

Update on the Deh Cho Process - February 7, 2001

**FAXED**  
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The following is a "plain english" guide to the Deh Cho Process. It is intended to explain the negotiations process and to explain the draft Interim Measures Agreement (IMA) and Framework Agreement (FA) which have been negotiated so far. Copies of the draft Interim Measures Agreement and Framework Agreement are available at all Deh Cho First Nations band offices, and from the DCFN office in Ft. Simpson. Copies of the DCFN Chief Negotiator's reports to the Deh Cho Leadership and recordings of all negotiating sessions which have been held so far are also available on request from the DCFN.

If you have any questions, please contact: Chris Reid, Chief Negotiator, at: (867) 695-2355, or e-mail: [lawreid@aol.com](mailto:lawreid@aol.com).

### Background

Since Treaties 8 and 11 were signed early in this century, there has been a disagreement about whether the Deh Cho territory is owned by Canada or by the First Nations. Between 1998 and 1999 Canada and the Deh Cho First Nations tried to find common ground to begin negotiations which would clear up this uncertainty about who owns the lands and resources of the Deh Cho. These discussions resulted in the "21 Principles of Common Ground". In September, 1999, negotiations began. It is expected that these negotiations - which are called "the Deh Cho Process" - will take up to 7 years to reach a final agreement which will state which government (Deh Cho or Canada) has legal control over the land.

The first phase of the negotiations has been the development of 2 preliminary agreements: an Interim Measures Agreement, and a Framework Agreement. These 2 agreements will have to be ratified by the Deh Cho First Nations and by the government of Canada before they are implemented.

### Interim Measures

An interim measures agreement is a temporary agreement to give First Nations a role in making decisions about how the land will be used. It is temporary because it will only be in place until a final agreement is reached. The draft Deh Cho Interim Measures Agreement says that no oil or gas exploration will take place without First Nations' permission. Also, no new forestry licenses will be issued without First Nations' permission.

The DCFN Elders have said that any system of land and resource management must be based upon a land use plan for the entire Deh Cho. The DCFN will not give up any land, or divide the Deh Cho into small blocks of land. Thus, the Deh Cho Interim Measures Agreement is based on land use planning for the

whole Deh Cho territory. A joint Planning Committee will be set up to develop a draft land use plan for the Deh Cho. The plan will have to be approved by the DCFN and Canada. The land use plan will provide that some lands will be "withdrawn" in order to protect them from mineral staking or industrial development or exploration during the negotiations towards a final agreement.

The land use plan will also provide that some lands, to be identified by First Nations, will be opened up for development and exploration, provided that First Nations are partners in the development. The land use plan will not address issues of "ownership" of the land-it will only manage the use of land.

The Interim Measures Agreement also sets up a 3 person Deh Cho Land and Water Panel which will have responsibility for issuing land and water use permits until a Deh Cho government can be set up under a final agreement. One member of the Panel will be appointed by the DCFN. The other two will be appointed by the Mackenzie Valley Land and Water Board, in consultation with the DCFN. Companies that want land or water use permits will have to consult with First Nations before an application for a permit is submitted to the Panel. Also, the Panel will be guided by the Deh Cho land use plan.

Canada and the DCFN will also negotiate an interim agreement on resource development to promote development by ensuring that Deh Cho communities benefit from any royalties or taxes collected from any new oil/gas developments or mines established on Deh Cho lands prior to a final agreement. Canada and the DCFN have also set up a joint "Consensus Team" to jointly manage Nahanni Park.

However, the news is not all good for the Deh Cho. There are some weaknesses in the IMA. Despite several attempts at the negotiating table, we were unable to get a commitment from Canada that First Nations will be consulted prior to any mineral staking under the Canada Mining Regulations. The DCFN has therefore stated that we will take the issue to court if any new mineral staking takes place without the consent of First Nations. Canada also refused to include a commitment in the IMA that no federal Crown lands will be sold or leased without the support of the First Nations. The IMA only requires that First Nations be "consulted" prior to any sales or leases.

Also, we still have some tough negotiations ahead on interim land withdrawals and on an resource revenue revenue sharing agreement. Those negotiations will be bi-lateral (Canada and the DCFN). There has never been an interim withdrawal process like the one which will occur in the Deh Cho, which will be based on a land use plan for the whole region. Also, Canada has never previously negotiated an interim resource development agreement. These negotiations will break new ground and will probably be complex and difficult.