

20.0 ACCESS TO DEHCHO NDEHE

20.1 The purpose of this chapter is to broadly determine provisions for Dehcho Dene and non-Dehcho Dene access on lands throughout the Dehcho Settlement Area for the purpose of an AiP. Further detail and additional provisions shall be provided for in the Dehcho Agreement.

20.2 Definitions

20.2.1 Commercial Access: Access to Dehcho Ndehe for the purposes of commercial activity, excluding the exercise of any rights or interests respecting minerals and oil and gas. Access for the purposes of exercising any rights or interests respecting minerals and oil and gas will be provided for in a separate chapter on Subsurface Resources.

20.2.2 Public Purpose: refers to the construction, use, maintenance and decommissioning of public infrastructures, such as roads, bridges, airports, maritime structures, navigation aids and communication towers, as well as to public services and utilities, such as power transmission and telecommunications structures, but not including pipelines for the transportation of hydrocarbons, or dams subject to applicable laws of general application and the Dehcho Agreement.

20.2.3 Recreational Purposes:

20.3 Right of Access on Dehcho Ndehe

1. The Dehcho Agreement will provide that, except as otherwise provided for in the Agreement, a person other than a Dehcho Dene may not enter, cross or remain on Dehcho Ndehe or Kue Zhagola Gondehe without the consent of, respectively, the Dehcho Government or the local government of Kue Zhagola Gondehe.
2. For greater certainty, a Dehcho Dene may enter, cross or remain on Dehcho Ndehe lands or Kue Zhagola Gondehe year-round.
3. The Dehcho Government may make laws and establish conditions for the exercise of the right to access on Dehcho Ndehe.
4. Dehcho community governments may make laws and establish conditions for the exercise of the right to access on Kue Zhagola Gondehe.

Non-Commercial Access on Dehcho Ndehe

5. Subject to the consent of the Dehcho Government and any laws or conditions respecting access, any person has the right of access to Dehcho Ndehe for non-commercial purposes, including temporary recreational purposes, but excluding any commercial activity or the establishment of any seasonal or permanent camp, structure or access route on Dehcho Ndehe.

6. Non-commercial access to Dehcho Ndehe does not include a right to harvest or extract resources except as permitted under Dehcho Government laws and laws of general application.
7. The Parties agree that the Dehcho Agreement shall provide for access on Dehcho Ndehe and Kue Zhagola Gondehe for public and safety purposes and for free circulation on navigable waterways and public highways.
8. The Dehcho Agreement shall provide for conditions determining the construction, use, maintenance and decommissioning of public purpose structures and services on Dehcho Ndehe or Kue Zhagola Gondehe. These conditions may be the subject of complementary agreements.
9. No new access routes shall be constructed to Kue Zhagola Gondehe without the consent of the Dehcho community government.
10. In the case of a new access on Dehcho Ndehe or Kue Zhagola Gondehe, or of an alteration or expansion of an existing access, the Dehcho Dene shall be entitled to be indemnified or compensated, as set out in the Expropriation chapter.
11. Any person may enter and stay on Dehcho Ndehe and waters overlying such lands without prior notice in an emergency.
12. The Agreement will address conflicts between public rights of access, the use and enjoyment of Dehcho Ndehe by Dehcho Dene, and other authorized uses of Dehcho Ndehe.

Dehcho Dene Right of Access on Crown Lands

13. Nothing in the Dehcho Agreement will affect the rights of the Dehcho Dene to access, enter and stay on all lands and overlying waters throughout the Dehcho Settlement Area, including Crown lands, for the purposes of exercising Treaty and Aboriginal harvesting rights throughout their respective Treaty areas and traditional harvesting areas.
14. Agents, employees and contractors of Dehcho Government may enter, cross and stay temporarily on Crown lands in the Dehcho Region without charge, to deliver Dehcho Government programs and services and carry out Dehcho Government activities.
15. The Agreement will address conflicts between the access rights of Dehcho Dene and other authorized uses of Crown Lands in the Dehcho Settlement Area.

Crown and GNWT Access to Dehcho Lands

16. Agents, employees and contractors of Canada and the Government of the Northwest Territories, police and law enforcement officers appointed under federal or territorial laws, and members of the Canadian Armed Forces, may enter, cross and temporarily stay on Dehcho Ndehe without charge, to deliver programs and services, carry out duties under federal and territorial laws, respond to emergencies or to address other public safety and security matters.
17. With the exception of emergencies and duties of law enforcement under federal or territorial law, reasonable notice shall be given to the Dehcho Government prior to Crown or GNWT access on Dehcho Ndehe.
18. The Department of National Defense and the Canadian Forces have a right of access to Dehcho Ndehe and waters overlying such lands for military manoeuvres with the agreement of the Dehcho Government, or failing agreement, on conditions established in the chapter on Dispute Resolution.
19. Nothing in the Agreement is intended to restrict the authority of the Minister of National Defence to carry out activities under s. 257 of the *National Defense Act*, or to respond to emergencies on Dehcho Ndehe.
20. The Dehcho Agreement shall provide for provisions respecting the remediation and restoration of contaminated sites on Dehcho Ndehe.

Commercial and Tenure Access to Dehcho Lands

21. Subject to Dehcho laws and conditions of access, residents of Dehcho Ndehe or persons who hold existing rights and interests within Dehcho Ndehe as of the effective date, may enter and cross Dehcho Ndehe or waters overlying Dehcho Ndehe in order to have access to their properties, with reasonable prior notice to the Dehcho Government.
22. The consent of the Dehcho Government is required prior the establishment of any new access route or transportation corridor to a commercial or tenure interest or property.
23. Existing rights and interests do not include staked or unrecorded mineral claims, prospecting permits and mineral leases. Mineral rights and interests and access to mineral rights and interests will be provided for in a separate chapter on Subsurface Resources.
24. The Dehcho Government may make laws and conditions for the exercise of existing and new commercial access and access to tenures, including renewals, expirations and assigns, on Dehcho Ndehe. In the event of a dispute respecting commercial access or access to tenures, the person with the rights of access may refer the dispute for resolution in accordance with the chapter on Dispute Resolution, but may not exercise that right until the dispute has been resolved.

Access to Construction Materials

25. The Agreement will provide that government and Dehcho Government may enter into agreements for the purpose of obtaining construction materials on their respective lands.

Rolling Draft

Dehcho First Nations
Without prejudice
May, 2008

In the event of a conflict or inconsistency between Dehcho laws and federal or territorial laws of general application respecting access to Dehcho Ndehe or Kue Zhagola Gondehe, the Dehcho laws shall prevail to the extent of the conflict.