

Dehcho Land Use Planning Committee

Chiefs and Elders' Forum:

Report Summary

April 22-23, 2008
Nahecho Keh Center
Fort Providence, NT

DEH CHO LAND USE PLANNING COMMITTEE
One Land One Plan



Ndéh Łié - Mek'ée' Ats'et'ı Łié
Dehcho Ndéhé T'áhagot'ı gha Sááhniogjáh-ké

Presented by Petr Cizek and Tim Lennie, Dehcho First Nations Representatives
Forum Facilitated by Michael Nadli, Chair/CEO, Dehcho Land Use Planning Committee
Written summary prepared by Christine Yi and Louie Azzolini, Terra-Firma Consultants

Prepared for the Dehcho Land Use Planning Committee
P.O. Box 199
Fort Providence, NT, XOE 0L0

May 20, 2008

Note: The contents of this report do not necessarily represent the views of all members of the Dehcho Land Use Planning Committee.

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INTRODUCTION

The purpose of the Chiefs and Elders' forum (Forum) was to provide a progress report on the revisions/changes made to the May 2006 Dehcho Land Use Plan (Plan) that was approved by the Dehcho Assembly in 2006. It was also an opportunity for Petr Cizek and Tim Lennie, the Dehcho First Nations (DFN) representatives on the Dehcho Land Use Planning Committee (Committee) to report back to the Chiefs and Elders. The key themes addressed at the Forum were:

- Overview of Dehcho Land Use Planning,
- Revisions to Zoning,
- Revisions to Conformity Requirements,
- Dene Cultural and Traditional Use, and
- Sustainable Development.

The goal of the Forum was to update representatives of the Dehcho First Nations about revisions to the Plan and to explain the Plan revision process. The desired outcome of the Forum was for Dehcho participants to have better understanding of what was happening in the Plan revision process and to provide information regarding the next steps in the Plan approval process.

This report of the Chiefs and Elders' Forum reports participant questions and feedback on the slide presentation¹ with general attendees comments provided in Appendix 1.

KEY CONCERNS DISCUSSED AND REQUESTED BY DEHCHO DELEGATES

1. Request by delegates: 2006 Map currently titled "Draft Land Use Map" to have statement added: "approved by the Dehcho First Nations (Kakisa Assembly 2006)."
2. "Pay the Water Ceremony" should be added to R#2 (Respect Dene Values, Laws, and Principles).
3. Dehcho Guides and Monitors are essential and should be included in the Plan.
4. "Slavey" will be changed to "Dene Zhatie."
5. R#11 – Mine Reclamation Planning and Security should be referred to the Main Table negotiators and form part of Dehcho Resource Management Act.
6. "Give consideration/ to consider" should be changed into stronger wording (reference C#15 & R#18).
7. The Committee should check into the deleted CR/R/A's, especially those that have socio-economic relevance, and refer them to the appropriate committees/organizations/corporations etc. The leadership will be asked for their advice as well.
8. KFN requested a change in zoning. They would like "tourism" to be included into Zone 15 (Buffalo Lake and Trails).
9. Add General recommendations about incorporating climate change issues in all land use decisions.

¹ A set of 48 slides were prepared and presented by Petr Cizek and Tim Lennie. The slides were a summary of the full legal text.



DELEGATES IN ATTENDANCE

Dehcho First Nations Member	Delegates
Katl'odeeche First Nation (Hay River Reserve)	Elder Pat Martel, Fred Tambour, Victoria St. Jean
Deh Gah Gotie First Nation (Fort Providence)	Chief Berna Landry, Elders Ted Landry, Albert Bonnetrouge, Daniel Squirrel.
K'agee Tu First Nation (Kakisa)	Margaret Leishman, Elder Sara Chicot
Nahanni Butte Dene Band (Nahanni Butte)	Peter Marcellais, Lena Marcellais, Marcel Marcellais
Pehdzeh Ki First Nation (Wrigley)	Lawrence Nayally, Charlie Tale, and George Moses
Ft Simpson Métis Local 52 (Fort Simpson)	Barb Sloat
Liidli Kue First Nation (Fort Simpson)	Elder Rita Cli and Dieter Cazon
Jean Marie River First Nation (Jean Marie River)	Chief Stanley Sanguéz and Ernest Hardisty
Fort Providence Resource Management Board	Chris Sanderson
Fort Providence Métis Local 57 (Fort Providence)	Rick Lafferty, Fred Christie
Sambaa Ke Dene Band (Trout Lake)	Dennis Deneron, Elders Tom Kotchea, Edward Jumbo
West Point First Nation (Ts'ueh Nda – Spruce Point)	Elder Jim Thomas



OVERVIEW OF DEHCHO LAND USE PLANNING PROCESS

Slides 1 to 4 - Chronology

Dehcho Chiefs and Elders Forum
Fort Providence, April 22-23, 2008

Update on Draft Changes to Interim Dehcho Land Use Plan

Prepared and presented by:
Petr Cizek and Tim Lennie
Dehcho First Nations Representatives
Dehcho Land Use Planning Committee
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Presentation Outline

1. Chronology of Land Use Planning and Revisions
2. Summary of Major Changes in the draft revised Interim Land Use Plan
3. Land Use Zone Definitions
4. Definition of Conformity Requirements, Actions, and Recommendations
5. Zoning
6. Dene Culture and Traditional Use
7. Sustainable Development
8. Concluding Questions and Comments

Note: This presentation is only a plain language summary of the draft revised Interim Land Use Plan. The full legal text of the Interim Land Use Plan is still under negotiation and revision.

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Land Use Planning Chronology 2001-2007

May 2001	Interim Measures Agreement signed by DFN, Canada, and GNWT that establishes Dehcho Land Use Planning Committee (DLUPC)
Feb 2002	DFN, Canada, GWNT appoint representatives to DLUPC. Office established in Fort Providence and staff recruitment begins.
June 2005	DLUPC releases “Draft Land Use Plan.” DFN and Canada sign Pipeline Settlement agreement that commits Canada to implement plan as soon as possible after it is approved.
June 2006	DLUPC releases “Final Draft Land Use Plan” based on over 140 meetings with communities and stakeholders, 2 regional forums, and 117 written submissions. DFN unanimously approves plan at Annual Assembly.
Nov 2006	Canada writes a letter to DFN stating its intent to terminate the DLUPC and to consider the Land Use Plan only after the completion of an “Agreement-in-Principle” (AiP).
April 2007	DFN, Canada, and GWNT sign “Dehcho Land Use Plan Revisions – Terms of Reference and Workplan” and agree to prepare an “Interim Land Use Plan”

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Chronology of Revisions to Dehcho Land Use Plan 2007-2008

Aug 2007	Canada and GWNT appoint new representatives to DLUPC (Bob Overvold for Canada and Mark Warren for GNWT). DFN maintain original representatives Petr Cizek and Tim Lennie. Herb Norwegian resigns as Chair. Mike Nadli appointed as Chair/Chief Executive Officer.
Oct 2007- April 2008	DLUPC revises land use plan. Five three-day workshops/technical sessions and three “working group” meetings held. Progress reports presented to Dehcho Process Main Table in Nov 2007 and Dehcho Leadership Meeting in March 2008. Louie Azzolini, TerraFirma Consultants, retained as land use planning consultant in Jan 2008.
<i>Next Steps</i>	
May 2008	Consider comments from Chiefs and Elders forum and other DFN consultations. Workshop #6 scheduled for late May.
June 2008	Present as much of completed draft Interim Land Use Plan as possible to Dehcho Annual Assembly
Fall 2008	Complete final draft Interim Land Use Plan for recommendation to DFN Special Assembly for approval. If approved, submit Interim Land Use Plan to GNWT and Canada for consideration and approval.

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1. Question: Why did the Federal Government want to change/dissolve the whole Committee? What was wrong with the first Committee?

Answer: Plans usually begin after a Final Agreement, which then guides Federal policy. Therefore, fundamentally it is not surprising that the Government would try and dissolve the Committee. But the Dehcho pushed to change this policy and it is unusual that this was accomplished and is being done. Maybe the Governments are back-pedaling but the fact is that the Committee is trying to develop a Plan. (Paraphrase: Michael Nadli)

At the start, the Governments may not have been taking the process seriously and may have been hoping the money for funding would distract DFN from completing the agreement; resulting in a weak Plan. As well, the previous representatives for the Governments were not given any direction. The replacements for the Governments, Bob Overvold (former Regional Director General of DIAND) and Mark Warren (Associate Deputy Minister) show that this process is now being taken seriously. They have been given direction and mandate to make changes to the Plan. (Paraphrase: Petr Cizek) Herb Norwegian, then Chair of the Committee, was asked to step down on request by the Governments because they felt there was a conflict of interest as he was also the Grand Chief. (The position of chairman was neutral and he had held it for four years previous to the change.)

2. Question: How much more consultation is required for changes?

Answer: According to Petr the Plan has already gone through extensive consultation including 140 meetings, 2 regional forums, 117 written submissions, and 1,200 documented comments. The proposed changes to the Plan are not that significant. They will be further reviewed at the Kakisa Annual Assembly and then sent for further review and approval to a Special Assembly.

3. Question: How do you implement the Plan and the approval process?

Answer: As the Chair and CEO, Michael stated that he and the Committee are doing all they can to complete the Plan and give it back to the Main Table. At the Committee level there are key fundamental issues that still need to be sorted (and which are affected by Main Table negotiations).

If the Plan in principle is implemented from the Governments' perspective as an Agreement in Principle (AiP) then it is not a final Plan. From the perspective of DFN, the idea is for the Land Withdrawal to reach fruition and then be replaced with the Plan. The Dehcho Resource Management Authority (DRMA) could oversee this even though it has to be negotiated at the Main Table.

Key things need to be decided which are out of the control of the Dehcho Land Use Planning Committee (e.g. Edézhíe and Nahanni initiatives need to be resolved to be able to move forward).

4. Question: Is there communication between the Dehcho negotiators and the Committee?

Answer: After every meeting with the Governments, Tim and Petr report to the Dehcho negotiators as well as to the Chiefs, Elders and Communities.

The simple mission of the Committee is to get the Plan done by the 2008 Summer Assembly. The Committee has their terms of reference for the Plan as their guide and is keeping to the task. Therefore, the Committee is trying to reach the maximum amount of people before the assembly to ensure that everyone understands the revisions. Respect is given to the negotiators and the assumption is that "someone is always reporting to someone."

Although there are many things happening at the Main Table, the Committee is trying to keep task focused because the other issues, in terms of their job description, are none of their business.

5. Question: Is there a big difference between the draft Plan of 2006 and the revised version?



Answer: In Petr’s opinion there is not much difference. He has no hesitation to recommend it for Dehcho approval. There are more positives than negatives, thus giving the DFN more and more control towards the path they want to go.

6. Question: What is the difference between the Land Withdrawal and the Plan?

Answer: In 2001-2003 the Federal government negotiated an Interim Land Protection with the Dehcho. Later, the Wrigley Watershed and the entire Nahanni Watershed area were added. These areas, plus the Edézhíe are protected and have been set aside for 5 years. (2003-2008). Note: Dehcho negotiators are currently working on renewing this at the Main Table so that it is in place until the Plan is finalized and approved.

The Land Withdrawal can be considered the first stage of planning (coarse level). It answers “Yes/No” questions like whether to develop or not. The Plan is based on a more detailed understanding of the areas that are important for protecting and conservation. Therefore, it not only answers “Yes/No” but also “How.” It also establishes a series of rules, terms and conditions to guide the way the land is to be used. The Plan revises and modifies the Land Withdrawal and will become its replacement once approved.

7. Question: Does the Plan address transboundary watersheds and upstream effects?

Answer: The Plan only addresses water that is located in Dehcho territory. Within the Dehcho territory, water (watersheds, lakes, streams etc.) are successfully being protected through the Plan.

REVISIONS TO ZONING

Slide 5 to 9 - Changes to the Zoning Map

Summary of Major Changes in the revised draft Interim Land Use Plan Zoning			
<u>Final Draft Plan, June 2006</u>		<u>Current Revisions, March 2008</u>	
5 Types of Zones:		6 Types of Zones	
Conservation	38.3%	Conservation	24.2%
Protected Areas	12.0%	Fed. Protected Areas	25.5%
Special Management	28.9%	Special Management	3.9%
General Use	20.8%	Special Development	25.3%
Special Infrastructure Corridors	[0.77%]	General Use	21.1%
Total	100%	Special Infrastructure Corridors [0.77%]	
		Total	100%

The Special Infrastructure Corridor zones for the Mackenzie Gas Project and Netla-Arrowhead pipelines float over the other zones, but do not count in the total.
 Special Management Zones prohibit oil & gas and/or mining, but allow some other land uses.
 Special Development Zones allow oil & gas and mining, but prohibit some other land uses.



**Summary of Major Changes in the revised draft Interim Land Use Plan
Conformity Requirements, Actions, Recommendations**

*All work to establish rules on how
development takes place in the
Dehcho territory*

Final Draft June 2006 LUP:

- 25 Conformity Requirements
- 17 Actions
- 34 Recommendations

March 2008 Draft Revisions:

- 15 Conformity Requirements
- 4 Actions
- 20 Recommendations

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The Plan was simplified because it was a concern of the Governments that the 2006 Plan would make the regulatory system more complicated. Petr stated that the strength of the Plan is still there and that the main DFN concerns were maintained.

An important addition to the Plan was a new zone called the Special Development Zone. The Committee is currently in the process of taking values from the Plan Background Report and applying the terms and conditions specific to those zones as was mentioned in the definition provided in Slide 8. A member of the Committee from the Federal Government has committed to do this: the information was not yet available for presentation.

Changes were made to Map 1 because it prohibited too large an area from development for the Governments:

- Land Withdrawal (2003) – prohibits 50% of land for oil/gas/mining
- Map 1 (approved by the Dehcho First Nations in June 2006) – prohibits 60% for Oil/Gas & 70% for Mining
- Map 2 (revision-draft form) – prohibits 53% for Oil/Gas/Mining

New Zone – Federal Protected Area Initiative - includes the Nahanni National Park Reserve, and the Edézhíe Protected Area which the Government wants recognized through the Canadian Wildlife Service.

New Zone – Special Development Zones – Oil/Gas/Mining are permitted based on special terms and certain conditions to protect wildlife and ecology and cultural features. There was a major compromise on the issue of mining: A “Free entry system” is the federal law for mining. (Although people can go and stake mineral claims few become mines). However, the Interim Measures Agreement requires support from affected First Nations to open up lands for oil/gas exploration.



Special Management Zone – reduced substantially.

Conservation Zones: 2 small changes

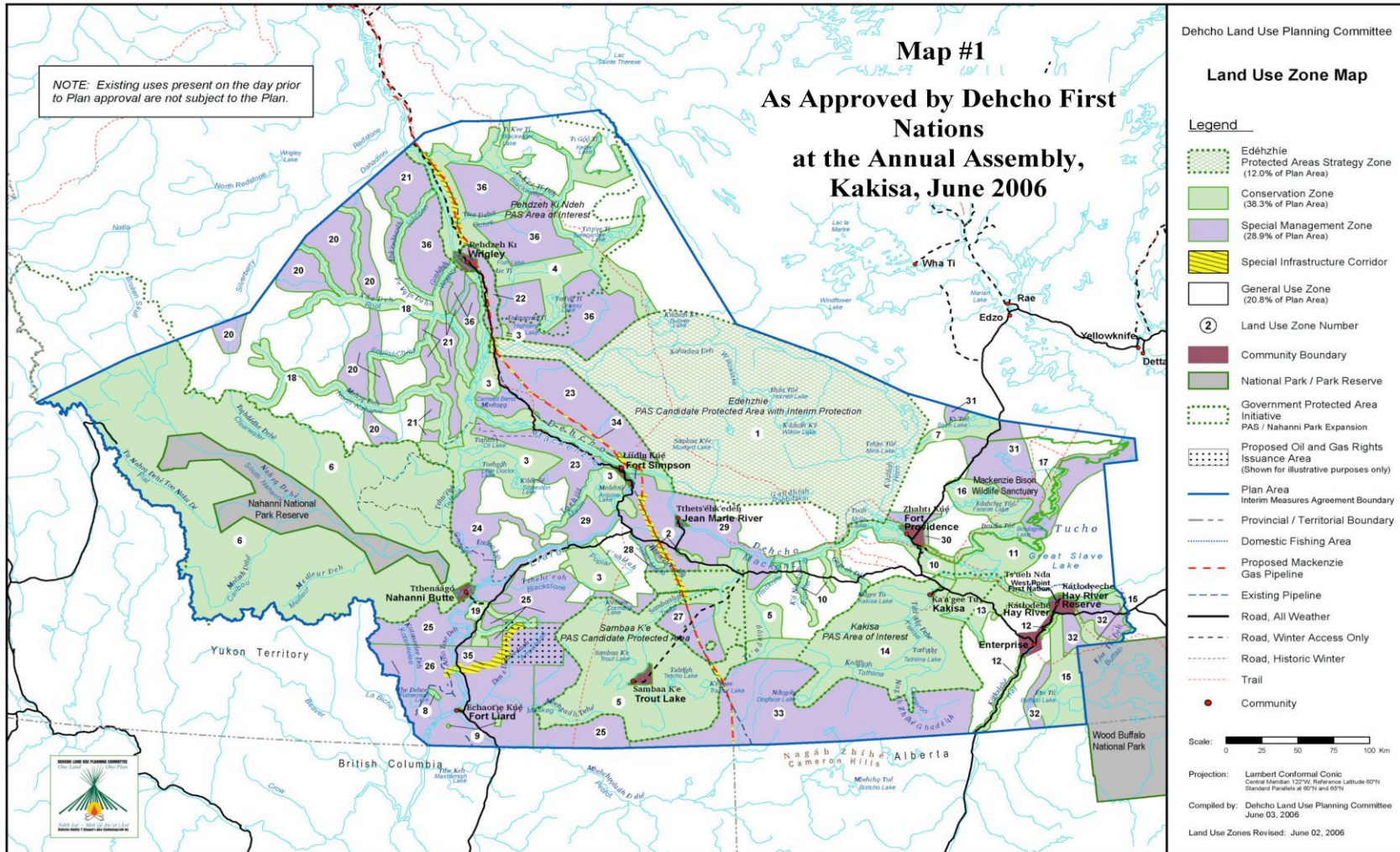
Together, the Federal Protected Area Initiative, Conservation Zones and the Special Management Zones protect more than 53% of the land. That is, there is no loss to the area protected compared to the Land Withdrawal of 2003 (still above 50%)

- Deep Bay by Ft. Providence – the line that went through the middle of the lake now follows the outside edge of the shore to protect the Island.
- Poplar River Area is an area high in Oil/Gas potential. The Committee could not find enough Traditional Land Uses to preserve the whole area but was able to keep the mouth of the river protected.

Issue for Consideration: The Edézhzié Protected Area and the Nahanni National Park Reserve are important concerns for the Federal and Territorial Governments. The areas are now being studied for permanent protected designation.



Map 1: Approved by the Dehcho First Nations - June 2006



Request by delegates to have the 2006 Plan Map currently entitled “Draft Land Use Map” to have the following statement added: “approved by the Dehcho First Nations (Kakisa Assembly 2006).”



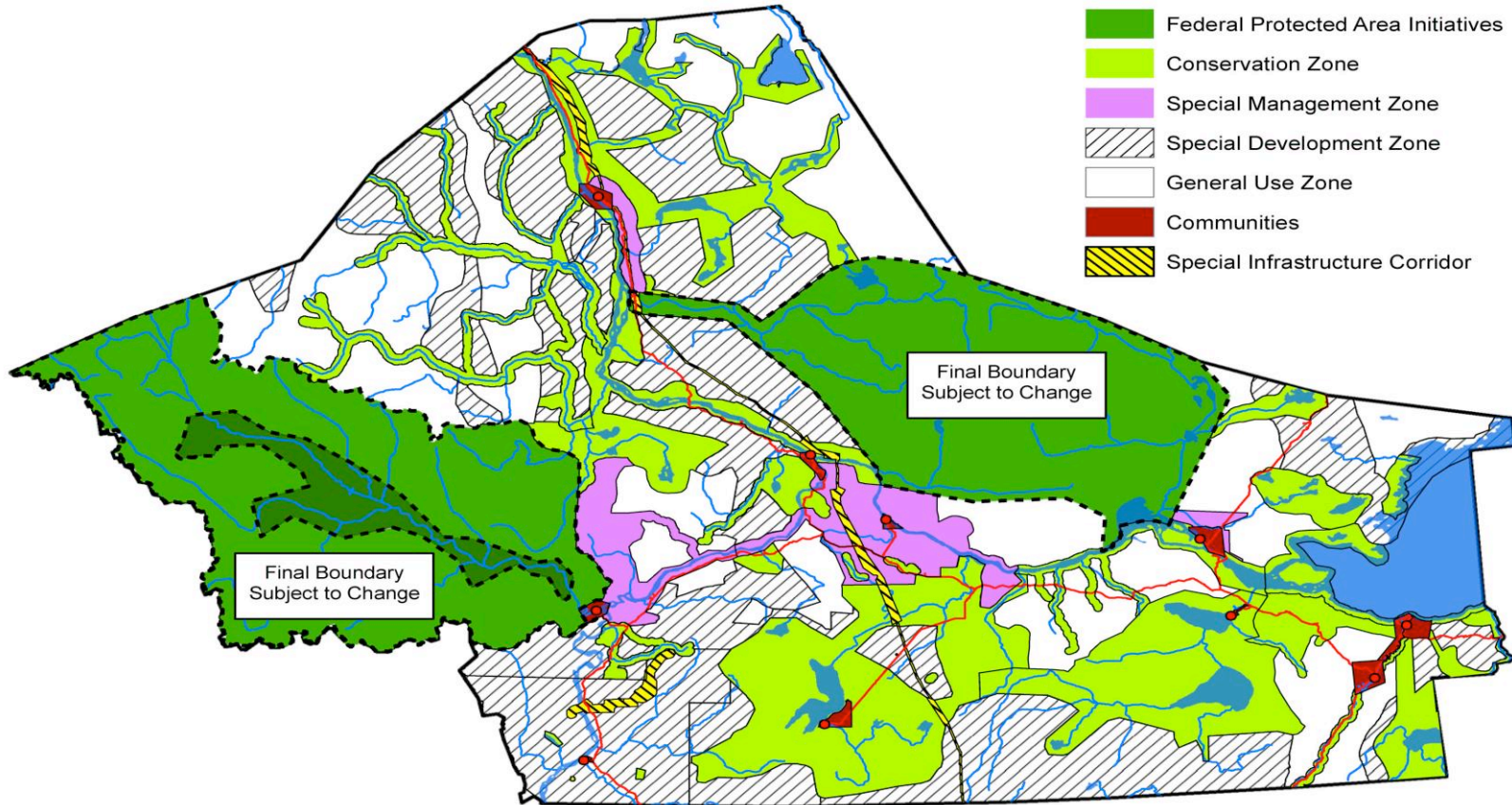
Map 2: Dehcho Revised Interim Land Use Plan - March, 2008

Map #2

Revised Zoning Discussion, March 19, 2008, Without Prejudice

Legend

- Federal Protected Area Initiatives
- Conservation Zone
- Special Management Zone
- Special Development Zone
- General Use Zone
- Communities
- Special Infrastructure Corridor



Land Use Zone Definitions

1. *Federal Protected Area Initiatives Zones* are separate federal initiatives for Candidate Protected Areas or National Parks with Interim Protection.
2. *Conservation Zones* are areas with significant ecological and cultural values. They provide adaptive protection to lands of important cultural or ecological value. Of the five types of land use controlled by zoning, only tourism, and with specific limitations, feeder pipelines are permitted in Conservation Zones, subject to the Interim Plan's Conformity Requirements. Two of the zones prohibit tourism as well.
3. *Special Management Zones* are areas where there is significant potential for both conservation and resource development together. Special Management Zones were established to promote certain types of land use or protect values while allowing some forms of land use to proceed. To achieve these goals, each Special Management Zone prohibits at least one of the five land use types addressed, while permitting others, subject to the Interim Plan's other Conformity Requirements. The only Special Management Zone that permits non-renewable resource extraction is Jean Marie South Zone 28 which permits oil/gas.

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Land Use Zone Definitions (continued)

4. *Special Development Zones* are areas where there is significant potential for both conservation and resource development. Special Development Zones permit both oil/gas and mining subject to zone-specific terms and conditions. In some Special Development Zones other land uses are also permitted.
5. *General Use Zones* permit all land uses, subject to the Interim Plan's Conformity Requirements.
6. *Special Infrastructure Corridors* delineate two study corridors for proposed pipeline projects. The construction and operation of a pipeline is permitted within these corridors, subject to the Interim Plan's Conformity Requirements, even where the corridors cross Zones where oil and gas operations are not permitted otherwise. All zone requirements and restrictions continue to apply in the corridors except where and to the extent that the Interim Plan states an exception.

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1. Question: Once the boundaries of the Edézhíe and Nahanni Reserve Areas have been set and reduced, what would happen to the "green areas," on the map that would no longer be "green"?

Answer: Details to the wording are currently being discussed by the Federal and Territorial Governments, but the areas adjacent to the final Protected Areas would become Special Development Zones unless agreed to by other parties.



2. Question: Should we be thinking about Tribal Parks when preparing the Plan? Dehcho First Nations would prefer not to have protected areas under government legislation, but under our own law as "Tribal Parks".

Answer: There are no written laws to create "Tribal Parks" right now. In the eyes of the Governments - If a law is not written then it is considered non-existent and unrecognized, even if there is an existing oral law. Under a Dehcho Final Agreement, new laws could be made to create "Tribal Parks".

3. Question: What is the relationship between Protected Areas Strategy (PAS) and the Plan?

Answer: They are two separate but complimentary processes that support each other. Once a protected area is established then it stays that way. It is stronger since it is legislated and thus permanent. Each protected area has its own legislation as a park. In the Plan an area currently identified as a Conservation Zone can be revised and changed every 5 years.

4. Question: Can community boundaries be extended?

Answer: In general, community boundaries are huge compared to the size of the actual settlements. The GNWT wants to put in a clause that community boundaries can be expanded within Conservation Zones.

The Plan does not apply within community boundaries and to municipal planning issues – refer to Section 2, pg.4 of the Interim Measures Agreement (regional planning vs. urban/village planning). Discussions are being held at the Main Table that community boundaries under the Final Agreement will be defined in a way that they are big enough to expand the community for the next 100 years.

5. Question: What about overlap issues dealing with Commissioner's Land, Crown Land, and Band Land?

Answer: Plan does not apply to community boundaries and municipal planning issues –Section 2, pg.4 of the Interim Measures Agreement (IMA). The IMA established the boundary of the Dehcho Territory which has been modified to include the north edge with the Tlicho territory. It is the Federal and Territorial Governments that are raising the overlap issues. Therefore, the DFN representative's response is to say that it is the problem of the Governments to resolve. The Plan does not address overlap in harvesting or traditional land use. It merely establishes lands for protection, conservation, and sustainable development. The Plan is about "land management and not land selection."

6. Question: Where does the Commissioner's Land fit in the Plan?

Answer: The Plan does not affect lands within existing community boundaries. Just about all the GNWT Commissioner's Land is located within those boundaries. Most (not all) land in the Dehcho is legally called "Crown Land." Outside community boundaries, there is very little private ("Fee Simple") land in the Dehcho. The few, small parcels are located near Fort Providence and the Hay River Corridor. The Interim Measures Agreement does not specifically address "Fee Simple" parcels. But the lands that have been leased out by the Federal Government still require permits and are subject to the Plan.

7. Question: The definition of CR is "too one-sided" and not what the Dehcho process is about. The Elders say that it is DFN that determines "who/what/how long" and then lets the Minister know. The Declaration was made for this purpose. The land issue has not been settled and yet it seems as we are going by Canadian policy. [paraphrased]

Answer: The Plan does not take away anything from the Dehcho Title and Rights. Instead the Plan tries to use the legal rights available to protect the land. This is the reason for using Federal and Territorial laws. Although Dehcho oral laws are in place and are followed by DFN, until they are written down and agreed to with the Federal and Territorial Governments as being enforceable, they have no legal authority. For instance, as long as Federal law allows Oil & Gas developers to go on the land, DFN can only stop them because the developers follow Federal law.



Until Dene law is in place, the Committee has to use the “white man’s” laws available to implement the Plan. This does not mean that anything is being given up.

8. Question: After the Plan revisions are done: How do we approve/support it? And how do we ratify revisions in the Dehcho? (According to Tim - This is a different document than the approved 2006 Plan. But the choice is either to continue with the status quo or to move for changes: “negotiation equals give and take.”)

Clarification: Petr believes that there is not much difference between the 2006 approved Plan and the revised Plan. He has no hesitation to recommend it for Dehcho approval. He further stated there are more positives than negatives which result in more and more control to the path to where the Dehcho want to go.

9. Question: The Special Development Zone takes up 25.3% of the Dehcho Territory (53 000 km²). How much Oil/Gas is available? What is the total amount of land available for development of Oil/Gas?

Answer: About 98,000 sq km, or just under half of the Dehcho territory would be available for oil/gas. Geological mapping can be found in the Background Report. Most of the Oil/Gas is in the southern part of the Dehcho territory. The dollar amount may be tens of billions of dollars. The amount of land available for development does not mean that it will automatically be developed: Section 41 of the Interim Measures Agreement states that Canada will not initiate any new Oil/Gas development without the support of the affected Dehcho First Nations. The Zoning in the Plan identifies where Oil/Gas development could potentially occur with the support of the affected First Nations.

Definitions of Conformity Requirements, Actions, and Recommendations

1. *Conformity Requirements* are legally-binding rules for how a land use is to be carried out. Will usually be implemented through “Policy Direction” from the Minister of DIAND to the Mackenzie Valley Land and Water Board. Apply only to land uses that require a land use permit, lease or other interest in land, water licence, commercial fishing licence, big game outfitter licence, or outfitter licence, or other authorizations. **Existing land uses and traditional land use and occupancy are exempt from Conformity Requirements.**
2. *Actions* are measures directed at the Dehcho First Nations, GNWT or Canada that do not regulate land or water use (e.g. research, meetings) and are not legally binding.
3. *Recommendations* are statements which provide advisory guidance to Responsible Authorities, governments, and other organizations on additional measures that will help achieve the goals of the Plan; for clarity, they are not legally binding requirements, but where appropriate, should be given consideration in future land use decisions and policy initiatives.

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Slides 10 and 11 - Zoning (Title Slide) and CR #1 General Provisions

CR#1 General Provisions

Establishes the which land uses (oil/gas, mining, forestry, tourism, agriculture) are allowed each zone based on “Map #1 – Zoning” and “Table #1 – Schedule of Permitted Land Uses.” (Attached to presentation)

Also allows for other land uses in all zones:

- Non-exclusive geophysical surveys (“Seismic on Spec”)
- Public infrastructure
- Quarrying
- Transportation corridors
- Feeder pipelines
- Hydro-electric developments
- Forestry management activities required for fire and disease prevention and salvage logging.

In Conservation Zones, these land uses are allowed only if they cannot be located in another zone and if impact is minimized:

Draft Changes:

Adds list of other land uses that can take place in Conservation Zones. Creates a new zone called “Special Development Zone.”
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Slide 12 and 13 – CR#2 Mackenzie Valley Pipeline

CR#2 Mackenzie Valley Pipeline

Establishes a “Special Infrastructure Corridor” based on the pipeline study corridor negotiated with Canada and Imperial Oil in the 2003 Interim Land Withdrawals, which avoids the most sensitive areas such as Trainor Lake, ponds and wetlands near JMR, Fort Simpson Mackenzie River Crossing, and north of Wrigley.

Draft Changes: Still being negotiated. No agreement yet on this CR:

Canada wants the corridor to be automatically changed in the Plan if the National Energy Board and the Joint Review Panel decide on a different corridor.

DFN wants all Parties to work together to amend the Plan because Imperial Oil would have to submit a new application if all or part of the current corridor is rejected by the National Energy Board or Joint Review Panel.

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CR #2 Mackenzie Valley Pipeline Infrastructure (continued)

Requires the applicant to locate pipeline infrastructure (barge landing sites, construction material stockpile sites, fuel storage sites, camps, supply roads, airstrips and helipads, and borrow sites) outside of Conservation Zones if reasonably feasible and to minimize impact.

Draft Changes: Only minor change to wording.

R#2 Mackenzie Valley Pipeline

Encourages the applicant to consider and harmonize its activities with surrounding zones.

Draft Changes: No Changes.

13

The purpose for the corridor is to prevent a pipeline from being built outside of this area. This CR currently states that if a pipeline were to be built the “Special Infrastructure Corridor” would be the only area for consideration. The Plan cannot stop the pipeline but can limit where it goes.

Canada wants to widen the corridor in some places. The DFN representatives on the Committee have no problem on this issue as long as it avoids the sensitive areas.

The problem is that Canada wants the power to automatically change the Plan if the National Energy Board and the Joint Review Panel decide on a different corridor. If changed, the DFN representatives on the Committee are making sure that Imperial Oil would have to submit a new application and all parties would work together to re-examine and amend the Plan.

1. Statement: “If Canada gets its way to automatically change [the location of the MGP corridor] and if the National Energy Board (NEB) and the Joint Review Panel decide on a different panel then it undermines the whole Land Use Plan process.”

Answer: The Plan can not stop the pipeline but it can limit where it goes and has had success, e.g., from Trainor Lake to the east of Trout Lake. This is an issue that the DFN representatives on the Committee stated clearly to the Federal and Territorial Governments that they were not going to give up. (The Interim Land Withdrawals have been successful in already limiting the pipeline to a specific corridor).

2. Statement: The desire is that the Dehcho Resource Management Authority (DRMA) will ultimately play a main role in the pipelines (take over from NEB).

Answer: The NEB in the rest of Canada only deals with inter-provincial pipelines. Therefore, there is no reason for the NEB to control the pipelines in the Dehcho Territory and for the DRMA not to assume authority.



Slide 14 Title Slide - Dene Culture and Traditional Use:

Slide 15 - R#1 Respect Dene Values and Laws, and Principles

R #2 Respect Dene Values, Laws, and Principles

“Applicants in the Dehcho territory are encouraged to be aware of Dene Laws, Values and Principles and consider these in the way they conduct business. The Interim Plan identifies some ways in which these traditional values might be applied to modern resource development. Examples include:

1. Holding a Fire Feeding Ceremony prior to starting a new operation;
2. Showing respect and talking to the community(s) about proposed operations early in the project planning process;
3. Sharing the benefits of development with Dehcho First Nations;
4. Considering the conservation of resources for future generations, and
5. Not wasting natural resources by using appropriate mitigation measures best suited to minimize and/or mitigate environmental impacts.”

Draft Changes:

Combines recommendations R#2, R#3, R#4, R#5, R#6, and R#7 into one recommendation. Provides less detail about not wasting natural resources than original version.

15

1. Question: When do royalties, from resources extracted from the land, come into play?

Answer: The Plan does not address “royalty” issues. Royalties are addressed in the Interim Resource Development Agreement (2003). The Dehcho gets an initial share of the royalties. This issue is also being negotiated at the Main Table.

2. Question: Are there any provisions for water monitoring in the Plan? Ten years ago in Hay River, one of the Elders was asked if he was aware of Alberta’s water pollution problem and how it was/is affecting the North. He has seen the changes and is very concerned about this.

Answer: Water coming into the Dehcho is very important and must be addressed but the Plan does not address things outside of the Dehcho. The Interim Measures Agreement set out the boundary of the 2006 Plan; it does not provide for inter-jurisdictional water issues. The Plan is doing its best to protect the waters within Dehcho Territory.

Chief Berna Landry shared one way that water is currently being monitored in Great Slave Lake. There is a DFO program called Aboriginal Aquatic Resources and Ocean Management (AAROM). The program monitors fish, the quality of water and the level of water on the Lake. DFN has been approved for funding for the AAROM projects.

3. Question: What about adding community information to the Plan?

Answer: The Plan is based on the traditional land use and occupancy mapping research that Petr did with Herb Norwegian and 400 Elders and Harvesters in 8 communities. The database has 55,000



harvest sites and trap lines. There are some communities (i.e. Trout Lake) that have forged ahead to do their own work. Any additional information can go in the Plan in 5 years as an amendment in the Final Agreement. The Plan only uses the “generalized density analysis” as the original “raw data” belongs to the communities and the individual harvesters.

Slide 16 – Preservation of Culture and Language

R#3 Preservation of Culture and Language

“Communities, governments, non-government organizations, Aboriginal organizations and businesses are encouraged to work cooperatively to create more opportunities for Dene cultural and linguistic experiences. This could include:

1. Establishing more on-the-land programs;
2. Establishing training opportunities for traditional harvesting activities and traditional food processing;
3. Establishing Slavey language classes in each community and at large worksites;
4. Providing opportunities for Elders to pass on their knowledge through regular cultural events;
5. Establishing cross-cultural training programs for new workers;
6. Putting more emphasis on language and cultural training in schools;
7. Integrating Slavey words and phrases into workplace culture, signage and communications;
8. Providing employees cultural leave;
9. Providing access to or hosting cultural foods and events (e.g. drum dances, feasts); and
10. Completing Dene Place Name Mapping across the Dehcho territory.”

Draft Changes: No change

16

Six separate Recommendations were edited down to one in order to simplify the Plan. One change that was asked by the delegates was to replace the wording of “Slavey” with “Dene Zhatie.”

1. Statement: Anyone living in the Dehcho territory should have to learn their language and culture.

Answer: Petr Cizek noted that there was no changes to the Recommendation on slide 16 (Preservation of Culture and Language). It was resolved during this forum that all wording for “Slavey”, in the Plan, would be replaced with “Dene Zhatie.”

2. Statement: Dene Elders gave much information for Plan but it is all in English. There are many Dene who do not feel comfortable with this. The fear is that the Governments have differing thoughts and will change the Plan to their liking. Elder Ted Landry feels that they will once again be ignored. He went on to tell the story of how the First Treaty was all in English even though no one spoke the English language. Elder Ted would like stories and information like this to be included in the Plan, to give the young something hard and concrete.

Answer: Dehcho people are documenting stories through community projects. The purpose of the Plan is to make rules in English because “white man” only understands English. At an earlier negotiating session in Hay River, Sam Gargan, an assistant negotiator, gave an emotional speech stating that “The Plan is the story of the people of the Dehcho.”



Slide 17 – Use of Guides and Monitors/Use of Traditional Materials/ Traditional Economy

Use of Guides and Monitors (Deleted)

R#12, A#2, R#13 promoted the use of guides and monitors for development projects

Use of Traditional Materials (Deleted)

R#14 and A#4, encouraged harvesters of traditional materials (e.g. birch bark) to contact the local First Nation and which promoted a strategy for use of traditional materials.

Traditional Economy (Deleted)

A#5 encouraged better research and documentation about the traditional economy.

Draft Changes:

All above deleted and to be referred to Main Table as topics for negotiations.

17

All of these Recommendations and Actions have been deleted and referred to the Main Table. It was pointed out by the Federal and Territorial Governments that these topics did not relate to the Plan. The argument was that these were resource management issues not land use issues.

The delegates strongly contested the fact that the Recommendation for the “Use of Guides and Monitors” was deleted. They firmly stated that the use of guides/monitors is essential for the protection of the land and safety of the developers/researchers/and community members. This issue will be brought to the attention of the Federal and Territorial Governments to be amended.

1. Suggestion for Water Monitoring: Water Monitoring projects to be given to high school students in every community to create a long term database. This will:
 - Starts a database on current soil conditions & mineralization in the soil (checks for contamination.)
 - Starts a database for water conditions (levels of seasonal contaminates)
 - Helps the Plan by monitoring soil and water

Answer: There are numerous projects for monitoring. Since this issue was not raised in the 2006 Plan it would be difficult to bring it into the Plan. Monitoring programs may be better addressed through separate monitoring programs with the results being brought to the future revisions of the Plan.

2. Question: Does Plan set up water monitoring programs?

Answer: The Plan provides the foundation (big picture framework) within which other specific initiatives can be undertaken. For example, Ft. Providence has a Resource Management Board that can set up monitoring program for the bridge across the river. In the meantime, the Plan zoning provides buffers around the rivers.



Slide 18 to 20 - Traditional Harvesting and Community Involvement

CR#3, R#9, R#10, R#11 Use and Recognition of Traditional and Cultural Knowledge (Deleted)

Required documentation and encouraged use of traditional and cultural and knowledge.

CR#4, A#1 Protection of Significant Traditional Land Use and Occupancy Sites (Deleted)

Required documentation of significant sites and protection through avoidance buffers.

CR#5, A#3 Plant Gathering Areas (Deleted)

Required documentation of plant gathering areas and mitigation measures to ensure access for continued use.

Draft Changes:

All above deleted but their purpose is incorporated into A#1 Community Involvement (as shown below).

18

The Federal and Territorial Governments wanted all references to "traditional harvesting" in the Final Agreement and not in the Plan. As a compromise, the CR's (#3, #4, and #5) were moved to A#1 - Community Involvement.

1. Question: At what point do we document plant gathering?

Answer: It has been documented and is ongoing. It is a benefit to the Dehcho communities that most of them already have some information mapped. So when the community is approached, the information is ready to be pulled out.



A#1 Community Involvement

“The Government of Canada, the Government of the Northwest Territories, and the Dehcho First Nations will encourage the Mackenzie Valley Land and Water Board to develop and implement public engagement guidelines requiring applicants to make reasonable efforts, and provide evidence of such efforts, to:

1. Undertake meaningful community involvement with affected First Nation(s) and individuals prior to submitting applications;
2. Document any relevant traditional knowledge and scientific information, ... (continued on next slide)

19

A#9 Community Involvement (continued from previous slide)

3. Document the affected community concerns and identify appropriate mitigation to resolve concerns in the application including:
 - a. Assessing the impact of the proposed activities on known historical, archaeological, cultural and traditional land use and occupancy sites including burial grounds, sacred sites, cabins, and trap lines, as identified by the affected First Nation(s) and the Prince of Wales Northern Heritage Centre;
 - b. Undertaking meaningful community involvement of affected First Nation(s), and individuals identified by the affected First Nation(s), whose sites are affected, in the development of appropriate avoidance buffers and mitigation measures that ensures the protection of important sites as listed in (3);
 - c. Demonstrating that they, in coordination with the affected First Nation(s), have identified any important plant gathering areas and have developed appropriate mitigation measures to ensure continued access to culturally important plant species for community use to the extent possible; and,
 - d. Surveying the land use area of concern to the First Nations to identify the location of culturally important plant species including the plant species listed in Appendix 2.”

Draft Changes:

This is a new action incorporating and replacing:

- Use and Recognition of Traditional and Cultural Knowledge, CR#3, R#9, 10, 11
- Protection of Significant Traditional Land Use and Occupancy Sites, CR# 4, A#1
- Plant Gathering Areas, CR#5, A#3
- Community Involvement, CR#6, A#6

20

Slide 21 - Sustainable Development (Title Slide):



Slide 22 – Existing Uses (Deleted)

R #15 Existing Uses (Deleted)

“The holders of permits, licences and authorizations for existing uses in the Deheho territory are encouraged to consider the values and intent of the surrounding zone and use best available technology to minimize impacts wherever possible.”

Draft Changes:

Deleted due to legal concerns from Canada. The Interim Plan allows for all existing uses to continue.

22

1. Question: R#15 Existing Uses (deleted): Is there still a duty to consult the affected communities?

Answer: Yes. The Dehcho are extremely lucky compared to other regions because there is little third party interest. This is because the strength of the Dehcho in proving that “they are not a free for all” and hence, have put developers on notice. At the urging of Canada’s lawyers this Recommendation was deleted on the basis that it would be too difficult to provide proof to the Auditor General on how this Recommendation was being fulfilled. As well, it was difficult to ask for a change in something that had already been acquired without compensating the individuals/companies for their rights.



Slide 23 – Visual Quality (Deleted)

R#16 Visual Quality (Deleted)

“Applicants are encouraged to consult with the affected First Nation(s) and/or local governments to determine acceptable visual impacts on the community and traditional land use and occupancy areas from the proposed land use activities.”

Draft Changes:

Deleted due to legal concerns from Canada and the GNWT.

23

This Recommendation was not a strong one to begin with.

Slide 24 – R#17 Non-Exclusive Geophysical Surveys

Non-Exclusive Geophysical Surveys (Seismic on Spec)

CR#7 (Deleted): “Responsible Authorities will not authorize non-exclusive geophysical surveys in the areas where such surveys are shown as restricted in Map 2.”

Draft Changes: Deleted as this is already addressed by the Interim Measures Agreement and Policy Direction from the Minister of DIAND.

R #17: “Dehcho First Nation(s) and Canada are encouraged to renegotiate the areas where non-exclusive geophysical surveys are restricted to harmonize these with the Plan’s Land Use Zones, within four years.”

Draft Changes: No Changes. R#17 re-numbered to R#4

24



This relates to companies that do not have exploration licences but apply for seismic surveys so they can sell the information to companies who have exploration licences. This is often called “Seismic on Spec.”

The main issue for placing a section on “Non-Exclusive Geophysical Surveys” in the Plan was to ensure that the trails for the seismic lines did not go through sensitive forest areas that would affect wildlife (e.g. Woodland Caribou) and would not waste the forest wood. A comment on the permafrost issue was brought forward regarding this issue and will be looked into.

Slide 25 – CR#3 Public Infrastructure

CR#3 Public Infrastructure

Community infrastructure related to an existing community (sewage lagoons, water treatment plants, airstrips, landfills, docks and associated structures or buildings) is allowed outside of community boundaries in all zones, including Conservation Zones. GNWT can expand community boundaries.

Minor infrastructure (fuel caches, navigation markers, communication towers, fire towers, storage buildings and similar infrastructure) is allowed in General Use, Special Management, and Special Development Zones.

Minor infrastructure is only allowed in Conservation Zones if it cannot be located anywhere else and minimizes the impact.

Draft Changes:

Earlier version CR#8 did not automatically allow GNWT to build community infrastructure outside community boundaries and to change community boundaries. Restrictions on minor infrastructure in Conservation Zones remain the same as in earlier version.

25

1. Question: Regarding community boundaries mentioned in CR#3 Public Infrastructure (slide 25); does this pertain to all the communities or just the charter communities?

Answer: In the Dehcho there are five unincorporated communities (settlements): Trout Lake, Kakisa, Jean Marie River, Nahanni Butte, and Wrigley. Their boundaries are defined by "Development Control Zones" which were originally established to make sure that any development within those areas were referred to the communities.

The boundaries for the unincorporated communities are not legally defined but the Development Control Zones from old maps were used. The incorporated communities have (Fort Simpson, Hay River, Fort Liard, Fort Providence, and Enterprise) legally defined boundaries. All the boundaries are very large compared to the actual size of the built-up areas, which allows for the communities to grow and infrastructure to be built within these boundaries.

2. Statement: There is a concern in the revision that allows the GNWT the power to expand community boundaries and build community infrastructure outside community boundaries. A statement was made that: the GNWT needs to consult with the communities instead of doing what they think is appropriate. The GNWT has to be restricted with “How” and under “What” conditions they can use



this for. At the same time, the communities cannot be restricted from doing things within those boundaries.

Answer: The slides are in lay language and not legal text. The GNWT community boundary policy needs consultation with the communities.

- Chief Stanley Sanguetz: We need to work with the GNWT to write down a definition for boundaries. There are three different types of lands that need to be fixed and clarified. The GNWT is trying to give this problem to the DFN to solve. Note: This has to be part of the Main Table discussions.

Slide 26 – R#5 Quarrying

R#5, R#5 Quarrying

Encourages Territorial Land Agent to:

- Locate quarries outside of Conservation Zones and Federal Protected Area Initiative Zones
- Require the applicant to show that they engaged the local community
- Consider whether there is an immediate need for the quarrying
- Minimize impact

Draft Changes:

Earlier version CR#9 repeated wording from Interim Measures Agreement (IMA) that required **consent** from Dehcho First Nations for quarries in Conservation Zones unless, in the opinion of the Minister of DIAND no other sources were available. Canada now has legal concerns about wording for quarries in IMA. Dehcho First Nations maintain that all of the IMA continues to apply and that revised wording would not affect the IMA.

26

Quarrying usually refers to gravel pits but also includes: stone, granite, marble etc. (The full list, which is included in the Plan, can be found in Section 4.1 of the Interim Measures Agreement and the *Territorial Quarrying Regulations*).

Significant changes were made. The reasons are given on the slide. The reference can be found on page 6, Section 20 of the Interim Measures Agreement. Canada does not want to repeat Section 20 of the Interim Measures Agreement in the Plan because its lawyers advise that the discretion of the Territorial Land Agent cannot be "fettered".

Note: This Recommendation does not affect what is in the Interim Measures Agreement.

1. Question: Does a flint quarry fall under the definition for quarrying?

Answer: If you have a flint quarry then it is considered an archaeological site and automatically protected. Therefore, if a company is digging and finds archaeological specimens, they are required to report it and stop the process. If monitors and guides are present on site, they would report this as well.

2. Question: How do you limit the Federal Government from giving Quarry permits?



Answer: The main restriction is in the Interim Measures Agreement, Section 20. It pertains to quarry applications in Land Withdrawal areas. If the area to be developed is in this area then communities have the power to say, “yes/no.” The main interest in quarries will be as part of the pipeline. The proposed quarries are currently in the Land Withdrawal areas therefore the Dehcho have the power to decide about how quarrying takes place.

3. Statement: The identified areas that need to be developed should not be developed unless it is community driven and community developed. The community can then sell the raw materials back to those that require it. Study/Check the 2003 map and concentrate on Land Withdrawal areas = best weapon on protecting the land and future.

Answer: Tim Lennie said that communities need be able to make their own quarries, roads, and businesses. If the Plan is too legalistic/encumbering then we are setting a high bar to protect the land but the Dehcho need to get over that bar too. If the Plan is flexible enough for developers it is flexible enough for Dehcho communities.

Slide 27 - CR#4 Transportation Corridors

CR#4 Transportation Corridors

Except public highways, new transportation corridors (including seasonal roads, all weather roads and railways) will require a rationale for route selection that:

- Plans for other future users;
- Avoids Conservation Zones unless there is “no reasonably feasible alternative”; and
- Minimizes impacts

Draft Changes:

Earlier version CR#10 included public highways. Public highways now excluded from CR as requested by the GNWT. It also required a “transportation planning study” instead of just a “rationale for route selection.” Other minor edits to earlier version.

27

The idea behind this CR is seen on Map 2; it shows connected Conservation Zones. The reason for these conservation corridors is to avoid Conservation Zones as islands in a sea of development where wildlife and people cross.

The GNWT does not want this CR to apply to public highways so that there is flexibility (e.g. realigning the highways).



Earlier, a “Transportation Planning Study” was also required but Governments stated that this request was too strong and would require too much work. Now, it has been simplified so that only a “rationale for route selection” is needed.

1. Question: Are old roads addressed in by CR#3 Transportation Corridors? (The concern due to 3rd Party interest).

Answer: The main issue would be the access road to Prairie Creek. This is exempt from environmental assessment because it has been grandfathered in. (This is the only example Petr could think of that concerned third party interest.)

The issue with the winter road from Yellowknife to the diamond mines is that they are not held under land use permits but have licenses of occupation under the Canada *Federal Real Property Act*. The Dehcho Land Use Planning Committee covered this off by including the phrasing, “and other authorizations” when talking about land use permits and licenses.

2. Question: There is great concern for the impact on fish by barges. A proposal to tie up barges along the Horn River was denied as the area was in the Edehzhie Protected Area Strategy land withdrawal. How do you minimize impact in the future?

Answer: The Plan deals with permanent facilities; infrastructure constructed on land/water (e.g. roads/barge landing). It does not deal with barging or road traffic/speed limits etc. This issue was not included in the approved 2006 draft and usually is not included in land use plans.



Slide 28 – CR#5 Hydro-Electric & Communication Corridors (New)

CR#5 Hydro-Electric and Communication Corridors

Hydro-electric and communication corridors will require a rationale for route selection that:

- Plans for other future users;
- Avoids Conservation Zones unless there is “no reasonably feasible alternative”; and
- Minimizes impacts.

Draft Changes:

None as this is a new Conformity Requirement

28

Hydro-electric corridors are electric power lines from dams or connections between existing generators. Communication corridors are phone lines and fibre optic lines.

This is a new CR because it was not thought of in the earlier version of the Plan.

1. Question: How do we as the Dehcho territory look at alternative energy as part of the Plan?

Answer: Hydro-electric development is addressed in Slide 33. The Committee decided not to place alternative energy in the 2006 Plan because this usually happens within community boundaries. Hydro-electric development is the only thing that happens outside of community boundaries.

It is difficult to bring energy development back into the Plan because it is regarded, by the Federal and Territorial Governments, as a socio-economic issue. Therefore they do not want this recommendation in the Plan.

Tim advised each community that there is a need to look into alternative energy. The GNWT is looking into this matter. The Dehcho need to be mindful of the government programs that are already in place: “We need to take advantage of government programs today and educate ourselves” because eventually when DFN is self governing or has a Final Agreement the funding will no longer come from the Governments but from ourselves. Therefore, there is an opportunity today to use government services and programs to build up Dehcho infrastructure.

2. Statement: Hydro lines sound loud and wildlife stray away. We must look into more suitable alternatives.

Answer: The existing lines are alongside highways. All communities in the Dehcho, except Hay River, depend on diesel.



3. Statement: The idea of using dampers was given as a way to minimize hydro-electric noise disturbances.

Answer: The concept of minimizing impact is in the Plan, although all the technologies to minimize impact cannot be listed. The idea is that the Plan will ensure that those parties acquiring land use permits/authorization will have to address these items.

Slide 29 – CR#6 – Feeder Pipelines

CR#6 Feeder Pipelines

Feeder pipelines (a smaller diameter lateral pipeline, and includes flowlines and gathering pipelines) require pipeline planning and pipeline routing studies that:

- Plan for other future users;
- Avoid Conservation Zones unless there is “no reasonably feasible alternative”; and
- Minimize impacts.

Draft Changes:

Minor edits to earlier version of CR#11.

29



Slide 30 – CR#7 Netla-Arrowhead Special Infrastructure Corridor

CR#7 Netlá-Arrowhead Special Infrastructure Corridor

Requires the pipeline connecting the Netla-Arrowhead area to the existing pipelines on the west side of the Liard River to follow the defined corridor and minimize impact.

Requires the applicant to demonstrate reasonable efforts to obtain meaningful community engagement involvement with the affected First Nation(s) on the construction, operation, reclamation and abandonment of the pipeline and associated infrastructure.

R#7 Encourages the affected First Nations to work co-operatively to maximize benefits.

Draft Changes:

Earlier version of CR#12 required the affected First Nations to work co-operatively to maximize benefits. This part changed to R#7. Other minor edits.

30

This CR is trying to address the induced development of pipelines. It is also to prevent past mistakes, like pipelines crossing wetlands. The Plan does not make decisions on which community own/controls land (in reference to Feeder Pipelines).

The idea of this CR is that all communities work on a possible Oil/Gas issuance for the area shown in the square (Map 1).

Federal Government stated the Plan could not require DFN to work cooperatively on the pipeline therefore it was changed from a CR to R#7.

This CR does not commit anyone to be support the pipeline nor does it commit Dehcho communities to open up lands for further Oil/Gas exploration. Unanimous support from affected First Nations and a call for bid is required for this as stated in the Interim Measures Agreement.

1. Question: How will Fort Liard and their claims to their traditional areas fit in with the Plan?

Answer: The Plan covers the land is to be used/protected/developed. It does not address which community's land is where. (The Dehcho position – as Petr understands – is not to carve up the land). There was a discussion in spring 2005 with Ft. Liard, Trout Lake, and Nahanni Butte about Ft. Liard's interest in Oil/Gas development. Things have changed in Ft. Liard and they are now in separate negotiations; they are not attending the Forum.

2. Statement: Sensitive areas – Dennis Deneron of Trout Lake did some work for Encana in the area identified for potential for Oil/Gas. It is a caribou calving area: 4 collared caribou were identified. Therefore, he is trying to collect data prior to exploration work and encourages Nahanni Butte to do the same.



Answer: Statements made by participants about their experience with oil/gas exploration:

- If Encana pushes, then affected communities can ask MVLWB to do an environmental assessment.
- Drilling wells and puncturing effects on the land and wildlife. Examples of changes to habitat in Fort Liard, and Jean Marie were shared about what can happen when one is not careful. Some of the leaks took place in the 1960's and it has been stated that there are no moose or caribou coming to that area presently.
- Nahanni Butte and Trout Lake were concerned that there were still sensitive sites in this area that first need to be explored, identified, and documented (i.e. gravesites).
- An example of an unacceptable action that a company took when there was a spill at a river crossing. Instead of addressing and compensating for the impact, the company went to the boundaries of another site to continue their work.

Slide 31- CR#8 Commercial Fishing

CR#8 Commercial Fishing

“Except on Great Slave Lake (Tucho), the Department of Fisheries and Oceans (DFO) will not authorize commercial fishing on lakes without first consulting the affected First Nation(s).”

Draft Changes:

Earlier version CR#13 required **support** from affected First Nation(s).
Changed to **consult** due to legal concerns from Department of Fisheries and Oceans.

A #7 Commercial Fishing (Deleted)

Dehcho First Nation(s) will make best efforts to meet directly with the Great Slave Lake Advisory Committee to resolve the concerns of its membership, within one year.

Draft Changes:

Deleted and to be referred to Main Table as topic for negotiations.

31

Participants expressed concern about the wording change from ‘support’ to ‘consult’ in this CR. Petr Cizek pointed out that the definition of ‘consult’ goes back to A#1 which sets out the practical steps. Also, ‘consult’ has an evolving legal definition from decisions made by the courts.

Slide 32 - CR#9 Public Water Supply



CR#9 Public Water Supply

Requires regulators to determine if land uses are in the watershed of a community's public water supply source so that the applications can be reviewed by the GNWT Medical Officer of Health.

Draft Changes:

Earlier version CR#14 required the use of "best available technology" in the watershed of a community's public water supply.

R#8 Aquatic Environment

Recommends minimizing impacts and ensuring that wastewater meet guidelines.

Draft Changes:

Earlier version CR#15 required minimizing impacts, ensuring that wastewater met guidelines. It also required "no net loss of wetlands", which was deleted. Changed to recommendation.

32

CR#9 addresses the issue of having water uses upstream of community water intakes. The purpose was to make sure applications affecting drinking water went to the GNWT Medical Officer of Health.

Aquatic Environment was changed to a Recommendation (R#8) because the GNWT argued that sometimes, waters receiving waste water do not already meet National guidelines (e.g. silt in the Liard River or mountain rivers that naturally have heavy metals).

GNWT could not guarantee that all wetlands would be treated equally as fish habitats because there is no policy for wetlands.



Slide 33 and 34 – CR#10 Hydro-Electric Development and Air Monitoring and Management

CR#10 Hydro-Electric Development

Only allows hydro-electric developments that do not alter the quality, quantity and rate of flow of water and that do not result in significant flooding or significant impoundment.

Requires a site selection rationale. Only allows hydro-electric development in Conservation Zones if no other “reasonably feasible location” is available. Requires impacts to be minimized.

Draft Changes:

Earlier version CR#15 prohibited hydro-electric development on the Mackenzie and Liard Rivers and in all Conservation Zones. It also permitted only “run of the river” projects with no flooding and little or no impoundment.

33

This CR was an originally a reaction to the GNWT's proposed 100 foot high dams upstream of Fort Simpson which would flood the Jean Marie River and reach as far as Mills Lake. Another dam project was downstream of Wrigley which would have resulted in floods reaching the highway and pipeline routes. Since then, the GNWT has backed off its dam proposals. Therefore, a compromise has been made where limits were set so that there is no significant flooding, and some development will be allowed in Conservation Zones if there is no other feasible location available.



Air Monitoring and Management

R#9 encourages regulators to apply air quality standards from other jurisdictions as the only standards in the NWT are within community boundaries.

R#10 encourages regulators to develop air quality standards for the Dehcho territory and mechanisms to monitor and enforce compliance in consultation with Dehcho First Nation(s).

Draft Changes:

Minor changes to earlier versions of R#18 and R#19.

34

No comments on this Slide.

Slide 35 – R#11 Mine Reclamation Planning and Security

R #11 Mine Reclamation Planning and Security

DIAND should continue to review and update the Mine Site Reclamation Guidelines for the Northwest Territories periodically by means of external and internal reviews and/ or workout sessions that incorporates the views of the Aboriginal community members including Dehcho First Nations members, scientific experts, mine representatives, regulatory authorities and other affected parties.

Draft Changes:

Major change to CR#17, which attempted to establish enforceable rules for mining in the Dehcho territory. Canada will not accept changes to its mining policies through a land use plan. *Needs to be discussed at the Main Table as part of DCRMA.*

35



The revision for Mine Reclamation Planning and Security came about because the Federal Government claimed that the Plan should be within a legal framework (within existing policies). Since there are already existing mining policies, the Federal Government does not want it in the Plan.

- The Participants recommended that this section be included as part of Dehcho Resource Management Act.

Slide 36 – Revegetation

R#12 Revegetation

“Where a term or condition of an authorized land use requires revegetation, Responsible Authorities should encourage best practices that:
do not contribute to fire hazard,
avoid the spread of invasive plant species, and
promote indigenous plant growth.”

Draft Changes:

Changed to recommendation from previous version CR#18 with minor edits.

36

The GNWT felt it could not request that only indigenous plant species be used because of the difficulty obtaining the seeds.

1. Question: Revegetation: What does “encourage” mean? (*Concern is that non-native plants will choke the vegetation.*)

Answer: The mixes will be ones that do not choke indigenous plants. Each project is site specific and therefore will use what is available at the time.

2. Question: Can it be a requirement of Industry to collect native seeds and at completion of a project to reseed the area?

Answer: There is less of an issue with trees because it is easy to obtain boreal trees of the same species in B.C. or Alberta. The problem mainly relates to grasses. There is no nursery in the NWT that produces bags of grass seeds. Because there is a lack of demand it is difficult to obtain a sufficient quantity.

3. Statement: Concern with the revegetation along pipelines and believes the R#11 Revegetation should be a CR.

Suggestion: Participants would like to develop a seed bank for the indigenous plants in the Dehcho Territory.



Slide 37 – Forestry

Forestry

A #2 “The GNWT, in consultation with the affected community(s), are encouraged to establish appropriate silviculture practices for the Dehcho territory, within four years.”

Draft Changes:

Minor edits from original version A#8.

CR #11 “Regulatory Authorities must ensure that proposed activities to be carried out on forest lands are conducted in accordance with current direction of the Forest Management Supervisor of the NWT regarding timber recovery.”

Draft Changes:

Changed from earlier version of CR#19. No longer refers to the specific ways that timber wastage is to be minimized or ways that timber is to be recovered. GNWT insists that this be left to the authority of the Forest Management Supervisor.

37

No comments on this Slide.

Slides 38 to 40 – Tourism

Tourism

R #13: Responsible Authorities are encouraged to use the SMART (Sustainable Model for Arctic Regional Tourism) Principles and the GNWT Leave No Trace Guidelines when approving and regulating tourism operations in the region.

Draft Changes: Minor edits from previous version of R#20.

R #21 (Deleted): Responsible Authorities should encourage individuals and tourism operators visiting the Dehcho territory to follow Leave No Trace guidelines during their stay.

Draft Changes: Integrated into R#13 above.

38

R#21 was not deleted but integrated into R#13 to simplify the text of the Plan.



Tourism (continued)

R #14: It is recommended that the issuance of new big game outfitter licences in the Dehcho territory be suspended pending a negotiated outcome in the Dehcho Process. The Dehcho Land Use Plan will be amended accordingly to reflect any resolution.

Draft Changes:

Major change from CR#20 which prohibited issuance of new outfitter licenses in the Dehcho territory. Now only recommendation.

R #22 (Deleted): Dehcho First Nation(s) is encouraged to raise the issue of aboriginal versus non-aboriginal hunting rights through Dehcho Process negotiations.

Draft Changes:

Deleted and to be referred to the Main Table as topic for negotiations

39

Tourism (continued)

R #15 Fishing Lodges in Zone 5 (Sambaa K'e/Redknife River)

“It is recommended that no new leases for the purpose of establishing a fishing lodge in Zone 5 be granted unless the lease is associated with an existing tourism establishment.”

Draft Changes:

Major change from CR#21 which prohibited new fishing lodges on Trout Lake unless associated with an existing outfitter license. Now only recommendation.

R#16 Encourages application of visitor quotas if necessary

Draft Changes: Minor edits from previous version of R#23

A#9 (Deleted) Commits regulators to addressing sport fishing quotas within four years.

Draft Changes: Deleted and to be referred to Main Table as topic for negotiations. Concerns from Department of Fisheries and Oceans.

40

1. **Statement:** Chief Stanley Sanguéz would like the Main Table to be aware that a “monitoring mechanism” needs to be in place for tourists. For example: The number of jet boaters on the North Nahanni are overcrowded and therefore a danger.

Answer: Through R#16 it is possible through GNWT legislation to restrict certain areas to tourists. It should be noted that the GNWT may be reluctant to do so.



Slide 41 and 42 - Agricultural Practices

Agricultural Practices

CR #12 “Regulatory Authorities must ensure that agricultural land use activities are conducted in accordance with current direction of the Chief Environmental Protection Officer of the NWT who has authority under the NWT Environmental Protection Act.”

Draft Change: Previous version CR#22 prohibited confined animal feeding operations. Now definition of “agriculture” has been changed to exclude confined animal feeding operations.

R #17 “Responsible Authorities are encouraged to consider applying conditions on agricultural activities to minimize clearing, draining and the use of chemicals, and to encourage the use of appropriate mitigation measures best suited to minimize and / or mitigate environmental impacts.”

Draft Change: Minor edits to previous version of R#24.

41

Originally, the clause about “confined animal feeding operations” was due to a reaction against the feed lots and hog farms in the South that are causing pollution. It is unlikely that this will happen in the Dehcho Territory, but the definition of agriculture was changed to exclude confined animal feeding operations.

Agricultural Practices (continued)

R #25 (Deleted) : “Communities, governments and agricultural organizations should work together to address the many obstacles to agricultural development in the north with the goal of increasing local production and use of agricultural products. The development of new policy and regulatory instruments such as a GNWT Procurement Policy as recommended in “Common Ground – NWT Economic Strategy 2000” could provide the necessary incentives to move this goal forward.”

Draft Changes: Deleted and to be referred to Dehcho Economic Development Corporation. Canada and GWNT consider socio-economic issues outside the scope of a land use plan.

42



Slide 43 – Digital Pre-and Post Operation Mapping

Digital Pre- and Post Operation Mapping

CR#13 “The MVLWB will require applicant to submit digital mapping as specified in (2), showing the location of their proposed land use (new roads, seismic, well sites, cut blocks, and other disturbances from the land use) to Responsible Authorities at the time the application is submitted and following completion of the activity, to allow monitoring of landscape disturbances.....”

Draft Changes: Minor edits to earlier version CR#23. Canada still consulting with Mackenzie Valley Land and Water Board to confirm that this can be done.

43

No comments on this Slide.

Slide 44 – Cumulative Effects Management

Cumulative Effects Management

CR#13 Regulators will consider an cumulative effects evaluation conducted by the Dehcho Land Use Planning Committee.

Draft Changes: No change to previous version of CR#24.

Cumulative Effects Research

A#4 The Dehcho First Nation(s), Canada and the Government of the Northwest Territories in cooperation with the Committee, will create a Working Group in consultation with Regulatory Authorities, industry and other planning partners to carry out research about cumulative effects... (as listed in detail).

Draft Changes: Minor edits and grouping of A#13, A#14, A#15, A#16, and R#26 into A#4.

44

1. Question: In reference to A#4 (slide 44), when will the “working group be created”?



Answer: DFN representative on the Committee will meet with GNWT representatives in may to discuss the details of the “working group.”



Slide 45 – CR#15 Significant Environmental and Habitat Features

Significant Environmental and Habitat Features

CR #15 “1. Responsible Authorities will ensure that the applicant gives consideration to:

- a. preventing and mitigating the long term impact on wildlife, significant habitat features and significant environmental features; and
- b. avoiding significant habitat features and significant environmental features during the critical life cycle periods listed in Table 4 – Critical Life Cycle Periods.”

Draft Changes: Major change to previous version CR#25 that **prohibited** any significant long term impact on wildlife, significant habitat features and significant environmental features. New version only requires that the applicant “give consideration.”

45

1. Concern: Concern with the wording of “gives consideration” in the revised CR #15 – Significant Environmental and Habitat Features.

Answer: The change in wording from “prohibited” to “gives consideration” was of concern to many of the delegates present. Canada is drafting the wording for the Plan which refers to the *Species at Risk Act*. The Plan does not take away any existing legislation but supplements them. Therefore, threatened species are protected under the *Wildlife Act*. Unthreatened/unlisted species, however, have less protection. If it is possible, impact will be avoided on these wildlife but the Federal and Territorial Governments want the flexibility to decide this.



Slide 46 – Significant Environmental and Habitat Features (continued)

Significant Environmental and Habitat Features (continued)

R #18 “Responsible Authorities and applicants should refer to Table 4 – Critical Life Cycle Periods for a summary of the critical life cycle periods for animals within the Dehcho Region.

Responsible Authorities are encouraged to consider applying conditions of a minimum altitude for aircraft whenever safe and practical when flying over significant habitat features during critical periods listed in Table 4 – Critical Life Cycle Periods, other than for licensed wildlife research and monitoring purposes.”

Draft Changes: Previous version R#27 recommended that aircraft maintain an altitude of at least 650 metres. Reference to specific altitude removed at request of Transport Canada.

46

Issue with the word “to consider” and participants want this to be monitored to ensure that all parties are following the guidelines and minimally impacting the land and wildlife.

Slide 47 – List of deleted Recommendations and Actions that are considered to be socio-economic issues

A#17 Economic Development Strategy (Deleted)

R#28 Resource Development Awareness (Deleted)

R#29 Health and Social Impacts (Deleted)

R#30 Money Management (Deleted)

R#31 Flexible Shift and Holiday Options (Deleted)

Draft Changes:

All the above deleted and to be referred to the Dehcho Economic Development Corporation. Canada and the GNWT consider socio-economic issues outside the scope of a land use plan.

47



In addition to referring these items to the Dehcho Economic Development Corporation, the COMMITTEE will also review and refer these items to the Social Impact Committee/Social Economic Fund (which is related to the Pipeline Impact Fund).

Tim Lennie advised that the deleted Recommendations and Actions would be brought to Leadership so that these items could be delegated to different organizations that would be able to deal with and implement them.

2. Question: Is there a budget available for the shifting of these Recommendations? Has there been any communication with the Dehcho Economic Development Corporation (DEDC)?

Answer: (Recommendations R#25, #17, R#28, R#29. R#30 and R#31 have been deleted and may be best suited to go to the Dehcho Economic Development Corporation. Concern is that because the DEDC does not have sufficient funding, referring all these Recommendations may bring about a dead end to these proposals.)

There is no budget but it was hoped that the Recommendations would help the DEDC in their strategic planning.

Slide 48 – Camps and Communities

Camps and Communities

R #19 “Applicants for Camp operations are encouraged to work with communities to determine camp locations and identify appropriate interactions between the camp personnel and communities.”

Draft Changes: Minor edits to previous version R#32.

That's All Folks!
Mahsi Cho!

Concluding Questions and Comments?

48

No comments on this Slide.



APPENDIX 1 - ADDITIONAL COMMENTS AND DISCUSSION

General Comments:

1. Suggestion: The Plan should take on the title Nahodhe.
2. Generally, a land use plan can only be implemented if it has legal authority. A problem with the Dehcho Plan is that there is no Final Agreement/Land Claim in place between the Government and DFN. Therefore the Plan is not officially recognized by the *Mackenzie Valley Resource Management Act* (MVRMA). The sections of the Dehcho Plan are only inserted into the MVRMA once the Final Agreement/Land Claim is concluded. The simplest way of implementing the Plan so it has legal authority is to get the Minister of DIAND to simply approve the Plan and pass it on to the MVRMA to use as policy direction. There is a section in the Interim Measures Agreement which allows for this policy direction from the Minister of DIAND to the MVLWB. This policy direction has already been used successfully in another area (restrictions on seismic in the Land Withdrawals).
3. The Plan represents the peak of understanding about land from a traditional knowledge and scientific perspective. Development is not meant to be stopped but regulated through the Plan. The money (\$4 Million) was spent wisely contracting specialists and collecting more traditional knowledge. For the first time, a satellite map was produced showing every single human disturbance on the Dehcho territory. The MVEIRB was able to use the information provided by this map to restrict a company on the amount of seismic that could be done in Cameron Hills: Development was not stopped only regulated.
4. "In the past the land was a saint to us. The Government did not make the land for us – the Creator did." Prior to 1937 there was no "white man" only traders and the Hudson's Bay Company. After their arrival things started to change on the land: Wildlife never became endangered in the past. The shared history between "white man" and the Dene people is one where the Dene have been constantly taken advantage of through the lies, manipulation, and sicknesses brought by the "white man."
5. Concern: Some of the delegates raised concern over the fact that the Plan was writing in "white man's" language and under "white man's" laws. There was a feeling of discomfort and mistrust but an understanding that it needed to be done for the youth. Protecting the Land and the Dene traditions for the youth is the priority.
6. "We need to do this so it stands up on court. It needs to be done so that it can be translated to all the membership at large. Time is of the essence and we need to get it done before the Summer Assembly because this paper will protect the land and resources. It will also co-exist with our negotiating team at the Main Table."
7. The Plan focuses on what should happen based on the information it has. Then, based on this Traditional Knowledge and scientific information, it states what is or is not allowed on the land.
8. Elders commented on how the rivers once pure and clean, are now polluted. The fish are not the same as before and the waters are turning brown.
9. Consider: When planning it is vital to look further than the next 20 years but to the next 7 generations (even with resource development).
10. The Plan does not/cannot negotiate activities that do not require permits (ex. non-Dene canoeing down rivers).



11. Chief Stanley Sanguéz wants everyone to understand that prior for the 2008 Summer Assembly is to communicate that the 1st map locked up too much land. The 2nd Map, with the revisions, shows us what the Federal Government wants. Communities must understand this, and ask questions.
12. Concern: In meetings some chiefs are not present. This is important, and must be fixed, but the chiefs must fix this for the people. Committee members, for the communities, need to know what is going on and some do not; even some of the elders do not know what is happening.

