

DEHCHO POSITION ON LAND: A CHRONOLOGY OF OUR MANDATE

This chronology and commentary of events from June 2006 until Nov. 30, 2006 following Canada's new and unexpected proposal on land selection. The response of the Dehcho led to an exploratory mandate on land selection for their negotiators based on the timely implementation of the Land Use Plan (LUP). This historic chronology of a critical period in the Dehcho's on-going struggle for justice has been prepared by assistant Dehcho negotiator Ria Letcher of Fort Simpson.

June, 2006: Canada proposes a land selection deal at the Dehcho First Nations annual assembly at Kakisa Lake.. The assembly directed that community consultations on the federal offer be conducted during the fall of 2006. Communities would then convene in a special assembly in November, 2006 to provide direction to the DFN negotiations team.

September-October: Community consultations were conducted by the Dehcho negotiations team.

October: Negotiations session in Yellowknife to discuss land withdrawals, prospecting permits, the Dehcho Land Use Plan, Nahanni Park Expansion, Protected Area Strategy, Dehcho Resource Management Authority, Agreement in Principle (AiP), community visits, trans-boundary overlaps and transfer agreements.

Concern expressed that lands currently withdrawn under the 2003 land withdrawal agreement between Canada and the Dehcho First Nations have a time limit. Communities concerned that timeline insufficient and should be revisited to reflect sufficient time to complete negotiations. Canada's wants progress on substance of land selection offer. Canada also wants progress on AiP.

Prospecting Permits

The Interim Measures Agreement (IMA) signed by DFN and Canada in 2001 remains in effect. Section 39 of IMA clearly provides that support of affected Dehcho First Nation communities must be given before any valid prospecting permits can be issued by Canada's Mining Recorder. However, on February 1, 2006 the Mining Recorder issued permits in the Dehcho territory without consultation with affected Dehcho communities. Permits, therefore invalid.

Land Use Planning

Dehcho LUP key element of Dehcho Process. Management of the whole territory in partnership with the other parties, is the ideal DFN's have been working for through out the development of Plan. Canada suddenly announces problems with the LUP which must be resolved at the negotiations table instead of planning process established under IMA. Canada now linked the Dehcho Land Use Plan to progress on an Agreement-in-Principle based on land selection. Canada states the work of the LUP Committee "complete", even though the signed IMA clearly says Committee will remain in place to monitor compliance with Plan. Canada is now prepared to consider implementing an interim Land Use Plan if the DFN is to reach an AiP based on land selection. If no agreement Land Use Plan might fail.

Canada also informed Dehcho it wants to see size of conservation areas reduced in LUP to provide more economic development lands.

DFN position states all sides compromised to set up the planning process and development of the LUP. DFN states Plan represents good balance between promoting economic development and protecting ecologically sensitive lands and important harvesting areas. Says Plan should be implemented without further delay.

Nahanni Park

Nahanni Park expansion work continues. Jonas Antoine DFN member of the Park Expansion Working Group. Mineral, Energy and Resource Assessment (MERA) nearly complete. Time-table set for release of report. Major research exists dealing with other areas of concern within Park expansion. Report on *Research and Monitoring - Nahanni National Park Reserve Naha -Dehe* available at the Parks Canada, Fort Simpson, and thru the DFN office, and on two part PDF file by request.

Dehcho Resource Management Authority (DRMA)

DRMA one of main elements to move forward. Settlement Agreement of 2005 said that Dehcho final agreement might provide for a stand alone Dehcho Resource Management Authority, independent of the Mackenzie Valley Resource Management Authority (MVRMA).

Harvester Support

Harvester support in final agreement an area of great interest for Dehcho First Nations. James Bay Cree of Northern Quebec have negotiated income security for harvesters. Canada's initial response is no mandate to create new programs through a final agreement. Although DFN could use financial component of a final agreement to establish a harvesters' income support program.

Environment

Global warming and water quality are high areas of concern for the Dehcho. DFN hosted major water conference in 2006, focussing national attention its concerns. Great concern about downstream Mackenzie Valley from Athabasca Tar Sands in northern Alberta. Many rivers of the watershed in danger of pollution and uneven water level fluctuations due to trans-boundary implications for people and rights of Dehcho. Critical area for future.

Education

Powers for Dehcho government under final agreement, requiring authority over, among other concerns, education, including post-secondary. Canada and GNWT offer standard kindergarten to grade 12 (K-12) because of broad nature of post-secondary. Delivery of education by Dehcho may look very different. Transfer agreements delegating Canada's authority to GNWT such as education, health and some resource management need examination.

Implications of land selection

Trans-boundary implications if DFN decides to negotiate land selection agreement. (e.g. Sahtu selected parcels within Dehcho during its settlement process with no overlap agreement. Pehdzeh Ki First Nation wants compensation for parcels of land now inaccessible. PKFN Ready to engage in these discussions. Overlap with Alberta, Yukon and British Columbia also problem. DFN has access to traditional lands in these areas and requires further information on ability to access such lands.

November 8-10, 2006

Dehcho Leadership Meeting, Fort Providence

Report of recent negotiations revealed Canada's position: AiP negotiations, Land Use Plan, Interim Agreements; DFN positions: shared stewardship and public government, status of interim agreements, updates on prospecting permits, 2005 Settlement Agreement, the Land Use Plan, land withdrawals, KFN working group, Nahanni Park, Protected Areas Strategy, and elements of what Dehcho might achieve in a land selection model.

In anticipation of Special Assembly, Leadership reluctant to state specific positions but did pass a binding resolution if talks to go forward.

Resolution 3

WHEREAS, Canada has tabled a land claim and self government proposal to the DFN based on land selection and therefore is outside of the mandate of the Dehcho First Nations' negotiators; and,

WHEREAS, Canada has also recently informed the DFN that they intend to violate the 2001 Interim Measures Agreement by refusing to implement the land use plan and dissolving the Land Use Planning Committee; and,

WHEREAS Canada has demonstrated bad faith by failing to honor interim agreements reached through the Dehcho Process;

THEREFORE BE IT RESOLVED that the Leadership recommends to the Special Assembly that:

Negotiations with Canada on an Agreement-in-Principle based on land selection may be considered only after Canada has provided assurances that the Land Use Plan will be implemented and the role of the Land Use Planning Committee, as set out in the IMA, will be respected.

After Canada has agreed to implement the land use plan and honour existing agreements, the negotiating team will be mandated to begin negotiations with Canada on an Agreement-in-Principle based on land selection.

November 28-30, 2006

Dehcho First Nations, Special Assembly, Fort Simpson

Special Assembly convened to provide directions to the negotiations team on Canada's offer used Dehcho Declaration of 1993 as guiding principles for Dehcho Process with strict no land selection policy ever since:

Our laws from the creator do not allow us to cede, release, surrender or extinguish our inherent rights. The Leadership of the Dehcho upholds the teachings of the Elders as the guiding principles of Dene Government now and in the future.

Agenda's objective for Special Assembly was participation and direction on Canada's proposal. In working sessions participants discussed: treaty rights, extinguishment, certainty, Land Use Planning, land selection, resource management, community governance and jurisdiction(s).

Draft resolution tabled as a discussion piece from working sessions and redrafted several

times to give new mandate for DFN negotiations team.

Assembly clearly reluctant to negotiate land selection model, insisting on further information from Canada. Discussion and debate lengthy and serious. Special Assembly eventually passed resolution with one abstention, giving negotiations team mandate for *exploratory* discussions with Canada on land selection model. Mandate limited so negotiators must return to membership for approval before any land selection negotiations would begin

Resolution 3

Negotiations Mandate

WHEREAS Treaties 11 and 8 confirmed the nation to nation relationship between the Dehcho Dene and Canada which continues to be fundamental to the relationship between the Dehcho and Canada; and

WHEREAS Treaties 11 and 8 confirmed that the Dehcho Dene are the owners and stewards of the lands and resources in their territory, and that the Dene agreed to allow the subjects of the Crown to live on Dene lands in peace and friendship, and that in return the Crown would provide certain benefits to the Dene; and

WHEREAS there continues to be disagreement between Canada and the DFN with respect to ownership and jurisdiction because the written form of the Treaties does not match the Dene oral version of the Treaties; and

WHEREAS the intention of the Dehcho Process is to produce a final agreement which will achieve certainty by clarifying and building upon Treaties 11 and 8; and

WHEREAS the DFN reaffirm our commitment to the Dehcho Proposal which rejects land selection and would achieve certainty through shared stewardship of the whole Dehcho territory; and

WHEREAS, Canada has recently declared that they will only negotiate a land and self-government agreement with the Dehcho if it is based on land selection; and

WHEREAS the DFN seek a lands and self-government agreement with Canada which balances the need to protect ecologically sensitive areas and key harvesting areas with the need for Dehcho communities to have sufficient lands and resources and governance powers to ensure that they can achieve economic self-reliance, cultural integrity and self determination; and

WHEREAS the Land Use Plan which was developed by the Dehcho Land Use Planning

Committee under the terms of the IMA signed by Canada in 2001 is an integral part of the Dehcho Process and is fair, balanced and based on compromises by all parties; and

WHEREAS key objectives of the Dehcho Proposal will be achieved by implementing the Land Use Plan developed by the Dehcho Land Use Planning Committee;

THEREFORE BE IT RESOLVED that:

The Dehcho final agreement will recognize and affirm Aboriginal and Treaty rights and achieve certainty by clarifying and building on Treaties 11 and 8, not through extinguishment of rights;

DFN reaffirm our commitment to the Dehcho Proposal which rejects land selection and would achieve certainty through shared stewardship of the whole Dehcho territory;

Despite our commitment to the Dehcho Proposal, DFN will hold exploratory discussions with Canada on an Agreement-in-Principle which may be based on the selection of surface and subsurface lands;

Negotiations with Canada on the timely implementation of the Land Use Plan and the ongoing role of the Land Use Planning Committee, as set out in the IMA, will continue;

Agreements will balance conservation values and long-term sustainable economic development;

AiP negotiations will also address self-government and jurisdiction relating to lands and resources which are appropriate for the unique needs and circumstances of the DFN and for the use and enjoyment of the Dehcho Dene; and

AiP Negotiations will determine governing structures and jurisdictions at both the regional and community levels based on the inherent rights of Dehcho Dene to self-government and self determination under Section 35 of the *Constitution Act, 1982*.

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First session under new mandate was held at Edmonton, Dec. 18-19, 2006. For details of these and other negotiations visit www.dehchofirstnations.com.