



DEHCHO FIRST NATIONS

BOX 89, FORT SIMPSON, NT X0E 0N0
TEL : (867) 695-2355/2610 FAX : (867) 695-2038
EMAIL: dcfn@dehchofirstnations.com



January 25, 2007

Hon. Jim Prentice, Minister
Indian and Northern Affairs Canada

FAXED
851107

Dear Sir:

Re: Dehcho Land Use Plan

I am writing to advise you that I am very concerned that the Dehcho Process negotiations, in which we seek certainty with respect to ownership and jurisdiction over the lands and resources of the Dehcho territory, are in serious jeopardy as a result of recent moves by federal negotiators and officials. In our view it is important that we meet with you as soon as possible in order to move the Process forward.

Recently Canada's negotiators advised us that it is now your position that Canada will not consider approving and implementing the completed Dehcho Land Use Plan until after there is a complete Agreement-in-Principle, plus agreement on the lands and resources components of a final agreement in the Dehcho Process. Canada's negotiators have also stated that it is Canada's position that the work of the Dehcho Land Use Planning Committee is "complete" and that the Committee will therefore be dissolved.

This new federal position on land use planning in the Dehcho territory constitutes a clear violation of existing agreements between Canada and the DFN and is completely unacceptable. Further, Canada's new position undermines the good will developed through years of hard work and commitment by all parties in the Dehcho Process.

In an effort to find common ground and break the impasse over ownership and control of the Dehcho territory Canada and the Dehcho signed an Interim Measures Agreement and a Framework Agreement in 2001. The IMA is a vital agreement which was intended to build a more trusting and cooperative approach to land and resource management in our territory while we negotiate towards a final agreement which will clarify ownership and jurisdiction over our lands. The cornerstone of the IMA is the joint commitment by Canada and the DFN to develop a Land Use Plan for the Dehcho Territory. Since 2001 we have worked diligently and in good faith to implement the IMA, particularly as it relates to land use planning.

In article 13 of the Settlement Agreement signed in July, 2005 to end the Dehcho's litigation in relation to the environmental assessment of the Mackenzie pipeline project,

Canada promised to implement an approved Land Use Plan "as soon as possible after the Plan's completion". At no time during the negotiation of the Settlement Agreement did Canada's negotiators ever indicate that Canada would not consider approving and implementing the Plan until an AiP is reached in the Dehcho Process.

The Plan, which has now been complete since June, 2006, strikes a balance between protecting ecologically sensitive lands and leaving other land open for development. Canada had every opportunity to participate in the development of the Plan through the open and transparent Planning process agreed to in the IMA, including the appointment of the Planning Committee, drafting the Committee's terms of reference and five years of detailed technical work and stakeholder consultations.

Now, without any warning, Canada has arbitrarily reneged on its promise to approve and implement the Plan. Your negotiators are now holding the Plan hostage, refusing to consider approving the Plan until there are unspecified changes to the Plan, *plus* an Agreement-in-Principle committing the DFN to giving Canada clear title to most of the lands in the Dehcho territory, *plus* agreement on the lands and resources components of a final agreement. This is a radical new position which blatantly violates Canada's agreements with the Dehcho.

Canada's negotiators have given two reasons for refusing to honour commitments to approve and implement the Land Use Plan. First, your negotiators claim that the Plan would protect too much land from development and have suggested that the total amount of protected areas in the Dehcho should be arbitrarily pegged at no more than 40% of the total Dehcho territory. However they have so far been unable or unwilling to identify any areas which they believe should be open for development rather than protected. Second, your negotiators have asserted that some elements of the Plan cannot be implemented under existing federal legislation. However, despite being repeatedly asked to identify which parts of the Plan cannot be implemented under existing legislation, they have been unable or unwilling to provide a single example.

We are also puzzled by your negotiators' assertions that the Planning Committee will be dissolved. The Planning Committee was appointed jointly by the DFN, Canada and the GNWT in 2001 and was given a specific mandate which they have complied fully with. By agreement of the parties, the Committee was incorporated under the *Societies Act* of the NWT, which contains detailed and mandatory procedures to be followed before a non-profit corporation can be dissolved. Further, the IMA clearly provides that the Committee will remain in place after the completion of the Plan in order to consider any revisions requested by the parties and to monitor compliance with the Plan after it has been approved and implemented. Your negotiators have so far been unable or unwilling to explain how they can unilaterally dissolve an incorporated body which was established by the three parties. Nor have they been able to explain how the work of the Planning staff will be completed and supervised in the absence of the Committee.

Canada's sudden and arbitrary change of position on land use planning came without any warning. The Dehcho Land Use Plan has been developed over a period of five years

through an open and transparent process which Canada agreed to. During the entire Planning process we were never advised, either directly or indirectly, that Canada had no intention of approving and implementing the completed Plan unless the DFN agree Canada's demands in the Dehcho Process negotiations on ownership and jurisdiction. Nor were we ever informed until several months after the completion of the Plan that Canada would not agree to a Plan which protects more than 40% of our territory from development.

Despite the fact that your negotiators have not yet identified a single specific objection to the Plan or the process through which the Plan was developed, we have offered to extend the Planning process until June, 2007 and to re-open the Plan to allow for amendments to address Canada's unspecified concerns, provided that Canada is prepared to then honour its commitments and implement an approved Plan. So far, however, we have received no response to our offer.

In addition to our concerns with respect to the Land Use Planning process we are also very concerned that your negotiators and officials have reneged on another key provision of the IMA. Section 39 of the IMA provides that no new prospecting permits will be issued under the *Canada Mining Regulations* without the support of affected DFN communities. Despite the clear, unambiguous wording of the IMA, your negotiators have informed us that they "cannot" comply with s. 39 and we have seen INAC's Mining Recorder issue prospecting permits within our territory despite the fact that our communities have clearly indicated that they do not support new permits at this time.

Mr. Prentice, Canada's arbitrary refusal to honour its agreements with the DFN puts our ongoing negotiations to resolve issues of title and jurisdiction in serious jeopardy. As I am sure you can appreciate, our people question the wisdom of negotiating new agreements with Canada while your officials are refusing to honour existing agreements. We are particularly troubled by the fact that your officials and negotiators are breaking agreements with us while at the same time advising us that they want the DFN to reverse our long standing objection to negotiating a final agreement which achieves certainty through Canada's "land selection" policy rather than through shared stewardship of our territory.

It is important that you meet with us as soon as possible to review the current status of the Dehcho Process and to ensure that we renew our commitments under existing agreements. We look forward to hearing from you.

Sincerely



Herb Norwegian, Grand Chief

cc: DFN Leadership
Dehcho Land Use Planning Committee
G. Erasmus, DFN Chief Negotiator
T. Christian, Federal Chief Negotiator