

**CHAPTER 9
DEHCHO RESOURCE MANAGEMENT AUTHORITY**

Definitions

Dehcho Region -

Renewable Resources –

Agreement – Dehcho Process Agreement

government – Government of Canada, Government of the Northwest Territories, Dehcho Government or their successors.

General

1. The Agreement will provide for the establishment and structure of a Dehcho Resource Management Authority composed of nominations by Dehcho Government, Government of the Northwest Territories and Canada.
2. The Agreement will set out the accountability of the Dehcho Resource Management Authority to Dehcho Government, Government of the Northwest Territories and Canada, including requirements for annual reports and plans.
3. The Agreement will set out financial accountability requirements of the Dehcho Resource Management Authority to Government of the Northwest Territories and Canada, including requirements for preparation and approval of annual budgets.
4. The Agreement will set out the authority and responsibility of the Dehcho Resource Management Authority relative to Dehcho Government, Government of the Northwest Territories and Canada.
5. Additional provisions regarding the establishment, accountability and authority of the Dehcho Resource Management Authority may be provided for in federal legislation.

Dehcho Resource Management Authority Functions

6. Under the Agreement, the Dehcho Resource Management Authority will be responsible for the following:
 - (a) land use planning, as provided for under the land use planning provisions of this chapter and chapter 8;
 - (b) advice on land and water regulation to the Dehcho Land and Water Board as provided for under the Land and Water Regulation chapter;

- (c) renewable resource management in respect of forests, wildlife, migratory birds, and fisheries where the authority to do so is delegated by the government having authority, as provided for under the renewable resource provisions of this chapter;
- (d) Heritage Resource management, where the authority to do so is delegated by the government having authority over the Heritage Resource as provided for in the Culture and Heritage Resources chapter of this Agreement; and
- (e) Any other land or resource related management functions delegated to it by one of the parties, subject to written agreement by the parties.

Land Use Planning Functions

7. Under the Agreement, the Dehcho Resource Management Authority will:
- (a) carry out a comprehensive review of the Land Use Plan not later than five years after the plan takes effect and thereafter every five years or at any other intervals agreed to by the federal Minister, the territorial Minister and the Dehcho First Nations; and
 - (b) carry out implementation responsibilities as set out in the Land Use Plan.

Land and Water Advisory Functions

8. Under the Agreement, the Dehcho Resource Management Authority may provide advice to the Dehcho Land and Water Board in respect of:
- (a) regulation of the use of land and water, including deposits of waste, in the Dehcho Region; and
 - (b) harmonization of land and water management in the Dehcho Region with Canada's management of Protected Areas and the Nahanni National Park Reserve or any future national park in the Dehcho Region.
9. Any advice that the Dehcho Resource Management Authority provides to the Dehcho Land and Water Board is not binding upon the Board.

Environmental Functions

10. The Dehcho Government may delegate the following environmental assessment functions within the Dehcho Region to the Dehcho Resource Management Authority:
- (a) authority to conduct preliminary screenings, as required under the *Mackenzie Valley Resource Management Act*;

*Tabled with Dehcho and GNWT
Without Prejudice
February 6, 2008*

- (b) provide non-binding advice to the Mackenzie Valley Environmental Impact Review Board in response to a proposed development wholly or partly on Dehcho Lands;
- (c) provide advice to the Dehcho Land and Water Board as to which activities in the Dehcho Region should be referred to the Mackenzie Valley Environmental Impact Review Board; and
- (d) participate in a Part 6 environmental audit and monitoring as set out in the *Mackenzie Valley Resource Management Act* and be consulted to fix the Terms of Reference for the environmental audit.

Renewable Resource Functions

11. Under the Agreement, the Dehcho Resource Management Authority shall exercise its authorities as provided for in Chapter 10 in relation to Forestry, Wildlife, and Migratory Birds.
12. Any advice that the Dehcho Resource Management Authority provides to the Dehcho Renewable Resources Board is not binding upon the Board.

DEHCHO RESOURCE MANAGEMENT AUTHORITY

Structure and Functions of a Dehcho Renewable Resources Board

Canada's tabled draft Chapter 9: Dehcho Resource Management Authority, dated February 6, 2008, includes the clause;

"12. Any advice that the Dehcho Resource Management Authority provides to the Dehcho Renewable Resources Board is not binding on the Board."

In response to a question from the GNWT, the federal team indicated that this clause was a mistake and that Canada was suggesting the structure, functions and responsibilities of a Regional Renewable Resources Board be incorporated into the proposed Dehcho Resource Management Authority.

The functions and responsibilities of Regional Renewable Resources Boards established pursuant to the Gwichin, Sahtu and Tlicho Agreements rest within the legislative jurisdiction of the GNWT.

In the event that the Dehcho Negotiating Team receives a mandate from the Dehcho General Assembly to negotiate an Agreement in Principle based on a land selection model, the GNWT is prepared to enter into an open discussion with the Dehcho and Canada on the merits and the possible disadvantages of situating the functions and responsibilities of Regional Renewable Resources Boards, as set out in the Gwichin, Sahtu and Tlicho Agreements, within a Dehcho Resource Management Authority which would have other functions and responsibilities.

Delegation of GNWT Responsibilities to a Dehcho Resource Management Authority

Canada's tabled draft Chapter 9: Dehcho Resource Management Authority, dated February 6, 2008, includes the clauses;

"6. Under the Agreement, the Dehcho Resource Management Authority will be responsible for the following:
(c) renewable resource management in respect of forests, wildlife, migratory birds, and fisheries where the authority to do so is delegated by the government having authority, as provided for under the renewable resource provisions of this chapter;"

and,

"11. Under the Agreement, the Dehcho Resource Management Authority shall exercise

its authorities as provide for in Chapter xx in relation to Forestry, Wildlife, and Migratory Birds.”

Forestry and wildlife are within the jurisdiction of the GNWT. In response to a question from the GNWT, Canada indicated that they were referring to GNWT responsibilities for fisheries in 6. (c).

Our assumption is that Canada's suggestion for the delegation of GNWT authorities in 6. (c) and 11. are in addition to the responsibilities of Regional Renewable Resources Boards as set out in the Gwichin, Sahtu and Tlicho Agreements. Generally speaking, the GNWT delivery of programs and services in these areas, including enforcement, is provided by departmental officials within the Dehcho region. There is generally a close working relationship between officials in the region and officials in Yellowknife, including the provision of policy, program guidelines and support on specific issues. The delegation of responsibilities in the areas suggested by Canada could have a significant impact on existing relationships between the region and headquarters, and other important aspects of program and service delivery.

In the event that the Dehcho Negotiating Team receives a mandate from the Dehcho General Assembly to negotiate an Agreement in Principle based on a land selection model, the GNWT is prepared to initiate an internal review and consideration of the suggestions offered by Canada and to bring the results to the table for discussion. It is not possible to predict the outcome of an internal review at this time.

**Response to Canada's tabled documents: DCRMA; Land Use Planning;
Land and Water Regulation.**

These 3 documents are related to jurisdiction and management of lands and resources, and are therefore addressed together in one response document.

DCRMA:

Definitions

Dehcho Region is undefined. Why? What is the federal definition of "Dehcho Region"?

Renewable Resources are undefined. Why? What does Canada include in "renewable resources"? It is unclear if Canada intends the DCRMA to have similar functions and authorities of the Renewable Resources boards found in other northern agreements.

General

1. Canada uses "nominations" instead of appointments. How does Canada intend the "nominations" to be finalized? DFN prefer a direct appointment process for the Dehcho representatives.
2. The accountability of the DCRMA to government should be set out in an AiP.
3. The general financial accountability of the DCRMA should be set out in an AiP.
4. The authorities and functions of the DCRMA, including those relative to government, should be set out in an AiP.
5. What federal legislation is Canada referring to?
6. It appears that the DCRMA has no substantive authority or function for land use planning or land and water regulation. Rather, the DCRMA is merely a superfluous advisory body to the status quo land and water management authorities under the MVRMA. Any authority for renewable resources and heritage resource management are vague, and left to the discretion of the Government of Northwest Territories. When would these proposed authorities be made clear? In a Final Agreement? In general, Canada's entire DCRMA model is substantially different from DFN's in function and authority. DFN's model consolidated functions and authorities and simplified land and water regulation. By adding another Board, Canada's model further complicates an already fragmented and cumbersome regime.
7. Is it Canada's intention that the DCRMA has no substantive authority for land use planning, i.e., developing and revising land use plans in the Dehcho Region? All authorities and functions, including implementation responsibilities, should be set out in an AiP, not in a Land Use Plan.

8. Same concerns as in 6. Also, DFN notes that Canada refers only to “Canada’s management of Protected Areas and the NNPR...”. Why does Canada only refer to “Canada’s management”? DFN currently has a co-management arrangement regarding NNPR, and has assurances that this arrangement will continue in a Final Agreement. DFN further expects to have a co-management arrangement for any Protected Area, or future national park, established in the Dehcho Region.
9. Same concerns as in 6.
10. As in 1, how does Canada define “Dehcho Region”? Section 10(c) implies that the DCRMA will have preliminary screening and environmental assessment referral authority in the Dehcho Region, only if delegated by the Dehcho Government. Is it Canada’s intention that the DCRMA will otherwise not have authority to conduct preliminary screenings and refer developments to environmental assessment?
11. Chapter 10 contains no information regarding any authorities relating to Forestry, Wildlife and Migratory Birds, Fisheries. Please clarify.
12. What Dehcho Renewable Resources Board? Please clarify.

Land and Water Regulation

1. Does Canada intend the Dehcho Land and Water Board to be substantially the same as the status quo land and water regulation regime?
2. The authority, functions and accountability of a DCRMA should be set out in an AiP.
3. Ibid.
4. Ibid.
5. What federal legislation? DFN are seeking clarity regarding the DCRMA and the land and water regulation regime in an AiP.
6. Are the authorities of the Dehcho Land and Water Board intended for the entire Dehcho Region, as defined in the IMA?
7. Ibid.
8. Ibid.
9. – 13.
14. What does Canada mean by “federal legislation may provide for.....recognition of Dehcho Community Lands? What does Canada mean by “may provide for”? Again, why are Dehcho members “nominees”, not appointments?
15. Again, DCRMA is merely a superfluous advisory body with no substantive authority or function. In summary, DFN’s concerns are similar to the concerns and questions for Canada’s DCRMA.

Land Use Planning

Dehcho First Nations, without prejudice.
May, 2008.

1. DFN disagrees. This is contrary to the Dehcho Settlement Agreement signed by Canada.
2. In the DCRMA chapter, Canada proposes that the DCRMA carry out a comprehensive review of the Plan, not the Committee. Does Canada intend that with a Final Agreement, the DCRMA will take over the Land Use Planning Committee's functions with respect to implementation of the Land Use Plan?
3. Needs further discussion.
4. Needs further discussion. DFN has significant concerns with respect to the existing regulatory regime.
5. *Similar concerns as with the DCRMA, regarding non-binding advisory functions.*
6. No comment.
7. Does this mean that the DCRMA is responsible for subsequent Land Use Plans?
8. No comment.
9. DFN intend that land use planning on community lands will be under the authorities of the respective communities and Dehcho laws.