

Ottawa Negotiations Briefing Notes April 22-24, 2008

A larger than usual delegation of leaders, including interim Grand Chief Gerald Antoine, sat in on the first formal negotiating session ever held in Ottawa in the Dehcho Process. It was held, appropriately, in the boardroom of the Aboriginal Healing Foundation from April 22-24

The sessions were long and heavy, information came rolling in from three Federal ministries – Department of National Defence, Heritage and Culture Canada, and Fisheries and Oceans Canada – and more than one of the Dehcho First Nations members who sat through the long days and evenings expressed vocally their concern at the “wide void with the federal bureaucracy which frustrates and divides the negotiators.”

The various sides tabled documents and some responses were discussed but the general tone, although unfailingly polite, was best summed up in the closing exchanges between interim DFN grand chief, Gerald Antoine and Canada’s chief negotiator, Tim Christian, in the closing minutes of the sessions.

Christian and Antoine had expressed their differences on several occasions through the three days and even had private conversations to try and begin bridging the gap. Canada insists the negotiations be based on land selection and wants the annual Assembly to give the Dehcho negotiating team a mandate on that basis. Canada’s argument is that it must have “certainty” before it will move beyond the language of “cede, surrender and extinguishment” of the rights granted the Dehcho in their Treaties. Canada continues to assert its earlier land quantum offer of 45,810 sq km beyond which it says it will not move.

Chief Negotiator Georges Erasmus said that the Dehcho people have “a problem” with land selection. “The DFN wants recognition of their rights, not extinguishment so the original treaty rights must be recognized so people can continue to live and enjoy these rights and enjoy them now.”

He argued that the negotiations must a “non-extinguishment” model. Anything else makes no sense, it has no logic. “It is not just Canada that wants certainty, the Dehcho need certainty.”

Tensions mounted as the talks ended on April 24. In his closing remarks, Christian noted that all three parties had accomplished some “productive” work on the responses to tabled documents. He continued, speaking directly to Antoine asking him to “keep an open mind” on the question of land selection and to try to get a mandate from the annual assembly in June for the DFN negotiating team to “negotiate so that we can come to an agreement.” Christian said he was optimistic that an agreement could be reached and “anyway, if the Dehcho don’t like it, they can always decline to ratify it.”

In what some interpreted as a veiled threat, he went on to say that he had “grave concerns about the future of the Dehcho Process if the DFN negotiators do not have an Assembly

mandate.” Christian added that any decision about the future would not be his, but that of the Canadian government.

The interim Grand Chief, sitting directly opposite Christian spoke steadily for several minutes, his drum on the boardroom table of the Aboriginal Healing Foundation.

“We are here at this table in this office which was set up to deal with the injustices of the residential schools and how to resolve that. In their report, they found that these injustices were because of Canada’s policies and the department of Indian affairs. The report was made with an open mind.

“We are still here with our values and principles about the land intact. We will not talk about injustices, the Truth and Reconciliation Commission will open that up and talk more about the personal and systemic injustices which impact on our lives. So, when you say our future must fit into your system, we think that system is unjust.

“Our elders have thought for a very long time about the future of Dehcho, so we must be very careful with what we decide or very serious things could happen.”

Antoine said the DFN understood the concept of sharing and coexistence but that many decades of experience with Canada led to mistrust among First Nations.

“But you have to come to us with an open mind. Don’t be afraid of us. We want to move ahead and break this impasse and deal with past injustices. Something happened to us, that is not right.”

The interim Grand Chief continued with a hopeful note: “There is potential for us to work with you in this bad system but there are other, better ways to work. We know we have to do our part and we have done that. We are open. You must allow us to move forward. There is an Assembly coming, there is a draft Land Use Plan coming, there is the expansion of the Nahanni Park coming. We are visiting our communities and we are informing them of all these things that are talked about around this table. It is not our job to dictate, it is our job to protect.”

Antoine paused: “We’re not here to ‘get’ you, we’re here to coexist with you.”

He stood, picked up his drum and began a drum prayer to close the three-day meeting.

In other events from the agenda, the parties:

- Heard presentations from the Department of National Defence (DND) and Northern Command about the role of the military in the North and the basic functions of the Canadian Forces which might require “freedom of movement” across future Dehcho Ndehe lands. These movements would be during training and operational exercises and during emergencies. The DND would be in contact

- with the Grand Chief, community chiefs and council and Métis local to provide details of their planned activities. Information was also shared on the activities of the Ranger and Junior Ranger patrols.
- Received a presentation from Canadian Heritage, the federal department that covers heritage and culture. The department includes citizenship, culture, international and intergovernmental affairs, sport and has two operating agencies: Canadian Conservation Institute and Canadian Heritage Information Network as well as 19 other agencies, boards and corporations, including the CBC, Museum of Civilization, National Gallery and Telefilm Canada. The presentation noted that Heritage Canada delivers Aboriginal-specific programs in arts, broadcasting, book publishing, digital and traditional collections, heritage and sport.
 - An oral presentation from Fisheries and Oceans Canada dealt with fisheries management on the Mackenzie River and Grate Slave Lake and decision-making. Most of the presentation required further response from officials to the Dehcho negotiating team.
 - Responses to Canada's tabled documents were discussed at length including Land Use Planning, Dehcho Resource Management Authority, expropriation and access and land, water and environmental regulations. GNWT papers on education, including adult education, post-secondary education, early childhood education and a separate document on GNWT core principles and objectives.
 - A document on Forestry was tabled by the GNWT and Canada tabled a chapter on Protected Areas.

Note: All tabled documents are available to anyone interested and can be found under tabled documents on the website at www/dehchofirstnations.com.

Several major events were organized by the Dehcho during the negotiations. Following are stories about these meetings:

Minister Baird briefed on Nahanni Park Expansion

A private meeting between Dehcho members and John Baird, Canada's minister of the Environment and National Parks was held at the Confederation Building in Ottawa the morning of April 23 to discuss progress on the proposed expansion of the Nahanni National Park Reserve.

The Dehcho delegation included interim Grand Chief Gerald Antoine and Chief Negotiator Georges Erasmus.

Reports of meeting indicated the minister was positive about the Park expansion and "personally supportive" of the expansion. His officials were also "on side" and a decision could be close to approval of new boundaries.

The minister expressed some concern about the Government of the Northwest Territories (GNWT) supporting the expansion and urged the DFN to develop a strategy for informing MLAs and the Premier.

Baird also agreed that sufficient funds should be found to allow for Dehcho community information meetings to be held in advance of the annual Assembly so that an informed decision could be made about the final park boundary recommendations. Jonas Antoine, a Liidlii Kue elder and member of the Nahanni expansion Working Group will lead the community information meetings.

While the meeting was private, the Dehcho told their colleagues that Baird was strongly in favour of the expansion and that a “small window of was opening coming close to a confluence” when the question is discussed at the annual Assembly.

One member of the delegation said Baird supported the park expansion despite some other ministries, especially the northern development branch of DIAND, and Natural Resources wanting to develop the Park’s minerals.

“Baird knows his party needs to look as green as possible and the Park would be very good optics for the environment. He also knows there are lots of minerals in the North outside the expanded Park boundaries, so he is very supportive and Dehcho must be aware of that.”

Income security for Cree hunters and trappers

Thirty years ago, without consultation or consent, the government of Quebec announced the “Project of the Century”, a massive hydroelectric development which would flood the traditional lands and massively impact the Eeyou of Eeyou Istchee, the Cree Nations of northern Quebec.

Within two months of the announcement of the James Bay Project, on April 30, 1971, the Cree Chiefs and community representatives met for the first time in their history to determine strategies and take a united position. They sought negotiations with Canada and Quebec who both said the project was non-negotiable, leaving the 10 communities and almost 6,000 Cree who lived off the soon-to-be-flooded land no choice but to take the Quebec government to court.

Many hunters, trappers and elders traveled the long distances to Montreal to testify about their traditional way of life and their land its fundamental importance to the Eeyou. Led by Grand Chief Billy Diamond the told the judge that their way of life – hunting, fishing and trapping – was not dying as the governments kept stating.

In 1973 Judge Albert Malouf of the Superior Court of Quebec ruled that Cree rights to the land were legal and he issued an injunction, immediately stopping all construction work on the multi-billion dollar construction project. Four days later, Premier Robert

Bourassa offered to negotiate with the Cree for a modern day treaty, central to which would be an income security program for Cree hunters and trappers.

An Agreement -in-Principle (AiP) was signed in 1974 stating that the Income Security Program for Cree Hunters and Trappers (ISP) would be set up for all James Bay Cree people who wished to pursue harvesting activities as a way of life. The ISP would ensure that hunting, fishing and trapping constitute a viable way-of-life and that individuals who follow that way-of-life are to be guaranteed economic security.

Chief Philip Awashish was the father of the ISP and he gave a delegation of Dehcho visitors to Ottawa during April's negotiations meetings a detailed briefing on how the harvesting program works.

He noted that during the first year the ISP began, 1976-77, some 979 families (parents and children) received a total of \$4,619,914 in benefits. By the end of June, 2008, some 1,210 families will receive more than \$40 million.

Today there are 16,000 people living in the Cree lands, 22 percent of whom are harvesters. They receive an average daily allowance of \$57.01 and, depending on the size of the family unit, basic benefits while on the land or preparing and maintenance of equipment, of \$4,211 per couple, and \$1,686 for children in the family unit.

In order to claim these benefits a family must spend a minimum of 180 days on the land or a maximum of 240 days. Children must be on the land at least until they are six in order to claim a part of a family unit.

The ISP, according to the James Bay Agreement is fully funded by Quebec and has been revised upwards twice since 1976.

According to Awashish, the agreement emphasizes the family unit, education in the Cree language and traditions in the family lifestyle on the land as well as environmental protection from the ravages of flooding for hydroelectric dams and the ever-growing demand for energy.

“This program [ISP] ensures our well-being. It is a holistic lifestyle that keeps our culture still strong. Everyone speaks Cree because they learn it in the bush with their parents and grandparents. It is the daily language of our survival skills. And besides it is healthy for us all. Everyone has healthy bush food in their freezers,” Awashish told the Dehcho during his lengthy briefing.

The former vice-grand chief said Quebec had never expected to have to pay out so much money – “they really thought that harvesting was something like a hobby, that no one would take it seriously and so they agreed to this formula and then amended to our advantage twice because we had the leverage.” The leverage, of course, was the huge James Bay hydro project which still brings billions of dollars into the Quebec treasury.

“We paid a big price for the income security program. Suddenly our people were inundated with huge construction projects in their pristine lands, flooding, social problems, followed by forestry, mining, and more hydro. Our population for a long time was 6,000, now it has boomed to 16,000 and harvesting can only support 10,000 people maximum.”

Earlier this year the Cree of James Bay negotiated an out-of-court settlement with Canada for \$1.4 billion in compensation. “Canada did not give us this money out of the goodness of their hearts, it was done because of our strong legal position, they were afraid of what litigation would do to the,” Awashish said.

The agreement also resolves litigation over past implementation of the James Bay and Northern Quebec Agreement (JBNQA) and other disputes and clarifies federal responsibilities the Cree Regional Authority will administer for the next 20 years.

The Dehcho delegation led by interim Grand Chief Gerald Antoine included Georges Erasmus, chief negotiator; Sam Gargan, assistant negotiator and key leader in working with the DFN harvesting program; Jonas Antoine, elder, Fort Simpson; Margaret Ireland community support worker, Jean Marie River; Sam Ellize, harvester, Fort Providence Chief Darcy Moses, PKFN, Wrigley; Albert Moses, PKFN; Steve Cli, Fort Simpson; and Peter Bertram, harvester, Fort Liard.

Southern support network pledges to support Dehcho

Nine national groups met with Dehcho leaders in Ottawa for an extensive briefing and strategy session one evening after negotiations had ended for the day.

Made up of labour union, social justice groups, churches, universities, environmentalists and students, the group, modelled on the successful “Southern Support” groups of the Dene Nation, the representatives promised the Dehcho they need only ask in order to receive support.

“We all support you, we think your struggle with Canada is an important one and when you feel you need access to the millions of people [with votes] in southern Canada, we will be in solidarity and action with you,” said Tony Clarke, executive director of the Polaris Institute.

For several years now the DFN has had contact with support groups in the south, but this is the first comprehensive group to receive a lengthy and detailed briefing by interim Grand Chief Gerald Antoine and the Dehcho Process’s chief negotiator, Georges Erasmus.

Southern support would organize conferences, information sessions, national and regional tours, media and publicity relations primarily in southern Canada from the

Atlantic to the Pacific to make Canadians aware of the injustices and anti-environmental activities of government and some industries.

The DFN would initiate the various campaigns and make elders, chiefs and other Dehch leaders available as speakers and resource persons. No initiatives would be undertaken by the support groups without the initiative being taken by the DFN leadership.

Attending the meeting were representatives of the Sierra Club of Canada; the Canadian Labour Congress (CLC) human rights committee; KAIROS, the social justice coalition of Anglican, Roman Catholic, United, Presbyterian, Lutheran, Mennonite and other churches; the World Wildlife Federation; the Canadian Boreal Institute; Carleton University, Ottawa; the Canadian Energy and Paperworkers Union; and the Polaris Institute.

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