

# NEGOTIATIONS

BACK ON TRACK  
VIDEO CONFERENCE  
FEB. 8-10 2011

During the week of February 8th to the 10th. The negotiators came together for a video conference. Connecting the Dehcho negotiations team in Liidlii Kue, Deh Gah Gotie, Yellowknife and Ottawa.

*"It's true that under the Indian Act we created people who have 'Status' But 'Status' in onto itself is a statutory creation. The other, under section 35 is recognition of the existence of aboriginal peoples in Canada. What constitutes or defines an aboriginal person in Canada, I think, is yet to really be fully determined on how much or how little descendance you will be required to have"*

Bruce Littlejohn; Federal Legal Counsel. On Eligibility and Enrolment.

The main topics at this session were the following Agreement in Principal Chapters;

- Enrolment and Eligibility
- General Provisions (Certainty section)
- Dispute Resolution
- Expropriation
- Governance

- Adoption (New Chapter)
- Adult Education (New Chapter)
- Education (Early Childhood, Out of School Care, Post Secondary)
- Social Housing, Child and Family Services
- Income Assistance
- Dehcho Resource Management Authority (DCRMA)
- Dehcho position paper on Jurisdiction On and Off Dehcho Ndehe
- Definitions provided by GNWT; Chapter on Plants and Tree Harvesting. The ability to commercially Harvest such resources
- Definitions provided by Canada; Chapter on Migratory Birds
- Definition provided by DFN; Harvesting of "Wildlife"
- Taxation

Other topics on the agenda included updates on; Dehcho Land Use Plan, Application for Judicial Review on ADK and Edehzhie

**On Katlo'deeche: If the Community agrees to a community based comprehensive claim or Treaty Land Entitlement, the overall amount of land available for the Dehcho Region will be reduced.**

**The idea and intention to create regional and community governments is provided by Dehcho residents. The idea expressed is that there will be land for each community and also land for the regional body. The lands reserved for the regional government would be governed by the regional body to ensure there would be shared resources for the Dehcho regional government to fund itself and the programs that are to be provided to everyone.**

*Dehcho First Nations is a collective of Dene and Metis communities and organizations. Our homeland is in Denendeh*

# Community Visits 2011; A Reflection

**Introduction;** This is the second of my three year-term if the leadership do not decide to ammend our by-laws to have the Grand Chief position extended to a four year team as recommended by previous leadership. With Canada dragging its heels, delays, analysis and cancellation we're running the risk of compromising the integrity of our land and our rights to govern our Territory. We have an obligation to our people: There must be a willingness on Canada's part and on our part to resolve outstanding issues, especially the fundamental question of jurisdiction over our Territory. This will give all parties (DFN, GNWT and Feds) certainty and provide the appropriate climate to finalize a decision.

**Dehcho Process;** This is a collective process that requires the guidance of our Leaders and our members. As stewards we must have enough land to sustain us for economic self-reliance and self sufficiency. Up to now we are staying the course based on resolution # 1 Winter Leadership in February 24-27,2009.

**Devolution Signing:** On January 26th, Canada and the GNWT proceeded with signing of the Northwest Territories Lands and Resources Devolution AiP, without any regional support from the Gwich'in, Sahtu, Dehcho, Akaitcho and Tlicho. Although the leadership requested a meeting with Premier Roland and Minister Duncan both requests were rejected. What followed was a demonstration at the Legislative Assembly on the day of the signing. We must view the north as a pluralistic society with three orders of government.



*Continued on page 4*

## Winter Leadership Meeting February 24-27, 2009 Ft. Simpson, NT

All Resolutions can be found here

[http://www.dehcho.org/minutes\\_resolutions.htm](http://www.dehcho.org/minutes_resolutions.htm)

### RE: Dehcho Process Resolution #01

WHEREAS the 2008 Dehcho Annual Assembly adopted a resolution which provides that:

- (i) the highest priority for negotiations with Canada at this time will be the completion, approval and timely implementation of the Land Use Plan;
- (ii) once Canada has approved and agreed to implement the Land Use Plan, and comply with their commitments under the Interim Measures Agreement, the DFN negotiating team will begin negotiations on self-government arrangements which are appropriate for the unique needs and circumstances of the DFN; and
- (iii) following self-government negotiations, the DFN will begin negotiations on other AIP matters, including the ownership of selected surface and subsurface lands, primarily outside of conservation areas; and

WHEREAS Canada and the GNWT refuse to negotiate on the basis of the 2008 resolution because of their position that completion and implementation of a Land Use Plan must be tied to ratification of an AIP based on land selection; and

WHEREAS Canada also objects to negotiations being held in distinct phases, in which the LUP phase must be completed before AIP negotiations begin and AIP negotiations on governance must be completed before negotiations on lands and resources occur; and

WHEREAS this impasse has resulted in Dehcho Process negotiations with Canada and the GNWT being stalled; and

WHEREAS the delegates at a strategy workshop held February 3-5, 2009 in Ft. Simpson recommended that the 2008 Assembly resolution be interpreted in a "flexible" manner which would not preclude AIP negotiations on self-government being conducted concurrently with work on the timely completion and implementation of the Land Use Plan;

THEREFORE BE IT RESOLVED that the Leadership provides the following modification of the 2008 Assembly resolution:

- i) The highest priority for negotiations with Canada at this time will continue to be the completion, approval and timely implementation of the Land Use Plan;
- ii) Negotiations towards an AIP will proceed concurrently with work on the completion and implementation of the Land Use Plan;
- iii) Once Canada has approved and agreed to implement the Land Use Plan, and comply with their commitments under the Interim Measures Agreement, the DFN negotiating team's highest priority will be negotiations towards an AIP which provides for self-government and land arrangements which are appropriate for the unique needs and circumstances of the DFN; and
- iv) Following self-government negotiations, the DFN priority will be negotiations on other AIP matters, including the ownership of selected surface and subsurface lands, primarily outside of conservation areas.

# Dehcho Negotiations

The Adoption chapter drafted by the GNWT negotiations team is a new one tabled at this session. It outlines the provisions to legally adopt a child. The goal is to have laws that are in the 'Best Interest of children' within the region.

Social Housing chapter provides the details of social programs relating to home ownership, and rental programs that are subsidized, make it cheaper for someone to purchase a home, begin construction, renovation or rent of residential housing. This chapter is designed for those who need assistance with housing options.

Child And Family Services chapter refers to the protection of children from threats of abuse, harm or neglect and also helps to promote the well being of children and families.

Dispute Resolution chapter provides the path towards different methods or options for managing conflicts between the Parties (Canada, GNWT or Dehcho Gov't). This is done for the sole reason of fixing problems out of legal court, as most conflicts, problems that are brought to court are very expensive.

Enrolment and Eligibility; The chapter was discussed by the negotiations team. The issue is

what should be the rights of a "Spouse" of a Dehcho Dene, who is NOT from the Dehcho. Should that person automatically have the same rights as a Dehcho Dene because they are now part of the Dehcho family. In other Agreements such a person could only become a member through a community acceptance process. Now the question arises of whether the parent who is not a Dehcho Dene, can be enrolled as a Citizen and receive the same rights as a beneficiary? If there is a separation and that relationship falls apart, would the non-Dene citizen spouse keep their status as a Dehcho First Nation Citizen?

Some tricky questions to answer, important ones as Canada's legislation is different in how it identifies Aboriginal people and non-Aboriginal.

Expropriation chapter gives the government the power to take land for public use. Canada and the GNWT want to have the power to take away Dehcho Ndehe for public purposes and to provide some type of compensation. But they DO NOT want the Dehcho government to have the power to take federal land or Commissioner's for public purposes, such as building a road. Dehcho negotiators disagree and are arguing all three governments

should be able to "expropriate land for public purposes"

Also the question of why can't the Dehcho people have the ability to take land from Canada if it is a "Necessity" and "Best interest" of Dehcho People. Canada can expropriate, the GNWT can expropriate but the Dehcho can't.

JURISDICTION: The discussion at the table circled the matter of: Does the Federal negotiators team have any direction to discuss this matter? No, the federal team has no new direction to begin discussions on Jurisdiction. Two years ago the "McCrank Report" Made a number of recommendations towards changing the rules for approving resource development projects. The government wants to simplify everything so permits for development can be issued more quickly with less cost. Canada has now asked John Pollard, from Hay River to figure out how to make McCrank's recommendations work. These decisions could have an impact on the authority of the Dehcho Government This means we cannot negotiate/discuss anything on "Jurisdiction" until John Pollard's work is completed. Our discussion will now also be affected by the Devolution AiP that was signed by Canada and the GNWT.

It takes a lot of time to get answers from the Federal negotiations team. The federal team is given direction from people in Ottawa on what they can say or not say. Our team gets their direction from Annual Assembly Resolutions and Leadership meetings.



## CONT. GRAND CHIEF COMMUNITY VISITS

**The Dehcho Land Use Plan;** While discussion is on-going between the Federal and Territorial Government at the Land Use Plan Committee, the 2006 approved Land Use Plan will remain our Interim planning policy. We all contributed to the creation of this plan, a plan if accepted four years ago by all parties, resource development would be occurring now in our region and we would be in our final stage of a five year review.

**Land Withdrawal;** Will expire in October, 2010. We require a leadership resolution for extension to 2016. I have been assured by former Minister Chuck Strahl, there would be an extension. In October 2010, Cabinet decision on October 28 was to extent the protection for one year and without sub-surface protection of Edehzhie. We are now in litigation as a result; however, we need to collectively continue in the Protection of our way of life and our land by passing a resolution to extend the Land Withdrawal Protection to 2016.

**Sambaa K'e and Nahanni Butte Dane Band, Notice of Trial;** With traditional activity of our people, migrating from one game area to another, visiting other communities, harvesting, gathering, celebrating, trapping, seasonal hunting, it is difficult to define the term exclusive at the exclusion of others First Nation. Ownership is not defined in that context either; however, the area where land is used is respected. Our understanding of Values and Principles is what governs our everyday lives. Material wealth was not at the expense of others, again the value of sharing. The final outcome or ruling should not affect people using the Axe Point, Trout River, Redknife, Jean Marie traditional land use areas.

**The Mackenzie Gas Project;** In December 2009, the Joint Review Panel submitted its final 176 recommendations on the Mackenzie Gas Project. On April 15, 2010 we responded to the report through the National Energy Board in Yellowknife. Both the Governments of Canada and Northwest Territories prepared a joint 127 page response to the Joint Review Panel recommendation on November 18th 2010. The National Energy Board allowed parties to submit comments on the government response. During all the proceedings, Pehdzhie Ki; Chief Tim Lennie, Liidlii Kue First Nation; Chief Jim Antoine, Nahanni Butte Dene Band; Chief Fred Tesou, Fort Simpson Metis; President Marie Lafferty, Ka'a'gee Tu First Nation; Chief Lloyd Chicot Dehcho Harvesters/Elders Council; Herb Norwegian represented Dehcho First Nations. On December 17th 2010, the National Energy Board released a 310 page response to the Joint Review Panel report and the conditions on the approval of the Mackenzie Gas Project. The Federal Government and the proponent are faced with four basic conditions for the project to move ahead.

1. **Fiscal Certainty (3.2 billion)**
2. **Regulatory Certainty**
3. **Plan Access, (Dehcho Land Access.**
4. **Bundle of permits (From 400-150)**

## UPDATE ON JUDICIAL MATTERS

**SAMBAA K'E - NAHANNI BUTTE vs CANADA:** Canada's absence in their duty to consult.

The matter is in the courts hand now. There has not been any correspondence between ADK and SKDB/NBDB since last summer 2010.

### JUDICIAL REVIEW of EDEHZHIE

This matter is in the courts hands now. DFN has met the requirements in submitting our affidavits (legal papers) on our position on the importance of having the Edehzhie protected from mining and oil and gas explorations and Canada's failure to consult DFN on removing the protection of Edehzhie.

**If you want more info ask your chief or councillors on the matter or the staff at Dehcho First Nations office. Mahsi**



FEDERAL COURT - TR

SAMBAA K'E DEN  
AND NAHANNI BUTTE

- and -

JOHN DUNCAN, MINISTER OF INDIA  
DEVELOPMENT, GOVERNMENT OF THE  
and ACHO DENE KOE E

The challenge now is how we collectively decide on the economics, employment and business opportunities we can undertake while waiting for the decision on the project to proceed. **This is also included in resolution #1**

**Aboriginal Pipeline Group;** Possible Political plan and action. Will be made at a Regional Strategy session. The Strategy session is scheduled to happen in Samba K'e, May 24th-26th, 2011.

**Wildlife Act;** Although there is a draft review of the GNWT Wildlife Act, Dehcho First Nations rejected an invite for a GNWT presentation both at the-Spring Leadership and at our Annual Assembly, therefore DFN is not directly involved with the draft review. DFN however may be politically involved once the draft legislation reaches second reading. Decision is based on the compromise of our position on

the Dehcho Regional Management Authority.

**Katlo'deeche First Nation;** Comprehensive Claim or Treaty Land entitlement: DFN appreciates Chief Fabian's honesty on Katlo'deeche First Nation intention towards their work on their comprehensive claims and clarified who he represents.

**Economic Development Strategy;** *Dehcho means Business Conference.* In 2002 we had our first Economic Conference in Fort Simpson. This proposed second conference should include all the major players such as the Oil and Gas, Forestry, Tourism, Mining Industry, Arts and Craft etc. Included will be envior-groups, governments and cooperations to address our Regional Economy.

**Tourism Survey;** Tourism survey and strategy plan. Dehcho First Nation offer to

the traveling public. What community First Nation have to offer the traveling public, guides service, tour, eco-tourism, traditional sightseeing, Dehcho Trade and Commerce, Arts and craft etc

**Other Matters;** Housing Crisis in the Dehcho; High rent, mortgaged, arrears, property tax. Dehcho By-laws; Seeking a decision on the amendments; changes include a vote to have Acho Dene Koe separate from Dehcho First Nations and the Term of the Grand Chief.

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**Georges Erasmus;**  
**Chief Negotiator**

Taking the extra jump for the Dehcho First Nations during a 2009 Governance workshop in Liidlil Kue

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## On-going AiP Chapters to be Discussed

- Expropriation
- Eligibility and Enrolment
- General Provisions (Further discussion on Tlicho Certainty Model)
- Migratory Birds
- Migratory Birds Definitions
- Wildlife Harvesting
- Wildlife Harvesting Definitions
- Plant Harvesting
- Plant Harvesting Definitions
- Tree Harvesting
- Tree Harvesting Definitions
- Subsistence and Personal Use Definitions
- Commercial Definition
- Interpretation and Amendment
- Social Housing
- Income Assistance
- Post-Secondary Education
- Early Childhood
- Kindergarten to Grade-12 Education
- Out of School Care
- Economic Measures

## UPCOMING NEGOTIATIONS

### LIIDLII KUE - MARCH 8-10TH 2011

#### DRAFT AGENDA

#### **DAY ONE**

**March 8th, 2011**

9am-5pm, MT

- 1) Opening Prayer
- 2) Main table updates
- 3) **Discussion of On-Going AiP Chapters**

- b) Forest Management and Renewable Resources
- c) Harvesters Compensation and Traditional Activities Advocate
- d) Organization of Dehcho Governance Provisions

#### **DAY TWO**

**March 9th, 2011**

9am-5pm, MT

- 4) Continuation of Items Remaining From Previous Day
- 5) General Discussion
  - a) DCRMA - GNWT related matters

#### **DAY THREE**

**March 10th, 2011**

9am-5pm, MT

- 6) Continuation of Items Remaining From Previous Day
- 7) Scheduling for April Sessions
- 8) Closing Prayer