



Mackenzie Valley Environmental Impact Review Board

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From: Sherry Sian Fax: 867-766-7074
EAO Phone: 867-766-7063
Date: December 4, 2003 Pages: 24 including this page
To: Consolidated Goldwin Ventures Fax:
North American General
Resources
New Shoshoni Ventures
CC: MVLWB
Subject: Additions to the Public Registry (EA-03-002, EA-03-003, EA-03-004)

NOTES:

Please refer to the following additions to the public registry.

INAC's submission of supplementary materials promised at the Public Hearing

Borrini – Feyerabend, G. Beyond Fences: Seeking Social Sustainability in Conservation, IUCN, Gland (Switzerland), 1997 (Available online: www.iucn.org/themes/spg/Files/beyond_fences/beyond_fences)

302

Sherry Sian

From: Fraser Fairman [fairmanf@inac-ainc.gc.ca]
Sent: Friday, November 28, 2003 11:43 AM
To: Sherry Sian
Subject: Information from INAC



AKAITCHO FINAL AKAITCHO FINAL Surface Fed
IMA June28 2001...mework MAY2 final Crown Lands ...

Hello Sherry:

Here are the three documents that the Review Board requested that INAC place on the Public Registry for the 4 Environmental Assessments in the Drybones/Wool Bay Areas. If you have any questions please let me know.

Cheers Fraser

Fraser Fairman
Environmental Scientist
Environment and Conservation
Indian and Northern Affairs Canada
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Yellowknife, NT X1A 2R3
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AKAITCHO TERRITORY DENE FIRST NATIONS FRAMEWORK AGREEMENT

among

THE AKAITCHO TERRITORY DENE FIRST NATIONS
"AKAITCHO DFN"
as represented by
NWT TREATY #8 TRIBAL CORPORATION

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
"CANADA"
as represented by
THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

and

THE GOVERNMENT OF THE NORTHWEST TERRITORIES
("THE GNWT")
as represented by
THE MINISTER RESPONSIBLE FOR ABORIGINAL AFFAIRS

- WHEREAS** Akaitcho Territory Dene First Nations (Akaitcho DFN) consist of the Yellowknives (Dettah and Ndilo), Deninu Kue, and Lutsel K'e Dene First Nations;
- WHEREAS** Akaitcho DFN assert that Akaitcho territory shown on the map (Appendix "A") refers to the traditional and current land use of the Akaitcho DFN which sustains their society, economy, distinct way of life and distinct culture;
- WHEREAS** since the Royal Proclamation of 1763, the Crown has recognized the importance of negotiating with Aboriginal Peoples respecting their rights to lands and resources;
- WHEREAS** the Crown entered into Treaty #8 with the ancestors of the Akaitcho DFN at Deninu Kue in 1900;
- WHEREAS** the ancestors of the Akaitcho DFN entered into Treaty #8 with the understanding that it was for as long as the sun shines, the rivers flow and the grass grows;
- WHEREAS** Section 35(1) of the Constitution Act, 1982 states that "the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed";
- WHEREAS** the Government of Canada recognizes the inherent right of self-government as an existing Aboriginal Right under section 35 of the Constitution Act, 1982;
- WHEREAS** Canada has an evolving relationship with the Akaitcho DFN;

NOW THEREFORE, the parties agree as follows:

1. DEFINITIONS

1.1 In this framework agreement,

“**Akaitcho agreement-in-principle**”(AIP) means the collection of provisions to be initialed by the chief negotiators as set out in 8.1 and accepted and signed by the parties' principals as set out in 8.2;

“**Akaitcho agreement**” means the agreement to be signed and approved by the parties at the end of the process as set out in section 6;

“**Akaitcho territory**” means the traditional and current land use as asserted by the Akaitcho DFN and as shown on the map attached as Appendix “A”;

“**chief negotiator**” means the person designated by each party to negotiate the Akaitcho agreement on their behalf;

“**parties**” means the parties to this framework agreement who are the Akaitcho DFN, Canada, and the GNWT.

2. PURPOSE OF THE AKAITCHO FRAMEWORK AGREEMENT

2.1 The purpose of this agreement is to guide the negotiation of the Akaitcho AIP by:

- (a) setting out an approach to and process for negotiations;
- (b) identifying the subject matters for negotiation; and
- (c) establishing an agenda and timetable for negotiations.

2.2 The schedule and process for negotiating the Akaitcho agreement will be set out in the Akaitcho AIP.

3. OBJECTIVE OF NEGOTIATIONS

3.1 The objective of negotiations is to complete the Akaitcho agreement. The Akaitcho agreement will contain:

(a) Governance arrangements that:

- (i) enable the Akaitcho DFN to govern their affairs;
- (ii) describe the nature, character and extent of Akaitcho DFN government; and
- (iii) describe the relationship between public government and Akaitcho DFN government.

(b) Land and resource provisions that:

- (i) provide for clarity of rights respecting land and resources;
- (ii) enhance the capacity of the Akaitcho DFN to participate fully in all aspects of the northern economy; and
- (iii) provide for the use, management and conservation of land, water and other resources, including wildlife and their habitat.

4. SUBJECT MATTERS FOR NEGOTIATION

4.1 (a) Subject matters for negotiation may include but are not limited to:

- 1. Economic measures;
- 2. Financial payments;
- 3. Financial transfer arrangements;
- 4. Resource revenue sharing (including royalties);
- 5. Lands and waters;
- 6. Hunting, fishing, trapping and gathering;
- 7. Renewable and non-renewable resources;
- 8. Boundary and potential overlap issues of Akaitcho territory;

9. Parks and Protected areas;
10. Treaty and Aboriginal rights;
11. Certainty;
12. Eligibility and enrolment;
13. Governance;
14. Management of monies;
15. Jurisdiction;
16. Administration of justice;
17. Administration and enforcement of Akaitcho DFN laws;
18. Policing;
19. Adoption and child welfare;
20. Education;
21. Health;
22. Housing;
23. Local transportation;
24. Public works (infrastructure);
25. Agriculture;
26. Taxation;
27. Akaitcho Dene Cultural Materials;
28. Heritage resources;
29. Marriage;

- 30. Akaitcho DFN languages, cultures and religion;
- 31. Dispute resolution;
- 32. Ratification;
- 33. Constitutional protection.
- 34. Review and amendment of agreement;
- 35. Implementation;
- (b) Any party may raise for discussion any subject matter in addition to the matters listed in (a).

- 4.2 This agreement constitutes a commitment by all parties to negotiate in good faith on the subject matters in section 4.1 with the intention of reaching an agreement;
- 4.3 The question of which subject matters require constitutional protection and which subject matters are not to be constitutionally protected will be addressed prior to conclusion of the Akaitcho agreement.

5. SCHEDULE TO COMPLETE THE AKAITCHO AGREEMENT-IN-PRINCIPLE

- 5.1 The parties propose to complete the Akaitcho AIP no later than 36 months after approval of this framework agreement by the parties.

6. NEGOTIATION PROCESS

- 6.1 The parties agree on a negotiating process involving an open exchange of ideas, frank discussion of interests that underlie positions and the joint analysis of problems; and
- 6.2 The land and resources provisions and governance arrangements of the AIP will be negotiated simultaneously;
- 6.3 The chief negotiators may name a person to chair a meeting of the main table as set out in 6.8 or a working group as set out in 6.9;
- 6.4 Each party will have an opportunity to state their interests for each subject matter in 4.1 prior to

the session at which that matter will be discussed and to bring new information to the session.

- 6.5 (a) A summary record will be prepared by each party and circulated to each of the other parties involved in the negotiation session;
- (b) Should any concern arise from the summary, any party may raise it at the main table.
- 6.6 The parties commit to the one text rolling draft process.
- 6.7 Unless otherwise agreed to by the chief negotiators, the negotiating sessions will take place in Akaitcho DFN communities.

Main Table

- 6.8 (a) the main table consists of the negotiating teams of each of the parties.
- (b) The main table has overall responsibility for directing and carrying on the negotiations to conclude the Akaitcho agreement-in-principle and the Akaitcho agreement.
- (c) The main table:
- (i) will set agendas, time frames, schedules and priorities; and
- (ii) may establish working groups and drafting groups and define their mandates or instructions.
- (d) Main table sessions in an Akaitcho community may be conducted in Dogrib, Chipewyan and English.

Working Groups

- 6.9 (a) Working groups may be established by the chief negotiators to accomplish specific tasks. Upon completion of its task, the working group will be dissolved.
- (b) Working groups will report to the main table.

Drafting Groups

- 6.10 (a) When a subject matter has been thoroughly discussed and there is a clear understanding at the main table of an approach, a drafting group may be instructed to prepare a draft.

- (b) Each party will be responsible for designating its membership on a drafting group. Only the designated members of the drafting group may participate in drafting.
- (c) A drafting group will report to the main table.

Bilateral discussions and Consultations

- 6.11 The parties recognize and respect the bi-lateral relationship created between the Akaitcho Dene First Nations and the Crown by way of negotiating and concluding Treaty #8 in 1900 at Deninu Kue. As treaty issues are identified during the negotiations of the subjects listed in section 4.1, the parties recognize that Canada and the Akaitcho Dene First Nations will discuss the treaty rights bi-laterally. The GNWT will have observer status at all bi-lateral discussions between the Akaitcho Dene First Nations and Canada.
- 6.12 Through negotiations of the subject matters identified in section 4.1, leading to the Akaitcho AIP and the Akaitcho agreement:
 - (a) the respective relationships of the parties will be clarified;
 - (b) the jurisdictions of the parties will be clarified; and
 - (c) a plan for the implementation of the Akaitcho agreement will be developed.
- 6.13 The parties may consult bilaterally and the party not consulted shall be informed of any substantive matters arising from the bilateral consultation relevant to these negotiations.

Cost of Facilities

- 6.14 Expenses for session facilities including interpretation and translation services will be shared by the parties on a basis to be agreed upon.

7. MANDATES

- 7.1 The parties agree that they will provide their respective chief negotiators the appropriate authorization and mandate to negotiate the Akaitcho AIP. Without limiting this generality, the parties will provide such authorization and mandate necessary to resolve all procedural and substantive issues identified in this agreement.

8. APPROVAL PROCESS

Main Table Approval of Akaitcho agreement-in-principle

- 8.1 (a) The chief negotiators shall initial each part of the rolling draft to signify that negotiations with respect to a subject matter are substantially complete,
- (b) The parts may be reconsidered and amended and, if amendments are agreed to by the chief negotiators, the process in (a) will apply to the amended parts of the rolling draft.
- (c) Except for amendments which are minor or technical, the initialing of provisions shall be done at a meeting of the main table.
- (d) When the process in (a) is complete, the chief negotiators will initial the Akaitcho AIP and submit it to their principals.

Approval of Akaitcho agreement-in-principle

- 8.2 (a) After all the parts have been initialed, the parties may review the draft AIP package and instruct their negotiators to amend any part of the AIP.
- (b) When the process in (a) is complete, the chief negotiators will initial the Akaitcho AIP and submit it to their principals.
- (c) The Akaitcho AIP will be approved when it has been accepted and signed by the parties

Approval of the Akaitcho agreement

- 8.3 (a) The parties will work towards completion of the Akaitcho agreement after the Akaitcho AIP has been approved.
- (b) The Akaitcho agreement will be approved once it has been accepted by the parties in the manner set out in the Akaitcho agreement.

9. PUBLIC INFORMATION

- 9.1 Information regarding the general status, aims, objectives and progress of the negotiations may be provided to the general public, as follows:
- (a) the parties may jointly attend or host meetings for information sharing from time to time;
- (b) the parties may carry out additional information-sharing initiatives as each sees fit; and

(c) the parties may, from time to time, issue joint statements on the progress of negotiations.

9.2 Notwithstanding the desire to keep the public and Akaitcho DFN members informed, the parties agree that details of positions and documents exchanged or developed by the parties during negotiations will be confidential unless the parties agree otherwise or as required by law.

10. FUNDING THE AKAITCHO DFN FOR NEGOTIATIONS

10.1 (a) Canada shall provide funding to the Akaitcho DFN for the negotiation of the Akaitcho AIP and the Akaitcho agreement according to Canada's funding policies relevant to these negotiations and subject to funding levels approved by Parliament for those purposes.

(b) Before the Akaitcho agreement is concluded, an Implementation Plan shall be developed by the parties, that may provide funding for certain identified activities after the signing of the Akaitcho agreement and before the effective date.

11. INTERPRETATION

11.1 Nothing in this framework agreement is to be interpreted as creating, recognizing or denying rights or obligations on the part of any of the parties.

11.2 All negotiations pursuant to this framework agreement and all related documents, except for the Akaitcho agreement once it has been brought into effect, are without prejudice to the positions of the parties in any proceedings before a court or other forum and shall not be construed as admissions of fact or liability.

11.3 This framework agreement is not legally binding and is without prejudice to the legal positions of the parties.

12. AMENDMENT

12.1 This agreement may be amended with the written consent of the parties.

13. AUTHORIZATION FOR EXECUTION

13.1 The parties will make best efforts to execute the framework agreement within three (3) to six (6) months after it is initialed by the chief negotiators.

- 13.2 This framework agreement shall be signed by the Chief and Council of each DFN after obtaining approval of their membership as evidenced by a Band Council Resolution.
- 13.3 This framework agreement shall be signed by the Minister Responsible for Aboriginal Affairs after obtaining approval by Executive Council.
- 13.4 This framework agreement shall be signed by the Minister of Indian Affairs and Northern Development.

Signed at Deninu K'ue, Northwest Territories, this 25th day of July, 2000.

For Yellowknives' Dene First Nation

Chief Richard Edjericon, Dettah
Yellowknives DFN

Witness

Chief Peter Liske, Ndilo
Yellowknives DFN

Witness

For Deninu K'ue Dene First Nation

Chief Don Balsillie
Deninu K'ue DFN

Witness

For Lutsel K'e Dene First Nation

Chief Felix Lockhart
Lutsel K'e DFN

Witness

For Canada

The Hon. Robert Nault
Minister
Indian Affairs and Northern Development

Witness

For GNWT

The Hon. Jim Antoine
Minister
Aboriginal Affairs

Witness

INTERIM MEASURES AGREEMENT

Among:

**THE AKAITCHO TERRITORY DENE FIRST NATIONS
("the AKAITCHO DFN")**

and

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA
("CANADA")**

and

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES
("the GNWT")**

(Together known as the "Parties")

BACKGROUND:

1. The Crown entered into Treaty #8 with the ancestors of the Akaitcho DFN at Deninu Kue in 1900;
2. The ancestors of the Akaitcho DFN entered into Treaty #8 with the understanding that it was for as long as the sun shines, the rivers flow and the grass grows;
3. The Parties have entered into a Framework Agreement on July 25, 2000 to guide the negotiation of the Akaitcho agreement;
4. The Parties recognize that certain lands within Akaitcho DFN asserted territory are of environmental, cultural, economic and spiritual importance to the Akaitcho DFN.
5. The Parties have recognized that appropriate interim measures are necessary in order to advance negotiations.

THE PARTIES AGREE AS FOLLOWS:

1. ACKNOWLEDGMENTS

In concluding this Interim Measures Agreement (hereinafter "this Agreement"), the Parties acknowledge the following principles that are the foundations of this Agreement:

- 1.1. Canada and the GNWT acknowledge that the Akaitcho DFN asserted their traditional territory in a map attached to the Framework Agreement.
- 1.2. The Akaitcho DFN have their own internal processes for determining the use of lands and water.
- 1.3. Canada and the GNWT have passed statutes and regulations relating to the occupation, use and disposition of land and resources which contain application mechanisms for various licences, permits, land leases and transfers.
- 1.4. The Akaitcho DFN agree to set up a process to pre-screen applications in a manner described in the Schedules to this Agreement.
- 1.5. The Parties anticipate that resources will be required to allow the Akaitcho DFN to implement a pre-screening process.
- 1.6. The pre-screening process, more fully described in the Schedules, will work as follows:
 - a) The Akaitcho DFN will have the earliest possible notice of applications for various licences, permits, land leases and transfers;
 - b) Canada and the GNWT will take steps to provide the Akaitcho DFN the available information necessary in order for the Akaitcho DFN to respond; and
 - c) The Akaitcho DFN will base their comments on the following grounds:
 - I. Environmental;
 - II. Cultural;
 - III. Spiritual; and
 - IV. Economic

2. ACTIVITIES COVERED BY THIS AGREEMENT

1.1 Canada:

- a) Land Use Permits;
- b) Water Licences;
- c) Disposition of Surface Federal Crown Lands;
- d) Parks and Protected Areas; and
- e) Such other activities as the Parties may agree.

1.2 GNWT:

- a) Disposition of Commissioner's Lands;
- b) Forest Management;
- c) Tourism Establishments and Outfitter Operations;
- d) Parks and Protected Areas; and
- e) Such other activities as the Parties may agree.

2. THE PRE-SCREENING PROCESS

2.1 The Schedules, which will be attached, form part of this Agreement and set out:

- a) How Canada, GNWT or others will provide the Akaitcho DFN with copies of the application or other information, including what information will be provided;
- b) The time lines for response by the Akaitcho DFN;
- c) Which departments/divisions in either Canada, the GNWT or both, as the case may be, the Akaitcho DFN will respond to;
- d) How Canada and the GNWT will inform the Akaitcho DFN of its action, if any, based on the Akaitcho DFN response; and
- e) Which of the Parties will sign the Schedules.

3. OTHER ISSUES

- 3.1 Upon the signing of this Agreement, Canada and the Akaitcho DFN will explore the possibility of entering into negotiations for the purpose of concluding an agreement regarding economic measures in the interim of an Akaitcho agreement.
- 3.2 Processes and Schedules may be developed to identify and address common issues with other Aboriginal groups.
- 3.3 Upon the signing of this Agreement, Canada and the Akaitcho DFN will discuss the resources that may be required to implement the Akaitcho DFN pre-screening process.

5. GENERAL

- 5.1. Nothing in this Agreement creates or denies rights and obligations arising out of Treaty #8 signed on July 25, 1900.
- 5.2. This Agreement does not constitute a binding contract, but rather serves as a bridge to the Akaitcho agreement.
- 5.3. This Agreement may be reviewed and amended with the written consent of the Parties.
- 5.4. The terms of this Agreement continue until the execution of the Akaitcho agreement or the termination of negotiations.

Signed at _____, Akaitcho Territory,
this _____ day of _____ 2001.

For the Akaitcho Dene First Nations:

For Canada:

For the Government of Northwest Territories:

WITHOUT PREJUDICE

SCHEDULE D
TO THE
AKAITCHO INTERIM MEASURES AGREEMENT

SURFACE FEDERAL CROWN LANDS

Preamble:

This is a Schedule to the Akaitcho Interim Measures Agreement that was signed by Akaitcho Dene First Nations, Canada and the Government of the Northwest Territories (GNWT) on June 28, 2001. The goal of the Interim Measures Agreement is to allow the Parties to engage in a process of mutual cooperation where certain activities, policies and applications for licences or permits relating to land use, lease and sale are the subject of an Akaitcho Pre-Screening Process. The Interim Measures Agreement, while not a binding contract, is a bridge to the ultimate Akaitcho Agreement. Schedules to the Interim Measures Agreement are without prejudice to the ongoing negotiations and set out the details of what the Akaitcho Pre-Screening Process will be for given activities. Attached as Appendix I to this Schedule is a description of the Akaitcho Pre-Screening Process.

Statutes:

Territorial Lands Act, R.S.C., 1985, T-7 and Regulations
Federal Real Property Act, R.S.C. 1991, C-50 and Regulations

For greater certainty, the listing of the above statute is not intended to preclude the ability of the Akaitcho Dene First Nations to negotiate the subject matters as set out in the Akaitcho Territory Dene First Nations Framework Agreement dated July 25, 2000.

Background:

Territorial Lands Act

The *Territorial Lands Act* and its Regulations provide for the administration and disposal of lands or any interests in land in the Northwest Territories that are vested in the Crown or of which the Government of Canada has power to dispose and administer. The administration of these lands is accomplished through the various regional and departmental land management policies that direct:

- a) disposal of surface rights in the territorial land to meet the legitimate needs of people and institutions living or conducting business in the north;
- b) protection of the environment by controlling and monitoring activities and operations

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- occurring on territorial lands;
- c) provision of land to territorial governments and other government departments or agencies, to enable them to carry out their legislative mandates; and
 - d) consideration, in any lands disposition, of whether the actions affect the fiduciary (trust-based) relationship between government and aboriginal peoples.

Federal Real Property Act

The *Federal Real Property Act* (FRPA) provides for the administration and disposition of federal Crown Lands by all federal Crown agencies where there is no provision to do so in or under any other Act. The Act also allows DIAND to dispose of federal territorial lands to other federal agencies by transferring the "administration and control" of the parcel of land. As well, through the FRPA instruments such as licenses of occupation allow for linear developments previously not contemplated under the *Territorial Lands Act*.

Pre-screening Process:

1. An application refers to an application for Crown Lands under the administration and control of the Minister of Indian Affairs and Northern Development for:
 - a) the sale of surface Crown Lands;
 - b) the lease of surface Crown Lands;
 - c) the lease of surface Crown Lands with an option to purchase at a later date;
 - d) the issuance of Reserves of Crown Lands;
 - e) the transfer of Crown Lands to federal or territorial departments except where infrastructure already exists;
 - f) the establishment of easements for Crown Lands;
 - g) the issuance of licences of occupation for Crown Lands; and
 - h) any other land applications identified in the enabling Federal legislation that is not inconsistent with a) to g) and includes any changes in terms or conditions.

Applicants are required to submit an application form for Crown Land to the Department of Indian Affairs and Northern Development (DIAND).

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2. Copies of applications accepted as complete, and any available supporting information related to applications received by the Manager, Land Administration, for the application of Crown Lands will be forwarded to the Akaitcho DFN Pre-screening Board within five business days of a fully completed application form having been received by DIAND at:

Co-ordinator
Akaitcho DFN Pre-screening Board
Northwest Territories Treaty 8 Tribal Corporation
Box 1768
Yellowknife, NT X1A 2P3

3. The Board will consider the proposal and respond to the,

Manager, Land Administration
Department of Indian Affairs and Northern Development
Box 1500
4914 - 50th Street
Yellowknife, NT X1A 2R3

within forty-five (45) days of the receipt of the material or within such time as otherwise agreed to between Manager, Land Administration and the Board.

4. The term "Manager, Land Administration" shall also include any agent or agents that is delegated to act on behalf of the Manager, Land Administration.
5. The Board's response may include, but is not limited to, the following:
 - a) written submissions;
 - b) oral submissions;
 - c) audio-visual presentations; and/or
 - d) Elders' submission - oral or written.
6. The Manager, Land Administration will notify the Co-ordinator, Akaitcho DFN Pre-screening of the actions the Manager is taking in relation to completed applications. Where the Manager, Land Administration does not follow the decision of the Pre-screening Board on whether or not an application should be accepted or rejected the Manager will provide reasons. If requested, the Manager, Land Administration will meet with the Pre-screening Coordinator and/or the Board to discuss the outcome.

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7. When required by legislation or policy, the Manager, Land Administration will conduct further consultations as required, the Federal Government will formally notify the Board of its decision on the proposed application.
8. The Manager, Land Administration is the federal contact person for inquiries relating to the Pre-Screening Process described above.
9. The Manager, Land Administration will advise the Co-ordinator, Akaitcho DFN Pre-screening Board, once the consultation process has been completed and a decision has been rendered, of the actions taken in relation to the application being considered.

Other Applications for the Disposition of Federal Crown Lands

In order to ensure that all Crown Lands are covered, DIAND will undertake to consult with other federal departments responsible for the disposition of surface federal Crown Lands in the Northwest Territories with the view of amending this Schedule to include provisions for the Co-ordinator, Akaitcho DFN Pre-Screening Board, if necessary, in the review of applications received by federal departments other than the DIAND.

Co-existence Issues:

1. When another Aboriginal group or Aboriginal person has demonstrated an interest in the Federal Crown Lands, then the Board's response will be considered in the context of other processes or consultations with the other aboriginal group.
2. In the event that Canada or another Aboriginal group questions the application of this Schedule in a specific geographical area the issue is to be addressed on a priority basis before this Schedule can apply.

Dated this _____ day of _____, 2003.

For the Akaitcho Dene First Nations

Sharon Venne
Chief Negotiator

Witness

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For Canada

John Gill
Chief Negotiator

Witness