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Larry Wallace, Chair  
Sahtú Land and Water Board  
PO Box 1, Fort Good Hope, NT X0E 0H0  
Phone (867) 598-2413

***Delivered via email***

July-7-13

***RE: Husky Oil Land Use Permit S13A-002 and Water License S13L1-005, Exploration License Blocks 462 & 463***

Dear Mr. Wallace:

The ᑭᑲᑲᑯᑯ ᑲᑯᑲᑲᑲᑲ ᑲᑯᑲᑲᑲᑲ (Sahtú Renewable Resources Board, “the Board”) has reviewed Husky Oil Operations’ Land Use Permit and Water License Applications based on its mandated responsibilities under the Sahtú Dene and Métis Comprehensive Land Claim Agreement, and has also received some input from Tulít’a harvesters which has been incorporated into this letter.

The Board and some Tulít’a harvesters have significant concerns about the proposed timing of this exploratory drilling project (August to end of October). In order to adequately mitigate the impacts of such a project on the landscape and to sensitive wildlife, the best practice would be to conduct the program during winter frozen ground conditions. At the very least, the program should not be conducted during fall rutting season (for moose and caribou) or spring calving season.

Construction of all-weather access roads and well pads will create irreversible changes to the wetlands and hydrology of the area. In addition, as Husky acknowledges within its application,<sup>1</sup> drilling during the fall season will likely cause long-term disturbance to numerous important wildlife species. Given that this project is in the exploratory stage, it is unclear whether there

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<sup>1</sup> See p.109 of the *Environmental Protection Plan* (Appendix 1): “Long-term disruption of caribou for the duration of the program construction and lifespan of the roads and wells might occur both within the immediate program area, and in adjacent habitat. It is expected that because of the stimuli associated with this activity, the immediately affected area may not be used by caribou for the duration, and use of the adjacent habitat may also be reduced while the roads and well infrastructure is present...” See below for more details.

will be long term requirements for infrastructure on the lease. It is also important to note that the proposed timing is not essential to achieve the objective of evaluating the reservoir potential of this lease. This is especially important given the potential long-term impacts to wildlife of operating during seasonally sensitive windows.

The Board believes strongly that the precautionary principle should be used. ‘Sacrifice zones’ (where areas become a write-off in terms of ecological integrity or habitat for certain species) are unacceptable as a consequence of exploration, given the ongoing importance of the traditional economy to current and future generations, as compared to the uncertain future of oil and gas operations.

Therefore, **the Board’s main recommendation is that the program should be conducted during the wintertime under frozen ground conditions.**

The Board has the following specific concerns:

#### **1. Disturbance to boreal caribou and moose**

According to Table 4-2, lease and access clearing and well pad construction is scheduled to begin in early August, and drilling is to take place from September until the end of October. This coincides with the rutting season for boreal caribou and moose.

Boreal caribou and moose are important harvested species to local communities, and an integral part of the local traditional economy. Boreal woodland caribou are also listed as a *Sensitive* species in the NWT and are listed as *Threatened* under the federal *Species At Risk Act*.

In Appendix 1C, the third map appears to show that Husky’s exploration blocks EL 462 and 463 do not contain winter caribou habitat. However, this is contradicted by other evidence presented within the application that boreal caribou are in fact present within the lease areas:

“A group of 15 caribou were observed along the boundary between Husky EL463 and ConocoPhillips EL470 during field surveys. A group of eight were also reported along the south leg of the Husky access road (Raina, 2013). Another group of 3 individuals were observed immediately south of the winter road, which is located southeast of the proposed project.”<sup>2</sup>

Our preliminary engagement with Tulit’a harvesters indicates that boreal caribou move away from the proposed area of activity during the fall (this needs to be verified through a thorough traditional knowledge study as noted in item 5 below). No scientific studies of boreal caribou have yet been conducted within Husky’s lease areas during the fall period, and there is

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<sup>2</sup> *Environmental Protection Plan* (Appendix 1), p. 70.

no documented scientific evidence to suggest that boreal caribou vacate the area during that time. There remains a risk that the fall drilling program may disrupt boreal caribou rutting.

The Board is of the view that proposed mitigation measures are unlikely to be effective. Husky proposes to suspend operations when “specific caribou cohorts (age/sex) are spotted within 500m of any project component,”<sup>3</sup> but does not propose any specific methods for systematically monitoring caribou within a 500 metre radius of all project components. A speed limit of 30 km/hr is to be followed *once caribou are observed*; however, disturbance would have already occurred by the time any caribou are observed from a moving vehicle. As Husky admits, it is unlikely that project activities will coincide with continued caribou activity in the area; caribou will more likely move out of the area as a result of the disturbance.<sup>4</sup>

The Board is concerned that the lease areas are becoming ‘sacrifice zones’ and simply written off with regard to boreal caribou habitat. According to Husky’s cumulative impact analysis:

“Long-term disruption of caribou for the duration of the program construction and lifespan of the roads and wells might occur both within the immediate program area, and in adjacent habitat. It is expected that because of the stimuli associated with this activity, the immediately affected area may not be used by caribou for the duration, and use of the adjacent habitat may also be reduced while the roads and well infrastructure is present... longer term contributions to the cumulative effects on caribou are more likely to result from the creation of linear corridors, on-going and all-weather use of the roads, and associated increased predation and hunting pressure. Woodland caribou have a low reproductive rate, which makes them particularly sensitive to human activities. A small change in the rate of survival can cause population decline (Antoniuk, et al., 2009).”<sup>5</sup>

To mitigate long-term impacts in the future, Husky is proposing to conduct “a baseline wildlife assessment that includes modelling caribou habitat suitability across their exploration leases. ...mitigation in future submissions will include avoiding or limiting activity in high quality caribou habitat during sensitive periods.”<sup>6</sup> In order for this modelling exercise to be effective, it should be done *before* Husky builds its all-weather access road and all-weather well pads, and certainly before it conducts further seismic exploration. Otherwise, Husky may well ensure the unsuitability of much of its lease areas as habitat for boreal caribou, through linear and sensory disturbance, before it even manages to finish its suitability assessment.

Moose are an important harvested species for the local traditional economy, and the area has very good moose habitat, with plenty of willows. The application states that moose are found

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<sup>3</sup> Additional information to application submitted by Husky, June 11, 2013, p. 3.

<sup>4</sup> Ibid; and *Environmental Protection Plan* (Appendix 1), p. 109.

<sup>5</sup> *Environmental Protection Plan*, p.109.

<sup>6</sup> *Additional Information*, p.3.

throughout EL462 and EL463; some of the highest moose densities in the Sahtú Region are found within the Regional Study Area, including the Three Day Lake area which is adjacent to EL 463.<sup>7</sup>

While moose can use cleared areas for habitat, they are likely to be affected by noise and traffic, particularly during the rutting season. According to Tulít'a harvesters, when bulls are rutting in fall (end of August to late October) they'll run toward sources of noise. They could easily be hit by traffic on the road, and they could also be a danger to people on site who might be charged by the bulls. The stress on bulls could ruin the animals' health (which affects the flavour of the meat). Tulít'a harvesters stress that it is important to protect bull moose from harm during the rut. Husky itself acknowledges that "long-term negative impacts on the local moose population may result from the additive effects of continued use, future development, and hunting pressure."<sup>8</sup> Husky does not propose any specific mitigation measures for impacts to moose, aside from speed limits.

**The most effective mitigation measure regarding impacts to boreal caribou and moose would be to conduct the program activities outside fall rutting and spring calving seasons.**

## 2. Disturbance to furbearing animals

Husky's program has the strong potential to disturb furbearers such as the wolverine, grizzly bear, and black bear, which are all important to traditional economy and culture. Wolverine and grizzly bear are both listed as *Sensitive* species in the NWT and are rated by COSEWIC as of *Special Concern*.

Husky states that "[w]olverines have been observed in the project area, likely den nearby, and generally occur in low densities, indicating a particular sensitivity of potential local population effects to project activity."<sup>9</sup> Acknowledging that it will be very difficult to find and avoid dens, Husky states that "wolverine den sites are very rarely observed... Increased human activity in the program area will likely result in the avoidance of the area by wolverines due to a general decrease in habitat suitability from increases in stimuli...Although mitigations will be implemented, their effectiveness will be limited..."<sup>10</sup>

The timing of the program will likely disturb wolverines and bears as they are choosing their den sites in late October, and cause them to move away from the area.<sup>11</sup>

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<sup>7</sup> *Environmental Protection Plan*, p. 65-66.

<sup>8</sup> *Environmental Protection Plan*, p. 108.

<sup>9</sup> *Environmental Protection Plan*, p. 73.

<sup>10</sup> *Environmental Protection Plan*, p. 73.

<sup>11</sup> See, for example, p. 111 of the *Environmental Protection Plan*: "[grizzly bears] have been shown to select or abandon their dens in response to activity."

### 3. Irreversible destruction of wetlands

It is widely recognized that wetlands provide many essential functions important to both local ecosystems and the global climate—they act as a water filtration and purification system; they support unique communities of wildlife and plants; and they act as a carbon sink..

In order to construct two all-weather well pads, Husky is proposing to spread approximately 80,000 cubic metres of total fill, at 1 metre thick, across the lease area. This essentially means they are planning to turn 80,000 square metres of wetland into an upland area. This change will be irreversible; the fill cannot be removed at the end of the program. While the exact composition of the fill is unclear at this time, the addition of new gravel or soil will inevitably change the soil and water chemistry of the lease and surrounding areas.

It is difficult to understand how Husky can claim that “the program is not expected to directly affect wetlands”.<sup>12</sup> Husky does acknowledge that there will be long-term impacts on soils and permafrost, and that there is not much they can do to mitigate those impacts.<sup>13</sup>

While the Sahtú Land and Water Board has included conditions related to reclamation within Husky’s land use permit for the all-weather road—requiring Husky to facilitate natural revegetation and reshape the landscape to a pre-construction profile—it is important to understand that once a wetland area is changed into an upland area, the area will never host the same kind of vegetation or habitat as before. The Board urges the Sahtú Land and Water Board to work towards the development of minimum NWT standards for reclamation of oil and gas related projects as a matter of urgency.

### 4. Disturbance to fish and aquatic life

Husky claims that “the program is not expected to directly affect... fish, waterfowl, or overwintering sites for amphibians.”<sup>14</sup> While there are no “distinct water features” within 200 metres of either proposed wellsite, the destruction to wetland within the well pad areas and the changes to water chemistry in surrounding areas would likely have some impact on fish and other aquatic life.

Husky has not yet conducted any baseline fish population assessments, since its planned program in September 2012 was cancelled due to dangerous water conditions. If all-weather well pad construction is allowed to go ahead, then fish surveys planned for the summer of 2013 (four stream reaches and associated lakes) should be redesigned to ensure that potential impacts on fish-bearing water bodies surrounding the well pad areas are assessed.

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<sup>12</sup> *Environmental Protection Plan*, p. 113.

<sup>13</sup> *Environmental Protection Plan*, p. 115.

<sup>14</sup> *Environmental Protection Plan*, p. 113.

**The most effective mitigation measure regarding impacts to wetlands, fish and aquatic life would be to conduct the program activities during wintertime under frozen ground conditions.**

#### **5. Traditional Ecological Knowledge (TEK) Study**

As the Tulít'a ʔehdzo Got'ıneę (Renewable Resource Council) pointed out in its previous submission regarding the all-weather road application and in subsequent meetings with Husky, the TEK study completed to date only included traditional ecological knowledge covering the winter season. Considerable further work is needed to compile TEK covering spring, summer, and fall seasons and to incorporate this input into project planning and mitigation measures.

The Board is encouraged to see that Husky offered in its April 11<sup>th</sup> meeting with the TRRC to consider funding an additional TEK study.

#### **6. Dust control**

Monitors from Tulít'a have been noticing excessive dust along Husky's all-weather road. Dust contributes to air quality problems and can harm both animal and human health. While Husky promised in its application for the all-weather road to manage dust through water or inert ionic soil stabilizers, there is no mention of dust control in the Environmental Protection Plan for the current application. Husky should address current dust problems with the all-weather road and ensure that dust mitigation measures are improved going forward.

Thank you for this opportunity to comment.

Sincerely,



Deborah Simmons  
Executive Director