



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

DEH CHO PROCESS

Deh Cho Process / Processus des Deh Cho

Canada



BACKGROUND



- ▶ Crown/Dene relationship commenced with “making Treaty”:
 - ▶ Treaty 8 - 1900
 - ▶ Treaty 11- 1921 & 22
- ▶ Hay River Reserve created February 1974
- ▶ Failed Dene/Metis Claim led to deterioration of Canada/Deh Cho relationship



BACKGROUND



- ▶ Grand Chief Nadli and Minister Jane Stewart appoint Peter Russell as Ministerial Envoy in February 1998



- ▶ Professor Russell visited every Deh Cho First Nation to determine if there was sufficient common ground for Canada and the Deh Cho First Nations to begin discussions.





REPORT TO THE HONOURABLE JANE STEWART

FROM

PETER H. RUSSELL

MINISTERIAL ENVOY TO DEH CHO FIRST NATIONS

- ▶ In the fall of 1998, Professor Russell submitted his report to Minister Stewart and Grand Chief Nadli
- ▶ Report recommended to proceed with formal talks following a two Stage Approach
 - ▶ Stage One:
 - ▶ Framework Agreement
 - ▶ Interim Measures
 - ▶ Stage Two:
 - ▶ Agreement- in- Principle





STAGE ONE

DEH CHO FIRST NATIONS FRAMEWORK AGREEMENT



Deh Cho First Nations Interim Measures Agreement





STAGE ONE

DEH CHO FIRST NATIONS FRAMEWORK AGREEMENT



Protocol that guides negotiations

- ▶ Commitment to open process
- ▶ Defines role of the Parties
- ▶ Outline of subject matters for negotiations



STAGE ONE

DEH CHO FIRST NATIONS FRAMEWORK AGREEMENT



Objective is to reach a final agreement that will:

- ▶ Implement a Deh Cho Public Government
- ▶ Address delivery of programs and services
- ▶ Address the use, management and conservation of land, water and other resources



STAGE ONE

Deh Cho First Nations Interim Measures Agreement



Provides for a
significant DCFN role
in land, water and
resource management
decisions



STAGE ONE

Deh Cho First Nations Interim Measures Agreement



Measures include:

- ▶ Land use planning
- ▶ Outlines consultation measures
- ▶ Participation to MVEIRB & MVLWB
- ▶ Deh Cho panel of MVLWB



STAGE ONE

Deh Cho First Nations Interim Measures Agreement



- ▶ No oil and gas issuance without community support
- ▶ Oil and gas benefit plan requirements
- ▶ Forest management provisions
- ▶ Establishment of Nahanni consensus team



STAGE ONE

Deh Cho First Nations Interim Measures Agreement



Implementation

- ▶ Land use mapping
 - ▶ \$274,586
- ▶ Nahanni Consensus Team
 - ▶ \$72,605/year
- ▶ Resource Management
Co-ordinator
 - ▶ \$191,043/year
- ▶ Land Use Planning
 - ▶ \$800,000 +/-year



STAGE ONE

Deh Cho First Nations Interim Measures Agreement



- ▶ Commitment to land withdrawals
- ▶ Commitment to negotiate Interim Resource Development Agreement

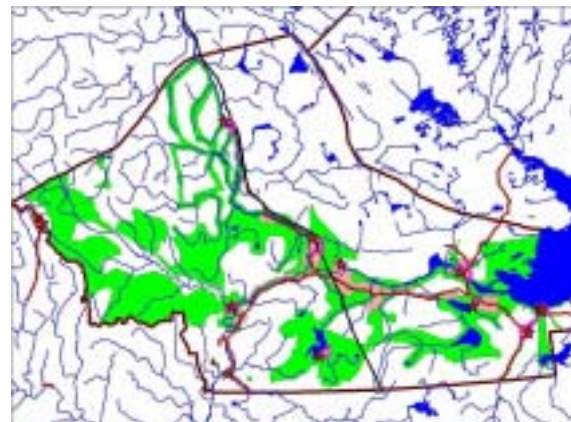


STAGE ONE

Deh Cho First Nations Interim Measures Agreement



Duh Gogha Ndeh ts,eh Saamba Holeh Ts'eh'keh Eleh Seegots'eleh
Interim Resource Development Agreement
Between:
THE DEH CHO FIRST NATIONS
as represented by
Deh Cho First Nations Grand Chief
(Deh Cho First Nations)
and
THE GOVERNMENT OF CANADA
as represented by
the Minister of Indian Affairs and Northern Development
(Canada)





INTERIM RESOURCE DEVELOPMENT AGREEMENT

Duh Gogha Ndeh ts;eh Saamba Holehh Ts'ehk'eh Eleh Seegots'eleh

Interim Resource Development Agreement

Between:

THE DEH CHO FIRST NATIONS
as represented by
Deh Co First Nations Grand Chief
(Deh Cho First Nations)

and

THE GOVERNMENT OF CANADA
as represented by
the Minister of Indian Affairs and Northern Development
(Canada)

Objective:

- ▶ Foster resource development in the Deh Cho while accruing benefits from Canada to the DCFN in the interim of a Final Agreement





INTERIM RESOURCE DEVELOPMENT AGREEMENT

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Interim Resource Development Agreement

Between:

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and

THE GOVERNMENT OF CANADA
as represented by
the Minister of Indian Affairs and Northern Development
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Main aspects

- ▶ Canada will identify annually an amount equal to a % of federal resource royalties collected from the Mackenzie Valley:
 - ▶ 12.25 % of the first \$2 million
 - ▶ 2.45% of any additional royalties





INTERIM RESOURCE DEVELOPMENT AGREEMENT

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Interim Resource Development Agreement

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(Canada)

- ▶ Paid out:
 - ▶ At final agreement
 - ▶ Up to 50% maybe accessed in advance of a final agreement for economic development purposes





INTERIM RESOURCE DEVELOPMENT AGREEMENT

Federal Royalties collected
from Mackenzie Valley
\$20,000,000

12.25% of first
\$2,000,000



12.25% of 2M



\$245,000

2.45% of any
additional royalties



2.45% of 18M



\$441,000

\$686,000



INTERIM RESOURCE DEVELOPMENT AGREEMENT

Federal Royalties collected
from Mackenzie Valley
\$40,000,000

12.25% of first
\$2,000,000



12.25% of 2M



\$245,000

2.45% of any
additional royalties



2.45% of 38M



\$931,000

\$1,176,000



INTERIM RESOURCE DEVELOPMENT AGREEMENT

Federal Royalties collected
from Mackenzie Valley
\$40,000,000

\$1,176,000

\$588,000 paid
out at final

\$588,000 accessed
for Ec.Dev.



INTERIM RESOURCE DEVELOPMENT AGREEMENT

Duh Gogha Ndeh ts;eh Saamba Holehh Ts'ehk'eh Eleh Seegots'eleh

Interim Resource Development Agreement

Between:

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as represented by
the Minister of Indian Affairs and Northern Development
(Canada)

Other measures include:

- ▶ Commitment to an oil and gas exploration cycle within one year, every two years thereafter
- ▶ Outline of consultation measures for oil and gas development
 - ▶ Oil and Gas Directorate (NAP) will lead consultations leading to an exploration cycle





INTERIM RESOURCE DEVELOPMENT AGREEMENT

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Interim Resource Development Agreement

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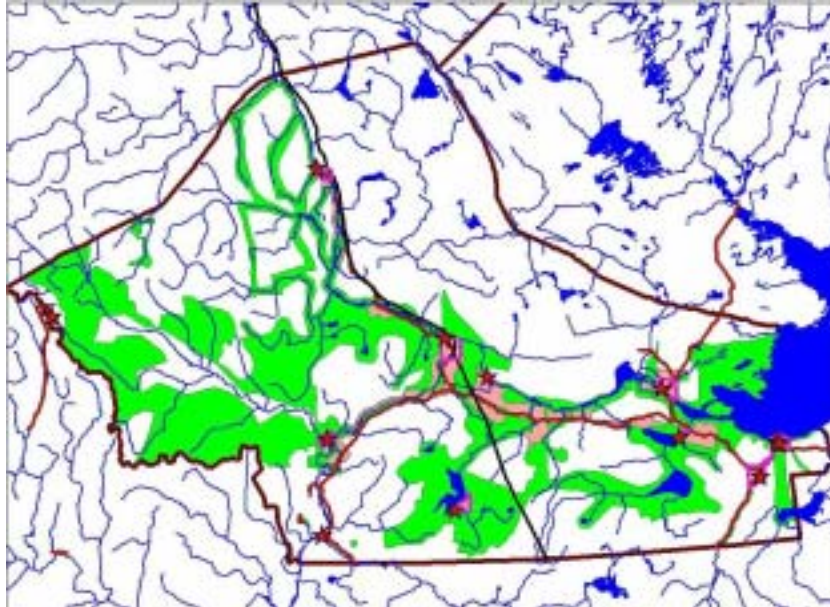
THE GOVERNMENT OF CANADA
as represented by
the Minister of Indian Affairs and Northern Development
(Canada)

- ▶ Impact benefit agreement negotiations for major mining projects.
- ▶ Implementation:
 - ▶ \$150,000 -Assistant Resource Management Co-ordinator to assist in the consultations





LAND WITHDRAWALS

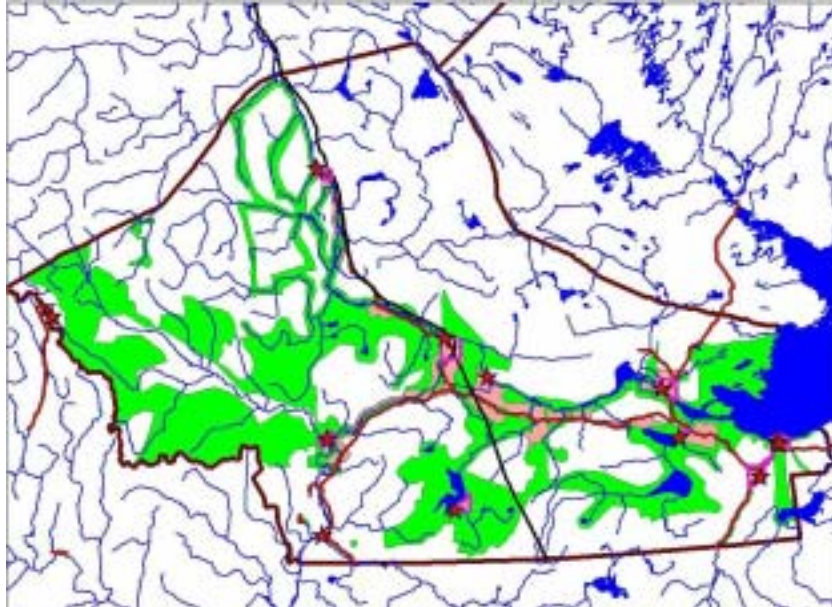


Criteria:

- ▶ Food and medicine,
- ▶ culturally and spiritually significant,
- ▶ ecologically sensitive,
- ▶ watershed protection



LAND WITHDRAWALS



- ▶ Surface/Subsurface and Subsurface only,
- ▶ Subject to existing rights
- ▶ Protecting certain lands = opening up other lands
- ▶ Key areas identified:
 - ▶ Nahanni watershed
 - ▶ Mackenzie River buffer
 - ▶ Bison sanctuary
 - ▶ Major waterbodies



“Step by Step Approach”

Statement of Common Grounds

1. The Deh Cho First Nations and Canada (the Parties) intend their relationship to be based on mutual recognition and sharing and to achieve this mutual recognition and sharing by agreeing on rights, rather than by extinguishing rights.
2. The Deh Cho First Nations have their own constitution
3. These principles should form the basis of the mandates to be given to the negotiators by the Deh Cho First Nations and Cabinet.
4. The parties will negotiate in good faith. To this end, they will work together and learn from each other.
5. As agreements are achieved on subject matters, the parties may implement these agreements, as sub-agreements prior to a final agreement.
6. The integrity of the land will be maintained through negotiations and in the final agreement.
7. The Deh Cho government will be a public government based on Deh laws and customs and on other laws as agreed to in negotiations. It will be the primary government responsible to deliver programs and services to all residents of the Deh Cho.
8. Canada will expand assistance for capacity building to enhance governance in the Deh Cho prior to, during, and after a final agreement.
9. Non-aboriginal residents will have a right to participate in Deh Cho government at the regional or community level with respect to services and functions of governance that directly affect them.
10. Canada and the Deh Cho commit to a process to educate each other.
11. The Deh Cho First Nations and Canada relationship will be a nation to nation one building on existing treaties.

12. The Deh Cho First Nations government will have revenue raising capacities including taxing authorities.
13. The Final Agreement will address issues relating to compensation and financial payments.
14. The negotiations of an agreement is in the interest of the people of Canada as well as the Deh Cho.
15. The parties will explore alternatives for funding the negotiations process prior to entering into formal negotiations. The funding will be provided for the full involvement of Deh Cho residents in the development of the agreement, taking into account the unique culture and geography of the Deh Cho.
16. An interim land use process, including interim protection measures will be negotiated simultaneously with the Framework Agreement to ensure negotiations can begin and will not be undermined.
17. All First Nations Canadians, which are guaranteed by the Canadian Charter of rights and Freedoms, will be respected by the Government of Deh Cho. Special provisions, however, will protect the Aboriginal and Treaty rights of the Deh Cho.
18. The relationship between the Deh Cho government and the rest of the western arctic and the federal government will be one of the important issues to be negotiated.
19. Fiscal arrangements to ensure adequate support for the Deh Cho government will be negotiated in the agreement.
20. Fiscal arrangements will ensure residents of the Deh Cho territory will enjoy the level of public services enjoyed by other Canadians.
21. The next step is to proceed in a two stage approach.

REPORT TO THE HONOURABLE JANE S. FRYER
FROM
PETER H. RUSSELL
MINISTERIAL ENVOY TO DEH CHO FIRST NATIONS





“Step by Step Approach”

Deh Cho Framework Agreement

- WHEREAS: the Deh Cho First Nations of the Dene Nation assert that the Deh Cho territory has been their traditional territory since time immemorial;
- WHEREAS: the Deh Cho First Nations represent the Deh Cho Dene and Metis of the Deh Cho territory;
- WHEREAS: the ancestors of the Deh Cho First Nations and the Crown entered into Treaty 8 in 1900, and Treaty 11 in 1921 and 1922;
- WHEREAS: the negotiations to this Framework Agreement are not intended as a renegotiation of Treaties 8 & 11;
- WHEREAS: Canada recognize that the inherent right of self-government is an existing aboriginal right recognized and affirmed by s.35 of the *Constitution Act, 1982*;
- WHEREAS: the members of the Deh Cho First Nations are Aboriginal people within the meaning of s.35 of the *Constitution Act, 1982*;
- WHEREAS: the Deh Cho First Nations, Canada and the GNWT agree to negotiate on a government to government basis within the framework of the Constitution of Canada;
- WHEREAS: the Parties agree to negotiate in order to set out land, resources, and governance rights to apply in the Deh Cho territory;
- WHEREAS: a Deh Cho final agreement is in the interest of all Canadians; and,
- WHEREAS: the Parties intend to conduct their negotiations in accordance with this framework agreement;
- NOW THEREFORE, the Parties agree as follows:

#14. The negotiations of an agreement is in ther interest of the people of Canada as well as the Deh Cho.



“Step by Step Approach”

Deh Cho Framework Agreement

WHEREAS: the Deh Cho First Nations of the Dene Nation assert that the Deh Cho territory has been their traditional territory since time

2 OBJECTIVES OF NEGOTIATIONS

WHEREAS the objective of the Deh Cho First Nations is to negotiate a Deh Cho Framework Agreement which clarifies the boundaries of the Deh Cho territory;

WHEREAS the Government of Canada and the Deh Cho First Nations and the Crown entered into Treaty 8 in 1900, and Treaty 11 in 1921 and 1922;

WHEREAS the Deh Cho First Nations have established customs and other traditional laws and regulations;

WHEREAS the Deh Cho First Nations intend to be the primary government for the delivery of programs and services to all residents of the Deh Cho territory;

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WHEREAS the Deh Cho First Nations, Canada and the Crown agree to negotiate on a government to government basis within the framework of the Constitution of Canada;

WHEREAS: the Parties agree to negotiate in order to set out land, resources, and governance rights to apply in the Deh Cho territory;

WHEREAS: a Deh Cho final agreement is in the interest of all Canadians; and,

WHEREAS: the Parties intend to conduct their negotiations in accordance with this framework agreement;

NOW THEREFORE, the Parties agree as follows:

#7. The Deh Cho Government will be a public government based on Dene laws and customs and on other laws as agreed to in negotiations. It will be the primary government responsible to delivery programs and services to all residents of the Deh Cho

#18. The relationship between the Deh Cho government and the rest of the Western Arctic and the federal government will be one of the important issues to be negotiated.

#6 The integrity of the land will be maintained through negotiations and in the final agreement.





“Step by Step Approach”

Deh Cho Framework Agreement

Deh Cho Framework Agreement

WHEREAS: the Deh Cho First Nations of the Dene Nation assert that the Deh Cho territory has been their traditional territory since time immemorial;

2. OBJECTIVE OF NEGOTIATIONS

4. SUBJECT MATTERS FOR NEGOTIATION

WHEREAS the objective of the Deh Cho Framework Agreement is to settle the following subjects which the Parties intend to address in their negotiations. The list is not intended to be restrictive and each of the Parties may raise a broad range of topics for negotiations under each subject. Further, any party may raise for discussion any subject matter in addition to the matters listed:

WHEREAS the Parties intend to negotiate the following subjects:

1. Settlement, area and tenure of land (Deh Cho territory);
2. Legal status and capacity of Deh Cho government;
3. Constitution of Deh Cho government;
4. Models of governance;
5. Intergovernmental relationships;
6. Deh Cho government liability;
7. Deh Cho First Nations citizenship and eligibility;
8. Natural resources management, including land use planning;
9. Environmental matters;
10. Forestry;
11. Wildlife harvesting and management;
12. Fisheries harvesting and management;
13. Education and training;
14. Social services;
15. Child welfare, guardianship and adoption;

WHEREAS: the Parties agree to negotiate in order to set out land, resources, health, and governance rights to apply in the Deh Cho territory;

16. Health;
17. Housing;
18. Heritage resources;

WHEREAS: a Deh Cho final agreement is in the interest of all Canadians;

19. Enforcement and adjudication of laws;
20. Gaming; and,
21. Wills and estates;

WHEREAS: the Parties intend to conduct their negotiations in accordance with this framework agreement;

22. Economic development;
23. Taxation;
24. Resource Revenues, including resource royalties;

NOW THEREFORE, the Parties agree as follows:

#2. The Deh Cho First Nations have their own Constitution

12. The Deh Cho First Nations government will have revenue raising capacities including taxation.

13. The Final Agreement will address issues relating to compensation and financial payments.

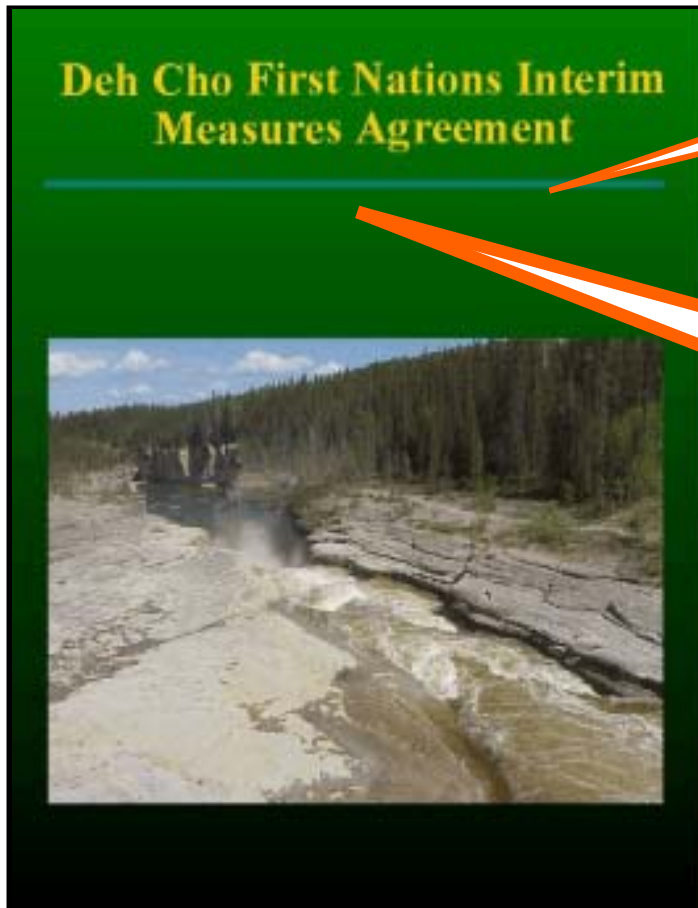
#17. All rights of Canadians, which are guaranteed by the Canadian Charter of Rights and Freedoms will be respected by the Government of Deh Cho. Special provisions, however, will protect the Aboriginal and Treaty Rights of the Deh Cho.

19. Fiscal arrangements to ensure adequate support for the Deh Cho government will be negotiated in the agreement.





“Step by Step Approach”



#6 The integrity of the land will be maintained through negotiations and in the final agreement.

#16. An interim land use process, including interim protection measures will be negotiated simultaneously with the Framework Agreement to ensure negotiations can begin and will not be undermined.