

FIRST WORKING DRAFT DEHCHO LAND USE PLAN - COMMENTS FROM THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

March 23rd, 2005

EXECUTIVE SUMMARY

The Dehcho Land Use Planning Committee [the Committee] submitted their First Working Draft Land Use Map, Terms and Policy Recommendations [the Plan] to the Department of Indian Affairs and Northern Development [DIAND] on February 18th, 2005. A Working Group with representation from nine Directorates in the NWT Region, and seven in Headquarters, Ottawa was formed to undertake a comprehensive review of the Plan.

The purpose of this document is to provide the Committee with a comprehensive report resulting from DIAND=s review, analysis and internal discussions related to the Plan. These comments are intended to assist the Committee in preparing their Revised Draft Plan and, ultimately, in seeking final approval of their Proposed Plan. This review document is divided into three primary sections according to DIAND=s three primary objectives, as described in the policy document: Land Use Plan Review/Approval Process. A fourth section has been included to address editorial comments and questions.

An overview of DIAND=s key findings is provided as an introduction to each of these three sections to provide context for the detailed observations. Overall, DIAND=s primary recommendation is that the Plan requires a number of additions and clarifications, in combination with reformatting and restructuring tasks, for greater completeness, consistency and effectiveness of presentation. DIAND would like to particularly recognize the Committee=s conceptual and elegant mathematical approach, as shown in Figure 1, as a unique and significant contribution to comprehensive and integrated regional land use planning in the North. This particular conceptual model has never been applied in the Northwest Territories before, so it is very refreshing to see the Committee introduce it here for the first time.

The first section focusses on review of the Plan for completeness and accuracy with reference to the Deh Cho First Nations Interim Measure Agreement [IMA], the Deh Cho First Nations Interim Resource Development Agreement [IRDA], and existing federal legislation. **A key recommendation for the Committee to consider - assuming that the Plan will be completed prior to the completion of the Deh Cho Final Agreement - is that more emphasis should be placed on the fact that the "completed" Plan will be submitted to the Minister of DIAND for consideration and that the Minister may only provide written policy directions to the MVLWB with respect to the exercise of its functions.** As such, the IMA and the IRDA documents need to be added to the Appendices, and references to them are required throughout the Plan. Further clarification is also required to some of the ATerms@ in Table 7, primarily those which conflict with, or duplicate aspects of existing legislation and the related roles of the Regulatory Authorities. In addition, DIAND would like to have further discussions with the Committee regarding the Amanaging development@ concept as envisioned in the Economic Development Strategy. While this

concept in theory is in line with DIAND's interests in ensuring that responsible economic development occurs within a sound environmental management framework, DIAND is of the opinion that regulating the pace of development as expressed through the Plan would create a high level of discretionary approval power at the planning stage and could have a significant negative impact on the mineral investment climate in the Dehcho region. DIAND therefore recommends that managing development should be considered through cumulative effects monitoring and assessment as part of the environmental assessment process for each project.

The second section addresses the relationships between the Plan and a number of priority areas in DIAND, and includes recommendations to further highlight the **NWT Cumulative Effects Assessment and Management [CEAM] Strategy and Framework; to add a new section on Sustainable Development; to more fully describe, explain and clarify the interrelationships between the PAS and the Plan; to add a new section on Trans-Boundary Land Uses; and that the Committee designate a ASpecial Infrastructure Corridor@** for the proposed Mackenzie Gas Project pipeline within the Conservation Zones, including more detail on related terms and conditions.

The third section covers the land use designations and related zoning system of the Plan, access implications, the non-renewable resource information in the document, the overall scope and format of the Plan, and Plan Implementation, Monitoring & Review. Key recommendations include the need to:

- § More fully describe the economic implications of the Plan;
- § Clarify the designation and coverage of the proposed Conservation Zones [CZs];
- § Further clarify how the use of CZs will assist the Committee to apply faster protection to Areas proceeding through the Protected Areas Strategy [PAS];
- § Allow for more oil and gas activity in SMZs and revisit the limited amount of land zoned for oil and gas development;
- § Recognize the vital importance of the PAS non-renewable resource assessment work to the Pehdzeh Ki Deh and Sambaa K'e/Redknife Areas of Interest;
- § Address the concerns regarding the access restrictions for oil and gas development activity as imposed by the CZ designations and the all-weather road development limitations;
- § Provide greater clarity on the oil and gas and existing activities maps;
- § Improve the overall scope and format of the Plan; and
- § Add an all-important chapter on Plan Implementation, Monitoring & Review.

Given the process that the Committee will be going through to prepare, distribute and discuss their Revised Draft Plan, and subsequent Proposed Plan to be submitted for final approval, DIAND would like to assure the Committee of its continued assistance in developing a quality Plan which achieves these objectives. In this regard, when the Committee is in the process of assessing all of the comments received on the Plan, representatives of the Department could be available to meet with the Committee and staff following the Regional Forum to discuss these substantive comments in more detail. DIAND looks forward to supporting the Committee throughout this exciting and challenging period.

**FIRST WORKING DRAFT DEHCHO LAND USE PLAN -
COMMENTS FROM THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN
DEVELOPMENT**

March 23rd, 2005

BACKGROUND

The Dehcho Land Use Planning Committee [the Committee] submitted their First Working Draft Land Use Map, Terms and Policy Recommendations [the Plan] to the Department of Indian Affairs and Northern Development [DIAND] on February 18th, 2005. A Working Group with representation from nine Directorates in the NWT Region, and seven in Headquarters, Ottawa was formed to undertake a comprehensive review of the Plan. The results of this review are compiled below.

SCOPE OF THIS REVIEW

The purpose of this document is to provide the Committee with a comprehensive report resulting from DIAND=s review, analysis and internal discussions related to the Plan. These comments are intended to assist the Committee in preparing the Revised Draft Plan and, ultimately, in developing and submitting the Final [Proposed] Land Use Plan for approval.

This review document is divided into three primary sections according to DIAND=s three primary objectives as described in the policy document: Land Use Plan Review/Approval Process.

- I To review draft and proposed land use plans for completeness and accuracy regarding the Deh Cho First Nations Framework Agreement, Interim Measures Agreement [Appendix II in particular, Draft Guidelines for the Development of a Deh Cho Land Use Plan] the Interim Resource Development Agreement, specifically regarding DIAND=s responsibilities as described in these documents, and in existing federal legislation.*
- II To review draft and proposed land use plans in terms of DIAND=s positions on priority issues, programs, projects, and proposals, ensuring that relevant policies and legislative initiatives are adequately addressed and referenced [eg Sustainable Development, Protected Areas Strategy, Smart Regulation, CEAM, CIMP and environmental assessment].*
- III To review draft and proposed land use plans in terms of professional regional land use planning principles and practices, ensuring that the documents are comprehensive, integrated, balanced, and community-based. There should be internal consistency between all land use policies and related strategies, ie between all land use categories.*

An overview of DIAND=s key findings is provided as an introduction to each of these three sections to provide context for the detailed observations. A fourth section has been included to address editorial comments and questions.

Overall, DIAND=s primary recommendation is that the Plan requires a number of additions and clarifications, in combination with reformatting and restructuring tasks, for greater completeness, consistency and effectiveness of presentation.

1.0 Legislative Conformity and Crown Obligations

This section focusses on review of the Plan for completeness and accuracy with reference to the Deh Cho First Nations Interim Measure Agreement [IMA], the Deh Cho First Nations Interim Resource Development Agreement [IRDA], and existing federal legislation. **A key recommendation for the Committee to consider - assuming that the Plan will be completed prior to the completion of the Deh Cho Final Agreement - is that more emphasis should be placed on the fact that the "completed" Plan will be submitted to the Minister of DIAND for consideration and that the Minister may only provide written policy directions to the MVLWB with respect to the exercise of its functions.** As such, the IMA and the IRDA documents need to be added to the Appendices, and references to them are required throughout the Plan. Further clarification is also required to some of the ATerms@ in Table 7, primarily those which conflict with, or duplicate aspects of existing legislation and the related roles of the Regulatory Authorities. In addition, DIAND would like to have further discussions with the Committee regarding the Amanaging development@ concept as envisioned in the Economic Development Strategy. While this concept in theory is in line with DIAND=s interests in ensuring that responsible economic development occurs within a sound environmental management framework, DIAND is of the opinion that regulating the pace of development as expressed through the Plan would create a high level of discretionary approval power at the planning stage and could have a severe negative impact on the mineral investment climate in the Dehcho region. DIAND therefore recommends that managing development should be considered through cumulative effects monitoring and assessment as part of the environmental assessment process for each project.

I To review draft and proposed land use plans for completeness and accuracy regarding the Deh Cho First Nations Framework Agreement, Interim Measures Agreement [Appendix II in particular, Draft Guidelines for the Development of a Deh Cho Land Use Plan] the Interim Resource Development Agreement, specifically regarding DIAND=s responsibilities as described in these documents, and in existing federal legislation.

1.1 Consistency with Existing Legislation and Crown Obligations

In the ADeh Cho First Nations Interim Measures Agreement@ [IMA], it is important to note that there are a number of sections which have a direct bearing on the mandate and authority of the Committee and the Plan. The section on ALand Use Planning@ contains 10 articles covering the community and regional-based nature of the Plan, sustainable development and conservation, the establishment of the Committee as pursuant to the Appendix II - Draft Guidelines for the Development of a Deh Cho Land Use Plan, the role of the Dehcho Final Agreement, and procedures for approving the Plan. Other key sections of the IMA include a number of articles on ALand Withdrawal@, ALand and Water Regulation@, AMineral Development@ [new prospecting permits], AOil and Gas Activity@, the AInterim Resource Development Agreement@ [IRDA] and the ANWT Protected Areas Strategy@.

Of particular note in the IMA is the process outlined under the heading ALand Use Planning@ and specifically Articles 8 to 11, dealing with the Deh Cho Final Agreement and the Plan approval process. The Parties to the IMA agreed that the completed Plan would be submitted for approval by the Deh Cho First Nations, the GNWT, and then submitted to the Minister of DIAND for consideration. The Parties to the IMA further agreed that following consideration, the Minister may only provide written policy directions to the MVLWB with respect to the exercise of its functions. Other functions carried out by other entities will not be subject to the Plan at that point in time. Once the Deh Cho Final Agreement is in place and has been ratified by statute, then it will be possible to put in place measures to fully implement the Plan.

Given all of the above, DIAND recommends that the Committee include the complete Interim Measures Agreement and the IRDA in the Appendices to the Plan, and include key references to them throughout the Plan where appropriate and required so as to avoid any confusion on the mandate and authority of the Committee and the Plan. [See also comments in sections 3.5 Overall Plan Scope & Format, and 3.6 Plan Implementation, Monitoring & Review, pages 14 and 15 herein respectively.]

In that the purpose of IRDA is to foster resource development in the Dehcho Territory, it is consistent with the objective of the Plan to promote **responsible economic development within a sound environmental management framework**.

1.2 Existing Regulatory Framework

Table 7: Description of Terms, pages 17 to 23. The objective of any land use plan is to focus on establishing land use zones which reflect the goals and objectives of the people of the Dehcho territory and also provide a reference document against which proposed activities can be judged to be in or out of conformity with the Plan. DIAND notes that the Committee has taken a prescriptive

approach in some areas of Table 7, notably under "Consultation", "Water Monitoring/Management", "Air Monitoring/Management", "Mining Reclamation", & "Cumulative Impacts Management". DIAND supports the Committee's interests in promoting best practices in these areas of resource management vis-a-vis the Plan, however, given that regulators, boards and Aboriginal governments are also working on supporting best practices within their mandated roles and responsibilities for resource management, DIAND feels it is not appropriate within this context that they be directed with respect to policy. Accordingly, DIAND recommends that the Committee, in the interest of supporting best practices, change the term "will" to "should" with respect to those actions which refer to specific regulatory instruments and guidelines. As an example, Appendices 1 and 4, Schedules from Northwest Territories Water Regulations and Mining Reclamation and Security Regime respectively, clearly apply to regulatory and policy matters which would be administered by other regulatory boards under the *Mackenzie Valley Resource Management Act*. Appendix 2, Dehcho First Nations Consultation Principles, like Appendices 1 and 4, has no direct relevance to determining criteria for conformity decisions, but instead suggests a protocol to be followed for any subsequent projects proposed in areas where they do conform to the Plan.

Under "3rd Party Dispositions" on page 18 of Table 7, it is stated that existing activities in the Dehcho Planning Area will be allowed including development arising from rights existing at the time of Plan approval. It also indicates that renewal of permits, licences and authorisations for existing activities will be allowed. It would remove uncertainty if the following statement were added to paragraph 6 on page 8 of the Plan: "Where the boundaries of Current Land Withdrawals crosscut existing third-party interests, the boundaries of the designations in the approved Plan which replace them will be drawn as to exclude those third party interests".

As a caveat to the assumption in section 3.1 on pages 10-12 herein regarding the use of the Economic Development Strategy [EDS] and the EDA model by the Committee, DIAND believes that the concept of pacing of development as expressed through the Plan would create a high level of discretionary approval power at the planning stage. This could have a severe negative impact on the mineral investment climate in the Dehcho region. In addition, it could impose upon DIAND, as manager of Crown lands in the Northwest Territories, actions which are inconsistent with existing federal government policy and might place the Department at odds with its legislated responsibilities with respect to rights issuance. DIAND believes that the concerns which the proposed pacing of development concept is intended to address could be dealt with through cumulative effects analysis in the environmental assessment process. Accordingly, it is recommended that the managing development concept as envisioned in the EDS be considered through cumulative effects monitoring and assessment as part of the environmental assessment process for each project.

2.0 Integration of Plan with Existing Policies, Programs, Strategies and Processes

This section addresses the relationships between the Plan and a number of priority areas in DIAND, and includes recommendations to further highlight the **NWT Cumulative Effects Assessment and Management [CEAM] Strategy and Framework; to add a new section on Sustainable Development; to more fully describe, explain and clarify the interrelationships between the PAS and the Plan; to add a new section on Trans-Boundary Land Uses; and that the Committee designate a ASpecial Infrastructure Corridor@** for the proposed Mackenzie Gas Project pipeline within the Conservation Zones, including more detail on related terms and conditions.

II To review draft and proposed land use plans in terms of DIAND=s positions on priority issues, programs, projects, and proposals, ensuring that relevant policies and legislative initiatives are adequately addressed and referenced [eg Sustainable Development, Protected Areas Strategy, Smart Regulation, CEAM, CIMP and environmental assessment].

2.1 Cumulative Effects

The development and approval of a Land Use Plan for the Dehcho is an important component for managing the cumulative effects of development. In this regard, the NWT Cumulative Effects Assessment and Management (CEAM) Strategy and Framework provides a comprehensive approach to strengthening assessment and management of cumulative effects through practical, short-term actions and longer-term recommendations. The only section in the Plan related to cumulative effects is under ATable 8: Cumulative Impacts Indicators and Thresholds@, pgs 24 & 25. In this Table, there is no reference to the CEAM Strategy and Framework and the CEAM Blueprint for Implementation, the latter updated in July of 2004. DIAND therefore feels it is important to better situate the Plan in the context of CEAM and would like to see a reference to it and the components of the Blueprint that the Plan=s implementation will help address.

2.2 Sustainable Development

In light of the Department=s Sustainable Development Strategy 2004-2006 and current work on developing the Northern Sustainability Lens, 2004, a section should be added to the Plan describing the current environment - baseline information on the communities [demographic information including population, employment, economy, etc.] and regional land use patterns and activities. This new section could be structured around the focus of Map 3, namely the AExisting Activities and Third-Party Interests@ information. Assuming that part of the Committee=s vision for the future of the Dehcho is to strive for self-reliant and sustainable communities, then it follows that some mechanism or set of criteria is needed in the plan to help gauge the success of the Plan during formal Plan Reviews, usually held every five years. [See also comments on Map 3 at the end of

section 3.4 on page 14 herein.]

2.3 Conservation Zones / NWT Protected Areas Strategy

The paragraph under **Zone Objectives** on page 10 regarding Conservation Zones [CZs] is somewhat confusing and does not fully explain the relationship between the Land Use Planning process and the PAS process. It would therefore be helpful to have a separate section describing the PAS and the long-term PAS planning process, and its relationship to the Conservation Zones and the land use planning process. For example, what process was used for the connectivity/smoothing for the CZs and the Special Management Zones [SMZs] delineation, as illustrated in Figure 1 on page 9, and was ecoregion representation considered, in addition to traditional land use and critical wildlife habitat, when determining the CZs ? If so, what ecoregion representation do these areas provide?

How will access issues be addressed across the CZs into the SMZs and the General Use Zones to help ensure that the ecological integrity of the areas are maintained, as well as providing opportunities for the development of surrounding lands? The use of the SMZ designation in some areas, rather than the CZ zoning, could reduce some of the restrictions on access to the General Use Zones for resource development activities to take place there.

2.4 Trans-Boundary Land Uses

Where transboundary or overlap issues exist, how will these be recognized in the Plan? There may be adjacent and linked land use and management processes put in place in the future that could impact the Plan and general resource management in the Dehcho. For example, only the Pehdzeh Ki Deh Area of Interest shows boundaries outside of the planning area. As well, Map 1 on page 11 shows the Edehzhie Candidate Protected Area Boundary fully within the Dehcho region, but does not show what portion overlaps with the Dogrib area.

The Proposed Mackenzie Gas Project & Pipeline

To be consistent with the Interim Land Withdrawal negotiation process in 2003, DIAND recommends that the proposed Conservation Zones in the Plan also accommodate the proposed Mackenzie Gas Project and its ancillary needs. Accordingly, this would require that the Committee designate a **Special Infrastructure Corridor** for the proposed pipeline within the CZs.

The definition for "Mackenzie Valley Pipeline Components" on page ii of the Plan applies only to the pipeline activities regulated by the NEB. There are other related activities such as gravel extraction, water use, access roads, and land leases that are permitted through DIAND and the Mackenzie Valley Land and Water Board. Therefore, these associated pipeline developments will

not be covered off by the current definition in the Plan. It is suggested therefore that the Committee expand this definition to include these activities to insure future conformity of the proposed pipeline with the Plan.

The ASpecial Infrastructure Corridor@ [SIC] as shown on Map 1 is explained in Table 7 [pg 22] in the fourth row on the AMackenzie Pipeline@, but the explanation of how this Corridor overlays the other zones is somewhat confusing. Also, in the Land Use Zones section on page 10, there is no reference to the SIC, so it is recommended that a new paragraph be inserted between the third and fourth paragraphs. In this regard, it is not clear whether the Committee did any route planning work of their own for the proposed pipeline, or whether the routing shown on the maps is that of the proponent. In that new, all-weather roads are discouraged [third row on page 18 on AAccess Planning@], is there a linkage to the SIC explanation on page 22? Specifically, how will access roads, needed to support the pipeline development, be accommodated through the applicable Conservation Zones?

As outlined in the Plan, the proposed Mackenzie Gas Pipeline routing currently runs through Conservation Zones, specifically the Pehdzeh Ki Deh Area of Interest. If no development is permitted in these areas, is it possible for amendments to be made to the CZs to accommodate the pipeline? Related to this question, DIAND recommends that a Special Infrastructure Corridor [similar to the SIC30 in the Trout Lake area] be established along the western edge of the Pehdzeh Ki Deh Area of Interest to accommodate the proposed pipeline.

In Table 5 on page 12 concerning CZs 1 and 3, the information provided with regards to the AApplication of Specific Terms to Zones@ [right-hand series of columns] for the AMackenzie Pipeline@ is confusing. It is not clear whether the pipeline is a permitted use or not. If it is permitted, the specific terms for the pipeline will need to include ancillary needs, such as gravel extraction, access roads, compressor stations, etc.

In Table 7 on page 22 for the Term AMackenzie Pipeline@, it is stated AThe pipeline components will still be subject to all conditions in each of the underlying zones to the extent possible without prohibiting that use.@ The underlying CZs for the pipeline are Zones 1, 2, 3, 4 & 5. These are CZs with the primary purpose of protecting land, water, and important traditional use areas. Potentially, the proposed pipeline conflicts with these land uses. Therefore, in the Revised Draft Plan, there needs to be greater detail on the terms and conditions for the Mackenzie Valley Pipeline through these CZs.

3.0 Professional Land Use Planning Principles and Practises

This section covers the land use designations and related zoning system of the Plan, access implications, the non-renewable resource information in the document, the overall scope and format

of the Plan, and Plan Implementation, Monitoring & Review. Key recommendations include the need to:

- § More fully describe the economic implications of the Plan;
- § Clarify the designation and coverage of the proposed Conservation Zones [CZs];
- § Further clarify how the use of CZs will assist the Committee to apply faster protection to Areas proceeding through the Protected Areas Strategy [PAS];
- § Allow for more oil and gas activity in SMZs and revisit the limited amount of land zoned for oil and gas development;
- § Recognize the vital importance of the PAS non-renewable resource assessment work to the Pehdzeh Ki Deh and Sambaa K=e/Redknife Areas of Interest;
- § Address the concerns regarding the access restrictions for oil and gas development activity as imposed by the CZ designations and the all-weather road development limitations;
- § Provide greater clarity on the oil and gas and existing activities maps;
- § Improve the overall scope and format of the Plan; and
- § Add an all-important chapter on Plan Implementation, Monitoring & Review.

III To review draft and proposed land use plans in terms of professional regional land use planning principles and practices, ensuring that the documents are comprehensive, integrated, balanced, and community-based. There should be internal consistency between all land use policies and related strategies, ie between all land use categories.

3.1 Land Use Designations and the Zoning System

The Plan appears to fall between Options 4 and 5 of the Options Atlas [July 2004] i.e between the AConservation Emphasis Option@ and the AModerate Conservation Emphasis@ Option. However, the estimate of oil and gas development seems to be even less than that estimated by the economic model for Option 5 [i.e. 7 versus 12.6 billion cubic m]. DIAND recommends the Committee make reference to the various consultation options and situate the proposed Plan [Map 1: Working Draft Land Use Map] in reference to these options. This could readily be accommodated on page 10 at the end of the ALand Use Zones@ section. In the same paragraph, it is also recommended that the economic implications of the Plan should be addressed through the running of the AEconomic Development Assessment Model@. In the consultation phase, these were expressed as differences in GDP, expenditures in the Dehcho, unemployment in communities, tax revenue differences, etc. Therefore, it is suggested that these model results be described in relation to the Plan.

Also in the same section on page 10, a paragraph should be added explaining MAP 2: AComparison of Land Use Zones with Current Land Withdrawals@, and Map 3: AExisting Activities and Third-Party Interests@, pages 28 and 29 respectively. In this regard, the second paragraph on AZone

Objectives@ [pg. 10] needs to be expanded to clarify how the CZs will work operationally and be administered. The word Atemporary@ in the first sentence is confusing. Does this apply only to those portions of the CZs which will proceed through the PAS and related withdrawal process? If the CZs are in fact permanent designations which will give the Committee the discretionary authority and flexibility to open up some portions of them in the future for resource development, pursuant to the amendments to the Canada Mining Regulations [CMRs] being in place, then this should be clearly stated. This would also be consistent with the approved Gwich=in Land Use Plan.

It is assumed that the Committee will use the AEconomic Development Strategy@ [pgs. 46 & 47], primarily the EDA model, and cumulative effects analysis as important tools in exercising this discretionary authority for the benefit of those communities most affected. However, this overall approach should be very clearly stated and explained in full so that it is very clear that the CZs are not excised land withdrawals. [See also comments in section 3.5, pages 14 & 15 herein, on the AEconomic Development Strategy@.]

As a caveat to the above comments, DIAND is not entirely clear as to the use of CZs as a method to apply Afaster@ protection to areas proceeding through the Protected Areas Strategy [PAS]. Perhaps the use of the term Afaster@ should be replaced with a focus on Ainterim protection@ required to protect key areas while priority non-renewable resource assessment work is carried out. In cases where CZs coincide with advanced Candidate Protected Areas under the PAS or the area of interest for the proposed expansion of Nahanni National Park Reserve [NNPR], it should be articulated how the outcomes of the PAS and Mineral and Energy Resource Assessment processes will relate to amendments to the CZs during review of the Plan. [See also paragraph 1 in section 2.3 on page 8 herein.] In particular, the boundary decisions derived through the PAS process, or MERA in the case of the NNPR, should be duly integrated into revisions to the CZs during the Plan review process.

Table 5: Zone Descriptions, Objectives, Permitted Uses and Applicable Terms. Oil and gas activity is excluded from SMZs 19, 20, 25, 28 and 29 [pgs. 13 & 14]. A certain number of these areas lie close to communities in areas of low to moderate gas potential. Prohibiting oil and gas exploration in these areas lessens the opportunities for communities to benefit from local gas discoveries for community power generation and heating. As such, DIAND recommends that the Committee consider oil and gas exploration as a permitted activity in these SMZs.

How are the SMZs, with oil and gas, mineral, forestry and tourism as permitted uses, different than the General Use Zones? Are they separated by the need for cumulative effects management and the development of agriculture? As stated previously, cumulative effects management should be implemented throughout the Dehcho to foster sustainable economic and human development.

Table 5 and Map 1. The Pehdzeh Ki Deh Area of Interest, CZ1, is extensive and removes from oil and gas exploration an area with moderate potential, plus a larger area of low potential. These areas

east of the Mackenzie have the most promise for low level exploration activity around the community of Wrigley. This would be foregone by the CZ designation. For these and other reasons, it is vitally important that the Non-Renewable Resource Assessment [NRA] review of this area, a key part of the PAS planning process, closely examine the resource potential and related boundaries of this Area of Interest, with revisions made accordingly, including the proposed CZ designation.

With reference to the statement in Zone Objectives on page 10 that CZs will complement the PAS initiatives, there is some confusion regarding this complementary relationship. Is it the Committee's intention that the CZs will embrace and not duplicate the PAS Areas? If this is the case, then the Committee should consider making the statement unequivocal and inherent to the overall philosophy of the Plan by stating that CZs will complement the PAS planning process and elaborate on how this will actually work during implementation and administration of the Plan. Also, if watershed values and boundaries were important criteria in defining this CZ1 area, then this information needs to be included in the Zone Objectives column of Table 5.

In a similar vein, the Smbaa K'e/Redknife River Area of Interest [Trout Lake] CZ5 contains high gas potential values and is almost all rated as moderate. Some expansion to the area already withdrawn, as identified on Map 2, page 28, especially in the south, could have significant impact on prospects for development. Seismic work in this area, required to complete geological interpretations, could be entirely excluded within a CZ designation, whereas the interim withdrawal envisaged this activity as permissible over certain areas. For these and other reasons, it is vitally important that the NRA review of this area, a key part of the PAS planning process, closely examine the resource potential and related boundaries of this Area of Interest, with revisions made accordingly, including the proposed CZ designation.

3.2 Access Implications

One of the constraints of the CZs for the oil and gas industry is that they preclude the use of reconnaissance and speculative seismic activity. This precludes their ability to conduct regional seismic surveys and effectively isolates islands of the General Use Zones surrounded by the CZs which cannot be correlated without this seismic work. A similar concern applies to access across the CZs to conduct exploration and development work within the General Use Zones enclosed by CZs. For example, the development of a gas field would require the construction of a pipeline which may need to cross a CZ. The restrictions on all-weather road development are troubling as the Dehcho mineral potential is dominated by base metals which require such infrastructure.

The large amount of land that will be designated as Conservation Zones and Special Management Zones could have a direct impact on the issue of resource royalties. This is of some concern because once the Dehcho Process is completed, there is an understanding that there may be a Self-Government Agreement in place for the DCFN to have some control over lands and resources in

the Dehcho Territory. One of the priorities that will have to be reconciled between the Plan and a Final Agreement is how to generate enough revenue to run a Dehcho Government. Usually governments rely heavily on resource royalties and taxes to generate income to run various government programs. Given that only 27% of the land is designated as General Use Zones, with mining restricted to existing third-party rights, it does not appear that significant revenues will be derived from mineral and oil and gas development. Keeping the income generation issue in mind, the Committee should give consideration to allocating a larger area of the Territory for exploration activities.

3.3 Mineral Information

Concerning the definition for Mining on page ii, it appears to have been copied verbatim from the Canada Mining Regulations [CMRs]. This definition does not include Coal Exploration or Dredging, both of which have their own governing legislation - the Coal Regulations and The Territorial Dredging Regulations. Up until recently, there has been no interest in this area. However, this month the Mining Recorder's Office of DIAND received applications for Coal Licences, 2 of which fall within the Dehcho. Perhaps something should be added to the Plan to include rights that could be granted under these two pieces of legislation.

3.4 Oil & Gas Information

Table 6: Resource and Conservation Values Present in Zones. On page 16, it is interesting to note that of 19 named zones where oil and gas is of moderate to very high resource potential, in only 4 of these is the land use permitted. This is only 21% of the zones, compared with 26% for mining and 33% for forestry. On the basis of the Drummond report, it appears that about 60% of oil and gas potential in terms of volume fall within the current land withdrawals and Candidate Protected Areas. This raises the question of achieving a balance between conservation and development, and whether the amount of exclusion can ensure a viable petroleum industry in the Dehcho.

Map 5: Oil and Gas. On page 32, in the caption below the specific map entitled "Potential as per Research", it should be clarified how the Committee rated grid cells as very high, high, or moderate potential. While it is true that as Drummond states, the Liard Plateau area is the most prospective for undiscovered natural gas, his maps assigned numbers (remaining recoverable gas resource) to grid cells based on a probabilistic distribution of an estimated amount over a gridded play area. His estimates were for the entire play area, while the values given to the gridded cells were apparently done through a computer program.

The Committee should explain how the threshold values were defined in order to map very high, high, moderate, or low potential. Also, the last sentence in the same caption is unclear and needs to be expanded. Although the Committee acknowledges the high potential in the Trout Lake area, they

also seem to be downplaying it at the same time.

The map representing oil and gas potential presents a view of current understanding B it is conventional wisdom. Exploration activity may find significant resources elsewhere, outside areas of moderate to high potential, which could be of value to the communities. Restrictions on exploration work mean that such potential can never be realized. DIAND therefore suggests that the Committee add a footnote to the map pointing out that Awe don=t know what we don=t know@ in regards to the actual distribution of oil and gas potential.

The figure of 16 wells is extremely modest and apparently less than activity levels observed in the Fort Liard area in the period 1994-2004. This level of oil and gas activity may not support sustained employment or business development in the Dehcho communities. [See also comments in section 3.1 on page 10 herein regarding the recommendation that the economic implications of the Plan be addressed through the running of the EDA model.]

Map 3: Existing Activities and Third-Party Interests. This is a very busy map. The legend lists oil and gas occurrences [not clear whether these are wells with shows, or surface seeps]; oil and gas wells; and well activity, which graphically are difficult to locate. The legend should be revised including the use of more legible symbols. The inclusion of the AHuman Disturbance@ layer, particularly the seismic lines on the map, creates problems of legibility. As this layer is neither an existing activity nor a third-party interest, but is more a view of historical presence, it is suggested that it be removed from this map and presented on a separate map, perhaps in combination with community trapline information.

3.5 Overall Plan Scope & Format

In the next iteration of the planning process, the Revised Draft Plan should be written as if it were the final Plan. Accordingly, there are a number of sections that don't seem to belong in the main part of the Plan that would be more appropriately located in the Appendices. For example, the majority of the Introduction section on page 1, beginning with AHistory and Milestones...@ up to and including the AConsiderations@ on page 6 could go in an Appendix, and some of the sections pertaining to the Regional Forum may disappear altogether, along with the Regional Forum Logistics section on pages 48 to 51.

Also in this regard, the ANext Steps@ sub-section on pages 6 and 7 should be retained and updated, including a reference to the IMA regarding the protocol for Plan approval as follows: AFollowing approval by the Deh Cho First Nations, the Plan will be forwarded to the GNWT Minister of Resources, Wildlife and Economic Development for approval and the Minister of Indian and Northern Affairs Canada [DIAND] for consideration.@

In that the section on the AEconomic Development Assessment Model@ on pages 37 and 38

primarily provides supporting and background information, it too could readily be moved to an Appendix. As an interesting option to this suggestion would be to put abbreviated versions of the 3 sub-sections on 'Oil & Gas Revisions', 'Mining Revisions' and the 'Forestry Revisions' on the three corresponding Maps 5, 6, and 7 respectively.

The section on the 'Working Draft Policy Recommendations' on pages 39 to 47 could also be placed in an Appendix, with several important qualifications. In the very first paragraph on page 39, reference is made to the important identification of issues which are not readily addressed through the land use zones or the related mandatory terms. However, in the last sentence of this paragraph, the onus is placed on 'Regulatory Authorities, Developers, communities and governments to review these recommendations, identify actions within their mandates and implement them.' Buried within the nine pages of this section, there are select statements and sentences with verb phrases such as: 'The Committee recommends', 'departments should establish', 'Businesses are encouraged', 'The Committee urges', 'Businesses and governments should strive to'. Accordingly, it is suggested that the Committee give more thought to prioritizing and more explicitly wording those key policy statements it feels are the minimums for application by all interests in the Dehcho, and then extracting or summarizing them in a new section further up front in the Plan to give them the prominence they would deserve. In fact, the sub-section on 'Agricultural Practices' [pgs.45 & 46] could be grouped with Map 9 'Agriculture'.

Similarly, the wording in the 'Economic Development Strategy' sub-section on pages 46 and 47 could be tightened up and framed in terms of how the EDA model would be used during implementation of the approved Plan by the Committee, including conformity review. In the first paragraph of this sub-section, last sentence, with reference to 'user', DIAND suggests that the main user of the model would be the Committee, assuming that the proposed amendments to the Canadian Mining Regulations proceed.

3.6 Plan Implementation, Monitoring & Review

A new chapter needs to be included in the Revised Draft Plan to begin defining procedures and strategies for implementation, monitoring and review of the Plan. This new chapter on implementation must address the on-going role of the Committee, including the determination of conformity, taking into consideration the roles and responsibilities of Regulatory Authorities. It is important to note that conformity covers more scope than assessing proposed development projects. The Committee should explain what tools in the Plan will be used by the Committee in determining conformity, and consider showing the process in diagram form along the lines as that contained in the approved 'In Land Use Plan'. In this working draft Plan, it appears that the following tools could be used for determining conformity: Map 1, Table 5, Table 7, Table 8, Table 9, and perhaps some re-worked portions of the 'Working Draft Policy Recommendations' section on pages 39 to 47. Table 6 appears to be primarily for cross-reference information purposes.

Is Table 8 meant to provide the additional thresholds in the SMZs that land users will have to meet and for the Committee to use for determining conformity?

The new chapter should include reference to 'Phase IV - Plan Implementation' of the IMA Appendix II - Draft Guidelines for the Development of a Deh Cho Land Use Plan, specifically the only two articles contained therein:

- A24. Following consideration and Plan approval, the Planning Committee will monitor land use in the Deh Cho territory for conformity to the Plan.
25. Following the signing of a Deh Cho Final Agreement, the land use plan will be revised and updated to reflect the provisions of the Final Agreement.

In this regard, some groundwork could be laid now in anticipation of possible governance structures coming out of the Dehcho Final Agreement with regard to the integrated management of land and water resources, including people as inherent to the total environment. Also relevant to this new chapter would be a section fully explaining how the approved Plan will revise and replace the current land withdrawals, noted at the top of page v and twice on page 8 of the Plan.

Other important sections to be addressed in this chapter include the Committee's protocols [steps, terms and rules] for granting 'Exceptions to the Plan' and for granting 'Amendments to the Plan'.

A final section in this chapter should be devoted to 'Comprehensive Reviews of the Plan'. A formal review is normally carried out every five years, so a framework is required to guide this important aspect of the continuing cycle of the land use planning process, and is inherent to gauging the success of the Plan over time.

4.0 Editorial Comments & Questions [by page number]

In the Revised Draft Plan, for the ease of reference purposes by reviewers of the Plan, all the main sections of the Plan should be titled specifically as Chapters, so for example the 'Land Use Zones' section on page 10 would now become Chapter 3. The sub-section on 'Zone Objectives' within it would be numbered 3.1, and so on. Also for ease of navigating the document, on all the fold-out maps, the map number should be placed at the top of the flap just above the title in bold, eg. **Map 1**.

Table Of Contents: Add the above-referenced chapter and numbering notation, and also include the Figures.

Page iii: First para. A including crude bitumen but including condensate@ B this may be a typo.

Pages iv & v: AExecutive Summary@ - Explain that the Plan will apply to all lands outside of municipal boundaries; there is no reference/explanation of Table 8 and Table 9, which should be inserted right after the paragraph on Table 7.

Page 1: The reasons for the termination of the Northern Land Use Planning Program in 1991 was due to funding cuts and the difficulties encountered by the Denendeh Regional Land Use Planning Commission were due to structural and political problems. It is not accurate to place the blame on poor research, which was the best that the community-based program could produce at the time.

Page 8: APlanning Process@ - The last paragraph on issues should also reference the issue-based section AWorking Draft Policy Recommendations@, pgs. 39-47.

Page 9: Figure 1 - The plus and minus signs are pivotal to understanding and appreciating the mathematics behind the Committee=s overall approach, so they should be graphically highlighted so that they stand out more than shown; the use of the word APreliminary@ in the CZ and the SMZ boxes is understood, but the word AFirst@ should be used in the Working Draft box so as to be consistent with the Committee=s covering distribution letter and other references in the Plan.

Page 10: ALand Use Zones@ - Explain that the Plan will apply to all lands outside of municipal boundaries.

DIAND recommends that a GIS analysis be carried out and presented in the Plan which addresses the total oil and gas resource potential value for the areas given in the Drummond study, which fall within the CZs and the SMZs. This figure could be included in the economic implications of the Plan to be added at the end of the Land Use Zones section on page 10.

Page 11: Map1 [and all maps in the Plan] - Pehdzeh Ki Deh is an AArea of Interest@, not a ACandidate Protected Area@, notwithstanding Wrigley=s BCR. Candidate Protected Areas come into play only at Step 3 of the PAS. Also, Samba K=e is an AArea of Interest@ through the PAS and should be reflected throughout the Plan. Add the % figures from Table 4 [pg.10] to the map legend in brackets opposite the CZ, SMZ, SIC, and GUZ designations. Are the trails on Map 1 permanent and in current use?

Pages 12 to 14: Table 5 - Consideration should be given to including a column in Table 5 under APermitted Uses@ that include Renewable Energy Sources. In the ADefinitions@ section on page iii, the ARun of the River Hydroelectric Development@ definition is included, but this concept is not mentioned anywhere else in the Plan. In the right-hand columns for the PAS heading, it should state "PAS Planning Process", not "Protected Area Candidate Site", as this term is not used under the PAS and not all sites are Candidate Areas. This should be changed on all applicable Tables

throughout the document. The 'Upper Mackenzie', CZ10 should say portion of Mills Lake [other portion in Edehzhie].

Page 15 & 16: Table 6 - How were the values under the right-hand column 'Presence of Important Wildlife Areas or Conservation Values' chosen?

It would also be helpful if the General Use Zones on Map 1 were numbered and included in Table 6 to indicate their corresponding resource values. Finally on this Table, for the column showing the 'Presence of Moderate to Very High Resource Potential', if a resource or conservation value is present in only part of the area, that this partial presence could be indicated with the use of a smaller size tick-mark.

In comparing Table 6 with Map 5: 'Oil and Gas' on page 32, it appears from the 'Potential as per Research' map that SMZ24 has low oil and gas potential. If this is the case, then the tick-mark in the oil and gas column on page 16 should be deleted.

Pages 17 - 23: Table 7 - Consider grouping similar terms together logically in the overall sequence of this Table, eg 'Access Planning' could be grouped with 'Community Infrastructure', and 'Non-Consumptive Tourism' could be grouped with 'Tourism Guidelines', 'Sport Fishing', 'Lake Tourism' and 'Visitor Quotas', etc. The Table is not related to definitions but actions with respect to developers, regulatory authorities etc. - may want to rename it to better reflect the objective of the Table, such as "Specific Directions or Actions Required under the Land Use Plan". Noise Management is not addressed - is this an issue?

Also on Table 7, regarding the fourth row on Protection of Significant Cultural and Traditional Use Sites, expand the last sentence to add 'within the impact area of their proposed development project'. On page 20, third row on 'Commercial Fishing', the wording is confusing - 'only permit commercial fishing on all lakes except Great Slave Lake' - is this what the Committee wanted to say?

The terms 'Traditional Knowledge' [pg 17] and 'viewshed' [pg 18] from table 7 should be added to the Definitions section, as should the terms 'Ecosystem', 'Environment' [holistic sense consistent with 'land' [pg. ii] including ecological, economic, social & cultural human systems], 'Renewable', and 'Sustainable'. Where definitions have been used from other sources, these should be referenced, perhaps putting the sources in brackets after each definition.

Page 24: Table 8 - Following the title, in brackets put the following important qualifier: 'Applies to all Special management Zones and General Use Zones'.

Pages 24 & 25: Table 8 - Descriptions should be given for the threshold terms [critical, target, cautionary, moderate, high habitat capability etc.] to provide clearer direction for conformity. The

A Minimum Core Area indicator at the bottom of page 24 is confusing - is it a minimum area required or large/medium core area, and are these a form of conservation zone within the SMZs? How will source areas be differentiated and by whom? Wouldn't the A Minimum Patch Size indicator on page 25 be incorporated into core areas since they covers home range?

Page 26: Table 9 - Following the title, in brackets add the important qualifier: A Applies Dehcho-Wide.

Page 28: Map 2 - A Comparison of Land Use Zones with Current Land Withdrawals is difficult to read. It would be helpful to state what the total area of the current land withdrawal is and the comparable figure after the proposed changes. For example, it would be helpful to match Table 4 on page 10 with Map 2 and add an extra column to the Table to show the land total changes. As well, does Table 4 show current withdrawals or the totals for the proposed amendments in this working draft?

Page 29: Map 3 - The legend is missing the notation of green dots for A Area of Interest, PAS/Nahanni Park Expansion as shown on Maps 1 and 2. Coates Lake [bottom of legend] is not a mine site. It may have been used in the Committee's economic modelling, but its not a mine.

Page 30: A Land Use Summaries - Following this title, put in brackets the following: A Maps 4, 5, 6, 7, 8, & 9". Make reference to Map 4 in the second paragraph, and to Maps 5 through 9 in the third paragraph.

Page 31: Map 4 - The two paragraphs in the caption below the A Conservation Intersect map are confusing when read in conjunction with the all-important Figure 1 on page 9, and so should be clarified and expanded. This becomes evident when putting a plus sign between the A Traditional Land Use map and the A Critical Wildlife Areas map, and then an equals sign between that map and the A Conservation Intersect map as one is tempted to do.

Pages 30 & 31: Land Use Summaries and Map 4 - The use of the word A constraint could have negative connotations. The layers on Map 4 represent opportunities in terms of conservation and protection of the highest priority values in the Dehcho, and are considered constraints only when assessed in terms of development. Maybe Map 4 should be entitled A Opportunity and Constraint Layers.

Page 32: Map 5: Oil and Gas - centre map - how will proponents' development proposals be handled in areas where communities have differing views on this type of development?

It should be noted that the A Potential as per Research map represents gas potential, rather than oil and gas potential. The oil potential was presented in a separate map in the Drummond report. This should be explained in the caption or presented on an additional map. The highest potential for oil

is actually in the south to south-east corner of the Dehcho, i.e. it doesn't coincide with the gas potential distribution.

On the [Results of Community Mapping](#) map, the area around Fort Liard is not given one of the 3 colours, nor is the area north of Hay River. These gaps should be filled in or explained.

Page 35: Map 8 - In the [Potential as per Research](#) map, the low values for [Non-Consumptive Tourism](#) in the Blackwater Lake area around Wrigley is surprising given the exceptional scenic and dramatic landscape features of the area. (Appropriate value judgement?)

Page 36: Map 9: Agriculture, centre caption - not sure that potato farming is an environmentally friendly alternative. COMMENT: Potato farming is a bona fide amerindian subsistence activity: last time there was global warming in the Deh Cho I >m expect they lived off french fries.

Page 37 & 38: Economic Development Assessment Model. In the Oil & Gas Revisions sub-section on page 37, the second paragraph is unclear in the reference to [a better](#) - better than what, an earlier version of the EDA model?

In the third paragraph of the same sub-section, is the assumption of 16 wells the level of development that was plugged into the economic model? It appears the figure of 4.5% of ultimate recoverable gas is a rather low target, it's not clear what the production >period= is, and is this low level of activity because the community of Trout Lake wants to limit and manage development? It should therefore be clearer how the figure of 16 wells was derived, presumably through some combination of the Drummond report and the EDA model. It is not clear whether this is the prediction for oil and gas drilling activity and production generated by the model or the level of protection proposed in the Plan. Either way, how does this fit with the concluding sentence about the majority of wells being in the Trout Lake region, given the coverage of CZ5 and the SMZs in this area? Also, the use of the word [a majority](#) is confusing - is this of new wells?