn Chihong:

Michael Cunningham

Interpreter: Dora Grandjambe

Recorders: PIDO Productions

Contents

Attendees	1
Tuesday, January 31, 2012 - 1:00 p.m. to 5:00 p.m.....	8
Opening Prayer.....	8
Introductions and Opening Comments	8
Review of Agenda.....	13
Information and Context	14
Report on Previous Workshops	15
Questions	17
Commitments from Previous Workshops	18
Workshop 1	18
Workshop 2	20
Questions	22
Report on Legal Discussions	23
Workshop 2	23
Questions	24
Workshop 1	25
Questions	26
Complete Workshop 2.....	27
Conformity Requirement 15 – Climate Change	28
Discussion	29
Sahtu Working Group – Set Priorities and Timeframes.....	37
Discussion.....	39
Action 4 – Access to Wildlife Info – CWS/DFO Proposal	40
Sahtu Working Group - Reversion.....	41
Recommendation 8 – Incidental Harvests	48
Discussion.....	48
Recommendation 10 – Non-Renewable Resource Assessments	49
Wednesday, February 1, 2012 - 9:00 a.m. to 5:00 p.m.....	52

Opening Prayer.....	53
Update on Funding	53
Changes to the Agenda	53
Introduction to Conformity Determination Reports.....	54
Conformity Requirement 1: Land Use Zoning.....	54
Conformity Requirement 2: Protection of Special Values	54
Conformity Requirement 3: Project Specific Monitoring in Special Management Zones	55
Conformity Requirement 4: Community Engagement and Traditional Knowledge ..	59
Conformity Requirement 5: Community Benefits	59
Conformity Requirement 6: Community Land Use Monitors.....	60
Conformity Requirement 7: Archeological Sites, Historical Sites, and Burial Sites.	71
Conformity Requirement 8: Watershed Management.....	71
Conformity Requirement 9: Drinking Water	72
Conformity Requirement 10: Wildlife.....	72
Conformity Requirement 11: Introduction of Species.....	72
Conformity Requirement 12: Sensitive Species and Features.....	72
Conformity Requirement 13: Closure and Reclamation.....	72
Conformity Requirement 14: Permafrost.....	73
Conformity Requirement 15: Climate Change	73
Conformity Requirement 16: Ecological Integrity	73
Conformity Requirement 17: Fish Farming and Aquaculture	73
Conformity Requirement 18: Disturbance of Lakebed	73
Conformity Requirement 19: Sentinel Islands.....	73
Conformity Requirement 20: Water Withdrawal	73
Conformity Determination Reports: Establishment Process	79
Questions/Discussion.....	80
Conformity Determination Reports: Goals	81
Conformity Determination Report: Husky Application S11T-002/S11L3-002	83
Lessons Learned.....	83
Existing Use	87
Project Description	88
Conformity Requirement 1: Land Use Zoning.....	89

Conformity Requirement 2: Protection of Special Values	91
Conformity Requirement 3: Project Specific Monitoring in Special Management Zones	101
Conformity Requirement 4: Community Engagement and Traditional Knowledge	107
Conformity Requirement 5: Community Benefits	110
Conformity Requirement 6: Community Land Use Monitors.....	113
Conformity Requirement 7: Archaeological Sites, Historical Sites, and Burial Sites	122
Conformity Requirement 8: Watershed Management.....	123
Thursday, February 2, 2012 – 9:00 a.m. to 5:00 p.m.	127
Prayer	128
Agenda Amendments	128
Questions/Discussion.....	129
Sahtu Land Use Plan Authority and Process.....	129
Questions/Discussion.....	132
Conformity Determination Report: Husky Application S11T-002/S11L3-002 - Continued	137
Conformity Requirement 9: Drinking Water	137
Conformity Requirement 10: Wildlife.....	142
Conformity Requirement 11: Introduction of Species.....	146
Conformity Requirement 12: Sensitive Species and Features.....	148
Conformity Requirement 13: Closure and Reclamation	151
Conformity Requirement 14: Permafrost.....	160
Conformity Determination: Explor Data Ltd. (2D Seismic) S05B-011(Deline District)	160
Conformity Requirement 16: Ecological Integrity	160
Conformity Determination: Eagle Plains Resources Ltd. S07C-006 (Tulita District)	175
Questions/Discussion.....	176
Conformity Determination: GNWT – Department of Transportation Winter Road S04L8-014 (K’asho Got’ine District)	180
Conformity Requirement 20: Water Withdrawal	180
Conformity Requirement 2: Protection of Special Values	181
Conformity Requirement 4: Community Engagement and Traditional Knowledge	182

Conformity Requirement 10: Wildlife.....	189
Conformity Determination: Small Scale Authorization – Pesticide Application Licence	190
Conformity Requirement 3: Project Specific Monitoring in Special Management Zones	191
Conformity Requirement 4: Community Engagement and Traditional Knowledge	191
Conformity Requirement 6: Community Land Use Monitors.....	191
Conformity Requirement 8: Watershed Management.....	194
Conformity Requirement 9: Drinking Water	194
Conformity Requirement 10: Wildlife.....	194
Conformity Requirement 12: Sensitive Species and Features.....	195
Conformity Requirement 13: Closure and Reclamation.....	195
Conformity Requirement 14: Permafrost.....	195
Closing Comments	195
SSI	195
Deline Land Corporation.....	196
Aboriginal Affairs and Northern Development Canada.....	197
Yamoga Land Corporation.....	198
K’asho Got’ine Band	198
Deline Renewable Resources Council	199
Government of the Northwest Territories.....	199
Sahtu Renewable Resources Board.....	200
Tulita Renewable Resources Council.....	201
Tulita Land Corporation	201
Sahtu Land Use Planning Board	202

Tuesday, January 31, 2012 - 1:00 p.m. to 5:00 p.m.

[MZ000012 – 00:00:00]

Danny Bayha: Good afternoon. I think if we can begin the third annual sitting of the Sahtu Land Use Plan (sic). I'm glad everybody could show up and we appreciate everybody showing up for this final session on the technical workshop on the Sahtu Land Use Plan Draft 3. I'd like to ask Leo Modeste, an elder, to do the opening prayer. Mahsi.

[00:01:00]

Opening Prayer

Leon Modeste:[English translation begins] These papers/documents that are here, are very, very important for us, we will talk about it here and it will be used to determine how we will live on this land. We as Dene people, we utilize the land and animals for our livelihood, that's who we are as Dene. I am telling you that this is our livelihood, but it seems like you are the decision makers so I just want to tell you, these papers that we are talking about, because we utilize the land and animals, because this is our livelihood it would be good if you let us make the decisions. I'm not trying to tell you what to do, but I'm hoping you will take this into consideration. That's what I want to say to you for now. Thank you. [English translation ends].

[00:02:14]

Introductions and Opening Comments

Danny Bayha: Mahsi. I again want to welcome all the delegates and the chiefs to our session. I'd like to at least start with part of the introductions that we have, at least for the board, the Sahtu Land Use Planning Board that's here. We don't have all the members here but we have myself and a few others.

On my right we have Colin Bayha that's still a member on the land use planning board. We have Arthur Tobac, who is coming with us around because he's hopefully be appointed soon as a chair. And I am Danny Bayha and I'm the interim chair acting for now until the position of the chair is appointed.

On my left we have Dick as our legal person to help us through some of the legal interpretations of the plan. As well, on the far left we have Heidi Wiebe, she's our lead consultant on our plan development. We also have Edna, our executive director for the office in Good Hope.

With that I just wanted to carry on a bit more. Just before I go any further, I wanted to make it clear that I also sit on other boards. It's not the only board I sit on. I also sit on the Mackenzie Valley Impact Review Board. I also sit on the Sahtu Health and Social Services Board as well as the Deline Lands Corporation Board. Now, these different boards have different roles and responsibilities in the region, at least in Deline. I'm also vice-chair or vice-president of the Deline Lands Corporation. So I wanted to mention this to you and disclose that information to yourselves and if anybody has any concerns about that, me acting as chair for this session, I would ask that you bring it forward and we can discuss it and then we can have – On my left, Arthur can certainly chair this

session if it's a real issue. Throughout these proceedings I'm hoping Arthur will give us a hand to chair this as well. If there's really no immediate issues with me acting as chair for this session I would appreciate that.

[00:05:14]

I'm glad that sort of gives me a cue to remind ourselves to turn off your cells, please. Please try to handle cells. That would be great. That would help least interrupting the flow of information between different parties and groups and ourselves as a board to try to listen. I appreciate that.

I also wanted to mention that we have Sue McKenzie from the Gwich'in area that has some experience in their land use plan over there, so hopefully she can add to the discussions and some of the issues that we have. Of course we understand it's a different location, a different area for exploration and potential so certainly that's got to be kept in the back of our minds when ask those type of questions, certainly. We hope to have her input to be of value for us, at least in our final discussions on this plan. I wanted to say that.

With that, I would ask that if we could maybe start from my far left with Roger to introduce himself and who he represents and we'll go all the way around the table. Roger, if you could start, please. Thank you.

Roger Odgaard: Hi. Roger Odgaard, Norman Wells Renewable Resources Council.

Cece McCauley: Cece McCauley, president of Norman Wells Land Corporation.

---Interjection

Unidentified Male Speaker: [Inaudible] I'm assisting SSI as counsel on this matter.

Phil Langille: Phil Langille with the Canadian Association of Petroleum Producers.

Cheryl McLean: I'm Cheryl McLean with Husky Oil.

Ken Hansen: Ken Hansen with Husky Oil.

Crystal Thomas: Crystal Thomas with the Sahtu Land and Water Board.

Angela Plautz: Angela Plautz with the Mackenzie Valley Land and Water Board.

Angela Love: Angela Love with the Sahtu Land and Water Board.

Adam Vivian: Adam Vivian, the Chamber of Mines.

Peter Menacho: Peter Menacho, Deline Land Corp.

Leon Modeste: Leo Modeste, First Nation.

Russell Kenny: Russell Kenny, Deline.

Chief Wilfred McNeely, Jr.: Wilfred McNeely and chief of Fort Good Hope.

Paul T'Seleie: Paul T'Seleie, Yamoga Land Corp.

Paul Latour: Paul Latour, Environment Canada, Canadian Wildlife Service.

Harry Harris: Harry Harris, Yamoga Land Corporation.

Lucy Jackson: [Lucy Jackson], Yamoga Land Corporation.

Heather Bourassa: Heather Bourassa, president, Yamoga Land Corporation.

George Barnaby: George Barnaby, Yamoga Land Corporation.

Shirley Harley: Shirley Harley, Mackenzie Gas Project.

Jesse Tigner: Jesse Tigner, ecologist for Explor.

Marty Swaggart: Marty Swaggart, Northern Operations, Explor.

Judith Wright-Bird: Judith Wright-Bird, Tulita Land Corporation.

Ruari Carthew: Ruari Carthew, DFO.

Bruce Hannah: Bruce Hannah, DFO.

Scott Duke: Scott Duke, legal counsel, Aboriginal and Northern Affairs Canada.

Matt Bender: Matt Bender, ANAC headquarters.

Lindsay Armer: Lindsay Armer, ANAC region. Are we going to introduce the folks at the back as well? Okay. We've got Tina Gear, Tessa Button, Greg Yeoman, and Steven Skinner from our lands department regionally.

Patrick Clancy: Patrick Clancy, Environmental Assessment and Monitoring, ENR.

Joel Holder: Joel Holder with the Government of the Northwest Territories Department of Environment and Natural Resources.

Michelle Swallow: Michelle Swallow with the GNWT, Environment and Natural Resources, and we have a few folks behind us as well.

Roshan Begg: Rosh Begg, Aboriginal Affairs and Intergovernmental Relations.

Michelle Swallow: Todd Paget with ENR and Zaka [Ullah] from ITI minerals.

Ethel Blondin-Andrew: Hi, I'm Ethel Blondin-Andrew, the chairperson for SSI. I just want to apologize on behalf of my husband Leon and the elders and people that came late from Sahtu. We were invited to CBC for Paul Andrew's farewell lunch. We couldn't leave during the proceedings, so you'll forgive us. Thank you.

[00:10:10]

Danny Bayha: Thank you. I just wanted to mention, I don't know if we missed anybody. Oh, on the far corner in the back we have Willard Hagen from the Mackenzie Valley Land and Water Board, as well as Richard Edjericon for the Mackenzie Valley Impact Review Board chair. I'm glad they could come and listen on our discussions. As well I think we also have Tom on the corner there that's joining our session here. Thank you, Tom. Maybe in the back, maybe starting with our elders are Leon, and just to introduce ourselves, Leon, if you could. Mahsi. And Doug, and yourself, maybe you could. You're with Tulita, are you? Okay. Thank you and Mahsi again. There's two folks by the door. Do you have titles, please? Thank you.

Cyril Jenkins: Cyril Jenkins, ConocoPhillips. I just ordered some more chairs, too, by the way.

Danny Bayha: Thank you.

Michael Cunningham: Michael Cunningham with Selwyn Chihong.

Danny Bayha: Okay. Thank you again. Now that we have that all out of the way we could certainly start the session. Again, thank you for coming to our Third Technical Workshop of this Sahtu Land Use Plan. We certainly hope it will be a good session to have value to complete our plan, as we're hoping, this year.

There's a quote that says no plan survives its collision with reality. I just wanted to start with that. The purpose of this workshop is to allow that collision to happen before the plan is completed and approved so we can all learn from it, adapt the plan and the regulatory processes so make them work together to achieve the vision and goals that we set for the Sahtu settlement area.

The goals for this workshop are as follows:

- We need to develop a clear criteria for how the CRs will be interpreted and implemented;
- Resolve any remaining implementation issues related to how conformity requirements are worded;
- Identify changes in application and regulatory processes that will be required once a plan is approved, such as new information that the board will require to determine conformity;
- Understand the rules and responsibilities for implementing the plan.

Staff have it revised the plans' draft conformity requirements to reflect what we've heard from the participants at the second workshop that was in Norman Wells. These revisions do not represent a decision of the board. Further changes are to be expected either as a result of this workshop or a broader plan, revisions required to address other comments, and ensure overall clarity and consistency that the board has yet to complete. Right now nothing is set in stone. It is still a working draft.

We chose five different proposed projects that reflect different land uses, scales of activity, proponents and districts who tested plans' conformity requirements. Each of these proposals had different things to teach us about how to interpret and implement the plan. It also helped to identify where current processes will need to be modified, changed to conform with the plan.

I'd like to be clear with this exercise, that it is not meant to reflect in any way on the projects we chose. There is no current requirement to conform with the plan. As you know, it's not enacted in law yet. While most discuss the plan in their applications the conformity requirements and in some cases the zoning do not exist in its current form when the applications were developed, so it would be impossible for them to conform. They are simple, real-world test cases. That's what we're trying to do. We're trying to test this plan as it is against typical, possible test applications that could come once the plan is approved.

[00:15:11]

Through this exercise we have developed a basic format for the board to do conformity determinations. We will continue to evolve as we learn through further applications and

experience. The workshop discussions will focus on the results of the conformity determinations for each of the five projects. While some of the determinations are straightforward others are more difficult. This is an opportunity to build common expectations and identify clear implementation criteria.

The determinations also help to identify some outstanding issues where further revisions to the CR might be needed. In cases where an activity does not conform it may be valid in some cases to ask whether it is the activity and/or the application that needs to change, or if it is the plan required.

We must caution, however, that this is not an open-ended invitation to new issues to be raised. This plan has been over 15 years in the making and I remind ourselves and everyone in this room and the people that would be approving this plan that we have to have some sense of closure in that we need to have some deadlines so we can get this plan approved and get it moving. I think it's in everyone's interest to have that happen.

We have all made significant progress together during the last year to resolve questions and concerns. The board must complete the plan in the next few months. Please keep that in mind.

The workshop represents collaborative forum for us to find solutions together. As the earlier comments of our elder Leo Modeste told us, we need to work together to have a plan for everyone's sake.

Use this session to ask questions, kick the tires, if you will, and help us find solutions to making an effective plan. After this the board will consider all the information and perspectives that have been brought forward and make its final decision.

Moving on to the workshop format, you'll note that we have proper sound system and we will be recording this session. We will produce transcripts from the recordings afterwards which, as per our normal procedure, will be posted to our website. The decision to record and transcribe was made because we were concerned that discussions could become too difficult for a note taker to capture adequately. It is not intended to formalize the workshop but rather to ensure accuracy of the notes and what was said which will be relied on for plan revision and as a record of discussions for others who could not attend.

Please remember to say your name before you speak for the record. We also use simultaneous translation, so speak slowly and keep it simple, and avoid the use of unnecessary jargon. Some techies or people with expertise, it's sometimes hard to get away from using simple terms but it will be good for that to happen and to remind ourselves not to use too complicated words. If you're going to please explain it. That would be good. Thank you.

I will chair this workshop again with my co-chair Arthur. We'll probably take turns trying to co-chair and trying to keep this meeting going at a fairly good pace so that we can get some of the critical questions that the communities may have and ourselves as board to rest. At least have some common understanding of where people are or the positions of the parties are.

The other board members and that here are to listen mostly. It's your plan, the community's plan, the government's plan, the industry's. They all worked together to

create a plan that would work for everyone and understand a different perspective so we can make informed decisions for final plan. Please help us to do that. If we are not clear on positions, if you guys are not clear on your positions and where you guys want to go it will be very hard for us as board members to get that. So try to be very clear and what your thoughts are and some of the issues.

[00:20:24]

Heidi will lead the technical elements, as usual, discussion. Dick, our legal counsel will report on the legal side discussions that will be occurring and provide information and comments on legal issues. We want to emphasize that this is not an appropriate format for legal debate. We really don't want legal people to start talking in front of everybody else because sometimes we lose it, we don't know what they're talking about. So it may not be an adequate use of our time as everyone here. I just wanted to, if that could happen certainly they can go off to the side and talk about it. If that's okay.

We want to remind everyone, as our elder reminded us, why we are here. The board mandate is to develop a land use plan that provides for the conservation, development, and use of lands, waters, and other resources in the Sahtu area. The purpose of a land use plan is to protect and promote the social, cultural, and economic wellbeing of residents and communities in the settlement area having regard to the interest of all Canadians. Special attention will be devoted to the rights of participants under the land claim, to protecting and promoting their social, cultural, and economic wellbeing to the land used by them for wildlife harvesting and other resource uses. It is easy to lose sight of the community's interest when discussing technical details and constraints. It's important for all of us to remember why we're doing this and to keep community interests in mind throughout the discussions. We have a few Members from the community to try and remind us throughout the sessions.

There is a lot to go through. We hope that you've had the opportunity to review the workshop materials. If not please try to do so in the next few days. If not you will have some time, like tonight, like we said earlier.

We will spend this afternoon completing elements from Workshop 2. That's sort of the results of some of the questions as well from Workshop 2.

Tomorrow we will start on the conformity determinations. We will look forward to hearing from your perspectives and new ideas. Again, we need to hear what the issues are and how we can – When I was here one time it says don't oppose, propose. So propose something, try to do that, try to have some ideas how we can work it out. If people oppose everything then it would be hard to move forward. We need to have proposals how we can move forward. That's what we're here to do.

Review of Agenda

With that, the revised agenda has been handed out. I don't know if everybody hopefully has that and they understand what our next two days will be like. On day two we have removed the end-of-the-day discussion on conformed determinations process. The agenda was too packed and we need time to think, time best spent going through the conformity determination examples. So we have allocated more time to the Husky and Explor applications to allow for fuller discussions.

It is expected that process questions may arise throughout the discussions anyways. We will try to provide some time for them as appropriate. Again, we try to stick to the conformity determinations more.

This agenda also highlights new conformity requirements to focus on for the winter road application. Everything else is the same as previously sent. It is still an ambitious agenda and we will check in periodically if we're getting behind to ensure we've covered key areas of discussions.

I think again we have a tight timeline, we'll try to keep focused on our questions and ideas and energies, and try to get a good direction to the board for how to move forward and complete this plan. Are there any questions that we have, that maybe folks have before we get into the actual discussion? I don't see any hands, so I think as it comes I guess you can raise your hand and we'll try to do it.

[00:25:02]

Again, please be mindful of our interpreter. You can hear her. If she stops then you need to stop or slow down. If you could just have a cue in the back of your mind. I tend to do the same. I go too quickly sometimes. I get excited for some reason. I appreciate your patience and I will turn it over now to Heidi to start with the Workshop 1 and 2 results. Heidi. Thank you.

Information and Context

Heidi Wiebe: Thanks. Can you hear me? All right. Just before we get into it, I'm assuming that many of you will have had a chance to print off and go through the materials that we sent out over the last few weeks. We did make copies, about 20 or 30 copies, of all the materials so if anybody did not print off or have their own materials there are packages at the back of the room with all the conformity determination reports and the new CRs. We handed out copies of the revised agenda. If anybody needs information there is some at the back of the room.

The purpose of this afternoon is basically to give us the context from the first two workshops and follow up on a lot of those items. So what we have under this next section – and we're a little bit behind already – is to report on commitments and information from the previous workshops, a report on legal discussions regarding the conformity determination process for settlement lands and rights dispositions – Dick will handle that section for us. Then a discussion of prior workshop results; that would be the CR revisions and the working assumptions. So we'll try and go through this section fairly quickly and then the rest of the afternoon will be completing outstanding items from Workshop 2.

I do speak fast all the time and Dora's behind me – poor lady – so if she starts panicking, somebody on this side of the room wave to me and get me to slow down. That would be great.

Report on Previous Workshops

For Workshop 1 we focused on three key questions: the conformity determination process, exemption of existing uses, and the scope of authorizations. With the conformity determination process we arrived at a general consensus to have a standard referral by the Sahtu Land and Water Board to our board so that we would do the conformity determinations as we would check applications to make sure that they comply with the plan for at least the first few years. We all agreed that this should be a flexible process and not locked in so that as we all learn we can make changes to that process and there may be a time in a couple years where everyone's comfortable and that referral process is no longer required. We came to that conclusion. We agreed that the planning board would start its determination as soon as the application is submitted, so while the land and water board is doing its completeness check we would begin reviewing materials to give us that front-end head start but that we would not complete our decision until the application is deemed complete and we have all of the information so that we know we've got a complete picture. Then we would finalize our determination. That was the most fundamental process that we worked out.

For minor activities that does not require or do not involve the land and water board because they're small scale it was felt that generally there was only going to be one regulator involved. For instance, DFO authorization or a CWS authorization. These are the typical regulators who might be involved in such small-scale activities. It was agreed that if these applications come in they would also refer them to the planning board for conformity determination.

We had difficulties at that first workshop working out a process for settlement lands and for rights disposition. That was referred to side discussions amongst the legal counsel and Dick will report on the progress of those discussions in a few minutes. They were recognized that that would require potentially special treatment.

[00:30:28]

The scope of authorizations discussion focused on a list of authorizations that SSI and the GNWT provided that they felt should not be subject to the plan and we discussed why, the different reasons why they should not be subject to the plan. At the workshop we discussed that the board does not have the authority to pick and choose which authorizations we apply to the plan but what we were talking about instead is trying to reach agreement on some authorizations that we all know are outside the board's mandate because they're not related to the use of land, water, or resources.

We had a chance to discuss a number of these authorizations and the board got really good information on that day. We were looking for a little bit of additional information in a few cases and that's come in. We have not completed our thinking or made decisions on this first and foremost because the board is waiting to finish all of these workshops to have a complete picture of where the plan revisions are going and to understand that. I'll speak more on that. We did finish those discussions and we're not revisiting those topics at the workshop.

On the grandfathering of existing uses there was general acceptance of the approach that we put forward in Draft 3, which is that any existing activities or rights that are

issued that are out there would continue once the plan is completed and they would be exempt from the zoning. So if they're a use that happens to be in an area that's later designated as a conservation zone, that use could continue. But upon renewal of any of the authorizations they would be subject to the other conditions of the plan; for instance, wildlife or water conditions. Those types of things. There was general agreement with that approach. The GNWT was not in agreement at that point but it was on the day after the election they noted that there also wasn't an opportunity to seek new direction on whether that position might change and further discussion was referred to a future meeting that we're going to have with the three approving parties. So there's been no change on that. This is just a reporting of the workshop results.

That was Workshop 1. It was those three major points.

Workshop 2, the focus of that was to look at all of the conformity requirements, the actions, and the recommendations and revisions that were proposed in that September discussion document.

The revisions that we had proposed in the discussion document were based on addressing all of the key comments that the board has received since Draft 3 was released, and it's been almost a year and a half now. That includes comments in the hearing, immediately following the draft, and all of these workshops.

So we spent most of the time at Workshop 2 on the conformity requirements. We discussed the goal, the issues, and constraints around each of those CRs. I think we found a fair degree of consensus on many of them about what we expect those requirements to do and in some cases we even got to, I think, fairly close wording on many of them. That resulted in revisions to the CRs that are presented for this workshop as part of the materials that I've e-mailed out.

We spent a little bit of time on the last day looking at the actions. One of the big outstanding questions was looking at priorities for the Sahtu working group. A number of the actions from Draft 3 have been assembled on how this working group is going to address them. There is also one other action that DFO and CWS were going to do some work on and they've provided that information back. The other actions were generally accepted at that workshop as proposed in the September discussion document.

[00:35:23]

We did not have time to discuss the recommendations at Workshop 2. At the end we flagged two recommendations for discussion at this workshop: number eight and number 10. They are on the agenda. The rest are assumed to be acceptable as proposed in the discussion document with, I guess, the qualifier that if anybody else wanted to discuss any of the other recommendations today is the time to do it. So when we get to that point bring it up and we'll see if we can slot time in.

That's what happened at Workshops 1 and 2, to give everybody the context and refresher. It's been two months since that last workshop. In terms of what does that mean for this workshop, we've provided working assumptions.

Similar to Workshop 2, assume that all of the authorizations that we previously had in Draft 3 in Table 11, assume that they are all still subject to the plan. As I mentioned, we

have not completed those discussions yet, so similar to Workshop 2 this is the safe approach. If it's on that table in Draft 3 assume it's subject to the plan so we can have those full discussions. If at the end of the day the board decides that some of these are not subject to the plan then at least we've got a full set of information to make that decision.

[The second assumption was] that the grandfathering still exists as it was written in Draft 3. That was also done for previous workshops.

The third assumption is to assume the CRs are moving forward as they are written for this workshop. That's what we tested the applications against. It doesn't mean the CRs, the conformity requirements will stay that way at the end, as I'll note probably throughout this workshop. This is still a test case and there's still opportunities and possibilities that those CRs will be revised for several different reasons.

That's kind of my opening remarks in terms of context. I guess I'll just stop and ask if there are any questions.

Questions

Matt Bender: Hello. It's Matt Bender with AANDC. Heidi, that was very helpful, thanks. I guess one question that our department has is a question about the overall process. These workshops have been helpful but at the same time only a few select people in our department and likely within the Government of Canada have looked at this. We're wondering if there will be an opportunity to see a revised version of the plan so that we can take a thorough review of the penultimate draft, if you call it that.

Heidi Wiebe: I think the short answer is the next full draft that comes out will be the draft that the board submits for approval. That's sort of been our discussion so far. I know that at the hearing, prior to the hearing anyways, the GNWT had been asking for a full Draft 4. This was our alternative to another full Draft 4 as working through the revisions together. Going to another full draft means another full round of consultations, the possibility of opening up brand new issues which happens whenever you start talking one on one. I think the time for that has passed. I guess I'd also to some of your implementation branch people behind you to see if they want to fund this board for another full year of plan revisions. It's not in the cards at the moment but...actually, forget the but. It's not in the cards at the moment.

Matt Bender: Thanks for the response. Again, our interest would be seeking concurrence from AANDC and other federal departments to obtain a shared GOC perspective on it. We'll have our own internal process for undertaking that and clearly we'd want to collaborate with the other.

Danny Bayha: Thank you. That would be a good approach to get that sorted out. Then it would be like a tri-party approach.

[00:40:05]

John Donihee: Thank you, Mr. Chairman. I'm just forced to observe that even though we've had the benefit of an excellent update from Heidi on what's been happening in the previous two workshops, and of course ultimately we'll do what we do over the next couple of days, you staff indicated that the next step along the way is to meet with the

three approving authorities and at the same time your staff indicate that there isn't going to be a revised plan until everything is over and it's ready to be submitted. I guess I'm wondering how it is, I suppose, that you plan to capture for the approving authorities the benefits of the three workshops that you've had. How are you going to reflect that in a way that we can wrap our minds around so that we can further assist the board at that meeting? Ultimately how is it that we're going to have much to discuss if it isn't clear or at least clarified in some way exactly where the board sees itself going with the final draft which will be submitted for approval.

Danny Bayha: Thank you, John. Heidi, comments?

Heidi Wiebe: Sure. I expect that we would have to put something together for the tripartite meeting, for the meeting with the three parties, the three approving – INAC, SSI, GNWT. I don't see that being a full draft. The full draft is 400 pages between the zone descriptions and everything else. What we do see bringing to that meeting is the final approach for plan revisions based on what we've gotten out of these workshops. That might be an updated discussion document but it's not going to be a final plan. I think the responsibility for writing that final plan rests with the board and it would almost seem like a preapproval process if it was considered.

Danny Bayha: Thank you, John, for the inquiry. Ultimately earlier we said we were going to have some ideas of closure on this plan. The budget issues we have as a board to how much further issues, but I think I would encourage the three parties to get together and have a proposal so that the board can certainly consider it to move forward and how we can do that, and the final stages of plan approval because the planning parties or the parties that are going to be the ones that approve the plan, it would be good to have their input and how they propose to see this ending. I would encourage that to happen and then certainly in the future get back to the board to see if we can see our way forward to move forward and complete this plan this year.

Commitments from Previous Workshops

Heidi Wiebe: So I realize I skipped my own agenda and went to the wrong things first. So you've got the workshop update. What I was supposed to do first was the action items from Workshops 1 and 2. I'll do that and then we'll have Dick present the update on the legal discussions.

I e-mailed a document around on Sunday night. Some new responses came in on Monday. I have not reprinted those but perhaps we could have anybody speak to those when we get to that. It was mostly Michelle who had sent in a response on Monday. I have one copy so I can also read what you wrote.

I'm just going to read through what the actions were and I'll try to read through the response. If anybody wants to talk about any of them then we will do so. This is still in the area of an update as opposed to a huge area of discussion. We have about 30 minutes for this section of the agenda.

Workshop 1

The first action from Workshop 1, Vicki from CWS had agreed to look into whether regulators coordinate in the absence of the Sahtu Land and Water Board's involvement.

This was pertaining to small-scale authorizations. Vicki responded that Environment Canada CWS does not formally coordinate in the absence of the land and water board involvement but they would ask for evidence that the proponent has received or at least applied for other applicable permits, so for instance a wildlife research permit, before issuing theirs.

[00:45:35]

There was an action, Michelle was going to follow up later on reporting to communities regarding the pesticide use in associate with the pesticide licence and have that reporting as done. The response that just came in was that the GNWT currently do not report back to communities on pesticide use in associated with the pesticide application permit. They are notified, contacted, and asked for concerns at the application review stage. To date communities have supported the applications and have not requested further information.

There was a discussion at the first workshop about whether or not the pesticide licence should be subject to the plan or not and the GNWT said they would have another look at this. They did and Michelle confirmed that he GNWT has reconsidered and agrees that the plan should apply to pesticide application permits.

There is something else called a pesticide business licence which really is a business licence and therefore should not be subject to the plan because it's not related to land use.

There was a question about whether or not a tourism operator licence applies to helicopter sightseeing. Michelle checked on that and yes, a helicopter sightseeing tour would require a tourism operator licence. A lot of these questions were coming through that whole scope of authorizations discussion.

There was a question about the consultation process for permits granted through the Aurora Research institute. Michelle had offered to look into that one. I don't think I got a response on that one. We'll follow up.

What I will do is when I've gotten all the responses I will complete the list, include them in this document, and I'll post them on our website with all of the other workshop documents so that everyone has a complete set of the answers that have been provided to the board.

There were two questions for DFO that Ruari had previously followed up on. They were with respect to the level of consultation required for a scientific research licence. The response is quite lengthy. I don't see the value in reading it out. Maybe for some of these, for most of them I'll just see if there's any questions. If people have these documents in front of them, there's some more at the back.

There was a question number eight or item number eight, there was a discussion about domestic animals and whether they're covered by federal regulations. The response is that there are no territorial permits or authorizations for domestic animals in the NWT. The Herd and Fencing Act is GNWT legislation that gives the authority to the Minister of ITI to designate areas where livestock cannot run at large. I think this was in relation to the invasive species discussion.

A lot of very detailed responses that came back from that first workshop.

Workshop 2

The second workshop, this is the one on the CRs, a lot of the questions pertained to how do the other regions handle some of these topics. One of our discussion topics was on monitoring and the confidentiality of monitoring reports. I was asked to check how the Gwich'in handle it. I spoke to Sue McKenzie and if there's questions you can speak to her too. I'll just give my answer here. The Gwich'in plan doesn't talk about monitoring reports. They're on the Gwich'in Land and Water Board's public record and anybody can access them. The plan just doesn't really deal with this issue at all.

[00:49:45]

There was discussion at the second workshop. The Sahtu Land and Water Board, actually all of the land and water boards I guess, were engaged in developing community engagement guidelines. There was a lot of discussion that they're still not ready for public release and Paul had talked about maybe giving a one-page summary during the last workshop that hadn't happened. I see he's not here today. I don't know if people still feel the need for that. It was more for discussions on the record at the time. Is that something that you still want them to follow up on or do we just wait for that report to be publicly released? I think the time has rather passed for it myself. Unless somebody says I absolutely want that I'm not going to push Paul to fulfill that one because that report will be public at some point in the future. Okay. I see nods.

I was asked to follow up on whether community land use monitoring is dealt with in other land use plans. Again I spoke to Sue and the Gwich'in plan is silent on this issue. Sue had reported that they did have requests for this but felt that the program was not yet well enough established in their region with a pool of qualified monitors and such to make it a requirement in the plan.

For the Deh Cho, as of the last rolling draft that have seen a copy of there is an action or recommendation for DFN to do some work to development contract materials and lists of people but it didn't look like it was a requirement in that plan anymore either. Although I don't have current copies of where those revisions sit so I would leave it to maybe INAC or GNWT – sorry, AANDC or GNWT to provide a fuller report of whether or not there's a requirement in there right now.

We had a request with Michelle Dufault (sic) on source watershed mapping and the revisions that are underway so we did receive new mapping from them, although I understand that they're still doing some more work on that and we're following up directly with some of the ENR folks on that. They're actually having a workshop on it next week in Inuvik.

Also asked to check on how the Gwich'in and Deh Cho plans deal with the protection of drinking water. This is one that does receive some coverage in the other plans so recent revisions in the Gwich'in plan include a general condition for water. Basically new activities requiring permits, licences, or authorizations will not be allowed until it's demonstrated that water quality, quantity, and rate of flow will remain substantially unaltered. That's similar to our CR-8, our watershed management CR. It's not specific to drinking water but it does cover drinking water sources and they also did some

delineation of a deep water lake watershed, which is for McPherson's water source. Sue can speak to that if she likes.

In the Deh Cho plan it identifies community drinking water sources within the various zone descriptions and it also sets a requirement for the protection of drinking water, specific to drinking water. So that one is similar to the Sahtu. Again that's the June 2011 rolling draft, so if it's changed since then only people on that committee can say, or INAC or GNWT.

There had been a request to check on where the 500 metre buffer around the hot springs originated from in CR-12. That buffer, as a reminder, is a buffer that says if you're operating within that area you have to do a rare plant survey or a survey for rare or at-risk plants. It's not a no-go zone, it's in recognition of the fact that around hot and warm springs there's unique habitat and you tend to get a proliferation or abundance of different species or unique species. The response that we got on that is that the survey – It's not a setback. It's just do a survey within that area and it comes from research from the PAs science team about how far the impacts of a hot or warm spring will extend on the ground. They feel that that is an appropriately sized buffer around that.

Tom was asked to report back on the changes to CR-17. This is in respect to the disturbance of the lakebed because he also sits on the Saoyu-ehdacho Working Group and there was a clause that had been proposed to deal with the potential impacts of landing float planes on Great Bear Lake. The decision from the Saoyu-ehdacho Management Board is that the potential impacts that could happen from that float plane is not what they had considered or what they would interpret as being within the scope of what was planned there. So they said just take that whole clause out and just say for clarity that we don't expect that taking off or landing, or using of water craft in the landing and takeoff of float planes should constitute a disturbance to the lakebed. That co-management board consists of the membership of Deline and Parks Canada and other parties who would be involved in those decisions.

[00:55:31]

Environment Canada and DFO agreed to provide additional wording or new wording for Action 4 and that's one of the items to be discussed this afternoon. They did provide that wording back.

The last two are my outstanding because the land and water board had left at the end of the last workshop before these ones came up and I didn't have a chance to follow up with them separately on these ones. So maybe when we get to a break I can have a side discussion with them and see if we can just report back.

There was a question about adding the land and water board to Action 5, which right now says DFO working with the communities on the water withdrawal protocol-type issues and the withdrawal of water in areas like Lac Belot and the suggestion from DFO at the last workshop was to add the land and water board because they are the ones that issue the water licences.

The other one was to what extent the emergency provisions in the plan are different than what is required by the land and water board. I don't believe that they are different but we haven't finished that discussion yet. We will report back on those.

Were there any questions or discussion that people wanted to have on any of the follow-up information?

Questions

Heather Bourassa: Heather from the Yamoga Land Corporation. I don't know if this is valid but just a quick, if you can let me know, during the hearing I thought that the government – and I don't remember which one, maybe both – said that they wouldn't agree with actions that were mandatory. That actions would have to not be mandatory. Had that been resolved or is that still an outstanding issue?

Danny Bayha: Thank you, Heather. Any of the folks from the government?

Heidi Wiebe: It was discussed a little bit at Workshop 2. It came up again about whether or not the plan would include, or whether actions would be mandatory. In follow up from the hearing, the board had done a series of, I guess, legal discussions on that and there was an exchange of opinions. At the end of that exercise the board noted that legal arguments aside there was still a policy consideration or policy call from both GNWT and INAC that they wouldn't support mandatory actions. The board has had a chance to discuss it in follow up to that and our preliminary discussions at that point have indicated that the board would find alternative wording to mandatory actions. I think we've reported on that at the second workshop and said yes, the actions would not be mandatory, and as to the final wording that'll be part of probably the information that the board brings back to the tripartite meeting. So they will not be mandatory but we have agreed that they would be a step above recommendations still. So the wording that had been tossed around was somewhere between best efforts and reasonable efforts. I think that probably is as much of an update as I can provide right now.

Danny Bayha: Thank you, Heidi. Roger?

Roger Odgaard: Hi, Roger from Norman Wells. I was just wondering how the Gwich'in handled it in their land use plan.

Danny Bayha: Sue McKenzie, can you state your name before you start? Thank you.

Sue McKenzie: Is this one better? Oh, yeah. Okay. Sue McKenzie, Gwich'in Land Use Planning Board. The 2003 Gwich'in Land Use Plan, the one that's in effect right now, there are some recommended actions in that plan document but generally, unless it was a mandated activity of a specific organization or government department, we did not use 'shall' in requiring that activity to be completed.

[01:00:35]

In the revised land use plan that we're working on right now we've actually pulled all those items out of the plan and they are now in a companion document which is a regional plan of action, which will not be mandatory as well. That's sort of the approach we've taken. Kind of probably following along sort of the legal advice that was given to the Sahtu planning board.

Danny Bayha: Thank you, Sue. Roger, does that answer your question? Thank you. I don't see any other questions so we shall continue. Thank you.

Richard (Dick) Spaulding: Just a follow-up comment on the previous discussion. The board's legal position delivered at the conclusion of the hearing was that the board does have the authority to include mandatory actions in the plan. So if the evolution in the Gwich'in region since then reflects the position of parties that were involved in the Sahtu process most likely it was the Government of Canada and the Government of the Northwest Territories.

Report on Legal Discussions

I was asked to report on two issues that were discussed by the legal counsel to the parties in this process following from two of the workshops. The first one follows up from Workshop 2.

Workshop 2

The issue that was put to council to discuss and to come back to the group on was concerning the intention of the plan and the position of INAC regarding Conformity Requirement 13, which requires security to be posted to pay for reclamation after a project is completed. The discussion that took place between council was primarily between myself on behalf of the board and Scott Duke for INAC. The other counsel were informed and at the conclusion of the discussions I think we had consensus. The other counsel, for your information, who take part in these sidebar discussions are Tom Nesbitt for the Deline Land Corporation, Jamie Fulford for the GNWT, and John Donihee for SSI.

I'll break down the consensus on that issue in four points. The first one was that it is the intention of the draft plan to require the appropriate government agency to ensure that security is posted with the Minister of INAC as a matter of government responsibility.

Point number two, it was not to require the district land corporations to take security deposits or to place any security deposits that they do take with the Minister of INAC. That second point was not the intention of the plan.

Thirdly, based on that intention in the plan document then, the main power that would be relied on by the plan to implement this conformity requirement, and perhaps the only power that would be relied on, would be the authority to collect security that is possessed by the Sahtu Land and Water Board. That comes in two forms. For land uses the Sahtu Land and Water Board gets that authority under section 71 of the Mackenzie Valley Resource Management Act and the regulations enacted or made pursuant to that act under which the land and water board can collect security for uses on public lands or settlement lands.

[01:05:00]

With respect to water, the land and water board gets that authority under the NWT Waters Act where it can attach the requirement for security deposits to a licence for the use of water or a licence for the deposit of waste into water. Again, it has that authority whether the water flows through Crown lands or settlement lands.

The last point was that INAC at the conclusion of the discussion clarified that it is not opposing the draft conformity requirement in that form, expressing the intention I just

described, and is not proposing that the plan require the district land corporations either to take security deposits or to place any deposits that they do take with a Minister of the Crown.

That's the report on the first issue. Perhaps I should pause for questions or comments.

Danny Bayha: Thank you, Dick. If anybody has any questions, concerns, or issues with what Dick has just provided it would be good to have that feedback. John, go ahead.

Questions

John Donihee: I just have one question then. If you have an operation that doesn't require a land use permit or a water licence then no security is to be taken?

Richard (Dick) Spaulding: No, on the contrary. The intention of the current requirement in the plan is that security would have to be taken by the board and posted with the Minister, whether it's a land use or a water use. But I think the point of the discussion is that the plan does not intend to direct the district land corporations to take security or to have any security that they do decide to take placed with a Minister.

John Donihee: I understand that part, thanks. I'm still curious about how you understand that the board can take – Which board are you talking about here? The land and water board or the planning board?

Richard (Dick) Spaulding: The board that I described has authority under the MVRMA, the regs made pursuant to the MVRMA, and the NWT Waters Act is the land and water board.

John Donihee: John Donihee again. Then you didn't answer my first question, which is: If you don't need a land use permit or a water licence how is security going to be provided in accordance with the conformity requirement?

Richard (Dick) Spaulding: I'm sorry, John. I didn't understand the first question. I thought you were asking me if in either case, if a permit is required or a licence is required will security be deposited. No, the answer is that the requirement in the plan is not intended to apply if there's no land use permit or water licence required.

Danny Bayha: John, does that answer your question?

John Donihee: Yes, thank you, Mr. Chairman.

Danny Bayha: Any other question? Mr. Hagen.

Willard Hagen: Good afternoon. Just a point of clarity. The land and water boards don't collect securities. We level a security in a licence. Running a model generally we use 'A' and 'DC' model and say it's a million dollars and then we advise the proponent that they have to give that securities in whatever form the Crown wants it in. Then the Crown collects it. From there the land and water boards don't have anything else to do with the security. It goes into the Crown and if there's a spill or there's a problem either Environment Canada or AANDC responds on how it's cleaned up. It never comes back to us again. That's really all we do is run a model to determine the amount and then the Crown takes it from there. In a lot of cases we don't even know if the Crown has actually collected the money. A lot of times they won't notify us. Just for your information. It's a

very quick run on a model but it's a decision that's made and then it basically evaporates from the land and water board.

[01:10:03]

Danny Bayha: Thank you, Mr. Hagen. Mackenzie Valley Land and Water Board current practices. I don't know about the Sahtu water board, if there's anything they want to add. If they do or not. Thank you. It wasn't more of a question but that's fine. We can look into new, if there's no other questions with the issue of security deposits. I don't know in Gwich'in they do. Will require that. Okay. Thank you. If we want to conclude Dick's part there and then maybe after that we can probably take a quick break. Thank you.

Workshop 1

Richard (Dick) Spaulding: Thanks, Danny. The second issue arose from Workshop 1. Legal counsel were asked to make recommendations regarding the role of landowners in the process of referring activities to the planning board for conformity determinations. As Heidi explained earlier, that question came up in Workshop 1 where it was agreed that, at least for an initial period of time after plan approvals, regulators would let the land and water board take the lead in referring activities to the planning board for conformity determination. The land and water board would make referrals to the planning board for that purpose on a routine basis.

The difficulty that Heidi mentioned was raised by SSI and the land and water board who pointed out that the Crown, for example, when it issues mineral rights as the owner of public lands it often does that even before the land and water board receives an application for any activity. The land and water board reads its regulations as actually requiring that any mineral rights be in place before the land and water board accepts an application for a land use permit. That was the problem that legal counsel were asked to discuss.

The concern essentially is that the landowner may not be able to wait for regulators to make referrals to the planning board before the landowner at least wishes to grant its own permission. By permission we discussed a whole range of potential instruments or consents that included surface leases, mineral rights, and access and benefits agreements.

Legal counsel had two conference calls about it. We didn't reach a recommendation on how the working group should proceed. We did identify three optional procedures which were still under discussion when the last call ended. So we don't really have a firm conclusion to report. None of these options has consensus support from the lawyers.

Option number one is that landowner would indeed, as initially suggested in Workshop 1, wait for the land and water board to make the land and water board's referral before the landowner grants its permission. If the land and water board were not part of the process then it would be another regulator that would make the referral to the planning board and the landowner again would wait for the conformity determination before granting its permission to use the land.

The second option is that the landowner goes ahead and makes the referral itself to the planning board. It doesn't wait for an application for a land use permit or a water licence.

The third option is essentially that the landowner proceeds at its own risk and grants the permission requested without having a conformity determination to rely on.

So those were the options identified. Without going over the pros and cons of each option, which were discussed in some detail by the lawyers, there did seem to be two other points that were agreed. One is that there isn't any legal obstacle to a landowner choosing either Option 2 or 3. I think there was consensus that under the process in the act it's not only the regulatory authorities but it could be a landowner that refers the activity to the planning board for conformity determination. The third option also doesn't seem to have a legal obstacle. That is that a landowner can lawfully proceed to grant its consent to the use of its lands without any conformity determination occurring under the act.

[01:15:39]

One further point that seemed to be agreed is that the planning board can make separate conformity determinations when a project is at a different stage of activity. For example, the Crown usually issues land leases at a late stage in our mineral development project. If the land and water board has already made a referral to the planning board and received a conformity determination that doesn't prevent the Crown at a later stage in the process when the proposed activity is different either from waiting for a regulator – again, our normal process would be the land and water board – to seek a conformity determination or the Crown itself as landowner could make the referral.

Those were the points of consensus. I'd emphasize that these were without prejudice discussions. In other words, on the side, so to speak. All I can give today is really a progress report of those discussions. That's all I have for now, Heidi.

Danny Bayha: Thank you, Dick. I don't know if there's any questions from anybody in the room or the parties may request clarifications. No questions or concerns on what was just given by Dick. I'll ask if there's anything. Again, these are legal discussions. Sometimes it get very involved and the implications are unending. It's good to have that discussion but I encourage the parties to have these further discussions to get sort of clarity so that everyone can see their way to have this plan approved. Again, we don't want to hang up this plan at the 11th hour. We want to get all the stuff sorted out ahead of time and at least have a proposal [Inaudible] oppose propose. Thank you.

Again with Heidi, with that maybe we could take – Oh, sorry, Tom. You have a questions.

Questions

Tom Nesbitt: I'm Tom Nesbitt with Deline Land Corporation. Just a minor observation, I don't want to get into legal discussions here either. Dick said there was no legal obstacle under the act to a landowner choosing Option 2 or 3. Just so there's no one being misled here I would also suggest that there's no legal obstacle to a district land corporation acting under Option 1.

Danny Bayha: Thank you, Tom. If we could maybe take a 10-minute break and we can continue after. I encourage the dialogue to continue during the break so that we can keep going. Thank you.

---BREAK

[MZ000013 – 00:00:00]

Danny Bayha: ...with the plan, I hope that's the plan today and concludes some, leave you with some ideas for tomorrow. So I would ask again if we could take our seats and continue the discussion with the Sahtu Land Use Plan, Draft 3.

Hopefully, I think we're pretty close to the time that we're supposed to be where today on our schedule. I imagine we'll probably go right until 5:00 depending on how things go, work out and discussion goes. I would ask again if the legal issues that Dick brought up and some of the dialogue that happened between the different parties, again I would really encourage, like, in the regulatory process we try to encourage do do early work and I encourage this to happen in this process as well. The more we think the more we dialogue the more we communicate with the issues and concerns that we're going to have or that they're going to have down the line, the better off everyone will be because there will be an understanding in the people that are going to be living with the plan and the people that are going to be working the plan and implementing the plan. We can all work together to see a path forward that we can easily live with. I would encourage the parties that have issues with the concerns that we have brought up today to get together and dialogue. It doesn't have to be with the board process but outside it's good to have that discussion so that we as a board can have a collaborative approach that's been brought by the three parties. That would be good. I encourage that. Thank you again.

With that, I just want to know if there's anything on what Dick had just presented earlier before the break. If not we will continue on with the discussion as per the agenda that's been given out by Heidi. I think we're okay. That or we're not okay. That's good. I just want to turn it over to Heidi and she can continue on with the discussion on the last item on today's agenda. Thank you.

Complete Workshop 2

Heidi Wiebe: Thanks, Danny. All right. So for the rest of today we're going to finish the five outstanding items from Workshop 2. Before I proceed with them, we've outlined discussions on CR-15, setting priorities and timeframes for activities under the Sahtu Working Group, Action 4, CWS and DFO were going to report back on that, Recommendation 8 and Recommendation 10. Were there any other outstanding issues from Workshop 2 that anybody wants to flag for discussion so that we can balance time if we have to?

Danny Bayha: Go ahead, George. Thank you.

George Barnaby: Yeah, well, I was concerned that the First Nation bands are not involved in this process because they are our government and the land corps are just a corporation that own some land. I think we might become limited by not having the band

council involved. I know from Good Hope we were talking about all our land, the whole group trapping area including the land we selected through the claim, but we're negotiating for jurisdiction on the whole thing so we don't want to get limited and the government digging out this document later on and saying here's what you agreed to. Legally is SSI or the land corps able to talk about all the land or just the selected land?

[00:04:57]

Danny Bayha: So if I may, that's a question that you have. I don't know if any of the people that have the legal background to maybe have a stab at the question that George proposed in light of the issues of process. George.

George Barnaby: Yeah, I don't need an answer right away but we should I think really seriously look from our side, anyway, from the community side. Because we have three districts that are involved in this with a large area that I know that people want control and a say in everything, but just a few selected pieces.

Danny Bayha: Okay, thank you, George. So that is sort of maybe a request to the parties and to SSI and how it concerns and if there are going to be changes at these outside-the-board type meetings I'm sure that could somehow be discussed and how the communities will be involved in that type of dialogue. That's how I understand the question from George. With that we can probably continue on with the discussion that Heidi has started. Thank you.

Heidi Wiebe: Okay, so just to make sure there's no more additions to the agenda for this section. Good. Okay.

Conformity Requirement 15 – Climate Change

With that then the first item to complete from Workshop 2 was a discussion on CR-15, climate change. This one has gone through a number of significant changes since Draft 3 so I will, in two minutes, walk you through those changes and where we ended up, which is basically a blank slate by the sounds of it.

In Draft 3 we had a conformity requirement that said the design and operation of a land use activity shall take into account climate change factors, including but not limited to preventing and/or mitigating adverse environmental impacts resulting from the degradation or aggradation of permafrost and minimizing greenhouse gas emissions. We received some comments that led us to split that requirement into two separate clauses, one dealing with permafrost that came from the Great Bear Lakes Watershed Management Plan – and we basically kept that as it was – and splitting the other parts that dealt with climate change and greenhouse gases separately. We also had a number of comments saying that there's currently no mechanism in place in the regulatory system to deal with greenhouse gases and emissions. In light of that we had removed the clauses about greenhouse gas emissions.

Going into that second workshop we basically had that CR split out into two clauses and the part pertaining to climate change just said, "The design and operation of a land use activity must take into account climate change factors." So it was very, very broad. At that workshop there was a lot of discussion that there's really no substance left to it. There's no direction, there's no clear goal of what we want to achieve through the land

use plan. We had a little bit of discussion about some ideas. I believe one of the parties threw out the idea of requiring large land use activities, so perhaps those requiring a Type A land use permit or something, to account for their greenhouse gas emissions. It was a suggestion thrown on the table but we didn't get any further than that and we agreed that we would all think about whether or not the plan should speak to climate change and if so what it should say, and have that discussion at this third workshop.

I have about 20 minutes on the agenda and if anybody's given thought to what they want the CR to say, right now it's pretty much an open book and I will open the floor for that discussion.

[00:09:42]

Discussion

Danny Bayha: Thank you, Heidi. Again, just a note: some of the things that we are proposing or the proposals to change or modify or improve some of the CRs, for example, I think maybe just a suggestion. I'm not speaking for the board or how the board is going to decide what to say, but I'm one member of the board. I certainly would think that some of these issues we probably can't answer every question or every scenario that may come down the line in the future some time. We don't know, like, who would have thought 10 years ago that fracking would be an issue up here in the Sahtu? We can't answer every question but I'm certainly hoping there will be some discretion left to the planning board to make those type of determinations for reasonableness too. You can expect, you can have faith, and trust in the board members to make those decisions. Keep that in the back of our mind. When we're talking about some of the CRs and how we word them that these CRs, we can word them to answer every question that possibly could come but I don't think we can ever get there. So we have to have some trust and faith in the boards that will be making those determinations and if we can give them a little bit of leeway or a little bit of discretion to make those type of judgements so that a plan like this will work in the area would be great.

With that I think I would encourage that if there are any questions, comments, or suggestions that we can certainly consider in this [CR-15] that would be a good time to bring it forward and have some discussion on that. Anybody can take a stab. Go ahead. Sorry, state your name. Thank you.

Lindsay Armer: Lindsay Armer with Aboriginal Affairs. I'd just like to ask a general question on this CR. What would the board propose to do with the, if you used the proposed wording, what would they do if they accounted for all the greenhouse gas emissions? Would this become some sort of database or is it just a nice have in the plan? What was the original intent?

Danny Bayha: Well, if I can just maybe possibly, if a person being a reasonable person would try to make a decision on if climate change was a concern, it's probably not a concern with every project. A reasonable person cannot have that sort of thought. It has to be defensible, in a sense. When you do conformity determinations you have to say the reasons for your decision. I think it's important that that's public. Everybody has to have access to that information on why you make those decisions. That's important. That would be fair to everyone that's involved in a project. So for me I think the issue

would be you can't expect greenhouse gases to be applied to every little project. It would have to be something that's very major. It would be a consideration. Maybe greenhouse gases might be a plus in some places. If it reduces greenhouse gases maybe that's a plus. Maybe that would work. Sometimes it could be other projects that may be a contributing factor to greenhouse gases. So it's the reasonableness of the board at the time making that determination would be, I think can certainly be something I would consider. It's just a thought. I don't know if everybody had...Sorry. Heidi?

Heidi Wiebe: I was just going to say that in Draft 3 our requirement was to minimize greenhouse gas emissions. We were not the ones that had proposed the reporting. I think that came from SSI. Yeah, if it was brought in what would the board do with it? Haven't considered it because we hadn't thought of that before. I suppose there's always the perception out there that once you have to report something there's always, it becomes an incentive to minimize. Maybe there's that linkage. Perhaps we could turn it over to SSI because I think that proposal had come from them at the second workshop.

Danny Bayha: Thank you, Heidi. Ethel. Thank you.

Ethel Blondin-Andrew: Ethel Blondin-Andrew from SSI. I'm just wondering – Oh, your computer I think is creating interference. We've got two technologies competing for a little bit of space here. I just thinking about CR-15 climate change. Did you say it came from SSI? Who in SSI?

Heidi Wiebe: It was Patrick at the second workshop who had suggested that wording.

[00:14:52]

Ethel Blondin-Andrew: At the second workshop? When you talk about greenhouse gases I'm more worried about, like, that's a big issue and that's fought at the battle of the Titans internationally where you're trading credits and all that sort of stuff. What could you practically do on this level to affect that, is my question?

And secondly, I'm more worried about flaring in Norman Wells than I am worried about creating greenhouse gas emissions on Great Bear Lake because there just isn't that kind of – Anything that you do would be airborne, I think, and would come alive as a result of the latolization (sic) through climate change. But I don't see, I think we have to be practical. We can't just be ideologues about certain things that sound sexy on the ecological integrity agenda. It has to be real. We have to be able to do something about it or else we're just showing off about something we can't do anything about. I'm just wondering if you, I'm not saying reducing greenhouse gases is bad, I'm just saying is it workable. Is it practical? Will it work? I'm pretty dubish (sic) about the environment so I figure I'm on the side of the angels with this one so I can afford to say something like this. Tom Hoefer's just laughing. We're always at each other's throats on different issues. Anyways, Tom, I win.

---Laughter

Danny Bayha: Thank you. We can hopefully have that debate outside the session. I would encourage again if there's anything of that type of dialogue of how we think of it of course we have to be practical again. If there are any other views that would be good to share. Go ahead. State your name.

Paul T'Seleie: Paul T'Seleie, Yamoga Land Corp. I think with this CR-15 it should be more. I mean, if we can't come up with anything for it it should maybe deal with more of awareness. Climate change is fought at a higher level and I think here we should recognize the fact that it's getting warmer and it's getting hotter and the lands are getting drier and there's potential for more forest fires. I think it should create more awareness with the CR-15. Put awareness out there and then, if it can work here then if it's fought out there and talking about greenhouse gas emissions, Canada can jump on board for that. There's no point in talking about that. But then yeah, just awareness. The more it gets warmer and the more countries get drier you're going to have more forest fires and who's going to fight those forest fires. We can't just let land burn off for nothing. Animals go there. It's just stuff like that, just awareness maybe, just a suggestion. Thank you.

Danny Bayha: Thank you. Tom.

Tom Hoefler: Just, my understanding is that all of the mines that have Class A licences report their greenhouse gases. I'd defer to Jim Sparling, perhaps, on who also collects that data to see just how far away he gets that data from not just Class A licence users, but perhaps other emitters as well. I'm just thinking there's already work being done to collect that data elsewhere that could be shared across the whole NWT actually, not just for the region.

Danny Bayha: Thank you, Tom. Yeah, if you care to comment. Thank you. Sorry. SSI.

Ethel Blondin-Andrew: I just want to, when you talk about conformity, if someone comes back for CR-15 as it is and says, okay, what did you do, what do you say? How did you impact that? How did you conform? That would be the question, I guess.

Danny Bayha: Yeah. That's something I think going on from Paul's suggestion, maybe it's something along the lines of consider and the issue of awareness. I just want to put another thought is that would it be, would this sort of feed into the whole issue of cumulative effects, the whole what's happening there. Something along the lines that if it's captured or somehow being addressed somewhere. I think that may be a helpful thing. Go ahead. Sorry, state your name.

[00:20:02]

Jim Sparling: Hi. I'm Jim Sparling with Department of Environment and Natural Resources. Thanks, Tom. I thought I could get away by hiding. I guess climate change in environmental assessment has always been a difficult one. In about 2003 the Canadian Association of Environmental Assessment Practitioners grappled with this and they came up with two different ways to address climate change.

The first one is: We know that the climate is changing and over the life of a project there's going to be changes, so how is that going to affect the project? I think when you were talking about permafrost you were on the right track there. If the permafrost is changing what's it going to be like in 30 years? Or forest fires, could this new development be affected by forest fires? Those types of questions are the first ones. How could the climate affect this project?

The second one is the more difficult one: How do these emissions contribute to the global problem? Usually if you're dealing with a pollutant going into water you have

standards that have been established and you can test that. Will this project result in those standards being met? There's still a lot of international controversy. Canada hasn't set any kind of a target so there's nothing for you to look at is this going to meet the law. So the question then becomes is this being done in a way that minimizes the greenhouse gas emissions? Is it as efficient as it can be? Could they have used renewable energy instead of burning oil for this project? Those are kind of general questions to ask a proponent of a project. You can't sort of say that's too much because there's no law.

As Tom mentioned, a lot of the companies – national and international companies – are already taking their own steps through their own associations. They recognize this. So a lot of times when you ask them they'll have an answer. So if you go and Google BHP you can find their reports for greenhouse gas emissions. Those are the kind of questions you could be asking people about emissions.

The Government of the Northwest Territories has established some targets and has developed a greenhouse gas strategy and we see that as development continues in the Northwest Territories a lot of times the energy needs are being met by oil. That causes our greenhouse gas emissions to go up. At the same time we've got undeveloped hydro. We've got biomass. We can burn wood for heat. Different types of things we can try with solar energy. If we can get caught up with these industrial developments and be able to provide them with renewable energy then we can help them reduce their greenhouse gas emissions and we also help our own economy be developing and generating our own energy sources instead of buying it from elsewhere. That's what I would say.

Danny Bayha: Thank you. Go ahead.

Ken Hansen: Well, as a company that wants to come up and work in the Sahtu – Ken Hansen from Husky. Sorry. How am I going to determine whether my application meets this conformance requirement? It's vague, it has no measurable, it says I will report but I have to report anyway because Jim's looking for that data. How is this part of your approval process and how is that going to work?

Danny Bayha: Again, being a practical person or in a board that would make that decision certainly they would consider that information and then the request for more information on how they're going to do it. I would imagine. But it seems the discussion is going more along the lines of having consideration, at least the company, the proposal, the applicant has considered how they have tried to be as green as possible in their activity or proposal, I imagine. I think the for me the other question that seems to be, at least my question would be, Ken, how that may – Because we can have all this information about greenhouse gases, what they're doing, the stats about emissions and all that, but at the end of the day if it's not being used for any purpose then it really becomes useless. It has to be fed into a central place where that information can be used, can make sense to people who want to access that information. So a centralized type of deposit of information that would be helpful to the actual person or the average person that would need to use it. That I think would be helpful to everyone. I think we're all – So that's what I'm thinking but that's something that still needs to be talked about and figured out on how we best approach it. That's a question. Yes, certainly it's

understandable as an applicant I really don't know what the heck I'm going to do when you talk about greenhouse gases for my three-hole Joe program or whatever. Go ahead, Mr. Hansen.

[00:25:47]

Ken Hansen: So again I come back to comments I made at the last workshop that this doesn't belong in a land use plan because it's not measurable, you don't know what you're going to do with it, you don't know how to adjust an application to make it conformable. When I put an application in is it conformable or is it not conformable. Who is going to make that determination? How are they going to make that determination? If I give you the data, what's going to be done with the data? There's an international debate going on today that's far and away at levels – like Ethel said, it's international, it's not just the Sahtu region -- about what actually affects climate. Do greenhouse gases even affect climate at all? Why do you want, how does that become part of this application? For me it's very difficult as an applicant to understand how I'm going to be measured on my application under this conformity.

Danny Bayha: Sorry. Go ahead.

Heidi Wiebe: Maybe just to get discussion moving, it sounds like maybe a CR isn't the best place for this type of requirement. In the interest of proposing instead of opposing would it make sense to make this a recommendation or a consideration generally not an actual conformity requirement?

Danny Bayha: Any suggestions on the floor and see how we can deal with this. Imagine again, if the other thing that we keep in mind as well is that this plan would be revisited again within five years should it become a real issue about climate change and greenhouse gases and all that certainly. So just in the interest of any concerns or nods or nays or whatever we need to have. SSI. Thank you.

Ethel Blondin-Andrew: I guess it's this whole greenass – greenhass – greenhouse gas – I think I put the ass in class or something. Anyways, this greenhouse gas issue is pretty complex. I don't want to diminish the importance of it. What I want to talk about is the practicality of it. The awareness I think is important, Paul, I think you raised that. That can't be, I've been involved with signing the Persistent Organic Pollutants and Heavy Metals Protocol for Canada in Aarhus, Denmark, when I was in Ottawa. That POPs and Heavy Metals agreement is supposed to do something at a higher level about airborne pollution. We don't have industry here to the extent that we have in highly industrialized parts of the world. It doesn't mean we shouldn't worry about it because we're the recipients of airborne pollution because of our weather.

I guess the other thing that worries me is, God forbid, maybe this whole thing changes if we bring in coal mining. Maybe then we'll see really how greenhouse gases will be affected. But then that's conjecture. Somebody once said, well, yeah, maybe that's that if that happens and maybe my grandmother would be a bus if she had four wheels too. You have to think about all these things. Good policy is not just made for the moment. You gotta think about this. But also good policy is practical. It's got to work. Otherwise it's just, it's good to say nice things but it doesn't, you can't really work with it then it's a big question, I guess.

Danny Bayha: Okay. Heidi. Thank you.

[00:30:01]

Heidi Wiebe: I just want to touch on a couple elements and then I see Harry wants to speak too. I'm hearing a couple things. First I want to address Ken's concern. You'll notice that when we did the Conformity Determination Reports we didn't assess conformity against this one specifically because we don't know what it would say yet if at all. Rest assured, that's what this whole workshop is about. First we figure out what the CR says or if there is a CR then we figure out how we determine conformity. I don't think we'll be leaving here without some form of clarity on that.

I heard Paul's comments about bringing awareness and I think that's where we started off with in Draft 3. We've looked at a lot of the GNWT's reports on climate change and greenhouse gas emissions and we talk about a lot of that in the background report. We were at that level of we know it's on the horizon and we know it's happening and the direction in Draft 3 had basically been consider that. How is it going to impact your project? That may be the level that we are still at. We heard comments from Draft 3 or following Draft 3 that there just isn't mechanisms in the regulatory process right now to address this properly. So taken all together I'm coming back to maybe where Lindsay was heading is taking this down to a recommendation and saying, look we encourage applicants to consider climate change factors in their operations, both how they contribute to climate change and how climate change may impact their activities. That's what I'm hearing from the room that I guess I'd summarize and throw back and see how people feel about that.

Danny Bayha: Go ahead, Yamoga, or Tom. You guys had some.

Unidentified Male Speaker: You're, what do you call, out in these camps. They have these equipment like CATs, loaders, trucks, that are running 24 hours a day from December 15 to the end of March. I just figured that you have to put things in there that will help lessen the greenhouse or global warming. As a hunter and trapper I notice there's all kind of animals are getting more scarce and there's higher contaminants of mercury and other contaminants that are coming up by global warming. I was thinking these camps having equipment, like, right now with fracking it's a completely different story. There's been more equipment. This figures that to say the proponent's fuel costs if they could provide some sort of building that they could construct not to have those equipment running overnight. The lessen the greenhouse effects. It's a really important issue to me and my people because we live off the land. If we don't have those animals there we won't be able to – It seems like everything is being taken from us. We've got to have some. Why the reluctance? We're not against development but of the whole process we're really getting nothing. This is something that has to be looked at. Just something I wanted to add. Sort of off the topic but then I guess something that we provide some sort of condition to get a building so the equipment won't be running. Through the land and water board I added, like, there's a global thing against burning garbage and I sort of added that in the conditions but out in these camps they don't listen to that. What I was thinking, what the condition was you have to truck your whatever, refuse or garbage out back to the communities. And waste water. It's supposed to be left in its pristine state and it's something that has to be practiced. Could

have figured out some way to lessen the emissions. You're going to have compressors and stuff like that and for fracking we have to make allotment or some sort of cater to fracking now, the land use plan. It's going to be heavier equipment and stuff like that. I just wanted to, like, even the roads. Icing roads. I don't know if it will affect that. Just a comment that I wanted to make. Thank you.

[00:35:07]

Danny Bayha: Thank you. Tom, you had your hand up. Do you have anything to add?

Tom Nesbitt: I'm Tom Nesbitt. I'd just like to think a little more about what this gentleman has said. I do think, I agree that this is an important issue. I'm just wondering how we can address it either in this edition of the land use plan or perhaps in the next edition. If we say, recognizing the importance of the issue, if we can, if we want, maybe we can do something in this edition, that's fine. If not then I think it should be an issue to come back to in the next edition of the land use plan in five years, but in the meantime we should ensure that we are wherever possible collecting the information which we will need at that time in five years so that we can deal with this important issue in an enforceable way and a reasonable way. Because if we all say, you know, we're small, we're small, we're small, well, it's all those small emissions which are driving global warming. As well as the large emissions right now. I don't see how we can advocate for action on the larger issues if we ourselves are doing nothing in our own back yard. Either we do something now or by way of requirements or I suggest we come back to this in five years but ensure now that we're doing something to allow us in five years to say something cogent on this matter. That's all I can think of. Thank you.

Danny Bayha: Thank you, Tom. The other thing I think is something maybe worth thinking about is to get this thing moved forward, a discussion. I think to the point, I think, the issue of awareness and education. For example, if you're aware now that a lot of the diesel engines out there have, by law, to create that they're very efficient and they're all required by industry. Earlier it was referred to by industry what they're doing and then as well they have to use really low sulphur type diesel. That really helps. It doesn't smell very good but it's just the way the industry has gone for the automotive industry and the heavy equipment as well. I imagine a few years down the road that will be happening more and more. As well as low-smoke order type oil. In snowmobiles they have that as well. They're improving and I think the demand by the public is important too. I'm hoping certainly down by five years after this plan, a lot of these improvements have made, could be done, will be done by then, and that would address the concerns of climate change or greenhouse gases or whatever. Certainly, SSI again.

Ethel Blondin-Andrew: I'm thinking about this and thinking it might be well served to make it a recommendation and to put in place the capacity for collection of data and some capacity for monitoring so that if we need to take the next step when we review the land use plan then we can do that. If things change and other industries are producing more greenhouse gases then we're going to be in a position to have the data. I agree, it's not a matter of disagreeing with each other. It's degrees of, I guess, understanding where we're at in the process. It's never, maybe it's good that we start early before we're in a position where we have all kinds of data and we haven't done

anything. Maybe we need to make it a recommendation and put something in place that collects data and looks at measuring and monitoring.

Danny Bayha: Thank you, SSI. The gentlemen in the corner and then Peter and then Matt. Thank you.

[00:39:47]

Ruari Carthew: Thanks. Ruari Carthew with DFO. There's obvious a lot of interest in climate change and a lot of people who think it's quite important. It's been mentioned the challenge of scale on addressing international issues on a local level and how it's largely inflexible or daunting. Perhaps a backwards or different perspective to take on it is how to act more on a local level. It would also offer a little bit more in terms of measurable criteria for the boards or other agencies to follow. That would just be a requirement for proponents to apply industry-best standards regarding environmental management and resource extraction when requiring a land permit or water licence.

Danny Bayha: Okay. Thank you. Can I go to Peter Menacho in the corner from Deline Land Corp? Thank you.

Peter Menacho: Thank you, Mr. Chairman. I think Ethel is right. I think it's something that Paul mentioned. We can't just sleep on it. It's something we need to identify, red flag at this point. This draft is going to be reviewed every five years. It's not going to put a heavy burden on a proponent or anybody. We just want to make sure that it's recognized, identified, and make sure we follow up on it. Climate change is maybe a sensitive issue at this point but it will be a big effect down the line. We know from the elders' perspective things will change and how can you determine that. Even the migration pattern or fish habitat or even the temperature of the water. Things will change. I'm not putting heavy thoughts on this one but at least if we kind of red-flag it at his point and recognize it, if it's going to be reviewed every five years that's fine.

The other one good point that Ethel pointed out is the flue stack in Norman Wells, at least we have to do something about it because there's got to be a commitment at least from the government. There were commitments made, there's a reduction of greenhouse gas submission. Now the international protocol on the environment is being pulled out. I'm not sure what's their view on it but at least we're trying something. I mean, if we're all thinking like Germany then we're all 100 percent greenhouse gas plan out there. But right now we don't. I just want to point that out because based on our experience of what we deal with for the past 70 years that Imperial was there. That flue stack is still burning. For the past 50 years that we experienced with uranium activity. You know, these are all exposed to us and we're not saying no to development, we just want to know to make sure that we all coincide together and deal with it properly. I mean, we could hand out notes or anything but at this point Paul's got a great idea. If we could just put at least awareness out there. It's not something that only Canada is sleeping on it. Everywhere in this world, everybody really thinking about it. We're affecting the emissions and now we're creating a hole, talk about ozone layer.

So I just wanted to mention that all because you can't really determine at this point but for future reference at least if we kind of red-flag it and say we will deal with it. Mahsi.

Danny Bayha: Thank you, Mr. Menacho. Matt, do you have?

[00:44:39]

Matt Bender: Thanks, Danny. It's Matt Bender with AANDC. Just a quick comment to say that I think certainly from the Land Use Planning Division of AANDC we're quite sensitive to the importance of climate change as a real concern. Also sensitive to your task, Heidi, of how to incorporate this into the land use plan as a regulatory document. I guess the challenge moving forward as I see it is to capture and reflect the importance of climate change at a global, territorial, regional level but also do as this gentleman was saying and make sure that it's crystal clear how that fits into the land use plan, either as a CR or likely as a recommendation. We need to lay out very clearly what the expectation is on the stakeholders working with this plan.

Danny Bayha: Thank you, Matt. The other sort of question I would ask, certainly, on climate change, because I understood, there seems to be some consensus on where it's going on this recommendation, or this CR and it might get to a recommendation, but it just being a reporting and monitoring and collection is that something, so that's one question. How, again, who is going to be doing that? Where is it going? Who's going to manage that? That's the question for collection, monitoring, and distribution.

The other question I guess would be if the company is going to report should that be a required thing for any activity in the Sahtu. It's just reporting what they're doing or do they have to actually have measurement instruments out there in their activity that would be – I'm not sure. I'm just trying to put that out there, the practical nature of having this and how that could be happening. Because I see that going in the direction of reporting and collection and monitoring. I just want to leave that and then if anybody has any questions or comments or additions, suggestions.

Okay. So if there's nothing else I think maybe we can, I think we have enough. Tom.

Tom Nesbitt: So what I'm, just as a suggestion to try to bring these things together, first the planning could include a recommendation, only a recommendation to apply, that permit holders apply industry-best standards or best technology, to bring in Ruari's point. Secondly, that the permit holder collect data and monitor its greenhouse gas emissions. And thirdly, that the land use planning board promote awareness of this issue. And finally, that we all agree to come back to it in five years. If that would be acceptable to people. Or I guess at the end of the day it's the board's call. That's a suggestion, anyway. Thanks.

Danny Bayha: Thank you, Tom. So if there's anything really, greatly, not good, you walk out the door and say no, but I think we, if everybody's still sitting there and okay, good, I think we have enough to go on the board. I think. Heidi, if that's okay. I think we can move on, hopefully, and again it's a good discussion and we'll keep going. Thank you. So what's the next question?

Sahtu Working Group – Set Priorities and Timeframes

Heidi Wiebe: Okay. So the next topic is the Sahtu Working Group. We had quite a bit of discussion on this at the second workshop. So just to bring everyone up to speed again, this is a working group that the board proposes to establish once the plan is completed and it would be a collaborative forum much the same as this but a much smaller group. Basically one representation from each organization and we would meet

three, maybe four times a year to discuss the broader land use issues. Things that are outstanding that just take a lot of collaborative discussions to get through. We had taken a lot of the previous actions and moved them under this working group, things that we cannot resolve one on one. So one of the items was that if there's any questions about plan implementation that would be sort of a standard agenda item we would work through interpretation or constraints.

[00:49:50]

There's been a lot of work already from different organizations on community engagement guidelines, so it would be about harmonizing that type of information for the Sahtu region with respect to local expectations and practices.

There is a need for traditional knowledge guidelines, and that's for proponents about how you would collect and manage and store data that's collected on a project-specific basis but collected from the communities. The other regions, the Gwich'in and the Deh Cho, both have their own guidelines that guide proponents in that information. There's nothing existing for the Sahtu region.

There is cumulative effects and monitoring program and this was intended to be, basically providing that regional input into the broader CIMP program about regional priorities about what gets monitored in this area, how it gets monitored.

We had an action for a community government monitoring and enforcement plan. This was to look at a long-term partnership about how different government agencies and departments could work with communities to increase capacity and monitoring and inspections. There's been some one-off situations in the past. I know DFO's been active in Deline working with them and other similar programs. This was a long-term look at about how we could increase that. Then there was also an action regarding best practices and it was really just looking at all of the conformity requirements once we've gained experience with them and refining them so that we come up with a standard set of best practices for operations and activities within this region.

So those were all of the different sub-actions that had been basically loosely thrown under the purview of this future Sahtu Working Group. I think we had general discussion and direction that, yeah, this is a good home for it. Initially in Draft 3 we had all of these listed as, okay, finish this within four years so that we could bring information back for the five-year review, recognizing that you can't accomplish even a fraction of this in four years. So the question was, what are the priorities for this working group and should we be putting any timeframes in? At the second workshop that's about as far as we got. We identified that we would provide some time on the agenda to continue and hopefully finish that discussion.

I guess there's a couple options. There's no requirement to put priorities and timeframes in the plan. We could stay silent on that. We had discussions that this could be something that the Sahtu Land Use Planning Board, as the organization establishing and running and chairing this group, would just develop these items in a work plan every year and say, okay, this year we're going to tackle this, but to the extent that people want to frame specific priorities to be addressed and let's have that discussion.

Danny Bayha: Thank you, Heidi. So the issue of the Sahtu Working Group. Any thoughts and suggestions how we move forward with that? It would be good to have that. We have about an hour to discuss this but I think we have an hour, less than an hour, so we'll try to move it along a bit and see if we can consider the issue of the Sahtu Working Group and how that's going to envision happening. Go ahead INAC.

Discussion

Lindsay Armer: Lindsay Armer with Aboriginal Affairs. We're just talking with our Cumulative Impact Monitoring Program folks, and Boyan, if I get something wrong just let me know.

Part D says specifically "working through the NWT CIMP" and I think we'd like to see that wording changed. I don't know what the intent of that was originally but that item can't be through the CIMP program per se. Maybe through the CIMP framework or using the CIMP framework as a guideline, but it can't be specifically through CIMP because CIMP can't fund everything that's listed there as well.

In addition to that, some of the wording, we might have some suggestions coming to you later. I don't have anything right now but...I don't know if there's any background on how it became that way through CIMP.

Danny Bayha: It's a natural evolution.

---Laughter

Default, yes. Heidi.

[00:55:05]

Heidi Wiebe: Yeah, I think it started out as, obviously throughout our discussions there has been a huge emphasis on monitoring in this region and the need for broader monitoring. I think a lot of the feedback we got from multiple sources is there's already a CIMP program, so if this isn't CIMP it should be. That's how CIMP got entwined in there. It was a response to all of that. So it's like, yeah, we're not trying to take over another program. We recognize that they've already identified valued components and indicators and they've identified methodology for how the collection is, but we also recognize that within our region there's specific values and specific areas that are the focus for the communities and that's the kind of information and priorities – with this action. To the extent that we can provide that guidance it's like, yeah, we're not trying to reinvent the wheel. CIMP's done a great job of doing all that through the reports, but it's an NWT-wide framework. We're talking about Sahtu-specific monitoring priorities. I guess that's how CIMP got tied in there. Certainly we're open to reworking that wording if that's not appropriate.

Lindsay Armer: I think I can respond by saying we will provide some wording that would be more appropriate, maybe.

Danny Bayha: Thank you. Part of the issue again is it's the working group itself is possibly to address some of the issues that are really outstanding, I guess. It's to work towards having some, again, outside planning process but within that, we're working

towards solutions and proposals and how to address some of the outstanding issues that still need to be addressed. Is that fine?

Okay, Heidi, that's fine. So if there's, that was a quick hour but if we can move on. I think maybe as further on towards the end of the workshop there will probably more type of unresolved issues that the working group would be able to sort of be there to help address. It's just more of a forum place where people can come together and try to iron out some of the issues and see their experiences. The only way we're ever going to find out is to try a dialogue and communication. I just want to encourage that.

With that, I think we can move on, Heidi.

Tom Nesbitt: Danny, it's Tom Nesbitt. I'd just like to reiterate one point that Deline made last time at Workshop 2 and that is that we all know that the purpose of land use planning is to protect and promote the existing and future wellbeing of the residents and communities having regard to the interests of all Canadians. The Deline Land Corporation underlined at the last workshop that it's of the utmost importance that if this working group goes ahead there be funding for community participation in it. I just wanted to repeat that because imagine if it goes ahead and there is no funding for community participation. We have the Sahtu Land Use Planning Board which has staff coming to the meetings and the land and water board which has staff coming to the meetings and government which has staff coming to the meetings and there's little or no community participation. The solution would in fact be, I would suggest, contrary to the wellbeing of the communities and it would be a conflict and a problem rather than a solution. That's all I wanted to say for now.

Danny Bayha: Thank you, Tom. I was just, I think in some ways earlier, that of the four bullets or the five bullets that I think the working group would be discussed last after we discussed the action and recommendations. That's what I was referring to, Heidi. I don't know if that's something that you want or there is a reason for the order that you put it in. I don't know if that's something that you want to try.

Heidi Wiebe: [Inaudible] order of the agenda?

Danny Bayha: No, no. The Action 4.

Heidi Wiebe: Before recommendation [Inaudible].

Danny Bayha: Yeah. Yeah. Go down. So if that's okay we can maybe keep the discussion going and try to be access to wildlife info. We can have a few minutes on that if, Heidi, you can give us a rundown on that. Thank you.

[00:59:57]

Action 4 – Access to Wildlife Info – CWS/DFO Proposal

Heidi Wiebe: Okay. So I guess if we're moving on to the next item then DFO and the Canadian Wildlife Service provided different wording for Action 4. I think their concern previously was that it might create expectations that new data would be developed and that wasn't the intent of it. So the prior version of wording that we had in the September discussion document basically required responsible authorities to develop and maintain current data on important critical and wildlife habitat, and it lists the species. The new

version says responsible authorities shall share as circumstances require current available data. That was the flip. Then the rest of it is substantially the same. I just wanted to have a brief discussion because that's changing one of the key actions and see if there is any comments on that from any of the other parties.

Ruari Carthew: Heidi, if I could just add in there as well. Sorry, Ruari with DFO. One of the things that was altered was inclusion of privacy rights which had not been in the original wording.

Heidi Wiebe: Sorry, the September discussion document I have, the last sentence says data will be provided subject to laws of general application regarding privacy and access to information. That was continued in the revised wording that I got from Trevor.

Ruari Carthew: Okay. My bad there.

Danny Bayha: Thank you, Heidi. Roger.

Roger Odgaard: Hi. I was just wondering if we have any paperwork it this regard on this issue. I'm looking for something here and I'm not finding anything.

Heidi Wiebe: This one was included in the actions that I e-mailed around on Sunday night. I think there should still be a couple copies at the back of the room, spare copies of all of the updates. We can make some extra copies of all of the actions tonight if anybody didn't – Maybe show of hands around the room: Who did not get or have printed off or have a chance to look at all of the items that we talked about first thing today, which was the follow-up on actions? From the first two workshops? Well, we'll print extra copies tonight and make sure they're available.

Danny Bayha: Okay. If we may continue on the Action 4, Access to Wildlife. I think there was really no concerns except with the privacy issue. If that's okay and everybody's fine we can move on again. As we go towards the end of the day here we can always go back to it if there's people who have concerns about it, like the Sahtu Working Group. Mind you, we just keep moving, having some ideas. Sorry. Go ahead.

Sahtu Working Group - Reversion

Tina Gear: Hi, I'm Tina Gear from Implementation Branch with AANDC. I just have a question for the board with regard to the working group. It looks like a really great way to implement the plan. I just have a question with regard to resourcing it and the funding with the understanding that government, like, there's not a lot of or any additional funding to provide. Is the board prepared to operate the working group with its current budget under the implementation plan or can we expect to see requests for additional funding?

Danny Bayha: Didn't you read the fine print? We're going to have bingos. Sorry. Is that something that, Heidi?

[01:04:10]

Heidi Wiebe: This came up a little bit at the second workshop. I know Greg was kicking the tires on this one on your behalf. In terms of the basic operation of the group we don't see it being horribly expensive. If we're meeting, say, three times a year we may have to provide some money for the community travel. I know Tom's made that very clear

that that needs to be a condition of the working group going ahead. If it's just travel costs a few times a year that's probably like \$30,000. That's probably something the board could handle within its operational costs. See how that's, it's not a huge amount. Where the costs come in is when the working group tries to do some of this stuff. What we agreed is that basically right now what the plan provides for is that the group's going to meet and we're going to talk through these things. But it truly is intended to be a collaborative forum so as we get into each of these things and figure out how to do it, if there's any costs to implementing or doing those things those are not going to be borne by the planning board itself. Like, totally. So if we agree that we need to do monitoring we'd probably be looking at existing programs and initiatives that we could use to do that. Maybe be working with universities if it's research. But it would be a collaborative forum so everybody participating in that working group would bring its respective ideas, information, resources to the table and we would jointly decide what we can move ahead and what we can't move ahead. And if we all have to send out funding applications to try to move certain things ahead then we would do that. That's how I see this working. Will it result in funding submissions in the future? Probably by several parties. Is it strictly something that the planning board is going to try and tackle all the costs on on its own, I don't see that right now. I see it as a collaborative forum. We'll see how we can all work together on stuff.

Danny Bayha: Thank you, Heidi. The gentleman in the corner. Thank you.

Jesse Tigner: Hey, Jesse from Explor. I'm wondering what the board's thoughts are in collaborating with industry directly on this effort. I know sometimes there's maybe a mistrust there or whatever but it seems to me that we have the resources in place through having environmental and wildlife monitors on pretty well all of our projects in the field in all of our operations. I'm wondering if the board or if AANDC or whoever has sort of thought about that a bit more or a bit further and maybe what your thoughts are in terms of dovetailing your protocols with our timing and whatnot.

Danny Bayha: Certainly is a suggestion and I'm wondering if anybody else had any other comments on that. I mean, it certainly is good to have that information before the board and the rest of the parties how we can work together to make things work and ultimately meet everyone's needs and concerns, and I think part of it is the awareness issues that was brought in. I think it's good dialogue and I don't know if there's possibly thoughts of how we can incorporate that in too. Go ahead, Heidi.

Heidi Wiebe: Yeah. In terms of the participation list for the working group we have representation from both oil and gas and mining industries included in what we see as our group, so whether that would be a specific company or whether that would be someone like Phil from CAP, and then who would then bring in different companies who are maybe working in certain areas. I know Husky has done a lot of work with caribou in the past, I think around Stewart and Tate lakes and different research opportunities. Certainly where there's stuff like that happening that's the whole intention of having these collaborative forums that we could work through some of these different partnerships. That's the intent of this group. That's very much along the lines of what we'd want to do.

Danny Bayha: Certainly I think that needs to be more explored. That would be a really good idea, I think, in the communities and how they monitor the awareness in the communities and what's happening is excellent ideas. How we can capitalize on what's out there already and keep going. Existing programs and services that we can tap into. Heck, we might even, like, environmental audit, every five years if the government spends money on doing that maybe we could somehow use that. Who knows? There's all kinds of sources if we can put our thinking caps on and try to figure out how we can keep this thing going. I think it's a good idea. We need to keep it alive and figure out how we can resolve it or try to move forward with it. Or have a vision on how it's going to work down the line. I think that's.... Heidi, do we have enough on this here to keep moving? Go ahead.

Paul Latour: Sorry. Just from one final thought I guess on that. Or maybe it's not final. My name is Paul Latour. I'm with Environment Canada. I've never been really understanding of how the functioning of this group differs from what the companies already do in terms of community consultation – work is required. I've never really understood what the expectations are with this group let alone the issues around who's paying for it and that sort of thing.

[01:10:04]

Danny Bayha: Thank you, Paul. Well, this is part of the thing about the discussion about a working group like this. Like, I mean, this forum. It's good to get that information. You had concerns about the issues, what's the mandate of this board or this group and how is it different from other boards or what other companies are doing. How is it going to tie? That's the idea of trying to get this dialogue going and see if we can share that information and so that we can come up with the best proposed solution, I suppose. How we can move forward. Or if not then it may not work out. That's the hope of trying to get discussion going. I don't know if anybody had some thoughts on...Mr. Menacho from DLC. Thank you.

Peter Menacho: Thank you, Mr. Chairman. The question I was going to ask is, this working group is just to narrow down to make sure that we push the plan as much as, you know, for final approval. Again, maybe I would like to hear from Gwich'in how they were set up.

Danny Bayha: Thank you, Mr. Menacho. Sue, if you would care to comment. Thank you.

Sue McKenzie: Sure. The experience in the Gwich'in Settlement Region is that with those lists, the list that we had of outstanding issues that needed to be resolved after the approval of the land use plan, we put those into an implementation plan. I'm not fully up to speed on which working group is, but I would say we had a more informal process that it was we identified people who needed to be working together on specific issues. It was more of an issue-by-issue basis rather than having one general working group to address multiple issues. So there was no, it doesn't sound like we had as formalized a process as you seem to be approaching.

Peter Menacho: Okay. Just a final thought on this one. You know, every workshop that we have, you know, the community itself, they pick up their own cost. The next question

I would ask, you know, I like the idea of working group but who would pick up the cost? I would throw that out there. Mahsi.

Danny Bayha: Thank you. Go ahead, Heidi.

Heidi Wiebe: That's what we said. At the second workshop Tom made it clear that it should be written right into the plan that this working group doesn't happen unless communities have participating funding provided for. I think that was raised as basically a show-stopper for Deline if that isn't in there. It was presented as such so that's the direction we have from you, from your organization.

Danny Bayha: Thank you, Heidi. Okay. So we could maybe keep, try to get this dealt with a little bit more. I mean, if there are more suggestions on how we approach this whole working group then we had a suggestion from Sue that it was an issue-by-issue basis, the group that was struck when it was needed, I suppose. I don't know how that, when the issues are really, because the board has to revisit the issues every five years, or revisit the plan. If there are really concerns within the five years I would imagine that the board would be very pressed to address those issues and if these issues are very profound or changing the plan in itself, I imagine they would put a lot of resources and certainly the funders and sponsors would have to be very heavily involved in how that's going to happen. That's what I'm thinking but I don't know. Tina, you had any comments?

Tina Gear: Yeah. I guess I just wanted to kind of reiterate, I know everybody's heard this over and over, but we are in the era of fiscal restraint so reliance on extra government funding for the working group shouldn't be relied on. I mean, Implementation Branch as the funder of the boards would expect that the board would operate within their guaranteed allocation under the implementation plan. I would just keep that in mind I making commitments for the working group and planning for it. Maybe the issue-by-issue basis, the way the Gwich'in do it may be more workable. I'm not sure how the board would go about setting out the mandate for the working group but just please keep it in mind that extra funding will be limited if at all.

[01:15:22]

Danny Bayha: Thank you. Well, we're at least guaranteed our core funding every year.

Tina Gear: Yes.

Danny Bayha: Okay. It's at least we can have some idea to keep the lights on, I suppose. Go ahead, Sue.

Sue McKenzie: I guess I'd just kind of like to maybe further expand on my other comments that although we were addressing specific issues kind of on an issue-by-issue basis and kind of bringing in the stakeholders that maybe had a role to play in resolving those issues, that we were still sort of working on a more comprehensive opportunity for involvement because the implementation plan was distributed. We were definitely trying to keep the communities aware of what we were doing in our ongoing planning processes in that sense. I guess by saying it's an issue-by-issue basis that there might be that impression that it's not more comprehensive and that the communities might not be involved or that other stakeholder groups might be excluded. We tried to keep, the board facilitated the processes and we tried to ensure there was

an awareness of what the ongoing planning opportunities were for stakeholders to participate in, I guess. Yeah. I thought I'd kind of throw that out as to what our experience was.

Danny Bayha: Thank you, Sue. Heidi.

Heidi Wiebe: So Sue, just to follow up then. So you guys had different meetings to move some of the issues forward and I guess to what extent was that successful? How many of the issues actually advanced between the first plan and the second revision that you're at now?

Sue McKenzie: Yes, there was a lot of issues that we weren't able to complete and it does kind of come down to finding those funding sources for getting additional information to do specific planning. There was an amount of, we did have certain successes with some of our issues but there was enough outstanding issues when we began our five-year review that that's why we're sort of looking at, we kind of have evolved the implementation plan into this regional plan of action document which will be a little bit more comprehensive and we're trying to take a different approach to it. We're looking at it from using the environmental stewardship framework that AANDC has. We're using a similar language. We're trying to explore more ways of building partnerships, of finding those opportunities. What this regional plan of action will actually contain is we will have an issue and then we'll say, well, we need to find funding sources. So then we'll maybe start working with people who may know of where we can start applying for funding, that sort of thing. That's what our approach is this time around with the five-year review is a regional plan of action document that will look more at building partnerships with other groups and that sort of thing.

Danny Bayha: Thank you, Sue. With that, I mean, the board itself would be doing that. That's what you're planning, the board in a sense, would that raise any questions of fairness if that would be the case? If it's an issue? If, for example, you get private sources of funding from a certain proponent or an applicant would that raise eyebrows with communities or government or whoever?

Sue McKenzie: One of the successes we had in our last five years leading up to our review was actually having partnerships with, like, the Protected Areas Strategy Secretariat. We actually did do some external fundraising, so to speak, to get a few projects done that helped with our planning process, so we did get outside funding. We don't feel that because the funding came from the Protected Areas Strategy that it tainted the board's viewpoint of should it be conservation, should it be development. We don't feel that that was an issue. We were just gathering more information so that all stakeholders would be able to make a more informed decision in our planning process, so we felt there was an independence there that was maintained.

[01:20:15]

Danny Bayha: Great. Appreciate it. Thank you. In reality what happens in other districts. That's good. Yamoga. Thank you.

Chief Wilfred McNeely, Jr.: Hi. It's Wilfred McNeely, chief of Good Hope here. The more I listen here a question keeps popping in my mind here. I know right now industry comes to our community, they consult with us, they ask us, this is the plan we have

here, is it okay with you and we'll pay you for the archeological study. If this plan goes through will they still consult with us? Will they still come to our community and say, oh, this is what we're going to do, but your plan says this, we're sorry, but we don't need to pay for the archaeological study any more. We're going to go this way because the plan is in place. Does that take away a say from our community?

Danny Bayha: Thank you. That's a question from the community certainly. Heidi.

Heidi Wiebe: No, I'd say in fact the plan actually reinforces that practice already. We have clear requirements to talk about community consultation and traditional knowledge and how that should be used. We've received a lot of guidance through these workshops and through the community participation about how that consultation could take place and guidance towards how TK studies can be done and that will be, that's information that we're going to be including in the implementation guide that goes with this plan to help explain to proponents what the community views and perspectives are around these things. In fact, it should actually enhance that. It should help that.

Danny Bayha: Thank you. Gentlemen.

Jesse Tigner: Jesse Tigner with Explor. So based on that answer I guess I go back to that question that was asked somewhere in this row before: How does it differ then from what's already done? If it's a board that's still kind of trying to find out where funding is going to come from to collect more data or whatever it is the board is intending to do and the goal is to enhance consultations that already occur kind of how are they going to enhance what exactly is the point of the board. Is it to streamline things? Is it to collect information into a centralized spot so that it can then be given out? I guess I'm just struggling to understand that.

Danny Bayha: Yeah. For me at least the hope of the issue of maybe the communities will be left out once the plan is approved, I don't know. I don't think, certainly my hope is it's not that. It's hope that people in the communities as well as in industry and government can work together to have these type of proposals work and activity happening in the communities and around the communities. I'm certainly hoping that's the purpose of the plan. The intent of the plan is to have that happen. So that more information that has come from the communities and put in the plan the better off it is for everyone involved. So that's for me the hope that this plan's not going to take away and hopefully will be helpful in involving the communities and having, because the area, like, if you do look at the plan itself there's zones. You can see there's generally zones, conservation zones. If you go back to the page that's there it sort of has a map of where things are sensitive or things are protected or things that the communities want protected. So there's already an initial opening of the door of where things are or people have agreed to try to help protect and if there's conditions when you're operating there. So you have that initial opening of the door but to go into an area very sensitive then certainly it would be, I would imagine the company would be very, you know, to go to the communities and consult with the communities again if they're – Because the plan itself is a broad thing and to have a very, you know, communities will need, traditional knowledge holders would be the only ones in the area who would know exactly where to go and where not to go and where they've been. That sort of information has to still come from the communities. I don't think we can get to that point. Maybe one day we

can but not presently the way things are going technology wise and stuff. I'm hoping that I just want to get that fear away from the communities that this will be taken away from having the dialogue that's already taking place, not to discourage it but to encourage it, to enhance it, to facilitate that. That has to happen and more and more companies are taking it upon themselves to do things that are better for themselves and it would be good to encourage that.

With that I would just add, if there's anything, Tom, if you had anything to add. Thank you.

[01:25:55]

Tom Nesbitt: Yeah, I think if we look at the actual actions which the board is I think very, there's a service in bringing together the actions and the recommendations. We see that many of these are not issues simply between a proponent and a community. For example, Action 5, the Sahtu Cumulative Effects Management Plan of Action. These are discussions to take place among communities involving industry but also government. This is not a dual party issue at all. Similarly is the Sahtu Environmental Monitoring Program. These are larger issues where I think the board is always service in saying these are important issues but they aren't simply between one permit holder and a community. Inspection Enforcement Priorities; again, this is something that's between government agencies with enforcement responsibilities and several communities so they can all sit down together along with industry and find a reasonable solution. These things are important to communities that they take part in these things. Community Government Monitoring and Enforcement Strategy. That's not a two-party issue. Similarly if we look at, for example, those are some of the actions. Recommendation 7, Inspection and Enforcement Funding. Many of these things are not, [Inaudible] doesn't enforce? This has to do with government and the relationship of government to – working in a collaborative way with several communities [Inaudible]. So the issue to me is they're all good ideas and I think we're all tired. Poor old Danny there is trying to kick start this engine. Frankly, we should recognize their importance and think, well, and assume that there's going to be some funding within the board's core funding to meet together on a regular basis, at least to cover travel costs. Then ask ourselves do we want to try to set priorities now or do we want to leave it to the discretion of the board to form the working group and then together with that working group say, among that list of actions and recommendations, what are the priorities. It is an equally feasible way of proceeding. So at least between now and five years from now we've made some progress on important, substantive issues and we aren't starting from scratch in five years. Isn't that –

Danny Bayha: Thank you, Tom. I think it's an approach that certainly makes sense and that's what I'm hoping after the five years when the plan is reviewed we just don't want to start running around and trying to figure out how we're going to address the issues that are outstanding. One thing I hate to see happen, the board is stuck and not doing any conformity determinations because some of the issues are outstanding and they can't handle it because they're just, the interpretation is so varied. Those things I really don't want to see. I may not be on the board but who knows, the board might be really in a jamb. That type of urgency, I guess, is trying to get this working group going. Again it's probably not, maybe, Heidi said the issue of \$30,000 maybe the board can,

but I think we can try to remind ourselves that in existing sources within government, already what they're doing within departments they certainly can contribute people and maybe the resource. I don't know what else. Industry as well. It's got to be a collaborative effort to try to get this working group going.

[01:30:03]

We have about 20 minutes or so before 5:00 so I think we need to sort of wrap this up and try to get some thoughts. I think we gravitated back to working group. Action 4, we briefly mentioned that a bit. I don't know if there's any thoughts on that, but again that may be within the working group area. If I can get Heidi to move on to Recommendation 8 and let's have a little bit of a discussion and some thoughts. Again, this is not like, we're not closing it off totally with discussions. We may have some thoughts tomorrow about it and we can have brief discussions on that just as well. I just wanted to get that thinking going. Heidi. Thank you.

Recommendation 8 – Incidental Harvests

Heidi Wiebe: Thanks. Okay. So these were just two of the recommendations that we've flagged for discussion. The first was on incident harvests. So in Draft 3 we had a conformity requirement that basically said where proposed land use activity involves the incidental harvest of resources that will not be fully used by the applicant then the remaining usable resources should be distributed to local communities wherever reasonably feasible. So if you're not, say you're cutting down timber for seismic lines and you don't use it all then wherever reasonably possible make sure that the communities have access to that. The board received a whole tonne of comments from different parties saying there's a whole host of implementation issues with that. Where it can be done it's already being done on a volunteer basis and therefore, you know, don't really need to require it. We even got issues raised by SSI who had initially requested that CR back on the previous draft of the plan. Given that the board was proposing to change it to a recommendation for the final draft and in the September discussion document we recommended the wording saying that applicants are encouraged to avoid waste of usable resources and share any incidental harvests with nearby communities. It captures the goal and downgrades this to a recommendation. We flagged this one for discussion just because we are removing the requirement and making it basically advisory only. Just maybe spend five or 10 minutes, if anybody has any comments or discussion on that. If not silence means consent today.

Discussion

Arthur Tobac: Who was that?

Heidi Wiebe: Paul T'Seleie.

Arthur Tobac: Paul, go ahead.

Paul T'Seleie: Paul T'Seleie, Good Hope. I was just thinking that some of this stuff, I think, is really trumping our self-government negotiations. I mean, like, there's some stuff inside here that deals with especially lands and resources within our area. Then I just wanted to ask a question, does this, when the time comes that we get our self-government down on the table as far as lands and resources and management of our

area, I was just wondering if some of this stuff is going to have any effect on it. I'm just seeing if there's any conflict with this and then with our self-government. I just wanted to ask that question, if it's really in conflict with what else we're doing at home. Thank you.

Arthur Tobac: I'll just divert that question over to Heidi.

Heidi Wiebe: Thanks, Paul. Yeah, we're aware that many of the communities are going through self-government negotiations right now. The short answer is, no, I don't see any conflict, and there's a couple reasons for that. First, such an important agreement as a self-government agreement would change many things in the system and anything that is negotiated that hugely, that important we would revise the plan if there's any conflict to remove those conflicts at that time. The second reason is, my understanding is that self-government agreements are mostly within, like, for municipal lands and for stuff that's happening within the community. It's harmonization of the governments and taxation and that kind of information. The plan doesn't deal with that information. We don't deal with that side of your negotiations. The only way there would be any impacts is if in your self-government negotiations you are somehow negotiating how land is used outside of community boundaries and in my understanding that's not where self-government is at right now. But if it is it would probably require a change in the land use plan to remove that conflict.

Danny Bayha: Thank you, Heidi. So if...Yeah. Okay. There's nothing there on incidental harvesting? I think, Heidi, you have enough to go on to 10? Okay. Thank you. I know it's been a long day and our brains are less than 10 percent so we need to sort of, we need to still drive home or walk home so we need to use that 10 percent or whatever's left.

[01:35:34]

Recommendation 10 – Non-Renewable Resource Assessments

Heidi Wiebe: All right. Recommendation 10 is about non-renewable resource assessments. So in Draft 3 we were basically suggesting that INAC and the GNWT through the NWT Geoscience Office are encouraged to work with communities to carry out non-renewable resource assessments of conservation zones within the Sahtu settlement area where supported by communities. I think this initially came from the Great Bear Lake Watershed Management Plan. It's been the practice, I think, previously, or I think it started around [Inaudible] but the fact that if it goes into a conservation zone as is currently proposed it was previously being look at as a protected area through the Protected Areas Strategy. That strategy comes with various studies that help communities to identify both the renewable and the non-renewable resource potential of those areas and that would enable more informed decision making about the status of those areas in the future. Now you know that the plan can be revised every five years and as we've been talking about it's important to gather information so that when five years comes up you can make considered decisions. So this recommendation was aimed at for conservation zones where there's potential for non-renewable resource development that that information gets collected in the intervening five years. Also recognizing that there's some conservation zones where it doesn't

matter what's under the ground the communities never want to see those areas accessed.

There were some changes in the discussion document in September brought forward by Deline to really strengthen that community role in whether or not those assessments should take place. That wording from the September discussion document is, where requested in writing by the responsible community authority the responsible land corporations and renewable resources councils, INAC and the GNWT through the [NWT] Geoscience Office are encouraged to work with such authorities to assess the need for and scope of non-renewable resource assessments for all or parts of conservation zones within a communities respective districts. So just some changes to reinforce the community role in those discussions and whether or not those type of assessments would get done.

I think Deline had also requested that renewable resource assessments be done. The NWT Geoscience Office is not the right home for that, so if we were going to add that clause back in we'd need to find a new home; so who would carry out those type of assessments. Under the PAS that's fine, there's a home for that, but in a conservation zone we don't have a home for that.

So this one was flagged. I think CWS was the one that raised this one. They wanted to have discussions. It was a topic for Vicki, Paul. I don't know if you and her had talked about it. That's why it's on the agenda for discussion. That's the history on it, though.

Danny Bayha: Sorry, can you sort of repeat that. I lost you totally. After towards the end it was long-winded. So again the question again, the question as proposed.

Heidi Wiebe: The only outstanding question that I have on this one is if we add renewable resource assessments back into this then what is the home for that. But as proposed I just left renewable resource assessments out. I don't have any specific questions with this one. CWS was the one who asked for discussion on it so I've got it on the agenda. I don't know if Vicki talked to you about this one, Paul. I know it initially initiated from Deline so I don't know if they've got any comments that they want to make on it. I saw Ken put his hand up.

Danny Bayha: Yes, Ken, do you have a question or comment?

[01:39:47]

Ken Hansen: Yeah, Ken Hansen from Husky. The resource assessment as part of the Protected Areas Strategy was to try and identify what you're taking out of the potential for being developed. What you're talking about is going back into areas that have already been designated as non-development areas and somehow you're going to get new data to evaluate those areas. How are you going to do that when you're not allowed to go in and work in those areas? I think you're putting the onus on the [NWT] Geoscience Office to do something and then tying their hands behind their backs not allowing them to do it.

Danny Bayha: Thank you, Ken. Heidi.

Heidi Wiebe: In the definitions for both oil and gas and mining we allow for government-sponsored geological research. Those have been clearly carved out of

those definitions. So the prohibition on oil and gas and mineral exploration development do not extend to government-sponsored research so that we could allow for such assessments. So basically the [NWT] Geoscience Office does their surveys and that so it's fairly small-scale type geological assessments and we've provided for that under the plan. It's been there for two drafts.

Danny Bayha: Thank you, Heidi.

Ken Hansen: Great. I didn't know that was there. So I think that's very insightful. Well done.

Danny Bayha: Thank you. And again, maybe that's again, just bringing it back to this working group, and if assessments are done like that and then the five-year review happens that might be another consideration for the working group to work towards. Having the area changed from one zone to another or whatever make an exception. That might be a consideration for this working group again. Go ahead. Sorry.

Unidentified Female Speaker: Just some information and also a few notes on this CR. Sorry, not CR, this recommendation. Through the PAS and also through CanNor the [NWT] Geoscience Office has already compiled a lot of mineral assessment information throughout the Mackenzie Mountain region. Those reports should be released shortly, within the next few months. There's also a summary document on the quantitative hydrocarbon potential throughout the Mackenzie Valley that will also be released in the next few months. That was completed through the PAS as well.

I just want to be clear to the communities and to the planning board as well that the [NWT] Geoscience Office doesn't have money to do projects. They get money from outside sources like the PAS, like CanNor, and they work with communities or groups that are interested in assessments but they don't have funding in themselves. I would also say, reflecting Tina's comments, that INAC doesn't have money to do assessments in these conservation zones and it's not a policy that we would require any sort of non-renewable assessment in a conservation zone because it is a shorter-term protection measure.

Danny Bayha: Thank you for that. If we can, any comments. Tom, do you have anything?

Tom Nesbitt: Perhaps just to be clear. Tom Nesbitt. Deline is not advocating for these assessments. In its comments recently to the board, they just want to prevent the situation where such assessments might be used against the communities to, if you like, pry open these conservation zones which communities do not at the time believe should yet be opened. It's third point was simply that if there is a sort of assessment of non-renewable resource potential it should also, there should also be a balancing assessment of the renewable resource potential as it occurs in the PAS now. But at the end of the day Deline is not advocating for these assessments to be undertaken in the next five years. That's a remnant that came out of the Great Bear Lake Management Plan which we added at the very end. I can't remember who was the advocate of it, but to come to a consensus we agreed to throw that in. It did not come from Deline.

Danny Bayha: Thank you, Tom. Do we have anybody else comment of this issue of Recommendation 10? Again, just to remind ourselves, Heidi, the recommendations are

just recommendations as say. It's not mandatory. Actions are and CRs are. I just want to make it clear again and remind ourselves what they're all about. Okay?

I think we've pretty well wrapped up the issue. Now, just maybe a point of, maybe a bit of clarification maybe of the issue with the difference in the working group and what it's supposed to be about. The Sahtu Land Use Planning Board is, as you know, protected by the land claims. It's going to be on as long as the land claims are in place, the board is going to be in existence. The Sahtu Working Group I think is more of a group that is struck to try and address some of the outstanding issues within the plan that's identified within the five years. And that's, for me, the hope. Now, that's just my hope as a board member but as we get more and more in discussions involved in how this board's going to function and how it's going to work at the end of the day, address serious concerns that will be coming up within five years would be something that I would imagine this working group be happening. But again that's still under some more discussion.

With that, if there's nothing else, any closing comments or anything, we can probably break and then I'm certainly hoping we have tomorrow morning at 9:00 we can keep going. Just before we close we have an elder Leo want to say something. Thank you. Go ahead.

[01:46:32]

Leon Modeste: [English translation begins] The oil company/development representatives that are here, thank you. Not too long ago, across from Deline, they said there was oil/gas at that location, so they drilled the ground there. Once they had done that, they said there was no oil/gas after all. From now on, they shouldn't do that. They should be very certain that there is oil/gas at a location before they drill. The land is very important, the animals and many things are on and in the land. We are not telling you 'no' in regards to the land, but if you do the proper research to really know the land and what's there and do your work with care, explain things thoroughly to the people, that's what working together means. When we work together, in our community, we who live in the Sahtu, come to us and explain things clearly to us. If you explain this truthfully to us, we can't refuse you. So if you are planning to start working, you will work. If you are going to do this work, you have to make a good agreement with the people first. I'm just saying this is how it should be in the future. I hope you will take into consideration what I am telling you. Thank you. [English translation ends].

Danny Bayha: Mahsi, mahsi. Thank you. With that, if we could break and hopefully be back tomorrow at 9:00 that would be great. Thank you again. Mahsi. Good night.

Wednesday, February 1, 2012 - 9:00 a.m. to 5:00 p.m.

[MZ000014 – 00:00:00]

Danny Bayha: ...think we could probably slowly make our way back to the seats. We will hopefully begin. Thank you. I'll give you a minute or so. Shut off your cell phones, too. Give you time. Do you last minute texting.

Okay. Mahsi. This morning I'm going to ask Leo, our elder, again to start with an opening prayer. Thank you. Yeah, he just wants to say a few opening words. Thank you.

Opening Prayer

Leon Modeste: [English translation begins] Thank you my relations, for coming here. What I am thinking about is, this meeting that we are at now, you are talking about doing work for the next five years,...even one year is a long time, five years is a very long time. Those of you who are here, work together, help one another. Whatever topic you are discussing here, put it in the center and talk it over well with one another, that way the decision you make will be good for the next five years. If you are working against one another, whatever you are discussing will have a different outcome. To prevent that, those whose home community it is, if someone from somewhere else tells him/her, let's work together, the one whose home community it is will be more knowledgeable in regards to the way things are in that community. Those from elsewhere, if you work together, that topic in the center that you are discussing will turn out well for five years. I am not telling you what to do, I just ask that you take this into consideration. [English translation ends].

Danny Bayha: [English translation begins] Thank you, it's good to have that kind of input as it helps the discussions go well. It helps people think about how they can better work together. I would be good if you continue to share these kinds of messages. Thank you. [English translation ends].

Okay. Now we have a bit of a change to our agenda today, on Wednesday, the 1st of February. Before we begin on the changes there was a request by Tina on the funding side of this she wants to give a two-minute update on that. I would give her the floor for a few minutes. Thank you.

Update on Funding

Tina Gear: Thanks. This is a very quick update. From my comments yesterday obviously Canada has some concerns about the operation of the working group within the core operating budget and just has an interest in making sure that can happen. We're going to be providing some proposed wording that we would feel comfortable with for the board's consideration. Probably within a few weeks or whenever Canada's providing kind of the bulk of comments. That's it.

Danny Bayha: Thank you. Is there any questions on what Tina has given us on the update? If not I will turn it over to Heidi and she can ask or go over the revised agenda. It's not that much changes but I think there were some requests to change. I would ask your attention for that. Thank you.

[00:05:07]

Changes to the Agenda

Heidi Wiebe: Good morning. Okay, so I put the potential or proposed revised changes up on the flipchart here. we're supposed to start off with today talking about the conformity determinations and using two key examples today, Husky and Explor, to

start off those discussions. The initial intent had been to wrap discussion on the revisions to the CRs themselves as part of that. So as we're looking at each CR in the additional reports to have that discussion. It was requested or suggested last night that it might be more fruitful for all of us if we quickly go through all of the CR changes themselves first so that we all have a good understanding of what the changes are based on Workshop 2. That is what I would propose that we would do first, maybe carve out 45 minutes for that separate discussion.

At the end of tomorrow's agenda we also had an item about structural changes to CRs, so we're also proposing to move that up and have that full discussion about the conformity requirements first to give us the context. Then we would move into the actual conformity determinations that were on the agenda for today. I guess the thinking is that having had that discussion about the CRs first it might take a little bit of time out of those conformity determinations. So we might be on track for the end of today where we were supposed to be, although some of this might move into tomorrow yet.

So that is the proposal that was brought forward at the end of yesterday. Maybe we'll just open it up to see if there's any questions or comments on that. Okay. Silence means acceptance for the next couple of days. Consent. So I guess we will move on with those changes then.

Introduction to Conformity Determination Reports

So as part of your information packages for the workshop there was a document that provides the revised wording for all of the conformity requirements that we used to test applications for this workshop. We'll go through that quickly. What I'll do is briefly talk about each of the changes and then I'll stop to see if there's any questions or comments on that. I'm hoping that we can wrap up this discussion in 30 to 45 minutes.

Conformity Requirement 1: Land Use Zoning

The first one is the land use zoning. This is the CR that establishes the zoning system in the Sahtu Settlement Area. There was essentially no major changes to the CR from Workshop 2. In the discussion document I had earmarked one minor change that had to be made under section 2(a) to address an oil and gas industry comment. We just made that but it's not substantial to what the CR does. We had initially provided an example there that said any land use that's authorized for an adjacent zone, for example, could provide access across a conservation zone and the change was to remove the word 'adjacent'. Basically if you have another land use that's allowed in a general use zone or special management zone that has to cross the conservation zone that access is provided and it shouldn't be restricted to a land use in the immediately adjacent zone. It was a very minor change and there were no other changes to that one. Are there any questions on CR-1? Okay.

Conformity Requirement 2: Protection of Special Values

Moving on to CR-2, the protection of special values. Actually, do you want to – Yeah. Sorry, we're going to put this up on screen so you can follow along.

So CR-2 is the protection of special values. There was no change on this one from the September discussion document. You can see the wording on screen. Is that clear for everyone? I'll pause for questions or comments.

Danny Bayha: Yeah, just a reminder that if we're going to fast or if you don't understand something please ask. We need to have everybody understanding what we're trying to do. Thank you.

[00:10:09]

Conformity Requirement 3: Project Specific Monitoring in Special Management Zones

Heidi Wiebe: Okay. CR-3. This is the condition for project specific monitoring in special management zones. There were some minor changes to this one and the sections are underlined that were changed. These were specific edits and additions requested at Workshop 2. So in the first clause, this is the one that essentially requires the site-specific monitoring program, the addition was to recognize the specific circumstances in the Great Bear Lake watershed ecosystem. That was added.

A lot of our discussion at the second workshop was around the distribution of monitoring reports. I think we spent a couple hours on that and based on that discussion we added the underlined clause in Part 2 which basically says where reports contained proprietary information or any other information that must reasonably be kept confidential that information can be excluded from the public versions of the reports. Are there any questions on those changes?

Questions/Discussion

Danny Bayha: John. Sorry, Tom and then John.

Tom Nesbitt: John, do you want to go ahead?

John Donihee: Sure. Thanks. It's John Donihee. I don't have any difficulties with the new language but I did find myself, as I went through the document, asking some questions that, well, I'll just sort of tell you what I was thinking about and maybe others will want to respond. It does seem to me that it's possible to write a conformity requirement, a CR, which is quite clear – and this one with changes over the last while has become clearer – but which still nevertheless leaves questions about how you're actually going to do what the CR says. I guess that's the issue I have with this one. I think the board or board staff have done a good job of reflecting, first of all, the discussions in the two workshops to date, and secondly, clarifying wording. But I think there still are some real questions outstanding as I read the CR about how you'll actually achieve this and you'll I hope all excuse me for the fact that professionally I look at words and always ask questions about them. Your only solution to this is to run all the lawyers out of the room.

What is a site-specific monitoring program? What site are you talking about? Who is going to impose that? There's discretion here. Sufficient to monitor the effectiveness of the activities proposed mitigation measures; who exercises that discretion? Who's going to be identifying the proposed mitigation measures if, in fact, a land use activity doesn't require some type of permit or licence. And so on and so forth.

I guess my point for the board is simply although we're certainly making progress with the way that these CRs are described, they're becoming clearer, they're certainly reflecting what we've heard in the workshops but I think there's still problems when it comes down to figuring out how exactly these controls, I guess, for lack of a better word, are going to affect land use activities. I'm wondering if it wouldn't be better to at some point, I'm not suggesting we do it in plenary here, but at some point just sit down and say, well, maybe there are some ways to describe what a good CR would be. A test or a set of criteria that we can use to be sure that when a CR goes forward for approval to the authorities that do approve that it meets its test. It's clear, it provides certainty of who's going to be affected and when, it's going to be certain as to who has the responsibility to exercise any discretions that are embedded in the CR's language, that it's achievable. You can have all that clarity and still be telling somebody to do something that they just don't have the power, authority, or capacity to do. And so on.

[00:15:32]

I think that sometime soon we do need to run the CRs through some kind of a filter like that in order to try to get to the point where we know that when the plan is advanced to the approving authorities that that's going to be balanced, clear, and achievable.

Those are my comments and I guess for what it's worth, although I have some specific comments about some of the language in a couple of the other ones, perhaps, Mr. Chairman, I'd just say that you can assume that those comments apply to all the CRs. Thank you.

Danny Bayha: Thank you for your comments. Tom and then we'll have Matt.

Tom Nesbitt: I had a more specific comment. On the underlying part under number one I would just suggest it say instead of maintaining the Great Bear Lake watershed ecosystem I would say to maintain the ecological integrity of Great Bear Lake watershed ecosystems. So we're using the same test. That is the test in the Great Bear Lake watershed is shall maintain the ecological integrity of Great Bear Lake watershed ecosystems. I'd like to see that same language reflected up there.

Further than that, I guess I'd say in light of John's comment, you wouldn't have to run me out of the room because I agree with this kind of way of drafting a CR. I think it is testable and we can demonstrate that. I think basically it's, the discretion lies with the regulator, the land and water board, and the conformity determination with the land use planning board to determine whether the monitoring program is sufficient to monitor the effectiveness of the appropriate activities' mitigation measures. So I think this is a testable, determinable CR. But I don't want to get involved in a long discussion on legal things.

Danny Bayha: Thank you, Tom. Matt.

Matt Bender: Thanks. One of the consistent comments that our department has been making throughout this process is that any CR has to be sufficiently clear so that it can be properly implemented so that it's effective. Our position is similar to John's and SSI's: We certainly agree with the intent of monitoring programs and support that but don't feel that this CR is clear enough yet. It provides too much discretion to regulators, to the planning board, even to industry on what constitutes an acceptable monitoring

program. It just seems that it needs to be tightened up more than it is. Having said that, in keeping with Danny's recommendation, we're more than welcome to provide some solutions as well.

Danny Bayha: Thank you, Matt. George.

George Barnaby: Yes, George Barnaby. Right now the communities ask for monitoring on all activity, all exploration and things that are going on. I know in Good Hope it's done by the RRC to make it more clear.

Danny Bayha: Thank you, George. Gentleman in the corner.

[00:19:45]

Jesse Tigner: Jesse Tigner here. I don't know – Sorry, I've developed a little bit of a cold. I don't know if I'm jumping ahead and if I am I can stop and wait for the number six here, but from our perspective I'd explore being on the land across the North and working on very big projects in terms of geographic scope. We've had kind of mixed success with monitoring efforts on a number of different fronts. One of the things that we're trying to do, which I was kind of getting at yesterday, was I think that monitoring is extremely effective if it's done effectively and if it's not done effectively then it's not that helpful in terms of continuously improving this process, in terms of information land use decisions in the future in the next five years, for example. Kind of, I think that it's relatively clear here but I guess my concern and the concern of Explor is that kind of having some people out on the land watching what industry is doing and writing a report doesn't really provide the data that we need to actually inform those decisions. I think that there's a tremendous opportunity with industry on the land to standardize some of the monitoring activities around various protocols that everybody could kind of be doing it in relatively the same way, housing all of those collective data into some sort of centralized databank that maybe the land use board could dip into in future iterations and changes. Again, in the spirit of moving forward I think that this could be a very constructive jumping off point maybe. I know that Explor is extremely interested in helping to develop that program, whether it's with INAC, whether it's with Environment Canada, the board, whomever. I'm not sure. And maybe that's a side discussion but I'm just sort of throwing it out there that I don't know if we need to focus so much on the clarity of every word as much as we need to focus on the traditional knowledge, the scientific integrity of what those monitoring activities are actually going to be.

Danny Bayha: Thank you, Jesse. I think that was good because we need to have that type of input into our discussions and we need to have the people actually doing the work on the ground to tell us what was working in the past and what can work. I'm glad you're talking about how we can try to move and the intent is, we all agree that the intent of the CR and we can try to move forward. I'm not sure if the regulators in the room could maybe add some thoughts to that too as well. We need to have this dialogue amongst everyone to come up with what is enough to have this as a CR. I can see your point of trying, I think that there may be enough for yourself as a person that's going to be living with this type of a CR out in the field. I would encourage more thought in trying to figure out how we can go about that. Thank you. Tom.

Tom Nesbitt: I liked what Jesse said there about ensuring something beyond observation and reports so that we have real traditional knowledge about to bear with what he called scientific integrity, and I liked that. Last night I sent to Heidi an outline of what Deline would want in terms of a framework for preparing ecological integrity statements but it's basically an attempt to identify the kind of things that I think we're talking about here and that Jesse just enunciated two minutes ago where we would, where monitoring is not simply a matter of observation. Monitoring is a matter of in a particular circumstance with a particular project, adapting that project so that that project identifies indicators of the health of the land which are acceptable to the regulator and the land use planning board and which then looks at potential impacts on the land and has required outcomes or objectives for what must happen, what must be observed on the land, and which includes traditional knowledge at every step in that process. Perhaps, I guess we're going to come to that later, I don't know, Heidi or Danny, but that kind of, that's what we want, that's what Deline wants in terms of the Great Bear Lake watershed and it might be that that would give companies like Explor and SSI more comfort in what we're talking about if they saw more explicit framework setting out what is involved in monitoring anyway. Thank you.

Danny Bayha: Thank you, Tom. Heidi.

[00:25:32]

Heidi Wiebe: Just in the interest of moving discussions forward this morning to answer some of the general comments, Workshop 2 was where we had the big debate about what each of the CRs are going to say and do. I think for the most part we got the direction we're looking for. Yes, there's probably some further refinement that has to be done but for the purposes of this workshop we moved forward specific wording. So the whole purpose of this discussion right now is to make sure that everyone understands the wording. Then the rest of this workshop is focused on testing that wording. So as we've heard, we've tried to reflect what everyone told us at Workshop 2 the CR is supposed to do and that's what it says right now. There's definitely further potential for refinement and we want to do that refinement by looking at how it's interpreted against specific land uses. I'd like to encourage us to move on and not get into a debate about what each CR should say and do. We've had that debate. That was Workshop 2. As we get to each of the applications – the Husky, the Explor, the Eagle Plains, the winter road, the pesticide – each of those offers another opportunity to hold that CR up to the light of day and say does this work. Where do we need more clarity? So let's do that as we get into each of those discussions rather than now. I'd like to maybe constrain questions right now to did we misrepresent something that was said at the last workshop? Do you completely disagree? So I'm okay with John's general comment and the ones that we've had or is there something that you don't understand? I want to get, make sure that everyone in the room has clarity on what the CRs say right now that we are using to test then we can reserve maybe further comments on how to make them better when we get to each application and there's an opportunity to see what the issue is. Does that sound reasonable? Okay. Otherwise we will be here for the rest of the week.

Conformity Requirement 4: Community Engagement and Traditional Knowledge

So I'm going to move on to CR-4 now. CR-4 and 5 are some of the biggest changes. This is community engagement and traditional knowledge. You'll recall that when we walked into Workshop 2, the September discussion document, we basically through open a blank page again because there were so many conflicting comments on what we should be saying in the plan. What we came out with was basically the two clauses you see on screen. They're very general. They basically say that regulators will assess whether the different community organizations listed there and potentially affected community members have been adequately engaged – and those words 'adequately' were really important in that discussion – with respect to the plan's conformity requirements, the proposed activities, specific locations and issues of concern, and traditional knowledge. So those are the key topics that we expect to see discussed with communities through the community engagement and the provision of relevant traditional knowledge.

Then the second part is that regulators will ensure that the land use activity is designed and carried out with due regard for community concerns and wellbeing and incorporates relevant traditional knowledge. Now, the communities over the course of the last year and a half or longer have brought forward many suggestions for how community engagement and the collection of traditional knowledge can be done better or in a more appropriate way for them and it was decided that all of that guidance is best put in the implementation guide so it is guidance, it is flexible, and that the requirement itself is just as you see here on one and two.

Are there any questions or general comments on that? Tom.

Questions/Discussion

[00:30:01]

Tom Nesbitt: Just one suggested addition. Under the first bullet on community engagement, in the brackets, basically we're saying recommend earlier and continuous engagement throughout the project and joint planning. Then in brackets it says two-way information flow and genuine consideration and accommodation of interests. I would put a comma there, comma and community involvement in project design. In other words I want to make joint planning. I want to give a little more recommendation in the implementation guide of a little more than just two-way information flow and genuine consideration but try wherever possible, the company should try wherever possible to involve communities in actually planning the project or in the design of the project. That would include things like, say if there was a pipeline talking to the community about the route of the pipeline to avoid problems such as we're seeing south of the border right now, problems which could have been avoided in the Keystone Pipeline by involving people in routing earlier in the project, in my opinion. Thank you.

Conformity Requirement 5: Community Benefits

Heidi Wiebe: Okay. We're going to move on to CR-5, the community benefits. This was another requirement that we started with a blank page on at the opening of Workshop 2 that we've tried to reflect the discussion on. So the proposed wording is,

before any land use is authorized regulators shall be informed by applicants how communities will benefit from the proposed land use, including employment, capacity building, and training, as well as how the activity may benefit the broader public interest. Part of the initial wording there, I think, was a proposal a while back from the GNWT that got picked up on at the workshop and ran with, and then there was some modification with the underlined part that was coming through from Deline. We also reflected a lot of discussion that there are certain land uses that are really more in the public interest than the community interest, in some cases research that should have an opportunity to go ahead. So we've brought the public interest in there. There was a lot of interest to try and balance in this one and I guess this is one of the ones where we hope we've reflected what people wanted to see in here.

Questions? Comments?

Questions/Discussion

Unidentified Male Speaker: Not to get hung up on words again but –

Heidi Wiebe: That would be where we would expect to see it.

John Donihee: It's John. I note that, I think there's some need for clarity. Sort of a generic comment. In CR-2 you talk about land use activity. You do that in CR-3 as well. And CR-4. Now we're talking about just plain land use. The language seems to vary back and forth. It's more a drafting issue, I think, for your drafter, but I take it, you know, because if you were the cynical type you could say, gee, I'm only applying for a fisheries authorization and there's no land use involved in this so we don't have to do this. I think at some point you're going to have to address that question of when you use the words 'land use activity' do you mean everything that's going to happen on the land or in some way or other does that relate to a certain kind of authorization?

Conformity Requirement 6: Community Land Use Monitors

Heidi Wiebe: Okay. CR-6. This is the CR on community land use monitors. So there's two clauses to this one. Sorry. Actually there's more clauses. Right. Sorry. I'm thinking a different one. All right. This is another CR that we started with, we had a whole bunch of discussion on. We spent hours on this one. As the communities have told us over and over again, there is a strong need for community monitoring. This one is sort of the balanced side of what CR-3 was. CR-3 is intended to be the more scientific, project specific monitoring that tends to happen looking at impacts on the land. CR-6 is more of that community traditional use type monitoring where you've got somebody from the community on the land helping to ensure that specific areas are avoided and providing that reporting function and information exchange with the communities. That's what's intended by this one. A lot of the discussion was around whether or not monitoring was needed on every project, how it would be done, how small-scale activities such as mineral exploration or wildlife research might be adapted into this. All of those were brought in to the CRs to address those different situations. I'm not going to read through them. I'm assuming all of you have or looked at it. I'll open up for comments or questions.

[00:35:50]

Questions/Discussion

Lindsay Armer: Lindsay Armer from Aboriginal Affairs. I'm just wondering if the RRCs are okay with the wording in here. It implies a lot of work for themselves. I'm also concerned from our standpoint in terms of implementation and more funding. There isn't any more funding if the RRCs required it to implement such a program. I'm just wondering if that's been considered at all.

Heidi Wiebe: Is Walter here today? I know I saw him around. Walter, do you want to speak to how this works, or some of the RRC people? We have Harry Harris here, Roger Boniface, I think. Peter Menacho. Russell.

Danny Bayha: Heidi, while we're getting that sorted out – Oh, sorry, George. Go ahead.

George Barnaby: All these things have been going on for a long time. What we talked about. Monitoring has been going on for a long time but it's not good enough yet. We never, I know they keep complaining to come up with a good monitoring program. Because we do have monitors out there but it's not clear what their job is and what they're supposed to be doing and how it's done. I think there's been all kinds of attempts by Arctic College and other people to come up with a good monitoring program for everybody. I think this is just saying that there will be monitoring but I don't see the applicant doing it. I think it has to be done by communities and regulators and government.

Danny Bayha: Thank you, George. That CR is saying, what I understand, is that the monitoring people would be hired by the applicant, funded by the applicant, supported. I don't really see the government's role in this one. I just wanted to throw that out. Is that, that's what it says?

Lindsay Armer: I guess I was more concerned with, it says the RRC will jointly design a monitoring program. I see that the RRCs do some monitoring already. Do they actually write a monitoring plan that they would implement?

Heidi Wiebe: I think what was discussed at the second workshop was that when the RRC and the applicant are working together to figure out what needs to be monitored that the RRC should be integral to deciding what values in the area are being monitored because they know that area. So if there's, if it's around an area where there's a tonne of important recreation areas that the community uses or a specific harvesting area that they're bringing that information to the table and saying this is what we're monitoring for in this area, this is what we're being cautious of and it's the information that would be brought through the consultations and the TK. So all these things roll in together. As part of that then it's making sure that it's the community that helps to drive what the values are that are being monitored.

Lindsay Armer: Thanks, Heidi. Just another quick point of clarification. It refers to community research assistants versus community land use monitors. Is there a definition somewhere that could be included?

[00:39:49]

Heidi Wiebe: One hasn't been discussed yet but at the second workshop, and I don't think you were there, this was one of the examples that was brought forward of a small-scale activity, so Vicki was there from Canadian Wildlife Service and said, look, we tend to do a lot of wildlife research, so she was talking about bird banding. They're very small scale, they wouldn't hire a monitor, but they always bring or hire a local person to be a research assistant. So it kind of performs a bit of the same role in that your eyes and ears on the land, you're helping, there's a benefit to the community, and so the discussion of the group at the second workshop was, well, that's okay. So trying to provide that flexibility for small-scale type activities, what variations can we have that address the community need that underlies this requirement in the plan?

Danny Bayha: George and Rocky and then Michelle. Thank you.

George Barnaby: Well, the monitors from the community perspective don't want no problem on the land. They want no impacts to wildlife or land or any spills of any kind. Things like that. So the monitors watch for that and report back whether everything is good or things are happening. Then they come so that the land corps can get in. I think the problem is that it's not clear. There's no set monitoring program on what to check and what to do out there. It doesn't help the monitors. That's the problem. Otherwise for me all it says is that there will be monitoring. Usually the applicant's pay for it. That's another problem. The money should change hands somewhere so that the community is the one paying the monitors. Then they're staying at the camp so that's another problem. It's just to watch and make sure that everything is running good. Because the companies do come to the community and talk to everybody and say we're going to work out here and we're going to watch everything and make sure everything is okay. So that's what the monitors make sure that everything is clean and running in a good way out on the land.

Danny Bayha: Thank you, George. Doug.

Douglas Yallee: My name is Douglas. I'm from the Tulita Land Corp. On the monitoring issue, we had monitors before in place and they been removed by industry by, like – the pipeline that went through the first time we had monitors in place and that was done away with and we ended up with no monitors monitoring the area in our area of Tulita. We have monitors, we just wanted to monitor what goes on in our area, in our back yard. There's other things there that you can look out for, like George was saying. I believe the monitoring issue is very important here too also.

Danny Bayha: Mahsi. Michelle.

Michelle Swallow: I think everyone in the room agrees that this is an important, monitoring's important, but I also wonder – and I think I said this at the last workshop – if we don't have a program established now is this ready to be a CR. I was just wondering if maybe Sue McKenzie could talk a bit about what they're doing to address the capacity for monitoring with the Gwich'in Land Use Plan.

Danny Bayha: Thank you. I'll ask Sue to respond quickly then I'll have Peter.

[00:44:14]

Sue McKenzie: Sue McKenzie, Gwich'in Land Use Planning Board. I don't have an intimate knowledge of what's happening right now with respect to the development of a

monitoring program. I do know that it is an issue that the Gwich'in Tribal Council does want to sort of establish. I believe there is more work that does need to be done so that there is an established recognized set of monitors within the region in order, so the Gwich'in Land Use Planning Board, we did not require monitoring because we felt that potentially requiring a monitor and if a monitor wasn't available, which is a potential right now, that the condition couldn't be met. So we did sort of leave it out of our plan at this time. We will be putting it into our regional plan of action so that we can work on trying to move it forward and have some kind of program that is set up that is recognizable that can be put into the land use plan in the future because it was a huge issue. We heard the need for monitoring very often in our meetings. At this time even though it's not a requirement in the plan it will likely be addressed a little bit more informally that during, say, a land and water board process the communities have an opportunity to comment on specific applications and will likely put requests forward and often there is some accommodation there to have community monitors put in place on projects at this time in the Gwich'in settlement area.

Danny Bayha: Thank you, Sue. Before I go on to Peter and then Tulita I just wanted to say that there's the suggestion that we're thinking that maybe this needs more discussion about community monitors and how that's going to be set up and standardized. Jesse said standardized in Explor. I agree with George that there has to be some way everybody understands how that's going to happen in the region. But I see this also as an SSI issue as well because the different communities will have their own ways that they want to monitor. But there should be, I agree, that also a standardized type minimum requirements for monitors, for example. The other thing is that this may be a Sahtu working group thing again. As we get further and further the questions are being raised, the need for the Sahtu Working Group is even more critical than as you would see maybe towards the end of the workshop. Anyways, I will let Peter go and then I'll ask Tulita to comment. Thank you.

Peter Menacho: Thank you, Mr. Chairman. The program on this monitoring thing with RRC, in some communities it does work for the community and it does well. It's well bidden (sic) to that RRC does a lot of the monitoring program and attempts to do its job to make sure that everybody is informed on the activity between the program season. So everybody gets involved such as First Nation, land corporations, individuals, trappers, everybody is involved. The program, I would simply say this is, we just need to add more. Simply I don't want this issue to kind of recognize it and just don't use it at all. I would like to see something add more to it. I mean, elders just telling me by working together everybody contributes and it takes away a lot of headache by working together.

[00:49:01]

I just wanted to mention that the other thing too is that also this help the RRC on building capacity too. It gives them more information that they rely on but a lot of times the monitoring program is intended to make sure that we try to minimize the impact. I certainly would like to see if SRRB and their staff get involved with all the RRCs because one activity, one area if they have more activity then they have more pre-checklists of how their programs are being run in their district versus, like, say Deline. Deline has been with no activity. So I don't want to say we'll jump to the gun and say, oh, gosh, this little program is going to really impact and this is what the community

sees. But again, if we work with SRRB and if we get a support from them, I mean, simply at the end of the day if we all put our heads together and I'm sure it will work. Right now, I mean, we're all being short funded. We know that for a fact that we're not properly funded. By working with industry they help us. They also help us develop a program. We need a template to make sure that we do pre-check all the lists when the program starts and when the program ends. So for us some of it does work. Some of them it may not but it will be good if we work with other RRCs. We kind of share the template or how can we design it. I mean, I would say it really does help and it really does get involved with the community and initially, at the end, everybody is involved with the community. Mahsi.

Danny Bayha: Thank you, Peter. Then I'll go with Tulita and then Jesse.

[00:51:55]

Frederick Andrew: [English translation begins] Yes, thank you my relations. [English translation ends].

My name is Frederick Andrew, I'm from Tulit'a and also the vice-president of the RRC...But I'm going to say it in my own language.

[English translation begins] This RRC that we are talking about, we the Dene from within the Sahtu region, we will always live here. These oil/gas companies who come onto our lands, it seems as though they go where ever they want to do their work. We the Dene are very knowledgeable in regards to the land. Where there is wildlife, where there are fish, moose, rabbits, where their habitats are. The one topic being discussed, monitoring....monitoring is very, very important to us. The white people don't really know the land so they don't really think too much about doing work where ever they want. We depend on the land for our sustenance, so we take more consideration as monitors. We have two representatives from Huskey Oil here with us and the work they will be doing on our land for the next 10 years, we will be watching them closely. We want to work with them in regards to monitoring them, we would be thankful, I'm talking about what I feel would be good. The white people after working with us for 10, 20 years, after they leave, we will still be living here. So I think it will be good if they worked with us. We the RRC, it seems we never have enough money, so it would be good if they helped us out with financial support and I think the RRC should be working with them. I just wanted to say this. Thank you. [English translation ends].

[00:54:13]

Danny Bayha: Mahsi. We have to sort of try to put this to a conclusion but it's important. This is very critical. I think if you look at the whole project, if you look at the rest of the CRs the community monitor would essentially really almost ensure the rest of the CRs are done, really. It is the eyes and ears of the community. It is really quite a bit. There is a lot of interest and people want to speak so I can, if I can move on to...who's next? Sorry. Ken, do you want to respond? Then we'll – Oh, sorry. Jesse. Then Ken and then we can move on. We need to, I can't have more than five hands up on one, so we'll just try to keep it, remind me. Thank you.

[00:55:09]

Ken Hansen: Thank you. Ken Hansen from Husky. I'd just like to make a comment here regarding the need for a conformance requirement. I think the difficulty that I'm seeing sitting back watching is trying to anticipate all of the variety of projects that could potentially be done on the land and trying to build a conformance requirement that covers all of those. To be so inclusive is almost impossible. It's very, very difficult to get something that's going to please everybody. I wonder, and this is a comment about a lot of the conformance requirements, about hardwiring or trying to put fixed definitions into a document when you're dealing with things that are murky, poorly understood, and might be a broad range of levels of activity and impact.

The land and water board, when it issues land use permits and water licences, puts conditions on those permits and those licences. Those conditions come from the feedback that they get from the consultation that they go out to the land corporations, to the RRC, to the various regulators, the National Energy Board, Aboriginal Affairs, Environment Canada, ENR. They take all that feedback and they put conditions specific to that project on that licence. The company, the operator that wants to work on the land must fulfil those conditions or their licence is pulled. They are not allowed to work on the land. Trying to anticipate what all those conditions and put them into a document like this is very difficult. Whereas you've already got a process in place with the Sahtu Land and Water Board which puts the conditions that people are allowed to work on the land. Why we're trying to solve an insolvable problem here seems difficult to understand when you've already got the control, you've already got the process, you've got inspectors from the National Energy Board, you've got inspectors from Aboriginal Affairs, you've got inspectors from ENR. So both the federal and territorial governments inspect. You've got inspectors from RRC that come out to the program as well. And for our programs, anyway, we invite various community and other stakeholders to come and visit the program and see what goes on. If you keep it flexible you can solve the problem. If you try to build everything into this conformity requirement you'll fight and struggle to ever get a complete consensus. I think the land and water board has the authority to make the rules and impose the rules and you should use them.

Danny Bayha: Thank you, Ken. Jesse then SSI.

Jesse Tigner: Jesse from Explor. I know we're trying to move on so I don't want to belabour the point too too much but I guess by way of example I kind of wanted to address a couple of the things I hear commonly in the discussion. I would say that the challenge of developing a broader monitoring program that remains flexible, that addresses everybody's kind of desire and need is not money. I think to do the program well takes a very small amount of money where we're at now. Industry is already paying for the field work. Anybody who's done the scientific study knows that personnel is by far and away the most expensive component of a project. We're already paying for that. We have monitors on the ground. We have folks from government and university, to some extent, that can provide the expertise to do it. It really is just an issue of coordination. INAC is already and various jurisdictional bodies have already very clearly stated what value components are out there that require monitoring and require collecting data. We just need to kind of do it. I guess by way of example, on our 2D Project we're doing it right now. We currently have two monitors on the ground and we've figured out that we can satisfy all of our conditions of the EPP, all of the

conditions that have gone into our program in one day out of every four and we're surpassing what we've ever done and what we feel most folks in the North have ever done. Those other three days in the four we're actually going out and collecting data on fur [Inaudible], we're doing trap counts. So we're trying to develop that process as robustly as possible and we're demonstrating that it's not expensive because the expertise is already in place. It's really a matter of coordination. So I'll leave it at that but I just wanted to throw that out there.

Danny Bayha: Okay. Thank you, Jesse. That's very important to have that type of information from the people in the field. I'll ask SSI, Ethel to comment. And then Russ from Deline. Then we will have to keep moving. Thank you.

[01:01:00]

Ethel Blondin-Andrew: Mr. Chairman, I apologize. I'm pulled in all directions when I'm in Yellowknife. I was at a meeting from 8:30 until I got here, another meeting. So it's not that this isn't important, it's very important, so I'm here for the rest of the day, but I also wanted to indicate that my observation is, something that worries me. I see Indian Affairs, or AANDC as they're known here, and every one of them is sharing the responsibility for telling us they have no money. There's no money, there's no money. Some with a smile, some with no smile, some with plain spoken, others kind of dressing it up. The main message is no money. I don't know if that's coming from the top, like, right from the Government of Canada. They have no money too. But there's always money. There's some money left in the system. It's just a matter of priority. I don't think this is the priority for government.

On the one hand they're saying you don't need to, the land use plan doesn't need to do all these things because the land and water board will do it. Well, they're here now but they might not be in a month or so because we have John Pollard out there who's going to get rid of them. And that's coming from the highest places in government because they indicate to us that it slows down development and it's not streamlined so they want one big board. You're not going to have the Sahtu Land Use Planning Board, Sahtu Land and Water Board, and some of the other regional boards there to put the case in to defend what needs defending.

The other thing is, the monitoring thing, that's not going to go away. I think it's there and it's there to stay. It's community input. The things that preoccupy me about the monitors is how well trained and how much experience and just exactly what the roles and responsibilities are have to be clarified and worked on. The terms of reference have to be clear.

Let me tell you this from experience: Every single thing that we've been asked to do by the Government of Canada costs us money. For us to move our people like this to a people, \$20,000-\$25,000 a shot to get all our people moving; \$50,000 to have a meeting on self-government in Yellowknife with all the people we need. Nothing we do is free. The free stuff doesn't count. We need money in order to have the expertise that government has built in. both levels of government. They got everything. They got in-house lawyers, biologists. We don't have that. We have us and we need money to do what we have to do. So don't ask us to do things if you don't want to give us the money to do it.

On monitoring, I'm there, I think it's a good thing. I think it gets rid of the paranoia. You've got people there that say no, no, no, that's not true, that doesn't happen, this happens. Because they're right there and they know.

Danny Bayha: Thank you. We'll have Russ and George and the elder from Tulita, and then we have to move on after that. Thank you.

Russell Kenny: Hello. I just want to add a little bit on that monitoring thing there. They have that program on monitoring but they're like every, I don't know, every six or seven years and it's just basic monitoring. It's not updated and it's something maybe after the meeting we can forget.

I just want to add on to what what's-his-name was saying. The conditions on permits. A lot of the conditions on the permits that go to the land and water boards there's no conditions. They're not monitored on the field. A lot of those conditions he's talking about are not monitored on the field. That's why monitoring is so important for the community level.

I just want to add that and maybe, I don't want to take too much time here, but I'd like to talk about it right after the meeting or whenever is a good time. I think there's still a lot to talk about on the monitoring issue but I don't want to hold this up here. Thank you.

[00:05:55]

Danny Bayha: Thank you, Russell. George and then our elder. Thank you. Mahsi.

George Barnaby: Yes, well, the government has inspectors but they don't get much money either so they're not out inspecting on a regular basis. They don't get enough money to do that. That's why the community wants a monitor out there day to day watching all operations and making sure things are okay. But they're not hired to do the inspector's job so it's really need work to set up a good, clear monitoring program. I agree with John that it should be on all activity on the land. We don't want to see something where there be a loophole for the companies to say we don't have to do it here or this is not land use or, anything going on on our land we like to make sure somebody is there to watch and make sure everything is okay. So we shouldn't try to make sure that it doesn't leave room to get out of it. I think it says that there will be monitoring but just needs some clarification at your end there.

Danny Bayha: Mahsi, George. Our elder from Tulita. Thank you.

[01:07:34]

Maurice Mendo: [English translation begins] Thank you, thank you for all you've said, I have listened to all of you speak. From the time I was a child, I grew up out on the land. The wildlife from the land is what we ate. There was no white people food back then. The lakes, the animals have been there from the beginning of the earth and are still here to this day. There should be lots of financial resources in place for the land and animals. It would not be good if all the many species on the land were damaged. The trees, the animals that are on this land are all important because I was raised on these. I hold them in high regard.

This discussion about the work that will take place on the land, the Dene who grew up on the land,...we Dene, all we have is monitoring. They will not give us anything, just

that. The way the talk is going, it seems everything is disappearing, and if we were to lose what we depend on for our livelihood,....we should be protecting this. I would be thankful to see Dene from amongst us working on this. It would be good if Huskey Oil and the Dene worked together to prevent the land from getting damaged. For as long as there are people on this land, we keep stressing that the land not be damaged. That's the right way. If we keep changing all the many people's messages that have been spoken over the years, eventually there will be confusion.

Long ago in the time we grew up there was only one message by which people worked. We from long ago, think about this, so it would be good if you could help us with financial support. We are not from the wage society. Whenever we take a job, event to attend meetings, we are made to pay income tax. Because we are made to pay income tax, it's hard to gain anything. If someone makes lots of money, it's right that he/she pay income tax. It was not like that long ago, If you received pension, the government looked after you good, but you have to speak out on what's going on. When you attend meetings like this, they take back half of what you are paid. So you only get paid \$500.00 (pension?) It's been six years since my wife passed and I am grieving, and by travelling with people to attend meetings, I feel better, but it is difficult when you have to pay income tax.

I want to thank all of you and I would be grateful if RRC worked as monitors. Thank you. I was the hunters (& trappers?) president for 21 years. I did not get paid even one cent, it was all volunteer. Because I was thinking about my people, about those who will be there in the future. If they want to work for our people, they have to help us. They have to listen to our messages too. These messages we live by have been with us for a long time and they are still with us today. Who we are as Dene will not change, our color will not change, no matter how much they may want to become a white person, that will not happen. But all the different races on this earth, like the white people,...if we all helped one another toward what is good, I would be thankful.

In regards to working together to prevent things from deteriorating, it would be important for you to make a good decision here towards that. When the first pipeline was built, we told them about monitoring and they gave that to us for only a number of years before they took that back from us. That was the only job people had, to make a living for themselves. Back then the pipeline was discussed, and whatever people said, the oil/gas companies, Imperial Oil would come to our communities and talk to the people, to this day we are still listening to this. Lots of what is said is for nothing, because there is no action behind the words. One of the things they spoke about back then was compensation. They said whoever worked would be compensated. To this day no one has been compensated.

When you are discussing something for the future, it is not good if there is no intention to follow through with action. When we talk about keeping the land from being destroyed, it's the right thing to do, because we cannot make land, we cannot make water. Long ago you never heard discussions in regards to pollution. Today this is what is taking place and we all have to be concerned about it. Today there are many diseases as well. That's all I will say, Thank you.

[01:15:33]

Danny Bayha: Mahsi, Maurice. Again, I just want to say something and then we'll probably just conclude and actually take a break after that. I think we had a good spell. I think the need for community monitors is important because if you look at the different government departments we have DFO inspectors, Fisheries officers, ENR Wildlife officers, INAC inspectors, Environment Canada, as well as NEB inspectors. If these people were out on the ground at every activity out there that is required of them then the need for community monitors may not be such an urgent issue from the community. I just want to leave you with that and we'll take a 10 to 15 minute break.

---BREAK

Danny Bayha: Hello, I think we can make our way back to our seats, please. Thank you. So we appreciate your, if you take your seats and we'll continue on.

We have a few comments and closing comments, hopefully very short, to get this on and we can move on. We will, we had earlier in the break some hands up and I can't keep track of all the hands coming up and down. I have to ask your patience to remind me as you guys want to speak, put your hands up again. I just want to give a few concluding remarks at least from the Norman Wells Lands Corporation. Then closing comments from Elder Leon and then Gina and then that's it. Thank you.

Roger Odgaard: Thank you, Mr. Chairman. I just wanted to throw in the comment that in Norman Wells things are going really well with monitoring and we like the way that it's going with the renewable resources council. It's been going really good through the renewable resources council. Like Peter said, it helps build capacity. Talking to Freddie from Tulita, they like the way it's going there too. This year it's been a very successful year with monitoring and working together with industry in the Tulita district with Explor and Husky. There are two definitions of monitors that we're using. One is wildlife monitor and one is an environmental monitor. The environmental monitors need the training and the courses that are provided. In the future that's going to be the ticket is having more monitoring courses that are compatible and work with everybody. We like the way it's going and we support the RRCs taking care of the monitoring.

Danny Bayha: Thank you, Roger. And then Leon. Mahsi.

[01:18:52]

Leon Modeste: [English translation begins] Thank you. Listening to what the white people are saying, I'm thankful to hear what they are saying. In order to set things right, you have to speak about what you are feeling. That way you get people thinking. When you speak about something, you have to be knowledgeable about something before you speak about it. Even us, like myself, I'm from Deline and for almost three hundred miles radius of there, I know what it's like. I am over 70 years of age. For that amount of time, I've grown on that land. The wildlife behavior, the fish behavior, the waterfowl behavior, how the trees are, where the beaver lakes are, where the burial sites are...when we speak about these, we speak the truth. You who are speaking to us, thank you for speaking to us.

It's right to say what we think. If you work with the people and abide by what the people say things will not be difficult for you. You will work well with the people. It's not only for today, it's for the future, 20 years from now for our youth if they are still alive. We all

have children. It's so in the future the white people, the Dene will all work well together. That's what we are discussing now.

Thank you my relations, when we hear someone speak well about something, it helps to set things right for the future. The work of the RRCs, we've done some of the work but we haven't really been compensated financially for it yet. So I wrote in Dene (Syllabics) this is what I wrote, if the oil companies are going to work on the land, and if there has been a proposal made for money for this, it would be good if we worked together. When you work together like this, it creates harmony. If it's not like this, if things are done in secrecy, it causes distress on others. It's not right for you to not speak about what's difficult for you. You should be asking the people, like how we are sitting with one another here, this is how we resolve things and make decisions. This kind of documents that we write to each other, it's not true communication. Is this the right way to communicate with one another?...By writing to one another?

Thank you for gathering here, if we continue to do this, this is how we will make good decisions for the future to work together. The wildlife that are on this land, we do not feed them, they do what they want, go where they want. So when we talk about wildlife, it's like we shouldn't be talking about that. So if you are going to speak about wildlife, think very carefully before doing so. When you are talking about what the Dene depend on for their livelihood, you should work on it in a way that the decision is left to the Dene. I am not trying to tell you what to do, I just ask that you consider this. Thank you. [English translation ends].

[01:24:41]

Danny Bayha: Mahsi, mahsi. Gina, just a short blip. Thank you.

Gina Dolphus: I'm going to do it in my language. [English translation begins] Thank you. Thank you to Peter, Russ and Dad for speaking. In English this is called Land Use Plan. It is something huge, there are many things that are involved in this that we have to work on. Although we want to work on this by ourselves, it's like the Government is there with us. They tell us there is no money, but they have to work with us and help us. Our own people are very knowledgeable in regards to the land, so they have to be the monitors. It has to be up to them and we have to help them, in our communities, how we train them in our communities....In the Sahtu Region there are five communities, so we have to work together to train these people so they can work.

My father has already spoken about the land and what is on the land....the wildlife, all the water and all the rest. We have to take all this into consideration. Things are not like before, there are big changes now. You are probably very aware of this, there's extreme warming, and cold and many other things that are occurring. So we have to help on the land and help those who are working.

I have already mentioned this earlier, government is always saying they have no money but they have to help the people with this, and those who come onto Dene land, they have to help too. But we all have to move forward together. This work has to take place in our own communities and we all have to work equally together on it. Many people have already spoken about this and we've all heard what they've said, so that will be all. My name is Gina Dolphus and I'm here on behalf of the land corporation. Thank you. [English translation ends].

[01:27:34]

Danny Bayha: Mahsi, Gina. I gotta cut it off. Sorry. Maybe what I would ask, maybe towards the end of the day, some of the comments you have or question about this could you please, we'll try to have some time for that. But don't lose it if some of the ideas are good. We need to still try. But we have to keep moving if we're going to get through this. I apologize. Keep the ideas towards the end of the day. Thank you. Mahsi.

Heidi Wiebe: Okay. In the interest of moving forward and getting on to the applications, which is the point of the workshop, I'm going to suggest that I'm going to very quickly run through the revisions to the rest of the CRs. I will not stop for questions. When I get to the end of the other 13 CRs I will stop then and see if there are any major concerns or issues, but I don't want to get into a debate of the CRs. I just want to make sure that everyone understands what the CRs say so that we can then test them against the applications and once we get into the applications we can open up full discussion then about how they're being interpreted, which I think is a lot of the root of the questions. So if everyone is okay with that I'm going to try to speak slowly but be brief.

Conformity Requirement 7: Archeological Sites, Historical Sites, and Burial Sites

So CR-7 is the archeological sites, historic sites, and burial sites. There were very minor changes to this one. I believe the GNWT at Workshop 2 asked that the Prince of Wales Northern Heritage Centre be incorporated into the first clause. There was also a request to include more flexibility with respect to the need to consult affected families around burial sites so we just added where possible in case there's some reason why the family can't be consulted, like if there's no remaining family or whatnot.

The second clause was modified slightly by the Prince of Wales just to reflect the proper wording in the legislation. Nothing substantial, I think, there.

[01:29:52]

Conformity Requirement 8: Watershed Management

CR-8 is watershed management. The only change here is that previously in the first line we removed the clause, it used to say a land use activity located in a general use zone. That clause about the General Use Zone has been removed because it really applies to land use activities occurring anywhere but affecting special management zones and conservation zones and proposed conservation initiatives. So this just reflects the fact that there might be land uses occurring within special management zones and conservation zones as well that could also affect them.

Conformity Requirement 9: Drinking Water

CR-9 is drinking water. This CR is one of the ones that saw some more substantial revisions. There was a lot of discussion at Workshop 2, some from the land and water board identifying some implementation issues with the lack of data to be able to look at this one. So we added in I guess both front-end and back-end monitoring requirements to get that data. The other big discussion came from communities, especially from Fort Good Hope, that have had a number of concerns and issues with respect to drinking water quality. They requested that wherever there's a potential for impact to a downstream drinking water source that there be specific discussion with the community on that. Those clauses have been added into this CR based on those discussions at Workshop 2.

Conformity Requirement 10: Wildlife

CR-10 is the wildlife requirement and there were no changes to this CR from the discussion document in September. I did just flag that. I know that one of the outstanding corrections that we have to make in the plan is a request from DFO to add the fish timing windows into the table. We haven't done that yet. Obviously that wasn't checked when we were checking the rest of the setbacks for some of the applications. That's an example of one of the many minor comments that still have to be addressed through further plan revisions. What we've been doing through these workshops is really just addressing the key ones that required broad discussion.

Conformity Requirement 11: Introduction of Species

CR-11. There are minor changes to this one based on discussion at Workshop 2 and that was to address or make it clear that the purpose is to not allow the intentional introduction of species and also to minimize unintentional introduction of species. So there's some wording added to reflect both sides of that. Paul, can we wait until the end of all of them, please? Thanks. But you may flag that one and talk about it.

Conformity Requirement 12: Sensitive Species and Features

CR-12 is sensitive species and features. Most of this CR was not touched but at Workshop 2 there was discussion about other features in the Mackenzie Mountains around fossilized organisms and ice patches that had not been captured in this CR previously. So I followed up with the Prince of Wales Northern Heritage Centre and Roger to try and incorporate some of that information. So there's new clauses that have been brought in to deal specifically with the ice patches right now. They do have data on that. It's been the source of incredible study over the last three or four years. That one's well enough, I think, advanced in terms of the information known that we can add that in without too much difficulty. But that is a brand new Clause E that you are seeing there.

Conformity Requirement 13: Closure and Reclamation

CR-13 is closure and reclamation. This one had a lot of debate at Workshop 2. Most of it was referred to legal discussions which Dick talked about regarding who gets to collect security on settlement lands. As a result of those discussions we removed the clause about settlement lands, so it's just collection of security wherever on whichever

lands. We added the clarification clause that this only pertains to security collected under the MVRMA. So this is for land use permits and water licences. There was discussion that the CR should say something very, very general about encouraging progressive reclamation, so that clause is in there now.

[01:35:09]

Conformity Requirement 14: Permafrost

CR-14. You'll recall earlier from our discussion yesterday that we split the old CR into two separate clauses again. So one from permafrost, which came from the Great Bear Lake Watershed Management Plan and has been in the Sahtu plan for about two drafts now. What we did build in was the minimum threshold that we discussed at the workshop that basically this would apply to projects requiring a land use permit or a water licence and not smaller activities.

Conformity Requirement 15: Climate Change

Climate change was what we discussed yesterday so there's nothing new to report there.

Conformity Requirement 16: Ecological Integrity

Ecological integrity, CR-16. There was no changes to this one since the September discussion draft document and probably not since Draft 3, actually. This is one that we've always struggled with, how do we implement this. It was for this CR that we're using the Explor application as a real-life example to try and grapple with how we would operationalize the requirement to maintain the ecological and cultural integrity.

Conformity Requirement 17: Fish Farming and Aquaculture

Fish farming and aquaculture. There was no changes made.

Conformity Requirement 18: Disturbance of Lakebed

Disturbance of lakebed. We had previously a Clause C that allowed for, there was a clause that allowed for the use of watercraft, so planes and whatnot, to take off and land for the purpose of managing Saoyu-ehdacho. Tom Nesbitt, who also works with the Saoyu-ehdacho Management Board, took that clause to their meetings to see if that was intended and they supplied an alternative instead which is remove that clause and just provide a clarification statement that that was not intended to be restricted through this requirement.

Conformity Requirement 19: Sentinel Islands

There are no changes to the CR of Sentinel Islands, just a clarification about the zone that it applies to, which is the conservation zone portion only, the Crown lands portion of Sentinel Islands.

Conformity Requirement 20: Water Withdrawal

And there are no changes to CR-20 with water withdrawal.

So that is the 20,000-foot view of what was changed and why. Maybe we can allow a few brief minutes for questions of clarification before we test these. Thanks.

Questions/Discussion

Danny Bayha: Thank you, Heidi. Of all the CRs that Heidi went through, just for the sake of time management, I guess, if you can try to figure out if you have major, major concerns with any of these CRs as proposed then we need to discuss those besides the ones that we talked about earlier on wildlife monitoring. Let's try to concentrate on the bigger ones and then if it's minor, smaller items, like maybe wording or something that's, then we need to, you know, we can sort of leave that towards the tail end of the discussion. Now I would really want to focus on maybe we could try to do the major ones on the CRs. Any of the CRs that Heidi has mentioned. Thank you. The gentleman from RRC.

Roger Boniface: I'd just like to go back to CR-8, 9, and 10 maybe. After yesterday's morning session where that guy on fracking I don't see how Fort Good Hope can be protected after they're going to use millions of gallons of water. What I'd like to see in CR-4 is the applicants, they should fund the communities that are going to be affected for their own research. We assume, like, in Fort Good Hope we assume it's all Norman Wells' fault that our drinking water is affected but we don't have no scientific studies to prove it's them. What I'm saying is the applicant should fund the affected community.

Danny Bayha: Thank you. George. Thank you.

[01:40:11]

George Barnaby: In regard to watershed management I think that water should be protected on all the lands. It seems like it's leaving it open to contaminate water on general use lands. I think that everything should be done in a proper way and we don't want to start leaving it open to have contamination.

Danny Bayha: Thank you, George. CWS. Thank you.

Paul Latour: Thank you. Paul Latour, CWS. I'd just like to confirm an earlier statement you made, Heidi, on these CRs. We won't propose to bombard you with a lot but I see some fundamental wording problems with that number on the wildlife one.

Heidi Wiebe: Yeah, we'll probably make some statements about my own comments in our closing comments on the workshop but if there are significant issues with the way some of them are worded then we kind of run an open-door policy on that to make sure we get stuff done but it would have to happen in the very, very near future.

Danny Bayha: Thank you. Anything on the CRs we've mentioned, talked about? Go ahead.

Unidentified Male Speaker: Good morning. I just wanted to briefly comment about the monitoring part of that. The monitors are responsible. It's not only to enforce. It's also to make sure that the proponents don't get into any trouble there out on the land. It's just like me going out to Winnipeg. I don't know Winnipeg so I have to get somebody that went to Winnipeg before. One good example is Kodiak. Went down to about 90 miles from Good Hope and they had to cross, make an ice road across the river. Where they

had the proposed road on the map was where the river narrowed. It's about a mile wide and then all of a sudden it goes down to about a thousand feet across. It's thin ice there all the time. Even though you build an ice road there's the potential that the ice wears out. There's sort of a buffer on the ice, the ice acts as a buffer zone and it sort of gets [Inaudible]. It could have went to thin ice and it could have cost him an accident. Just stuff like that. Also on the, they had to cross two rivers there. The Hair Skin River. There they went on the outflow where it meets the river. It's always shallow there. They had the road there. I changed that. I wasn't a monitor but I noticed that. Because you have to have a person there that is sort of watching. Not enforcing anything but making sure that they don't get into an accident.

Part of a typical day on RRC when the access is happening on the land is we lack the resources to accommodate what's happening. So we get the representatives from these applicants to come and meet with us because we, like, they come up with a big enough document on access to the land. So we have a meeting and we tell them that there's some trappers that are going to be trapping there so we talk to the community and get those trappers away from there. So you know, they have free access.

What else there? Also I wanted to talk about the RRC accommodating what's happening. Land use plan, everything. Because in our, the funds that we get is \$79,000. There's no way we could accommodate, like, the human resources. It's probably less than each one of your salaries for the year. That we have to work with. It's something that has to be fixed up. I've been trying to fix it up but there's no headway. I just wanted to bring that up before and I just wanted to make you [aware]. There again we're sort of being nicked and dined. It's something that has to be addressed to make everything, in order to create cooperation you have to involve us. Basically and financially it's just something that we can accommodate and RRC is like, all the RRCs, we're like, we employ a person for half the day, an office manager. All the other RRCs, I notice that in Good Hope, Roger is the president, and he's a good money manager. Somehow we make it through the year with \$79,000. There's something that has to be addressed here. Thank you.

[01:45:52]

Danny Bayha: Mahsi, Roger. Mahsi. From Tulita, Leon.

Leon Andrew: Thank you. [English translation begins] I'm going to say this in my way. I am from Tulit'a. I live in Norman Wells but I am on the Tulit'a Land Corporation...I am not on the land corporation, but I am a member of the land corporation there. These words called CR that we are making, Roger spoke about this, 8, 9, 10, about the pollution of water that we are talking about, it is a great concern for us. From in the past, if you were to look at what has taken place in the south, like in Fort McMurray, every day you hear on the news about how the water is being polluted. This is what we worry about as Dene people, we feel it. For myself, all the water that is being used we talk about it by saying they wasted that much water. Once water has been polluted how do you fix it? For myself, if we all help one another, this is the right thing to do. Once the water has been polluted, we the ones who live here, from where will we drink water? There are not jobs for everyone, so not everyone will have money. So if we were to rely on bottled water from the store, I'm sure it would be costly. All of you who are here, you

have many years on you, and I'm sure you watch the news. They talk about the pollution of water in the future, I hope this does not happen on our land. We are saying this to prevent this, I am concerned about the water that is why I'm saying this. Take this into careful consideration and help us and maybe we can take some good action on this. Thank you, I wanted to say this. If you talk about some other topic, I may have something to say again. Thank you. [English translation ends].

[01:48:46]

Danny Bayha: Mahsi, mahsi. SSI. Thank you.

John Donihee: Thank you, Mr. Chairman. John Donihee. First of all, before I say what I say I want to say that I'm not disagreeing with Leon and I agree completely with him that the water resources on the land have to be protected and managed carefully so that there's good water for people and wildlife and all living things to drink, and for those that live in it like fish, they need to have clean water too. But I still find, this is a point that SSI has raised on a number of occasions. I'm speaking of CR-9 point number one. The concern that we've expressed doesn't seem to have been picked up and I just want to tell the board it's not going to go away until it's addressed. When you start to talk about contamination it's hard to know whether that means that absolutely nothing can be put into water or the water can't be moved or impounded for a while, if you need to hold it. The concept, the intention is clear and there's no, we don't disagree with the intention, but the concept of building this CR around the idea of contamination I think is fundamentally at odds with the framework in the Northwest Territories Waters Act and the Mackenzie Valley Resource Management Act.

The Sahtu Land Claim called for the creation of a Sahtu Land and Water Board and they, for certain uses of water, require, based on the regulations there's a requirement for a licence. They manage the water very carefully on behalf of the region but the system that's in place allows for some waste as that term is defined in the act to be deposited into water. The aquatic systems themselves have the capacity to treat some of that waste and often, if you're not putting very much in, if you're putting a very small amount of waste into the Mackenzie River, for example, there's really no particular effect in the long run on the quality of that water for the various uses to which it's put.

When you use a word like contamination it's really hard to tell whether that means absolutely nothing or whether the management system that's already in place can continue to operate as it does. That's the problem that I see in CR-9(1). To give you an example, I realize the catchment areas in Map 6 are small but nevertheless most of the communities in the Sahtu draw water from obviously these areas. Most of them also dispose of waste into these areas. All that's done on the basis of a municipal water licence and it's managed very carefully, monitored carefully, not only by the land and water board and by AANDC but by public health officials and others. What we don't want to end up, because number one in CR-9 is an absolute prohibition and what we don't want to end up with is a situation where communities are no longer able to dispose of waste under their municipal water licences if this CR is going to be honoured or observed or obeyed.

I think this idea of contamination is something that needs to be thought about and the way that this CR, this particular sub-clause in this CR works it needs some more

thought because as I see it I think it's running smack up against the water management system that's set out in those two statutes that I mentioned.

Danny Bayha: Thank you, John. You had a comment, then, Heidi. Thank you.

Heidi Wiebe: Actually, John, as soon as you started mentioning that it made me realize that one of the key discussions at Workshop 2 was providing that clarification around what contamination meant, and we took the definition from the, I think it was the NWT Drinking Water Strategy Framework which basically talks about anything that would render the drinking water source undrinkable. That's how contamination is defined. I should have added that into this document as providing that clarity and it looks like I missed doing so in doing that. Would that type of clause or clarification or definition address your concern? Because we did talk about that at Workshop 2 and Patrick, who was at that workshop, said yeah, it was definitely much better and seemed to fit and do the job, but maybe you have a different perspective on that.

John Donihee: Well, I'd just say that for the moment I mirror my colleague's comments, it definitely improves things. I'd like to have a chance to look at the language and think about it a bit further. It's certainly a move in the right direction. Thank you.

[01:54:49]

Danny Bayha: Thank you, John. George, you had a comment.

George Barnaby: Well, there's some things in here that talks about, you know, community catchments. There's a map showing, but our people don't live at the community all the time. They live all over on the land. I know a lot of people live on the river, travel on the river hunting and living on there and using water from the river. Mackenzie River is really important. We want good water but I don't know how much testing goes on the quality of the water in the river.

Then there's mention to the land claim but I don't like putting the land claim in there because it's only half done. We did half and we're still trying to negotiate the other half. It might limit our ability to protect ourselves here.

I guess what I'm getting at is it shouldn't limit the community to do all kinds of things and to look at all water and to look at the whole, in our case, in our district, and also on the river, I think governments and that are responsible to make sure that we have good water according to our agreements so far. We don't want to back up from that. In fact, we want to move it more ahead, make it more strict.

Danny Bayha: Thank you, George. Doug.

Douglas Yallee: I just want to mention about the quality of the water the people are speaking about. Water's very important, I know it's very important for everybody, even for industry and ourselves, the people who live in the Mackenzie Valley on the lake sides. You know, I mean, water is very important even for animals. Water is important for animals. I guess what the people I'm hearing right now is water is important to everybody. Mainly the people who live on the river, the lakes, and industry just goes in there and does what they're going to do and then they're out. We still live there and have to live with it. Even I hear Leon talking about contamination. Same situation. We live there. The same thing here. Thanks.

Danny Bayha: Thank you, Doug. Any other comments on the CRs? Not only the ones we're talking about but other ones as well. If there's any comments or suggestions. If not, it sounds good – Oh, sorry. Mr. Yakeleya.

Gordon Yakeleya: Yeah, okay, thank you, Mr. Chairman. I guess one of the things I wanted to talk about is on CR-7 there, on historical sites and burial sites. There's one discussion that we actually touched on yesterday that's in Tulita district. We're a bit concerned about burial sites especially. I know over the time period when the land claim was settled but there was not really very much information gathered about burial sites where our ancestors have been buried. Now I notice over the time period all the fishing lakes are where the people used to be. In those days people needed to survive by fishing and hunting. I think one thing that industry should note is trying to stay away, working with them, trying to stay away from all these lakes because it's so important to people for the burial sites.

I guess on the historical side some areas, like in Tulita now, you go out on the winter road, you see a big open water because something moved there and it's almost right in the middle of the river. It's going to be staying open all year because it moved. Those are historical sites. We noticed some on the river towards the south. We made it aware to the highway of this rerouting but I guess the government didn't listen to us. It's still very close to that one historical area. I just wanted to bring this up. Thank you.

[02:00:03]

Danny Bayha: Mahsi, Gordon. Tom.

Tom Nesbitt: I have two quick specific concerns and one more general concern. Under CR-11 if we could just scroll to that please. A very specific suggestion for the board. If we look at the second sentence there, all reasonable precautions must be taken to minimize the unintentional introduction of species. Saying that for your consideration. I don't want to spend a lot of time with that now.

If we go to the next one, CR-12, under (a). For looking under (a) we're looking at these most currently available information. I would suggest that we knock out the words 'as obtained from ENR' so as to make a broader field of information available to us. Just for your consideration. I know that ENR would have much of this information, there's no question about that, but I presume the universities, etcetera, and published literature will also have a look.

The third point I wanted to make as quickly as I can, Jean brought it up with me, and that's a growing concern on the part of Deline with this procedure called fracking and its potential impacts, this apparently new technology. Certainly in Deline we have very little understanding of what this means but we are, because of the kind of concerns that have been expressed by many people already about water quality there's a real concern. And because of the elders' fundamental concern with water quality and their perception that the entire natural world and ecosystem depends on clean water. As do we. We all know we're mostly water. Our bodies are, that is. They want to flag this particular, whether you call it a procedure or technology, and it's any practice of that in the Sahtu –

Danny Bayha: Thank you, Tom. Some of the points raised by Tom I think, I don't know if anybody wants to have a comment or add a comment. The issue of fracking is, I think,

we had an information session here on Monday morning here. it was a good session about what's the technology and what's known about it and where it's been done. We're hoping, I think they're hoping to travel to the Sahtu to give more information to the communities.

Anyhow, hopefully we can, we have about, say 20 minutes of concerns, to other things that we could talk about in the next 20 minutes. If not we can put the tire on the ground for we should start the application. Maybe Heidi could give us a rundown of the applications that we're going to push through this plan and see where all we could possibly make some changes or improvements. Thank you, Heidi. Go ahead.

Heidi Wiebe: Thanks. I think it's important that we move on and start the point of the workshop. With that in mind, I hope everyone's okay, but I'm going to suggest we move the discussion on structural changes to CRs to the very end of the workshop where it started. That's really drafting type discussions. I don't think we need to have that if we're pushed for time. So I'm going to move straight through to basically get our minds in gear so that we can move and start on the Husky application right after lunch.

Conformity Determination Reports: Establishment Process

So I wanted to have an initial discussion about the conformity determination reports themselves and this process of establishing these. So in preparing for this workshop we developed a conformity determination report template. This hasn't existed for the plan before and it evolved as we went through different applications. This really is a chance for you all to comment at the very beginning of this process and give us some guidance on what you like, what you don't like. I do want to provide a few minutes' discussion before lunch and wrap this up before lunch just to look at all of the conformity determination reports together on the structure. What do you want to see in them, what works for you, what doesn't?

[02:05:11]

I do want to emphasize that at this stage this is really just staff work, so the board has not made decisions about the overall format of these reports. We're fishing for comments. It's an opportunity.

These reports have been modified a little bit to act as discussion documents. There are certain elements that are in them now that we would not put in a conformity determination report once the plan is approved. So you'll note throughout that we have questions and discussion sections. Those wouldn't be in future reports. If an activity was exempt because it's related to an existing use we wouldn't do the zoning conformity. We would just say it's exempt. So we have provided that information here so we can have fuller discussions.

In the future I guess what we would propose to have in the conformity determination report, you can see on all of them it's got the standard header information – so who the applicant is, project number; we have whether or not it's exempt because it's related to an existing use – in the future we would deal with the other exemption categories, is it related to community use, harvesting, emergencies; we provide a summary of the overall conformity determination – where does it conform, where are the hitches that would need to be addressed; we've provided a project description – we would propose

to identify which zones are affected and the values to be protected because I think that's information sourced directly from the plan that is elemental to making the conformity determination. Then for each CR the categories we have right now are: what is the overall conformity determination, what are the criteria that we use to make that judgment or determination. We have a category that we've been looking at, basically what is the evidence from the application that we used in making the determination analysis? What are the judgements that we made? Then finally, any implementation requirements. So where an activity would only fully conform once certain conditions are applied to an authorization. This identifies what those conditions could be.

So that's the general proposal for what a conformity determination report might look like. One alternative that we can discuss is if there is a desire for a much simpler, shorter report which basically just gives a result of the conformity determination process. I guess because this is a brand new system process form I wanted to have just a brief discussion to see if there's any comments on what your preferences are and what you found helpful or not helpful. Then I have a few points to keep in mind and I'll leave off with that before we go for lunch. I'll stop there for a sec.

Questions/Discussion

Danny Bayha: Jesse from Explor.

Jesse Tigner: The general structure of the report is good. I don't think a shorter one would be helpful because it wouldn't give proponents an ability to respond or sort of understand where you're coming from. So the detail is good because then we can to some degree follow your thinking.

Danny Bayha: Thank you, Jesse. Again we're trying to get some input on the format for managing the report and how that's getting carried out.

Heidi Wiebe: Right, I don't see any other comments so I'm going to assume that everyone else is sort of in agreement with the format as proposed. I too would suggest keeping the longer format, specifically where there's any problems then people can identify where those problems might be.

So with that then I'm going to close the morning session with a rundown of some things to keep in mind for the afternoon. We'll start with the Husky application.

Danny Bayha: Heidi, before you go, we had a comment from Nancy [Inaudible].

Nancy: Sorry, just a quick comment. I'm not sure if it would be helpful for the land and water boards if any terms or conditions that might be required would be up front. I don't know. I don't review these sorts of things. Would it be simpler if everything is just listed that needs to be included in the permit or water licence?

Danny Bayha: You mean the standard requirement anyway? Oh, I see, yeah.

[02:10:25]

Heidi Wiebe: I see them discussing that so I'm going to suggest that maybe they can just give us that feedback directly if they feel it's appropriate. It will probably come up again as we go through. I'm going to switch to the handheld mic so I can do some flipchart stuff.

Conformity Determination Reports: Goals

I wrote down a few goals when we're going through the conformity determinations for the next day and a half because that is our priority. What is it that we're trying to get out of these discussions. We chose five projects but the emphasis is not on the projects themselves. The emphasis is on the plan. That's what we're here to test. As we're going through and looking at how each of these projects conforms or doesn't conform this is the question we want to find out: Does the CR work? Can we determine conformity in a systematic, consistent way? Can the CR be properly implemented through the regulatory processes and mechanisms that we have available? Are the requirements and expectations reasonable? So it's the CRs that are the focus of this.

For each of them we've begun to define what the implementation or the decision criteria are. So when we're trying to determine whether an application conforms to CR-5, for example, what are the questions that we are asking and that we expect to be answered through either the application or through the activity itself? So to the extent that we can refine those decision-making criteria that information is what we want to put in that implementation guide. We started that work on Draft 3 and this is the way that we can refine and build and finalize that work.

Similarly, what are the information requirements? The most basic being for the zoning, getting shapefiles so that we can do our own overlays and find out exactly in an efficient manner which zones are affected by the land use activity and which portions of the activity are in which zones. But there's a whole bunch of other nice-to-have information requirements that came through this exercise. To the extent that we can flag and clarify in what way can we provide this information in a way that helps us determine conformity?

Those are the key goals that as we're going through the five projects over the next couple days that's what we want to get out of these discussions. I will leave this up here for the rest of the time.

I guess the other points that I want to emphasize is that the exercise is a learning experience. We're taking these applications but just as real-world examples. We're assuming different things about each of the applications just to make this test work. So for instance, in all cases, we're assuming the plan has been approved with the CRs as drafted for this workshop and we are testing those CRs and assuming that these applications are submitted after plan approval. It's a fundamental assumption that we're making to hold these discussions.

Similarly on the pesticide licence application, it's actually wholly within the Norman Wells boundaries. If this was a real conformity determination it would be exempt from the plan. We are assuming that it's moved just outside of the boundary so we can run this test.

If we get into a bind because we don't have specifics we can make assumptions. This is a role-laying exercise to test the plan. It's not dependent on the exact information in the applications. So feel free to make assumptions and have some fun as needed to have these fulsome discussions.

[02:14:42]

Finally I want to talk about the approach to determining conformity. You'll notice at the top of each of the reports there's a heading: does not conform; conforms straight off; conforms subject to other conditions being applied or the other implementation requirements; and not applicable. If there is enough information in the application that we know the activity has the potential to conform but maybe not all of the elements were there and there is the possibility of bringing it into conformity by having the regulator apply conditions, that was the preference. So as opposed to the alternative being to say this does not conform. That is one approach. It's certainly I think the preferred approach for us, but that is something that we have the opportunity to discuss and that can be a focal discussion as we go through each of the reports. That would depend, of course, on the ability of the regulators to apply those conditions to bring it into conformity. So if there are instances as we go through the applications where there is no vehicle or no way that the regulator in question can apply such conditions, that's certainly a good area to focus on as we go through these.

So those are my parting thoughts to think about over lunch. I think I see a lot of food on the table behind people so those are my thoughts and we can move into Husky after lunch. Danny?

Danny Bayha: Just a note again, earlier we tried to use terms that people can all understand as we go because these are, as we get further and further it gets kind of involved. Terms like shapefiles. Not everyone is GIS folks so we need to be very specific and clear exactly what we're talking about when we talk about things like that. I just wanted to clarify it a bit.

With that maybe we can have some lunch and come back after lunch. One-o'clock will be fine. Thank you.

---BREAK

[MZ000015 – 00:00:00]

Arthur Tobac: Good afternoon. Maybe we can make our way back to our seats and we'll pick up where we left off this morning.

I want to welcome everybody back. As you can see we're changing the chair. I'm just now taking the reins of the chair's position for this afternoon. Up until 3:00 I'll be with and I'll be chairing the proceedings from here on up until 3:00.

For those of you that don't know me, my name is Arthur Tobac. I come from Fort Good Hope, Radili Ko. My background has been with the land corporations and previous to this I was with the First Nations as a chief. As you can see, I'm trying to expand my role in many ways. Hopefully I'll be with the land and water board and the land use planning board for a while. Up until we're formally put in place by the Minister I'm just going to be filling in here and there.

I'll be attending a lot of the sessions that the land use planning board puts on. This being the most recent one. The recent one we had was in the fall and I sat in on some of those discussions. I'm quite aware of where they are in the process right now but I'm still getting familiar with a lot of the things that they're undertaking. One of the things is they're pretty near the final stages of the plan and hopefully I can help them get the rest of the way.

With that out of the way, introductions out of the way, I'll get right back into the pace that was set by Danny this morning. With that I'll turn the chair back over to Heidi and she can fill you in on where we are in terms of Husky and the conformity determinations. Heidi.

Heidi Wiebe: Thank you, Mr. Chairman. What I'm proposing is that we spend most likely the afternoon on the Husky application. If we manage to finish earlier we can start on Explor but maybe we'll check in at our break and see where we're at.

As I mentioned earlier before the break, the emphasis here is on testing the plan's CRs, not on the applications themselves. We basically just mined the land and water board's public registry and knowledge of projects to help us pick applications that would test different elements of the plan. So we'd like to thank the different proponents whose work we're about to use as guinea pigs and encourage them to speak up and bring their experience on these projects and about the land use to the discussions. As I mentioned earlier, our point is to use this as a discussion tool and a learning tool, so if we need to tweak things in the application to have a discussion then we can do that.

Conformity Determination Report: Husky Application S11T-002/S11L3-002

How I am proposing to go through this is, I think you've all got copies of the conformity determination report in front of you. Because this is the first one I'd like to go through each of the CRs one by one. I will do as brief a spiel as I can and then open it up for discussion. Some of them I list specific questions and some of them I don't. again, what we're trying to get out of these discussions is: does the CR work, do we have or can we develop clear implementation criteria that help us get that clarity that we're all looking for, and what are the specific information requirements that are involved.

To make the discussions a little bit easier I'm going to have Edna just bring up the wording for the CRs as we go through each one of them just so you've got that right in front of you while we're looking at the report.

Lessons Learned

At the start of every conformity determination report I have a section called overall questions or discussion. Quite often that's just what is unique about this application. In some cases it's lessons learned. I'll start there on the Husky one. If there's any discussion on that, great, or we can come back to it at the end having gone through the report and say, okay, what do we take away from this application test.

[00:05:06]

Lesson One

The first lesson learned that came out of this one, just one of the reasons why we ended up postponing the workshop initially two months ago, it's a unique situation in that there were three applications submitted almost simultaneously with three different aspects of the project and it created the question for us of what is an activity when we're trying to determine conformity. There was a staging area, access, and camp operation application. That's the one that we have done the conformity test on. There was also a separate set of applications for a drilling program and a 3D seismic program.

The first question that was raised for the board is do we treat them all as one project or do we have three separate conformity determinations. This sparked a whole lot of discussions between us and the land and water board about how they make those type of determinations. Where we've arrived at for now is that if they're treating them separately then obviously we would follow that lead but recognize that in some cases the applications will stand or fall together because they have shared operations or shared aspects of it. In other cases we can do completely separate conformity determinations. I suppose that was one of the big questions that came up specific to this application that wasn't necessarily a consideration in the other four projects.

I guess I'll stop there and see if there's any questions or discussion on that.

Questions/Discussion

Ken Hansen: So I'm Ken Hansen with Husky. I wasn't quite sure how we were going to do this process so I guess there's a couple things we could do. If you like I can answer the first question that you've kind of put on the floor and that was the pace at which we were attempting to get approvals and get this project going. I think everybody is aware that the land sale results weren't announced until July and between July and October, I think it was, we were able to put access and benefits agreements in place with our community partners, the land corporations. We were able to get applications put together. At the same time we were getting all kinds of rumours and suggestions that part of our program might trigger an environmental assessment. That being the 3D seismic survey because frankly there hadn't been one done in the Northwest Territories since, well, certainly not in the Central Mackenzie Valley anyway, since Imperial did theirs back in the mid-1980s. Most of theirs was done on the river.

What was decided was, given the 60-day approval process, you start working your days backwards and you pick the part of the program that's the most crucial to work on. That was the construction because without the construction you couldn't do the drilling program, without the construction you can't do the seismic program. So that's the way it was broken up the way it was.

Normally I would agree it would be easier. It was certainly a lot more work to break it into three pieces. The volume of paper that's been submitted is ponderous. There's a lot of documentation that's submitted. There's 40 copies of it that are given to the land and water board and distributed for comments to everybody from the land corporations, Sahtu Secretariat, to the Government of the Northwest Territories and various departments within that government, to the National Energy Board which is back in Calgary, so they got to ship it all the way back to Calgary to give it to them. Multiple copies given to Aboriginal Affairs for comments. The RRC gets a copy. Land use planning board gets a copy.

Maybe even just take a step back further even and let's just talk a little bit about the whole process. The land sale process is kind of integral to what we're talking about in the land use plan.

[00:10:00]

Industry goes to Aboriginal Affairs and says we're interested in an area. Can we post this for oil and gas exploration? Aboriginal Affairs is supposed to go to the communities,

the various stakeholders, and say this is what industry wants to do. At that point you can stop any oil and gas activity by saying no, we don't want any activity in our area. If you have a land use plan in place that designates the various conditions that operations will have to follow those can be included in the land sale so that when somebody bids on a block they already know what the rules are and there's no surprises when they go to try and work on the land.

I think the Tulita group came out with a novel approach in this land sale in that they met with industry before the land sale and said this is our expectations. If you want to work on our land this is the model of the land use agreements, the benefits agreements, and the access agreements. This is our expectation. So there's no surprises there either.

So the blocks are put up for public auction after all these approvals are through. Companies bid, in our case, pretty substantial amounts of money to go and do work on these lands under the assumption that they're going to be allowed to get on with doing the oil and gas exploration.

We were very fortunate in that we'd had a working relationship with the Tulita group and we were very comfortable with what they were putting forward. So our access and benefits agreements were put in place very quickly. We met with the community before we even had our access and benefits agreements in place and said this is what we'd like to do. With the encourage from the community that they wanted to see work this winter we put the program forward and to make that work we had to break it into these pieces. I think the application for the seismic, which was the last one that went in, was a month and a half after the application for the construction.

So we've gotten approval. The programs have started. We've been working very closely with the communities. Monitoring is something that I know we spent a lot of time talking about it, but quite frankly it's in our access agreements with Tulita. It very clearly specifies what their expectations are for monitoring. Many of the conformance requirements that we see up here with regards to benefits, with regards to archaeological studies, TK studies, these are all covered off in our access and benefits agreements as well. So again, there's this overall redundancy, there's the overall multiple layers of regulatory and scrutiny being applied to the project.

When you do a project in Alberta you apply to a single regulator. They're the ones who make everything happen. Up here we kind of apply to the land and water board for land use permits but they then have to go to the National Energy Board, who are the regulator for what goes on in the ground; they have to go to the Aboriginal Affairs, who are regulating what happens on the surface and with water; they have to go to the territories government; ENR gets an opportunity to comment; Environment Canada does as well. Any one of these groups has their – Oh, sorry. The land corporations all get opportunities to comment on the program.

So this is a very different process than what's done in Alberta. In fact, what we do in this process is what they would do in an environmental hearing effectively because a big part of environmental hearings is giving everybody the information so that they can all make comment on the program. Well, we do that as a matter of course. Every project is kind of managed that way for the oil and gas business and I don't know about everybody else. So then to have the land and water board – I keep saying that. Sorry.

You gotta wink at me, Paul, when I do that. The land use planning board to sit there and the judge whether or not your conformable after you've had three layers of regulatory approval plus the communities look at your program seems very odd and seems very obtrusive. Is that the right word? It's just another layer of approval. We do all these things in a matter of course. Heidi and I have had this conversation and she says, well, oil and gas does things but we're not just talking about oil and gas. We're talking about forestry, we're talking about building roads, we're talking about everything.

[00:15:12]

It's pretty daunting when you look at a document that says you have requirements to do things and it says you have requirements that won't affect watersheds, and then you define the watershed as three quarters of the Sahtu region. It says you won't take bulk water out of any process but it doesn't say what bulk water removal is. Anyways. That wasn't how you wanted to do this so maybe I'll just let us go back here.

I guess the point is the community has an opportunity at many points along the way already to comment, to have ownership, and if they have concerns bring those concerns forward. If they have concerns there's always the big stick, the veto, which is we're going to go to an environmental assessment, which basically means the program isn't going to happen this year, you're into a month-and-a-half, 18-month – sorry – a year-and-a-half to two-year process for further consultations and further discussions about the program. There is a tremendous amount of control that's already in place. What did I miss?

Unidentified Female Speaker: You'll get questions.

Arthur Tobac: Thank you. Dick, did you want to...?

Richard (Dick) Spaulding: Yes. Thank you, Mr. Chairman. Two follow up comments to that very useful explanation from Ken. Heidi mentioned that the exercise that we're going through this afternoon is something that the board hasn't looked at. I haven't looked at it either so I'm in the same position as everyone else. I'm coming fresh to the suggested criteria and analysis and mode of presenting the conformity report.

I'd just like to introduce two points at this stage. First, under the act the board makes a conformity determination based on activities. Do those activities conform to the land use plan? There does seem to be the leeway for the board to process more than one application at a time. so people should keep that in mind. If the land and water board, for example, chooses to refer only one application to the board then the board would have to make a conformity determination whether the activities described in that application for a permit conform to the plan. But there would be an opportunity for bundling if people saw that as advantageous. If the three applications that can describe were all presented together because they were being processed at the same time, and if there were some efficiencies involved in it, the board could treat that as one set of activities and if it were seen as advantageous could make its determination based on all three applications at once. That's my first point.

The second point is that in terms of the comparison between the Alberta system and the MVRMA system it's important to keep in mind that the conformity determination that the board is called on to make under the act, if it gets referred to the board or if someone

applies for that determination, happens at the very front end it has to happen before any regulatory approval for those activities is issued. So you needn't be concerned that you're going to find after the fact that you've got a conformity determination pertaining to a regulatory permit that's already been issued that brings surprises to you. The system is designed to put conformity determinations at the front end.

[00:19:20]

Arthur Tobac: Thank you. Paul.

Paul Dixon: Just in discussions with Angela, though, we were just briefly looking at the timelines of conformity determinations or what the CRs represent and a lot of them talk about things that we'd only be able to kind of assess over the life of a project. So you're saying that the conformity determination would take place in advance of the issuance of the land use permit or water licence but then the only thing that we could kind of come up with is that would be true for zoning. Much of everything else would be throughout our process and then beyond that and into the program itself, like monitoring. I don't know how the board plans on dealing with that. I was going to address that further on but here we are now.

Heidi Wiebe: We're just talking. It might be better when we get to a specific example of that to have that discussion.

Paul Dixon: Sure. It's just everything beyond zoning.

Arthur Tobac: All right. If there's no other further discussion I'll turn the floor back to Heidi and she can continue.

Lesson Two

Heidi Wiebe: Okay. The second sort of learning point wasn't so much a need for a lot of discussion but many of the applications, this one included, crosses multiple zones. Because of that there's application of different types of requirements depending on the geographical positioning of some of the elements of the project. The current way of developing applications doesn't address those differences right now, those geographical differences because they haven't been in place before. It was more of a heads up as we're going through some of this. For instance, the special management criteria triggers an area where there might be a need for a change in process and how applications are brought forward in the future.

Existing Use

Maybe we'll just proceed from there. The first question on the Husky application is pertaining to an existing use, and yes it is they've got their exploration licences. When we get to the zoning question, whether they conform or not they would be given a pass essentially on that one as an existing use.

At the start of each application I've got the overall conformity determination, so it gives a breakdown of how each of them plays out. I see that Ken would like to make a comment on that.

Question/Discussion

Ken Hansen: Yeah, Ken Hansen with Husky. Just a question, and it doesn't apply to this application, but in the event that we wanted to have an activity on lands in which there wasn't an exploration licence how does that question get answered?

Heidi Wiebe: Can you give me an example of that?

Ken Hansen: Sure. Or even our seismic program is on our licence block but quite often you have programs that go across blocks or off onto Crown lands. Now, would that then be subject to a different degree of scrutiny because it was on lands that we had the rights to and some lands that we didn't have exploration rights already, or mineral rights already granted.

Heidi Wiebe: I would, yeah, if you have say a seismic program extending off of the geographical area for which their right applies and you extended into a conservation zone where that use was prohibited then yes, that would not be allowed. So if you've got an exploration licence that abuts a conservation zone and you extend off the edge of the right into the conservation zone that would be prohibited under the plan. In order for the project to conform you'd have to limit your program to the geographical extent of the right. I'm just going to just look at Dick to make sure that there's no disagreement there. Okay. Good.

Ken Hansen: This is going to be interactive, isn't it? I mean, we're going to be talking a lot. Anyways, I guess there was one comment made in the questions that you had and that was in regard to having shapefiles (sic) provided, I guess we look to you to provide those kind of informations so that they can be incorporated in maps. I agree with you completely that they would be helpful and it would be all to more clear for everybody if they knew where things were relative to what was agreed to in the zoning.

[00:24:47]

Heidi Wiebe: Yeah, I think the shapefiles (sic), the computerized or digitized files I think would go both ways. So same as right now, we have our Draft 3 shapefiles on our website that you actually used in your application because there was overlays in your maps. So the same as your producing maps with our zoning helps us we do it both ways. We would hope to get your, the applicant's, rather, area of activity so we can overlay that with some of our other information as well.

Project Description

I don't want to go into detail on the project description but maybe I'll, well, it's probably a good idea just to have a context in our minds about what this project is, so I'm going to actually put Ken on the hot seat and see if he just wouldn't mind providing a quick overview because you can do this way better than I can.

Ken Hansen: Sure. The construction part of the program involved building a three-kilometre segment that gets you from the GNWT road down to the Mackenzie River 1.3-kilometre crossing ice bridge, and then 55 kilometres of new roads to be built. Ice roads. It involved a landing strip on a small lake beside the base camp, which was in the middle of the program. There was a construction camp that was up by the Department of Transportation road that people were housed at while they were doing the

construction. Two well site leases were built and then an area was cleared for future staging on the west side of the Mackenzie River. That was the program.

Yeah, there you go. I don't have a pointer with me. Oh, look at this. Thanks, Roger. See if I can put out somebody's eye here. Whoa, that's a long ways away.

Right there is kind of the staged construction camp. Crossing the river. That's 55 line kilometres. The two well sites are, one of them is right here by the camp and the other one's right down in through here. There's a couple of little extra roads that were built to address water sources that were approved by the program.

Prior to putting this program together we engaged the community and did a TK study of the two licences that we were awarded. In their various areas of sensitivity were identified. Some fish lakes were identified. People that had trails and cabins and whatnot. That was all incorporated in the planning that we did. The TK study was followed up by an archaeological assessment and that was done to just highlight some of the areas that might need to be avoided.

A big part of the application was done by specialists within Husky. We had a team of people working on this application for about four months before it was applied. We had specialists like this young lady behind me, Jenica von Kuster, and their team of experts who have worked in the area for 12 years, maybe more, and really bring to it a wealth of understanding of what is environmentally sensitive and what needs to be done. So there's a lot of effort put into putting this application together.

What's not on here is a 3D seismic outline which basically covers the area around these two drilling wells and will allow us to then assess what's the best place to be looking for doing additional work in this program. When we went to the community we were very specific about what we wanted to do this year and it was about getting the data so that we can put together a future program that will help us assess the prospectivity (sic) of the area. We didn't want to get into the arguments about fracking wells because everybody's got opinions on that. We didn't want to get into testing wells or flaring gas or any of these things. These wells are all about getting information. The point is, when we got to make our future plans we know the best way, the most efficient way, the most likely to be successful way of assessing the prospectivity (sic) of these lands.

That give you what you wanted, Heidi, or do you want more? I can keep going for quite a while but I think that's the guts of what we're trying to do.

[00:30:18]

Arthur Tobac: Thank you, Ken. I'll return it to Heidi.

Heidi Wiebe: Okay. No, that was perfect, Ken. I'm assuming if we need specific details I'll just flip it back to you periodically.

So starting with the different CRs, we'll go through each of them.

Conformity Requirement 1: Land Use Zoning

The first one is the zoning. It's related to an existing use so regardless of anything else it would be exempt. For the purposes of the learning I still did the determinations anyways and this activity as proposed falls within the Mackenzie Rivers special

management zone in part and the rest of it is in the General Use Zone in the valley. All the activities as described are permitted in both of these zones. Even if it wasn't exempt it would still conform. I've just gone through that exercise.

In terms of things that came out of it, as I mentioned, in the future for GIS shapefiles probably can't be stressed enough. I remember a few years ago we started trying to do detailed responses on applications and I remember chasing down shapefiles for two and three weeks, at time, trying to get that. If all you've got is a three-week comment period, well, there's your time period. So in the future, once the plan's approved, we're going to need to be able to get shapefiles to do those overlays right away and know right off the bat whether an application's going to fail or conform on the zoning itself, which is the heart of the land use plan.

I guess I'll stop there and see if there's any questions on the zoning. Maybe I wouldn't mind putting Paul on the hot seat there and just see where that whole shapefile thing is happening with the land and water board's working group.

Shapefiles

Paul Dixon: Yeah. Was there a little explanation about what that is because I know that Dan, not everyone knows what a shapefile is? It's basically a map file and one of the working groups is working on addressing that. Basically we're going to make it a requirement too for applicants to include shapefiles of the area. It's not a big deal from my understanding since you can see the map that was produced. It would have been used, shapefiles would have been used. It's sort of already being done, just not formally.

Heidi Wiebe: That was one – Oh, sorry. I see Jesse.

Questions/Discussion

Jesse Tigner: I was just wondering kind of how you guys were intending to catalogue those shapefiles. The reason I ask is because we just completed an analysis for Northeast BC, which has a very different history of exploration and development, obviously. One of the things that we found was that kind of the footprint, oftentimes if it wasn't stored properly, wasn't located accurately with respect to all these other things that are going on on the land sometimes were resulting in extreme exaggerations of what the actual footprint was. I'm just wondering, as we kind of go forward now, if we're expecting to likely see quite a bit more activity in the Sahtu what's your guys plans for ensuring that data remains of a high standard and calibre?

Paul Dixon: That's a wonderful question. I guess one of the biggest issues all the land and water boards face is that we haven't historically had too much GIS ability in house and thus have not put a great effort into storage or use of GIS data. I can't answer that truthfully – or, not truthfully, I'm answering it truthfully now. I can't give you any specifics on how we'll address that in the future but there are lots of resources out there to identify best practices. It's not new technology so we'll make sure that happens.

Jesse Tigner: I would just sort of throw out that that's good and from our experience working elsewhere it's critical as we go forward to keep track of what's happening. Like, one of the most fundamental things that we should be thinking of with a long view.

Paul Dixon: We're looking forward to Explor's help with that.

[00:35:24]

Arthur Tobac: Thank you for that. Going another item. There's a lot of people back here and if you can speak up a little more so that everybody can hear your questions and your responses it would be a lot easier for us to hear you if you're up closer to the mic. With that I'll refer back to Heidi again.

Conformity Requirement 2: Protection of Special Values

Heidi Wiebe: The second CR, CR-2 is the protection of values. Do you want to scroll down? This is the first of the two conformity requirements that apply exclusively in the special management zones. You'll recall from the map that there's only a small portion of this project that is in the Special management zone and this is where the conformity determinations get a little bit more complex because you're teasing out what's actually happening in that special management zone.

The first question to be asked is what are the values that are in the zone because the requirement is to conduct the activity in a manner that protects the values of the zones. So what are those values? The exercise that was done was to look at the zone descriptions and, in particular, the reasons for protection under each zone description. There's also a fairly good description for each of them of what the ecological and social values are. I've listed those in the report based on what is in Draft 3 of the land use plan.

The criteria that I've come up with as a start for this CR, we're looking for basically identification of those cultural heritage areas. The zone description talks about, because it's the Mackenzie River, a lot of cultural sites, recreation areas, it's a heavy area for wildlife harvesting, a lot of camps associated with harvesting, trap lines, cabins, potential for burial sites. All of that would be documented through community engagement, traditional knowledge studies, as well as the Prince of Wales database and whatnot.

We also know from looking at all of the information in the plan and zone description that there's a number of special designations within the area. So there is identification of the area as a heritage site through the places that we take care of joint working group. There's a migratory bird terrestrial habitat site in the area. There are known archaeological sites. The GNWT had identified it as an important wildlife area for moose. So through the zone descriptions and the information in the plan we're basically cataloguing all of the special values that are in this area and what we want to see in the CR is acknowledgement that those are there, so knowing that they've been looked at and that they've been planned for. That's what we're looking for.

The next page looks at the analysis and I don't want to go through all of this but essentially what I did was pick from the application all the different mitigation measures that would pertain to addressing these values. Together with analysis of does this seem to address the key values that are listed for this zone. Yes?

Questions/Discussion

Ken Hansen: Ken again. Are you talking just about the special management zone now or are you talking about the whole project area? So the general use area as well?

[00:39:27]

Heidi Wiebe: The CR only pertains to the special management zone, so in this case it's only that part of the activity –

Ken Hansen: That small segment.

Heidi Wiebe: Correct. In going through this process, by the third application I figured out that it's easier to do the general CRs first, which is how the plan was initially set up, and then come back and look specifically at the special management area. But this CR and CR-3 only set the conditions for the special management zone. The board could not then apply those conditions more broadly.

Ken Hansen: I guess one of the issues that I have with this CR is how you're able to actually make that analysis because you don't have a copy of the TK study that's done and you don't have a copy of – well, you've got a copy of the presentation that was made to the community as part of our community engagement and I guess you do have a copy of the minutes of that, so there is a bit of that dialogue. But this assessment is something that's done by the land corporations and I know that there's a requirement in the land and water board that they want evidence that these things have happened, that there has been a TK study done but in the past the community, the beneficiaries have been very reluctant to have the TK study knowledge be made public because there's culturally sensitive information there that they don't want to see come out in the public domain. So if you don't have that information how are you able to make an assessment about the impact on special areas?

Heidi Wiebe: The question didn't come up in this application because all of that was available on the public registry. So the TK study is on the public registry. I did look at all of that.

Ken Hansen: My bad.

Heidi Wiebe: I know in the past there are a lot of times where that information is not available. I remember specifically in this application a line that says the community was consulted about whether or not this information could be used on an operational basis throughout the project and therefore be kept in the public domain, so there was a line that said that and there was the TK study and all of the consultations on the registry. So I did look through all of that information.

If that information as not available, to have this learning discussion, then we would probably be looking for something in the application or the documents on the record that, yeah, the community had done the study with the proponent and that the information had been used appropriately to avoid some of these sites. So some form of demonstration that, yes, we got the information and, yes, we have avoided these sites. Then if anything we would make a phone call to the communities to see if that actually happened.

Ken Hansen: I guess I just come back to why the land use planning board wants to be responsible for making that assessment when you've got the land corporations, the Sahtu Secretariat reviewing the application and have the ability to make information requests to the company or to the land and water board for clarification if they don't understand or if they have concerns. I'm not sure what you're adding to the process with this conformity requirement.

Arthur Tobac: Yeah, Heidi go ahead, then we have Gorgon after Heidi.

Heidi Wiebe: I was just going to say that I don't have an immediate response for that. I'll think about it. We work with the CRs and the information that we've gathered through this process and this is where we ended up on the CR. So this is a potential implementation question.

Gordon Yakeleya: Thank you anyway. Just speaking to the TK for clarification, I guess. The land corporation doesn't do the TK study. It's the RRC. The reason why the RRC is doing it is because it's pertaining to the land and area, and they know all the people that have been working in those areas, the trappers or whatever, that harvest the land. That's why the RRC is handling all the TK studies in Tulita.

One of the problems that we have is that sometimes companies are only limited to a certain amount of people that they can interview, dollar wise. There's more than a few people that use that land but they're saying no because there's only a certain dollar we can give you. You can only interview this much. So there's an issue there.

Then I guess one of the things I'd really like to see happen on the TK study is what I referred to this morning, the burial sites. If anybody knows where a burial site is or a historical area in this area that would be part of the information, but I know in the past that we've been negotiating when we found out when we give our information out all our information is on public. Everybody knows about it. That's why I think as Aboriginal people we like to say with our partners we'd like to keep it confident. You guys can know about it but not release it without our consent. I think that's the kind of agreement we made with the pipeline group.

I think that's why I just wanted to state that because I think it's very important that we gather as much information from the people that work but it comes down to dollars. The company is saying there's only this much we can give you and there's only that much people can be interviewed. I just wanted to state that.

[00:45:42]

Arthur Tobac: Thank you, Gordon. We'll have John [Donihee] and then Peter and [Inaudible].

John Donihee: Thank you, Mr. Chairman. I think what the interchange between Ken and Heidi raised in my mind was simply the question of when you look at some of these CRs what's the test to be applied by the organization, whether it's the land and water board or the planning board or some other regulator? What test do they apply to decide whether or not the CR requirement has been satisfied? To just be more specific for folks that don't think in those kind of terms, is it good enough simply to say that when the application is filed and materials are reviewed by whichever organization is responsible for testing conformity with a plan that a TK study has been done. So you get a letter and

all it says is TK study's been done; check. Is that all the evidence that's required? How much, what's that test? Is it a presence/absence, yes/no, do you actually – The concerns I'm hearing from Tulita, which I understand, is we don't actually want to file or you don't actually want to file a TK study with somebody else in a situation where that information might be distributed or get out. That puts some constraints on the way that conformity can be tested as well. I'd just like to suggest that it's a good exchange but as we go forward, for every one of the CRs that we're looking at, I think it's really quite important to set our minds to the question of just what does the authority that's responsible for deciding whether this application, this activity conforms with the land use plan. Just what information do they have to have before they can say yes?

Arthur Tobac: Thank you. We'll have Peter and then we'll have Heidi respond to both of these if there are questions from Peter as well.

Peter Menacho: Thank you, Mr. Chairman. Just to remind everybody, a lot of good questions are going back and forth. I know there's frustrations coming out about who they respond to, who they report to. Again, the North is quite different. We have a land claim base. There are 26 chapters in the land claim agreement that are fundamental rights that apply to me. One jurisdiction to another, it doesn't mean they're all the same. They're different. Agreements are different. I just wanted to point that out because it just goes back to the history. It all started when the Dene Nation, when they gathered, because there was more activity within their own back yard. There's a serious inquiry about how they need to be consulted. Because of the treaty. Section 35 also applies to everybody. Chapter 13 of the land claim agreement applies to all of us that are beneficiaries to the claim within the whole settlement area.

[00:49:57]

I know it's a frustrating point to some of us but we wanted to make sure that we make sure that we hear from everybody. Don't matter government, industry, regulators. We need to, you know, a lot of effort is being done. Work. Still today 15 years we're still in the making of finalizing the land use plan. Because the chiefs never signed on their rights yet. That's why when the elders were part of the process, that's why we come out with the new comprehensive agreement that protects me, which is the land claim agreement. That applies to everybody that's a beneficiary. Now these rights are up here because we never give up everything. There's certain entitlement we have within the whole Sahtu Settlement Area. The chiefs never gave up all of it. That's why 6 and 35 still applies to us.

I know it's, you know, I just wanted to update some of the key people that we have here. I know it's a frustrating point. We always try to accommodate but some agreements are different in the land claim process. One district has a different view. You also have to remember that the land claim was done collectively and applies to everyone. Every individual has the right. I know it's a learning process. That's why we're all here. When I go home and sit down with the elders and it goes back to the same fundamental question.

I don't want to continue to carry on. I just wanted to make sure that some jurisdictions are different. Up here we have a land claim base. Some of them don't have entitlement but at least everybody has to be accommodating. We're not saying no to development.

We're not saying yes or no. but we wanted to make sure that these rules that apply to the community and the community has to rely on the regulatory boards that we set up because they are the voice for the community. So what goes on the land with permit, conservation zones, general, everything. I just wanted to point that out. Mahsi.

Arthur Tobac: Thank you, Peter. Just a brief opportunity for Heidi maybe to respond to John and then we have George Barnaby afterwards. I see Tom's hand up too as well, so Tom will come behind George. Thank you.

Heidi Wiebe: I don't necessarily want to respond directly but over the course of plan development the last few years, starting from where this board came in about 2008, a lot of the conditions in the plan used to be in the special management zone. It was pointed out through comments starting three years ago that many of the conditions in the plan are already applied everywhere through the regulatory system. That's one of Ken's key points here is we're already doing all of this. It was felt that by having those in the plan under special management zones only was misleading because they're already happening and their better fit if they're in the plan is in the General Use Zones.

[00:55:03]

The board had moved many of the conditions in the plan to general use zones basically applying everywhere two years ago, two drafts ago. It created the question, so what are special management zones? What makes them special? That has gone through a bit of an evolution but it's always been a bit of a question mark. What came through the discussions leading up to the hearing is that in special management zones there should be this heightened awareness of special values. In the zone descriptions we track specifically where many of those values are and it was determined that any activities operating within a special management zone basically should show that they're being carried out in a manner that protects those values and then the second condition being that there be a monitoring program in place to ensure that those activities aren't impacting those values. And that became the cornerstone of what a special management zone is. That's sort of where we are now in terms of what the conditions in the plan say.

In going through this exercise it became clear by the third or fourth application that it's, as I said, easier to track many of the conditions, the later conditions, the wildlife, the water, the burial sites, and archaeological sites because many of the same conditions are also in the special management zone. It has become clear through this exercise that the distinction between general use zones and special management zones is getting smaller and smaller. I know I've raised this question before at the last couple workshops, if that distinction is getting smaller what is the expectation that is higher in a special management zone versus a general use zone? Why are these places special and how is that distinction best made? It has come through this exercise that we haven't got a clear answer to that yet and I think that's a key question that has to be answered as we move forward is how do we make that distinction a little bit clearer and effective. I'm not sure we're there yet so perhaps that something that we could keep in mind and it may be best to revisit this question after we've gone through the other CRs that apply everywhere and come back to, okay, now how is the special management zone different.

I wouldn't mind hearing from the rest of the commenters out there, but then maybe the way to attack this question is to come back to special management zones after we finish the General Use Zone conditions.

Arthur Tobac: Thank you for that. You make note of that that we may have to come back to this particular item because it's unclear as to what we're going to do with it. With that I'll move on to George and then Tom.

George Barnaby: Yeah, that's what I was going to bring up as well that all our land is important to us but then there's special areas that have to be protected. So in Good Hope they outlined along the river where there's a lot of activity needs to be dealt with in a special way. They need special management along the river because of all the activity that is happening. The transportation of barges and landing sites and things like that. I guess to make it clear, all our land is important but we should mark out areas that need special consideration. We brought up the caribou migration routes. I think it was down at one time. I don't know why it was taken off, but that should be kept there as a flag to deal with it in the activity. Then you have to think about the caribou migrations and caribou wintering grounds. I think it's that time to mark areas that have to be dealt with in a special way because of wildlife and spiritual sites and things like that.

[00:59:53]

Arthur Tobac: Thank you, George. Tom.

Tom Nesbitt: I'd just like to pick up on something Peter said a second ago and try to answer Ken's question, at least in part.

First, as Peter mentioned, the Sahtu Land Claim Agreement provides for the establishment of one comprehensive system of land management which includes access and benefits agreements, it includes a land use plan and land use planning board, it includes the land and water board, and environmental assessment. Those are all complimentary functions which need to be undertaken to ensure that the land is protected and that participants play a real role in decision making, and that their wellbeing is indeed protected as required in the land claim agreement.

That complimentary system of land management is reflected in the legislation and the simple answer to Ken's question why is the board doing a conformity determination is because it's required by the legislation to do so wherever an activity is referred to it. I guess try to read some intention there to the people who developed the legislation, they felt that there is likely at least at times, and we've felt in the first three to five years, a requirement for one body to establish one standard of conformity determination, if you like, so we don't have contradictory conformity determinations by different regulators.

I think there's a more practical and fundamental reason for the land use planning board doing this, what we've been working towards, and that is because the people in the communities, the land corporations, the RRCs, they play one role and the land use planning board plays another role and those two roles are complimentary. We've heard on many occasions references this morning to the need to develop the capacity of the RRCs and the land corporations to be more fully involved in technical monitoring. I agree with that. That development of capacity will take place over time. It's not going to

happen immediately. Frankly government is also developing its capacity and industry is developing its capacity to its own credit as we go along as well.

To think that the land corporations, for example, which I don't know if they even have any really full-time dedicated staff to do that, to look at land use plans. Certainly the Deline Land Corporation has not such dedicated staff. To think that they can suddenly do all the conformity determinations themselves is simply mistaken. To my mind the land corporations and the RRCs must work together with the land use planning board and the land use planning board should have a more developed technical capacity because it does after all have funding for this subject matter. Together over time we will build up the capacity to the land corporations and the RRCs and to the land use planning board to do better and better conformity determinations. We will not do perfect conformity determinations from the very first day. We should accept that errors occur and we learn from those errors. We should give a practical approach to this.

Nonetheless, there is a complimentary role to be played by the land corporations and the land use planning board and that's one of the reasons why Deline has supported the land use planning board during the first three to five years doing the conformity determinations. With the capacity also of the industry. I mean, Ken, you've mentioned your team of experts. Jesse's mentioned his expertise. We respect that. It's by pooling that expertise, as people like Leon are telling us, that we'll get a good land use plan and a good implementation of a land use plan. I hope that helps to answer what I think what the land use planning board is adding in doing a conformity determination. Thanks.

Arthur Tobac: Thank you, Tom, for that whole presentation reminding us what our goals are. At the end of the day we do need to all come up with a plan or something that each organization can come away with a bit of comfort knowing that their issues and interests in this whole plan has been brought forward and that we are considering each of the presentations being made by each of the organizations. With that in mind, we are still quite trying to cover off some of the conditions and requirements for the plan. So we bring that back to Heidi to bring up on the next issue. Okay, Ken and then Dougie.

[01:05:12]

Ken Hansen: I guess I just wanted to make a comment that this is a gruelling process. It takes a tremendous amount of time and effort from industries point of view, but from a lot of people sitting around the table who are actually involved in the process as well. It can work for one or two applications but what happens when you get 50 applications because things are working and people are developing opportunities? How are you going to manage that with the process that you're putting in place here because this is tremendously cumbersome and time consuming. You've got a focal point in the land and water board who really has the responsibility to put conditions on what's done on the land and how water is used in the area. They are casting a pretty wide net to get input from all involved stakeholders, regulators, various government bodies. It boggles my mind to see how you would deal with a step up in activity level. The kind of levels of activity that you're seeing in the provinces to the south would be completely unmanageable.

Arthur Tobac: Thank you for that. Dougie.

Douglas Yallee: Yeah, I'd like to mention that the land use planning board did all this work here and the land use planning is part of the land claim agreement. It's always been. It's only now that it's starting to come into play when it was supposed to be implemented long ago. The only reason why the communities are speaking up is because of the protection that we want to see for our own community. That's our protection is through the land use planning board. Industry, whoever works in our area, our community. That's, other better, other stuff that we have with, on agreements, permits, licences government is always picking that stuff that we put together. They sort of take it apart on us. Now we're coming up with a new land use planning for the groups along the valley or wherever they may be. It's just something that's there for our own protection that we can work with. Thanks.

Arthur Tobac: Thank you, Dougie. We'll have George and then Chief Junior McNeely afterwards.

George Barnaby: Well, way back when DIAND was running things people were not involved in anything. I remember they used to have an old settlement council. They didn't even contact the band or the chief. They wrote to a settlement council, which was sort of a municipal council, telling them that there was going to be activity over here and do you have any environmental concerns then write in. But usually the letter came and the company was already on the land and working. People were not happy with that. But now we have a better system. I know in Good Hope we always go through our assembly. We don't even let the chief and council or the boards work by themselves. They have to answer to the whole community and get concerns from everybody. So from one extreme to the other, I guess.

We don't want to go back to how it was. I know Alberta does things differently but a lot of people are not happy with it. They have no say, no involvement in it. That doesn't make it any better. It might be faster, but not better. We have a lot of problems with the tar sands but nobody listens. The government just does whatever they want. They don't listen to people at all. That's not a good way.

We have a system in place that listens to everybody and you don't get any surprises. You're involved and you know when things are going to go ahead. I know for our people they're happy with that. For us it's a better system. This way it's slower but then you have no arguments afterwards. Things go ahead and everybody's satisfied with it. The other way you'll be fighting a battle all along and things won't go ahead very well.

[01:10:41]

Arthur Tobac: Thank you, George. Junior.

Chief Wilfred McNeely, Jr.: Yeah, I keep hearing them comparing us to Alberta or BC. Like Peter said, we're in a different place here with land claims and I don't like to be compared to another province. I know how Alberta works and how they do their townships and how they put their lands out for sale and it happens once every month. Up here it's once every year. I got no problem, I'm not against development. I'm for responsible development. I keep hearing them talk about the Sahtu Land and Water Board. Rumour still has it they may be pulling this board back and putting a super board back in Yellowknife. I sit here and kind of wonder to myself how this is going to affect

the whole play of what's going on here. nobody seems to be answering that question. What is going to happen once this land and water board is gone? Is industry still going to have to put out 37 applications? It's not 40, by the way. Are they still going to have to wait for 42 days? He said it's 60 days; it's not, it's 42 days. I'm not sure what's going to have to happen here and I'm still trying to figure this one out in my mind.

Anyway, I just wanted to make those comments because I'm in favour of what George said, I don't like to be compared to Alberta. It's a different country up here. Where you're working. In Good Hope in our area a few years back in 2003-2004-2005 I think there was about four or five different oil companies working in our area all at the same time. the land and water board got all those applications out. we got all our A and B agreements all put in place. They all had time. all those permits were all submitted at the beginning of September and it was all approved within 42 days. Every one of them went out to work. All the requirements were met. I can't sit back here and then just say, oh, what happens if all these other people come in? What might happen? It's been done. We've done it. We've proved it over and over in our area. I don't know, I haven't seen any problems with it. The only problem I seen with it was instead of four years they moved it to five years because it gives them a year before they decide they wanted to make a, if they wanted to move on their – Because the way they put their call for nominations out they have to drill a hole within four years. I think they moved it to five years now. I understood that one of the reasons why is because it gives them that first year to put their plans together, get all their ducks in order, get them all so they're all ready to go. It's working. There's, I don't see a problem with it.

I would really like to know what will happen once the Sahtu Land and Water Board's dissolved. Everybody's just tippy-toeing around here thinking that, you know, what's going to happen if it goes away? Then what? It's going to be a super board down here or are you still going to follow the same requirements that we laid out in our area? That's the number one question that I would really like answered. Because if it's a super board from down here, like George was talking about, the reason why that land claim was developed and put these land and water boards in place is because there were some guys that were out on the land and one morning they woke up and there was a bit CAT train driving right past them. They had no control over who was going to on their land or what they were running over. You know? These are the types of things that us as land owners think about. We're not against development. We're for development. At least ask us and tell us first. That's all we're asking.

They continuously, the regulators come in and say oh, we have to talk about the caribou and this and that. Now the caribou is close to the community and it's our responsibility. Good Hope and Colville Lake's responsibility to monitor people coming in and trying to harvest these animals.

I think and I still believe to this day that we as the land owners, we who are living on the land, are the best stewards to these lands. I don't know what else we could say but I would really like that question answered about the land and water board. Thanks.

[01:15:31]

Arthur Tobac: Thank you, Junior. I have Jesse speaking right up behind you but I'll, part of these issues that are being brought forward by the community members are

things that everybody should be aware of. They are making their cases known on behalf of the communities. Not all of the communities and members can be here so we do have to rely on the leaders and representatives of the land corporations that are here to bring forward the views of the community. You're hearing some of them. I shouldn't have to remind you that we just got through a whole process with the Mackenzie Gas Project in 2004-2005-2006 which brought forward a lot of the issues that Junior has brought up where we had a lot of companies exploring on the land. Not only that but we had scientific studies that were being conducted on the land at the same time. There was a lot of aircraft in the air and people felt that they were being impacted not only on the ground but in the air with the noise. These are the reasons why there should be something consistent that everybody understands that there is a process, that it brings certainty to all parties and governments, industry, land owners. We're trying to work towards that and so this is why the land use plan is quite important to our people. It brings them certainty. If there's processes that are in place that protect a lot of the sensitive areas, but they also understand that there are areas that are open to industry to explore and that government does have regulatory processes that we are also familiar with and we use. Like Junior said, they did work in the past. We're not adverse to using them throughout this process as well. If you keep that in mind I think, and we try to fix some of the details that Heidi is trying to work on, we'll probably get there hopefully sooner than later. With that I'll turn the floor over to Jesse.

Jesse Tigner: Thanks. I actually am interested in the answer to that question too though. So maybe I won't ask my question and I'll just re-ask Junior's there about if this Sahtu board is dissolved and goes back to a super board here what would happen to the whole process?

Heidi Wiebe: In the plan for the most part we specify regulators will do certain things. Right now our assumption is that it's the Sahtu Land and Water Board but if this goes through and it's now the Mackenzie Valley Land and Water Board that has jurisdiction then I guess wherever we say Sahtu Land and Water Board that would become Mackenzie Valley Land and Water Board. So the regulator would switch but the requirement to follow the Sahtu plan would not change. Right? So there's still Sahtu specific conditions through the land use plan that whichever regulator it is has to comply with in terms of carrying out their powers in accordance with the plan. Yeah.

Arthur Tobac: Thank you for that. Roger.

Roger Boniface: Yeah. I'd like to, I know, like, industry, the guys next door, Husky guys are bouncing back and forth like we all are once in a while here, which is allowable. I kind of want to do the same thing. I would like to hear from somebody from the federal government, and I'm sure there's a few in here, at least a couple that can explain to us exactly what's going on, what departments are looking into dissolving the land and water boards, who's working on it, what the position papers are called, and just give us a lowdown on what's going on. Give us a lowdown on what's going on. Is there anybody here who can do that? Because I've witnessed individuals reviewing papers and looking at the Sahtu Land Claim and what they're reviewing is how they're going to get rid of the land and water board. Nobody's come forward to the Aboriginal groups and been open about this. Here we are trying to tie up and wrap up our land claims, our land use plan so everybody can move on in a positive direction and things are being torn right from

underneath our feet while we're trying to solidify our foundation. It sucks. Is there anybody in here who can explain what's going on?

[01:20:27]

Arthur Tobac: If can, with respect to Roger's questions and his motives for asking these questions, and they are important questions and it pertains to the regulatory process, but I was wondering if we could just refer that to the break when you can bring it up and then maybe if you do have some discussions between the federal government and yourselves then bring it back and we'll throw it out there maybe. For now we're trying to keep to just the agenda, which is trying to get through the conformity requirements. I can't get your name there. If you could just say your name.

Matt Bender: Hi, it's Matt Bender with INAC. In all fairness, it's a fairly short response and I'd rather do it in full plenary here. It's not like I'm in any position to speak to what's going on because at my level and people at much higher levels than me, they don't know. Our mandate here as INAC representatives is to work under the current claim, the current regime to reach an approved land use plan in a co-management framework like we have now. In all honesty, none of us are privy to the discussions. Those are political discussions. You've got John Pollard reporting directly to the Minister. It's important to realize that bureaucrats are not invited into those discussions. We don't know what the next six months will look like. All we can do is our best given our current mandate, which is to work under the existing regime. We're committed to doing our best in that regard.

Arthur Tobac: Thank you for that clarification. It's quite helpful if we know some of these things ahead of time. for now we'll turn the chair back over to Heidi so she can continue.

Heidi Wiebe: I'd like to move on to CR-3 and, like I said, maybe come back to CR-2 later because that one is of particular issues to discuss once we've gotten through some of the other conditions.

Conformity Requirement 3: Project Specific Monitoring in Special Management Zones

So CR-3 is project specific monitoring. I've got that CR up on the screen. The criteria that I put together for this one, the requirement is to have a project-specific monitoring program that is sufficient to monitor the effectiveness of the activity's proposed mitigation measures in protecting the values of the zone as defined in the zone description. Looking again at the same zone values identified for the previous CR I think the key part of that CR is the sufficient to monitor the effectiveness of the mitigation measures. We're looking for some evidence that there's a monitoring program in place that would ensure the activity is not affecting the key values within, in this case, the Mackenzie River Special Management Zone and those key values were identified as the water and shoreline on the Mackenzie River, the wildlife habitat, and some of these traditional use cultural areas.

In order to figure out what scale of monitoring program is effective or is required it first requires an assessment of what's the potential for impacts. That sort of becomes the

first criteria. Is there a potential to impact these values and if so is there a monitoring program in place sufficient to monitor for those impacts?

In going through the analysis we looked at the different monitoring activities that are discussed in the application, and they're all listed in that next section. Then we just sort of went through a description and analysis of, okay, where are the potential for impacts? So in terms of protecting the traditional use or cultural sites or archaeological areas they did a heritage assessment, they demonstrated in the application that routing was adjusted to avoid the sites that were identified in their TK study, and they used the 150 metres setback – which is one of the requirements later on. They said that if there's a suspected site discovered then they would not disturb the site, so that demonstrates protection. They stated that there's a wildlife environmental monitor who would be there to assist the crew in avoiding these areas. Combined there's very little risk to the sites, so yes, in that sense we believe that would have been made, that requirement would be met.

[01:25:44]

For wildlife, it's operation in the winter season, it's frozen conditions. We're doing an assessment of what are the potential for impacts and how are they monitoring for those. They've got a wildlife monitor and they're monitoring access by local users.

With respect to monitoring for the water and shoreline, again this is very little of the activity within the special management zone. You have frozen conditions. They're monitoring for permafrost degradation. All the different areas in which these values could be impacted there is some form of monitoring. That's what we were looking for in this application.

The final assessment that was proposed is that, yes, this would conform and there may be some additional implementation measures required. I'll just finish the run through.

In a sense, monitoring reports, the second part of the CR talks about distributing the monitoring reports. That would still be required to be imposed as a condition because that's not talked about anywhere.

In general the way the application was assembled, I mean, they got a 60-page environmental protection plan that identifies all of these different things, the information was available to make this assessment I think fairly easily. Because there was such a volume of information what I flagged is it would be helpful to have a table or description of here's the values, here's how it's being monitored. A way to specifically address the CR's requirements through the application. Not an absolute necessary but a very nice-to-have in terms of how to address the CR. I'll stop there.

Questions/Discussion

Arthur Tobac: Ken.

Ken Hansen: I like all that you said. I wasn't going to comment on that. All I was going to say is that we fully buy in to having monitors involved in the program in addition to the regulators who have a responsibility to inspect the program and ensure that we are conformable with our water licence and our land use permit. The monitors are an integral part of the team. They are embedded within the program. They don't just work

on the special management area. They work on the whole program and the area surrounding the program. There's real value for the company having them engaged because the community feels like they're getting direct feedback, they're getting input on what's going on in the program. They don't have to rely on the company and the regulators to give them that as well. We have no issues with the monitoring. We think it's an integral part of the program and we're glad to have them involved. The RRC provides trained people so that they can come and work with us, and the reports go to the RRC so they can be distributed. I think the system's working and it's working well.

Arthur Tobac: Thank you. Jenica and then we have Leon way over there.

Jenica von Kuster: Jenica with MWH. I just wanted to make one last comment about the monitoring and the sharing of the reporting. This is one of the first opportunities or years, if you will, where we've encountered more or less an issue with sharing the monitoring checklist that we've helped create with RRCs, certainly in the Tulita district. This year what we ended up coming up with because it was an issue that came directly from the Tulita RRC and how this information was going to be shared, as it is a requirement of the terms and conditions of the permit we knew that we had to share this information but how to do it. In practicality it's not just as easy as faxing somebody a report. It ends up being quite onerous. When you need to share it among several agencies that even becomes more difficult. What we ended up developing for this Husky program was a third-party website, like an FTP holding site, basically, that the on-site supervisor at the Husky program could scan the checklist and the photos that are obtained for the monitors every day but they would be uploaded on a weekly basis. Then we would give access to the required agencies and they could go in every week and have access to those checklists and photos. So far it seems to be working and we'll certainly develop it a little bit better next time and just make sure that the information is shared. It's just not sometimes as easy as it sounds on paper.

Arthur Tobac: Thank you, Jenica. Leon and then, I don't know your name there.

[01:31:18]

Leon Modeste: [English translation begins] Thank you.....I'm thankful to hear what you have all said. No one has said anything bad, this is the way we should sit together. What you are discussing, in the future, if the world is still here 900 years from now...if we are working for something that will last that long, there should be no rush. If you want to work well with people, you have to do it slowly, carefully, that way things will go well for a long time. That's what we are here for. When someone says something, you can't refuse one another. When you do something good, it helps people work well with one another.

I mentioned the world still being in existence 900 years from now, we have to be concerned for the wildlife. You the oil companies are saying you want to work on the land. Think about this, when you work on too great an area of land, it causes the land to deteriorate. There's the exhaust, when working on a huge tract of land, there will be many vehicles travelling on it. They are talking about (greenhouse) gases going up into the atmosphere, this has to be cause for concern. The oil companies, if you are going to work on the land, don't be in too much of a rush. If you take the time to meet with us like this, we won't be too worried about you. 9 hundred years into the future, if there no

longer are wildlife, what will our future generation have to eat? They can't eat money, if there is no wildlife left, that may be the end of them. We are not refusing you, but continue to make good decisions together. At this time, it's hard to say to one another, hurry, work, hurry, work on my land, work on this size land. For myself, this is not right. When we talk about working together, the whole region has to come to a decision together. That's how we will work good together. You are talking about working on oil/gas, we're not telling you you can't but I hope you can reach a good agreement together. Don't turn words around on us, keep them straight. I just ask you to think about this, I'm not telling what to do. Thank you. [English translation ends].

[01:35:44]

Arthur Tobac: Leon, mahsi cho. [English translation begins] Thank you Leon, we're talking about the land, how to work on the land. We thank you for your message, we thank the elders for what they say to us. We depend on you. It is by what you say that helps us make good decisions on paper. [English translation ends]. Lindsay.

[01:36:16]

Lindsay Armer: Thanks, Arthur. I just want to discuss a bit about, I've heard some really great comments from industry and I'm encouraged by the programs that they're already doing. Part of the land use plan is to standardize this approach. So the companies that I've heard here are doing really great work. I think standardizing that is part of the land use plan. In interpreting CR-3, for example, it should standardize the expectations and the approaches for these monitoring programs. Right now I think it's not exactly clear what the conformity test actually is. There is, is the test simply is there a monitoring program? Is that enough of a test? Could there be a template or clear guidelines as to what needs to be in a monitoring program?

Heidi Wiebe: I guess in doing this initial trial run what I was looking for is what are the potential for impacts and what monitoring is happening to address those impacts. At this point it's a bit of a difficult call. I hear what you're saying. Is there a way that we can formalize or standardize that better and provide more guidance? Possibly. Then I'll go back to Danny's point at the start of this workshop: Let's propose. I think the benefit of the plan is when information and ideas come from everybody in the group, it's the collective wisdom in the room. That's part of, one of the main reasons why we bring so many people together is to try and raw on everyone's expertise. Particularly from industry and organizations like Jenica's who do this work. Yeah. If there's an opportunity for us to bring that information together and if it's appropriate to put that kind of guidance into the land use plan, which is the fundamental question we're asking throughout this exercise, let's hear it.

Arthur Tobac: Follow up question, Lindsay.

Lindsay Armer: I guess the next question then would be to the industry folks. Would it help to have the template or specific guidelines for the monitoring programs? Or is the way that it's set out now all right for you guys?

Arthur Tobac: Thank you for that. Something for all parties to consider. They are identifying some gaps within this whole plan and it's part of the process. Over the years we've always known there were gaps in all of the processes including the area of

monitoring. Whether there was sufficient training for monitoring in the program and what it would entail in that program as well too so that people who go out in the field and do monitoring are qualified to judge what's in compliance and what is against regulations.

With that I think I've got Lucy next. If I miss anybody it would be helpful if you raise your hand higher. I'm not quite aware all the time of who's raising their hands. If I miss you put your hand up and I'll recognize on the floor who's got their hand up. Last one I got is Lucy.

[01:39:55]

Lucy Jackson: Will it work? Okay. Even at the distance, eh? Anyway, First Nations of the country are intelligent peoples. Oh, okay. That's what I asked. Okay. Anyway, I'm not for development. I'm against development. You know, I've been sitting here for two days and I'm just boggled. I'm frustrated as to this whole momentum of movement between community and industry. Is there a conflict of interest here? What is the internal communications? The districts, of course they're separated, but internally I'm assuming. There's a working mechanism in there. I'm talking about the oil companies too because they.... Do the communities know that this particular body may be dissolved and somebody else over there in Yellowknife will take over this platform that we secured for the Sahtu peoples? That's what I was thinking. That's what I will remain to think that it's less secured for the First Nations of the country and the Sahtu.

There's no measuring mechanism to gauge or measure the emissions even in our homes. Leaders don't because we have single mothers and elders that live in homes. Fumes are just in the building. If we cannot even fix that little small little scale of emissions in homes what are we going to do about the larger emissions? What are we going to do about the larger emissions? Surely they must know something about the emissions internationally because we see the emissions two or three years ago when the companies on Colville Lake were, probably three or four companies. That was enough to cost a high stress for that small little community. I'm surprised they're not here.

In the event it comes to 50 because of what I learned yesterday in the other meeting here, monitor has to be mandatory. Like the elder said, they are our only means of sustaining our lives. Brought it to that level. Has to be mandatory. They have to be well trained. Independent. Away from. I'm assuming that's how we are supposed to be working as First Nations because we want them on our lands to do what they have to do, but in the event that it comes to that many oil companies we have to streamline it well with GNWT and federal government to ensure that the small little populations of First Nations in our communities will have that mechanism of feeling secure, a measure of security which we never had.

If it does move to Yellowknife with a cold or super bug or whatever it is do the peoples in the community know that there's eight co-management boards? Are we going to get lost in that? What is working for the leaders internally? What's going to happen to that? Why this confidentiality yet? All these things are crossing my mind because when you go to Ottawa the exchange of debating is so heavy and just, whew. Here we're trying to be, you know, we're trying to be polite with one another to ensure we don't step on somebody else's toe. We have to stand up for our lands and we have to stand up for

our peoples in our communities. What is wrong with saying, okay, I'm going to boycott this today because we need a measure of security? Because we don't have that in our communities. I have so many things working in my mind in the last two days, yesterday. It's their conflict of interest. There is, I'm assuming. I'm assuming, but I know it is, it's everybody securing. It's not working for our peoples. It's not working for the young peoples. It's not working for the children. It's not working for the mothers and fathers that are trying to....

[01:45:24]

If it's 50 or five oil companies on there that's a massive hectare of lands that are going to be used. Water. I see that even in special management zones. It's a special management zone but it will be open for them to take what they want. Timber cutting. Those essentials to our lives. And to the wildlife.

Complimentary working together internally, is that what I'm hearing? That most times even though we sit on boards we don't have the information. We don't. You have to sit there. That's not a very good system, peoples. That's not a very good system. Because we learned that from the governments and from the churches and we have to do away with that. We have to do away with that.

I'm hearing there's very few people use that land. Why? Because of the municipal governing system. Contains in our little community. We're just infringed with all their rules, their programs. We're not a program people. We were massive land users. Now our minds are just programmed to stay in this little place and do little things. I'm saying this because I have to say it. I want to feel that I'm participating.

Burial sites are not just here and there. From yesterday what I seen over there in that fracking. Our lands must be populated not only with humans but wildlife. Because that's fossil fuel. Right down to the Gwich'in country. Wow. Wow. That was an eye-opener for me yesterday. I just need to say this. I'm not for it. I haven't seen the security yet. Our lands hasn't been protected. Hasn't been. We've seen the massive, when we used to travel on the road we seen, look at what happened on Little Chicago where our camp was. That's where one oil company stayed and that's just a few years ago. Three hectares of land was just contaminated. I never went back there because I was just furious. The fumes you could smell. The next year we went back there it was fuel still there. So I never went back there. That's what I

Monitors should not just be a tokenism. It shouldn't be a Band-Aid solution too because this is what the communities have been addressing for years. We have to increase and up the level of protection. We have to secure them with... [English translation begins] We have to protect the land, Dene culture, Dene laws...[English translation ends]. The loss that we should protect our lands. Isn't that why these governments are on our lands, to help us? That's what they're for? There's ways of doing it. It's not a closed door anymore.

Anyway, mahsi. I still have more but I'm lost. I'm frustrated. My mind is just boggled. But I thought, gee, if this moves to Yellowknife that means we have to re-address issues again. I don't know. I leave it at this. Mahsi.

Arthur Tobac: Thank you for that, Lucy. I see that a lot of you are kind of like weary from the long afternoon we spent sitting here discussing some of the CRs. I just want to tell you that it's 3:00 and we're scheduled for a break. So we'll give you 10, 15 minutes. You're welcome all that.

On one other note, Danny will be joining you back here after the break. I'm going to be off to another appointment. Thank you.

---BREAK

[01:49:52]

Danny Bayha: If we can make our way back to our seats and we'll continue to work through our project. Thank you. Maybe I think they said they're short on coffee mugs so we'll wait for a few minutes before we get all our coffee mugs back and we'll begin after your coffee mugs are full. Thank you.

Hopefully we can make our way back to our seats. We still have a bit to go through so I would appreciate reconvening this session. Thank you.

Okay. If we can get back – Yeah? Can't hear it? Okay. Hello. Okay, we'll get back into our session and, bingo. Okay. We will get back and continue going through some of the Husky that we've been dealing with earlier. Again, there are some really good questions that have come forwards and that we don't want to lose those type of questions. We need to remind ourselves towards the end of the workshop that we can probably, hopefully, hopefully have some answers for you if the parties that would, that the questions were directed at could update us, I hope. It's up to them as well.

Heidi, if you can sort of recap a bit and we'll keep moving forward. Thank you.

Heidi Wiebe: Okay. I think we were sort of nearing the end of discussions on CR-3. If I don't see any panicked looks I'd like to move on to CR-4. Ideally we could finish the Husky application today. That would get us through CRs 1 to 13. That really requires us to move so I'm not sure if that's going to happen but we'll see where we are. I think we want to have a measured pace and have some good discussions and then I already know we'll be doing some rejigging for tomorrow to optimize discussion on all the different CRs.

I'm going to propose to move on to CR-4 and I will pause for five seconds to see if there's any panicked looks on that. All right. CR-4 it is.

Conformity Requirement 4: Community Engagement and Traditional Knowledge

So this is community engagement and traditional knowledge. Edna's got it up on screen. She's reading my mind. The requirement is that before any land use activity is authorized regulators shall assess whether land corporations, the First Nation and/or community council, and renewable resources council, and potentially affected community members have been adequately engaged with respect to the CRs of the plan, the proposed activities, specific locations and issues of concern, and traditional knowledge that is relevant to the location, scope, and nature of the proposed activities. Two, regulators shall ensure that a land use activity is designed and carried out with

due regard for community concerns and wellbeing and incorporates the relevant traditional knowledge.

So the criteria that we looked at for this CR, we're essentially looking for a summary of the community benefit – Sorry. I'm on the wrong one. Yes. Looking for evidence of consultations with affected communities – so the land corps, the band, the RRC, public – on the activities, the concerns, and traditional knowledge. That there is some collection of traditional knowledge there.

For the purposes of this first run I was not looking for evidence of specific discussions on conformity requirements because that would be a moot point. Every application would fail because the CRs are just being developed and evolved as we go. Obviously we would look for that in the future.

[01:55:00]

We're looking for a demonstration of how this information was considered and used in project design. So not just that there's a record of consultations and there's a TK study on record but where there was concerns raised do they appear to have been addressed in the project.

In looking at this application there was extensive information on the community engagement and traditional knowledge that was collected. We did have the benefit of having all that TK information on the registry so I could go through it and say, oh, yeah, there was a lot of information done here. There was also assurances and some evidence in the environmental protection plan itself of how that was incorporated into the design. In this case it was a fairly easy determination. We said yes, this one conforms.

Having gone through this exercise, when you've got a hundred pages of consultation information and traditional knowledge it would be easier if there was a table that kind of outlined key community concerns and how each of them were addressed. It simplifies the conformity determination process. Potential information requirement, not essential, not required if there is enough information for us to do that analysis ourselves. Everything that makes things a little bit easier also makes things faster.

Again going back to the questions: Does the conformity determination or the CR work? Do we need any further implementation of the criteria for how we do this determination? Are there any additional information requirements?

Danny Bayha: Ken, go ahead.

Ken Hansen: I think I'm going to take that as a complement to our application. We did put a fair bit of effort into it and we've been doing it for a while, so we feel very comfortable with engaging the community and getting their input early in the process. To be honest, the whole program was laid out to the community even though our applications went in in pieces. The community understood the full scope of what we were trying to do. It was just the mechanics of trying to get through the approval process. Paul's shaking his head over there but he won't even accept an application from us unless it's got evidence and proof that we've had this engagement with the community and that we've done the TK study. So I mean, they're watching this process pretty closely.

Danny Bayha: Thank you, Ken. Any other comments on this? Tom.

Tom Nesbitt: Just a suggestion that in terms of the criteria, I'd suggest, and this isn't to say anything about the application. I know nothing about that or all the work that you've done. Just in terms of the criteria the board should be looking at and the regulator as well, looking for evidence not only of consultations but I would also suggest of joint planning wherever that exists. Secondly, that we should also be looking for evidence – So that would go to one and number two of the CR that you want to be sure that things have been carried out with due regard for community concerns and wellbeing. So I'd like to see or suggest criteria which look both at joint planning. Not requiring it but looking, was there joint planning taking place here? Secondly, is there any objective evidence of wellbeing being addressed and carried out?

Danny Bayha: Thank you, Tom. John Donihee, SSI.

John Donihee: Thank you, Mr. Chairman. As I think just about everybody here knows, the land and water boards are in the process of developing a policy and guidelines for community engagement. I suspect going forward that if they are the ones that are going to be confronted by the requirement to do conformity determinations they're likely to say if they meet our standards, our guidelines, and our requirements that's good enough and that's checked off. I just think that these – and SSI's made this point before – guidelines are going to be in wide circulation, that all regulators, communities, there will be consultation or is consultation that has been done with respect to what goes into those guidelines and if you're looking for a test or a criterion against which to judge the adequacy of this kind of consultation there it is. It's rigorous and frankly I don't think we need to invent something more.

Danny Bayha: Thank you, John, for that additional information on what the water board's doing. Go ahead, Paul.

[02:00:21]

Paul Dixon: Maybe just a quick update on that too. We're nearing completion for distribution to stakeholders so everyone should be seeing that relatively soon. What John says is very true. Community consultation has been, or community engagement has been one of the cornerstones of our process that the proponent addresses the whole aspects of the project prior to submission to the land and water board and the guidelines documents and whatever else we'll be releasing. Just speak to that a little bit more and put the onus on the proponent to ensure that they demonstrate adequacy of that engagement as well. So you'll see it shortly.

Danny Bayha: Thank you, Paul. I'm just curious about the development. The guidelines, engagement guidelines, I imagine that would be adopted by the water boards, the Sahtu Land and Water Board, the Mackenzie [Valley] Land and Water Board, and whatever board. Am I correct in assuming that? Thank you.

Paul Dixon: All of the most recent guidelines and policies that have been in development between the water boards are from the working groups and they are subject to the Mackenzie Valley as a whole. So unsettled land claims inclusive.

Danny Bayha: Okay. And that process, I'm just curious about the history a bit about who was involved in the development of that guidelines. Just more curious about if – Sorry. Go ahead.

Paul Dixon: Sorry, I blanked a little bit. Who's been involved in the development process? It's been the staff of the land and water board as well as outside legal review, and then when we send it out to all our stakeholders then we'll take in whatever considerations they put forward. We did a lot of internal work on it first and then we'll be releasing it for a stakeholder involvement as well. Then back to us, then maybe a little more legal, and then done, hopefully.

Danny Bayha: Was the Sahtu Land Use Planning Board involved?

Paul Dixon: You guys are on our distribution list as being part of a stakeholder, so, but informally you guys have been involved too.

Danny Bayha: That's good. I had a nod from our staff that we did. That's good. George.

George Barnaby: This subject, they had some workshops on it how to collect traditional knowledge. I don't know how clear the process is. Whether to talk to one or two people or have a good workshop in the community. I think there are different methods used. There was some work started on it. I don't know what they completed. I know there's, they always collect traditional knowledge about where work is going to go on but maybe a good workshop of the elders or people who know the area would be good too. It's kind of maybe some work could be put into it to look at different methods.

Danny Bayha: Thank you, George. Anyone else on this CR? If not, I think it's good information to have. The guidelines are on the development side as well, and others as well. We're thinking about maybe the low-impact seismic guidelines that they've been talking for years. Hopefully it will come and be an additional help to industry as well and the land use plan as a whole. I just want to be encouraging that be helpful. Anyhow. We can with that move on, Heidi. Thank you.

[02:05:01]

Conformity Requirement 5: Community Benefits

Heidi Wiebe: Move on to CR-5, which is community benefits. So the CR says before any land use is authorized regulators shall be informed by applicants how communities will benefit from the proposed land use, including employment, capacity building, and training, as well as how the activity may benefit the broader public interest.

What we're looking at in terms of criteria for determining conformity, because the requirement is just to inform regulators how communities will benefit we're looking for a summary of community benefits or public interest benefits in the application. We've had numerous discussions on cases where this crosses settlement lands and there's an access agreement. That's certainly evidence of a community benefit.

The way the CR is written right now it is a fairly low test. As long as you're including a summary of benefits and the community is benefiting in some way or there's public interest that's where we ended up at the end of Workshop 2.

In look at this specific application, yes, there were access and benefits agreements on both the parcels. There was a table included in the environmental protection plan that identifies potential local employment opportunities. There was a statement with the intent to maximize use of local labour and services. Based on this definitely sufficient to pass conformity of this requirement.

In terms of discussion, questions, there's not a whole lot specific to this application but more for broader learning purposes, if there was not an ABA or some specific benefits agreement then I would be looking for maybe a fuller description of how communities might benefit. This CR gets tested a lot more on some of the different applications, more so than it does here. There's basic requirements here.

I guess those are my overviews.

Questions/Discussion

Danny Bayha: Thank you, Heidi. So for community benefits. George.

George Barnaby: I think it's supposed to say impact and benefits. A lot of times we look at the benefits side, the money, the jobs, things like that. I know only the pipeline had the impact monies to deal with. Sometimes projects have impacts. I think it should be a regular thing to have an impact monitoring. I guess sometimes it happens right in the community. So there's a social impact. That should be part of the guidelines.

Danny Bayha: Thank you, George. Anyone else have comments on the benefit for community? Ken.

Ken Hansen: Ken Hansen, Husky. This is a really difficult one for you to actually make a conformity call on. If you're not given confidential documents that outline what the benefits are to the community, if the Aboriginal Affairs don't share the community or Canada benefits plan that's submitted – and these are two separate plans – I'm not sure how you can make that assessment. The regulator is making the assessment. I mean, that is Aboriginal Affairs. So I guess I don't know. Maybe there are other pieces of business in which this might become more of an issue but certainly for oil and gas there's not a whole lot you can do here, I don't think.

Danny Bayha: Paul. Thank you.

Paul Dixon: I'm not sure where the planning board's going with this but my interpretation was, say in oil and gas's situation, AIB agreement is signed and maintained; that's good enough.

Danny Bayha: Thank you, Paul.

Heidi Wiebe: Just to confirm, that's the call that I've made so far. in the application there's evidence that there's an ABA signed so that's all we can go on right now as well.

[02:09:59]

Danny Bayha: Thank you, Heidi. Matt.

Matt Bender: Thanks. Matt Bender with AANDC. Just to confirm, our department's role would only apply to oil and gas projects where COGOA is involved. Our requirement is

to make sure that a benefits plan has been approved under the Canada Oil and Gas Operations Act. That doesn't capture the full breadth of proposal projects.

Danny Bayha: Thank you for the clarification, Matt, and John from SSI. And Dick.

John Donihee: Thank you, Mr. Chairman. This is a very complex area. What I can say, because I do work for regulators as well, is when these things come up in environmental impact assessment hearings or they come up before land and water boards there's great reluctance on behalf of the regulators and the MVRRB to step behind the simple assertion that there's a benefits agreement in place. Any circumstances where there's a benefits agreement signed they pretty well check the box off and that's the end of the inquiry at that stage.

In particular, in respect of most of the environmental regulators, they don't really have any jurisdiction to do anything about this anyway. I think the best that you can achieve with this CR is to sort of force the regulators to do that check off, I guess. I guess if there's no evidence whatsoever of community benefits or benefits to the public interest then they could refuse to issue the permit or licence. But to go beyond that and to attempt to get in a muddle around, I guess, with whatever the benefits are or something like that I think is likely simply not on because most of these regulators just don't have that jurisdiction.

Danny Bayha: Thank you, John. Dick.

Richard (Dick) Spaulding: Thanks, Danny. A question for Matt: In the COGOA context is the benefits agreement that the Minister has to review or approve considered public in that process? Can it be publicly accessed?

Matt Bender: I'm being told that it is.

Danny Bayha: Thank you, Matt. Any other? Leon, Tulita. Thank you. Sorry, Leon, can you just sort of repeat that? Thank you.

[02:12:56]

Leon Andrew: Okay. [English translation begins] Okay...We in the Sahtu Region, we have three districts, this community benefits are all different so it hard to talk about this. I agree with that White person is saying. Thank you. [English translation ends].

[02:13:22]

Danny Bayha: Mahsi, Leon. It's a good point that, to get into the details of the benefits plans may not be the issue. I think it's just a matter of understanding there is one as currently practiced by the water boards. I just want to try to summarize what the discussion has led to. Heidi, do we have, if there's no other comments. George.

George Barnaby: Well, we do have the access and benefits at this time. The land and water board won't give a permit unless they get evidence of that, which is the signature of the company and the community representatives. That's there.

I think as far as the plan for it, it should be a list of things that should be in the benefits. Like, I mentioned impacts. I believe that should be part of it. That's where there's no money. Government took all the money out for alcohol, drugs, violence, and other things like that. Sometimes these projects increase those things and so we should have

money to deal with it. The pipeline project did put up money so they already set some precedent for that.

Danny Bayha: Thank you, George, for that clarification. Tom.

[02:15:07]

Tom Nesbitt: I'm wondering whether someone could just, for, I know, I just ask Gina, for example, the president of the Deline Land Corporation, if she understands what all these terms are. I think it would be helpful if someone would explain what the benefits agreements are that the federal government is involved in and what the access and benefits agreements are. So that the people we know, everybody knows what we're talking about here. Then they'd understand better what this CR is about. Thank you.

Danny Bayha: Thank you, Tom, for the question. Doug from Tulita.

Douglas Yallee: Leon hit the head right on the nail there. There's three districts here that probably each one has different access and benefits agreements that we put forward. It's just something that the communities want in place for themselves, I guess, more or less. Thanks.

Danny Bayha: I understand. Thank you. Peter from Deline.

Peter Menacho: Thank you, Mr. Chairman. Some of the agreements that most of the land corporations does have is an arrangement between how the access and benefits agreements are being arranged or negotiated. A lot of it is a private deal, I don't know. But when it comes to a production or something that the benefit really goes into a big profit then we talk about the Sahtu master land agreement and other arrangements that come into play. At this point, like, I would like to hear because there's in a nutshell the agreement or agreements are there, the benefits, but when it comes to interpretation of accessing our benefits there's different versions. Especially from the government. Companies I'm sure we can come up with an agreement that we all can be happy about but some of the access or right-of-way programs that we have there's no ending to it and it would be good if the government, because they have a lot of programs under the benefits or even under Chapter 12 of our land claim agreement, which is the benefit side of how you deal with contracts and so on. Those discussions that need to be discussed with the community. I would, for us I think it's depending on who you make an arrangement with and what are the short-term and long-term arrangements being met. Mahsi.

Danny Bayha: Thank you, Peter from Deline Lands Corp. So there's nothing else. I think we understand that concerns about individual private, the deals. That's fine. I think this CR essentially requires that there is a plan in place. I think that's really what it does. It doesn't say Tulita or Deline or Fort Good Hope has to do this type of thing. No. it's just that there's something in place. I think that's the idea for this CR.

With that maybe we can move on, if that's okay. Thank you.

Conformity Requirement 6: Community Land Use Monitors

Heidi Wiebe: Okay. We're back to CR-6 and I hope we can move off this one before the end of the day. This is the community land use monitors again. I do not want to get

into a debate again about what this should say, so let's just assume the wording is as it is right now and assuming it doesn't change – remember, we can make assumptions like this – do we have to refine the implementation criteria, what kind of information requirements do we have? Assuming the CR is worded the basic requirement is there will be where deemed necessary by the communities, that's a key part at the second workshop, we said, where there's small projects the communities will in some cases say, yeah, we agree there's no need for having a monitor here, but if it's a project of any sizable magnitude or potential impact to values or key areas then if the community says, yeah, we need a monitor, then there will be a need for a community monitor.

[02:20:20]

That there be an independent, qualified, community land use monitor hired by the RRC. The current process is that they are funded and supported by the applicant in the field or at camps or whatnot.

Small-scale activities not requiring a land use permit or water licence where there's little to no environmental impact may employ a community research assistant. So there is the different flexibilities there.

They would jointly design and monitor a plan appropriate to the scale of land use activity and the potential for the impact to community values. So that was a really important part of the CR. It's not just the size of the activity but if it's a small activity and it's right on the edge of a really important cultural site it might still have a higher impact than normal for such a small scale.

Then there's a bunch of details about the monitor, the role of that monitor. I'll get into some of that.

So the criteria that I was looking for in doing this first conformity determination is that there is intent to use a monitor given the scale of the activity. We're past that threshold. Evidence of community input into the values to be monitored. Description of appropriate role in locating those values and monitoring impacts to them in the field. Then the last part of the CR is the monitoring requirement which I think can best be handled through conditions on an authorization. Submit reports to the following organizations.

In this case with this specific application, traditional knowledge and the employment of local monitors will be used to assist the management and operations team in avoiding areas of traditional land use. So you can see that they're definitely hiring the monitors and there is joint discussions there about what area is to be monitored and avoided.

The wildlife or environmental monitors will be used throughout the exploration program operations and they will be expected to observe and document wildlife and impacts thereon and ensure implementation of the environmental protection measures. So there's a whole description about what that monitor is expected to do.

The TK study and the consultations, again extensive package, identified specific concerns and areas that the communities wanted avoided, and timing issues. So that in my mind addresses the need for community input into how the monitoring is carried out and what gets monitored.

I guess where I would like to see a little bit stronger statement on joint development of a monitoring program, so the input sort of came through other things already done, definitely conforms but can we make that linkage stronger? Yes, there's potential for that.

The part that jumped out at me is that a major part of this CR deals with the roles and responsibilities of the monitor. That's not something that I think is best determined for conformity through an application. To me that's something that would be in the contract or the job description of the monitor. My suggestion, having gone through this with a few applications, is that this is an area where the CR should maybe be revised and that level of detail pulled out to either the context or the implementation guide section. I just don't think it's necessarily appropriate to have it locked in.

In terms of reporting requirements, the Clause 5 of this CR says that the monitor, inspector, and applicant will report annually on their activities and results, and that's best handled through a condition on the authorization rather than looking for something in the application.

With this one, assuming the CR stays in as is or as presented right now, there's potential here to maybe revise the CR a little bit to make it easier to determine conformity with and this is one where I think there would be a standard condition that would be attached to address the reporting requirements.

So those are my thoughts.

[02:24:50]

Questions/Discussion

Danny Bayha: Ken. Thank you, Heidi.

Ken Hansen: Ken Hansen from Husky. This sounds to me like almost a conformance that you're being asked to make an assessment on but it's almost a post-mortem of how the program was conducted. It's a look back and did the program actually meet the expectations, did it follow, was it in conformance, I guess, with what the conditions from the Sahtu Land and Water Board were on the water licence and the land use permit. I don't see how you make an assessment on an application on this conformance. My confusion has always been: What's the difference between this conformance and conformance number three? The difference that you just brought up was it's almost how did you perform relative to what are you going to do, because that's what you're supposed to be making an assessment on in an application.

Heidi Wiebe: You lost me on part of it but I think it's just getting late in the day. CR-3 and CR-6 are similar. Here's how I see the differences, and then maybe I'll backtrack. CR-3, one, only special management zones. Secondly, to me it's the more technical, scientific monitoring of specific impacts to, say, the water or the wildlife. With this CR the requirement is for the hiring of a community land use monitor and the roles and responsibilities are slightly different, but there is overlap. So here it's the reporting requirements to the community, it's more about the community having the eyes and the ears on the land and helping the proponent maybe avoid these sites that you've mapped out through two case studies but as users of the land they know where these

are specifically once you get to that spot. They're slightly different roles but they're very close. I don't know if I'm....

Danny Bayha: Dick, you wanted to add a little bit, you said.

Richard (Dick) Spaulding: Thanks, Danny. Just to add to Heidi's explanation, Ken, in both cases the determination is done based on the application for the permit. It's not a post-mortem look back and there are not any post-mortem examinations in the conformity requirements.

There is a post-mortem role for the board when it monitors projects on an ongoing basis. After the permits have been issued and based on a number of different sources of information, including getting copies of the permits, the board can assess and report to the appropriate parties on whether the project continues to conform as was required by the regulators. If necessary, based on that function, the board can propose and entertain applications for amendments to the land use plan and can make recommendations and so on. But that's not the conformity determination process. That's not what this workshop is primarily about.

Danny Bayha: Thank you, Dick. I'll go to – Do you have a follow-up, Ken?

Ken Hansen: I'm just going back to the discussion that we had on conformance number three and it was all about conformance number six. I'm not the only one that's kind of finding it difficult to see the difference and how you separate the two. All I'm saying is perhaps there's only one conformity requirement here and maybe they just need to be combined into a single statement that you're looking at. I would agree very much with what you said that for ongoing projects there probably is some sort of a process but it can't be part of this process because you can't make that assessment on an application. That's all.

Danny Bayha: Thank you, Ken. Doug and then Nancy.

Douglas Yallee: Yeah. The monitors, we in Tulita have monitors trained in Tulita that do that, go do the work for us in our area. The monitors are not there just to, well, they're there to oversee everything that's going on. [Inaudible] that industry use –

Danny Bayha: Sorry, Doug. Can you speak up? We can't hear. Thank you.

[02:30:17]

Douglas Yallee: The monitors they do look at oversee everything on the area, the work area. There's some hazard material that industry use that some people are not aware of. There's a story that goes back that Gordon had told me quite a while ago that had happened. There were people that were working with some bags, empty bags and they were burning them and getting rid of them. When they were toxic material bags. They were inhaling these material stuff from the bag. These monitors should be, would have been there, they would have noticed these hazardous materials and stuff. This is the reason why we want these monitors there, not just for ourselves, too, to monitor things for our people and what goes on on the land and stuff. Thank you.

Danny Bayha: Thank you, Doug. Nancy.

Nancy: I'd just like to focus on point number five. It implicates the land use inspector and I'm just wondering, I don't think you can actually make our enforcement officers, our land use inspectors conform to a requirement. It should be more directed at the applicant. Our land use inspectors do provide reports to the land and water boards and in speaking to an inspector at lunch he said those are part of the public record so they are available on line. We'd like to see the land use inspector portion of part number five taken out. I understand it's really important that our land use inspectors do report back when they are able to inspect on these sites and it is good to keep that communication open, so I understand why that's there, but I think it should be taken out.

Danny Bayha: Thank you. Are you saying the inspection reports become public?

Nancy: My understanding from our inspectors is that yes, the inspection reports are public.

Danny Bayha: Thank you. John. Or Paul.

Paul Dixon: John, Paul, Peter, Luke.

Danny Bayha: Matthew.

Paul Dixon: Any of our communications, well, any of our communications that are related to applications and the applicant, land use inspector, whatever else, do come to the land and water board and then are posted on the public registry. For the sake of not creating a huge bulk load of paper that's distributed by all parties, anything that's posted on the registry maybe should be eliminated from distribution to all parties since it's already public. I just see it as an easier mechanism for everybody. If the plan goes forward and monitoring reports, as you see them, are submitted to the regulator then we could post them on our registry and everyone can access it through there as they already do for applications or communications or whatever else.

Danny Bayha: Thank you, Paul. Heidi, you had something. Thank you. And John.

Heidi Wiebe: I don't want to open a whole can of worms but I fear I might. We had hours of discussion on this topic at Workshop 2 and it was all about the need for public distribution of these reports. I guess I'm still working under that presumption that it's the communities that want to see these reports distributed. Just might be a manpower or access to internet, public registries type thing. Yeah.

Danny Bayha: Okay. Follow-up on that, Paul?

Paul Dixon: Just quickly, I guess. Being potentially it's advantageous to have single repositories. We do keep paper copies as well if it's an issue of legibility on screen versus in paper format. Then we also have a resource person kind of dedicated to that. It does provide some opportunity for people to access that information, maybe a little bit easier than if it was just distributed by fax or mail. The cataloguing of that is done by us as well. Maybe there's a bit of a learning curve for people to get used to using it but I think the benefits outweigh the problems.

Danny Bayha: Thank you, Paul. John and then George and then Matt. Thank you.

[02:35:34]

John Donihee: Fast on the trigger there. Thank you, Mr. Chairman. I think I'd like to make an observation and maybe I'm wrong and everybody else in the room is right. My understanding of the way that the plan works and will work is that once approved it's going to set out a series of requirements which have to be met in one way or another before certain licences or permits or authorizations or interests in land can be given out. I don't understand the system set out by the legislation or the land claim to give the planning board the authority to impose positive obligations on people to do things. So when I look at number five I'm not saying that I think it's a bad idea, I think it's a fine idea, but the first question that I have about it is: Does the planning board have the authority to make the land and water boards or somebody else actually do this? To invest money that's granted to them in their budgets to do things that aren't actually planned for in their budgets. I don't think you do. So I think when I talked about sort of trying to set a screen up for the CRs the first thing this morning, this is the kind of thing I was thinking about. I think you need to go through them and ask yourselves if this is something that is clear and can be identified as a requirement before a permit or licence or some kind of permission to use the land or the resources in the land can be granted. If the answer to that is yes then you're on firm ground.

To give you another example, look at number one here, CR-6(1), it says small scale activities not requiring a land use permit or water licence where little or no environmental impact is expected may employ – and I mean, granted it's only discretionary, but if you don't have any kind of permit, licence, or authority required the plan simply doesn't have any traction at all. You can't get there because there's no permission required for anybody to do that that you can stop from being granted unless it conforms with your plan. Again, I really want to emphasize, I'm not saying I think this is a bad idea what that sentence says. I think it's probably a good idea. In my view there's quite a bit in CR-6 that really ought to just be worked out between the community or at the local level and the company that's doing the work.

I really want to suggest to the board, leave it to them. These companies that are working in the Sahtu know what's expected of them and they will work with the communities. they're going to be required legitimately by the board to engage with the communities, to get TK. There are a number of things that you're going to be able to make them to with the land use plan. I think that there are some things at the local level that are best just left between the community, the RRC, and the company that you just can't reach with a land use plan.

I guess all I'll say to complete my comments on this CR is that I hardly endorse the suggestion that Heidi made at the outset which is that there are a couple of the sub-sections here that may well be better off in the job description for the monitors and not in the plan.

[02:39:52]

Danny Bayha: Thank you, John. We had, Dick, do you want to have a follow-up on that? And Jesse after Matt.

Richard (Dick) Spaulding: I'm sorry, I'm responding to John Donihee's comments. I think I heard at least two points being made and I'll try to address those two. There may have also been other points that I won't try to cover.

The first point I'm going to speak to concerned the last sentence of CR-6(1). If I understood John correctly, I don't think there's any disagreement between him and the board. Nothing in the conformity requirements can trigger an obligation to implement the land use plan unless the regulator that's being addressed by the requirement has the power to regulate the activity. So the point of that second sentence is to say that where there is a regulator, or it could also be a land owner if the land owner has authority, where there is such a person who is responsible for small-scale activities even if a land use permit or water licence isn't required they would be responsible to ensure that expectation is met. The point of agreement with John is that if there's nobody out there responsible for managing this activity then absolutely it's up to the proponent, the communities, people affected to find a way to deal with the concern.

Second point, I'm not sure that I understood John correctly but if I took what I thought he said literally I have to say that there is a disagreement. The working understanding on which the whole plan is drafted, and I haven't heard that there's been any debate about this previously, is that yes, the land use plan can in effect impose positive obligations on proponents. That's primarily what we're talking about today. From time to time you hear Ken Hansen expressing some discomfort and that's because we're talking about obligations, requirements that the proponents carry out which may involve expenditures of money. Those requirements are ultimately imposed on the proponents not by the plan itself but by the regulators who are required under the act to carry out the plan. In addition to proponents the plan also, the way it operates, is to place responsibilities on regulators. Sometimes those responsibilities are negative. Sometimes they deem in effect that the regulator simply may not authorize an activity if the plan isn't met. Sometimes they are positive and in many cases in the conformity requirements that we're dealing with there is an expectation spelled out in the plan that the regulator will take some action, will make sure that the proponent does something by including a term and condition in a permit or undertaking some kind of an analysis. Lindsay Armer spoke to the question earlier today about standardizing the practice. Of proponents, yes, but who's going to make sure that happens. Well, you have to standardize the practice of the regulators to make sure the proponents do the monitoring or make sure that there are community benefits, whatever the topic addressed by the conformity requirement is.

On the second point, John, I'm not sure whether we have a disagreement but I do want to make it clear that the plan is drafted and the board's understanding of its mandate under the act is that the plan can require a regulator to do things. That's principally what we're talking about in these conformity requirements.

[02:44:53]

Danny Bayha: Thank you, Dick. I would ask that we move on. This is becoming a legal debate. This is not the place we do it. I'm going to ask that we move on. George, you had your hand up earlier, then we have Matt and then Jesse. Thank you.

George Barnaby: I think we should put it in a simple form. We do have monitoring at this time and there's a process for getting that. I think what they're trying to do there is do the second part which is to put a monitoring program together. We said that it's not clear what they should be doing. I see a lot of that in there suggesting things. Really for

the agreement itself all you say is that there will be monitoring, the applicant will pay for it, and the RRC will hire people that have the knowledge, and things like that. What their job is, that's another big workshop I guess too to figure it out.

Danny Bayha: Thank you, George. Matt or Lindsey. Thank you.

Matt Bender: Again Matt Bender with AANDC. Just an observation. It's clear that monitoring is coming up an awful lot and that tells me that it's extremely important and matters. It also tells me that it's not properly understood yet and I just want to make the observation that throughout the plan I think the approach to monitoring, the definitions of monitoring, and just as importantly who is expected to do what and when, that needs to be better defined in the plan. I think just again, by the very fact that we're still discussing this on the second day is a testament to that.

Danny Bayha: Thank you, Matt. I'll go to Jesse there and then we'll have Gordon and Roger. Thank you.

Jesse Tigner: Yeah, I basically was going to say what these two guys just said. Obviously it's a very important issue to a lot of people but it is obviously poorly understood. So in the interest of moving it along perhaps it is sufficient to cherry pick from everybody's ideas, collapse three and six into one, and there are measures in place with benefits agreements and community consultations and TK to address all of the needed monitoring initiatives. It's not as if it's going to get ignored or swept under the rug. It's an integral component to what we do and it is accounted for in many different aspects of our applications. Whether we're submitting 37 or 42 different applications it is accounted for. So for what it's worth I guess that's my two cents.

Danny Bayha: Thank you, Jesse. Is that a follow-up comment, Matt? Thank you.

Matt Bender: Sure, thanks, Daniel. I'll make it brief. In doing so, I appreciate that, in the interests of moving on I think we should, but I don't want people to be, I certainly don't want the board to lose the importance of what is happening already. I mean, certainly there is an EA process that in some cases will provide further detail on the content and the mitigation required for certain monitoring programs. Of course there's the regulatory process where the rubber hits the road and where there are terms and conditions. I'm very pleased that Paul mentioned the distribution side of this. The land and water boards do have a public registry and it would be unfortunate, for example, as Jenica was saying, if she was creating websites, creating photocopies and distributing information, monitoring reports, know that Paul's group is doing the same thing. Again, this gets to the importance of really nailing down what we're doing with respect to monitoring and being clear.

Danny Bayha: Thank you, Matt. Gordon. Thank you.

Gordon Yakeleya: Thank you. Anyway. I think what we're talking here is very important because I think to experience what we go through I think what's out there, especially when you're growing up with it, especially elders saying protect the land, water, animals, is very important. I think to monitor it I think for one thing I learned through my years is that when my friend here Dougie had mentioned what happened, it did happen. I happened to be there. I happened to be the worker. What happened is we had a monitor what wasn't really, didn't know how to read. He didn't understand the

reading. I guess it all came down at the end of it was the label. There was a label here, we didn't all agree, so we said we're not going to do it. So we just left. I think that's the kind of thing we don't want to go through again. I think it would be nice to see if that kind of thing that you could put in there that if they had somebody that would understand what they're reading, all the things that are on the label of all the stuff that they use out there.

[02:50:34]

I think one thing that I really wanted to say was when I had my comment this morning was I support RRC having the monitor program. The benefit out of it is that what they do out there, because there's only so much funding they get from SSI and GNWT, they need extra money to function the office. What they do from the, what they work at the monitor, they have a program in place back in Tulita, what they buy, shelves, tents, whatever. They give that reasonable price to the trappers and others in the community. The problem they have, they don't have much money to run programs. I think that's why it sure would be nice to see, I don't know how you could do it, but it sure be nice to see somebody give them a hand to start training the monitors.

One of the problems we're actually seeing happen over the years is we like to implement more young people into this program. You know, as the gun law register is a big issue for us. I think it requires when you have a monitor someone used to carrying a rifle out, but if you don't have a gun licence you can't be out there. I think that's another issue we have. Thank you.

Danny Bayha: Thank you, Gordon. You'll be hearing the realities of all what's happening in the communities. Paul. Thank you.

Paul Dixon: Just maybe briefly, I think there's a little bit of, it seems as though there's a split here in community monitors and community, or and then say monitoring programs. Perhaps the plan's trying to deal with both these things in conjunction when maybe it should separate the two. If the RRCs and the access and benefits agreements iron out that monitors need to be employed by the companies during the life of the project. Maybe that should rest in that court. The plan and the board through the working group potentially could look at, say, monitoring priorities for the area as opposed to blanket statements about monitoring since it's poorly understood here in this context and remove that from a conformity determination. Since we, as you know, everybody in this room is part of our process so when you talk about the regulator you're also talking about every single one of us. The districts, the various governments, the co-management groups. If community-based monitoring is part of the AIB agreements or where AIB agreements don't exist potential working relationships with the communities through the proponents in the community that if we were aware that those agreements weren't being met then we could take actions towards either while suspending, ultimately the potential of suspending the land use permit or water licence. I just see that obviously monitoring is very important to the region and it's something that needs to be developed. You also have the CIMP program to help through that. And then community-based monitors are also very important to the RRCs and the communities themselves. That's already in place and well established. Maybe we should move away from this joining of the two. Just a suggestion.

Danny Bayha: Thank you, Paul. I just, it's good, we need to keep this in mind. We still have another four cases to go through. If this is a continuing issue as we go to the last, and I think we can probably, but it's something that we can flag and keep it alive here until we can maybe, by the time we get to the fourth case we may be able to have some ideas more in our heads formed and visions of what we think about monitoring. I know it exists, it's an important topic. With the interest of time, we have about 20 minutes to try to have some sense of conclusion for our project today. Thank you. Go ahead, Heidi.

[02:55:22]

Conformity Requirement 7: Archaeological Sites, Historical Sites, and Burial Sites

Heidi Wiebe: Moving on to CR-7. So we are at archaeological sites, historical sites, and burial sites. This one basically provides two setbacks: one 500 metres for known burial sites, 150 metres for historical or archaeological sites, and we had provided for some flexibility so if for some reason an activity has to happen within that buffer then we say yes, that can proceed as long as affected communities or, in the case of burial sites, affected families where possible are engaged and help to develop mitigation measures to make sure those sites aren't impacted. The second clause is basically if the Prince of Wales Northern Heritage Centre determines that this is an area of high-risk impact to these types of sites then the proponent would be required to do an archaeological impact assessment. That's what the CR requires.

In putting together criteria we're looking for identification of sites through both the Prince of Wales Northern Heritage Centre's database and also through the community engagement traditional knowledge gathering of specific locations. We all know that the Prince of Wales database is not exhaustive by any stretch and that we're looking for evidence that such sites are being avoided by the appropriate setbacks that we have there in the plan. Then also with the new wording, if the Prince of Wales said that yes, there's high potential for impact to these sites, there is an archaeological assessment done or heritage resource assessment.

In the case of this specific application they did talk about avoiding all sites by 150 metres. There is a, I couldn't see anything in the application about burial sites in the area, therefore, that wouldn't trigger that 500 metre setback. They did do a heritage resource assessment. So this is another one where because of the amount of information in the application it was relatively easy to say, yeah, this application or activity conforms. There was no additional questions or implementation requirements. It's a straight yes, you've checked off these things and they're good.

Questions or discussion?

Questions/Discussion

Danny Bayha: Thank you, Heidi. Leon from Deline.

[02:58:07]

Leon Modeste: [English translation begins] I want to speak to the oil/gas companies we have the RRC President and the Land Corporation President here, two of them...it's hard to just invite the oil/gas companies. So if they want to talk to the people about work they want to do on the land, they should send four days' notice beforehand to the

community. That way it can be announced to the community and if they are in agreement, they will meet with you. I'm not telling you this is the way you have to do this, I just ask you to consider this. We can't just tell you to come, you have to approach the community and it would be appreciated if you spoke to the two presidents. How I feel it should be, not just you (oil/gas companies) but for whoever, those who are requesting permits, licenses, they should meet with the leadership and work with them to come to an agreement. I think if it were done like this things would go well, but it's up to you. That's what I wanted to say to you. Thank you. [English translation ends].

[03:00:00]

Danny Bayha: Mahsi. Leon has alluded to some way of community protocol on possible engagement. So that's good information for us. Now on this last CR is there any concerns, questions on that? If not, I know it's been a long day. We still have a few more to go through. Heidi, you want to keep us along? Thank you. Sorry. Jesse.

Jesse Tigner: I'll keep this really brief but something that just occurred to me when I was just listening which could potentially be beneficial for the whole process, it seems like there's a couple of these CRs – this archaeological one, some of the later ones on wildlife, various things – that it almost seems redundant from the industry perspective to redo every time. Every time we're working in the Sahtu we need to kind of, when we're preparing our applications we need to ensure that we're mindful of all of these things. It may be the role of maybe not this particular plan but of the board when it gets up and running to kind of do that once so that when Husky or Explor or Conoco or whoever is applying to work in the Sahtu we don't need to be scrambling around wondering where the important archaeological sites are. We don't need to be scrambling around ensuring that we're protecting wolverine, Black Bear, Grizzly Bear, Peregrines. If the board already knows where that stuff is, when we kind of submit shapefiles and say this is what our thinking is you can just turn around and say, okay, great, you need to ensure that your EPPs and your applications are mindful of these things. It could potentially in the long run cut down on our work on the industry side but also cut down on your work because you don't need to be kind of going through each thing with a fine-tooth comb. You already know generally what you need to be looking for and you just tell us what we need to be doing to ensure everything is functioning properly. I'll leave it at that. Food for thought maybe or maybe it's a stupid idea, I'm not sure.

Danny Bayha: Thank you, Jesse. It's good information. We need to have that perspective on how things can work. That's the idea of this workshop. With that, Heidi, does anybody have any other comments? If not, we can move on and we'll keep that in the back of our minds. Thank you.

Conformity Requirement 8: Watershed Management

Heidi Wiebe: Okay. Moving on to CR-8. That's watershed management. This CR currently says a land use activity must not substantially alter the quality, quantity, and rate of flow of surface or ground water within special management zones, conservation zones, and proposed conservation initiatives. In terms of the criteria, we're looking for an assessment of the potential impacts to water quality, quantity, and rate of flow within these zones. The intention is that many of the zones, the special management zones, the conservation zones are established around key water bodies. So we've got

prohibitions especially in conservation zones that would take care of impacts happening from within them but the intent of this CR is to capture those land use activities happening outside those zones predominantly that may have broader impacts within the watershed that could impact these special areas. It's looking at impacts from outside that would impact inside these key zones.

Basically, is there an assessment, is there a potential for your land use activity wherever you are to impact a special management zone or conservation zone. If you're already in one of them there's definitely potentially more impact than if you're outside of them. Basically it would be a reasonableness test.

In this case there's a very small portion of the operations that were within the special management zone. The closest conservation zone which I know is an important one is Three Day Lake is 40 kilometres away from the area of operations. The operations are carried out in winter. The river and shoreline are frozen. There's much lower risk to water impacts within these areas.

They've got fairly standard mitigation measures that you've seen in a lot of the applications. They've got spill contingency plans, there's setbacks from the water bodies for fuel. So generally I see, and according to their own reports, fairly low risk in general to water from the proposed activities, keeping mind that this is the camp and the access part of the operations.

Based on the information there I would say that this one conforms. I didn't see any issues with it and I didn't see any potential for further implementation requirements.

[03:05:30]

Danny Bayha: Thank you, Heidi. We're on CR-8. Do we have any...Roger.

Roger Boniface: I have one comment in regard to watershed management and it's more in regards to clarity for myself and maybe some other people. It's in regard to the ongoing issue of fracking. Maybe my question would be for Paul from the Sahtu Land and Water Board. Maybe you can answer my question. I'm looking for clarity in regard to how the Sahtu Land and Water Board fits in with fracking and the regulatory applications based on the media and what's been going on lately with the Cameron Hills and the land and water boards and the Mackenzie Valley Environmental Impact Review Board saying they didn't know anything about it and it wasn't in the applications, whatever, and being a National Energy Board responsibility. Could you clarify how we fit into this?

Paul Dixon: Yeah, I can clarify the regulatory process anyways from our understanding. I can't speak to the Cameron Hills Project because I don't really know anything about that. The Sahtu Land and Water Board regulates the use of water and the deposition of waste but it doesn't regulate what happens subsurface in terms of fracking. That is the NEB's responsibility. For the purposes of water usage we would regulate where water would be drawn, how much water would be used, then what kind of storage is on land. Then once, from the presentation yesterday, once the frack would occur, the chemicals and the sands and whatever else would be injected into the well, once it goes below surface that becomes NEB's responsibility of how the fracking occurs, what the technical aspects of how they regulate that would be. Like the casings

and all that kind of stuff. Once the frack material comes back out we would regulate with the NEB how that's stored on site, what's going to happen afterwards, and whatever else. So it's a joint responsibility between the two bodies much like a drilling operation would be as well. They issue – what is it called? Operational authorizations and that covers sort of the gamut of what they're doing and then we regulate the use of the water and the land use specifically in the area. We haven't seen a fracking application to date in the Sahtu, just for clarity.

Danny Bayha: Thank you. Follow-up on that, Roger.

Roger Boniface: Thank you, Mr. Chairman. Yeah, just a follow up. That was, you did answer my second question in regard to has there been any applications, have you seen any applications yet in regard to fracking. I hear there could be some possible fracking with MGM next year. So you answered that question. That's fine. Thanks.

Danny Bayha: Thank you, Roger. I have Michelle and then I have Peter.

Michelle Swallow: I think we mentioned before that we're wanting to make sure that all the CRs are consistent with the land claim. So we're looking to have some wording about compensation added to this CR. I'm just wondering where that was at.

Heidi Wiebe: So at the second workshop I think you, the comments that GNWT made was that this looks better and that you were still checking with legal as to whether or not the lack of wording about compensation was an issue. So from my perspective the ball was in your court.

Michelle Swallow: I guess I'm curious to see what SSI thinks about this issue as well. Oh, they're busy.

[03:10:03]

Danny Bayha: Okay. Well, while they're talking I'll get Peter to have a comment. Thank you.

Peter Menacho: Thank you, Mr. Chairman. I'm just looking at the CR-9. Either downstream or upstream. Interesting that Roger made an interesting point. How other, how can we mitigate other potential impacts that may impact the Sahtu settlement area. I'm just looking at, I'm weighing the, you know, what if there's future impact on the mining activity in the Tlicho that may impact the Great Bear Lake because there's almost 50 percent of the watershed that's coming in from that area is into Great Bear. There's some headwaters that are coming in from Yukon and Yukon is full of activity, right? Who knows, the Cameron Hills are bad enough with activity. I just need to know how we can try to minimize the impact. Especially about the environment. If it does affect one community it will affect us, right? I just wanted to know how we can be maybe prepared if there are impacts on other settlement areas that may future potential impact the Sahtu. Mahsi.

Danny Bayha: Thank you, Peter. Now we can hear, sorry, if John from SSI wanted to respond to Michelle's inquiry.

---Interjection

Danny Bayha: Okay. I'm sorry. Maybe we can get Michelle to repeat the question. And Leon after John.

Michelle Swallow: So we were, the GNWT was wondering about the lack of the word compensation in the CR-8 because the land claim speaks specifically to that and whether or not SSI had an issue with that not being consistent with the land claim.

Danny Bayha: Thank you, Michelle. If SSI wants to respond or take it as later on to respond. Thank you. Then Leon. Thank you.

John Donihee: Thanks, Mr. Chairman. I think what I'll do is spend a little time with the CR and the claim and perhaps we can deal with it first thing in the morning.

Danny Bayha: Thank you, John. That's fine. Leon. Thank you.

Leon Andrew: Yeah, for me I just wanted clarification on number eight there. You talk about conservation zones and then down below you said you deleted the General Use Zone. Can you be specific on those zoning? What we're saying here is that, you know, like, in Tulita district that's a general use zone. So it's not included in this package here? this number eight?

Heidi Wiebe: Thanks, Leon. This CR applies everywhere. So to any activity happening anywhere in the Sahtu settlement area but the requirement is for the activity to not impact water quality, quantity, and rate of flow within special management zones and conservation zones. So it affects all activities everywhere but the focus is let's avoid impacting these special areas that communities have told us are important. Fish lakes or important recreational or hunting or harvesting areas. Many of the key lakes and rivers that people use and that you're very concerned about are in special management zones or conservation zones. Actually, one sec.

If we look at the zone map, all of those conservation zones, all of those green areas, the proposed conservation initiatives, the grey areas, like these ones here, Nats'echo (sic) and all of the yellow areas are the special management zones. So the Mackenzie River, the Great Bear Lake watershed, Whitefish River, SG or Shutagotine'nene (sic), Nats'echo (sic), the Ramparts, all of the lakes in the Central Mackenzie Valley, all of the northern areas, these are all in conservation zones and special management zones. Because so many of the areas, the focal lakes that people are really concerned about are already in these zones we said the key protection comes from the zoning already. What we're worried about it potential large, impacts from large activities happening outside those zones. So if for instance you have a mega-project that's happening on the doorstep of, say, one of these smaller conservation zones, for instance, how do we control impacts from the projects outside of that if there's a potential for the impact there. That is what the zone, this is what the CR does. It looks at controlling impacts from outside of these key areas. So it applies everywhere but the focus is on those key areas. Does that answer your question?

[03:16:03]

Leon Andrew: Yeah, thank you very much. I needed to know that a little bit. Thanks.

Danny Bayha: Hopefully as we go through it it might be more clear in other examples. I appreciate that. Heidi, you suggested plan. It's 5:00 now. I don't know if you guys want to take a break now or keep going until they're done. Thank you.

Heidi Wiebe: Somebody lock the doors. Okay. Here's my recommendation. We're definitely behind. There's no doubt about that. What I would like to do and what I'm proposing for tomorrow is that we continue on with the Husky application because I do think it's a great example to go through the next five CRs up to CR-13 or 14 that we get through with this one. If you look at the agenda you will note that for the rest of the applications I have bolded and focused specific CRs that are very unique discussion points for that application. I will potentially even focus that more tomorrow. Basically what I would like to accomplish is that we get through a discussion of all of the CRs once. I will go through the applications tonight to try and find the best application to have that discussion on each of the CRs. We may touch on, we'll likely touch on all of the applications in some way tomorrow but we may only be looking at one or two CRs in each of those applications. The only disclaimer I'd put on that is that the pesticide application licence I might want to spend more time on if we can because it's a very different activity. It's a small-scale activity and there's very different things to teach us than what all of these larger-scale activities that require the land and water board.

I guess my proposal is we'll finish the Husky one in the morning. I will start the morning off with maybe focusing what we're going to do for the day. I'd still like to spend maybe two or three hours just looking at the pesticide application tomorrow because each of the CRs operates very differently in that context. I guess I'll report back tomorrow morning with how best we're going to do all of this and Plan B if that doesn't work.

Danny Bayha: Thank you. Doug, you had a comment and then we'll have closing remarks and that will be good for today.

Douglas Yallee: Thank you, Mr. Chairman. I just wanted to say that what about other jurisdictions? The flow of the river goes down and up, whichever. What about the people down below? The other thing too I have is who owns the water? Nobody owns the water so anybody can go and help themselves. Thanks.

Danny Bayha: Thank you, Doug, for that. As well, I just want to encourage you to have a quick gander at some of these cases. If you have real concerns we try to in the interest of time address some of the major concerns. With that I think we'd like to see you hopefully tomorrow at 9:00 and everybody ready to work again to go through this stuff. Thank you. I hope the next ones will be a lot faster.

Thursday, February 2, 2012 – 9:00 a.m. to 5:00 p.m.

[MZ000016 – 00:00:00]

Danny Bayha: Good morning, everyone. Hopefully we can get some progress today on what we were slugging through yesterday. If you could get to your seats again we will shortly get started again. Thank you. In about a minute or so.

Thank you. Good morning. If we can get started it would be good. I appreciate it. I'll turn it over to Heidi and she might recap from what we did yesterday. We can all leave that

and say good morning. Oh, maybe before we start again I'll ask Leon to do the quick opening prayer.

Prayer

Leon Modeste: [English translation not provided].

Agenda Amendments

Heidi Wiebe: Good morning. Well, I'm going to do almost a no-recap of yesterday. We spent most of the day on the Husky application. We didn't get as far as I like but we did have a really good discussion in the morning about each of the CRs and I think that maybe had to happen first.

What I'd like to do to pull the workshop together is get through the rest of the CRs and touch on each of the applications, but very briefly, because each of them have something to teach us about how we interpret the plan.

I've put together a very rough agenda for the rest of the day. I'll run you through that and we can have some discussion on whether you think that's appropriate or not.

I do want to finish the Husky application because this was the one where we thoroughly went through each of the conformity requirements. We got through numbers one to eight yesterday so I want to finish of CR-9 to 14. I've allocated two hours for that. I think numbers 10 and 13 will take the most discussion because there's some changes to the CRs that we might want to consider or some larger discussion elements. So I'm going to rush through nine, 11, 12, and 14 because they're easier.

The point of doing the Explor application is that it is a land use in the Deline district and it's predominantly in the Great Bear Lake Watershed Special Management Zone. This is the opportunity to test and play around with CR-16, which is the ecological integrity CR. On that both INAC and the Deline Land Corporation have provided some handouts to help with those discussions on how we might beef up the implementation guidance and figure out how to implement CR-16. Edna, I think those are still at the back table? Okay. So we're going to hand out those for that discussion. It's just three pages. That will be the focus of that one.

One of the CRs we stumbled over yesterday was CR-2. There is a potential to come back to that discussion because CR-2 and 16 are the two different requirements for special management where 16 applies in the Great Bear Lake Special Management Zone only and CR-2 applies to all other special management zones. Depending on where we get with CR-16 there may be lessons to help us figure out what to do with CR-2. We could spend probably three days talking about this; I'm giving it half an hour. That will give us an idea. It's a chance to throw some suggestions on the table but I don't want to linger there because it could take us all day.

We'll probably finish our discussion at CR-16, take lunch right around there, and have a little bit of discussion on this this afternoon and then we need to move on.

The Eagle Plains application I only want to spend 30 minutes on. There's two CRs that I want to focus on discussion there. Maybe over the lunch break if you want you can refresh, just look at those ones.

The winter road application I want to spend about an hour on. There's some interesting questions because this is going to be a recurring land use. This one is of particular interest. We know it will come back again. We know that this is going to have to work with the plan. So we want to work our way through that one.

[00:05:11]

Then the last one is the pesticide application. Having gone through that I think I found a way to group how we deal with the CRs. We're going to touch on most of the CRs but it's a very different application so I'm going to try and lead you through some quicker discussions on how we handled the conformity on that one.

By my count that gets us to about 4:00 with those time allocations. I think we need to start the closing by about 4:30. We've got a half hour in there and we can check in by lunch and see where we're at on some of these things. That is a very rough guide of how we might get through some of the main discussions that are laid out in the different applications that we're testing. Are there any questions on that, suggestions? Concerns?

Edna's passing around the information provided by the Deline Land Corp and INAC with the suggestions for the ecological integrity requirement, number 16.

Questions/Discussion

Danny Bayha: Yeah, while Heidi's getting ready I just want to mention, I know the elders might take a strip out of me for saying this, but I'm going to try, because this is our last day, I'm going to try to remind ourselves of the timing. Every hour or so we need to remind ourselves what time it is and we have until about 4:30, 5:00 before we finish what we're hoping to get out of this session that we have. We really try to keep our comments as close to what we need to say as quickly as we can. I will ask Chief McNeely.

Chief Wilfred McNeely, Jr.: I wonder if we could spend a little bit of time on your pathway process. I know Good Hope is, you brought it up at the last workshop and I don't think it was quite clear or if their requests were being changed. Could we spend a little bit of time on that?

Heidi Wiebe: Sorry. You're asking about how we're going to do the referrals and all of that for conformity?

Chief Wilfred McNeely, Jr.: I guess your application process.

Sahtu Land Use Plan Authority and Process

Heidi Wiebe: Did you want to do that right off the bat? Maybe give you that perspective of how it works? Okay. So one of the handouts that we did give everybody was the sections on the legislation on 46(1) and 47(1). It's just a single hand out.

Under the Mackenzie Valley Resource Management Act the general responsibility for implementing the land use plan and ensuring that – Actually, one sec. I'll put it on screen. Sorry, I've got so many file folders for this workshop. Can you read that or do I need to make it bigger? Okay.

The parts of the MVRMA, 46(1) is the key section that we rely on for implementing the Sahtu Land Use Plan. It says that the Gwich'in and Sahtu First Nations, departments, and agencies of the federal and territorial governments, and everybody having authority under any federal or territorial law to issue licences, permits, or other authorizations relating to the use of land or waters or the deposit of waste shall carry out their powers in accordance with the land use plan applicable in a settlement area. That means that the responsibility to implement the plan rests with government, the First Nations – so in this case we're saying that's through the SSI and the district land corporations – and anybody who issues any form of licence, permit, or authorization relating to the use of land and water for the other resources.

[00:10:10]

Under section 47 it says that the planning board will determine whether an activity is in accordance with a plan – and there's a whole bunch of sections – where the activity is referred to us. It can be referred by the regulator, by the applicant, or by anybody affected by the activity. Now in reading this it creates a little bit of risk or uncertainty in the process. So if there's no referral it's the regulator. Let's just use the land and water board as the default regulator. Under the legislation the land and water board has the responsibility to determine whether or not a given application or given activity is following the land use plan. That's what the legislation says. But if somebody refers it to us, say they make their assessment, they look at the application and say yeah, we think this conforms, and someone says no, we disagree, we don't think that project is following the land use plan, we're going to refer it to the planning board. So the planning board has the ultimate call. Under the end of that section it says a referral, (2), a referral of the application has to be made before the permit or licence is issued and, sorry, under section (4) the decision of the planning board is final and binding. So if there's a referral we get to make the final call. We wrote the plan, we understand how it should be interpreted, and it's our decision whether or not an application conforms.

When everyone started talking about this we thought, well, yeah, we can rely on the regulators but they didn't write the plan, they don't necessarily have a clear understanding of what the board had in mind when we were writing some of these sections. We would rather you just do the, make the call every time at least until we all learn that process.

So we put together this flow chart. Actually, I'll just go from here. The applicant starts the process. They would send in their application to the land and water board the same as they always will. During this time they're usually talking quite a bit with the land and water board to make sure that they're following their processes. We're also saying it's a good time to come talk to us and make sure that they understand what we're looking for in the plan as well so that as they're building their application we all know it's going to be generally acceptable in following both of our procedures.

They'll send it in to the land and water board. The land and water board is going to determine completeness, so they're going to go through their checks and make sure that it includes all of the right information. We've talked that we're going to have to work with them to make sure they're addressing our information needs as well going forward. Their process is that once they've determined that the application is complete they send

it out to most of the people in this room. It goes out to the affected communities, the land corps, the RRCs, to the various departments within the GNWT and AANDC. It goes to other regulators, the renewable resources board. It comes to us. Through that process what we've decided is that as soon as the application comes in, while they're still checking for completion, they'll send it to us right away so that we can get started and check the land use plan. But because more information might come in if they say, oh, the application isn't complete, we need a little bit more information on this, we'll wait until they've said yeah, we've got all the information, and then we will finish our call. So we'll start our process before everybody else. Just so that we can get a head start and make sure that or determine whether the application is following the plan before everybody else invests all that additional time and energy reviewing the rest of the application.

We will transmit our decision back to the applicant and to the land and water board because it's an open process, likely, to everybody in the process. We'll check for conformity. Our options are yes, it conforms, or no, it doesn't. If an application or the activity doesn't meet even one of the conditions overall the application would have to fail conformity. Right? So it's not, it's pass or fail on every one of them and they have to pass all of them.

[00:15:12]

So if it was found that the application does conform it's great, we send that back, the land and water board continues its process, it gets its comments from everybody else, and the process continues as it does right now. If we say that the application doesn't conform for any of the different conditions in the plan we would say no and there's a couple different options there. The applicant has the ability to request an exception. We would not grant an exception to zoning right now. If they're trying to apply for oil and gas or mining activity in a conservation zone we don't grant exceptions for that. But say they needed to waive the condition because they're too close to an archaeological site but they've found other ways to protect it beyond what we've got in the plan, the board can consider that request for example and say yeah, okay, that's reasonable, we'll grant an exception to that one. Or we can say no, that's not reasonable. They can apply for an exception. Again, if we say yeah, okay, we'll grant the exception, we let everybody know, the land and water board continues its process. If we say no then under the legislation, under the MVRMA the land and water board cannot issue its authorization. The same would happen for anybody else who has to issue any other authorization related to that project. If we say that the activity does not conform no one with the ability to issue an authorization can issue related to that project.

So that's how the process works. We become a front-end part of the system. So the application comes in and the planning board is one of the first people to say yeah, you follow the plan, you can continue, or you don't follow the plan and the process has to stop. If an application doesn't conform then obviously the applicant has the opportunity to revise their application so that they do address the issues that they're not conforming with and then they can resubmit and it starts again from the top of the system.

That's what was agreed on or discussed at the first workshop. Any questions?

Questions/Discussion

Danny Bayha: Jesse.

Jesse Tigner: Thank you. Just to be clear then, does this mean that no stakeholder can sidestep the board and refer an application for environmental assessment? If there's issues with the application it comes always back to you irregardless of what those issues may be?

Heidi Wiebe: Yeah, there's actually two clauses – and Paul will correct me if I get the clause wrong – but 46(1) is in our section of the MVRMA under Part 2 but there's also 61(1), is it, Paul? Somewhere around there. Under the land and water board section that says they can't issue a permit until basically all the planning requirements have been complied with. So yeah, there's no way to sidestep our process. Every application that is subject to the plan has to come through the planning board to get conformity, to get a conformity check done. Whether or not a project goes to EA has got nothing to do with the plan. That's a decision that happens through the preliminary screening process and our process will generally be done by then.

If there is initial conformity assessment or determination and we say that no, it doesn't conform, and the applicant submits an exception request that might take our process a little bit longer while we deal with that. Generally if we have that front-end dialogue anyways chances are we would know and the applicant would know early on, oh, look, you're going to have an issue with CR-5, submit an application for exception with your application so we can get that going at the same time. The more we can talk up front before the paperwork comes in the more success everybody has and the quicker we can do this.

We have said in the plan and in all our discussions that we recognize the land and water board's got their 42-day time frame. They can't issue until our process is complied with but to the extent that we can, i.e. we've got all the paperwork to do our job, we would stick within their time frames.

[00:20:01]

Danny Bayha: Yeah, just wanted to add, Paul. Once, I'm just trying to envision how that's going to work. Once it's in compliance with or the water board determines that it's in compliance with the land use plan that's when it's deemed complete and the 42 days can start. Am I sort of on the wrong or right track with that?

Paul Dixon: It looks like the way you guys have it graphed out that's not the case. So the conformity would happen during the referral process.

Heidi Wiebe: Yeah, we would be doing our conformity basically during the preliminary screening process, within the 42-day process.

Danny Bayha: No, okay. That's good to know. With that I'll turn it over to SSI.

Ethel Blondin-Andrew: I'm allowed to make mistakes because our technical legal expert's not here. In an ideal world that would all work but I'm coming from the world of MVRMA and changing that structure where the water boards disappear. There's no legal representation with panels. There will be no panels. There will be a super board. What if the super board never refers to these land and, to the land use, the SLUB? I'm

worried about that. I'm not worried about industry. I'm not worried about the land use planning board. I'm worried about what happens before it gets to the clearing house part. What if it just becomes a flow through? Because obviously somebody's looked at this and said we gotta change this because some of our stuff might stop and not be approved. So we get a super board that just is like a pipeline of yes. I think we gotta think about that.

Richard (Dick) Spaulding: Ethel, if I can answer that question, it's a very good question. I think it's important to be clear about what the MVRMA provides right now by way of guidance. Remembering too that the planning boards are being copied or being told that they will be copied with progress reports of the amendment discussion. The planning boards are not being consulted. So I don't think that this group should be confident that this level of discussion is occurring in the amendment process, which makes your question even more important. If the MVRMA provisions that Heidi just explained are not changed and the super board takes the place of the regional land and water board and the super board decided not to make referrals – in other words, not to follow the recommendations of the working groups that have been looking at this in detail – then there would be a number of options to get the concern about conformity determination to the planning board.

First and foremost, and I think this is why you asked the question, there would be no guarantee that it would get to the planning board but there would be a number of other bodies that could pick up the job and make the referral. Any of the other implementation bodies mentioned in the MVRMA could do it. It could be the First Nation. It could be SSI. It could be a federal or territorial department or agency. Or it could be any other regulator that has some concern about the project. So if the super board didn't do it and the Ministry of Transport were involved they could make the referral. DFO could make the referral if there was a fisheries authorization involved. NEB and so on. Those are the organizations that can make the referrals.

Another way that it can get to the planning board is on a direct request from any person directly affected by the proposed activity. Effectively a neighbouring party, someone who feels that their interests are going to be disturbed can make a direct application. Those are the options.

To come back to your main point, it's not a sure thing that it would come to the board and it would be possible that the super board could end up simply proceeding and taking its own chances as to whether its own licences conform to the land use plan.

[00:25:10]

Danny Bayha: Sure. Go ahead.

Ethel Blondin-Andrew: I feel like I'm in Parliament. Supplementary, Mr. Speaker. I promise not to yell at anybody.

The reason that I raise that is because SSI has a mechanism that allows it to refer things to environmental assessment. I'm hoping that the organizations and the land use plan will help us to use that like a referendum, very seldomly. Very seldomly should we use that. It's for the exceptional case. Under these circumstances if what happens, if what I'm suspicious about in this MVRMA process happens then we're going to be back

into the mix again. We're a political organization or an organization that works on land claims. We don't want to be a clearing house for all of the applications that come through. My concern is that the land use plan is not neutered before it even gets off the ground.

Danny Bayha: Thank you, Ethel. Paul, you had something to follow-up question and then I'll have George. Thank you.

Paul Dixon: It wasn't about the super board or referrals to the planning board but just for the, I believe I mentioned this in Workshop 2. I still believe that a conformity determination should take place in advance of the referrals going out to the individuals like our stakeholder agencies because we start working on things and everyone starts working on things as soon as we deem it complete and it goes out and for it to come back as being in non-conformance during that process would just be a big headache. That was my issue prior to yesterday about conformity determinations that take place during our process or are satisfied during our process as being an issue. I just want to raise that again.

Danny Bayha: Thank you, Paul. If I can get George to comment. Thank you.

George Barnaby: Our concern is with ourselves, the community. There's some process in place, sometimes the government comes around before they put the land up for nominations and if you do this on our land there's hardly any land outlying. It's all open more for process rather than putting land on different categories of land. We had a workshop about a year ago where the people wanted authority and they don't want to create other boards or things that will take that authority away from them. That has to go into the plan. There's another process before that one where the federal government puts out land for bid, so we should be involved. And then afterwards, before that happens, then they have to make a deal with the community and I know on our selected land then we get access and benefits agreements. On Crown land I don't know what there is but for the plan to work for us then we should also have that say on all our traditional lands. If we give that up then we're giving away our self-government agreements.

[00:29:37]

What we're trying to put together is a plan for ourselves, for our communities, for our district, our traditional lands. Where do we fit in? Are we giving everything away to little boards here and there and then we're going to have no? So we see our assembly, our band council, and that as a government. We have a lot of land that we own some fee simple but that's not the extent of our rights. Our rights also is to govern and that part is not done. If we put a plan that we like then we want to have a say on all of our traditional lands not just those under fee simple ownership. That's our concern is where do we fit in. We want to fit in where we are now, which is second in line. The federal government puts out land then we're next to make those agreements, then the permitting process is the third part.

Danny Bayha: Thank you, George. I'll have Walter. You need to state your name and who you represent.

Walter Bayha: Yeah. I'm with the Sahtu Land and Water Board or the Sahtu Renewable Resources Board. Just, you know, one of the, probably the most important thing we deal with on these processes is our timelines. I think just to talk on what Paul was saying, you know, once the application is complete for the Sahtu Land and Water Board the clock starts ticking. You got 42 days to issue the permit or it goes through another level. I think you're all aware that we have a three-tier environmental system here, what the land claims call an integrated source management system. We also, up until now, I think more like 17 years finally we're going to get a land use plan, because of the importance of timelines and because it's so important that we recognize the Sahtu Land and Water Board as a process, that's exactly what it is.

Just to talk about also George's comments, the way the community decides whether to support any project is really up to them. I think that's so important to remember that. Too often, I been sitting on the land and water board for many, many years, even prior to the date that the Mackenzie Valley Resource Management Act was in effect, too often we carry issues to a system that's not going to resolve it. It still goes back to the community. It still goes back to an environmental assessment where the parties that have conflicts or don't agree on things still have to resolve it. Too often we see Sahtu Land and Water Board as a place where we can resolve issues. I think many of you know those applications.

I'm sitting back there listening yesterday and today and a lot of these issues with the land use plan, and if you look at the plan that Deline has – probably one of the best plans I've seen – I sat through their process for three years. They've resolved a lot of issues that the Sahtu Land and Water Board is never going to resolve. I remember sitting through there, and a lot of the members from Deline are here, where we had issues with development. So the land corporation members that want development, or especially areas that they had subsurface rights to, made sure they come into the process that we had and they said here, you can't block this area just for conservation, we have subsurface rights here, we want access to that. So these kinds of issues like that should be resolved before it even gets to the application stage.

I guess one of the things that's so important, if it's not going to resolve then I don't think it should go to Sahtu Land and Water Board. It should not be complete and it shouldn't go ahead because it may go to environmental assessment anyway. I think those are the kinds of things that Ethel is talking about. Once these decisions, a lot of the decisions that we talk about here and we'll go through that with the scenarios that you have up there with Husky and Explor, maybe Eagle Plains and the winter road, I think they can be resolved before the applications, the timelines for the applications starts ticking. Because that system is not made to resolve issues.

[00:35:21]

I think Ethel can remember that when we first started, when this whole integrated risk management system started, she was the one that's getting most of the complaints. I'm sure Ethel remembers that. When somebody was probably telling you we don't support issuing this land use application you were dealing with something that you had no control over. Those are levels, and I think that some of the things that sometimes we get

so confused, we have so many levels of permitting, we have so many people that are involved it is confusing.

Yesterday Peter was telling me about some of the things that they're talking about in the master land agreement. Even there most people are not aware, even my own people are not aware of the master land agreement. It's so complex. They have to do it because of the way things progress with the land claims. Peter was telling me stuff that I didn't even know about land titles. Some of the things that maybe we need to look around and we need to make sure, like Leon was saying, that everybody contributes to making sure that these processes are successful. That includes the NEB. One of the things you have to remember is before the land applications or anybody, and you've heard that from Husky yesterday, they have to have rights to do exploration. Rights to do oil exploration, rights to do mineral exploration, rights to do almost everything. I've seen that over the years that these things come through. Some rights are there that don't even go through the land use permitting process. They're exempt.

I think we need to look at it then but I think I'm going to be very strong in terms of saying that many of the things that we deal with the land use plan need to be resolved by the proponents and the community before they go to the, before they file an application for a land use permit or a water licence because these become very costly. I think those requirements are there already with some things. I mean, with our Sahtu land claims the oil industry are required to go to the communities. we don't have that same thing with the mineral industry but there is requirement there to come up with a framework for their development work. That's even before they issue the licences for oil and gas exploration.

I think I just want to put that in there. That is so important. We don't want to go ahead with the land use plan or water licence knowing well that it's going to go to an environmental assessment. If it is then you wonder why people want to do that. You want to spend the money knowing that you're going to spend more money? I doubt it. So I think common sense prevails here. I think those are the kinds of things that I learned from George Barnaby over the years sitting there. He keeps telling me not to look too much at the regulations because we can change it.

Another little thing that I'd like to add, and this is so important as well, is that I used to issue land use permits back in 1972-1975 and if you look at the regulations of the Mackenzie Valley Resource Management Act it hasn't changed. I'll tell you what has changed: people. Everybody wants a say in how these applications are issued. But you know what? I'll give you a really good example: I thought the last application that we looked at on the 3D seismic application for the Sahtu was going to go to environmental assessment. I really thought that. I thought somebody's going to say like this: We don't have these kinds of projects in Sahtu so we want environmental, we want more information. That might be a good example and I think the people that probably would make comments, and most of them are here, that project went through. There wasn't one comment about this is going to impact our wildlife. There wasn't one comment about, boy, we didn't have time to put in our comments so we want to do that otherwise we'll slow the system down.

[00:40:13]

So I think those are really good examples of if people are happy and they do, a lot of the issues they have are resolved between the communities and the proponents, then I think the big issues that the system can't handle will not go through. I like George's comments about it's up, the community's decision. The community's decisions are made on the land use plan. So I think prior to even, you know, if the communities come back on a land use plan that they're not happy with then they really should be doing a lot of work prior to doing any kind of development in their areas before it even gets to the land use application stage.

Mahsi. I hope I'm clear on this. If there's any questions then I'd surely love to try to answer them. Mahsi. Thank you.

Danny Bayha: Mahsi, Walter. It's good to have that information as to how things work at the water board system level and what issues they're facing. I think the importance of DEW – and that's Do Early Work – I think that's always the message I'm hoping that everyone gets that all this stuff happens out of the way and I think some of the proponents have demonstrated that that has worked for them and that helps their process and their permits to get a timely approval.

With the process, I don't know if there were any questions about the process yet. We still have to get this, the other companies or the, finish Husky, the CRs, and then we can move on. If there's any more process questions please note it down and we will try to keep it alive and then towards, some of these process questions may be answered as we go through it so towards the end we try to capture some of the, or try to answer some of the questions that have arisen. With that I'll turn it over to Heidi and we'll continue. Thank you.

Now it's 10:00, 10:05. So I just want to let you know. Thank you.

Conformity Determination Report: Husky Application S11T-002/S11L3-002 - Continued

Conformity Requirement 9: Drinking Water

Heidi Wiebe: All right. We're going to start on CR-9 then with the Husky application. That's on page 9 of the conformity determination report. So just a reminder about this CR: It says that any activity that results in the contamination of water within the community catchments as shown on Map 6 is prohibited and where there is reasonable potential for any land use activity to affect a downstream drinking water source the affected community must be informed and engaged with respect to potential impacts, design of mitigation measures, and monitoring. Then there's requirements for baseline water quality data to be collected and regular testing of the watershed after that. The idea is to get that before and after information and to satisfied community concerns about potential water quality impacts. This was a huge topic of discussion at the second workshop that resulted in those changes.

The criteria that we looked at for this CR you need to see in some way an assessment of the potential impacts to downstream drinking water sources. Obviously nothing that would result in contamination would be allowed so that might be looking at how far you are away from the drinking water source and the potential for any contaminants to

migrate into that area. If there is potential risk to that then we would want to see a demonstration that there were discussions with the community and that pre- and post-monitoring is provided for in some way.

For the Husky application Norman Wells and Fort Good Hope would both be downstream in terms of drinking water sources. Norman Wells is obviously a lot closer than Fort Good Hope. That said, the operations are carried out in winter when the river and the shore line are frozen and there's almost no activity on the river itself. It's a frozen river crossing. For that reason I felt there was generally very low risk to the water in the area and so without any potential other activities happening close to the water that this one would conform without too many issues or concerns.

[00:45:12]

I've posted up the goals for these discussions on the wall again, so we're looking to see does the CR work, are there any issues with how it's being interpreted for implementation criteria, and whether or not there's any further information requirements that might be required post plan approval.

Are there any questions or discussion on that one? Harry.

Questions/Discussion

Harry Harris: Can we go back to community engagement, CR-4? I think that wording there is whether, it's sort of vague there. Sitting with George and Walter talking it's sort of, it sort of says before any.... That word, vague, it sort of leaves the land corporations out. It should say with or in, you know, you gotta work together. It says before any land use activity is authorized regulators shall assess whether the land corporation and with community members are adequately engaged with respect to. So it's sort of vague. It should say something like, you're talking about a super board and this clause there it sort of leaves the regulators all the power. It's just something that should say with or in accordance with the land corporations. It would have to be working together. It's just something that has to be looked at. Thank you.

Danny Bayha: Thank you, Harry. Any other comments? I don't know, Heidi, if you had, possibly have a comment.

Heidi Wiebe: [Inaudible].

Danny Bayha: Okay. We'll note that and then we can move on. Thank you. Paul, sorry, go ahead.

Paul Dixon: Going back to CR-9, I just wanted to make a quick comment because we've seen it in a couple of instances, not that I know of in the Sahtu but in some of the other regions, where we define contamination as not meeting the drinking water standards. Well, sometimes the source water will not meet drinking water standards in advance of any activity. So it's just something to be aware of that the baseline would already exceed safe drinking water standards. So if an activity was taking place and was being asked to return that water to drinking water standards when the intake water was already outside of that sometimes there's some serious difficulties with that. Just for your awareness.

Danny Bayha: Thank you, Paul. Was that clear enough, Heidi?

Heidi Wiebe: Yeah, actually, I think my understanding is that if you're thinking of the CCME drinking water standards those are actually end-of-tap standards. So there's no way that a source watershed would meet that because that's post-treatment standards. If we were going to be talking standards at all it would be the Guidelines for Aquatic Water Quality I think would be the more relevant ones. Nowhere in this CR or in the implementation guidance how we've referenced those guidelines, I know we've had those discussions in the past and I know they're applied here and there where appropriate but even I think the land and water boards whole system of water quality said they don't apply those every time. it's more site specific.

So what we did, what we had discussed at Workshop 2, was that we would use the definition from the drinking water strategy, which is essentially for contamination, which is just not making it undrinkable in that area. I don't know if that's, I guess we might get further comments on whether that's an appropriate definition but that was coming through and seemed to have general support and agreement at Workshop 2.

Danny Bayha: Thank you, Heidi. If that exchange is clear enough for everyone we can probably move on. Thank you. Tom.

[00:50:03]

Tom Nesbitt: Hi. Tom Nesbitt. I wonder if we could just, Heidi, look a little further about this reference to, I believe it's the territorial strategy and the water. Could you tell us about that test a little further, please? I'm wondering whether we just move the problem to another word. What is the test now? What is the test we're proposing here, please, under CR-[9] so everyone knows what we're talking about?

Danny Bayha: So specifically you're talking about the word 'contamination'.

Tom Nesbitt: Well, basically, as I understand it, the word 'contamination' refers back to another test. What is that test? I think we should put that test on the table so we're actually discussing it and seeing whether it's any better than contamination or whether it escapes the problems with contamination.

Danny Bayha: Okay. Heidi, do you want to respond? Thank you.

Heidi Wiebe: Hi, okay, so I'm looking back at the September discussion document. For those who actually have their copies it was on page 34. Contamination comes from the GNWT's document called Managing Drinking Water Quality in the Northwest Territories: A Preventative Framework and Strategy, dated May 2005. In that contamination is defined as "The presence or unwanted transfer of a substance into drinking water, making it impure or harmful." So it's a fairly broad, standard, simple definition. The idea is basically we want to make sure that there's nothing that's going to go into the drinking water catchment that would make it unsuitable for use as a drinking water area, as the sourced intake.

I think there's no specific guideline because I think people have told us several times that specific guidelines don't always, aren't always appropriate. Sometimes background levels make them problematic. At the same time we would think that if there's high background levels of mercury or something you wouldn't use it as a source intake.

There's a reasonableness test here that I think has to be put forward as opposed to the application of some standard number which does not yet exist for the Northwest Territories.

Danny Bayha: Thank you, Heidi. Tom, you had a follow-up question. Then Paul.

Tom Nesbitt: Well, I'm just wondering, I like general standards too. I'm not complaining about that. I'm looking for numbers, okay? Because we do have, as John mentioned yesterday, a Waters Act which must be recognized as well. Is there any guidance in terms of – So we're calling contamination not contamination anymore. Now it's impure or harmful. Perhaps we could just enlighten me a little on how we're testing for impure or harmful. Is there any guidance there or is that kind of a general concept which we – I can accept that too – are going to interpret in different circumstances? Is that it?

Danny Bayha: Thank you, Tom. I think I had Paul. Thank you.

Paul Dixon: My question was very similar to Tom's. How would the planning board make a determination of conformity based on that CR as it's worded now or as Heidi's discussed what contamination may be? You're saying something about impurities or impure but, you know, I just wonder how the planning board plans on making some sort of conformity determination on that. My issue is that if you place that with us how are we going to do that?

Danny Bayha: I'm sorry. Heidi.

Heidi Wiebe: I think the pesticide application is a good example of this one because there is potential for runoff of pesticide into the Mackenzie River where that application is based, and we'll get to that one this afternoon. What I did in that situation is said, look, I'm not a chemist or we don't have that level of expertise. We rely on the ultimate participation of everybody in the regulatory process to bring that expertise. So in that sense we would say the application conforms subject to the regulators applying the conditions as appropriate to ensure that this CR has been fulfilled. We rely on that regulator. So as you're getting that guidance in from the water quality specialists in the system and they're telling you that, oh, there's a potential for contamination from this type of chemical here, you want to make sure that this is stored, blah-blah-blah. You're getting that guidance through the regulatory system. So where there is the need for that specific expertise that conditional conformity determination that we've got and have been using will allow that to happen so that people who don't have that appropriate expertise are bringing that into the system.

[00:55:36]

Danny Bayha: Okay. Maybe we'll just have a closing. We have to get moving. Thank you.

Paul Dixon: Just as a quick follow up or no?

Danny Bayha: Just quick follow up. Then we'll keep moving.

Paul Dixon: Okay. I appreciate that. This was sort of my issue yesterday about when conformity determinations take place in advance of the project approval or during the course of the regulatory process. If you're going to rely on the regulatory process, our process, everyone here, you're still adding a lot of ambiguity in that kind of statement

where one professional might be viewing it this way and another professional might be viewing it a different way. I've no issue with protecting drinking water. I think that's a very important aspect to the regulatory process. The boards have been working on those processes as well to ensure that water quality is maintained within the NWT and we've been working with the Water Stewardship Strategy as well. You have to have a little bit of faith in the wording and the regulations that are already in place. Defining catchment areas as being, you know, areas where people will be consuming or potentially consuming water is important and maybe should be held to a higher standard than other sources. I'm not sure.

Just to be aware, if you're going to rely on the regulatory process then that conformity determination, that's where I'm having that issue with the board's ability to make determinations on conformity, either in advance or during the life of a project like I discussed yesterday, then bringing in potentially the board and some other professional having an issue with that wording and challenging the regulatory process on that. Just sort of thinking about adding quite a bit of complexity to the situation that's already there.

Danny Bayha: Thank you, Paul. I think we had George and then John and that fella there. Thank you.

George Barnaby: Yeah. Well, our people are all over our land so they're drinking water from all over the place. In the past when we negotiated with companies we tried to collect baseline data and use that to stay around that level. If they're going to collect that then I think that's where the communities would want them. That nothing will change or try to keep change from happening to the water quality. I think it should be wherever there's activity going on that water testing should happen as a regular part because, like I said, people are all over. They're not just sitting in town drinking from one water source. They're all over. A good plan will be then to use that baseline data as something to stay at that level at least.

Danny Bayha: Thank you, George. John from SSI.

John Donihee: Thank you, Mr. Chairman. Interesting debate but I'm forced to observe in passing that it seems strange to me that we're having third parties discussing a GNWT strategy and they're sitting over there right beside the people who are actually responsible for water management in the Northwest Territories and apparently both delegations have been struck mute. Why are we spinning our wheels on this thing when we have those government departments with expertise? Are we going to get through the Husky thing before the end of the day? No? This is really frustrating and I'm sure the people from the community have to be as frustrated as I am about it. Why don't we get somebody that knows something about water quality standards to help us out here and then we can actually have a useful debate about what the CR ought to say.

[01:00:41]

Danny Bayha: Thank you, John. Fellow in the corner there. State your name, please.

Ruari Carthew: I'm Ruari from Fisheries and Oceans. That's a good segue. Provided, now, this is specific to drinking water here, but provided that there are fish in the catchments being used by communities I see a little bit of redundancy with this in the

Fisheries Act where section 36 prohibits the addition of any deleterious substance. So I don't know if it would be worthwhile to make the wording more in line with deleterious substances or just to consider the overlap there.

Danny Bayha: Thank you. Earlier I think Heidi mentioned that as we do the pesticide issue through it might make some things more clear and folks from the government might be able to have more folks here to help us through some of the issues that were noted. With that I would ask that maybe we take a five-minute break and then keep going. Thank you.

---BREAK

Danny Bayha: Okay, we can get back to our seats and continue on, please. Thank you. Thank you. If we can make our way back. Yes. Can you hear me? Okay, I can hear me now. If we can continue that would be great.

We left off with some questions but we'll keep those questions towards the end. These are important type questions how we're going to protect water, what kind of standards there are. We'll hopefully towards the end of the workshop have some sense of where it would be and where it's going with everybody's input. I'm hoping certainly earlier requests of the government's help in trying to determine some of the standard questions that have come up. I'm hoping they will come through and help us to make our way through this. With that I will turn it back over to Heidi and we can continue on. Thank you.

Heidi Wiebe: Thanks, Danny. I'm going to move on to CR-10. Before I do I just want to maybe make a quick statement to help focus discussions. When we get to the closing comments today we are going to provide an opportunity for further comment. I think a lot of the comments that we're getting this morning are coming from continuing issues with the wording of the CRs themselves. That was the purpose of Workshop 2. We took our direction. We recognize that there's going to be further changes that might be required. Today we're here to test implementation and I really think we need to do that work. So I'm going to ask people to hold back on any other issues that you might have or comments on the substance of the CRs themselves and let us get to have the discussions on the interpretation and how they're implemented. You can bring forth your further questions or issues in written comments after this workshop, otherwise we will never get through I think some of the work and the whole intention of getting together these last two and a half days. So if everyone's okay with that I would ask that you try to keep your comments to the implementation side of it. If you want to start your comment off with, okay, I have an issue that I will let you know about, but here's how it affects the implementation discussion. Then we can keep it to that. We do need to get through the rest of these CRs. We do need to look at some of the other applications. I think we owe it to everybody who has spent their time and money to travel up here to try and get through those discussions.

[01:05:16]

Conformity Requirement 10: Wildlife

So CR-10 is wildlife and it sets up some different requirements. The first is for the applicant to contact the organizations that have that wildlife information to make sure

that they've got the most up-to-date information. So ENR, Canadian Wildlife Service, Fisheries and Oceans, and then the SRB and mostly the renewable resources councils. Now the RRCs, that information would come through the consultations and if you're doing the traditional knowledge studies or just through those engagement discussions.

The second requirement is basically to ensure that impacts to wildlife, their habitat, and migration patterns, and some key areas such as special harvesting area, the Fort Good Hope/Colville Lake group trapping area, these areas with special wildlife designation are looked after and mitigated. It's a general make sure you're mitigating your impacts.

The third one has a map, which I don't think I've got on screen right now, but it shows the key over wintering habitat for the Bluenose West Barren Ground caribou herd and in the final draft one of the revisions that we are going to be making is to also include the Bluenose East herd mapping winter range. That would require that, basically it's a red flag for the system. If you're doing winter work in that area, in that habitat make sure you're giving special consideration to how you're mitigating your impacts to caribou that will be in the area.

Then the fourth part links to the table with wildlife setbacks. So horizontal setbacks for different species and minimum flight altitudes during specific seasons. An application would have to, depending on when it's working, demonstrate that it's adhering to those different setbacks and minimum altitudes.

So we're looking for a data check, mitigation measures for wildlife based on what we know to be in those areas, special consideration for Barren Ground caribou if it's an activity in the winter in that area that's mapped out, and consideration and adherence to those setbacks.

In the case of this application for the most part it was very straightforward. There was a lot of information provided. There was a lot of wildlife mapping. They had clearly contacted the different organizations to get the information. They had done extensive work with the renewable resources councils to identify from them the key species of concern and where they were going to be in relation to that project.

Because of the study area or activity area the third clause in relation to Barren Ground Caribou was not applicable.

With respect to the setbacks and minimum flight altitudes they were compliant with most of those. They were referencing the NWT seismic guidelines which when I checked those have basically the same setbacks as we were provided for this. Lindsay has reminded me that there are copies on the table at the back of the room of those most current seismic guidelines. I'm happy to see that we have the same setbacks that were provided to us.

Essentially this one conforms was the final determination. We just said subject to any further implementation requirements. So in case there was anything we missed then we still rely on the regulators for this CR in particular to say look, if there's anything else that we've missed the plan sort of sets that minimum standard and you can apply any other conditions to mitigate impacts to wildlife as appropriate. That really picks up on that Clause 2.

In the case of one of the wildlife setbacks it was for water fowl concentrations. Couldn't totally be sure so obviously through a condition you could ensure that was met or adhered to.

In terms of questions for this one, there were a couple of things that occurred to me in doing the conformity determination that might warrant some revisions. For instance, we have a list of wildlife species in the first clause and in this case not all those species would be in the area of operations. A strict adherence to the CR would say that you'd have to assess them whether or not they're in the area. In this sense I realize we need to probably add 'where geographically appropriate.' It's not reasonable to make a proponent assess impacts to a species that's not going to be in the area. I think that's one revision that I'm proposing to be made.

[01:10:33]

The other is that the first clause there says any land use activity must follow approved wildlife management plans. This was added I think in response to requests from Fort Good Hope following up on consultations but in doing this I would expect that those organizations that drafted those management plans – so in the case of, I think there's the Barren Ground Caribou Plan, that's the SRRB who writes those in conjunction with other regulators; in the case of the new Draft Caribou Recovery Strategy, that's Environment Canada. I don't expect that our organization would be checking conformity of an application against those plans. That's the responsibility of those authors. Given that I'm suggesting that we actually take that clause back out and let the regulators assess conformity with their own plans. That's another change that I would be suggesting for the CR based on going through this exercise.

The last one is just that yes, we would be adding the Bluenose East map to that Map 7. That's a request that came through about a year ago that the board had discussed making. One new thing that occurred to me is that I know with the whole new Boreal Caribou Strategy, while that's still being debated, they have now mapped Boreal Caribou range. It's a new piece of data that didn't exist a year ago for us. I suppose I throw that out there as should that be now included on this map in some way as a piece of information. Same as we know Barren Ground Caribou to be in this area in winter we now know that this is delineated as caribou range. People should take note of that and pay attention to that in their operations.

Those are the three suggestions that came through this exercise for me that I suppose I would open up for a little bit of discussion on how people feel about that.

Questions/Discussion

Danny Bayha: Thank you, Heidi. Jesse, you had a comment. Thank you.

Jesse Tigner: Hi. Jesse from Explor. I'll keep things extremely brief and just to the implementation side. I have two concerns, I guess. One is related to setback distances from dens of bears, wolverines, etcetera. Or nests. From our perspective, being a seismic company with our program right now, there's major safety concerns with, say, scouting a head of lines to look for dens of various critters for the thousand-plus kilometres of line that we've applied for and been granted permission to construct. I'm wondering from a conformity, from an implementation perspective what you are looking

for in terms of, you know, we have monitors out there that are specifically looking for all of these things but by the time we see them we may not be, I can't remember off the top of my head, 400 metres from a wolverine den. How are you kind of making those determinations as to whether we've conformed or not? We're obviously doing the best we can but there's virtually no data on many of these species across much of the Sahtu. We don't really have the ability to necessarily follow this stuff to a 'T' despite best efforts.

The second point pertains to species maps and range maps. Another thing that we found is that a lot of the maps are very general. So in particular the new Boreal Caribou ranges that are part of Environment Canada's effort. We know that all of the areas within the mapped ranges are not and never will be caribou habitat. We know a lot is. So when we're thinking about doing various mitigation efforts, when we're thinking about potentially not being allowed in certain areas because of range maps, that becomes very worrisome because there's very coarse data again. So we have very limited ability to know if we're actually doing the right thing.

If you could comment on those that would be appreciated.

[01:15:22]

Danny Bayha: Thank you, Jesse. Heidi, you have some comment on that. Thank you.

Heidi Wiebe: I don't have any responses for those right now. I guess what we've been looking for in general is that, yeah, you've got a wildlife monitor, you're scouting for them. That's the extent that I've gone to right now but I think you've raised some really good issues that will bear further consideration.

In terms of the range mapping you're right, it is very general. I guess the intention is that okay, it's a flag, so you're in this area, potential for caribou, but then that's where talking to the local renewable resources councils will give you that much more detailed information. So in terms of what to do with that general range mapping I think the conditions have to stay equally very broad. It's a flag. This area is known to be caribou range so somewhere in your report you should at least be talking about the species. That would be what I would be looking for at this point.

Danny Bayha: Thank you, Heidi. If there's nothing else we'll keep moving. Doug.

Douglas Yallee: Yeah. I'm just wondering, because there's other agencies still doing things, like you said, the Boreal Caribou stuff, they haven't finished what they been doing. I don't know how it's going to take effect with what the land use planning is doing here at the same time. I don't know if they're going to be implemented or if they're going to wait.

Danny Bayha: Heidi.

Heidi Wiebe: We're aware that there's the strategy that's under development and that is probably going to be some revisions as a result of their consultations. At this point the board is aware of it. We've looked at it. I think the key piece of that strategy that everybody's focusing on is the thresholds, that 65 percent habitat. That's accumulative effects management tool dealing with overall impacts to caribou range and this board decided two years ago that we were not going to set thresholds in this draft of the plan

and that we were referring that work to the Sahtu Working Group where we have that collaborative forum and a chance for everybody to talk through the science, the implications of applying different types of thresholds to different habitat. The discussion that the board have had so far is we're aware of the strategy, up until even now we've had reference to comply with management plans – I'm thinking about taking that out of the plan or proposing to take it out, but whether the strategy is talked about in the plan or not once it's finished it's something separate that organizations and companies and land users have to comply with. Whether we discuss it in the plan or not it's something that would have to be complied with on its own. To that extent, I think I've said to a number of people, we have enough issues to contend with in our own plan never mind trying to integrate other plans at this time. That's been the discussions that we've had at our board. We recognize it's happening. The only caveat I make to that is the fact that I know there's a new data source out there that maybe we could stick in the plan as a reference tool and that's about as far as I'm thinking at this point.

Danny Bayha: Thank you, Heidi. If we could move on that would be good. Again, towards the end there will be more questions probably hopefully answered. Thank you.

Conformity Requirement 11: Introduction of Species

Heidi Wiebe: CR-11 is on species introductions. This CR is basically looking for discussion of how the project might contribute to the introduction of invasive species. Basically we don't want that to happen. It looks at both the, we don't want any deliberate introductions but we also want to see steps to minimize unintended or unintentional introductions of native species. We're aware that there's fairly standard practices to clean equipment and whatnot before entering an area and this was really covering a couple of things. One was the introduction of species through grass seed or through foreign plants that might travel in equipment. Then also in the Mackenzie Mountains it addresses the broader issue of introduction of domestic species that might pose problems or conflict with some of the wild sheep and game species out there.

[01:20:22]

In the context of this one we're looking for basic precautions to be taken to avoid the introduction of species. As I said, these tend to be standard mitigation measures and that where re-vegetation is required. This is one of the questions that I have here: That seed mixes are approved by the GNWT. One of the revisions that had been made to the CR two drafts ago is that the clause that there be no introduction of non-native plant and animal species except by special approval of ENR. GNWT requested that clause be added in and it's stayed through a few drafts now. In looking at this application they have mitigation measures to clean the vehicles, they're looking at post-development monitoring for re-vegetation success, and if ground disturbance occurs there would be re-contouring and re-seeding with an approved mix the next growing season. So the current process is that those seed mixes tend to be approved by the AANDC land use inspector. My process question, if I read this CR the way it's currently drafted I think that seed mix might also need to be approved by ENR. That's a question that I throw out to the regulators in the room about if that's also what the expectation is. I'm looking more at the INAC and GNWT folks over here to see if they can give us an answer.

Questions/Discussion

Danny Bayha: Thank you, Heidi. Michelle, do you have, or Chris, do you guys have anything to add to that? Thank you.

Michelle Swallow: Sorry, you're asking if the seed mix would have to be approved prior to conformity with the plan? Is that for this year?

Heidi Wiebe: Not necessarily prior to, I guess the current process is, and all the applications always say we'll re-seed with mixes as approved by the AANDC inspector. If I look at this CR with the clause that GNWT asked us to add it's saying that you can't intentionally or otherwise introduce a species except by approval by the GNWT. So on the off chance that there are standard seed mixes that get used do the GNWT check those seed mixes to make sure that there's no invasive species in those seed mixes, because that's what this CR tells me to do now.

Michelle Swallow: Yeah, I'd have to come back.

Heidi Wiebe: The idea is if that's the new process then we would get that, want that sorted out before we submit the plan and everybody knows that process so that when people are building their applications they're aware of that new process and get those approvals in place so it can be demonstrated through the application. This is one of those easy CRs that it should just be a check on the application. So we want to make sure we can continue to do that with the appropriate clarification of what the GNWT wants on this one.

Danny Bayha: Thank you, Heidi. We had a question from or comment from Ruari and Lindsay. Thank you.

Ruari Carthew: Yeah, it's more to support the question there. I know a lot of our work with the Department of Transportation there's a lot of re-vegetation and re-seeding that occurs and they use an approved seed mixture for the Northwest Territories. I don't know where the specific species originate from. I believe it's a Northern Alberta/Southern NWT mixture. Some of the folks probably at Department of Transportation might be able to provide that answer.

Danny Bayha: Thank you, Ruari. If you could have a quick summary of what happens on the seed mixture so we can move on. Thank you. Lindsay.

Rhonda Batchelor:

For us the criterion is whether it's an invasive species or not. We have worked with ENR in years past and some folks in the Wood Buffalo National Park – Oh, I'm sorry. I'm Rhonda Batchelor. I work with the Department of Transportation. By and large our only concern is site stability. For some areas we work in some species grow better than others so the criterion has been will, is it an invasive species and will it provide site stability.

[01:25:00]

Danny Bayha: Thank you. I'll turn it over to Lindsay.

Lindsay Armer: Sure. I'm not going to pretend to know what our land use inspectors look at when they go to visit the reclaimed sites so I'll commit to talking to them about their process with the CR.

Danny Bayha: I think that's fine. I think we can move on. Thank you.

Conformity Requirement 12: Sensitive Species and Features

Heidi Wiebe: CR-12. This is, it's constructed in some ways similar to the wildlife CR in that it sets the basic requirement to go get the most current information with respect to sensitive features. ENR maintains a database with the current locations of all of these different things. So the may-be-at-risk plants, the hot and warm springs, mineral licks, amphibian sightings. The only other one there is, I mentioned the new ice patch data that the Prince of Wales Northern Heritage Centre has.

The idea of the CR is that it's self-sustaining. We have to go get the new data and these guys maintain the database and the last clause, Clause 2, requires the proponent that if you find new sites that you report those back to those two sources so that data source is always being continually updated as we learn more about where these areas are. That is one of the more complete CRs in that it will always be an updated information. Then from there the requirement is to follow the mitigation measures. So for karst features it's basically just show us that you're not going to damage the karsted areas. Mineral licks has a thousand-metre setback and there's a lot of information provided to substantiate that setback.

For Clause D, if you're in the boundary of a glacial refugia and that's all mapped out or you're within 500 metres of a known hot or warm spring there's unique environments here in which rare plants tend to propagate. They're unique ecosystems. So the requirement is to do a rare plant survey within those areas.

Within the ice patches, this is the new wording that's been worked out with the Prince of Wales, they have a small polygon mapped in the Mackenzie Mountains where all these ice patches are focused or where they're centred. Within that there are about 28 ice patches. So the requirement is if you're operating within this small area you have to contact the Prince of Wales, they'll tell you exactly where the ice patches are so you can avoid them by the 150 metres. They've got that data very, very localized.

The other changes, we tied this strictly to a land use permit or a water licence so if it's a really small-scale activity it's now exempt from this CR. You'll see that in the application this afternoon.

So basically we're looking for the applicant to go check for this information and follow these setbacks or requirements and demonstrate that they're doing so. This is another conformity requirement that's fairly easy to check through the application. The data can be easily overlaid. Even without that I was eyeballing it for the purpose of this exercise. That's what we'd be looking for here.

In the Husky application, obviously this CR wasn't fully, there was no direct linkages but because this area's operating in the Central Mackenzie Valley most of these features are mostly in the Mackenzie Mountains. So it was easy for me to eyeball and see that no, there's not really an issue here. So what I would say is yes, this application

conforms because there's no direct conflict with these areas of activity. As more of a learning point, in other applications that were in the area where these features are known to exist, if there was no direct comparison of the area of activity with these features I might still say that the application conforms but then rely on the regulators to check their own databases and make sure that there's no conflict. On this one there was a clear, there really wasn't an issue here.

That's what we're looking for on this CR. Are there any questions or discussion on that?
[01:29:38]

Questions/Discussion

Danny Bayha: Thank you, Heidi. We had John Donihee from SSI.

John Donihee: Thank you, Mr. Chairman. I'd just like, could you explain to me what a may-be-at-risk plant is? Is that something that's actually listed on either a federal or territorial legislation? Is it something that's lined up in the shoots ready to be put on the list or is it something else? I guess if it is something else, is there some scientific basis for it be may-be-at-risk?

Danny Bayha: Thank you, John. Heidi, you had a comment, and then Michelle. Michelle, you want to take a...

Heidi Wiebe: I'll do the basic intro and then I'll turn it to Michelle. In Draft 3 of the plan itself this one was, we got a table from the GNWT. So they maintain a database of rare and may-be-at-risk plants. So this CR is attached to a table. now, it was I think listed in the context of that draft and we have to make that linkage directly in this CR so we'll probably add – that's actually a good note -- we'll probably need to add as listed in Table 'X' to make that linkage directly clear. I will turn it over to Michelle to explain the actual status of those. I know they have them mapped and they have a table that lists what the species are.

Michelle Swallow: I believe there is a list of or, you know, the COSEWIC listing of what may be rare or is rare. Part of is we just don't have enough data on plants in the NWT so this is seen as a way to get a bit more information.

Danny Bayha: Thank you, Michelle. Peter and then Matt.

Peter Menacho: Thank you, Mr. Chairman. Just going back to the item number (b). I know the previous land use planning board put a priority in karst and right now I like what John suggested, what is the risk plan on these ones. It was a priority back then but now we're dealing with the issue on fracking and if we put a mixture of water with the karst material it's a very touchy issue. The karst material are identified between north of Norman Wells and south of Stewart Lake. These are the proposed sites for development. I just wanted to know, I like John's idea of what is the risk plan if there are going to be impacts.

Danny Bayha: Thank you, Peter. I had Matt. Thank you.

Matt Bender: Thanks. Matt Bender with AANDC. I just wanted to follow up on John's comment and Michelle's response. There's a theme here and it touches on what we were talking about yesterday. For all CRs, in particularly I'm looking at 12(1)(a), the plan

can't be ambiguous. We can't have maybes. What I heard from you Heidi is there will be a defined list with a clear test as black and white as possible.

Danny Bayha: Thank you, Matt. We had Husky. Sorry, if you have...

Heidi Wiebe: Yeah. Sorry. Matt, there is a list and may-be-at-risk is a designation. That's the title. So there's rare plants and then the table identifies there's two globally rare plants but they're not in the Sahtu. So it's rare and may-be-at-risk. So sort of it's the endangered, threatened, may-be-at-risk, sensitive. It's one of the designations that they use. It's not it may be or it may be not – well, I suppose it is, but that's what they call it. Rare, may-be-at-risk.

Matt Bender: Okay. That's helpful. Thanks. I trust the plan would direct proponents to that list. It seems to me it does.

Heidi Wiebe: It was already in Draft 3 and it will be continued. I made a note that I should be referencing the table in the CR directly and that will be done.

Matt Bender: Okay. Thanks.

Danny Bayha: Thank you, Matt. Michelle, did you have a follow-up on this? No? Ken.

Ken Hansen: Ken Hansen from Husky. I'm just showing my ignorance here but I don't know what glacial refugia is. I didn't see a definition anywhere and I've never seen a map with it on. Can you tell me what that is?

Danny Bayha: Thank you, Ken.

Heidi Wiebe: In simple terms, during the last glaciation these were areas that were not touched by the glaciers. So ecologically speaking you have unique ecosystems because they were not scoured by the ice. You have different plant species that might exist there that don't exist anywhere else because they were taken out by the last glaciation. In Draft 3 and in the maps that we have this is all part of the database that the GNWT provides. We have them shown on the ecologically sensitive features map in Draft 3 and that will be shown again in the Final Draft. It identifies a patch that comes down into the Mackenzie Mountains that identifies where these glacial refugias – so it's basically a refuge for species in areas that were not taken out by the last glaciation.

[01:35:27]

Danny Bayha: Thank you, Heidi. Ken.

Ken Hansen: Just to follow up, that map doesn't exist in the draft we currently have. Is that correct? Because I've never seen it.

Heidi Wiebe: It was in Draft 3. That's the last official draft. Everything we've been doing since then –

Ken Hansen: So what map is it?

Heidi Wiebe: If you give me two minutes I can pull it up on the screen. Ignore the bad typo in it. The yellow cross-hatching is the glacial refugia and it extends through most of the Mackenzie Mountains. This is the information provided by the GNWT's database of rare features.

Ken Hansen: Thank you.

Danny Bayha: Thank you, Ken. Can you shut your mic off there, please, Ken? Michelle had a follow-up question or question on karst.

Michelle Swallow: Maybe it's just because I'm a little bit new to this but I was just wondering about some more background on the letter (b) must not damage karst features. Is there a specific list of the karst? I know there's some very unique karst features in the Sahtu but is this applying kind of across the board? I'm just getting back more to what Peter was saying about there being some development identified where there are karst features.

Danny Bayha: Thank you, Michelle. Heidi.

Heidi Wiebe: So I just put the map back up on the screen. Again this is coming from ENR's database of karst. In this map the features are obviously blown up so they are visible. They're not that large on the landscape.

Getting back to Peter's question, there's a lot of karst to this area but most of the, all the parcels that were handed out are actually in this part of the valley. Your karst features tend to be in some of the more mountainous terrain and the communities can certainly speak to this better than I can. This comes from all the work that Dr. Ford has done and mapped out over the years. There isn't as much overlap. There's very little, actually, in the area where all the 11 parcels were put out for bid and acceptance this year, but there are some in the area. The reason why karst was put into the CR is because they are tiny locations throughout the region, right? So rather than trying to protect them through a zone and having a proliferation of zoning it's better to just say okay, here's the karst, we know they're sensitive area both geologically and ecologically, but also because they're not the most stable terrain, is what I've been led to believe, right?

Danny Bayha: Thank you, Heidi. Time is now 11:25:39 so we need to keep moving and hopefully finish this before lunch. Thank you.

Conformity Requirement 13: Closure and Reclamation

Heidi Wiebe: Okay. Moving on to CR-13. This was one of the more interesting CRs. The first part is straightforward. It requires the collection of security or the calculation and maintenance of security. So the land and water board currently does the calculations and they take in the money and it goes through over to INAC and they manage those funds. This is one that would always be applied and implemented through the condition of authorization. It's not something we're looking for in the application.

The second part of the CR speaks to reclamation and clean-up. That is something we're looking for in the application materials. It says on termination or abandonment of a land use activity any area affected by the land use activity shall be restored to a viable, self-sustaining ecosystem consistent with the surrounding ecosystem and expected future uses of the area as determined in consultation with residents, communities, and responsible authorities. Progressive reclamation is encouraged.

That sets a couple different requirements. One that we want to see that there's been consultation with communities and residents and others so that we know what the reclamation goal is. This was put in a few years ago through discussion with industry

that what if there's an area that's supposed to be, that has long-term use ahead of it. It doesn't make sense to clean up an area. The winter road is an excellent application to test that one on. That road's going to be used forever. If there's an area that's in more of a hinterland area, it's a one-time use, it's likely that we may not be going back there, then you're expecting a fuller level of reclamation. This conversation that's set up in the requirement is looking to address that. What is the appropriate goal? Has that discussion happened? How is that reflected in the application?

[01:40:40]

In this one with the materials that were on the public registry we couldn't find any discussion or evidence of discussion through the consultation materials that this was discussed. I think this was one of the, I think it was the only area where we said the Husky application doesn't conform. So we said there's no distinct closure and reclamation plan. Now there doesn't necessarily have to be. It should be relative to that stage of activities but we would expect to see a discussion of clean-up activities and things going on. It says access will be cleaned up but left for local use. Given that when we went through the wildlife information earlier one of the major potential effects of the project would be the long-term access this raised the question for me as I was going through this is in the absence of discussions should access have been discussed as part of the reclamation goal. Because of this I said this one does not pass conformity.

The questions are: What should be the reclamation requirements? What are the expectations of people in helping us draft this CR the way it is? When you've got an application for the start of a potentially eight- or 10-year project what should we be looking for at this stage? So I said based on what was in the applications I would fail it on this if it was submitted after the plan was approved. I want to open for discussion to determine whether is reasonable, whether that meets the expectations that everyone had for this CR.

Questions/Discussion

Danny Bayha: Thank you. Ken.

Ken Hansen: Again I come back to the land use permit which was issued for this activity and one of the conditions of that permit and one of the conditions of any other permit we've ever had has been that there will be a reclamation to the standard that you're measuring here. Whether it's in the application or not it is a requirement of the licence and, therefore, having it stated in here seems redundant because it's a condition of the land use permit.

Secondly, at year one of a nine-year program putting out a reclamation plan is not possible. You don't know what the scope of the program is going to be. The piece that's missing in here and probably has a lot to do with access into the area is: What are the desires of the community and what do you do in the event that there are mixed opinions from the community? You as the proponent are kind of caught in the middle.

In this case, since we're anticipating that this is going to be a multi-year program that most of that would not be part of this application or certainly not part of the construction part of it. So having failed on something that's already a pre-ordained condition seems silly and your start of the program, which is if the application fails on any conformity

requirement the application cannot proceed to the issuance of a land use permit, that's pretty harsh. You might want to rethink this.

Danny Bayha: Thank you, Ken. Gordon. Heidi.

Heidi Wiebe: Just to be sure, this is one of the ones where I did want discussion on because I recognized there's potentially, so I want to hear from the land and water board what kind of conditions that they attach on this to see if this is one that's normally handled through the conditions side of it.

Paul Dixon: Angela's looking up the specific conditions if you want to hear them, but essentially it's the lands reclaimed to as close to what it was prior to the activity and even progressive reclamation that happens during the course of the project, which I don't think Ken sort of mentioned that the company undergoes. The land use inspector also has the component of doing final inspections with and then sending us a letter about file closure. Reclamation is definitely part of our process. Give Angela a moment and I can find the specific terms and conditions that we put on permits.

[01:45:40]

Danny Bayha: Thank you. Dick, you had something to add.

Richard (Dick) Spaulding: Yes, thanks. While Angela's looking that up I just had a further comment on the exchange between Heidi and Ken. Generally my understanding is that this CR is in the draft plan in order to provide assurance that security for reclamation will be required by the regulator. As far as that goes, in the normal case – and I think the pattern has been set in the analysis that Heidi has presented on other CRs – as far as that goes, in the normal case one would expect that if the application that the planning board gets is silent on that question then the planning board could be expected to give a positive conformity determination but state very clearly that it is an implementation requirement that the board place the term into its permit requiring that security be posted. So as I understand the analysis here, Heidi is going one step further and saying, well, this conformity requirement actually needs something more than that to be done in order to be satisfied. The conformity requirement calls for certain information to be provided by the proponent to the regulator about the community's goals, about the standard of reclamation and so on. That information has to be sufficient and it has to be seen by the planning board before the requirement is met.

I guess my comment on that from a legal point of view is that if the board is considering making a negative conformity judgement on the basis of information requirements in the plan the plan should indicate that that is an information requirement at minimum so that the approving parties when they approve the plan are understood to have made it a requirement that that information be provided and short of that that there would be a negative conformity determination. So this is something that needs to be fairly up front in the plan. It's permissible and it's a question of judgement of whether it's up front in the wording right now, but I'd just flag for everyone that this example is a bit different from the ones that we've been dealing with earlier in the workshop and what we're asking, what Heidi I believe is asking is whether this information requirement is well understood and do people accept that it's a reasonable requirement to make a basis for a negative conformity determination.

Danny Bayha: Thank you, Dick. Follow up, Ken, and then Matt. Thank you.

Ken Hansen: So, Ken Hansen, Husky. Yeah, actually, this caught us by surprise in the application to be honest with you. All previous applications we put in did not have security deposits attached to reclamation. And in fact the determination for what that level of security deposit was going to be wasn't actually revealed until the application was actually approved. We can talk about the whole mechanism of having to pay that as well, which is absurd in the extreme because it's a cheque that has to be given to the INAC representative in Inuvik, hand delivered in this case, so that we could actually start the program.

[01:50:02]

The magnitude of a security deposit when you don't understand the magnitude of the program that ultimately is going to be conducted is something that I'm sure the land and water board will struggle with trying to establish. It's not that oil and gas doesn't provide under other obligations and other requirements security for the programs. In the case of the drilling program this year there's a \$10 million security held on the drilling of the wells and in the even that there's any issues that need to be cleaned up with. There's insurance held on programs and that's not considered in this as well. There is an obligation under other, particularly for the oil and gas business and it may not be the same for every other business, and it's unclear what the mechanism is for actually applying to get your security deposit back. So the whole thing caught us quite off guard in the program and actually delayed our program a couple of days while we were attempting to meet this conformity requirement.

In the case of the seismic application, which was the third of our applications, again we had to wait until the application was approved before we knew what that level was. So it's unclear to me how you will make a conformity assessment if you don't know what the level of the security deposit is and its adequacy to actually achieve the goal that you're actually putting here. I don't know how you make this call. If policy is going to require security deposits on all activities then you might want to think about the mechanism for how that's going to be managed as well.

Danny Bayha: Thank you, Ken. Matt.

Matt Bender: Thank you, Danny. Matt Bender, AANDC. As you all know, the MVRMA does provide some direction on security and in previous submissions our department has identified some challenges, even suggestions, with the CR that we don't see reflected at this time. We have asked to have an expert attend. If she's not able to at a minimum we'll definitely get back to you possibly to reiterate our previous comments and make some additional clarifications.

As an observation, I just wonder if the full amount of security can in effect be assessed at this stage in the process knowing that we're just talking about the application. Having said that, we will commit to get back to you with more detailed suggestions.

Danny Bayha: Thank you. Heidi.

Heidi Wiebe: I'm curious to see those comments, Matt, because we did reflect verbatim the wording we got from INAC previously minus that clause about whether it gets collected on Sahtu settlement lands. That was the whole debate at Workshop 2

which then went to the legal discussion. So we currently have reflected INAC or AANDC's comments based on how they've evolved through the last couple discussions. So it's news to me that if we haven't reflected that properly, and we definitely want to see those comments.

Before I let you go I did want to flag for Ken that discussions of security and value have been happening for a while. Since we got on with this board. Any security that's being collected right now, this is not a requirement in the system right now. The plan isn't in place. In terms of the discussions that we're doing I recognize this one would catch you off guard but the whole idea was, okay, I'm not sure we're there yet on the implementation. I think Dick's point was absolutely dead on. What we are looking for, you mentioned what happens if the community disagrees with what you're proposing for the reclamation goal. In this case if you're proposing full reclamation that's what I think we're all looking for. That's what communities have told us they want. If communities through your discussions have said we want you to maintain that access open because we want to use that all I'm looking for then based on this wording is that, oh, there has been a discussion, there has been a request to keep the access open, and now I know why there's no plans to close that access. It was in this case the fact that I didn't see that information through the consultation and engagement. I think Dick's point is absolutely accurate. This is a new information requirement that would be required so that we can look at how we're fulfilling this part of the CR and that's exactly what this whole exercise is planning to do.

[01:55:16]

Danny Bayha: Thank you. Matt, if you had a follow-up on that and then I'll move on to Ken.

Matt Bender: Sure. Matt Bender. In the spirit of being constructive, I guess first off our comments that I was referring to back to Draft 2, we'll dig those up and commit as an action item on behalf of our department to provide you with detail on the CR.

Danny Bayha: Thank you, Matt. Ken and then we'll move on to Walter.

Ken Hansen: I don't think this is new. What we've been told is that the ability or the capacity to demand a security deposit is in the act and really whether it's enforced or not has really been at the discretion of the board. The land and water board. So again, this isn't new, it already exists. The capacity exists to do it and it's really been the boards choice, I guess, as to where they felt the security would be required to ensure the reclamation would be done. Again I think oil and gas is somewhat different in that it has a number of other initiatives. Orphaned wells and other things have in the past haunted the industry and, therefore, there's other regulations in place to force the companies to do the reclamation that might actually be at odds with what you're putting up here. There needs to be more thought into this, in my opinion.

Danny Bayha: Thank you, Ken. Walter and Tom

Walter Bayha: Yeah, it's almost Noon so I'll try to make it really quickly here. It's too bad we don't have the actual condition that we can show you there but I think there's a major difference between what we have in the land use plan and what you have up there. There you're talking about an ecosystem consistent with the surrounding

ecosystem, especially the parts about consulting with residents. That really doesn't happen at this time with our inspectors.

I guess the other big thing is if you look at any of the things that inspectors do you'll look at the word 'acceptable.' I think that has to be, what's happening here I see is you're reviewing the closure and reclamation plans. That's very different from what our land use, the processes that we have now. I'll give you a good example. You're talking about reclaiming an area to an ecosystem level, especially when we have terms in the land use plan that are things like environmental ecosystem or the integrity of the ecosystem. That's a long ways from what we do at this time. I know we have some technology to re-establish some areas to what originally the areas looked like. Here's a good one. This is a good time to really review the closure and reclamation plans because I know many of you people, especially the RRCs, I can ask them right now if they ever look at the reclamation plans or the closure plans that we issue. Probably most of them would say no, they don't see it. They maybe see it at the beginning. There is requirement at the beginning if they bring it up during the consultation but at this stage it doesn't exist. Very little of it. A lot of it has to do with even the contracting or the people that they deal with in the communities.

Here's a good one, and this is a big shift that has happened over the years. We haven't looked at it very much in the Sahtu. Take the example of the practice of the drilling fluids. I don't know how many people here are aware of the theories behind what we do with drilling fluids. The whole theory behind the drilling fluids right now is to bury it and freeze it and hopefully it stays like that forever and ever. As long as it's frozen it will stay like that.

[02:00:00]

If you go into the – I read a report about 10 years ago because I was really interested in what happens to all of the sumps that I was in Inuvik in the '70s approving, making final plans for the drilling sumps that we all approved. Especially in the Parsons Lake area. A few years ago I was reading a report that says 50 percent of them disappeared. I think some things are good to review now. In fact, in the Delta I think they found re-injecting drilling fluids back into the ground. Those are the...

So I think some things like what is acceptable, what is acceptable to the communities is so important at this stage. I don't want to complicate things too much. Remember I said again the processes we have in place at Sahtu Land and Water Board goes along with what is acceptable. They're not going to be sitting there and saying, gee, you know, we should follow the paragraphs that we have here on closure and reclamation. That would be really, I think, up to the communities because some things there I think would be too far out to deal with.

I mean, look at, ask yourself, how do we deal with all these seismic lands that we've been approving for the last 50 years? I mean, you can say to yourself, well, for wildlife, I mean, one of the things that we deal with today is we create efficient wolves. We created efficient predators. We know that. That's a fact of wildlife management. Now we're saying, well, gee, maybe we should make some approaches that can only see so far. I mean, we've mitigated that.

I think it's a really good point and it's very important that people, especially when I think about all the approvals I gave in the '70s that all of the people today that live in Inuvik have to deal with. I can't tell them what happened to the drilling fluids that are there in the sumps and they disappear. I don't know where they went.

I think these things are so important, especially on their land use plan, to be considered. I think the communities have to, you know, one of the things that we've been hearing, I know George is sitting here. We sat on the land use with the Sahtu Land and Water Board and from day one we heard stuff like this: There's too many aircraft. They're scaring away the animals. We can't deal with the noise. Me and George were sitting there and we know what they're talking about but we can't deal with it on the way the system is or the stuff that we have on the regulations that we have or the conditions that we have. That has to go maybe it's about time that the land use plan looks at it. There may be ways to mitigate it, reduce the impacts. I think that's what's so different here.

Progressive reclamation is so important today. That has to happen. Because after the final plans are given, after seven years, like say the project that they're talking about here, the drilling project, they're gone once the final plans are approved, the closure is given, the inspector gives his stamp of approval. That's the end of it. You're not going back to the company to restore an area. That's not going to happen after final clearance is given. Those are the guarantees that we give. So we're looking at progressive reclamation which at least gives you some time to evaluate these closures as they go.

I mean, here's another good one. The Norman Wells project. When the Sahtu Land and Water Board took over that licence, renewing that licence, the first question I asked was where are the reclamation plans? These are huge projects. You know what they said on the application? The next, the people that are going to renew the application will have to deal with it. That's their recommendation. So we issue the water licence for five years. They said, well, gee, you know, 10 years is too long. We don't have, we rarely can keep up with what sorts of things that happen and what good decisions are made.

[02:04:55]

I think here are some of the good examples you see and I think we should look at closures and reclamation in light of the technology that we have today. I think we could do a lot better job. I think one of the things I learned over the years is when you try to change things from the way the normal things are done it's an uphill battle. I think you see that today from our processes. I think there is a lot of, I think we lead the way in a lot of things we do up here. Mahsi. That's what I wanted to add to this portion.

Danny Bayha: Thank you. Tom. We have a few minutes so if we can try to keep our comments focused that would be good. Thank you.

Tom Nesbitt: I'll try, Danny. I just wanted to underline first of all that this is really an issue of real concern to the communities. Certainly it was to Deline and for three years during the Great Bear Lake Management Plan we came up with pretty close to that wording. We all know about Port Radium, abandoned. There were also several mines southeast of Great Bear Lake called the Silver Bear Mines, abandoned. Without any reclamation of course. I know that's a different era. It's only recently that any federal money has been available for that reclamation efforts there because as has been

explained to us the priority must be given for reclamation where there's greatest human risk and that means you focus your efforts around larger communities and so the smaller communities without a sufficient population base seldom get the clean-up funds for abandoned properties. I just wanted to give that background and this is a matter of concern to the communities.

The point I want to make is that I think – and by the way, that's our money. That's the taxpayers money that's paying for both Port Radium and all those Silver Bear mines.

Here I'd outline again that the onus is on the proponent to phase its applications and to submit its applications as it sees fit. It puts together the package of the applications it's going for. We're only, I understand in this land use plan, asking for security for that bunch of activities. We aren't talking about security for the end result of whatever company we're talking about plans ultimately to do. It's a much more manageable problem, I'd suggest, than thinking about a registered mineral claim and security you may someday require for the mine. That's not what's in the cards here. What's in the cards here is security for the bunch of activities which are being authorized by, which are being proposed in the conformity determination in the application, and which will ultimately be authorized in a permit or water licence or combination of those things. I think that makes the problem more manageable and puts it in better context. Thank you.

Danny Bayha: Thank you, Tom. I see the time is pretty close to lunch time. I just wanted to add as well that NEB is also another regulator that does collect securities, from what we understand, in their process as well. So for a different phase of the program I think they also work with the water boards to do that as well. I just wanted to add that. We don't have anybody from NEB to shed any light here. Then John and we had someone here that wanted to comment here. Sorry I missed it. John, go ahead.

John Donihee: Thank you, Mr. Chairman. Just some observations. First, this CR essentially just overlays a system that already exists. In fact, the changes made between Draft 3 and the language that's in front of us now just makes it more effectively duplicate what's already there now. Because the land and water board's under either the Mackenzie Valley Land Use Regulations or the NWT Waters Act have the authority now to take security but it's a discretionary choice for them. So what has happened in the past, I know the Sahtu board hasn't found reason to require security except in a few cases over the years but elsewhere in the NWT or the Mackenzie Valley land and water boards have come to the point after trying to work through this where they've basically decided that they wouldn't ask for security. They do an estimate, an evaluation every time and if the amount of security required is less than \$50,000 they don't bother. The reason they don't both is not because they don't care about the environment but rather because the system is so complicated when you give the security to INAC and try to manage it and work back and forth that it's really not worth it. There aren't that many situations unless we look historically where companies are walking away on messes nowadays. The system is much tighter than it used to be, therefore, overall the risk to the environment is reduced.

[02:11:05]

I do want to point out that if every single land use permit or water licence is going to require security then tourism lodges, people who are working from the community with

small companies that want to go out and cut three or four hundred cords of wood to sell for firewood and need a land use permit to do that, they're all going to have to provide security and it's likely going to be a considerable burden. There's some balancing needed here and I think what's missing in this CR is it's not scalable in the way that it's set up. There's no reflection in the language. Everybody has to do it. That means everybody has to produce a plan or some kind of estimate in advance for the regulator to look at before they can pick a number. The open question I'll leave with the board is: Is this really worth it for small operations and is it really necessary to use the plan to effectively eliminate the discretion that the legislation grants to another land-based institution, which is the Sahtu Land and Water Board.

Danny Bayha: Thank you, John. With that, we have to have this closing and then we'll have lunch. Thank you. Heidi.

Heidi Wiebe: I just wanted to respond to one thing that John said. I do believe this is scalable. In the first clause it says that the amount should be sufficient to cover the cost of reclamation, including shut down, closure, and post-closure. So if it's just somebody going out with a tiny operation then obviously the cost to clean up if they walk away from their operation is small compared to a fairly large mega-project. So that is scalable. In previous drafts we did have at the request of the parties the \$50,000 minimum threshold in there. Then the parties told us to remove that. I guess I want to leave with a closing thought that this has probably been one of the most debated CRs but it's been debated all along by the parties and we have followed the direction of the parties at every turn. So I guess I'm rather surprised that we're not getting kickback from all the parties who helped provide the wording to us in the first place.

Danny Bayha: Thank you, Heidi. Again, let's pull ourselves back about the intent of that CR as well as we can expect that reasonable people will be on these boards when these decisions are being made.

With that we will take a break and come back at 1:00. Thank you.

[MZ000017 – 00:00:00]

Arthur Tobac: Good afternoon. We are running short of time to complete some of the items that are still outstanding so perhaps we can make our way back to our seats and hopefully we'll get started a little sooner. Thank you.

Once again good afternoon. I hope everybody had an enjoyable lunch and you were able to collect your thoughts again so that we can continue on with some of these important items that we do have to get some answers for.

I think this morning we were still quite involved in the Husky application but we did come pretty close to the end. We're going to leave the conclusion to Heidi so that she can go through the rest of it with you and hopefully we can conclude the Husky so we can get to the other applications. Heidi.

Heidi Wiebe: I'm hoping to quickly finish CR-14 on this application and then stop having Husky on the hot seat. They're feeling like they're on the hot seat. We have a few other applications that I'd really love to touch on because they do offer interesting insights into how the plan gets applied.

Conformity Requirement 14: Permafrost

So CR-14 is permafrost and it basically requires anything requiring a land use permit or water licence, so there is a threshold on that one, must be designed and carried out in a manner that prevents and/or mitigates adverse environmental impacts resulting from the degradation or aggradation of permafrost. So we're looking for basic consideration of the impacts to permafrost or the potential for impacts to permafrost and how that's being mitigated through the application and potentially through other conditions that might be applied.

In the case of this one again it's a winter application so there's frozen ground. They've talked about permafrost throughout the application, they've done their research, they know where it is, they've spoken with the communities to identify some potential areas that are sensitive. They've used existing [Inaudible] for developing their linear access and then are using kind of standards that might disturb permafrost. This is a really simple one. It's a standard mitigating measures. This CR might be more compelling in other maybe longer term, for a short-term access it's not so much of a big deal.

Any questions or discussion on that one and how it might be applied?

We're done! Okay. We have to celebrate victories when we get them. We're going to move on to the Explor application. Thank you very much, Husky.

---Applause

Arthur Tobac: Give her a big hand with one done. Couple more to go.

Heidi Wiebe: I think I should thank Jenica too. I think it was her company that did a lot of the background work for it. Excellent job, I think.

Conformity Determination: Explor Data Ltd. (2D Seismic) S05B-011(Deline District)

So with the Explor application we chose this one because of its location. We have a number of CRs in the plan that are specific to the Great Bear Lake watershed. This one crosses – Actually, one sec. I've got some maps at certain points in my computer, but it's basically a seismic program in this area here. I don't want to spend a whole lot of time on the details of the application itself because for the purposes of this afternoon, given our time constraints, the reason why I went with this one was to test CR-16, which is ecological integrity.

So at some point in the future if you have an opportunity to go through the conformity determination report and there is anything that is of great concern to you then I think given our time constraints we'd certainly be open to you providing comments to us on that but for this afternoon I'd like to spend an hour going over how we determine and implement CR-16. That's talked about on page 12 right to the very end of this report.

[00:05:07]

Conformity Requirement 16: Ecological Integrity

So CR-16 says any land use activity in the Great Bear Lake watershed – and it involves a certain number of zones, I just don't have the new numbers yet – must be consistent

with the maintenance of the ecological and cultural integrity of the Great Bear Lake watershed. When we put out Draft 3 and when we did the work of integrating the Great Bear Lake plan into the Sahtu Land Use Plan we spent a great deal at that time as well trying to figure out, well, what does that mean? How does that operationalize? What's the test, to use John Donihee's language? How do we know when somebody has met that test?

What we came up with at that time was that this would require the development of the ecological and cultural integrity statements. Those statements would assess the potential accumulative impacts of the proposed land use activities on the ecological and cultural integrity of the watershed including impacts on valued components identified in the CIMP program that are present within the Great Bear Lake watershed ecosystems and using the indicators identified by CIMP as appropriate – so there's recognition even then that not all the indicators would be appropriate – and that through these statements they would demonstrate that all aspects of the proposed activities are with consistent with the maintenance of the ecological and cultural integrity of the Great Bear Lake watershed.

So in looking at an activity such as that proposed by Explor in this area, which is a series of seismic lines to collect seismic data I thought: How are we going to translate what they are to do on the ground with what might be required here? I started by going to the CIMP website and pulling out the materials we had previously, and those are attached on the last three pages of the report, and looking at for the land use that's proposed which of these valued components might be triggered and which of those indicators might be relevant or potentially affected in some way by the proposed land use. That's where I started and that's where I ended.

This is one that we've always struggled with and I think in order to proceed definitely allocate a time in the agenda to have this discussion because this is one of the CRs that we need the most, I think, work to understand how we would test it. So what I've got is just my analysis of which I think which indicators and valued components I think would be relevant but I know that both the Deline Land Corporation and Tom Nesbitt and INAC – sorry, AANDC, have also put some thought into how they would like to see this CR implemented or interpreted. I'm going to ask them to speak first and present their ideas, and if they're great, and I hope they are, we can throw all my work right out the door or maybe there's a way to bring them together. The board is looking for any and all ideas and information on how we should best interpret this.

Arthur Tobac: Lindsay.

Aboriginal Affairs and Northern Development Canada

Lindsay Armer: Thank you, Mr. Chairman. Just to be clear, this isn't an AANDC position. This is just something that I was aware of through other work. The second page is an example taken from the Ontario Ministry of Natural Resources. They have a similar ecological integrity statement that they do for many activities but this is particular to forest management planning. They have a set of principles that are outlined here and I would equate those with the CIMP valued components. What they do in their forest management plan is explain how the forest management activities meet each of those principles or guidelines. My suggestion was, and it's purely not an AANDC position, is

just to come up with something simple and clear like this so that a proponent can look at the values that are identified in the special management zone and say exactly what their mitigation activities are to protect that value. As simple as a table. just so it's black and white and easy to interpret for both the board, the communities, and the proponents. I think Tom probably has a lot more information than I do so I'll pass it on to Tom.

[00:10:02]

Deline Land Corporation

Tom Nesbitt: Thanks, Lindsay, and thanks, Arthur. We prepared a little one-pager which I hope you have that looks like this. Basically just, as you know, a wee bit of background here. We developed this standard in the Great Bear Lake watershed management plan process. A process in which we had roughly 25 elders from Deline, representatives from INAC, at that time, Fisheries and Oceans, Environment Canada, ENR, all the boards except for the land and water board which only had an observer role in those discussions. We came up with – actually we had a consensus. It was an entire agreement on the Great Bear Lake Watershed Plan in 2005.

What we were trying to do in that plan and the heart of that plan is this requirement for the maintenance, a demonstration of the maintenance of ecological and cultural integrity. In seeking that and in putting that down we tried to bring in the world view and the values of Deline's elders and a scientific or ecological world view. I think Jesse referred to it yesterday as something which has scientific integrity. So we're trying to bring those two world views and ways of testing conformity together.

We basically, if you look at the, when I read the thing from Heidi and I think she did a good job at starting this thing off. We would basically, if you look at that, what I've given you there, of course we have to describe the activities. So this statement will be tailored to those activities for which a proponent is seeking authorizations for permits or licences or other kinds of authorizations. Obviously they're going to have to discuss in number three there the potential impacts of those things to help focus their efforts.

We tend to agree with at least part of what I heard Ken saying is that what the work required of a proponent should be relative to the activities they propose. Me as a professional planner as well as being a lawyer, I have difficulty with plans that try to anticipate every particular circumstance. I prefer to have a plan and I think it's more consistent, frankly, with the system of integrated resource management set out in the land claim agreement and in the MVRMA to have a system of complimentary roles so that our plan enunciates general rules. They are general and they are rules. They are not specific and they are not just guidelines. They are general rules. With more specific rules where required for greater clarity. And that those rules are then adapted to the particular context in which a developer is working. Then they're given their force first through the conformity determination and second in the terms and conditions brought into land use permits and water licences.

That's how we see this integration of the roles of the land use planning board and what we're doing here collectively. General rules, specific where necessary, to be complimentary to and not to try to usurp the job of the land and water board. It's their job to tailor these general rules to the specific context of the permit. It's their job but it's

first the proponent's job to, the onus here is on the proponent not on the communities. the communities do not have – the proponent has the capacities and the resources and the onus, according to the Polluter Pays Principle to prepare its application. We see it preparing ecological integrity statements and cultural integrity statements to meet its onus of demonstrating that it will indeed maintain ecological integrity during the life of that application for which it's seeking authorization.

[00:15:09]

It will first describe its activities, of course, and it will look at the potential impacts those might have, of course, but then we'd like it to use the indicators which the Cumulative Impact Monitoring Program, otherwise called CIMP, has developed over many years of – actually, that was INAC I believe working with the communities to develop this and they got a consensus on a whole bunch of indicators for use in the Northwest Territories. So we thought a lot of good work's been done there, let's build on that good work. Why reinvent the wheel? We should recognize those people who helped with that work.

So we see them as a first step looking at that list of indicators and selecting from that list of indicators what are relevant to their particular operations and the particular scale and phase of those operations.

We want to go on further than that. We want to see a demonstration. We don't want to see – The elders have said very clearly in Deline they do not want development if it comes at the expense of harm to the environment. They welcome development but it is on condition that we maintain what they call the health of the land and what, to find a common concept as between the elders and the scientists, we're calling ecological integrity. So you can read ecological integrity means the basic concept that the elders use of the health of the land and what the ecologist calls the ecological integrity. Again here we're trying to reconcile the concepts of the elders and the concepts of a scientifically rigorous method because that's what the Supreme Court of Canada has told us, as I said in many occasions in the past, is the fundamental objective of the recognition of Aboriginal rights in Canada. The reconciliation of these interests and these world views. That's what we're trying to do in the Great Bear Lake Management Plan and that's what we're trying to do in this land use plan. Because the land claim agreement goes on as we know to say that the wellbeing is the purpose of land use planning.

So we want to take these indicators and test them against specific required outcomes. People are going to say what do you mean by indicators? If Ethel was here I know she'd say to me what do you mean by indicators and what do you mean by required outcomes anyway. So let me give you an example, an analogy. We all go to the doctor. We take our ecosystem to the doctor because we are in fact ecosystems. The doctor looks at certain indicators of our health, or our integrity, of our ecological integrity. Our doctors look at our skin. They look at our blood pressure. They look at our weight and changes in weight over time. They may require various blood tests. Those are all indicators of our health. They don't just stare at us and they don't test everything under the sun. they test those indicators against certain required outcomes. Your blood pressure is where right now? How has that changed over time? Your skin, look at your skin, what's that

lesion I see on your skin there? Myself, about a year ago I had a little basil cell removed from my nose here. My doctor looked at my ecosystem, he looked at indicators. One was my skin. He tested those indicators against certain required outcomes and that's not a good required outcome. He intervened. He caused me an impact. My ecosystem recovered and it's recovered ecological integrity. Ecological integrity means the ability of a system to recover. It doesn't mean there's no damage, there's no impacts. Ecological integrity refers to a system, a natural system, its structure and its functions, the maintenance of those functions, and where there are impacts the ability of the system to recover. That's what we mean by indicators – things that we look at – and required outcomes – things that have to happen.

[00:19:54]

If I was to say – and here's where I think I differ a little with Lindsay – we think first of all that the indicators should be selected carefully in light of the particular project and then we should test against those outcomes and not just speculate against those outcomes but actually require the proponent to demonstrate that it will in fact meet certain outcomes. It will have certain outcomes, for example, in terms of permafrost. They can demonstrate. I've been listening to Jesse and to Ken the last couple days, they assure me of their technical capacity of their organizations and I feel confident that these kind of organizations can indeed produce ecological integrity statements which meet the test.

So that's what I'll say by way of introduction, I guess. I'm happy to answer any more questions. Presumably you'll have some.

Arthur Tobac: Thank you, Tom. Is this project in the way CR-16 applies to this particular project, which is Explor. If you do have questions on the document that was developed by Deline and with collaboration from Lindsay and her department. If you could just say your name and who you're directing the question to. I believe, Jesse, you had your hand up.

Questions/Discussion

Jesse Tigner: Jesse with Explor. I think it's kind of a question in regards to this document that Heidi's put together. It's also maybe a bit of a response and also some general thoughts. I'll try to condense and keep it pretty short in the interest of time.

I think that in principle I agree with much of what was just said. I certainly agree with the importance for monitoring and all these sorts of things we've been talking about over the last bit.

This notion of ecological integrity, however, when I'm wearing my industry hat gets me pretty nervous because it is very wishy-washy and very nebulous. I understand absolutely the general meaning of ecological integrity but everybody around this table likely has a slightly different measure and a slightly different thought about what that integrity is. I think that that risk of uncertainty when we take a long view of potential development in the Central Mackenzie [Valley] is very worrisome from an industry perspective.

Over the next couple of years it's highly unlikely that very many people's notion of ecological integrity will be impacted, meaning a few projects here and there. There's

probably not going to be too much of a difference felt or observed in any of these valued ecosystem components that INAC has put forth or that Deline has addressed.

However, in the next 10 years and the next 20 years I think that most people's perception of what ecological integrity is, it will be severely impacted. If we're frank about the likely trajectory of development in the Central Mackenzie [Valley] it may be quite significant. As it stands now, even if companies develop statements and all these sorts of things, I think my fear is that it becomes a bit of a kitchen-sink kind of CR and maybe today or tomorrow there's no impact to ecological integrity but in 10 years I think there could be significant impacts. Because it's such a wishy-washy, slippery term we don't really have any true measure of that.

If I take the industry hat off and I put the academic hat on, I think that your analogy of a doctor's visit was bang on. I think the issue as it pertains to understanding the ecological impacts of oil and gas development is that we're on completely different time scales. To truly understand what those ecological impacts are in a way that can meaningfully inform land use planning decisions we're talking about a decade of study, maybe five years if we have sufficient funds and real motivation to make that happen.

[00:25:21]

In five or 10 years development will be much further behind where it is today. I don't exactly know what I'm getting at. I think that there's a bit of a plug for a bit more of a robust monitoring program. I think it's also an overall caution that says yes, that's absolute and statements are great, but to rectify the two timescales that we're talking about becomes something different.

Just want to make sure that's everything I wanted to say. Yup. Okay. Thanks.

Arthur Tobac: Thank you for that, Jesse. Any further questions? If not then I'll refer the chair back to, the floor back to Heidi so she can continue.

Heidi Wiebe: I guess I was thinking there might be a little bit more discussion on this one. I appreciate Jesse's comments completely. That's certainly been what we're struggling with is what is the, do we have clear expectations so that we can give proponents clear direction on what the test might be. I'm not sure that we're there yet but I think maybe I wouldn't mind having Tom just kind of walk through the rest his ecological integrity statement a little bit more and maybe we can see if between what I put here and what Tom's got and what Lindsay's got if we can either work out some alternatives for this or see if we can somehow put more meat on the bones of the CR itself. I've put at least an hour on the agenda for today for this one. I think this is one of the key things that we have to get worked out in completing the land use plan so I do want to provide a little bit more time for discussion on this one.

Tom Nesbitt: I think George has a comment he'd like to make first.

George Barnaby: This is with what I said before about returning the land to the way it was. One way of doing what it says up there is to collect baseline data and then returning the land to the way it was or trying to maintain what is there. I think it's good. I agree with it.

Arthur Tobac: Thank you, George. Back to Tom.

Tom Nesbitt: Let me just add by way of clarification that a slightly tougher standard, ecological integrity plus I'd call it, is actually the legislated first priority of all national parks in Canada. That standard has been working well since roughly 2000, I think. I'll give you an example. Between roughly 2005 to 2008 I believe – this is just by a friend of mine telling me, he was on this contract – Parks Canada worked very closely with one of Canada's large pipeline companies and in fact doubled or basically built a new pipeline through Jasper National Park. It did that and the consultant understood what they were talking about, ecological integrity, and I think Ken's staff could tell you what ecological integrity is and develop good tests for that, or there are certainly consulting firms who could do that, and they did that in this case. A large pipeline was put through, oil pipeline was put through Jasper National Park. My friend who worked for Parks Canada was seconded to this consulting firm and they did it. He said they had excellent performance and understanding of how to do this from the consultant and the pipeline company. I gotta say that it's been demonstrated to work.

[00:29:57]

The second thing I'd say is, we've also, it depends on what you're looking for. I'm a facilitator with lots of planning exercises and I can tell you in every room of people there are always people whose natural inclination is to want, give me a list, okay, and I can tick things off. I feel comfortable when I see a list. I know it's finite. I know when I've got certainty. And then there's a bunch of other people who are going to say, no, I want a more general test here. That's what I feel happy with. It's natural that there are going to be some people in this room who are going to say I want a list, I don't feel comfortable without a list, but with all due respect I think that's the job of the land and water board.

We can and have used general requirements in legislation in Canada now for 30 years with environmental assessment acts and in the United States. No significant environmental impact. No significant impact on the environment has been used as the test, the fundamental test in environmental assessment for years and years now and we haven't found a better one. We've sometimes developed processes to exclusion lists, all kinds of nice things like that to get a greater certainty to it but we've stuck with that basic test. Here I think we're doing the same thing.

I think we have a real opportunity here, frankly, to do this. To really work with, to really let the elders be part of this thing and recognize their desire for this health of the land and involve them in decision making here. I see them being involved working with proponents and I've heard from both of our industrial partners here that they are welcome, they welcome local involvement. Under number (a) there we think that they should work with the elders and harvesters to look at the health of the land in a more holistic way before the project begins.

I want to have this holistic view and a more specific indicators and test view coming together here. We know also that elders and harvesters can be particularly helpful in addressing important habitat for fish and furbearers – caribou and moose – and understanding how animals react to disturbances. They've been observing things for long, long periods of time and they can help inform the monitoring programs of a proponent. They can also help evaluate the long-term ecological integrity and particularly those end-of-life, end-of-project-life restoration activities.

I think we can't develop, a land use plan which tries to have a rule for everything is an impossibility. We're going to be here in 10 years still. I've been working on this land use plan for 10 years already. I'm not going to be here. I'll be, some bunch of people will be here if we're looking for a bunch of tests where notice correction is required.

Again, Deline has proposed a general test and here we're giving specific ways of carrying out that test which are totally determinable but they must be tailor made to the specific context. That's what I heard Ken say yesterday. You're giving us a bunch of specific rules which don't always apply. Well, let's tailor make the rules to the specific context but then in light of that specific context, that specific project, in light of this ecological integrity standard let us identify specific objectives outcomes which must be met.

Yes, we're going to make, this is a learning curve. There's no question about that. I think we said in the hearing ages ago let's be practical here, let's get something which we can approve, put on the books, and start implementing and learn from the implementation instead of from speculating and going around and around this table.

Is that helpful? I think Heidi has taken much of this here. I would just like to see again a more project-specific, like, I see what you're [Inaudible] that's what she's done, but I would also like to see objectives or required outcomes and a monitoring program put in place to test the [Inaudible] outcome. Because if elders, like I said before and Deline is saying, yes, you're welcome, but sorry, the protection of the environment is our first priority here. We are not willing to minimize impacts. We're not willing to accept that environmental assessment standard. They say this loud and clear. Basically those are my instructions.

I'm happy to try to answer more questions as best I can.

[00:35:18]

Arthur Tobac: We have probably a response from Heidi but I also have a question from Michelle afterwards.

Heidi Wiebe: Tom, I just want to pick up on something that I think I heard you say at the very end there and that was, beyond choosing the indicators as I was showing here, you said to have them take it further and test against specific outcomes. Did I hear that? Okay. What do you have in mind in terms of the specific outcomes? Are you thinking like general water quality standards? Because I think what's in CIMP program identifies the valued components in the indicators. I don't think it establishes levels of what they are. Does that then require baseline monitoring?

Tom Nesbitt: Yeah, here we see the onus again on the proponent to, that's what an ecological integrity statement would do, it would say here's, it would, somebody like Explor. Jesse goes to Deline. Jesse sits down with, as an example, Jesse sits down with the harvesters and the elders there and says we're trying to put together a proposal here. We have these CIMP indicators that we've been told to look at. Let's look at those and we're proposing a seismic exploration program in this area here. What do you think are the really important things to look at. He spends a little time with them there because the elders need to understand what you're asking, first of all. We often don't make very clear what we're asking people so they have trouble answering. But if we

really clarify what we need from the elders they're a wealth of information in terms of potential impacts, potential disturbances, potential reaction on the part of wildlife, and indicators. I think you'll find them a pleasure to work with and you may already have and you may already have found that a pleasure. But I want to see them go on and say, that is Jesse and his colleagues and other proponents go on and say we can maintain those indicators. We're going to demonstrate to you this way. We're not going to leave this to idle speculation. We aren't going to leave – but it certainly does require, however, the planning board assessing this conformity determination to say this looks good to us or this does not look good to us. They gotta make a judgement on that call but there's nothing better. It's just like democracy. It's not the best but it's the best we got. Not to say you aren't the best. You're the best we got, okay? And the land and water board.

We have to leave some, we see the communities working closely with the land use planning board, with the land and water board, one integrated system of resource management. We see the capacity, there's real capacity issues here. As I said yesterday, the land corporations do not even have a land manager. You have capacity, they have funding issues. You have capacity there, it's funded. Paul has capacity, we see them working together to test against these objectives as required outcomes which industry would have been required to put together and convince you guys of and the elders of. We're going to prove that permafrost is not being degraded here by these methods. We're going to, for example, put in some temperature sensors under these buildings. That's how we will demonstrate that temperature has not been changed. We will do a photo-monitoring program, if you like, of the route along which we dragged a camp, or something. In Ken's case they dragged a camp somewhere. Have they compressed the insulation layer? Have they led to future degradation of permafrost? Well, I'm sure you've got engineers who could skate circles around me on this thing but they have good ways of testing for permafrost degradation and preventing permafrost degradation in the first place.

These are very specific tests but they're project-specific specific tests. There's nothing else, frankly. If we try to give specific tests in this land use plan we're going to be here, we will not get the plan approved, and we're going to be here another 10 years going around and around this circle trying to find this specific test. Thanks.

Arthur Tobac: Michelle.

[00:39:49]

Michelle Swallow: Thanks. I'm not feeling really smart with this one right now. I'm struggling with it a little bit so bear with me. If I understand you, Tom, this test was done through this existing application and it didn't conform the way it was. It was too specific, perhaps you're saying, the way that Heidi did the determination and a more general statement should be done and then that the specifics should be left to the land and water board. And then I'm wondering, well, how would the land and water board determine terms and conditions because it has to get specific somewhere, I'm guessing. I'm just wondering where that would happen.

Arthur Tobac: Go ahead, Tom.

Tom Nesbitt: Thanks for the clarifying question, Michelle. No, I see the proponent putting together not only the appropriate indicators working with the elders but also the monitoring program by which it will demonstrate consistency. It will say precisely what it's going to do on the land to demonstrate the maintenance and ecological integrity. That's its job. The onus is on the proponent here. Again, the onus is not on the community to come up with this stuff and the onus is not on you to come up with this stuff, and the onus is not on the land use planning board to come up with this stuff. I think we got to be careful right here right now being saying, hey, we should be helpful, we should, and we get sucked into doing the job of the proponent, which is not a good idea. We have different roles to play here. The proponent has a role to play and it's got a lot of expertise. Let's just give it, require it out, this is a framework I would like to see included in the implementation document as it's a recommendation only because again it's up to the proponent to say how it's going to do things, but I want to see it put a bunch of indicators before in its statement and a precise description of how it's going to demonstrate the maintenance of those indicators in its statement. Those then become specific tests against which our friends in the land use planning board can test for conformity with the land use plan and our friends in the land and water board can consider putting in the permits. So the proponent's done the work for us, as it should be the case. It has adapted the general test to the specific circumstances in which it's proposing to operate but it's done that in consultation with, close consultations with other experts called elders and harvesters and land corporations, which have certain authorities here as well, of course. And the RRCs. Sorry for that lack of clarity on my part.

Arthur Tobac: Thank you. Anything further? Florence?

Rhonda Batchelor: Rhonda.

Arthur Tobac: Rhonda.

Rhonda Batchelor: Yeah, Rhonda with Transportation. I read this with some interest and not a little trepidation because I don't see how this can be scaled or there's any gesture towards scaling. I'm who am working out of the public purse to install culverts, for instance, for which I may need water licences or something to that effect, I can see where this study starts to consume more money than the actual work would and more time when it is installing culverts, things, or something similar. I'm just using that as an example. Do you envision this as being, when you say project specific are you also talking size and scope specific?

Tom Nesbitt: Most certainly. Yes. This is an ecological integrity statement pitched to the authorities which you are seeking in your water licence or land use permit and only that. We don't want to make this, that's what these authorizations are about. That's what the conformity determination is about. If it's culverts, it's culverts. It's not about some other bunch of stuff. And that should be relatively easy, I think, given the engineers who work for you to demonstrate that. They know all about water flows and permafrost degradation and all that stuff. They're the experts. All they have to do is put that together in a cogent statement. It would be good if they worked with the elders too just to involve people and hear the expertise of the elders but there's big projects and

there's little projects. This is a test against specific projects and specific authorizations being sought and specific applications. Thanks.

Arthur Tobac: Thank you, Tom. Jesse again.

[00:44:56]

Jesse Tigner: Jesse with Explor. Yeah, Tom, I like that. I think it makes a lot of sense in many ways. The one hiccup that I see which I think is probably a relatively minor challenge and something that can be easily overcome, when I look through the valued ecosystem components that various stakeholders have addressed as being important the ecological scale that would be required to do those studies oftentimes would occur well beyond the scope of individual proponent's lease holdings. So I absolutely agree that the onus should be on those that are applying to use the land to mitigate impacts in all of these things and maintain integrity but it may be required that there's some additional organization that's needed so that, you know, I'll use, I'm going to use Husky as an example, there's no way that Husky alone can address concerns relative to moose or caribou in the Central Mackenzie [Valley]. They just aren't operating at a large enough scope.

I think there needs to be some additional higher order level in there that's helping different proponents to plug into a valued ecosystem component in a meaningful way so that Husky's not doing their own caribou thing and somebody else is doing their own caribou thing but everybody's sort of jiving together so that we're really addressing the overall goal of maintaining integrity.

Tom Nesbitt: Well, I agree with that. I agree with, again, I guess I was sounding like a broken record here perhaps, but we're talking about an integrated system of resource management. Proponents are part of that system. They are the party that initiates it and in our case the party that puts together these statements. Just one qualification on that: That CIMP list is neither exhaustive nor necessary. It's a suggestion. So there may be some projects which you want to take indicators beyond the CIMP list. Certainly not all are expected nor did Heidi take all, try to do every single indicator. Again, they're indicators which you think are relevant here, which you talk to the elders are relevant, and then you go to the land use planning board and say we think these are relevant, and it's their call. Have they got all the indicators or not?

Then I talked already about the tests, but if there's also opportunities for developers to work together here, well, you'll want to work with communities and communities like Deline have said they want to work with you. So if you need to work together sometimes doesn't that make sense? You guys are smart. You know how to form business associations. Well, isn't that a good thing? Isn't there, I'd hate to stir in value added, but isn't there some value added to that?

Arthur Tobac: Elder Leo.

[00:48:54]

Leon Modeste: Mahsi. [English translation begins] Thank you. The two that are speaking, we as Dene people, we have worked on the land for quite a long time, about two or three years ago, they explored for oil/gas across from where the Great Bear Lake flows into the Bear River. We asked them if they were going to build a road, to do it

close to the water, because in-land is caribou land. That's how they worked. It's for these kinds of reasons, it's important to listen to one another and work well together. If you're going to work up on the land, there are fish lakes, there are beaver lakes, there are spruce grouse habitat, rabbit habitat, these are all on the land. If you want to work with the people, we will help you avoid these areas. That's how we want to work together. We are not telling you you can't. What you are doing is important to you too. On my land by the Great Bear Lake, there are many kinds of wildlife that inhabit that land because the White people have not yet worked there. That's the reason, we as elders speak so strongly for it. It's like if my house were in a certain location and a vehicle went through there, I would no longer have a house. That's how it is for wildlife habitat. Just like a bear den, if a vehicle ran over it, the bear would no longer have a home. It's not just the bigger animals, there are many kinds of smaller animals, like squirrels. Even the small animals all have their own kinds of food. These are the reasons we are talking together, if the food of the animals were to disappear, we could not remake it for them. These are the reasons we are meeting here. I just wanted to say this to you. Thank you. [English translation ends].

[00:52:30]

Arthur Tobac: Leo, Mahsi. Peter and then Leon.

Peter Menacho: Mahsi, Mr. Chairman. Leo, I work with, I'm privileged enough to work Leo and a couple elders. I've learned a lot from them. Especially meeting here like this, you know, you come and meet and friends and old friends and new friends. We all learn as we go. I don't have anything on this one but on wildlife perspective this cultural integrity is very, very sensitive for us. Based on the community visioning we also have to rely on traditional knowledge. Prophecies. Those things that we still live by today. We're not saying no to development. We're hoping that if we can try to work together. We lost our caribou over 35 years. Leo is right. One company came one day and the caribou never came back again. That's why Leo mentioned there's always a sensitive area in most parts but within the whole Great Bear Lake watershed we had identified. I'm glad I was part of that process. I'm not going to back down, not on his word, but at least I want us to have that flexibility. How can we best fit everybody because we can sit down and argue and this plan is not going to go anywhere. I remember going back to the community after the third draft and the community said, okay, good. If we get approved then I think the community's ready. Ready for development as long as the conditions are met by anybody.

[00:55:15]

It's just a matter of cut and paste more, but I want this plan to go. I think it's been long, over 15 years. It was already two years delayed by the government but at least we're building on it. I just wanted to add on to Leo made some interesting points, just to kind of recap the intent of the Deline view on how they wanted to see this happen. I just wanted to point that out. Mahsi, Mr. Chairman.

Arthur Tobac: Thank you, Peter, for all that wonderful background. We'll turn the floor over to Leon Andrew now.

[00:56:18]

Leon Andrew: Thank you. [English translation begins] Thank you, Mr. Chair, When they are exploring for oil/gas, they use two methods, they drill for it and they also utilize seismic. When they are doing seismic exploration they go all over the land. [English translation ends].

[00:56:57]

In that relation to seismic activity it's based on where the geology may rest. So there is a difference. They have no way of knowing where seismic is going to occur. For that sense, they pick a spot, that's where they work. But if it's in potential critical area like bird habitats that's got to be considered. For our case, around Tulita we have birds habitats at Willow Lake. We always consider that. For people in Good Hope they have these little lakes down there by the Ramparts. Those got to be considered. The method of seismic could be done in different form. With explosives or shakers. I think you need to consider this seriously. Mahsi.

Arthur Tobac: Leon, Mahsi. I'll turn the floor to Heidi.

Heidi Wiebe: Thanks. I just have more of a follow-up question for Tom. From the descriptions that you were giving of how you envision this being implemented it sounds to me like monitoring is a critical component of the proponent being able to demonstrate that. So my question is, in reference to how this pertains to CR-3, I think what we've decided before is that CR-2 and 16 are the different ones, CR-16 for Great Bear Lake, CR-2 for everything else. CR-3, I think what we had decided previously would apply to all special management zones and that one requires site-specific monitoring. My question is: If monitoring is an integral component of how you see CR-16 being implemented then maybe we don't need CR-3 applying on Great Bear Lake Management Zone as well. Maybe that encompasses both CR-2 and CR-3. I guess I'm looking for your perspective on that.

Tom Nesbitt: I think it's likely that the monitoring program put together by the proponent will satisfy the requirements for both 16 and 3 but I don't think there's any harm in leaving some of these CRs in there applicable to Deline as well because it should be obvious that it's already covered off in a well-done CR ecological integrity statement.

Going back, we included things like this in the Great Bear Lake Management Plan. Just so it was, they were for greater certainty type clauses is what they're called. Just so that on those kind of things you want to eliminate any potential for misinterpretation. But yes, we see monitoring as integral to the development of ecological integrity statements to their conformity determination and to the implementation by the land and water board. I don't see a problem with leaving CR-3 the way it is. Just take it off. If the same program will meet both. Or should meet both. Thanks.

[01:00:36]

Arthur Tobac: Thank you, Tom. Anything further? We are still on the item of the Explor project. We're basing it all on how to determine CR-16 as it applies to Explor project. I think we've done a fair bit of it and I think the work that Tom and the Deline team did in drafting this draft document along with the department that Lindsay and her team head

up, I think it answers a lot of the issues that Heidi had. I don't know if there's anything further. Heidi.

Heidi Wiebe: I don't have any other really specific things that I want to open up for discussion with the group. I really did choose this application so we could kick around CR-16 a little bit and get some understanding. I guess the only other thing that jumped out at me with this application was, I think it was six years old so the zoning was quite different back then, but working on the part of, okay, if this application was submitted tomorrow how would it fare, this is the only application that failed on the zoning because the seismic was in Whitefish River Conservation Zone and it is an oil and gas program. Nothing against the application because it was developed under a different time and different zoning and everything else, right, but this was the one case, just maybe to make this clear to communities, if someone proposes to develop or explore for oil and gas or mining in a conservation zone, as this application was doing six years ago, if it was submitted now it would not go ahead because of the location that was proposed. I just wanted to point this out as one demonstration of how the zoning would work in the regulatory system.

After that, if there's no questions or discussion then I would propose that we move on to the Eagle Plains one.

Ken Hansen: Can I just ask one question? The CR makes reference, Tom, to cultural integrity as well and I just wondered if you could expand a little bit on that.

Tom Nesbitt: Yeah, thanks, John. That's why I had my hand up as well. The second phase of this, I think probably a smaller phase, is we know from the land claim agreement that the purpose of land use planning is the present and future wellbeing of the participants and communities taking into account the interest of all Canadians. Those are powerful words in a powerful document and we want to see them given their full due. So we interpret that as the health of the community. We think these statements should also – And obviously protecting the environment is a large measure of protecting the health of the community. We think these statements should also give some assurance and some demonstration that they will in fact protect the wellbeing of the community as well. I think a large, we said a large measure of that is involving the community in the design of the project and the monitoring. Involvement in decisions making seems to me a large chunk of the wellbeing of the community. Again, we think that's something which expertise in the proponent can address certainly better than me. I think it's a smaller theme within the larger ecological and cultural integrity demand in terms of a proponent's time but that's my understanding.

Arthur Tobac: Thank you, Tom. Heidi.

Heidi Wiebe: Thanks. Then I'll pick up on that last string then. How would you see that component of CR-16 differing from what we're looking for under the community benefits CR, for example?

[01:05:05]

Tom Nesbitt: That's one of those good questions, you know? After all, access and benefit agreement does include benefits. I guess if there was, and that could be, that assurance could be put in there. I would that'll be another large chunk of this

demonstration of wellbeing. That a proponent has indeed sat down with a community, developed an access and benefit agreement, developed an ecological integrity monitoring program, involved people in looking at options for design, places they may need to avoid, things like that. They already do this kind of thing in terms of the jobs they'll provide. It's common practice to quantify employment. They'll provide the needs for employment, population. Those I think are relatively simple things for a proponent to do.

Again, I think this is all very doable. I think frankly it will set those companies which do it apart. We all know that in many industries there's certification right now and companies which can, for example, demonstrate that they've been certified by the Forest Stewardship Council charge a greater price and they get paid the greater price for their paper. I pay more for my paper for my office from Staples. Staples stocks Forest Stewardship Council paper. Is it an advantage to communities, to proponents, in my opinion, who can say to the public that, yeah, we're an oil company but we can do this. We've demonstrated we can do this against ecological integrity. Thanks.

Arthur Tobac: Thank you, Tom. I have probably a hand raised by George Barnaby, so I'll pass the floor on to him.

George Barnaby: At this time there's nothing or very little available for community wellness. There's a lot of people and money for looking at the land, wildlife, but nothing to look at the community and the people and any impacts government has taken all that money back and hardly any programs. So we put something in there like that then look at the holistic approach to the impacts of the projects. I agree with that that we look at impacts on people as well in the communities.

Arthur Tobac: Thank you, George.

John Donihee: Thank you, Mr. Chairman. Just some thoughts maybe that I could share for Heidi and Tom to discuss further. The first point I'd make is that when you talk about the cultural integrity it's much more difficult once you start to get outside of the physical culture. So if you're talking about trails, I look at your tests on the back page of your document and, you know, when you're talking about trails in special areas that have cultural importance to them and that sort of thing then they're very easy to protect through a land use planning process. The impact review board has had a fair bit of experience dealing with these kinds of issues in a variety of places. I guess the observation I would make is that once you get away from – and you can have a look at the definition of heritage resources in the MVRMA because it is helpful – but once you get away from what I would call physical culture you start to deal with community wellbeing, language, traditions, and things like that. It's not that those things aren't important. They're critically important. It's just that it's very, very difficult to come up with a series of criteria, I suppose, or indicators, as you call them, that can actually be measured and then presented to a regulator in a way that they can find out whether or not the proposed program is going to be a risk to cultural integrity. It does become – And in fact, the review board put out a full guideline on cultural impact assessment so there's some sources there that can be looked at but I just wanted to raise that little flag and say once you actually get away from physical culture that it's going to become progressively more difficult to know whether the proponent of an activity has done

what's needed, the appropriate thing or enough. Likewise for the community to know whether in fact the indicators that have been chosen are really going to tell the regulator, give them the proper measure of whether the cultural concerns they have are going to be protected.

[01:10:56]

Arthur Tobac: Thank you, John. All right. Is there anything further on this item here? if not, I'll turn the floor back over to Heidi to continue.

Heidi Wiebe: Thanks, Arthur. We certainly didn't kick the Explor application around quite like we did with Husky, but I want to thank Marty and Jesse just for being here for information, and if you've got any thoughts you want to share, maybe see if you have anything you want to say, and if not then maybe we can move on to the next application.

Arthur Tobac: Tom.

Tom Nesbitt: I just want to make it clear that pages 2 and 3, John, are put before by INAC or AANDC, as they call themselves now.

---Interjection

No, no, I'm not blaming. I'm just saying –

---Laughter

For clarity. That's all. Thank you.

Arthur Tobac: All right now.

Lindsay Armer: Sorry, I just want to go on the record that it's not an AANDC position or an official suggestion. It's just information.

Arthur Tobac: That's noted. All right, Heidi, back to you.

Heidi Wiebe: All right. I'll give everybody a minute to dig up the Eagle Plains Resources paperwork.

Conformity Determination: Eagle Plains Resources Ltd. S07C-006 (Tulita District)

On this application I'm going to focus on CR-10 and CR-12. The reason for that – let me just get my notes here. This is a smaller scale project although it is still large enough to require a land use permit. I'll let Edna catch up here. It's a small scale, heli-portable, diamond drilling operation. They were drilling five to eight holes in three different sites. It's summer activity. It's Crown lands. So there's no settlement lands involved in this one, that's makes the application a little bit different. It's in the Mackenzie Mountains Special Management Zone. As far as a small overview just think of a couple guys, a helicopter, small drill, going around and taking some small samples of rock.

Now the reason why I want to focus on CR-10 and CR-12 are just these are the ones where the application didn't conform for some specific reasons. This is a going on five-year-old application, so I want to give the context to that now. CR-10 and CR-12, which are the wildlife and the sensitive features, and the sensitive features are mainly in the

Mackenzie Mountains. You remember the map we had up earlier. I closed it down but I'll find it in a minute if I need it. Both of the wildlife term and the sensitive features term requires collection of most recent data sources from different government agencies and departments.

In this case those requirements didn't exist five years ago so obviously they didn't go do that. Looking at the plan there's clearly a lot of these values in the vicinity of the project. That's why they didn't conform. The question is, and I would turn the discussion maybe over to some of our industry folks, when you're talking about a very small project they don't have the teams of consultants available. The scale of the project isn't such that they can hire entire teams of consultants to go out and do all of these GIS overlays and gather all of this information.

[01:15:12]

The question here, because we are dealing with a smaller scale activity is: Are the tests that we're setting through these requirements reasonable for this kind of scale of activity? Given that we have collectively come up with the wording on these conformity requirements we've set these expectations. When you're talking about a small drilling project or maybe a small oil and gas project this is a chance to kick the tires on if this type of project would fail is this a reasonable request or is it reasonable that we would fail a project in the future designed and submitted like this?

That is where I want to spend maybe half an hour of discussion just to see if this is an area that requires some discussion of what's an appropriate minimum threshold for applying some of these conditions in the plan.

Maybe I'll put some of our mining people on the spot first and see if they have any initial thoughts on this. I know Adam and I were talking about it briefly last night.

Questions/Discussion

Adam Vivian: Sure. It's Adam Vivian from the Chamber of Mines. My initial thought on this has to do with the minimum distances with regards to helicopters and sort of the minimum distances from dens and all that. It would be much easier to adhere to these setbacks if you had all the information on where these dens were. If they were out there first of all it would be quite easy to design your project not to go that close. The fact of the matter is it doesn't appear all that data is out there, so sometimes that might not be practicable.

It's the same sort of ideas with the minimum height requirements. I noticed here just recently that it's point to point. I'm just wondering if you're going from a camp to a drill site it would be easy enough to do that again but the nature of the work when you're in a small camp like this is that you do various things. If you're helicopter staking you're going in a straight line and your corner posts need to be in a very certain spot. You have to come down and land at every post. These become an issue. Same with till sampling with diamond exploration; you need to fill 40 kilogram bags which you can't carry with you. So the helicopter comes by and he picks them up and they're every 300 or 400 metres, and he doesn't go up 650 metres or whatever it is. Slings a drill is much the same. You can hit those height requirements when you're moving a drill

obviously but you're going to need to hover in place for minutes or whatever at a time while you get everything in order to build the drill.

What's in here I certainly support in principle, just in practice it might not always be able to adhere to these heights and that's just the point I had on helicopters.

Arthur Tobac: Thank you for that. Heidi.

Heidi Wiebe: I think you've laid out some practical constraints on where these can't, so maybe some flexible language might be needed in there in terms of adhere to the setbacks and minimum altitude wherever possible. I've taken note of that.

The larger consideration here is in looking at the applications to determine conformity for this one we'd be looking for an assessment by the proponent to how their activity relates to all of the different types of wildlife designations and areas that are identified in the land use plan through the background mapping through the zone descriptions that we have. So for instance, in doing this exercise I pulled up what we know already about where all the different sensitive features are, where all the different wildlife habitat is. I would be looking for the applicant to also go through that same exercise and potentially overlay their flight lines or whatever their planning with that.

I don't know if organizations such as Eagle Plains or that scale of company tend to have GIS capability. My understanding is it's a couple of guys going out on the land, right? So my overall question is for everybody in the room: Is this a reasonable requirement? Is this what communities expect to see happening, that these checks are being made, or is this another minimum threshold? I haven't heard an answer or any kind of feedback in response on that yet. That's the question on the floor. Thanks.

Arthur Tobac: Thank you, Heidi. I've got one elder that raised his hand a little while ago. I don't know whether he's going to be speaking on this particular point but he may have an idea of what he wanted to speak on. Maybe on the last item. I want to turn the floor over to Elder Morris Mendo.

[01:20:33]

Maurice Mendo: Mahsi, Mr. Chairman. [English translation begins] Thank you, thank you chairman, when we speak about the animals, the land, the water...water is something we use every day to live. The animals depend on it to live, things grow with water. So to speak so strongly for water is the correct thing to do. The animals that are on the land, as Dene people, we know how to track animals, we know how to trap, we know where all the fish lakes are. The fish lakes,....the water looks after lots of things for people. It's been like that from the beginning of time, it doesn't go away. So when we speak of protecting all this, it's the correct thing to do. That's how we are as Dene people. Our elders really taught us,...how to look after animals, food even a small piece of food we don't just throw it away. With the bones we can make bone grease. We take care so that nothing gets spoiled. If the wildlife were to disappear, we are not going to recreate it.

The white people they have farms and they raise cows, we've never heard of a Dene person shooting one of those just for sport. If we did anything like that we would have to face charges in court. On our land sometimes they shoot caribou and they just leave it there. We as Dene people, we don't do that. We take great care, even if there are no

wildlife officers around, they look after the animals. So what we are talking about now, once the agreements have been made, we will tell our community members about it. Because it is something significant, all our elders will know about it. If you don't know about something, it's difficult to speak about it. We were not raised by white people so we're not familiar with your laws. We will not be telling you it's like this, it's like that.

Since the start of oil/gas exploration here, all the seismic cut lines, we are aware of all the damage it's caused, we've seen it. Where they have drilled, we've seen dead rabbits, dead spruce chicken. We've spoken about this many times, but they've done nothing. If they are going to use chemicals in their work, they can't just leave them laying around, when the project is over, they have to really clean the site. The chemicals they use, they have to clearly inform the people in regards to the poisons, the hazards of these. When I worked in Norman Wells, one of the chemicals spilled on the barge and I applied some absorbants to the spill and some of it went on my leather gloves and leather boots, it went right through to my skin. How many years, about 20 years, this year finally my skin healed. Sometimes they don't inform the workers of the hazards, some of these chemicals are contained in vehicles. One time I asked them, why is that all iced up? They said it's because there's poison in there, it's a chemical. It's that strong. I didn't think too much about it, one year later I asked them about it. They put some in a glass and they told me, if you were to put your finger in this for one minute, your finger would be nothing but bone. So if animals were exposed to that, many things would be damaged.

When you know about things, you are aware of what it can do and you take care to work with it carefully, help one another in regards to this, because we want to have a good life into the future. From working, that's what generates money. We're not saying we don't want work, we just want to look after it so it goes well, we want to work well together, be fair with one another, this is powerful. You can't break an agreement. If you do things in secrecy, and there is damage to the land, it's useless to talk about it after the damage has been done.

Long ago there were many people that you would see and you never heard anyone complain that they were sick or in pain. Although we did not have raincoats, we could be walking in the rain and we never heard of anyone getting sick because they got wet. But now many people are getting sick from cancer and strange illnesses. You hardly heard of people catching colds back then. People were very happy, they didn't have much but they were happy. Our families worked very hard for us. They never said, we don't have what we need, so let's just take a break. Although it was cold, like 40 below, they would still go hunting. They wanted the best for their children so they worked hard. In the summer they would go for things, they would walk to 20 Mile Island and over land right to the Yukon border. I was just little, but I would walk after them. Just to survive they worked so hard.

Today there's lots of food, even if you don't have anything, you can go to the store and you will be able to eat if you have money. It wasn't like that long ago, sometimes you didn't have tea, sugar, tobacco for one, two months. They didn't say it's not possible, we don't anything.

When you grow up on the land depending on wildlife you have a great concern for them, there are elders who have great worry for the wildlife. When elders tell you about how they lived on the land, they are not lying. It's their true story. This is how you become strong, by listening to people's stories. That's what elders used to say to us. They would really talk to us, about how to talk to people, how to work with people. This is the time when I grew up, I may have been poor growing up, but I think about this and sometimes it makes me sad to think back.

There was no money but people were so happy. In the mornings they would sing their love songs. Back then that's the only songs we had, our love songs. When I was young, in the morning when I heard people singing love songs, I couldn't sleep.

Yes, that's all I wanted to say to you. Thank you. What we are talking about here, it's very important that the elders and people in the communities are told about it. This is for them so they have to know about it. Thank you that will be all. Thank you. [English translation ends].

[01:32:43]

Arthur Tobac: [English translation begins] Thank you Maurice, you are an elder now. You have worked amongst your people for a long time, you have lived and worked on the land for a long time and I'm sure you know all about that. This work that we are doing in regards to how the land will be used is very important, your words are very valuable to us....I want to thank you. [English translation ends].

[01:33:13]

I think we are pretty close to 3:00. We have one additional speaker and that will be George. After George speaks we'll take a break.

George Barnaby: I was going to say how would these guys know where the animals are or the sensitive areas but I see implementation so I'm thinking that they have to go to the community to get the information. Sometimes, especially with the prospecting, they don't both coming and talking to us. I know the other guys did. There was another company that was working around Good Hope. They did come to the community. They had a big public meeting and told everybody what they were doing. They hired some guys just to make sure somebody was along to report in case people were asking any questions. These are good ideas but you gotta know where to apply, where the animals area.

Arthur Tobac: Thank you for that, George. I know we're still in the middle of one, Eagle Plains, is it? Oh, we're done with it. Okay. So it gives you a little bit of an idea that there's some further things that we still need to discuss coming up after the break so that will give you time to discuss it among yourselves so that when we do come back from the break that you know exactly what you need to bring up and how to ask those questions on which item. We still have the highway and we still have pesticides to go over. After the break your regular, your regular chair will be back here while I have a little break and then I'll join you again a little later. Thank you.

[01:35:25]

---BREAK

Danny Bayha: Hello. This is George Jones. Anyways. It would be nice to get back and conclude. We can get our seats and we will continue, please. Thank you.

It seems that I appreciate getting started again. Boy, when I'm not chairing everything moves really fast. That's good. Anyways.

I just wanted to add a point earlier about Jesse's concern about how things, quantification of things. How to measure things and stuff. Earlier, I mean, we have over about 10 years' experience in the North on different mining companies doing some of their things, about trying to help communities. For example, training programs, scholarship programs, those type of things are all worked towards the wellbeing of communities and residents. I just want to mention that there are other companies that are doing a very creative and are trying to, like, programs like money management for their employees. Those type of things are helpful and go towards the wellbeing of communities. I just wanted to say that.

With that we have, I think, two more. We'll give Heidi the floor to continue on. Mahsi.

Conformity Determination: GNWT – Department of Transportation Winter Road S04L8-014 (K'asho Got'ine District)

Heidi Wiebe: Thanks, Danny. So I initially had an hour down for the, well, I actually had half a day down for winter roads so everything's being a little condensed. I think this is going to be Rhonda's bailiwick for GNWT proponent. I think this is one of the more interesting applications we have and I want to thank the land and water board for throwing this one my way.

It's great for several reasons. One, the winter road's there every year. It's a use that everyone wants to go ahead. It's a land use activity that we need to go ahead. So if this project fails in the future there are major consequences to that. This is an application where we need to make the system work around this type of land use. We need to make sure that what we're doing is reasonable and fulfills the community expectations but also allows this very important use to proceed. This is one of the great ones for kicking the tires on the plan.

That said, the application that we're reviewing is eight years old so it fails for obvious reasons because the plan elements weren't in place then. The question then becomes: Where it fails, when the application gets resubmitted in, I'm assuming, two or three years when the next version of this comes ahead is what we're asking reasonable because by then I do hope the plan is approved and we need to make sure that everybody is sort of in sync on where we're heading with this type of land use and how the plan will relate to that.

If you look at the GNWT conformity determination report, as a quick guide, because I do want to focus on specific ones, where this application did not work was on CRs 2, 4, 6, 10, and 20. Apparently all the even numbered ones are problematic.

Conformity Requirement 20: Water Withdrawal

CR-20 I don't want to spend a lot of time on. This is water withdrawal from Lac Belot. Our board has kicked this one around the field three or four times now and it's become

clear with us and the communities and DFO and the land and water board that we know there is no support for withdrawal of water from Lac Belot. Even Colville Lake has told us, once their community organizations that build the winter road there, we know it will cost us a little bit more and we will have to go a little bit further to get our water source but we accept that as a reality because we know that we do not want to take water from there. When a community tells me they're willing to accept impacts to their own financial resources and how they do things they're pretty serious about this. Obviously this application fails on that one because in this case eight years ago they did take water from Lac Belot. In the future we would expect that you would use a different water source on that one. So I don't really want to discuss further.

[01:40:14]

What I have proposed to focus on is CRs 2, 4, and 10. First maybe I'll just orient us geographically. Everybody knows where the winter road is but in relation to the planned zoning, which is essentially finalized for this area, it crosses the General Use Zone as the major gray area, the major component of the route. If you start in the, we're looking at strictly the K'asho Got'ine district for this application, it actually skirts into the edge of Chick Lake, the conservation zone there, and it's got the mouse on it right now. That is a conservation zone. It goes just around Bluefish Creek, I think, then goes up to, it crosses the next special management zone there, goes into the boundaries of Fort Good Hope – but again, the plan doesn't apply within any community boundaries, crosses Naratin, which is at the crossing of the winter road and the Hare Indian River. So in that sense the conservation zone sits over top of the special management zone. The Hare Indian River SMZ isn't actually crossed; it's Naratin that's crossed in this case. Then you have a large stretch of general use zone and then we cross the Lac Belot Conservation Zone then again into the Colville Lake municipal boundaries. It's an interesting application just because of the number of zones it crosses and, assuming the route isn't changed, it will cross these zones every time an application is applied for.

The good news is there's no issues with the zoning. Transportation for its own sake, the building of the winter road is not a prohibited use in any of the zones. The building of access roads and construction related to larger oil and gas or mining is included but building of the winter road, when we built the zoning system when refined two drafts ago has always been provided for. So there's no conflict with the zoning for the winter road. I wanted to make sure that everyone's clear on that part of it.

So now focusing on CRs 2, 4, and 10, I think were the ones. I'm avoiding CR- 6 because we've spent a lot of time on land use monitors and I really don't want to get into it again.

Conformity Requirement 2: Protection of Special Values

CR-2 is protection of special values. Again this requirement says that if you're operating within a special management zone, conservation zone, or a proposed conservation initiative you have to conduct your activities in a manner that protects the values for the zones as identified in the plan zone descriptions. Again in the GNWT's defence we didn't have the zone descriptions eight years ago. Obviously they can't comply with them because they just didn't exist.

If you look at the report, and I don't want to go through it in any detail, I've outlined from the zone descriptions and the information what the values were for each of the zones. Obviously the application didn't look at those which is why it doesn't conform, so this is the question I guess for the GNWT in the future, is this an expectation that you feel that you can comply with and that's a reasonable request. If you're looking at the values as identified through the zone descriptions and in the values, and then taking consideration and mitigating those.

Questions/Discussion

Danny Bayha: Rhonda. Thank you.

Rhonda Batchelor: Thank you. Well, I don't think there's any question that we would be very cognizant of special values that are identified. It is not the intention to destroy anything. We don't actually build these roads just because we like to. We build them usually in response to community need. Typically the decisions for routing and that sort of thing are made based on engineering and to some extent the path of least resistance, and/or established trails. Specifically the road – now of course this predates me significantly; despite all the white hair it was there before me – the route between Colville Lake and Fort Good Hope does follow an old CAT train line. The idea is always if there is a disturbed area and we don't have to knock down any more trees than that's the way we'll go. If it will support the road and the activity that is projected there then that's the way we would prefer to go.

[01:45:18]

In a lot of ways most of our roads or a lot of our routes, anyway, are ones we've received. But once that changes then there has to be some determinations of whether or not we can re-route to avoid special values. Things like archaeological sites of course there is legislation that protects that. I don't really see committing to protecting special values would be a real tough thing.

Danny Bayha: Thank you, Rhonda. With that, Heidi, do you have more? Thank you.

Conformity Requirement 4: Community Engagement and Traditional Knowledge

Heidi Wiebe: Okay. The next one is probably one of the more interesting ones. In the application eight years ago there was a phenomenal record on the public registry for all the consultations that occurred. In this case it was an excellent traditional knowledge report and identified a lot of the community interest around the water sources.

This is a water licence application for the road so the emphasis was on the water withdrawal sources. That's what makes this one really interesting because of the issues we've had with some of the communities around water withdrawal sources and that came through loud and clear even eight years ago on the record, which I found fascinating from a historical perspective.

With this one we had this phenomenal record that we could look at all of the community concerns. While you meet the first part of the requirement very easily, which is to consult and engage the communities and gather this traditional knowledge, the second part is that regulators would ensure that the land use activity is designed and carried out with due regard for community concerns and wellbeing and incorporates that relevant

traditional knowledge. The reason why I would fail the application if submitted today on that basis was the fact that in all of the, I think it was about 100 pages of consultations and traditional knowledge, almost all of the water sources that had been proposed the community said don't use that one, don't use that one, don't use that one, don't use that one. That was what ended up with what went forward anyway. I couldn't see any demonstration of taking that into consideration. Again, eight years ago, practices versus practices in two to three years, is that a difficult test or how would you address that in the future?

Questions/Discussion

Darren Campbell: Sorry. It's Darren Campbell with Department of Transportation. My job specifically is environmental analyst. Of course there's a number of locations for let's say tactical reasons that were selected on this initial application that was presented to the communities. Obviously during this TK study, which again predates myself, these ones that were proposed were, okay, this is a bad idea based on the community's values. Some of those locations were significant lakes. Conservation, I guess, boils down to the perspective of the individuals that are looking at it. When you look at basically what you can see here is that the concern was made mostly fisheries and beaver locations. Then we deal with Department of Fisheries and Oceans and they have their own set criteria.

So a number of these lakes, for example, Belot Lake, wouldn't be so much of a concern based on the criteria that is displayed from DFO but with the community it would be.

If you look at the tactical selections, and I've went and put together a GIS map of the locations that the communities didn't want and the locations that probably wouldn't fit DFO's guidelines for winter water withdrawals, and then if you look at the locations of the contractor, and in this case in particular I'm thinking about Colville Lake, BAFN. The contractor works out of Colville Lake towards Fort Good Hope. Now if we took off all of the sites that were identified and the ones that are most likely to be used they wouldn't be able to use water all the way over until they got to Fort Good Hope.

[01:50:19]

The reason being is that there's a number of lakes that we've had scientifically assessed in terms of bathymetry, depth, available water, available water under ice, and a number of them have been ruled out for different reasons. If you take the desires of the First Nation and the desires of the people protecting the fish and the advice of the scientific world it leaves us pretty much with nothing. So yeah, it does present a huge tactical problem and we spent a lot of time trying to fit our heads into everybody else's world and it's just like applying for the permit to build a house and then what you get back is, well, here's a piece of paper, build a house with this piece of paper. Those are the materials we're left with.

I also would have to mention that in terms of that particular piece of road between Colville Lake and Fort Good Hope, the amount of pressure that's put on in terms of resource pressure is a lot less than, let's say, in and around Norman Wells. I've been on that road and apparently I picked a really good year, but in terms of the greatest impacts to that in terms of maintaining the integrity of the environment is ultimately spills. The

water as long as it's put on the ice road and maintained clean it melts and all runs downhill back into a river somewhere anyways. If you look at the criteria that we would have had to select then this project would have been a no-go eight years ago when it was applied for. That's the best response I can give you for that.

Heidi Wiebe: Okay. I guess I'm looking at, because we know those considerations exist, so when I look at the wording in Part 2 it doesn't say comply with community requests. What it does ask for is that due regard be given. So my test as it stands right now, and this is really the question of whether this is reasonable, is in future applications I would be looking to see evidence that that was considered. So here's what the community asked for, here's the tactical considerations, I think you called them, as to why these ones are chosen, here's what DFO told us. What we're looking for is a demonstration of the thought process or why you arrived at that decision. In terms of an information requirement that would be something that I would think we would want to build into this and say this is what we want to see to satisfy the requirement in the plan. Then the question is whether or not, given that evidence or information, do we feel that you've demonstrated that you've given due – sorry, the wording changed recently – due regard to community considerations. I guess that's my question right now. I wouldn't expect the test to be you have to follow the community considerations. We know there's various other considerations but we do expect evidence of due regard. I guess I'm looking for more evidence in the application. I'll throw that back to you if that's reasonable.

Danny Bayha: Thank you. With that, George, you had a question and then....

George Barnaby: No, no question. I know there's problem. One of them is where the contractors take water. People are concerned about it. We need some monitoring of that so that they take water where which lakes are recommended by, with the community meetings. That should be done. I think this community engagement should happen every year because there's always complaints about the road. The road is too narrow and sharp corners. You don't need that, you know. You can straighten it out a little bit. They keep going back to that right of way that's no longer in use because they have bridges in different places. I think meetings with the community is important. We're the ones that live with it so if we don't want water on the road well that's fine. The best way is to meet with the community and take it from there.

[01:55:04]

Unidentified Male Speaker: Just got a quick question for Heidi. Is CR-2, 4, and 10 applied to the winter road?

Heidi Wiebe: Once the plan's approved all of the CRs would apply to the winter road. Numbers 1 through 20 or whatever number we end up with. The point is that when we reviewed the application that was filed eight years ago, which was the last application filed for the water licence, looking at that eight-year-old information, if it was submitted tomorrow, say, and the plan was approved it would fail for those reasons. Once the plan's approved – so two years from now or so – right around the same time I think the GNWT would be submitting a new application for the next 10-year period for water licences it would be subject to the full weight of the plan. So all of the conformity requirements other than the zoning which it doesn't have a conflict with anyway

because it would be related to the existing right of way. It's a lease you guys have, the right of way?

Rhonda Batchelor: No, actually, it's Commissioner's land.

Danny Bayha: Thank you, Rhonda. You had a follow up question.

Unidentified Male Speaker: Just one more comment. If those three CRs are going to apply then I think you should be re-looking at CR-6.

Heidi Wiebe: Yeah, CR-6 would apply in the future too it's just that we've spent many hours talking about CR-6 already. I don't see us talking about it again on this application specifically. But yes, it does apply. Is that what you're concerned about? It would apply.

Danny Bayha: Okay. Thank you.

Chief Wilfred McNeely, Jr.: Thank you. Wilfred McNeely here, chief of Good Hope. I was around when they did that application. I was around prior to that when Apache applied for the same access road as they are and were on. Before that it was like a goat trail. Apache was the one that actually opened the road, put the permit in, the permit was approved and Colville Lake was consulted. I was involved in some of the consultations and the reason why they were concerned about taking water out of different areas was, I don't know if any, well, probably a lot of people from here know what that road was like then. It was just like a highway. So you can just tell how much water was taken out at that time. At that point Apache did keep real good records as to where they took water out, how many loads they took out was a sheet that were counted. I think some of the data that was put together by the government at the time was used by Apache. That was used to submit that permit. Colville Lake at the time wanted that winter road opened. They were saying, well, you can't get no water from here to here. What are you going to do? So they made a, from what I can gather, I know they talked to Colville Lake and they said, okay, well, you can use these water sources. And they're still using those water sources to date because they're building that road themselves. That's the kind of working arrangement you get when you go to the communities. I don't think there's any concern with that road now. Eight years ago you probably had a really tough time trying to get that permit approved.

Another part of that road too is you had to cross private lands. So you had to switch lands over. Again, Colville Lake came to the community. It was in our area but they were affected and they told us, look, you know, we want our road to be open. Could you just get that land swapped? So we did because Colville Lake wanted it.

That's just some of the reasons how this road came about. I know you say it wouldn't have been approved but it was up to Colville Lake at the time. they were the ones that were going to be the most impacted. That's how we always work. Whichever community is the most impacted is the one we're going to make lee ways to. That's what happened. This is real good permit that you're using here because it just goes to show that if it was up to the community then that's what the community got. That's the way we work and we're always going to continue to work that way.

[01:59:45]

Most of those water sources that Apache used at the time, I think they did a study about two or three years afterwards and they said the water dropped down maybe five inches in some of those lakes but it all came back. I'm pretty sure it was those. I did see the water report afterwards when it went into the land and water board and they all went back to normal. A lot of those things were all mitigated. Just a little background on that one. Thank you.

Danny Bayha: Thank you. Tom.

Tom Nesbitt: I was just going to say something like the previous speaker did. My experience is if you, just as a suggestion, I'm not telling you how to do your job, but if you sit down with community people and involve them in joint planning, bringing in your technical expertise how to build roads and what they require, and talk to them about, they have an interest in this road, right? They need this road. You have an interest in serving them within a certain budget. My experience is you can, like this previous gentlemen, the community level can plan these kinds of things with you. They should be, when this thing ultimately comes up for renewal if you need, if you do that kind of planning and you need limited exemptions you could apply for the exemptions on those bases. If you can't avoid certain conservation zones. Perhaps it will in fact be consistent at that point as some kind of access across, I guess. I'm not sure. Again, I like what the gentleman before said. It's what we've been saying. Joint planning with communities. Thanks.

Danny Bayha: Thank you, Tom. I don't know if Leon had something he wants to say on that. Okay. Go ahead, Leo. Elder from Deline.

[02:02:05]

Leon Modeste: [English translation begins] When gathering like this to speak with one another, it would be good if we didn't say to one another this is your fault, that is your fault. We have to work together, to accomplish something. Meeting with one another like this helps us avoid blaming each other. Once we reach an agreement together, we can work well together in the future. This is for a long ways into the future. This is what I want to say to you, also number 10, the part about the RRC, in Deline we have worked on that but we are so lacking because we don't have financial resources, so if the oil/gas companies are going to work with the people perhaps they could help out financially. This would help our working relationship with them. What we are discussing here is to put something good in place for a long time. This is why we want to work together. This financial support would help us work good together. I just wanted to say we shouldn't be blaming one another. I just wanted to say this to you. Thank you. [English translation ends].

[02:04:21]

Danny Bayha: Mahsi, mahsi. Peter.

Peter Menacho: Gee, I was just going to say blame the government. No.

---Laughter

This is a very interesting topic because I know Transportation has a lot of right of ways in the Sahtu area. Water is always the subject of everything. I know there were some

past couple of experiences on some water were taken out and of course we have to resurface some of the winter roads so they can allow heavy equipment to make its way to proposed areas. Especially with Great Bear Lake, too, because we don't know how much or how we can regulate that because right now they could take 100 litres. Maybe there's a threshold for them to take so much a day. I wonder at the end of the day who regulates them because right now, even though you have a right of way, there's got to be certain metres you've got to be away from the water and creeks and rivers and ponds. If somebody could answer that for me that would be great.

[02:05:53]

Danny Bayha: Thank you, Peter. It's more of a question, I guess, on how the regulation of water as well as maybe DFO might be involved too as well. I don't know if you guys had any...okay. Go ahead. Rhonda. Thank you.

Darren Campbell: Sorry. Well, quite something. Underneath the NWT Waters Act the inspector, the water inspector has the authority to check out the water use in terms of whether or not it's above a basic guidelines they're above volumes that would trigger a water licence. The way I understand that Waters Act is it's up to 100 cubic metres a day for the purpose that we have and that's maintaining the highway.

The second part to that is, would be through the Sahtu Land and Water Board. Part of our water licence is that we submit reports to them annually and it includes information like how much water was taken from which source. The challenge with that is that the type of information that's required and the licence is not always the easiest to compile. For example, it would be ideal to have a water truck with a meter on it ticking off, counting every little litre that was pumped out of any given water source. In reality the contractors aren't set up for that kind of equipment. At one time I think DOT tried to rig something up to achieve that and it was a horrible failure. It involved two people, it was kind of clunky, it didn't work very well. And it froze. So we're kind of reduced to looking at the amount of time it takes to fill up and how much volume was actually captured during that fill-up time.

That information is an effort to satisfy conditions that kind of come out of guidelines that DFO have set aside for the protection of fish but you have to understand that a lot of the people that are in the vehicles that are up taking the water are not technically outfitted enough to acquire that information quite accurately.

The end result is that as the managers of the project we sit and wait for those reports to pile up until we know that the water is not being used anymore and then we try to accommodate that information as the program after the fact. The problem with that scientifically I guess is that you don't get representation of what was happening at the initial time of fill up versus when the follow-up program happens. So if you look at trying to monitor that type of activity you have to look at all the, I'm going to say six different contractors from different communities and the individuals that are driving those vehicles and the number of vehicles they have and that presents a real problem for trying to monitor the uptake of water in a measure that's controlled and that conforms to guidelines. It's a puzzle that we've beat our heads against the wall on trying to solve and it's likely that the end result is that with those types of requirements we'll never be

in compliance. For the sole reason that it would cost more to do the monitoring than it would be to actually undertake the winter road season.

[02:10:18]

Just one other point too is that in certain circumstances the requirements have been relaxed because they understand that. It's hard to acquire that type of data with every single fill up but even with the information being relaxed it still presents a huge problem.

Danny Bayha: Thank you. Peter.

Peter Menacho: Thank you, Mr. Chairman. The next question I was going to ask is, I know from Point A to Point B you want to make sure that you water the road and so on but from traditional knowledge that's not helping out especially the beavers. What if you take all the water source? I'm just kind of worried that there might be a threshold where so much water has been taken out. let's say this project is an ongoing project and you don't have any water source between from Point A to Point B and the kilometre is so long, and now you end up taking most of the water out of that pond. This may have the effect on the beaver, I don't know. But that's one question.

The other question is, I don't think there's ever permits are being provided for the summer months. I'm worried about Great Bear Lake. Great Bear Lake, vessels can go anywhere but they don't have any permits required regardless. We've got Plumbers that are going back and forth that might have a pinhole leak. That's what we hear all the time. I would like to know because that barge has been on that lake since 1930. I'm sure there might be some regulations out there to shut them down. I don't know. But I would like to know from here on, yes, there might be winter projects on permit but what about lakes? There's no system in place or permitting to regular that. Mahsi.

Danny Bayha: Thank you. We need to, I think Ruari had a comment and then we'll move on. This is a discussion that we're trying to get through this program. We still have one more.

Ruari Carthew: Yeah, Ruari with DFO. Just to provide a little bit of comfort regarding talk on thresholds and if there are any. DFO tries to complement the activities by looking out for fish and fish habitat. We do that by putting gin regulations on how the water can be taken out. we also have a limit as far as you can only take approximately five percent of the total amount of water from any given water body. It also has to be a certain depth in order to account for the ice that's there. We try to make sure that the activities that are going on don't have a long-term negative affect to the fish.

Danny Bayha: Thank you, Ruari. We have George and Harry.

George Barnaby: I don't know what the right of way gives the government but I think they should be subject to this community engagement. It's a good way of working and not only that, it will help to deal with a lot of the problems.

Harry Harris: Just a brief comment on community engagement. Every year they're going to have to construct the winter road and possibly widen it. Last winter what happened there, they sort of widened it but they used the equipment and went into creek beds. What I believe should have happened there is that they met with the communities that are affected. We have a lot of people that have no jobs and are going

to use it more environmentally friendly approach there. Like get slashers out there. Something for the future. Because later on it's going to be widened and eventually it's going to be a highway. We have a lot of people that are unemployed. The way it went there just the contractors got money and the people are left out. I guess if you involve the people you get more acceptance if you involve the people. Thank you.

[02:15:35]

Danny Bayha: Thank you. That's a very good point. That's something to keep in mind. We can move on, Heidi.

Heidi Wiebe: Thanks. I see this turning into a bit of a consultation on the winter road and that's not what we're trying to do here. I'm going to take back the agenda. The last one that I wanted to talk about was CR-10 and that's the wildlife one.

Conformity Requirement 10: Wildlife

This one again also did not pass conformity from eight years ago which is not surprising. One of the things that we've done through the land use plan is we've gathered a lot of the wildlife mapping. A lot of it comes from the GNWT, ENR and that. So the requirement here is that your demonstrating in your application that you've grabbed the most recent information, so I think it should be fairly easy, I think, for you guys talking to ENR, CWS, in this area. I think there's some different things. DFO obviously for the fisheries aspect. The renewable resources councils that you would get through your community engagement. So the first requirement is to go get the information or show that you're using the most current information and then making sure that there's mitigation for the wildlife. So we're looking for a geographical mitigation. So we know these areas are special. I think in this case there was a lot of the Barren Ground caribou that's really important.

One of the things that comes through our consultations a lot is the importance of the Fort Good Hope-Colville Lake group trapping area. We have been specifically requested to mention it in this CR and in others. This is particularly important for fur-bearers, so the entire area around Colville Lake, in between Fort Good Hope and Colville Lake is really important for fur-bearers. It's identified in the GNWT mapping. To that extent the community discussions and concerns around impacts to fur-bearers I think for us we would look for special consideration of that in the application. I think there was a couple comments even here today that certain lakes were really important for fur-bearers. So that one might be a little bit more scrutinized.

Also we've got the overwintering habitat for the Bluenose West Barren Ground Caribou herd. These are just some of the information layers that we've gathered through the land use planning process that we would look for special consideration to be used in the winter road application. Again the question is just is do you foresee any issues with that.

Rhonda Batchelor: While I understand and really embrace the principle it's really not clear to me how just saying you have to can actually make a real-world difference. We're out there, the contractors are out there for a specified length of time under contract to construct the winter road and then to carry out maintenance activities but the winter road is where the winter road is. The fact of its existence, if it is traffic, then I'm not sure how we would control traffic. I assume that because the road is used primarily

by the people who live there that if they see caribou approaching the road they're going to stop. All our contractors certainly would stop. If there were wildlife approaching the road I don't know what we could do to provide mitigation or comfort other than take the road out. The unfortunate reality is that the time that the caribou are migrating is usually about the tail end of the operational window of the winter road. We could close it early but I'm not sure that the community would be happy about that.

[02:19:51]

As with everything, though, we would be more than willing to consider any mitigations or any options to protect the resources there. I guess my feeling though is that can be very well handled through terms and conditions on our permits. Most mitigations that we conduct are part of those documents. I think that is one of my big concerns with a lot of this is that is it the terms and conditions, we haven't had any catastrophic events working under the terms and conditions of our water licence and land use permit. They seem to work very well. I think there are always adjustments to any process, to any relationship, and as was mentioned there, obviously communication is clearly something we should improve.

I think that again I'm not sure the need for the conformity requirements. It's difficult to get my head around. I've worked with the Sahtu Land and Water Board for many, many years now and there's been really nothing that they have asked or said that was required that we weren't able to work into our program somehow.

Danny Bayha: That's good to hear. If there's anything else, anybody else comment on this winter road? If not we'll move on. Heidi.

Heidi Wiebe: Thanks. I think that's all I wanted to do on the winter road then. Those were the really big ones. I'd like to move on to the pesticide application. I don't know if you're going to be here right until the very end, Rhonda, but if there's anything else that was of concern in here there's going to be an opportunity for comment later on. I'll speak to that. Thank you.

Conformity Determination: Small Scale Authorization – Pesticide Application Licence

Okay. The pesticide application is another interesting one for a few different reasons. One, it's the only application that we're looking at today that doesn't involve the land and water board. So you guys can go to sleep for a while.

The second thing is this activity actually takes place within the municipal boundaries of Norman Wells. So for the purpose of this exercise we're pretending it's just outside the boundaries but still within the Mackenzie River Special Management Zone just so we can test this.

I think the most interesting part is that this is a very small land use activity taking place within an otherwise fairly disturbed area. The land and the site has been used by Imperial Oil for how many years? Many years. Many decades. So once a year or so they go around and for one day they spray pesticide or herbicide to clear the right of ways and some of the areas between buildings of the vegetation that they're supposed to be controlling. That's likely a condition of their authorization to do that as well.

The reason for testing this one is to see how the plan would deal with such a small scale activity. In reality not all small scale activities would be related to another one. So for instance, there might be a small scale DFO authorization that's required for different things. There might be a small scale research permit that CWS does. This one just happens to be associated with a rather large industrial area which makes it unique.

What I've done for the purposes of getting through discussions quickly and asking the salient questions, for those who have looked through the conformity determination report, I grouped CRs 2, 7, 10 and 13, so these are the conditions relating to protection of values in the special management zone, protection of archaeological sites and burial sites, wildlife, and the reclamation and clean up. I said for the purpose of these ones I would say that the application conforms to those requirements because the potential impacts that would happen from the application of pesticide over the course of one day would be negligible compared to what's already happening on that land as a result of it being an industrial site. It's so small scale that they're almost not applicable but we would say that they were just deemed to conform.

[02:25:16]

Conformity Requirement 3: Project Specific Monitoring in Special Management Zones

Conformity Requirement 4: Community Engagement and Traditional Knowledge

Conformity Requirement 6: Community Land Use Monitors

For the purposes of CRs 3, 4, and 6, so that's the monitoring requirements. One second. Three and number four. Number four is the community engagement and traditional knowledge and the CR-6 is the land use monitors. These ones all already seem to have minimum thresholds built into them in that if the communities require or feel that consultation is necessary or that the use of a land use monitor is necessary then they can help trigger that through the way the plan is written and therefore with those ones it's a little bit harder to figure out but the question is: When you've got such a small scale activity is it even reasonable to ask somebody to do a consultation on the application of pesticide for one day? Is it reasonable to have some monitoring program just because you're in a special management zone for a one-day application of pesticide? This is one where I think we need to have a quick discussion on what kind of minimum threshold should be applied to some of these or how do we exempt some of these to such a small scale activity.

Questions/Discussion

Danny Bayha: Thank you, Heidi. George.

George Barnaby: Well, Esso asked to do that a few years ago. I'm not sure how long. Then the board refused their application and told them to slash instead, which is a more cleaner way of doing things. It might look small but we don't know what they're using. I think there's a lot of concern from the communities about spraying stuff on the land. I know one time the Coast Guard wanted to do that on their boat signs and Good Hope was really against it so they made a deal to slash instead. Send some guys out and cut

the brush. It might look small but from the community there's a lot of concern about it so until we're satisfied, I mean, we don't feel very safe.

I think the community engagement will be important for Esso. The community's already complaining about them and blaming them for everything that's in the river and the cancer. They should go to the community and have a good meeting and try to answer questions and work with the community on their whole project and bring up this spraying stuff on the land and things like that.

Danny Bayha: Thank you. It's good to hear that that type of thing is being encouraged out there. Michelle, you had a question or comment.

Michelle Swallow: It's too bad that Harvey couldn't be here who deals with this but I spoke with him a bit about it before I came and he said that maybe he just didn't submit, like, there's so much documentation for this application and he didn't submit it all but that there is a lot of community engagement that does happen. I doubt there's a traditional knowledge study but there is community engagement, certainly all of the bands are informed. He has a consultation list of people who are informed and they follow up with phone calls to see if the community has any concerns. He said there hasn't been. He hasn't seen any concerns so far. There's only one of these a year usually. He thought it would conform, actually.

Heidi Wiebe: Good. So maybe that's the question back to you guys was is there anything in this report that gave you concern for future types of applications like this.

Michelle Swallow: No.

Danny Bayha: Thank you, Michelle. Heidi. If there's any other, Peter, did you have anything on this? Thank you.

Peter Menacho: Again, I don't want to blame the government again. A couple things. One of them is the first question I asked it would be good to get a response either from DFO or the Coast Guard or somebody about vessels. One thing I'm worried about we've identified a lot of the special harvesting down the valley and on Great Bear Lake and even Great Bear River. These are specific sites for the claimant group, the beneficiaries. I'm surprised it's not even recognized on the plan but at least I just want to point that out. At least if somebody could respond to that that would be great.

[02:30:42]

The other one is what my friend Harry had mentioned. That road, the proposed highway is going to be much busier for sure. There's going to be a lot of activity. The right of way, it crosses some of the proposed area on conservation. Not conservation but special management and so on. I just want to point that out. These are very serious for me because when it comes to quantity or quality of water we're always trying to protect. That's why I am glad that we brought elders with us because we tend to throw an idea back and forth, back and forth but they always remind us each other we're not here just to speak for today. We're here to speak for the generations so they can rely on.

I just want to point that out because right now there's a special permit for sure that's required on special harvesting area. I just wanted to know if that is being done to consult with the community on that one. Mahsi.

Danny Bayha: Thank you. It's an inquiry. I don't know. Later on I think maybe INAC or AANDC could help in answering that type of question. Maybe for asides. As for now we can hopefully move on. We still have the closing comments to accommodate and we have 4:25. So we can hopefully get some on there. If I can, you have closing comments? Yeah, a brief. Thank you.

Lucy Jackson: I need to debrief. You know yesterday I said I'm against development of oil and gas and mining. I as an individual am allowed to say that. This is just a small room and I feel that, I don't feel safe. I should feel safe in what I say or any other individual. I don't want the proponents to use our peoples against First Nations of their lands. To harm them in any way. Because I don't feel safe anymore but I'm still going to. If those districts are doing what they want to do that's their districts. But I as a mother will talk on this issue.

Like any person I have a vision too for our peoples, for our young peoples in our communities. There are so many of them in our community of Fort Good Hope who have no education, no jobs, no income. Our lands are just wealthy and rich with non-renewable resources and renewable resources. We have to notch the education for our communities at least 10 up, 10 steps up. Get them educated. It may never happen. But I could foresee the future knowing it may not happen. Maybe 20, 30 years from now.

[02:35:00]

No disrespect to the company head peoples that were here. it has to be our peoples. Because I hear on the radio the Aboriginal peoples are going to be part of the pipeline. Well, of course they have to be. With the proper education they can take over and build those. They know their lands. Like I say, it may never happen but I have a vision like this. That's where I'm coming from.

I will continue to say no. I could see women, young ladies in those management positions, our own peoples. I've seen one do what she had to do in spite of what she stood up against but she managed to make sure the land was cleaned. Not to the full degree, but she did. I see our own young peoples taking those responsibilities of extracting their resources at their own pace. Other indigenous countries are doing it. So I don't want to feel that I'm going to be threatened in any way.

I don't think we should even be told that they might close our roads down. They can't do that. Canada is managing our money. They're babysitting our money. But we don't see it. We don't see it. So I think I have to say this because I hear elders saying that in our communities. it could be well balanced because I'm talking for the non-Aboriginal young peoples across Canada. Some of them may have that spirit and wellbeing to help our young peoples in our communities. They can work together to change this whole system that's not working for us. I can see them because I've seen them when the hearings were taking place. That generation could work together. For the wellbeing of Canadians and for the First Nations.

We've haven't given up. We never talked about our ancient governing system because we still practice it. But for some reason somebody through this you have to do your self-government. We are still practicing our self-government. That's why I'm here talking like I am today. We have some lawyers already. A lot of those young peoples are out on the

land. They travel out and are being taught by the older generations in our communities. some of them don't have the proper education but, oh, they can do things for them on the land for themselves now because they were given the proper teachings from the older generations. That's where I'm coming from. I don't want to feel threatened by the oil companies or the mining industry.

Anybody else of First Nation who stands up for, until there's certainty, full certainty that our young peoples are going to be. Like I say, I can see some young womens taking over, even young mens together with other Canadian young peoples that are going to. That have the good spirit in them to work it out together. We're going to help. I think that's where I'm coming from. I'm not here to. Because eventually it's going to be built. I don't know when. That's where I'm coming from. As First Nations we have this constitution.

[02:40:00]

They know the integrity of their land, the ecosystem. So I'm walking but I want to give my, you can't tell us that you know you can close the road on us. You can't do that. We need that, we live in isolation. Put yourself in an isolation position. We need an outlet and that's what we need and we need to better the road system too. It's not your conformity plans. It's our conformity. We help you to ensure the plans are going to work for other peoples and ourselves. Although the claims say it's public interest and we may fall into a minority I know we are the first government peoples. So that's where I'm coming from and I don't want to feel that I suffer the families and the friends that say no. Thank you.

Danny Bayha: Thank you. If we, we're not started the closing comments yet so what we can maybe reserve it. Heidi has about five minutes of wrapping up and then we can sort of open up for closing comments and then I will do mine and hopefully we'll be done. Thank you.

Conformity Requirement 8: Watershed Management

Conformity Requirement 9: Drinking Water

Conformity Requirement 10: Wildlife

Heidi Wiebe: Thanks, Danny. So the last couple things where the CRs 8, 9, and 10, these were the protection of water and wildlife. These are the CRs where there's potential for impact to any of these resources that we would have to comply with the terms of the plan on. The way we propose to do it for this one, because we're talking about special chemical knowledge here that the board doesn't have, we would establish that these would be conforming subject to the regulators applying whatever conditions they feel are necessary to mitigate impacts to water and wildlife. So in this case, fish, so maybe DFO would look after that, and the water specialists would look after any concerns with chemical interactions between pesticide and water. That was coming through with the application materials that Michelle provided us anyways. So we would rely on that kind of expertise that exists in the system. We talked about this a little bit yesterday about how we would handle that kind of a conformity determination.

Conformity Requirement 12: Sensitive Species and Features

Conformity Requirement 13: Closure and Reclamation

Conformity Requirement 14: Permafrost

The other one, things to point out of interest, is CRs 12, 13(1), which is the requirement for security, and CR-14, the permafrost, all three of those have that minimum threshold of requiring a land use permit or a water licence. So this application, those CRs would not be applicable to this type of an application. So I just wanted to point that out for more information purposes and to complete the picture of how the plan would apply to this small scale authorization. I just wanted to put that out there in case there were any final comments on that aspect of this application.

Danny Bayha: Thank you, Heidi. Looks like we're okay to go. So if I may, I'll ask Ethel, SSI, I think we're doing the closing comments on that.

Closing Comments

SSI

Ethel Blondin-Andrew: Thank you. It's been a very interesting workshop. I was kind of wondering how this was going to go when we started. I thought we were going to do breakup groups and that but it's been kind of interesting.

I wasn't expecting that big of a crowd either. So I was kind of pleasantly surprised to see how many people are engaged. Heidi, you're such a slave driver. And bossy on top of that.

Anyways, I'd like to thank the board, land corporations, the RRCs, community members, and government staff for their work and contributions over the last few days. Everybody's engaged. These workshops provided important opportunities for the testing of the plan and for some frank dialogue.

A lot of work has been done. A lot remains to be done. We're all going to have to work hard to finish this plan.

From SSI's perspective this plan is of vital importance to the Sahtu region. We're a signing authority only because we represent the land corporations and our beneficiaries. That's the importance of our organization.

[02:45:19]

The plan will be a critical tool for balancing traditional lifestyles and industrial development in the Sahtu. The plan must protect the values set out by our communities, our harvesters, and our elders while ensuring a future for our youth. To do that will require that the right balance be struck in the plan. If we get it right industry will get the certainty that it needs and deserves and our communities and land claims participants can be sure that the land will be protected and our people will be cared for.

So what needs to happen next? SSI suggests to the board that we need the following information. One is a compilation of the changes to the plan that have resulted from the

board's hearing and the three workshops. Two, the board's latest thinking on the conformity requirements, which this was all about. Three, the board's advice on any legal issues or concerns about which it needs input from the approving parties. Four, identification of any other matters upon which the board needs input from the approving parties.

SSI understands that the document which Heidi Wiebe/the board has promised for early March will include this kind of information, no doubt. SSI will review and analyze that paper. We will talk to the GNWT and Canada, specifically AANDC – the former Indian and Northern Affairs – about it. We will come prepared to the meeting the board has proposed with the approving parties later in the spring. After that we understand that the board will produce the approval Draft 4 of the plan. Once SSI has the final draft we will work with the GNWT and AANDC and we will consult our participants and make a decision on whether to approve the plan or not.

In closing – Well, decision to approve the plan. Sorry, I don't want to scare you.

In closing, SSI is of the view that there is some urgency to bring this planning exercise to a close. We anticipate receiving a balanced, practical product from the board. We all need a plan which we can afford to implement and which will meet the needs of our communities and participants. We look forward to the next steps in this process. Mahsi cho.

---Applause

Danny Bayha: Thank you, SSI. That's good. Gina.

Deline Land Corporation

Gina Dolphus: Thank you, Mr. Chairman. I'd just like to thank everybody and also Heidi and Danny the chairperson and all the people that work. I'd like to thank Peter, Russell, my dad, and Tom. They've been working hard for how many years and I'd like to thank them. Also I feel like sitting here like the GRP again.

---Laughter

I see the proponent across from me. Just a comment anyways.

I hear my sister Ethel saying to Heidi slave driver. She is a slave driver too.

Also, we have a lot of work ahead of us but we need to work together like I hear everybody saying around the table. I know it's a very technical and it's very a lot of work but we need to do it.

I'd like to thank the government for being here and all the Sahtu region and other people. Mahsi. Thank you.

[02:50:18]

Danny Bayha: Thank you, Gina. Tom, closing comments.

Tom Nesbitt: I just want to make one comment. I was one of the people advocating for these technical workshops to allow people a final chance to talk through these issues and become really involved in this discussion. I think now that Ethel's approach is the best one to follow now. I suggest that we get this plan approved and learn from

implementation rather than trying to learn from more and more talk because I don't think, if you think about it will the talk be any different if we do another draft and we start going around with the same discussions, speculating on what the plan should be and what will and will not work? It's best now to, the best way of testing our work is to approve the plan and test it in the first five years of implementation. Thank you.

Danny Bayha: Thank you, Tom. I would ask if the folks, Lindsay. Thank you.

Aboriginal Affairs and Northern Development Canada

Lindsay Armer: Thank you, Mr. Chairman. I'll start off by thanking the planning board for organizing these workshops and thank everyone for coming out and being really honest and open with what they were sharing. It makes our job easier to report back as well.

Also thanking the industry, SSI, GNWT, for everyone contributing their staff time as well. It's very, two and a half days is a long time but it's important to get everything out.

From the communities and stakeholders we have definitely heard how important monitoring is and how important the land and the water and maintaining those into the future is important. The land use plan will hopefully protect those values.

Ethel did a really great job of summing up the next steps so I won't repeat that, but just so you know, internally we'll take the information that we've gathered at these workshops back to our internal Aboriginal Affairs Working Group. As well, we'll also be engaging with the other federal departments to ensure that all federal departments are okay with the plan as it is before the Minister would approve it. Some of the groups aren't represented here so just as an idea: Department of National Defence, Transport Canada. We need to check in with them as well and make sure that they're on board with the plan.

We've committed to a few specific action items and some new wording for some of the CRs. We're also going to make a final submission back to the land use planning board summarizing all of our outstanding issues. We'll try and do that as soon as possible but we don't want to commit to a date yet.

In the interim I just want to ensure that the board takes a long and thorough look at reviewing the plan with a few key points in mind. Those points are: keeping the plan consistent and accurate; making sure that it fits within the claim and other existing legislations and policies; looking at the process, did the plan reflect and respect the interests and perspectives of Aboriginal governments, GNWT, SSI, and also Aboriginal Affairs.

A common theme throughout the workshop has been clarity. I think maybe a lot of the CRs aren't clear to everyone yet how they would be implemented. So really take a long hard look at the clarity of the plan. It really needs to be clearly written so that it's understood by the people that are going to approve the plan, the stakeholders, and most of all who is going to implement the plan. The regulators and the planning board and the land and water boards.

The fourth point is governance and implementation. Ensuring that the plan reflects the authorities and roles and responsibilities of the implementing bodies and are the

capacities and resources in place to implement the plan as it is now? Are the communities and district land corps and everyone that would be involved with the plan, are they able to implement the plan?

[02:55:05]

The fifth point to keep in mind is regulatory improvement and efficiency. It's really clear that land use plans are the foundation for a solid resource management framework. It would really improve regulatory clarity for everyone including proponents and government if these land use plans are approved. That said, there are some areas that were pointed out that there are duplication, existing areas of duplication right now. I'll just maybe go back to Draft 3 on page 10, the board actually listed what the plan should include and what the conformity requirements should do. I think if you take that as a filter through the plan and the revisions that you're working on right now, take a look at your points on page 10 and really make sure that the CRs and actions and recommendations meet that and that there isn't that duplication in the system.

That's all. Thank you.

Danny Bayha: Thank you, Lindsay. George and then Wilfred. Sorry. Chief.

Yamoga Land Corporation

George Barnaby: I'll get right to the point I want to make. I think we should from our side look at the approval process. Look at our communities. We all have our own districts. We have our own government on it. We have the chief and the council. We have our assembly that everybody has to answer to and get feedback. That's where our authority is. The people don't want to come from [Inaudible]. They're not against the plan but they want things done in the right way. That proper respect is paid to the community and its government and its organizations. That's the way things are. Shouldn't build some more things to bypass that.

I know SSI is there. That's where the boards work together. But we all have our own land. We shouldn't be making decision on somebody else's land. So you have to have more of a consensus model. That's our traditional way. Working by agreement, that everybody agrees. I think it's for our side that we should recognize our traditional ways and do things that way and respect what's in our community and not create something that's not there. That way we forget about our people and forget about our chief and council and things like that. I find that not proper, I guess.

That's all I wanted to bring up. That we should look at just the process and proper respect is paid to the proper authorities. That's all.

Danny Bayha: Thank you, George. Chief.

K'asho Got'ine Band

Chief Wilfred McNeely, Jr.: Thank you, Mr. Chairman. I just wanted to say thank you to everybody. I know a lot of work has went into this land use plan. That's unfortunate that I just come in at the closing end of it but I'm trying to catch up on a lot of stuff that's going on and seeing if we can get the support behind it that you need from our community. You just heard George what he's saying. It's almost like Good Hope feels

like we're being left out of the decision process. We'll do our end and get our things done from our side.

Maybe I'll just reiterate something here that is continuously told to me is that we are not against development. We welcome the oil and gas industry, we welcome the mining industry into our area. We know that this type of things put our youth to work. It better their future for them and we're trying to use our land to better our own people. That's just what I wanted to say.

With that I want to thank you all very much. Thanks for coming out. Thanks for having me here too.

Danny Bayha: Thank you for coming. Thank you for your comments. We have Peter.

[03:00:24]

Deline Renewable Resources Council

Peter Menacho: Mahsi. I forgot to point that out at first. Gina is our new Deline Land Corporation president. I forgot to mention that my role is done so she's doing her new role as president. She's not familiar, she's really used to the JRP so it's kind of a recap for her.

Again I would like to thank everybody, all the resources, government agencies, GNWT, especially all the staff from the regulatory boards, and especially the translator who's doing a lot of work.

---Applause

Keep in mind this is not going to be the end. I know there's going to be a lot of work. We're just at the tail end. I hope this plan will be finalized. Maybe for some paper trail for our next session or something it would be good to get after the government to see if they can fund us because most of us fund our own just to come here. I'm sure that under the implementation there is some money and if we can try to get after the government because we're in the process of renegotiating under the implementation and government is telling us we need to speed up the process. Again, at the same time, the same government officials are slowing down the process. We need to speed that up. A lot of times we put a lot of frustration on the floor, but don't take it wrong. We learn from issues that we're trying to address. A lot of times, especially in Deline meeting, we argue. But when you walk out of the door at 5:00 you're all friends again.

I hope that everybody has a safe home travel and hopefully we can next step is just to speed that up. With that, mahsi, everyone. Thank you.

---Applause

Danny Bayha: Thank you, Peter. With that continue on. Michelle, you had any comments? Thank you.

Government of the Northwest Territories

Michelle Swallow: I also want to say that I'm really happy to have been here for the last few days. It's been really great. Thank you for everyone for travelling so far to come here to participate. It's been really interesting.

I think the GNWT's next steps will be really similar to what Ethel was saying with SSI. We're really looking forward to getting documents from Heidi and to see the changes that have been made from all these discussions and how that can relate to the comments that the GNWT has previously submitted and the concerns that we had.

A lot of what Lindsay said as well, we're looking for something that is clear, simple, concise, consistent, all these good things that we've said all along.

I think there was a lot of good work that happened here for the last few days and it's really encouraging.

I'd also like to put in a bit of a plug for an upcoming workshop. The Community Source Water Protection Workshops are happening next week in Inuvik and March 22nd and 23rd in Yellowknife. There is funding. Invitations have gone to all Sahtu Land Use Planning Board, the water board, to the different community groups. These are the type of workshops that will help answer some of the questions that came up earlier about what is contamination, what is un-pure water. I just wanted to add that because I didn't finish that conversation earlier.

Danny Bayha: Thank you, Michelle. Walter, you had some comments. Thank you.

Sahtu Renewable Resources Board

Walter Bayha: Yeah, just not to repeat everything that everybody is saying. Just to thank everybody. I think I'm sitting here, this is my second time that I been at this workshop and you begin to see that there is eventually that's going to, that puzzle of having an integrated resource management system is going to be in place and that big part is the land use plan. Like I always said, although some of the CRs seem to be out of place and adds another layer of things that proponents have to do I think a lot of them can be resolved at the community level. I don't think it has even, most of it needs to even get to the land use application stage.

[03:05:37]

Just to speak for my board and the wildlife end of things, wildlife protection, today it's the first time I seen quite a few of the RRCs present. They are such an integral part of the land claims organization because they are the ones that speak for the wildlife protection in the communities. You seen what they've said. They talk about capacity. You hear Harry talk about \$70,000 a year. I mean, you seen that. Huge challenges they have to have input.

I was just talking to a lot of the people at that level and they're talking and saying how do we even get our information to this level. I think a good example is some of the work that Deline has done. It was so enlightening. I remember going through it sitting there and saying to myself, well, if I hear this before we even have applications that get to the land and water board it resolves huge issues. And all of it has to do with communication.

I really enjoyed Ethel's summary. I really thank her for that. It's very nice to see that. I hope to bring this back to our board. It's so nice to see, one of the things our board's always looking at is ways to protect wildlife and that's one of the main mandates of our board. You see so many conservation areas in there and it's still there. I think that's a

big start for our board. I'd like to assure everybody here that we're, I don't think, if anything we're going to be supportive of this plan.

So mahsi and thank you. Have a nice journey. Gonazate (sic), like Paul says. Mahsi.

Danny Bayha: Thank you. Good timing. I don't know if Tulita had any closing comments. Maybe Roger from Norman Wells. If not, Tulita, Fred, do you have any comments, closing? Thank you. Mahsi.

[03:08:04]

Tulita Renewable Resources Council

Frederick Andrew: Hello. [English translation begins] Danny, I'm not going to say this in English, I'm going to say it in my own language. Thank you my relations. When I say my relations, I'm referring to Dene, white people, Inuit people, black people. When you say it that way, you have great love in your heart....Thank you my relations. As we are all sitting here with one another, this is the way we make good agreements together for the future after we are no longer here, for our youth, it is not for us but for our youth who are growing up. That is so important. So when we gather together, we talk with one another and make good strong decisions together. I am so grateful because this is for the future generations. Attending this meeting, for the last three days I've listened closely to all the discussions. I'm so thankful to you for all the things you've said, to make good decisions for the future generations that are growing now. My heart is grateful, I want to say this to you, thank you. [English translation ends].

[03:09:30]

Danny Bayha: Mahsi, mahsi. We had anymore closing comments from anyone. Maybe Leon. Mahsi.

Tulita Land Corporation

Leon Andrew: [English translation begins] Thank you. Thank you all, like my cousin Fred says thank you. We from Tuliit'a, our leadership are not at this meeting, so on their behalf as well I say thank you. We from Tuliit'a, whenever we have the opportunity, we work with the oil/gas companies. They have wanted to work in that area and have set themselves up to work there, so we work for them. These agreements that are being made, it is through our land claims agreement that we have strength in our words, and we are being consulted. I am very thankful to you all for telling me about this again. Again, I say thank you. [English translation ends].

My cousin Fred says and I say the same thing. Thank you for being here.

[03:10:52]

Danny Bayha: Thank you. Mahsi again. Okay, maybe if there's nobody else I will do my closing comments shortly.

Sahtu Land Use Planning Board

Again I'd like to thank everyone that came and this is the only way we're ever going to get this done. It's again your plan, the community's plan, the industry, government, they all have to work together to come up with a guide, a document that's going to be, that will benefit everybody, everyone.

Thank you again for sharing your knowledge and perspectives with us. Of course there are some issues that remain for some of the CRs. Others tested well against the applications as we went through this. We recognize that there is more work to be done and we'll try to refine the tests, implement criteria, and we'll work on that. We had productive discussions over the few days and did receive some excellent suggestions that will help us carry our work out.

I stated in the opening that the board will produce transcripts of this workshop which are expected to be ready in a few weeks. Once done they will be posted to the board's website at www.sahtulanduseplan.org. We will send out a notification to our distribution list when they are available. All other workshop materials already have been posted.

We have introduced a lot of new material for this workshop including proposed revisions for the CR, the conformity determinations and implementation guidance. We recognize that participants may have not had an opportunity to express all of their comments on some of the elements given the shortness of our time here. If you have any significant comments that you did not have an opportunity to present here the board will accept additional written comments until February 24th. With that I would encourage the three parties to be working closely together and try to in some ways, if I may say, consolidate those comments in some ways outside the board process and submit it so that we know it's almost like a unified comment so that it will be really helpful. Thank you.

There's no need to repeat comments that were made at the workshop already as we have reviewed the workshop transcripts carefully and given due consideration to suggestions and perspectives presented. We recognize that this is not a lot of time to prepare comments but the board is also facing very tight timelines and deadlines to complete the plan.

The board will begin final discussion documents outlining the board's approach to the key planning issues for discussion with senior representatives of the approving parties in April of this year. The intent of this meeting is to reach agreement on these issues before we begin writing to ensure the Final Draft is generally acceptable and will not face significant obstacles during approval. Again for me, I think that the board, well, I'd like to see the board not make decisions on issues that cannot be resolved between the parties. If we really want to see those issues resolved an agreement, consensus of some sort, including the communities, so that way the board will just be making or adopting some of the agreements. Thank you.

Following that meeting the board will carry out final revisions to the plan. We hope to have those completed by late spring or early summer. Once complete the board will adopt the final draft plan and formally submit it to the parties for approval. As per section 43 of the Mackenzie Valley Resource Management Act, SSI must approve the plan first. Following their approval the Minister of ENR approves the plan, followed by the Minister

of AANDC. The plan takes legal effect on the day that it is signed by the Minister of AANDC. There is no time frame specified for the approval process. We hope to get the SSI approval at their annual general assembly in August.

[03:15:29]

To facilitate approval the board will carry out information sessions with the communities and governments following the plan's submission to explain the Final Draft and answer any questions. We're very near completion of the Sahtu Land Use Plan which has been a few years in the making. We acknowledge and commend the incredible investment in time, money and resources for all the participants who have contributed to this process over the lengthy period, especially the last few years.

We hope that through your involvement and continued involvement, even after the plan has been approved, we need to have, it's a working draft and it's a living document, and it continually needs to be improved every time, as you see it in your plan. The board holds the pen but the vision, goals, and direction comes from the people living and working in the Sahtu settlement area. Again, this is your plan and you need to make it work for the communities, for your children in the future.

With that I again would like to thank you and encourage you to work again on these things, on these issues, that's really having the proving parties need to do that. Closely with SSI and the communities so that everyone has a plan that they can approve hopefully next year. With that, thank you again, everyone.

---Applause

Transcriber's Notes:

- (sic) means this is what was said, but I'm not sure I heard them correctly or that it's what they meant.
 - [sp] means this is what was said but I'm not sure it is spelled correctly.
 - [Inaudible] means I could not hear clearly what was spoken.
 - ---Interjection means there was an interruption to the speaker or that more than one person was speaking simultaneously.
 - Any words (other than [Inaudible] and [sp]) surrounded by square brackets [] is a word or words that were not actually spoken but I inserted for clarity of reading without changing the meaning of the spoken sentence or it is a word or words that I believe the speaker meant to say in place of what they actually said.
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