



September 30, 2010

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FAXED
10/01/10

By Email to: Heidi.Weibe@shaw.ca

Re: Written Comments on Draft 3 Sahtú Land Use Plan.

Dear Heidi,

The Déljine Land Corporation and the Déljine Renewable Resource Council with the support of Déljine First Nation are pleased to submit written comments on the Draft 3 of the Sahtú Land Use Plan.

The community leaders are happy the Board has integrated the Great Bear Lake Watershed Management plan into the Draft and we look forward to working with the Board to move forward with finalizing the land use plan.

We trust you will find our comments relevant to meeting the needs of our community and the region.

Máhsı Cho,

A blue ink signature, appearing to be "Máhsı Cho", written over a scribbled-out area.

Déljine Land Corporation

A blue ink signature, appearing to be "Paul Modet", written in a cursive style.

Déljine Renewable Resource Council

Attachment: 13 pages

**SUBMISSION OF THE DÉLINE LAND CORPORATION AND THE DÉLINE RENEWABLE
RESOURCES COUNCIL TO THE SAHTU LAND USE PLANNING BOARD: REVIEW OF
DRAFT 3 OF THE SAHTU LAND USE PLAN**

September 30, 2010

PART A; INTRODUCTION

1. TERMS USED IN THIS SUBMISSION

- “CIMP” means the NWT Cumulative Impact Monitoring Program;
- “CRs” means conformity requirements as that term is used in D.3 of the SLUP;
- “CPAWS” means the Canadian Parks and Wilderness Committee (NWT Chapter);
- “CWS” means the Canadian Wildlife Service (Environment Canada);
- “D.3 of the SLUP” and “D.3” mean Draft 3 of the SLUP (July 2010) and includes, for greater certainty, the Plan’s Implementation Guide;
- “Déline” means the DLC, the DRRC and the elders of Déline who directed the preparation of this Submission;
- “DLC” means the Déline Land Corporation;
- “DRRC” means the Déline Renewable Resources Council;
- “GBL” means Great Bear Lake (the lake itself);
- “GBLWMP” means the Great Bear Lake Watershed Management Plan¹;
- “GBLW SMZ” means the Great Bear Lake Watershed Special Management Zone;
- “Hearing Agenda” means the “Draft Public Hearing Agenda” for the Nov. 23-25/10 Norman Wells Public Hearings on D. 3 of the SLUP;
- “Hearing Procedures” means the SLUPB’s “Procedure for the Public Hearing on the Sahtu Land Use Plan” (July, 2010);
- “Implementation Guide” means the Board’s (*DRAFT*) *Conformity Requirement Implementation Guide – Draft 3 Sahtu Land Use Plan* – (July 12, 2010);
- “MVEIRB” means the Mackenzie Valley Environmental Impact Review Board;
- “MVRMA” means the *Mackenzie Valley Resource Management Act*;
- “participants” has the meaning given in section 2.1.1 of the SLCA: the term refers to beneficiaries of the SLCA;
- “Norman Wells Hearings” means the Nov. 23-25/20 public hearings in Norman Wells on D.3 of the SLUP;
- “Sahtugot’ine” means “the people of Sahtu (Great Bear Lake)”: the term is the way residents of Déline describe themselves;
- “Sahtu Lands” has the meaning set out in section 2.1.1 of the SLCA;
- “SLWB” means Sahtu Land and Water Board;
- “SLCA” means the *Sahtu Dene and Metis Comprehensive Land Claim Agreement*;
- “SLUP” and the “Plan” mean the Sahtu Land Use Plan;
- “SLUPB” and the “Board” mean the Sahtu Land Use Planning Board;
- “SRRB” means the Sahtu Renewable Resources Board;
- “SSI” means the Sahtu Secretariat Incorporated; and
- “Submission” means this submission of the DLC and DRRC to the SLUPB, in response to D.3 of the SLUP.

¹ Great Bear Lake Working Group, “*The Water Heart*”: *A Management Plan for Great Bear Lake and its Watershed*. Directed by the Great Bear Lake Working Group and facilitated and drafted by Tom Nesbitt (May 31, 2005, with Caveat of February 7, 2006)

2. APPROACH OF THIS SUBMISSION

This Submission constitutes the written response of the DLC and the DRRC to D. 3 of the SLUP. Tom Nesbitt prepared it, under the direction of the DLC, the DRRC and the elders of Déline and under contract with the SLUPB, and the DLC and DRRC have reviewed and approved it.

The *purpose* of the submission is to continue the process of reconciliation and finding common ground among the DLC, the DRRC, Déline's elders, the SLUPB, SSI, the GNWT and INAC (the "Parties"), and to recommend minor refinements, to the SLUPB, to D. 3 of the SLUP.

The Submission is written as briefly as possible, given the different cultural backgrounds of participants in the SLUP process, the very large amount of information before them, and the need to keep this information in perspective. The DLC and DRRC expect that the SLUPB will have several submissions before it as it prepares the final draft of the SLUP, and that managing this information will be a task in itself.

As requested by the SLUPB, the submission is organized as follows:

- a. Part B address the larger issues associated with D.3; and
- b. Part C then address more specific issues, including wording issues.

PART B: COMMENTS ON LARGER ISSUES REGARDING D.3 OF THE SLUP

3. DLC AND DRRC SUPPORT

Subject to the relatively focused comments that follow in this Submission, the DLC and DRRC support D.3 of the SLUP as written. For greater certainty, they also support the Plan's Implementation Guide, as written, and particularly the Guide's provisions for the GBLW SMZ.

The DLC and DRRC recommend that future drafts of the SLUP formally include and give force to the Implementation Guide, as an appendix to and part of the SLUP itself.

The DLC and DRRC believe that D.3 of the SLUP addresses their concerns with Draft 2 of the Plan. D.3, including D.3's provisions on ecological and cultural integrity, represents a fair balance of interests and perspectives, consistent with negotiated purpose of land use planning in the Sahtu Settlement Area, as set out in 25.2.4 of the SLCA.

4. EDAILLA

The DLC/DRRC and Déline's elders want to protect Edaiila from industrial development in the long term, given this peninsula's very high wildlife, habitat and cultural/spiritual values, as set out in the GBLWMP. Such protection is of the utmost importance to Déline. Déline's elders want to point out that they have been pursuing the protection of Edaiila since well before the settlement of the SLCA in 1993.

The DLC, DRRC and Déline's elders have attempted, through the PAS, to secure legislative protection for Edaiila. They tried unsuccessfully to persuade CWS that Edaiila is an appropriate candidate for a National Wildlife Area under the PAS, and ultimately the *Canada Wildlife Act*. But with the failure of that attempt, they now have no reliable *legislative* options to protect Edaiila. They believe the last real option — a permanent land withdrawal of Edaiila (including its subsurface or mineral rights) — to be very unlikely. They underline the very limited federal legislative vehicles through which protected areas can be established in the NWT. Further, given the very limited protection capacity of all Territorial legislation — by s. 16 of the *NWT Act*, all such legislation is subject to federal legislation and regulations — they are unwilling to rely, for the

protection of Edaiila, on the area's designation as a Critical Wildlife Area or a Territorial Park (Wilderness Conservation Area) under territorial legislation.

The DLC and DRRC thus recommend that Edaiila be designated as a Conservation Zone under the SLUP, according to the boundaries for Edaiila set out in D.3 of the SLUP, and as "Conservation Zone" is used in D.3. They may also, simultaneously, pursue designation of Edaiila as a Critical Wildlife Area and/or Territorial Park through the PAS, but they will do so only to supplement the protection given to Edaiila as a Conservation Zone, or to provide other support to Edaiila².

The DLC and DRRC have pointed out in the past that the SLUP is the heart of the resource management regime negotiated within the Sahtu Settlement Area³. Yet 17 years have now passed since the ratification of the SLCA in 1993, and there is still no approved SLUP. During this time, INAC has registered a large number of mineral claims within Edaiila. INAC's registration of these claims within Edaiila compromises the land use planning process. Surely neither the Government of Canada, nor the Sahtu authorities who negotiated the SLCA, intended that resource development would be allowed to proceed as if there were no SLCA and no SLUP for 17 or more years following the ratification (and approval by Parliament) of SLCA.

In the past year or two, the owner(s) of several registered mineral claims in Edaiila have apparently allowed these claims to lapse. This is an opportunity for INAC to remedy the potential harm caused by at least some of the registered mineral claims of the past 17 years.

An approved and authoritative SLUP is not expected for at least another year. The DLC and DRRC therefore urge INAC, in the spirit of reconciliation that is the fundamental objective of the SLCA⁴, to withdraw immediately, until the SLUP is approved and given force, all unregistered mineral rights within the boundaries of Edaiila.

5. THE MAINTENANCE OF ECOLOGICAL AND CULTURAL INTEGRITY

CR 16 of D.3 of the SLUP reads:

"Before any land use activity is authorized in the GBLW, Regulators shall ensure that the activity is consistent with the maintenance of the ecological and cultural integrity of the GBLW."

CR 16 and Table 6 of D.3 of the SLUP also make it plain that CR 16 is to apply to Zone 15 (the GBLW), Zone 16 (Neregah), Zone 18 (Edaiila/Caribou Point CZ), Zone 57 (Tek Kaicho Dé/Johnny Hoe River CZ), Zone 58 (Luchaniline or Whitefish River CZ) and Zone 59 (Du K'ets'edi/Sentinel Islands CZ). The DLC and DRRC agree entirely with this approach. D.3 of the SLUP has it right.

² This protection and/or support might include the management planning and monitoring associated with a Critical Wildlife Area, and/or co-management and the sustainable economic development associated with a Wilderness Conservation Area, under Territorial legislation.

³ Including: *Submission of Déline Land Corporation and Déline Renewable Resources Council to Sahtu Land Use Planning Board* (February 22, 2010) at p. 2.

⁴ "The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions.": *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)* [2006] 1 C.N.L.R. 78 (S.C.C.) at paragraph 1.

The discussion of CR 16 in the Implementation Guide to D.3 goes on to identify the Information Requirements, Directions for Conformity Determination and Further Implementation Requirements associated with CR 16 and the standard of ecological integrity. With the exception of a minor wording matter addressed below (Part C, s. 23), the DLC and DRRC again agree with the approach set out in the discussion of CR 16 in the Implementation Guide. Again, D.3 of the SLUP has it right.

In its Sept. 2/10 presentation in Déline of D.3 of the SLUP, however, the SLUPB appeared again to question the need for the standard of ecological integrity in the GBLW SMZ and the proposed Conservation Zones in the Déline District. The Board's Planner suggested that the DLC and DRRC need to defend and justify CR 16 and distinguish it from CR 15, a proposed conformity requirement that would apply to all Special Management Zones in the Sahtu Settlement Area. CR 15 uses the lower standard of minimizing impacts to zone values.

The DLC and DRRC have addressed this issue before, both orally and in writing. Below is a summary of the DLC/DRRC position:

- a. The purpose of Sahtu land use planning is set out in 25.2.4 of the SLCA. For the sake of brevity it can be summarized as follows: The purpose of land use planning is to protect and promote the existing and future well-being of the residents and communities of the settlement area, having regard to the interests of all Canadians, and paying special attention to protecting and promoting the existing and future social, cultural and economic well being of participants⁵, their land use, and their rights under the SLCA. The rest of 25.2.4 is well known to the SLUPB and need not be summarized here.
- b. Government, the SLUPB, the DLC and the DRRC are compelled to give the words of 25.2.4 as a whole — and particularly the concept of **resident, community and participant well-being** — real meaning. Section 25.2.4 has real implications. It defines, in fact, our collective mandate and terms of reference in land use planning in the Sahtu Settlement Area. The SLCA in general, and 25.2.4 in particular, establish a different resource management regime in the Sahtu Settlement Area than that which maintained prior to the SLCA — and than that which maintains in Alberta or British Columbia, where different legislative and treaty regimes maintain.
- c. Déline's elders speak of maintaining the health of the land and its communities. They say repeatedly that this is to be the first priority, a priority that comes before resource development. They are not opposed to resource development in the GBLW SMZ, provided that developers/Regulators can, as set out in CR 16, ensure that any development is consistent with maintaining the health of the land and the community — with ecological and cultural integrity.
- d. The elders of Déline and representatives of the DLC, DRRC, both levels of Government and CPAWS worked for 3 years, from 2002 to 2005, to find a way of reconciling the interests and world-views of Déline and other Canadians as represented by the Crown in the Great Bear Lake watershed. Their collective efforts resulted in the *Great Bear Lake Watershed Management Plan*, with which all party representatives were in consensus⁶. The concepts of ecological and cultural integrity — and CR 16 — represent their way of

⁵ Beneficiaries under the SLCA.

⁶ See Great Bear Lake Working Group, *"The Water Heart": A Management Plan for Great Bear Lake and its Watershed*. Directed by the Great Bear Lake Working Group and facilitated and drafted by Tom Nesbitt (May 31, 2005, with Caveat of February 7, 2006)

effecting that reconciliation and giving meaning to 25.2.4 and “well-being”. Ecological and cultural integrity are fundamental to the DLC/DRRC/Déline elders approach in the SLUP.

- e. The standard of minimizing impacts (CR 15) is fundamentally different that that of maintaining ecological integrity (CR 16). “Minimize impacts on zone values” (CR15) would allow development that minimizes impacts. It would not prevent the degradation of ecological integrity. “Maintain ecological integrity” would only allow development that is capable of demonstrating that it can be carried out in a manner consistent with the maintenance of ecological integrity. All development will have some impact: the real question is whether those impacts are within the standard of maintaining ecological integrity — among other things, whether the structure and function of the affected ecosystems are maintained, and whether these ecosystems are able to *recover* from the disturbance and return to a state that is normal for those ecosystem types.
- f. CR 15 may be appropriate in other Special Management Zones. It is not appropriate within the GBLW SMZ. As proposed by both the Board and INAC’s representative at the Feb. 2-4/10 meeting in Déline, “Special” Management Zones should be treated as indeed “special”: potentially unique and not necessarily all identical. The GBLW SMZ is a unique Special Management Zone where Déline is asking that a higher standard maintain, in line with 25.2.4 of the SLCA and the well-being of the land and the community.
- g. As described elsewhere⁷, the standard of maintaining ecological integrity has been voluntarily accepted in the forestry sector in southern Canada and indeed throughout the world. Many forestry companies — as certified by the (international) Forest Stewardship Council — have embraced this standard, along with 3rd party audits for compliance, as a way of demonstrating to consumers that they are responsible corporate citizens, and that they are managing their forests in a sustainable manner. Clearly these companies also realize that they can, through certification of their sustainable practices, add value to their products and gain a competitive advantage over their less innovative competitors. There is no reason why this standard could not be adapted to and implemented in the GBLW, particularly given communities’ and INAC’s work to date on CIMP indicators. The glass is half full for those who have the imagination to make it so.

6. CHAPTER 6 ACTIONS AND INVOLVMENT OF COMMUNITIES

Chapter 6 of D.3 of the SLUP — “Issues, Actions and Recommendations” — contains several important elements of the SLUP, with which the DLC and DRRC agree. These include:

- a. Action 2: SLUPB shall establish and lead a Sahtu Working Group, with representatives from SSI, other designated Sahtu organizations (including the DLC/DRRC), the federal and territorial governments, the SRRB, the SLWB, industry and non-government organizations.
 - i. Action 3: Sahtu Working Group shall collaborate to develop Community Engagement Guidelines within 4 years
 - ii. Action 4: Sahtu Working Group shall build on and refine the SLUP’s Conformity Requirements within 4 years
 - iii. Action 5: Sahtu Working Group shall develop and begin implementation of a Sahtu Cumulative Effects Management Plan of Action within 4 years

⁷ Lorien Nesbitt and Tom Nesbitt, *Maintaining Ecological Integrity in Great Bear Lake and its Watershed* (September 15, 2009).

- iv. Action 6: Sahtu Working Group shall develop a Sahtu Environmental Monitoring Program within 4 years.
- b. Recommendation 6: Every organization, including the DLC/DRRC, is encouraged to have a dedicated communications position.
- c. Action 8: Responsible enforcement authorities shall collaborate with appropriate community organizations (including DLC & DRRC) to develop and begin implementing a Sahtu community - Government strategy to partner in patrols, monitoring, inspection and enforcement.

The DLC and DRRC's agreement with the above actions and recommendations is subject to 4 over-arching concerns, as set out below:

- d. **Participation:** The Sahtu Working Group must include at least one representative from the DLC/DRRC — and from each of the other interested Sahtu communities. SSI will be unable to speak for the DLC/DRRC and the other Sahtu communities on all of the work proposed for the Working Group. But numbers in the Working Group must be kept manageable. While Working Group participation will need further discussion, the DLC/DRRC suggest, as an initial point of departure, that the Working Group include one authorized representative from each of the SLUPB, the Federal Government, the Territorial Government, each Sahtu community (representing the land corporations *and* the RRCs of each community), the SRRB, the SLWB, industry and a NGO (likely CPAWS): total approximately 12. Participation in the Working Group should not be voluntary: in line with the purpose of land use planning in the Sahtu Settlement Area, referenced above (25 2.4 of the SLCA), community participation is essential and industry representation should be limited to 1-2 persons.
- e. **Communication:** With the approval of the SLUP, the resource management regime mandated by the SLCA will finally be functional. By the same token, however, community communication capacity (Recommendation 6 above) will become more important. The approval of the SLUP will “up the ante” in communications and coordination for Sahtu communities. If Sahtu communities continue to lack the capacity to communicate effectively with the rest of the resource management regime established by the SLCA and the MVRMA, they will in fact be excluded, once again, from decision-making. The taxpayer funds government staff. The taxpayer funds regional management board staff (SLUPB, SLWB, MVEIRB, SRRB). The DLC and DRRC recommend that INAC also fund a communications person for each community, with authorized links to the land corporations and RRCs in each community. Community communications staff are no less integral to the SLCA/MVRMA resource management regime than are government and regional board staff.
- f. **Priorities:** Actions 3, 4, 5 & 6, Recommendation 6 and Action 8 (above) are all important. But taken together, they represent a very-difficult-to-impossible workload, not only for the Board, Government, the SRRB and the SLWB, but particularly for community organizations, which will also be expected to work on Action 8. This workload would be well beyond the capacity of most Sahtu community organizations, the regional resource management boards and Government. Priorities thus need to be set within the Actions/Recommendations. And even with the setting of priorities, it is unrealistic to expect the Sahtu Working Group to do more than make a good start at priorities during the first 4 years of implementation of the SLUP. This is another matter that will need further discussion/negotiation. As a point of departure, the DLC and DRRC recommend that the final draft of the SLUP give priority to making a good start on Actions 2, 3, 5, 6 and 8, and that Action 4 be put in abeyance until more experience is gained with the implementation of the SLUP. Even *within* Actions 3, 5, 6 and 8, further priorities may need to be set, through discussion within the Working Group.

- g. **Funding:** The DLC and DRRC recommend that the final draft of the SLUP make it clear that community organizations also need funding for technical support / to participate in the Sahtu Working Group. The DLC and DRRC cannot agree with the proposition: "Participation should be voluntary and self-funded." (p. 264, D.3 SLUP). Sahtu communities are the basis of the SLUP (SLCA, 25.2.4). Community participation in the work of the Working Group and in the implementation of the SLUP should be understood to be an integral part of the resource management regime established by the SLCA. Priority setting (e. above) will need to take this reality into consideration. The Sahtu Working Group should not be allowed to proceed without community participation and funding for such participation. If community participation is not funded, the salaried employees of the SLUPB, the SLWB, the SRRB, Government, industry and even NGOs will meet and continue with the work above, while community organizations are again excluded from participation and decision-making. This would be entirely contrary to the well-being of the residents and communities of the Sahtu Settlement Area.

7. CR 13: CLOSURE AND RECLAMATION

While implied by their general support for D.3 of the SLUP (above, s. 3), the DLC and DRRC wish explicitly to state their support for CR 13 of D.3. Financial security sufficient to cover the full cost of reclamation and post-closure activities, wherever greater than \$50K, posted and maintained with the Minister of INAC, should be a requirement of the SLUP. The polluter pays principle is well established in Canada. Déline and the taxpayers of Canada have for too long born the several costs of mine abandonments in the Déline District — and indeed throughout the NWT, Yukon and Nunavut.

8. NORMAL WELLS HEARINGS

In its letter of Sept. 17/10, the SLUPB has given the DLC, the DRRC and other Hearing participants notice of a Nov. 23-25/10 Public Hearing, in Norman Wells, on D.3 of the SLUP, including a proposed Agenda for the Hearing. The Hearing is to include communities, governments, industry and non-government organizations. The letter and Agenda propose that the Hearing consist of:

- A. a day and a half of submissions from each of the participants, followed by
- B. a day of "Workshops" on topics identified by the Board. In the Workshops, the Board proposes that participants divide into "Small Groups" for simultaneous discussions on each of roughly four consecutive "Workshop Topics" (Hearing Agenda), to "... workshop significant outstanding issues on which the Board would like to hear further discussion from all Parties" (Sept. 17/10 letter). Thus, the simultaneous discussion of Hearing Topic #1 is to be followed by "Group Presentations" on that Topic. The Workshop is then to proceed to Small Group Discussions on Topic #2, followed by Group Presentations on Topic #2, etc. through Topic #4.

The DLC and DRRC have 2 basic concerns with the Sept. 17/10 proposed Agenda of the Norman Wells Public Hearings, as set out below:

- a. **Agenda/Format:** The DLC and DRRC can understand the Board's desire to hear discussion among Workshop participants on the Workshop Topics of interest to the Board. But the Board needs to proceed very carefully here, so as not to give an unintended advantage, at this late stage in the preparation of the SLUP, to the interests of industry and the proponents of industry within Government. Such an advantage would be contrary to the purpose of land use planning in the Sahtu Settlement Area as set out

in 25.2.4 of the SLCA, referenced above (s. 5. a.) as well as in s. 2.1 of the Board's Hearing Procedures.

Industry and Government can afford to send several technical representatives / professional negotiators to the Norman Wells Hearings. In contrast, the DLC and DRRC (and other Sahtu communities) have very little experience and technical expertise in land use planning. The experience and expertise of community organizations/residents lies elsewhere. Even with funding from INAC (below, b), the DLC and DRRC will have very limited technical support at the Hearings. They hope to send one united delegation, with limited technical support, to the Hearings. In the words of one Déline resident at Déline's Sept. 2/10 discussions with the Board, they want to avoid the problem of "divide and conquer" associated with the Sept. 17/10 Agenda's proposal to divide the Hearing into Small Groups. **To remedy this potential problem, the DLC and DRRC propose that the Board amend its Hearing Agenda so that the Workshop phase of the Norman Hearing takes place in one plenary, rather than in Small Groups.** This will allow Déline and other community representatives to respond to and ask questions of other Hearing participants. The plenary approach will help to prevent both the divide and conquer problem discussed above, and the further potential problem of inaccurate Group Presentations at the conclusion of each Hearing Topic.

- b. **Funding:** The DLC and DRRC will need funding support from INAC to send a small delegation of representatives to the Norman Wells Hearings. They propose that INAC cover the travel costs and per diem for non-salaried representatives for one representative of the DLC, one of the DRRC and two Déline elders. As suggested above (a), the DLC and DRRC will also need technical support at the Norman Wells Hearings. To address the Hearing Submissions and response to questions components of the Board's Hearing Procedures (at 7.1 and 8.1), they may also need INAC funding for technical support both before and following the Hearing. The DLC and DRRC recommend that INAC also provide funding to the DLC to cover technical support to Déline at and (as needed) following these Hearings.

9. CLEMENT AND NEARBY FISH LAKES

The DLC and DRRC recommend that the final draft of the SLUP extend the western boundary of GBLW SMZ south, to encompass Clement Lake, other nearby fish lakes and their surrounding lands, as recommended to the Board by Tulita in that community's late August/10 meeting with the Board. These lakes and their surrounding lands lie within the Déline District. The decision to recommend their inclusion in the GBLW SMZ thus lies with Déline. Nonetheless, the DLC and DRRC agree with Tulita that these lakes are very important to both communities' fish food needs. The DLC and DRRC wish to support Tulita in ensuring that these lakes are treated with the higher standard of care required in the GBLW SMZ.

10. NEREGAH

As set out in the GBLWMP⁸, Neregah is, like all of the GBLW SMZ, an area of very high cultural, wildlife and harvesting value. Neregah is distinctive in the GBLW SMZ, however, because of its particularly high cultural heritage values.

The DLC and DRRC believe that the heritage and cultural values of Neregah could be protected through the inclusion of the area in the GBLW SMZ, together with appropriate authorities

⁸ At 4.6.1.

enforcing compliance with the *NWT Archaeological Sites Regulations* and section 21.1.4 of the SLCA.

The DLC and DRRC thus recommend that the final draft of the SLUP make it clear that:

- a. Neregah should be included within (as part of) the GBLW SMZ, rather than identified as a separate zone; and
- b. for any authorized activities within Neregah, the appropriate inspection and enforcement authorities should give Neregah the higher level of inspection and enforcement, under the *NWT Archaeological Sites Regulations* and section 21.1.4 of the SLCA, that is appropriate to the very high heritage and cultural values of this area.

PART C: COMMENTS ON MORE SPECIFIC ISSUES REGARDING D.3 OF THE SLUP

11. GREAT BEAR LAKE

For greater certainty and to avoid unnecessary conflict, the final draft of the SLUP should make it clear that Great Bear Lake (the lake itself) is part of the GBL SMZ and subject to CR 16 & CR 17 (CR 18 is already sufficiently clear).

12. DESCRIPTION OF / PURPOSES OF SPECIAL MANAGEMENT ZONES

At Part 4.1, p. 35 bottom, the description of Special Management Zones: the DLC and DRRC recommend amending the wording to read: "Special Management Zones (SMZ) allow all types of land use other than bulk water removal, provided that the general use and special management conditions outlined in this Plan can be met."

At para. 5, sentence 2, p. 36: the DLC and DRRC recommend amending the wording to read: "General Use Zones are the economic engines of the region, promoting sustainable development, generating revenues and providing jobs. Special Management Zones share the foregoing purposes, while also protecting the cultural and ecological values of these zones."

13. GOAL/MISSION STATEMENT OF DRAFT 3

The purpose of land use planning, as set out in s. 25.2.4 of the SLCA, is acknowledged at p. 1 of D.3 of the SLUP. Nonetheless, this purpose appears to have been amended, in the Plan's Goal (1.4.1), Purposes (1.4.2) and Mission Statement (1.4.3), to give a greater weight to the interests of all Canadians than is intended in 25.2.4. The DLC and DRRC recommend amalgamating the Plan's Goal, Purpose and Mission Statement into one Goal or Mission statement that better reflects 25.2.4. It might be better for the final draft of the SLUP simply to quote all of 25.2.4 and leave 1.4.1 to 1.4.3 of the SLUP at that.

14. FRANKLIN'S FORT/DÉLINE FISHERY

"Once the lands are acquired ..." in Table 3, should read "If the lands are acquired...": the Minister responsible for Parks Canada does not acquire the lands in many national historic sites in Canada.

15. RECOMMENDATION 13

The DLC and DRRC underline the importance of requiring the written support of community authorities for resource assessments in Conservation Zones. Any such assessments should be instigated only at the request of responsible community authorities. They should be adapted to the particular needs of any Conservation Zone, and directed to specific parts of specific Conservation Zones. And they should be balanced: they should include both renewable and non-renewable resource assessments.

The DLC and DRRC recommend that the wording of Recommendation 13 be revised to read: "Where requested in writing by the responsible community authorities (the responsible land corporations and renewable resource 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 renewable and non-renewable resource assessments for all or parts of Conservation Zones within the communities' respective Sahtu Districts.

16. SECTION 2.1.1 AND SECTION 5.2: APPLICATION OF PLAN TO PROPOSED CONSERVATION INITIATIVES

The DLC & DRRC recommend changing p. 22, para. 2, sentence 1 to read: "... until each protected area is given the desired level of legislative protection." As discussed above (s. 4), there are very limited legislative options for protecting Proposed Conservation Initiatives in the NWT. Some Proposed Conservation Initiatives may have no legislative option capable of sufficiently protecting the values of the area and may thus need to rely on Conservation Zone designation.

For the same reasons, the SLUPB should consider making the following minor amendment to Section 5.2, p. 78, para. 5, sentence 2: "They have the same status as Conservation Zones under the Plan until they are given desired level of legislative protection."

17. EXEMPT USES

Para. 2 of 2.3.1 and para. 1 of 2.3.2 may need to be clarified, if only to prevent future misunderstandings and conflict. In 2.3.2, it may be worth stressing, again for clarity, that an exemption from the *zoning prohibitions* of the SLUP does not imply an exemption from the other requirements of the Plan. This is stated in Tables 6&7⁹, and in para. 1, p. 26: "For clarity, an existing land use that is exempt from the zoning prohibitions of the Plan is not, for that reason, exempt from any other Conformity Requirements of the Plan." But that sentence may need to be bolded and moved so that it clearly modifies not only 2.3.2.A, but also 2.3.2.B and C. Finally, the 2d paragraph, top p. 26 ("The Board intends ...") is unclear.

More specifically, in 2.3.2.A (p. 23, 24), the words/phrases "fair", "upgraded", "so that all activities contribute to achieving the Plan's vision and goals" and "matter of bona fide entitlement" all admit of different interpretations and may cause future conflict if left as worded in D. 3 of the SLUP. Is all of this discussion really necessary?

Phrases like "the mine development also will be exempt ..." (middle p. 24) appear to give the developer an exemption from the SLUP, when the intent is that the development will be exempt from the zoning prohibition of the SLUP, but subject to the other requirements of the Plan, like CR. 16, 17 (Table 6 is clearer).

18. EFFECT OF THE PLAN

⁹ See also p. 67 top, with which Déline also concurs.

Given the importance of the following distinctions, the SLUPB should consider bolding the first 3 paras. of 2.4, including:

- a. the distinction between Plan directions to regulators, in the form of Conformity Requirements;
- b. the directions to the “responsible authorities”, in the form of Actions, and
- c. the Plan’s Non-Binding Recommendations.

19. CHAPTER 3: PLAN VISION & GOALS

The DLC and DRRC recommend that;

- a. Ecological and Cultural Integrity (p. 31 & 31) should be more clearly linked to protecting and promoting the existing and future well-being of the residents and communities of the SSA, as required by 25.2.4(a) of the SLCA.
- b. The Plan goal (3.2, p. 32) of maintaining ecological integrity should include a reference to a more comprehensive determination of ecological integrity, as in “including but not limited to” the matters enumerated under 1.a-h on p. 32 of D.3 of the SLUP.
- c. Cultural Integrity (p. 33), understood as resident and community well-being, should also directly linked to resident/community self-determination and involvement in decision-making affecting their land use interests. The goal of maintaining Cultural Integrity should include permit applicants and Regulators/Responsible Authorities closely consulting the appropriate Déline authorities, if not joint planning. Please consider amalgamating #2 and #4, p. 33.

20. CONFORMITY REQUIREMENTS

- a. **CR 2:** The DLC and DRRC support CR 2 (p. 47) in large measure, but recommend that Recommendation 3 (p. 74) be incorporated, *as a requirement*, into CR 2. There is no reason why applicants should not be required to meet with community authorities at the end a season of work, to discuss results, issues, concerns, next steps and lessons learned. The wording of (the incorporated) Recommendation 3 should make it clear that the meeting is to take place *at the end of each season of work*, as set out in the “Context and Rationale” section of Recommendation 3.
- b. **CR 3:** The current requirement (p. 48) that “communities will benefit” could be met by the smallest community benefit. In contrast, Déline’s elders suggest that there should be a fair sharing of any benefits of resource development. The SLUPB should consider changing the italicized direction under CR 3 to something like: “Proposed land uses shall protect and promote the existing and future well-being of the residents and communities of the SSA, having regard to the interests of all Canadians.”
- c. **CR 7:** The DLC and DRRC support CR 7 (p. 54), with the proviso that Map 7 should also identify the rutting and overwintering habitat of the Bluenose East Barren Ground Caribou herd, as well as that of the Bluenose West herd.
- d. **CR 9:** The DLC and DRRC support CR 9. The SLUPB should consider modifying CR 9 to require the consideration of the contribution of climate change impacts to the cumulative impacts of proposed land uses. Climate change will increase the sensitivity of some ecosystems to specific land uses, increasing the cumulative impacts of those land uses. Proponents should adapt their activities to avoid augmenting existing climate change impacts

- e. **CR 12:** The DLC and DRRC recommend that CR 12 be named “Rare and At Risk Species and Habitats”. The areas identified in CR 12 are *only* rare or at risk. They do not comprise the ecologically significant areas of the Sahtu Settlement Area.
- f. **CR 13** (para. 2, p, 64): Please consider changing “sufficient to cover the full cost of reclamation and post-closure activities...” to INAC’s wording: “the cost of reclamation, including shutdown, closure and post-closure”. Similarly, please consider changing (para. 4, p. 64) “there is an expectation ...” to “the SLUPB, Sahtu communities and most Canadians expect that ...”
- g. **CR 14:** As discussed above, the wording of CR 14 may be adequate for all Special Management Zones except the GBLW SMZ, but it is not sufficient for, and it should not apply to, the GBLW SMZ.
- h. **CR 15:** Please consider changing the wording of the CR to read: “... a site-specific monitoring program that is sufficient to monitor the effectiveness of the proposed mitigation measures in protecting important zone values and any impacts on such values.”
- i. **CR 16:** To remove any possibility of misunderstanding, the SLUPB should consider amending the italicized statement of CR 16 to read: “Before any land use activity is authorized in the Great Bear Lake Watershed (GBLW) — or in Zones 16, 18, 57, 58 and 59 — regulators shall ensure that the activity is consistent with the maintenance of the ecological and cultural integrity of the GBLW and Zones 16, 18, 57, 58 and 59.”
- j. **CR 18:** To prevent readers having to flip back and forth unnecessarily in the SLUP, the SLUPB may wish to make it clearer, under “Location and Boundaries” (p. 168) that the Du K’ets’Edi Conservation Zone comprises only the Crown portion of the islands in Great Bear Lake, while the Sahtu portion of any such islands is part of the GBL SMZ. That is, CR 18 applies only to the Conservation Zone — the Crown portion of the islands — and not to the GBLW SMZ— the Sahtu portion of the islands. This is clarified in the “Location and Boundaries” section of the GBL SMZ (p. 157), and the change above might help the discussion on p. 168.
- k. **CR 19** (p. 71): Please add to “Context and Rationale”, second sentence: “... primarily to protect their cultural values and the water quality of Great Bear Lake. The Sahtugot’ine have used the islands primarily for cultural and safety purposes when travelling on Great Bear Lake.”

21. ZONE DESCRIPTIONS

- a. **Section 5.2: Zone Types:** Under “Special Management Zones”, p. 78, para. 2, please add at the end of sentence 1: “... , and in the case of the GBLW SMZ, the maintenance of the GBLW’s ecological and cultural integrity.”
- b. **Section 5.3:** Please add a section referring to the Great Bear Lake Watershed and the Great Bear Lake Watershed Management Plan, in 5.3 “Sources and Terminology Used”. As noted elsewhere in D. 3, this Plan was used extensively in the Zone Descriptions.
- c. **Section 5.4:** For clarity, “Ecological features” and “Socio-cultural features” should be changed to “Ecological values” and “Socio-cultural values” in each zone description. This would clarify the link between the measures outlined in the CRs to protect “values” and the zone descriptions that describe those values.

- d. **GBLW SMZ:** Please include the Bluenose West herd (doubtless inadvertently omitted) at pp. 159/160.
- e. **Du K'ets'Edi Conservation Zone:** Please include a 3d bullet in reasons for Conservation (p. 168), as follows: "Along with the very important general cultural significance described above (bullet 1), Du K'ets'Edi are also used as education places, including passing Sahtugot'ine culture from the elders to the younger generations."

22. CHAPTER 6

- a. **Environmental Monitoring:** Please change para. 2, sentence 6, p. 270 to add: "Residents and communities are concerned about potential impacts from development on the ecological and cultural integrity of Sahtu Settlement Area and on the ecological and cultural values which sustain their livelihood and culture."
- b. **Inspection and Enforcement Priorities** (p. 272): Please add the GBLW SMZ to the list of first-priority areas for inspection.
- c. **GBLWMP:** Recommendation 11, p. 275, para. 4: D line applied for and received funding for the development of the GBLWMP, as well as for technical assistance (not a full-time coordinator) in the review of various drafts of the SLUP. INAC's investment (2002-2005) in the GBLWMP and in the technical assistance has proven to be an effective one, given the role that the GBLWMP and D line's comments have played in the development of D.3 of the SLUP, and in giving voice to Sahtu communities' traditional law, values and perspectives.

23. IMPLEMENTATION GUIDE: CR 16

The DLC and DRRC recommend changing the wording in "Further Implementation Requirements" (p. 18) to read: "Attach any conditions necessary to authorizations to **maintain** the ecological and cultural integrity of the watershed."