

Hay River Negotiations Briefing Notes, May 29-30, 2008

With both sides of the negotiating table ramping up community information sessions in advance of the June 22-29 Dehcho annual assembly, an interesting -- and potentially hopeful -- line of discussion occurred during the negotiations at the Dene Cultural Institute (DCI) in Hay River.

Both Canada and the Dehcho Process agreed they clearly understood each other's position and that they also agreed to disagree on major issues, especially the thorny matter of Canada's insistence on the Dehcho negotiating team getting a mandate from the Assembly for land selection before negotiations can progress much further.

The Dehcho team has been holding community meetings throughout the region, explaining the options that the Assembly can consider (*for further information, please see the Strategic Overview published in the May 20, 2008 issue of Dehcho Visions or under the "negotiations link" on the website www/dehchofirstnations.com*). Many of the questions arising from these meetings centre around Canada's understanding of the Dehcho position. Canada's team will be visiting Dehcho communities in early June to explain its negotiating stance.

"Tell them you do understand the Dehcho position but be honest, tell them Canada doesn't agree with it. And tell them you know the Dehcho does not agree with Canada's position. Let them hear it from you," Jim Antoine said to Canada's chief negotiator, Tim Christian.

"The Dehcho negotiators follow the direction of their leaders and Canada and the GNWT follow the directions of their political masters. It's that simple, we know each other's positions, we just don't agree and the gap is getting wider.

DFN Chief Negotiator Georges Erasmus reported on meetings his team had held this spring in the 10 Dehcho communities.

"We all know there is this difference. Our people are clear all along that we never surrendered our land. We never extinguished our rights to the land. We never ceded anything. The people in the communities say that Canada forced them to give it up. Now they are very cautious and that's why the Assembly in 2006 gave us a mandate to *explore* land selection, and renewed it again in 07. Many people think Canada doesn't *get* that. You have to tell them you do understand but government policies will not accept the Dehcho position as it is now."

Erasmus said there was a "long-held belief" that the treaties were signed fraudulently and then reneged on. Christian seemed to agree to the need for "brutal honesty." He said there were the written versions of the treaties 8 and 11 which the government acknowledged and the oral versions remembered by the elders, which the Dehcho demand must be honoured both in spirit and intent. Canada follows the written versions. The Dehcho follow the oral versions, the treaties remembered by the elders that were for peace and friendship.

“We tell the people in the communities that both sides are very far apart, some people in the communities think we are not pushing you hard enough,” Erasmus said.

Christian replied that a decision for land selection at the June Assembly was “critical”. “If the Assembly says ‘yes’ to land selection then the negotiating teams have a lot of work to do in the next year. If the Assembly says ‘no’ then the whole Dehcho Process will have to be reviewed and Canada will likely stick to the present comprehensive claims policies, it already has in place,” Christian replied. It could be the end of negotiations for a long time.

“And that would be long enough for there to be a huge claims rush in the Dehcho, just as there was when the Dene-Métis claim collapsed in 1990,” Erasmus said.

The spirit and intent of the Treaties was peace and friendship, not the language of cede, surrender and extinguish ownership was strongly put at several community meetings, the negotiating team said.

An example of the distance between the two sides emerged during discussions on housing and how negotiations could possibly resolve the impasse.

Christian said there was “no evidence” of housing as a legal right in the written treaties. Jim Antoine replied that “our elders said housing was a treaty right”. Such a basic right to shelter, food is evident in all the oral understanding of treaties by the elders who had first hand knowledge of the talks and preserve their language for the treaties. Dehcho people will make use of the services provided and what are available but the main issue is not resolved.

The critical safeguard for the DFN is that any AiP which the main table on negotiations may produce will be subject to a referendum by the entire membership. “If they don’t like the work we have done, it would be their obligation and right to reject it. The Dehcho have the final say on any agreement,” Erasmus insisted.

The majority of time spent in the two-day meeting was to clarify and hear from the federal Department of Fisheries and Oceans (DFO) regarding commercial fishing and from GNWT officials regarding housing policies. Chapters in the draft Agreement-in-Principle (AiP) will emerge from these discussions and will be negotiated. A series of questions drafted by the Dehcho negotiating team on forestry, housing and fisheries were presented to the officials following presentations by DFO.

While the declining commercial fishery on Great Slave Lake took up most of the questions since Hay River was a crucial area for fisheries, preliminary exchanges indicated that relations were positive and these critical issues could be negotiated.

The following documents were tabled for further study, response and negotiation:

- Expropriation draft paper from the Dehcho Process;
- Housing Questions from Dehcho Process;
- Forestry Questions from Dehcho Process on GNWT forestry paper;
- Fisheries Questions from Dehcho Process on earlier DFO presentation;
- Responses to Canada's tabled documents on DCRMA, Land Use Planning, and land and water regulation;
- Dehcho Resource Management Authority (DCRMA) from GNWT;
- DFO – Great Slave Lake Fisheries Management Powerpoint presentation and discussion;
- Negotiations Work Plan for 2008-2009 by the three parties.

The next negotiations session is scheduled for Fort Simpson, June 10-12.

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