



Athabasca Denesuline Né Né Land Corporation

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Nunavut Planning Commission
P. O. Box 1797
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Sent via e-mail: submissions@nunavut.ca

RE: 2021 Draft Nunavut Land Use Plan Final Comments

Dear Nunavut Planning Commission Members:

We are writing to provide further comments in response to the 2021 Draft Nunavut Land Use Plan and the Public Hearings that took place in the fall of 2022. We ask that you take a moment to refer to our submission from October 8, 2021 for background on the Athabasca Denesuline and our comments on the plan, as those points still stand and we will not reiterate them here.

Key background information from our October, 2021 submission include:

- The Athabasca Denesuline (AD) comprise the Fond-du-Lac, Black Lake, and Hatchet Lake Denesuline Nations, whose present-day communities are located in Northern Saskatchewan and whose lands since time immemorial, Nuhenéne, extend into what are now known as Northwest Territories and Nunavut. See map of AD use and values attached in the October 2021 submission
- Barren-ground caribou are the life-blood of our people and the foundation of our culture and way of life. Recent and ongoing declines across caribou herds have already been felt

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by our people and have made harvest challenging as caribou ranges have shrunk as population sizes decrease.

- Any land use that impacts the long-term health of the barren-ground caribou populations will have a large and intergenerational impact on our people, culture, and way of life, as well as our established and asserted rights.

Specific Comments and Recommendations

1. Limited-Use Designation for the proposed Kivalliq Hydro-Fibre Link corridor.

At this stage, we believe that it is too early to include a land use designation for the Hydro-Fibre Link. The 2021 Draft Nunavut Land Use Plan has a Limited Use designation for the corridor that passes through critical calving and post-calving grounds for the Qamanirjuak herd. Our Denesūliné Knowledge, along with the knowledge and experience of our harvesters and land users, teaches us that this type of infrastructure adversely impacts caribou and may cause them to avoid the area in addition to creating barriers to movements and increased stress/decreased well-being. The current proposed route of the Hydro-Fibre Link leaves us deeply concerned for the future of the Qamanirjuak herd and our future generations and way of life that largely depends on the Qamanirjuak herd.

Significantly, there has yet to be any dedicated consultation on the Hydro-Fibre Link proposal, including discussions around less potentially harmful alternatives, such as alternative routes, as well as accommodations in the event of adverse project-related impacts on Aboriginal rights and interests. Before a route is selected and approved in the Plan, more information about potential impacts, risks, and alternative options needs to be presented and understood. And equally as important, meaningful consultation needs to happen before a route is selected and given a designation within the Plan.

When our community members see this Limited Use designation already written into the Draft Nunavut Land Use Plan, it tells us that consultation cannot and will not be meaningful as the decision has already been made. We have been assured in early dialogue with the Intergroup Consultants Ltd., the group engaging on behalf of the project, that meaningful consultation on the Kivalliq Hydro-Fibre Link proposal will take place to ensure that concerns about the location of the route and the great potential to cause an adverse impact to the Qamanirjuak herd will be taken seriously, and to that end we recommend that the current proposed route be removed from the land use plan until such a time when consultation has happened.

Recommendation

We recommend that at this time the Kivalliq Hydro-Fibre Link should not be given a land use designation in the Nunavut Land Use Plan, and that it be included only at a future date once consultation on the project has been completed. It is too early to include a land use designation for the proposed Kivalliq Hydro-Fibre Link, given that no consultation on the proposal has taken

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place to date, and retaining the Limited Use designation in the Nunavut Land Use Plan would seriously undermine any future consultation processes.

2. Clarity on Appendix A: There is still no clarity regarding which existing mineral rights will be grandfathered in and how much of the existing protections would be removed.

We strongly support the full protection of caribou calving and post-calving grounds, and other critical habitat including access corridors and water crossings, through the use of Limited Use designations. Section 3.3 in our October 2021 submission provides more detail on our support for these protections and their importance. We applaud this increased protection in the 2021 Draft Nunavut Land Use Plan, and encourage the Nunavut Planning Commission to keep these protections in place.

We have serious concerns, however, regarding the potential for exemptions being made for pre-existing mineral dispositions, given the significant impacts that any such exemptions may have – both individually and cumulatively – on the size and integrity of the Plan’s protections for critical habitat. Troublingly, at the public hearings last fall and notwithstanding concerns raised by a number of participants, the Nunavut Planning Commission declined to provide a clear answer on whether and how updates may be made to the “Appendix A” list of existing rights.

As our members stated strongly and clearly in our September 2022 presentation at the public hearings in Thompson, Manitoba, our Denesųliné Knowledge has taught us that the calving grounds are sacred places that should not be disturbed. While the 2021 Draft Nunavut Land Use Plan contains important protections *in theory*, the strength of those protections *in practice* will depend on how the Commission approaches the question of existing rights.

There is an incredible opportunity here to prevent incompatible land uses from taking place in the most sacred and critical caribou habitat through the Limited Use designations, and we ask that this opportunity not be wasted.

Recommendations

Until we know which rights will be exempted under “Appendix A,” we will not have sufficient information to understand how these exemptions may impact the protections for critical caribou habitat – and hence how they may impact our constitutionally protected rights. We therefore require more clarity on which existing dispositions will be included in the final “Appendix A” list, the definition of existing rights, and the process and timeline to determine which projects will be included on the list.

We recommend that no projects move forward within the calving and post-calving grounds and that Limited Use designations for critical caribou habitat remain intact and not be reduced by further “Appendix A” exemptions.

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3. Response to comments that mobile measures can replace habitat protection.

We strongly disagree with the assertion by a number of parties at the hearings and in their comments that mobile protection measures are enough to protect caribou in critical habitat, such as calving and post-calving grounds, and can replace the habitat protections created by Limited Use designations. We agree that a suite of tools for protection and conservation must be employed in a dynamic landscape, but habitat protection is an essential tool that absolutely cannot be replaced. Mobile protection measures are an important part of mitigating the impact of certain activities and developments; however, these measures do not and cannot completely eliminate the impact of human infrastructure on the landscape and are meant to be used in combination with habitat protection, not instead of habitat protection.

Further, it seems that a number of parties are using the existence of mobile protection measures within the Bathurst Caribou Range Plan to suggest that these measures can replace Limited Use designations. The Athabasca Denesų́liné are part of the Bathurst Caribou Advisory Committee and, only speaking for ourselves, can state that we strongly disagree with this interpretation. The Bathurst Herd has drastically declined in the last two decades and exploration and development activities throughout their range have likely played an important role in that decline. To date, the herd continues to decline with the most recent surveys showing the last population estimate in 2021 to be 6,200.

The implementation and use of mobile protection measures are and will be an important part of the action plan for the recovery of the herd. However, we assert that preventing the cumulative impacts of developments in the first place would be the most important action that could be taken. The opportunity to go back in time does not exist for the Bathurst herd, and the communities that traditionally relied on that herd are suffering the realities of no longer being able to continue traditional harvesting activities.

Protecting critical caribou habitat now may be the difference that prevents the Beverly and Qamanirjuak herds from following in the footsteps of the Bathurst herd. Mobile protection measures are not enough to safeguard against such a devastating population decline and the resulting devastating impacts to our communities and our ways of life.

It is worth reiterating that our Denesų́liné Knowledge, as well as our long experience with caribou, teach us that development and infrastructure associated with mineral exploration and extraction are not compatible with critical caribou habitat such as the calving and post-calving grounds. These locations need to be respected and protected. The land use plan that designates these areas as such is the best way to protect them and ensure the long-term health of the barren-ground caribou herds. In turn, it is also the best way to protect our culture and way of life as people who depend on those herds.

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4. Athabasca Denesųliné concerns with the consultation process itself.

It is also important for us to touch on challenges and limitations we experienced with the consultation process for the 2021 Draft Nunavut Land Use Plan. Most significantly, the lack of community hearings and information sessions made it more difficult for us to participate fully in the process. We are concerned that this lack resulted from the Commission's failure, as repeated throughout the hearing process, to recognize the Athabasca Denesųliné and the Ghotelnene K'odtįneh Dene as distinct groups. As a result, we were not offered in-person information sessions for the 2021 Draft Nunavut Land Use Plan or public hearings in our own communities, but instead had to travel to Manitoba to participate.

While we acknowledge the challenges of transboundary consultations over such a large area, we want to stress that it is very important for information to be shared in our communities, and that having to travel reduces the ability of our members to learn about the Plan and the opportunities for members to provide important feedback. When travelling, fewer people are able to take part in the process.

5. Further Consultation Necessary

Finally, we would like to reiterate the need for further consultation on the Nunavut Land Use Plan after it is finalized by the Commission but before it is approved by the Governments of Canada and Nunavut and the appropriate designated Inuit Organization. As explained elsewhere in these comments as well as by other parties at the public hearings, the 2021 Draft Nunavut Land Use Plan contains a number of significant gaps and uncertainties (such as with respect to existing rights) on which we have not had a meaningful chance to comment. It is essential that we receive further and meaningful opportunities for comment, including appropriate funding, once the Plan is finalized.

Recommendations

At this time, there is a lack of clarity on the process and timelines for consultation on the finalized Plan. When that consultation process happens, we will require sufficient funding for thorough technical analysis of the Plan, as well as adequate resources and an opportunity for information to be shared in our communities.

In conclusion, we would like to recognize that these conversations are complex and that some parties may oppose the protections that we are supporting, such as the protection of caribou calving grounds. We acknowledge and honour these complexities and the interests of those with other views and interests. We strongly support the protection of critical caribou habitat through the use of Limited Use designations described in the 2021 Draft Nunavut Land Use Plan. Protecting the critical caribou habitat now through Limited Use designations gives us the opportunity to continue these complex conversations and find creative solutions while ensuring that caribou populations are here for our future generations, however, if projects were to move

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forward in these critical locations irreversibly degrading or altogether eliminating critical habitat, future options become limited.

Thank you for the opportunity to comment.

Sincerely,



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