

DFN NEGOTIATIONS BRIEFING NOTES, APRIL 23-27, YELLOWKNIFE

These briefing notes have been prepared by the Dehcho First Nations communications team to inform leaders and members of the progress of talks between DFN, Canada and the GNWT. They are intended as background notes and not as detailed minutes or analysis, and are simply for information. The third negotiating session of 2007 was held at Yellowknife. April 23-27. Chief Negotiator Georges Erasmus led the DFN team. Tim Christian is chief negotiator for Canada and the GNWT was represented by Fred Talen. A number of Dehcho elders and members attended the five days of negotiations. The elders opened and closed each day's meetings with prayers.

The session was one of the most successful for some time, with two major documents initialled and signed by the three parties – a record for a single session. The DFN negotiators and leadership held firm against several concerted attempts this year by Canada to reduce the Dehcho Land Use Plan to a side issue dealt with by a powerless working group.

Instead, new life has been won for the Land Use Plan with the signing by all parties of new Terms of Reference and an aggressive work plan that will ensure progress on the land issues.

Grand Chief Herb Norwegian described the signing as a “victory for the Dehcho. We won more than we lost, and we forced Canada to make major concessions from the tough stand they had taken last year when they tried to shut down the whole land use planning process.”

Norwegian cautioned, however, that despite the negotiated agreement to resume revising the Dehcho Land Use Plan with a new committee and staff, there will be a lot of hard work facing the DFN and the negotiators in the next year.

Because of the importance of the signed document we include the full text in this briefing note.

DEHCHO LAND USE PLAN REVISIONS Terms of Reference and Work Plan

TERMS OF REFERENCE

The Dehcho Land Use Planning Committee (“the Committee”) will continue to develop a Dehcho Land Use Plan consistent with these Terms of Reference and the Dehcho First Nations Interim Measures Agreement (IMA).

1. Objectives of the Planning Process

1) To continue developing a Land Use Plan for the Dehcho Territory (excluding lands within existing municipal boundaries and Nahanni National Park) which promotes the social, cultural and economic well being of residents and communities in the Dehcho Territory, having regard to the interests of all Canadians.

- 2) To consider the principles of respect for the land, as understood and explained by the Dehcho Elders, and sustainable development in developing the land use plan, which shall provide for the conservation, development and utilization of the land, waters and resources in the Dehcho territory.
- 3) The Dehcho Final Agreement will take into consideration the work of the Committee.
- 4) To develop, following the approval of the Interim Dehcho Land Use Plan, concurrent with the Dehcho Process negotiations, a Dehcho Land Use Plan which takes into account the provisions of the Dehcho Agreement, including any necessary conformity requirements.

2. Participation

The Dehcho Land Use Planning Committee, established as a non-profit Society with offices located in Fort Providence, NT, is comprised of the following members:

- (a) Dehcho First Nations – 2 appointees;
- (b) Canada - 1 appointee;
- (c) GNWT – 1 appointee;
- (d) Chairperson – 1 person appointed by the other members of the Committee, who shall serve as Chairperson of the Committee.

The Committee's Chairperson will be identified by the Main Table or be chosen by the Committee from a list of names provided by the Main Table.

Each Party will be responsible for appointing its members on the Committee. Any Party may replace a member it has appointed to the Committee.

3. Resources

The Committee will develop a budget based on the work plan. The Main Table will support the budget which will be submitted to Canada for consideration.

The Committee has the capacity to hire staff and seek resources as required.

4. Responsibilities and Procedures

Consistent with these Terms of Reference and the IMA:

General Matters Relevant to the Committee

The Committee will:

1. Work with any working group or side table established to address lands and resources issues in the Dehcho Process as directed by the Main Table.
2. Provide land use planning technical support on Nahanni Park expansion and Protected Areas Strategy as required.
3. Where possible, coordinate its meetings with Main Table sessions.
4. Provide reports, as requested by the Main Table.
5. Defer any issues or matters which they cannot resolve to the Main Table.
6. Provide land use planning technical support to the Dehcho Territory communities, interested stakeholders, the Main Table and any side table or working group established by the Main Table.
7. Update information from Dehcho communities and interested stakeholders as the Committee considers necessary.

Completion of Interim Dehcho Land Use Plan

1. The Committee will, based on the work plan approved by the Main Table and taking into account any direction provided by the Main Table, revise the Final Draft Dehcho Land Use Plan in order that a revised Interim Dehcho Land Use Plan can be approved and favourably considered as soon as possible, and implemented on a date acceptable to all Parties.

2. The Committee will present options for a revised Interim Dehcho Land Use Plan to the Main Table and the Parties may, jointly or separately, undertake consultations in respect of those options.
3. Taking into account any direction from the Main Table, the Committee will develop a revised Interim Dehcho Land Use Plan and submit it to the Main Table for consideration.
4. Upon favourable consideration by the Chief Negotiators they will initial the revised Interim Dehcho Land Use Plan, and as soon as possible after initialling, recommend the Interim Dehcho Land Use Plan for approval and favourable consideration by the Parties.
5. After the Interim Dehcho Land Use Plan is approved by the Parties, it will be implemented at a date to be agreed upon by the Parties.
6. The Committee will carry out a comprehensive review of the Interim Dehcho Land Use Plan, if so directed by the Parties, not later than five years after the Interim Dehcho Land Use Plan takes effect and thereafter every five years or at any other intervals agreed to by the Parties, until the Dehcho Agreement is implemented.

Completion of Dehcho Land Use Plan

1. Taking into account any direction provided by the Main Table, the Committee (or its successor entity) will develop a Dehcho Land Use Plan for consideration and approval by the Parties which takes into account the Interim Dehcho Land Use Plan and the Dehcho Agreement.
2. The Dehcho Agreement will set out the process for approval and implementation of the Dehcho Land Use Plan.
3. The Committee (or its successor entity) will carry out such other responsibilities as may be provided for under the Dehcho Agreement and the Dehcho Land Use Plan.
4. The Committee (or its successor entity) will carry out a comprehensive review of the revised Land Use Plan not later than five years after the effective date of the Dehcho Agreement, and thereafter, every five years or at any other interval agreed to by the Parties.

WORK PLAN FOR INTERIM DEHCHO LAND USE PLAN

This work plan will be presented to the Dehcho Land Use Planning Committee. The Committee may report back to the Main Table with any suggestions regarding the contents of the work plan, the time line in the work plan and in particular any proposals for increasing the efficiency for the development of an Interim Dehcho Land Use Plan.

1. Revisit Committee member appointments and direction from Parties – late April, early May, 2007
2. The Committee will review the work plan and develop an appropriate budget for consideration by Canada.
3. Parties to provide substantive detail and rationale for changes to zoning and Conformity Requirements to Committee members – May 25, 2007
4. Committee members discuss their principals' substantive interests (i.e. specific areas/zones, specific issues related to Conformity Requirements) – May - June, 2007 (LUP meeting)
5. Committee staff to develop sensitivity analysis / options for a revised Dehcho Interim Land Use Plan that addresses the interests of the Parties – June 25, 2007
6. The Committee will present options to the Parties – June 25, 2007
7. The Parties consult with their principals on the options – June – August, 2007.
8. The Parties give further direction to Committee members. June – August, 2007.
9. The Committee develops consensus around the preferred option -July/August/September, 2007
10. The Committee recommends the revised Interim Dehcho Land Use Plan for approval to Main Table – early October, 2007
11. The Parties consult on Committee recommendations. October – November, 2007
12. The Parties present the Committee with their comments. November, 2007
13. Committee provides final recommendations for a revised Interim Dehcho Land Use Plan for approval by the Main Table. Mid-January, 2008
14. The Chief Negotiators initial and recommend the Interim Dehcho Land Use Plan for approval by the Parties – January, 2008.
15. Timeline for Parties to approve Interim Dehcho Land Use Plan:
 - DFN - February, 2008
 - GNWT - February/March, 2008

Federal - February – April, 2008

16. Committee will, as set out in the Interim Dehcho Land Use Plan, monitor land uses for conformity with the approved Interim Dehcho Land Use Plan – ongoing.

GENERAL PROVISIONS

These terms of reference and the work plan are not legally binding and may be amended by the Main Table.

Signed by the Chief Negotiators for the Parties on April 27, 2007.

Georges Erasmus
Chief Negotiator
Dehcho First Nations

Tim Christian
Chief Negotiator
Government of Canada

Fred Talen
A/Chief Negotiator
Government of the
Northwest Territories

Not only did the negotiators break the logjam around the Dehcho Land Use Plan that had delayed negotiations for almost six months, they also agreed the DLUP committee would be reconstituted within weeks. It will have the same number of members (two from DFN, one each from Canada and the GNWT and a chairperson appointed by the committee from a list provided by the negotiators. Canada has named its interim representative as Mike Walsh of Ottawa, currently acting senior negotiator on the federal negotiating team. Further appointments are to be made by early May at the latest, and the committee will then meet to review the work plan and develop a budget.

Further progress was made at this session when the chief negotiators also signed a detailed Negotiations Work Plan for 2007-2008. It may well have been the first time in DFN negotiations that the parties signed two agreements at one meeting. Certainly it was a sign of intentions to do some serious after month's of stalling by the two levels of government.

The DFN Negotiations Work Plan includes a number of activities and tasks with firm dates attached to guide the work of the Dehcho Process through the next fiscal year. Included are negotiations on an interim Dehcho Land Use Plan, approval of the interim plan and recommendations for implementation by the end of April, 2008; and negotiations will begin on an Agreement in Principle (AiP) if DFN negotiators have a mandate to engage in talks based on a land selection model sometime in early 2008.

Various side tables, including one on prospecting permits, have been set up to deal with issues not directly connected to the main table talks. A calendar of important meetings in the next 12 months was drawn up.

The signed and initialled text of 2007-2008 DFN Negotiations Work Plan as follows:

DFN Negotiations Work Plan

2007 – 2008 Tasks/Activities will include:

Interim Dehcho Land Use Plan

- Clarification of mandate and work plan of the Dehcho Land Use Planning Committee, revision of the Plan and initialling and recommendations of approval by the Chief Negotiators of the Interim Dehcho Land Use Plan. Timeline: April 1 – mid January, 2008
- Approval of the recommended Interim Dehcho Land Use Plan by the Parties. Timeline: April 30, 2008 or as soon as possible.
- Main Table considers recommendation for implementation of Interim Dehcho Land Use Plan. Timeline: date to be agreed upon by Parties

Agreement in Principle Negotiations

- DFN to consider whether to provide DFN Negotiating Team with a mandate to engage in AIP negotiations based on a land selection model. Timeline: February, 2008/Dehcho Special Assembly
- Address AIP Governance chapter, including jurisdictions and service delivery models (process can include discussion with current governments, agencies and boards) Timeline: April, 2007 – March, 2008
- Address AIP Lands Chapters to address land, resources, certainty under the land selection model. Timeline: April, 2007 – March, 2008
- Address provisions regarding Dehcho Resource Management Authority Timeline: April – March 2008
- Negotiation of Dehcho Métis rights in the context of negotiating the AIP. Timeline: April 2007 – March, 2008
- Negotiation of AIP Chapter on Enrolment for all Dehcho Dene including Métis Timeline: April – December 31, 2007
- Negotiation of AIP Parks Chapter taking into account the Nahanni Park MOU and Nahanni Interim Park Management Arrangement. Timeline: April 1 – March 2008
- Address trans-boundary, overlap and shared use areas with respect to areas adjacent to the Dehcho Territory. Timeline: April – March, 2008
- Establishment of Interim Measures Implementation Working Group, as provided for in the Settlement Agreement. Timeline: June 2007-04-28\
- Develop consultation protocol in respect of issuance of prospecting permits. Timeline: April – November 2007
- Establish a tri-partite Communications Working Group to develop strategy for joint information sessions for Dehcho Communities. Timeline: September 2007

Other

- Develop capacity building, training and education measures prior to Dehcho Agreement Timeline: prior to March 31, 2008 – to be determined after further AIP development
- DFN to develop Dehcho First Nation Constitution, consistent with AIP Governance Chapter, outlining roles of community and regional authorities, with specific research and drafting in Dene Zhatie. (Development of Dehcho Constitution in Slavey and translated into English). Support development of Community Constitutions Timeline: April, 2007 – March 31, 2008
- Address development concerns in the South Nahanni watershed. Timeline: April 2007 – March 2008
- Monitoring renewal status of Interim Measures Agreement land withdrawal Timeline: ongoing.
- Address Hay River Reserve issues. Timeline: Decision by KFN re: membership in Dehcho Process at the AIP stage
- Address West Point First Nation potential relocation of community Timeline: April 2007 – March, 2008

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| April 23 – 27, 2007 | Negotiation Session | Yellowknife |
| May 21 -25, 2007 | DFN Leadership Meeting | Trout Lake |
| June 1 – 8 th , 2007 | Negotiation Session | Rabbit Kettle, Nahanni National Park |
| June 25 – 29, 2007 | DFN Annual Assembly | Fort Simpson |
| September 7 – 13, 2007 | Negotiation Session | |
| October 2 – 4, 2007 | Negotiation Session | |
| | DFN Leadership Meeting | |
| October 23 - 25, 2007 | Negotiation Session | |
| November 5 – 9, 2007 | Negotiation Session | |
| November 27 - 29, 2007 | Special Assembly - GAIP | |
| December 11 – 13, 2007 | Negotiation Session | |
| January 15 – 17, 2008 | Negotiation Session | |
| | DFN Leadership Meeting | |
| February 4 – 8, 2008 | Negotiation Session | |
| March 3-6, 2008 | Negotiation Session | |
| March 25-27, 2008 | Negotiation Session | |
| April 15 – 17, 2008 | Negotiation Session | |
| | DFN Leadership meeting | |
| May 6-8, 2008 | Negotiation Session | |
| May 27-29, 2008 | Negotiation Session | |
| June 9-13, 2008 | Negotiation Session | |
| June, 2008 | DFN Assembly | |

Signed April 27, 2007

Georges Erasmus
Chief Negotiator

Tim Christian
Chief Negotiator

Fred Talen
Chief Negotiator

Just before the meeting concluded the afternoon of April 27, 2007, Chief Negotiator Georges Erasmus released a draft General Agreement in Principle (GAIP) to the other parties at the negotiating table, copies of which have been seen by the DFN leadership. Although it is only a draft, Canada has been particularly anxious to see and, indeed, had lobbied strenuously at earlier negotiations for a copy. DFN refused to release it until the issue of the Dehcho Land Use Planning Committee and its work was clarified. Hence the importance of the Terms of Reference and Work Plan signed during this session. The text of the draft GAIP can be found on the website under.....

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