



# Sahtu Land Use Planning Board

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## **\*Disclaimer**

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Requested changes documented in these notes do not mean that the Board will make these changes. Some requests are beyond the Board's mandate or jurisdiction to address. The Board must consider all comments and requests and balance the interests of multiple parties. The Board will revise the Plan as it deems appropriate to achieve the right balance.

## INAC Comment Follow-up

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**Date: November 19, 2010, 8:30 am - 12:00 pm**

**Where: 8<sup>th</sup> Flr Boardroom, Bellanca Building, Yellowknife**

### **Participants:**

Dick Spaulding, SLUPB legal counsel (via teleconference)

Heidi Wiebe, Plan Development Lead

Ida Mak, Communications Coordinator/Planner

### Yellowknife Office:

Arthur Boutilier, ESC, YK

Gwenda Luxon, INAC Land Admin YK

Melissa Bard, INAC, Mineral Recorder's Office, YK

David Jessiman, INAC, Water Resources Division

Scott Duke, Department of Justice, YK

Yolande Chapman, INAC Board Relations Secretariat

Greg Yeoman, INAC, Planning

Lillith Brook, INAC, YK, PAS

Lindsay Armer, INAC, YK, PAS

### Ottawa Office via teleconference:

Matt Bender, Land Use Planning Division

Tom Duncan, Land Use Planning Division

Giles Morrell, Oil and Gas Regulatory Affairs

Annick LeHenaff, Environmental Policies and Studies

Ramona Creighton, Implementation Branch

Tina Gear-Zakhem, Implementation Branch



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For Shuhtagot'ine Nene discussion only:

Lindsay Armer, INAC, PAS Secretariat

Lilith Brook, INAC, PAS Secretariat

Start time: 8:45 am MST

We started with a round of introductions. Heidi explained the purpose of the meeting – to seek clarification and follow up on comments received.

Dick: Notice of the Public Hearing has been given. We are now in the pre-hearing phase. The requirement for transparency is heightened. The meeting notes will be on the website of public comments. No preliminary decisions will be made today. The purpose of the meeting is discussion and clarification.

Scott: Dick and I followed up yesterday and discussed some of the potential issues. I have more clarity now and a number of the comments were just for clarification as opposed to issues.

Dick: Can I suggest that we bump up the Actions discussion and perhaps shorten the CRs discussion?

Matt: Should a topic come up that requires insight from an INAC expert not part of this meeting, we will follow-up and respond to the SLUPB in writing.

The SLUPB agreed.

### **Conformity Requirements**

**P. 8 – Text seems to jump from CR 6 to CR 12 with no heading. Please confirm that there were no comments for CRs 7-11.**

Arthur: That is correct, we don't have any specific concerns with CRs 7-11. We do have some general concerns about setting requirements for regulators.

**P. 7-8 – Who should CRs be directed at?**

**P. 7-8 - CR 2 & 3 – Discussion on intent & nature of conformity determinations**

Heidi: We tried to use as general language as we could to include all the regulators without naming specific ones, for fear of leaving some out.

Scott: One of our main questions was how CRs #2 and 3 will be implemented. Will you provide a guide to determine how to assess whether or not the CR is met? Do you want the regulators to be able to withhold granting a permit if the CRs are not met or will there be other consequences?

Heidi: In discussion with the SLWB last year we were told that they already require a number of the CRs. From the SLWB perspective, this gives them a foundation upon which to require certain practices. The plan should have been written years ago and it would have provided these conditions for development. The reason that the wording requires regulators to ensure



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the CRs are met is because the language in the MVRMA directs regulators to assess applications. The Plan is written to mirror the language of the MVRMA.

Scott: How would a regulator ensure CR#3 and how do you work out the internal conflicts within communities? Some members may feel that there is a benefit and others may not. What happens if a few years later, a community finds that they have not benefited as they thought they would? How would the Board deal with a situation like that?

Heidi: This is not intended to just include financial benefits, but rather to weigh the benefits versus the costs of the entire project. Is the proposed activity in the best interests of the region? This is the mandate of the MVRMA boards. This CR is just making that overarching question transparent. This CR is implemented through the decision of whether to grant the authorization or not. Once an authorization is given it cannot be retracted because the situation changes.

Dick: An important distinction is between the CRs, such as CR#3, that begin with “before any land use is authorized, regulators shall ensure” and others. The first type are intended to be implemented at the application stage, not as a condition of the permit.

#### **P. 9 - CR 13 – Closure and Reclamation – General discussion on the issues**

Heidi: First, thanks for the support on this CR. We understand that you would like the \$50,000 threshold removed. We'd like to discuss other Parties' comments. The GNWT asked us to remove the entire CR. They don't think it is appropriate for a plan. The SLWB has told us they would like the security term removed. The SLWB did not think that the MVRMA allowed the SLUPB to require them to set security. At some point the SLWB and other land and water boards will be harmonizing their protocols on security deposits and perhaps providing different recommendations. The Board needs to know whether INAC will continue to support this term and not reverse its position if the SLWB and GNWT continue to push for removal of this CR.

David: I think what you mean is that the SLWB has never set a security deposit.

Nobody who was present could comment on this so INAC will respond in writing.

**Action:** INAC will follow-up and provide confirmation of its position on this item.

#### **P. 10 – CR 15 – Monitoring– Discussion of differences for small vs. large projects**

Heidi: What would satisfy this comment? Did INAC want a distinction made between how small and large projects are treated? Where would we draw the line? Is there a threshold contemplated?

Arthur: We will have to get back to the Board on this.

Giles: I think this comment is meant to ask the Board to recognize that smaller, shorter-term projects would perhaps not need a monitoring program.



Matt: You may want to make a mention of scale in the text so that the monitoring suits the size of the project. You may not need the same amount or degree of monitoring on a very small project as would be required on a large one. I think that INAC's largest concerns relate to mitigation which is CR 14.

Heidi: The CR does state that monitoring is scale dependant. So again, what more is wanted? If you have something in mind, then provide us with that clarity.

**Action:** INAC to provide further clarity and/or suggestions on how the Board can address their concern.

## **Actions**

**P. 10 & P. 18 – Actions as mandatory requirements – Discuss INAC position vs current status in Draft 3**

**P. 17 – Sahtu Working Group – General discussion on participation, links to CIMP**

**P. 18 – Action #8 – Community-Government Monitoring & Enforcement Strategy – Discuss expectations**

Scott: INAC's comments have been consistent on this since Draft 2. Actions are items they would make reasonable efforts to implement but they will not be legally bound by them. I think there are 2 separate issues here, one being legal and the other, policy-related. The legal aspect is the question of whether or not S.46 of the MVRMA is enough of a legal hook to compel parties to undertake certain Actions. As Dick explained, there are lots of gaps in the current regime. I understand that the SLUPB wants to compel parties caught by S. 46 to fill them. However, I think it might be a stretch to compel the kinds of actions that are currently in the plan. On the policy standpoint, I think that INAC can agree to make best efforts to comply but does not believe that it can be made to comply.

Dick: Draft 3 was intended to be very clear. The writing in Draft 3 was intended to leave no room for interpretation. If the wording in the Actions is clarified, can INAC comment on whether or not it will agree to make the highest legal commitment possible, from a policy perspective, to fulfill each of the Actions?

I have the impression that INAC does not have an issue with the substance of several Actions that it has not commented on. Is INAC's issue with whether or not it can legally be held to meeting the Actions?

Arthur: The plan will eventually go through a cost analysis and the content of the Actions may have an impact on that assessment which will ultimately affect whether or not the plan can be approved.

Scott: I think that requiring government to meet certain actions goes farther than the powers contained in S.46. I don't know that it allows a land use plan the ability to compel governments to spend certain funds or set aside certain funds, or provide programs. I don't disagree with the intent of the Actions. But I think that goes beyond the powers of S 46.



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Heidi: What language moves the issue with Actions from a legal position to a policy position?

There was a suggestion that INAC make best efforts to meet Actions and that the Board and INAC agree to disagree.

Scott: If "reasonable efforts" language can be included it might make the Actions more acceptable.

Dick: The intention of Draft 3 is not to pitch Actions as a halfway point between CRs and Recommendations. The legal intention of the Actions is that they are subject to the same degree of implementation responsibility for a government body as are CRs for regulatory bodies.

Scott: What would happen if an Action required government to do something and government did not do it?

Dick: CRs and Actions are mandatory and they would both be policed by the Courts. There are no other bodies to ensure that government has met the Actions directed at them. An affected party would have to go to court to challenge whether or not government has met an Action. I don't think we are yet at the point where we can just agree to disagree. I would like about 10 minutes to discuss the Board's intentions behind Draft 3's Actions.

Dick used CR# 7 and A#10 as examples of how Actions support CRs. We have a regulatory requirement and an Action that requires government to provide the data. I want to make 4 key points.

- 1) A land use plan can only provide direction for land use. S.41 of the MVRMA sets limits for what a land use plan is intended to do. It can't provide direction for hospitals for example.
- 2) Once a land use plan is approved, the provisions are binding upon government and First Nations (S. 46 (1) and S. 46(2)). There are 3 classes of bodies named for implementing the plan – First Nations, departments and agencies of the federal and territorial governments, and regulators. The Act makes it clear that government, beyond regulators, is intended to implement the Plan through S. 46(2). S. 46(2) singles out a non-regulator (Parks Canada) and clearly identifies their requirement to implement the Plan in carrying out park establishment processes. The responsibility for implementing the land use plan, aside from First Nations, is for government to follow through with. The words "in particular" in subsection 2 show that this is an example of how subsection 1 works, not an exception.
- 3) Given that scheme, you can break down the types of plan requirements into 2 kinds: those that government implement through authorizations, and those that government implements through other means. The first type is called Conformity Requirements in the SLUP; the second type are called Actions. The breakdown is useful for land users, who are directly affected only by the first type.



- 4) The MVRMA also sets out a process to determine if a land use activity conforms to a plan. (S. 47). The process effectively determines whether government is meeting its duty to implement the type of Plan requirements that have to be implemented in land use authorizations – what we are calling Conformity Requirements. (There is no other consequence for the activity or the land user.) Again, the conformity determination process is to give clarity to affected land users. You don't have an equivalent process for determining whether government departments are acting in conformity with Actions because those measures don't affect land users directly. You only have plan monitoring and a five year review. But that's not uncommon. Many mandatory functions don't have a conformity check built into them. For example, under s.136 (2) of the MVRMA, regulators and departments have to implement adopted review recommendations, but no one determines whether they have acted in conformity once the recommendations are adopted.

It's not just the Sahtu Plan that contains such mandatory language. For an example of mandatory language in the Gwich'in plan, look at page 135. It's a very good example of government being required to provide information to regulators. Similar mandatory actions exist in Nunavut Plans. Actions have been accepted by government in Environmental Assessment (EA) processes too. The most recent JRP review approved at least 2 actions. One of them is that the government of Canada and GNWT must provide proponents and others with ecological information. Government is in the process of doing this. It would be inconsistent for the government to reject this responsibility under the Sahtu land use plan when it has already accepted it in other plans and under the MVRMA public review process, which is regulatory in origin.

In some cases, Actions need to be taken to allow CRs to be carried out, such as illustrated in CR#7 and A#10 of the SLUP.

Scott: I think Canada will have to think about this. We will consider the legal issue further. I'm not sure how far Canada can be required to comply with mandatory segments of the plan. I think that Canada will be more willing to continue a practice that it is already undertaking as opposed to taking up a new practice.

Could you not combine a number of the CRs and As where they are complementary? This would take the Actions out of the potential realm of the Courts if government was to not meet them. If it was put into the CR then the permit would not get moved forward if the necessary information was not available.

Heidi: One big issue is timelines. Regulators work on a 42 day system. Developing a database of information is something that can take years. Most of the Actions are filling information gaps or resolving large outstanding issues. The Board is working to close these gaps in the regulatory system.

Scott: I understand the reasoning for the actions. Leaving the policy side out of the discussion, I'm struggling with how far Actions can compel government. There must be limits. Can government be required to legislate in an Action, for example? It may be that INAC will decide that some Actions are acceptable and that others are not.



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Heidi: Section 22 of the MVRMA requires that government provide the Boards with information necessary to carry out their work. This clause supports some of the Actions.

Dick: The Board doesn't read S. 46(1) as giving governments a duty to legislate. There is a hearing to occur in the new year. Prior to the hearing I'll try to identify whether or not there are any legal issues between the parties, including in respect of the Board's ability to set Actions. I'll try to arrange for discussion between counsel before the hearing, so that the process is fair to everybody. If there is a difference between a party and the Board's view of its jurisdiction, I will invite the parties to provide their legal views in writing for the Board's consideration prior to the hearing. I take it this issue should not be on that list yet.

## **Recommendations**

### **P. 18 – Recommendations – Role of government where Recommendations are directed at others**

#### **P. 18-19 – Economic Recommendations (7-11):**

**1) Discuss need and intent of economic recommendations and broad INAC position regarding suitability for inclusion in Plan.**

**2) Discuss follow-up for rewording on Recommendation 10**

Heidi: Recommendations are not requirements. They are suggestions. There are no implications to proponents or government if they are not implemented.

Scott: We don't want people to hold government to recommendations or to interfere when a proponent is not meeting recommendations because we probably can't do that. Eg. R#5 asks proponents and INAC to use INAC's consultation guidelines. It's fine if you want to use our guidelines but I wouldn't want anyone to then come to INAC if a proponent has not used them.

Tina: Government is bound by Chapter 12 of the SDMLCA. The interpretation of this chapter among the Treaty Partners to the SDMLCA has been a source of confusion and a major irritant to the relationship. Canada has undertaken a substantial amount of work to clarify this issue with the Sahtu and other government departments, which is why we would like this section to be brought in line with Chapter 12 in order to not perpetuate the confusion. We would like to see the mention of "splitting contracts" removed as it is not in line with our policies.

Heidi: We know INAC is bound by Chapter 12. The intent of the recommendations is to go beyond chapter 12. Nothing in the R would be conflict with Chapter 12. I doubt SSI would take issue with you doing more.

Tina: We are currently striving to meet Ch. 12. We do not want to set expectations higher than we can accomplish. We would like the Plan to state that INAC is bound by Ch. 12.

### **R# 9 and 10**



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Heidi: Clarified that the rationale provides was meant to be for both recommendations. She recognizes this isn't clear and can split them.

Tina: We would like the Board to remove the paragraph about conflict between the Tlicho and the Sahtu as it is legally inaccurate. The Sahtu and Tlicho Agreements do not pit two groups against each other as implied by the Plan. This issue has been a major irritant between Canada, the Sahtu and the Tlicho for over a year now, and the Parties have been working diligently to resolve it. This wording is therefore perpetuating the problem which is why we'd like it removed. We can explain the issue further if you'd like.

### **3) Alternative solutions for addressing issues behind Recommendation 11**

Heidi: Hasn't the government accepted recommendations in other reports to provide more funding?

Tina: We would like references to funding removed. We would like references to intervener funding removed.

#### **P. 19 – Recommendation 12 – What was the government response to JRP Recommendations 13-1 and 13-2? Will they be maintained as written?**

Scott: This is more of a head's up than an issue. There may be some overlap between what the Plan is trying to accomplish and other initiatives being worked on. We expect that the SLUPB will review the report.

### **Application of the Plan to Oil and Gas Rights Issuance**

#### **P. 4 – Issuance of Subsurface Rights to O&G beneath CZs, specifically # 24-27, 30, 35-38, 40-42, 52, 53, 55**

Heidi: We asked INAC last year if they could guarantee surface protection if the subsurface was made accessible to directional drilling. This was with respect to Conservation Zones (CZs) which only make up 4.4% of the landscape. Since INAC was not able to guarantee surface protection, the Board has not allowed directional drilling under CZs. In this round of comments, the question is raised again, as well as a number of comments that seem to imply that the Plan should not apply to the issuance of oil and gas rights.

Dick: Practically speaking, we understood that there would be seismic work above an area where directional drilling would take place.

#### **P. 6 – Application of the zoning prohibition to issuance of rights vs surface authorizations.**

#### **P. 15 – S. 2.4 - Effect of the Plan – Discussion on definition of “regulator”, “authorizations” and application of the Plan to the issuance of rights.**



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**P. 20 – INAC’s Plan implementation role with respect to issuance of O&G rights**

Dick: Draft 3 treats an oil and gas Exploration Licence as an authorization of land use. If that’s not correct – if, as INAC’s comments may be suggesting, an NEB authorization plays that role exclusively in this context under COGOA – the Board may need to review the language of Chapter 7. It wouldn’t matter, though, that an EL may also grant an interest in land. The issuer would still have responsibility to implement the Plan under 46(1) of the MVRMA if the land use authorization in question disposes of an interest in land. Presumably this example illustrates why s. 25.2.9 of the SLCA includes “interests relating to the use of land” in its list of plan implementation tools. The Plan does not regulate rights issuance per se. The planning Board is not concerned, for example, who receives oil and gas rights or on what financial terms. It’s at the point that a disposition effectively authorizes land use that Plan implementation responsibility is triggered.

Heidi: We cannot allow for subsurface access if the surface of sacred or important places cannot be guaranteed.

Heidi read out the above sections from INAC’s comments relating to the application of the Plan to oil and gas rights issuance.

Heidi: I want to make sure that we are in agreement that the Plan will restrict the issuance of rights for oil and gas in Conservation Zones and PCIs.

Dick: I don’t think there’s a statement in the comments that go that far (to say that the Plan cannot restrict issuance of rights). With respect to the comment on page 20, we may have to make reference to the NEB rather than INAC for exploration licences. Rights issuance that does not provide authorization to use land is not what we are intending to deal with here.

Heidi: An exploration licence allows the ability to shoot seismic. Once an exploration licence (EL) is granted then access to the surface will be given to carry out exploration activities (seismic, wells).

Matt: Giles had to step out. Perhaps Heidi and Dick, you can focus the issue in your questions and we can respond in writing. We’ve been told that exploration licences would not be issued where companies cannot be expected to develop. However, our colleagues in the Oil and Gas Branch are better positioned to respond.

Tom: From my understanding, a company does not need an EL but a land use permit to shoot seismic.

Heidi: Yes. The issue is that an EL is the first stage of rights and that comes with the right of access to carry out exploration activities.

Scott: You’d need a land use permit as well; the NEB’s authorization would not be enough.

Dick: The CRs themselves don’t single out regulators – chapter 7 and the table being worked on are intended to identify inclusively the regulators that will do the work for each CR. S 46(1) of the MVRMA places implementation responsibility on all the bodies that have authority.



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**Action:** INAC to respond to the following question: Is INAC saying that the Plan cannot restrict the issuance of Exploration Licences in Conservation Zones and PCIs?

## Exemptions for Existing Rights

P. 14-15:

### 1) Broad discussion on approach for Existing Rights

### 2) INAC Question re application to an interest in land granted by a First Nation

Scott: How do you make sure that the Sahtu District land corporations are captured?

Heidi: We thought it was clear in Draft 3. If necessary we will work to make this clearer in the language we use. We have been very clear in our communications though that they are expected to implement the CRs and Actions the same as government. We view the District Land Corporations as regulators in their authorizing the use of land.

Heidi: Does INAC support the approach to existing rights? Draft 3 is clear that developers are exempt from CR#1 (zoning) and will be allowed to continue activities regardless of the zoning. But upon renewal or amendment, all other CRs of the Plan will be applied to their new license, permit or authorization? So they are fully exempt from CR 1 but must conform with CRs 2-20 upon renewal or amendment. I want to ensure you understand this and there are no surprises.

Gwenda: Successor rights would have to be granted. If a mineral claim went to lease then they would have to be allowed to progress through to development.

Heidi: Yes. The progression of rights is covered, as is the transfer of rights. We are simply applying the Plan's new rules to the amended or new authorization. We could also allow for exceptions if there are certain CRs that would interfere with the exercise of their rights.

Greg: We will have a look at whether or not there are projects in the Sahtu right now that are far along in case this becomes an issue and get back to you.

Scott: I wanted to be sure that the land corporations are also held to the grandfathering, eg. if they had issued a lease on their lands.

Heidi: The land use plan is blind to ownership and to the identity of the proponent. It applies equally to everybody.

**Action:** INAC to further assess any implications to the Plan's provisions for exempting existing rights on existing projects and confirm its support for the approach.

### 3) Norman Wells Proven Area Agreement – need clarity on necessary revisions

Matt: Can you add this to your list of questions for follow-up in written comments?



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**Action:** INAC to respond to the following: On p. 15 of INAC comments, Section A: Please provide specific revisions necessary to capture the Norman Wells Proven Area in this section. Also please explain what a pioneer lease is. The INAC dataset the Board is using includes this, but we require further explanation of the significance and origin of that designation.

- a) Just below that, INAC has asked us to include provision for the extension of activity related to the exercise of a right beyond the boundary of that right. That might mean in some cases extending seismic or other exploration activities into a Conservation Zone. This could be very problematic for community acceptance of the Plan. How significant of a concern is this for INAC?

#### **4) Extension of activity beyond the boundary of right (e.g. seismic in adjacent CZs)**

Heidi: How significant of an issue is this for INAC? This will not be acceptable to communities who expect CZs to be off limits to exploration and development activities.

Gwenda: Is this specific to oil and gas? If so, you'll need to speak with them about this.

Heidi: I'll add this to the list of follow up questions.

**Action:** INAC to identify the significance of this request.

Lilith and Lindsay joined the meeting.

#### **Miscellaneous**

##### **P.3, paragraphs 3-5 – Zoning of SGN re final boundaries and excised areas**

Heidi gave an update of the status of SGN discussions.

Heidi: INAC's comments asked us to work with PAS to ensure that the final boundaries duly consider the non-renewable resource information gathered through that process. The SLUPB is not part of the PAS Working Group so we have no influence over boundary decisions. The Plan is also not going to override the results of that PAS process and set different boundaries. The Board did that once during the Discussion Draft 2 zoning and INAC asked us very clearly to ensure the Plan harmonizes its boundaries with those used by the PAS. INAC is part of the working group and therefore is in a better position to ensure non-renewable resource potential is adequately considered in boundary definition. We will take the final boundaries agreed upon by the PAS working group and sponsoring agency.

Regarding the comment directing the Board to zone the excised areas as General Use or Special Management, the Board will not be making any advance decisions. Zoning will depend on the areas that have been left out and the reasons for which they were left out. The Board will consider the PAS working group's suggestions for new zoning. As an example, we have always been told that if something happens with SGN, Drum Lake should always be a



Conservation Zone. There may be some areas that deserve that designation. Others may be more appropriate as a GUZ or SMZs.

No comments.

### **P. 3, paragraph 5 – Dual designation**

Heidi: The plan applies to all of the SSA except areas listed in S. 34. The only lands excluded from the SLUP in the MVRMA are lands acquired by Parks Canada and municipal lands. So in accordance with the MVRMA, the SLUP must apply to all areas. Therefore the Plan does not use the terminology of “dual designation”. It’s not a choice, it’s a requirement. The only choice open to the Board is what direction to provide within these areas of application. Any comments?

No comments recorded.

### **P. 3, paragraph 6 – Application of the zoning prohibitions to below threshold activities**

Heidi: Under S.46.1, the Plan applies to any use that requires a permit, licence or authorization. To be consistent with legislation we have to apply to all activities, like prospecting permits.

Dick: I’m not clear on the intent of the INAC comments. If there is no statutory responsibility to regulate an activity then there is no requirement to implement the CR. Parliament has put together a scheme in which the responsibility to implement the Plan is shared between all the bodies that have the power. If the INAC comment is proposing that the Plan should choose which regulators having the power should be required to implement the Plan, the Board can be expected to be resistant. The Dehcho plan is being developed in a different context, without legislation.

Matt: The MVLURs address thresholds and anything below those land use regulations is permitted, subject to terms and conditions. My understanding is that this comment aimed to confirm that point.

Gwenda: When we talk about S.11, it’s very clear that no staking can take place in a Conservation Zone (CZ). The INAC comment is in conflict with this and doesn’t make sense.

Greg: I think the question was, if I can engage in below threshold activities and I’m just walking on the land and I come across a CZ, can I still walk through it or land a helicopter in a CZ?

Heidi: For that you need to look at the definitions for oil and gas and mining. For example, CAPP asked the same question and to try to address their issues, we specified “land-based” activities in the definition, thus allowing aerial surveys to continue as they did not affect the land. Look at the definitions of oil and gas and mining carefully and if it does not capture your needs then please get back to us in writing with suggested revisions.

**Action:** INAC to review the definitions and the intent behind these comments and bring any remaining issues and suggested revisions back to the Board.

### **P. 3-4 – Prospecting Permit Protocol and Settlement Agreement – The SLUPB needs a copy to be able to reflect it in the Plan. (Please bring copies to the meeting.)**



Heidi: Thanks for providing the protocol and maps. I never got a copy of the Settlement Agreement. INAC's comments ask us to be consistent with both the agreement and protocol. Can we get a copy or tell us what we're supposed to be consistent with?

Arthur: The agreement is not a public document so we could not send it to you.

Scott: INAC needs to figure out what was intended and how the transition was supposed to be made between the agreement and the SLUP and how the plan will pick up on it and reflect it.

Greg: I think if the SGN issue is figured out then this question will be less of an issue.

Melissa: Guidelines have been released for industry. The map that we use is updated and we start reviewing for issuance in January. Mineral tenure is constantly changing so the maps are always changing.

Greg: The main issue is mineral potential and SGN.

Heidi: Is the intent to allow prospecting permits in SGN? When we have to rezone in January (6-7<sup>th</sup>) at our meeting, we will need to know what our constraints are if any.

Arthur: At the Hearing will you be showing a revised zoning map and will you want parties to come to the hearing prepared to discuss those new zones?

Heidi: We will not have a re-zoned map but we will have visual representation of the requests on the public record. We map out the requests for zone changes but they are only requests until the Board makes a final decision on how to revise the Plan. That will not be made until after the hearing. We will expect people to have looked at them and they can comment on them.

**Action:** INAC to respond to the Board before January on how the Prospecting Agreement and Protocol relate to the Plan and any revisions necessary to the Plan in regards to these documents.

**P.4 – MGP, paragraph 2 – Request for the Final Draft Plan to be consistent with outcome of MGP review – need clarification.**

Scott: This was a tap on the shoulder to remind the SLUPB of the JRP findings and government response to it. There is no significant action required here. Just be aware.

**Action:** The SLUPB would like INAC to flag any specific recommendations/responses that they would like the Board to consider when reviewing and revising Draft 3 of the Plan.

**P. 11-12 – Definitions: Discussion of questions and comments on definitions of authorization, regulator, responsible authority, "mineral exploration and development".**

**P. 5 – Require clarification on how the definition of "mineral exploration and development" needs to change to address changes to NWT/NU Mining Regs and timing on changes.**

Scott: We meant this just as a flag. We did not intend for you to adopt INAC's definitions.



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Melissa: We have a tentative timeline for the revision of our “work” definition. We will likely be done sometime from 2012-2014.

**Action:** INAC to confirm whether there are any changes needed to the “mineral exploration and development” definition now.

### **P. 6 – Definition of O&G re transportation/pipelines**

Heidi: Transportation (which includes pipelines) has to be included in the definition to be able to talk about it. If it wasn't included, then transportation and pipelines would be allowed everywhere with no specific conditions. That is not the intent. It is meant to be restricted but allowed under certain circumstances which we spell out in CR #1(2).

Scott: The definition of “responsible authority” is in CEAA. It's just to flag for you that some people might be confused because they think that CEAA applies here, even though it doesn't.

### **P. 12 – “Geological reconnaissance work” as described is allowed in CZs and PCIs (“government funded geological research”). What is intended by this paragraph?**

Heidi explained how this is already allowed and is covered in the definitions for both O&G and Mining as “government funded geological research”. She asked for clarification on the comment. No one present was able to respond.

**Action:** INAC to clarify what the concern is in relation to this comment.

### **Additional Discussion Topics**

David: Has the Board given any thoughts to transboundary issues with the Yukon with regards to the SGN border?

Heidi: The Board needs to get letters out to all neighbouring First Nations regarding any issues that they may have with the plan, including transboundary issues.

David: I was thinking about companies operating on the border that need access in the Sahtu.

Heidi: I don't believe there would be any special consideration they would get because they are active in an adjacent jurisdiction. I would think that they would just need to get a permit like any other land user.

Dick: Proponents do not get special consideration. There isn't anything in the MVRMA that gives particular weight to that interest. There is special consideration given to some aboriginal groups with transboundary interests.

Scott: I was asked by Danny Gaudet last week what would happen to the Sahtu settlement lands in the Dehcho if they didn't agree with the zoning.

Heidi: Deline needs to speak with the Dehcho Land Use Planning Committee (DLUPC). The SLUPB has no jurisdiction over lands in the Dehcho territory.

Meeting ended: 12:10 pm