

## **GNWT Thaidene Nene (TDN) Public Engagement Session**

**Fort Resolution – July 29, 2015**

### **Summary of Proceedings**

#### Overview

- Meeting began with introductions by the Minister of Negotiations Core Team and others including Merrell-Ann Phare (GNWT Chief Negotiator for TDN), Shannon Cumming (ADM Environment and Natural Resources, GNWT), Nick Leeson (Industry, Tourism and Investment, GNWT), Peggy Holroyd (Lands, GNWT) and Darin Bagshaw (Environment and Natural Resources, GNWT) and Steven Nitah - Lutsel K'e Dene First Nations (LKDFN); brief intro to TDN by Minister Miltenberger; followed by TDN presentation from GNWT Chief Negotiator Merrell-Ann Phare.
- Meeting was attended by approximately 27 people. In attendance were MLA Tom Beaulieu and Tom Colosimo (Industry, Tourism and Investment, GNWT).
- Representatives from NWT Métis Nation and Akaitcho Government were in attendance as audience members.
- Arthur Beck (Fort Resolution Métis Council President), Robert Sayine (Deninu K'ue First Nation councillor, on behalf of the Chief), Don Balsillie (Akaitcho negotiator) and Garry Bailey (NWT Métis Nation President) thanked the Minister and the GNWT staff in attendance for coming to Fort Resolution.
- Notes taken by Claudia Haas (Environment and Natural Resource, GNWT).

#### Opening Remarks by Minister Miltenberger

TDN was first identified in the 1970's as a proposed National Park and the land was permanently withdrawn. In 2007, a larger study area was identified (over 33,000km<sup>2</sup>) and the remaining area was withdrawn. With devolution, GNWT became the land owner. Establishing this park is a priority for GNWT.

The GNWT negotiating team was provided with the instruction to make the federal footprint as small as possible and supplement the National Park with 'northern tools' to conserve other important lands. Since last October, we have compressed about 4 years of complex negotiations into a 6 month period. There have been many meetings with the Aboriginal governments and also meetings with the federal government. The three levels of government (GNWT including Cabinet, Aboriginal governments, and the federal government) have seen and approved the consultation boundaries map provided here.

There are going to be two separate engagement processes:

- the GNWT will implement territorial engagement process over the next few weeks; and, following that,
- the federal government will conduct their own engagement process on the federal area of interest. Parks Canada has asked that the GNWT not discuss the values within the federal area, so any questions on that should be addressed to Parks Canada during their engagement process.

The multi-coloured map is shows consultation boundary lines for the areas intended to be addressed through national designation, the areas intended to be territorial conservation, and the areas excluded all together. The negotiating team has shrunk the federal footprint by 57% and have excluded more areas than was originally proposed. The GNWT expects there to be small site-specific boundary discussions, but overall these are the broad boundaries to be engaged on. Our job here is to lay out what has been negotiated and then to report back to Cabinet.

Minister Miltenberger, also Finance Minister, reminded that Canada and the GNWT are in a time of fiscal restraint. This affects what activities the GNWT can complete so fiscal consideration will be factored in when Cabinet reviews all the TDN material.

The Minister indicated that the session was being recorded, and that summary notes were being prepared and would be made publicly available.

#### GNWT Presentation on Thaidene Nënë by GNWT Chief Negotiator Merrell-Ann Phare

The Chief Negotiator provided a history of the TDN area and the impetus for the GNWT moving forward with the protection of TDN and described the collaborative process used to date to come up with the consultation boundaries. The broad interests were described and maps were provided around the room showing the ecological and cultural interests, caribou use interests, energy interests, transportation interests, and mineral interests. The Chief Negotiator described in general terms what led to the decisions on what is proposed for territorial conservation designations and what is proposed to be excluded all together from the TDN area of interest under land withdrawal. The federal interest area is shown on the map in dark green but the Chief Negotiator indicated that Parks Canada will consult on their interests in this area separately.

The Chief Negotiator described the Northern Tools (tools available to the GNNWT include legislative and regulatory instruments, policy, strategies, frameworks, actions plans, formalized decision-making processes, and models) that could be used given the key attributes required for TDN, namely permanence, no industrial development, respect for Aboriginal and treaty rights, and allowance of the northern lifestyle. To this effect, the Chief Negotiator provided a broad list of activities that all negotiating parties agree are compatible in the territorial park, and explained that there would be many opportunities for the public to engage in discussions on this issue and Northern Tools in the future as progress is made on achieving TDN. The Chief Negotiator also described the third party interests that exist in TDN, namely individuals that have title or leases in the area and that these rights would be respected, as agreed to in the Devolution agreement. The Chief Negotiator briefly described the collaborative governance and the building of a conservation economy that is being considered for TDN. She finished the presentation indicating the proposed next steps, including a presentation to Cabinet at the end of August on the outcomes of these consultations.

#### Themes of Comments and Questions

## 1. TDN Process

- Don Balsillie (Akaitcho negotiator) provided some context for the members at the meeting. He spoke about how this was not a new process but has been ongoing for some time. This process is agreed to and supported by the main table. He explained that after negotiating for so long at this side table, at some point there needs to be a product for people to comment on and respond to and this was the purpose for this meeting. He assured that the process does not infringe on Aboriginal or treaty rights and that these rights will supersede any future TDN park and management, which is consistent with the Akaitcho main table. He spoke about how the legislative tools are still fluid and being developed, and once those are drafted the Akaitcho will understand more how Aboriginal rights will be affected.
- Garry Bailey (NWT Métis Nation President) spoke about how the GNWT is taking heat for problems created by the federal government by not including the other aboriginal governments sooner. The NWTMN had to fight to get to the table and then many decisions were already made. The Minister spoke about how GNWT involved the other Aboriginal Governments as soon as they had the file.

## 2. Permanent Protection and Conservation Economy

- Lloyd Norn was impressed at all the time that has gone into this work and lots of consultation. He spoke about wanting to look at this park in a positive note and ensure it does not end up in messy court battles or people alienating each other. “Our leaders always say for future generations.” The Minister spoke about the unique process being used here to work with the Aboriginal Governments right from the start and it demonstrates what can be done if we work together.
- Garry Bailey (NWT Métis Nation President) said he liked the idea of the park and the intentions for the management and operations.

## 3. Federal Footprint and Involvement

- Carol Collins (Deninu K’ue First Nation councillor) questioned why the national park did not stay at the original 7,000km<sup>2</sup> size. She expressed frustration on why the NWT had devolution and why the Akaitcho are negotiating their land claim agreement if the land is being “given away”. The Minister clarified that the larger 2007 study area was something negotiated between Lutsel K’e and the federal government prior to devolution and that any final park would be subject to the settlement of land claims.
- Carol Collins (Deninu K’ue First Nation councillor) stated that the federal government had never come to the community to consult on TDN and should be in attendance because the Akaitcho are negotiating with the Crown, not the GNWT. The Minister and Don Balsillie (Akaitcho negotiator) reassured that the federal government has committed to consulting on TDN.

## 4. Mining Development

- Carol Collins (Deninu K’ue First Nation councillor) stated that if the reason for the excluded area reverting to crown land was to access the resources, Deninu K’ue First Nations should be consulted. The Minister confirmed that some red areas were excluded for high mineral potential and that, if these resources were to be developed, the regulatory process would be followed which includes extensive consultation.

- Arthur Beck (Fort Resolution Métis Council President) spoke about the zone of influence of development activities, citing the diamond mines and the establishment of the community of Lutsel K'e as having an impact on caribou distribution, which used to come to Fort Resolution. He expressed concern that development occurring in the excluded area would destroy the beauty of the area suggested TDN should be even bigger to adequately protect the land, plants and animals. The Minister noted that there is over 25,000km<sup>2</sup> protected.

#### 5. Proposed Area-specific Boundary Changes

- Arthur Beck (Fort Resolution Métis Council President) questioned whether the red area could be given back to the Aboriginal Peoples. The Minister stated that the excluded areas become open crown land so it can be selected as part of land claim negotiations. Garry Bailey (NWT Métis Nation President) expressed concern about the time that would be involved in opening up the land claims process if they did want to select the excluded areas.

#### 6. Specific Operational Questions

- Lloyd Norn wanted to ensure that a process was in place for conflict resolution between the parties, citing the example of what would occur if a company from outside the NWT wanted to operate in the park but not hire local people. The Chief Negotiator spoke to the dispute resolution process that would be on a park management board. Steven Nitah talked to how dispute resolution will be part of details to be worked out but that people who have lived here for eons will be the primary beneficiaries of opportunities.
- Stanley Louine (Deninu K'ue First Nation councillor) questioned what the process would be to revise the Territorial Parks Act. The Minister said it would be a process similar to the Wildlife Act where groups are brought together collaboratively to draft the act.
- Kara King (former president of the Fort Resolution Métis Council) questioned if the changes to the Territorial Parks Act would be more like a federal park, expressing concerns regarding too many regulations. She noted that ENR funds a community hunt and the community members generally go to the proposed caribou area so this could be a public safety issue. The Minister spoke to the changes to the Territorial Parks Act to make the area permanently protected however they would always be subject to land claim settlement. The Chief Negotiator clarified that changes to the Territorial Parks Act are to withdraw the area from industrial development and large-scale commercial activities, not to restrict northern lifestyles. She noted that there will be opportunities to talk about other economic opportunities; even at what level we classify an activity as commercial. The GNWT wants to support the creation of a conservation economy and these discussions are still to come.
- Robert Sayine (Deninu K'ue First Nation councillor) and Garry Bailey (NWT Métis Nation) expressed concern about the speed of this process and not having adequate time to understand the implications of this decision, including economically. The Minister assured that this process does not end in the next few months, that this discussion is only the beginning, that we needed to start somewhere and that the boundary map is the place to start; that how this area is managed and how a conservation economy is built will be an ongoing process and will be done collaboratively. Steven Nitah spoke about the need to move fast because there is nothing right now to tie the next government and there is a desire to document what has been agreed to so far.

- Stanley Louine (Deninu K'ue First Nation councillor) questioned what would happen if the community of Fort Resolution did not support the park. The Minister stated that if this were the case then we would all have some discussions on why the community did not support the park and how we can resolve those issues.
- Carol Collins (Deninu K'ue First Nation councillor) expressed frustration at the perceived limited benefits for Fort Resolution; that the community was the oldest but poorest community in the NWT. This was echoed by Robert Sayine who spoke later. The Minister clarified that the TDN area was identified because it was culturally important and that this was a good news story that will benefit many people. Steven Nitah drew attention to the land that was under interim withdrawal as part of the Akaitcho negotiations and that TDN is not part of that; TDN will add more land where the Akaitcho can be part of the management within the region.
- Garry Bailey (NWT Métis Nation President) spoke about the need to have some of the operationally important commitments in writing; stating his concern of committing to a boundary without having these operational agreements in writing. The Minister clarified that this is a new process for the NWT and there is no defined plan. It will take time to do the amendments to the legislation and assured there will be time to have these collaborative discussions.
- Ernest Beaulieu asked about how fires are going to be fought in the park, citing a concern with all the ongoing forest fires. The Minister responded that in the light green area, ENR would continue to fight fires. That the federal government would be responsible for fighting fires in the dark green area. We would work together to make sure fires are fought when there are values at risk.

#### 7. Aboriginal and Treaty Rights

- Barbara Ann Beck asserted that the true owners of the lands being discussed are those of the two tribes that signed the Treaty 8 1900 ascension, Chief Snuff of the Yellowknives Tribe of Rocher River, and Chief Louison of Fort Resolution Chipewyans, both people which now live in Fort Resolution today, and not the people of Lutsel K'e, who were not signatories to Treaty 8 1900 ascension. She was supported by individuals in the audience, including being mentioned by Carol Collins, Arthur Beck, and Robert Sayine who followed. The Minister responded that Barbara's comments will be part of the record and that it had been suggested to him that this issue would be best dealt with at the Akaitcho process for reconciliation.
- Carol Collins (Deninu K'ue First Nation councillor) questioned the inclusion of some of the Aboriginal groups listed, specifically the North Slave Métis Alliance (NSMA), given they have never signed a treaty. She also stated that the Deninu K'ue had not seen the Denesuline agreement and questioned who was involved in negotiating this agreement. The Minister responded that the NSMA and Denesuline have an interest in the area that the GNWT have to acknowledge but that the Denesuline claim does not overlap with TDN given the red exclusion areas.
- Carol Collins (Deninu K'ue First Nation councillor) stated that this park proposal was new to her; that Deninu K'ue's had only been involved in Phase 2 of the collaborative process starting in June and at those meetings Deninu K'ue had agreed to a process not a boundary for the area. The Minister clarified that all the partners, including Deninu K'ue First Nations, agreed to bring the boundaries out for consultation, other than small site-specific changes. The Chief Negotiator clarified that the reason GNWT talked solely with

Lutsel K'e in Phase 1 was because they were the proponent for the park and had been negotiating with Parks Canada for some time. The GNWT needed to get up to speed on the file before it could engage the other Aboriginal Governments. Don Balsillie (Akaitcho negotiator) stated that this process was not new and had been ongoing for 45 years.

- Carol Collins (Deninu K'ue First Nation councillor) was concerned that the interest holders in the area were getting more recognition or consideration than the Deninu K'ue. In her view, that interest holders rights were being allowed to continue exerting their rights reminded her of the Pine Point legacy, which was grandfathered and is now a big mess. The concerns regarding third party rights were echoed by Kara King later in the evening. The Chief Negotiator clarified that under the devolution agreement the GNWT must respect the rights of the existing interest holders. How this will be done in practice is still being discussed.
- Robert Sayine (Deninu K'ue First Nation councillor) stated that treaty rights should be considered a northern tool and that treaty rights must be recognized and respected in Thaidene Nene. The Minister assured that the area will recognize and respect Aboriginal and treaty rights, that the area will be collaboratively managed, and that Aboriginal and treaty rights will always be paramount.
- Rosy Bjornson (Deninu K'ue Land and Resources) had attended an earlier session on TDN in Lutsel K'e and at that meeting it was stated that Lutsel K'e would be given training and hiring priority. She asked for clarification on what the benefits would be to her community and others in Akaitcho for training and employment for the area. The Minister reassured that the GNWT recognizes that there are many Aboriginal Governments that have an interest in TDN and that the goal is to ensure benefits across the region, for example having with multiple staging areas for the park. Steven Nitah stated that Lutsel K'e wants to work with other Akaitcho communities, reiterating that Fort Resolution would be a gateway for the park; noting that "we are all one people and we want to tell our stories". Steven Nitah also spoke about how the GNWT saw the benefits of the conservation economy and came on board. Lutsel K'e was happy to have them on board and wants to work with all levels of governments. There would be training and employments; the intent is to increase capacity.
- Steven Nitah clarified that his negotiating mandate was to use treaty agreements to co-manage the area, not to give the land away. This mandate was consistent with Lutsel K'e's understanding of sharing our land and resources. He spoke about how the details on co-management are still to be worked out but they are using the government legislation to restrict industrial development. The area is to be managed for future generations to continue to use the area, be it aboriginal rights or treaty rights or rights under the Akaitcho or Métis agreements, as long as the land can continue to provide those rights.
- Kara King (former president of the Fort Resolution Métis Council) expressed concern that her elders' information was not used to determine these boundaries, even so there is a shared history with Lutsel K'e. She shared her concern with the lack of capacity in Fort Resolution for them to be adequately involved; something that Lutsel K'e has built and fundraised for over the last 10 years. She expressed her concern that Fort Resolution was behind in participating, yet have their own historic sites that they would want to see protected or conversely may want to select themselves for economic purposes, but the community cannot adequately participate in the process and now the land will be already spoken for. The Minister spoke about the process to have informed consent with all Aboriginal Governments involved and work collaboratively to create

this park. There is support from all Aboriginal Governments on these consultation boundaries. The Chief Negotiator spoke to the negotiations being solely within the 2007 boundaries. She also stated that members from Deninu K'ue who attended the Regional Forums talked about wanting to build capacity within and outside TDN and the GNWT is interested in making this happen.

- Garry Bailey (NWT Métis Nation President) thanked the GNWT for their level of consultation and collaboration but expressed concern about the time it takes to open up the land claims process if the NWT Métis Nation did want to select the excluded areas. He also stated that NWT Métis Nation could not select interim lands withdrawals within the 2007 TDN withdrawal and had to select a large parcel of land so could not select throughout their entire traditional use area.