

Report on the Dehcho Process

January, 2007

This report is intended to provide DFN leaders with an update on Dehcho Process negotiations since our last report, which we gave you in November, 2006.

AiP Negotiations

Canada continues to take the position that its' negotiators only have a mandate to negotiate a comprehensive land claim agreement "comparable" to other agreements in the NWT and based on land selection. Federal negotiators are eager to establish "working groups" to begin negotiations on land selection and other AiP matters.

The November, 2006 Special Assembly gave DFN negotiators a mandate to "explore" land selection, but not to negotiate an agreement at this time. The Assembly also directed that the DFN continue to stress the importance of compliance with existing agreements between the DFN and Canada, particularly agreements relating to land use planning.

At the negotiating session held in Edmonton in December, 2006, DFN negotiators insisted that Canada comply with existing agreements while AiP negotiations proceed. We tabled draft terms of reference for a Governance Working Group and for a Lands Working Group. The Working Groups would work on elements of an AiP while the land use planning process continues under the terms of reference established for the Planning process in the IMA.

Canada has not yet responded to our proposals.

Land Use Plan

The Interim Measures Agreement signed by the DFN, Canada and the GNWT in 2001 established a tri-partite Land Use Planning Committee. The Planning Committee and their staff worked very hard over the past five years to develop a draft land use plan which has been praised by public interest groups and land use planning experts all over Canada as an exceptional model of cooperation and balancing the interests of conservation and development. The complete draft Dehcho Land Use Plan was approved by the DFN at the 2006 Assembly. It now requires approval by Canada and the GNWT before it can be implemented.

In the Settlement Agreement signed in July 2005 to end the DFN legal challenge to the Joint Review Panel established to conduct the environmental assessment of the MGP, Canada promised to implement an approved Land Use Plan "as soon as possible after the Plan's completion".

In a very serious development, Canada informed the DFN on October 26, 2006 that they will not consider implementing the Dehcho Land Use Plan until Canada and the DFN have reached an AiP and reached agreement on the main elements of a final agreement, including land quantum and financial issues. Without an approved land use plan the interim land withdrawals will expire in 2008, leaving all Dehcho lands exposed to sale, lease and development.

In addition, Canada has now effectively declared that the Land Use Planning Committee is defunct and that all future work related to the development and implementation of a land use plan will be undertaken by the federal negotiating team. Federal negotiators intend to agree to no more than 40% of the Dehcho territory being protected.

At the negotiating session held December 18-19 in Edmonton we stressed that Canada must comply with its commitments to approve and implement the Land Use Plan as soon as possible. However, as a gesture of flexibility and good faith we offered to re-open the Plan to allow changes to be made to accommodate Canada's concerns. We stressed that these changes should be made through the Planning Committee and through the process which was established in the IMA, not at the Dehcho Process negotiating table.

Attached is a draft work plan for developing a new, revised Land Use Plan which would be submitted to the 2007 Assembly for approval. We proposed the attached work plan at the negotiating session in Edmonton but Canada has not yet responded.

Prospecting Permits

Section 39 of the Interim Measures Agreement (IMA) says no new prospecting permits will be issued without the support of affected DFN communities. In 2005 the DFN were advised by Ethel Blondin-Andrew that Canada will not honour s. 39 of the IMA. She also promised that Canada would write to the DFN to explain why it would no longer honour s. 39, but no such letter has yet been received.

In December, the Mining Recorder wrote to DFN communities to inform them that it had received applications for permits in the Dehcho territory. The Grand Chief wrote to advise the Mining Recorder that the DFN do not support the issuance of those permits, as required by the IMA. On February 1 we will learn whether the permits will be issued.

Next Steps

The next negotiating session is scheduled for February 6-9 in Ft. Simpson. In view of Canada's refusal to honour existing agreements we question whether it is in the interests of the DFN to continue AiP negotiations on lands and resources at this time. It may be more useful to insist that AiP negotiations, especially on lands and resources, be suspended until Canada agrees to a process and timetable for approving and implementing the Land Use Plan, and agrees to honour its commitments under the IMA.

The negotiating team requests direction from the Leadership.