

ONE TRAIL:

FACILITATOR'S REPORT ON THE SAHYOUE AND EDACHO

DIRECTIONS-CONFIRMING WORKSHOP (NOVEMBER 8-10/05)

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December 17/05

EXECUTIVE SUMMARY

1. INTRODUCTION

Sahyoue and Edacho are two peninsulas that reach into Great Bear Lake, or “Sahtu” in the Slavey language. They are of fundamental importance not only to the people of Déline — the only community on Great Bear Lake — but to all Canadians.

Sahyoue and Edacho contain much of the heritage of the people of Déline — the “Sahtugot’ine” — and it is through these places that they define who they are and where they are going, and that they pass that heritage on to the younger generation. Sahyoue and Edacho are teaching, healing and spiritual places, essential to the cultural well-being of the Sahtugot’ine, or in the words of one elder, “our trail to trail on”.

The Sahtugot’ine and the Federal and Territorial Governments have been working since the mid-1990s on the long-term protection and co-management¹ of Sahyoue and Edacho:

- Sahyoue and Edacho are identified as heritage places in the Sahtu Dene and Metis Comprehensive Land Claim Agreement (1993), and that Agreement further establishes their ownership as 20% Sahtu lands and 80% Crown lands.
- In 1998, the Minister responsible for Parks Canada declared Sahyoue/Edacho to be a National Historic Site because “their cultural values, expressed through the interrelationship between the landscape, oral histories, graves and cultural resources, such as trails and cabins, help to explain and contribute to an understanding of the origin, spiritual values, lifestyle and land-use of the Sahtu Dene”².
- In 2000, Parks Canada agreed to sponsor these places in the NWT Protected Areas Strategy (“PAS”).
- In 2000 the Governor in Council withdrew the lands as an interim measure pending the ultimate resolution of their status as a candidate protected area, and in late 2005 that withdrawal was extended until November 2010.
- Since 2000, representatives of all three levels of government — and particularly of Déline and Parks Canada — have been working, through the PAS, on researching the resource values of these places and on discussions towards their permanent protection and co-management.

From November 8-10/05, representatives of Déline’s Elders, the Déline First Nation (“DFN”), the Déline Land Corporation (“DLC”), the Déline Renewable Resources Council (“DRRC”), the

¹ Throughout this Report, “co-manage” and “co-management” refer to cooperation in management. Parks Canada uses an equivalent term: “cooperative management”. Whatever term is used, Parks Canada and the appropriate Déline authorities will need, in future discussions and negotiations, to work out how, specifically, they will cooperate in the management of Sahyoue and Edacho.

² The purpose of a national historic site is to ensure “commemorative integrity”, or the health and wholeness of the site. A national historic site has commemorative integrity when the resources that symbolize or represent its importance are not impaired or under threat, when the reasons for the site’s national importance are effectively communicated to the public, and when the site’s heritage values are respected by all whose decisions or actions affect the site: *Parks Canada Guiding Principles and Operational Policies* (1994) at 71.

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Department of Indian Affairs and Northern Development (“DIAND”), the Department of Environment and Natural Resources, GNWT (“ENR”), Parks Canada and the Canadian Parks and Wilderness Society (“CPAWS”) — collectively the “Parties” — met in Déline for a workshop on Sahyoue and Edacho. The agreed purposes of this workshop (the “November Workshop”) were to identify:

- a. a general management vision and a sponsoring agency for Sahyoue and Edacho; and
- b. a process(es) by which specific permanent protection, an acceptable management authority and long-term management funding might be discussed and resolved³.

The November Workshop achieved its purposes. While the “lead actors” in the Workshop were Déline’s elders, the DFN, the DLC, the DRRC and Parks Canada, all Parties to the November Workshop agreed on a general vision and preferred option for protecting and managing Sahyoue and Edacho in the future.

2. NOVEMBER WORKSHOP RESULTS

This Report sets out the consensus results of the November Workshop, along with contextual facts by way of explanation for those who were unable to attend. These results are as follows:

- a. All Parties agree on the vision set out in Part 2 as well as in Appendices 3 and 4 to this Report. This is a vision of Sahyoue and Edacho as teaching and healing places, helping to sustain the cultural well-being of the Sahtugot’ine and contributing to a better understanding, on the part of all Canadians, of this aboriginal contribution to our collective heritage. It is also a vision of co-management by Déline authorities, Parks Canada and the Government of the Northwest Territories. The Parties agree to this vision subject only to the minor qualifications set out in Part 2 of this Report.
- b. The Parties considered various options for achieving their common vision. All Parties agree that Option 1, as set out in Part 3 and Appendix 5 of this Report, is their preferred option for realizing their common vision for Sahyoue and Edacho. This Option provides for the establishment of a new protected area at Sahyoue and Edacho, comprising both Crown and Sahtu lands, jointly managed by Parks Canada and the appropriate Déline land management authority according to specifics to be discussed and negotiated in the future. Note, however, that this option requires new program funding for Parks Canada and Cabinet’s approval of the required funds.
- c. All Parties agree to support the Minister of the Environment in his efforts to secure new funding for Sahyoue and Edacho.
- d. No Party knows the time that will be required to secure such funding, nor whether Cabinet will ultimately approve the requested funding. The Parties agree to use the time between the November Workshop and Cabinet’s ultimate decision to organize themselves for whatever decision is made:
 - i. Déline will need to organize a discussion/negotiation team (the “Déline Team”), develop and secure a negotiations budget, and prepare a Déline discussion/negotiation approach.

³ The general approach of the October and November Workshops is illustrated in Appendix 1.

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- ii. Parks Canada is unable to enter into negotiations on Sahyoue and Edacho in the absence of a confirmed financial mandate and new funding. Nonetheless, it is willing to continue discussions with Déline authorities on cooperative approaches to the protection and management of Sahyoue and Edacho.
 - iii. The PAS Sahyoue and Edacho Working Group will complete any outstanding reports and work required under the PAS. The PAS Secretariat will update the appropriate Ministers on the relationship between the November Workshop's results and the PAS.
 - iv. Representatives of all Parties will take part in a (new) Sahyoue and Edacho Steering Committee. The Steering Committee will help coordinate work resulting from the November Workshop. Among other things, it will provide support, as appropriate, to future discussions between Parks Canada and the Déline Team on Sahyoue and Edacho.
- e. Assuming that their political leaders approve the directions set out in this Report, the Parties will proceed according to one of two alternatives:
- i. If new funding and Parks Canada's negotiation mandate are approved, the Déline Team and Parks Canada will initiate negotiations regarding the permanent protection and co-management of Sahyoue and Edacho.
 - ii. Alternatively, if new funding is not approved, all Parties will re-visit and, if necessary, entirely re-think their options to protect and manage Sahyoue and Edacho. Parks Canada indicated at the November Workshop that if new funding is refused, it is willing to look at another approach.

3. APPROVAL OF THIS REPORT

This is a facilitator's report. Substantive decisions remain with the Parties. By agreement of the Parties, it is subject to two levels of approval:

- a. Participants in the November Workshop had until December 16/05 to provide comments on the *accuracy* with which two drafts of the Report set out the November Workshop's conclusions. On December 16/05, the Parties approved the report in your hands.
- b. This Report is now subject to final approval by the political leaders of each of the Parties. These leaders will determine whether the general directions set out in the Report and in the November Workshop are acceptable to them.

4. CONCLUSION

Several elders spoke, in the November Workshop, of their frustration that, despite many years of work, the protection and management of Sahyoue and Edacho remain unresolved issues. They remind us that the protection of Sahyoue and Edacho is a responsibility passed on to them by their ancestors, which they in turn must pass on to the younger generation. They stress that the land is to be used, shared and cared for by Sahtugot'ine and non-Sahtugot'ine alike — and that the responsibility to protect Sahyoue and Edacho rests with all of the Parties to the November Workshop. They hope that, with the November Workshop, all Parties will now “travel on one trail”.

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Through their words and example, D line's elders have led the establishment of the basic principles, values and direction for cooperative work on Sahyoue and Edacho. They want Option 1 implemented as a matter of the first priority. The younger representatives of each of the Parties have agreed to take up the elders' challenge and work diligently on completing the work the elders have begun.

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1. INTRODUCTION

1.1 THE OCTOBER AND NOVEMBER/05 WORKSHOPS

Sahyoue and Edacho reach into Great Bear Lake (“Sahtu” in the Slavey language) just south of the Arctic Circle and in the central part of the Northwest Territories (“NWT”). For the people of Déline, the only community on the lake, Sahtu, Sahyoue and Edacho are part of who they are, where they have come from and where they are going. These people have thus traditionally referred to themselves as the “Sahtugot’ine” — “the people of Sahtu”.

Sahyoue and Edacho are two of the most sacred places in all of the Sahtu settlement area. It is in these places that much of the heritage of the Sahtugot’ine is preserved. And it is through these places and the stories associated with them that the elders pass on the “traditional knowledge” of the Sahtugot’ine: their mythology, philosophy, spiritual values, law, ethics, land use skills, land management practices and traditional life-styles. Given the heritage importance of these places, it is not surprising that the Sahtugot’ine want to permanently protect and play a central part in the management of Sahyoue and Edacho.

From October 24-26/05, representatives of several Déline authorities held a workshop in Déline on Sahyoue and Edacho. Their purposes were to review work to date to protect and co-manage⁴ these places; to think through in greater detail what Déline would like to see happen at Sahyoue and Edacho in the future; and to prepare for a November/05 workshop with representatives of the Federal and Territorial Governments. This workshop (the “October Workshop”) confirmed Déline’s vision and a preferred option for protecting and managing Sahyoue and Edacho in the future⁵. And it served as one of the foundations for the November 8-10/05 Workshop to follow.

From November 8-10/05, representatives of Déline’s Elders, the Déline First Nation (“DFN”), the Déline Land Corporation (“DLC”), the Déline Renewable Resources Council (“DRRC”), the Department of Indian Affairs and Northern Development (“DIAND”), the Department of Environment and Natural Resources, GNWT (“ENR”), Parks Canada and the Canadian Parks and Wilderness Society (“CPAWS”) — collectively the “Parties” — met for a further workshop in Déline on Sahyoue and Edacho. The agreed purposes of this workshop (the “November Workshop”) were to identify:

- a. a general management vision and a sponsoring agency for Sahyoue and Edacho; and
- b. a process(es) by which specific permanent protection, an acceptable management authority and long-term management funding may be negotiated among representatives of Déline and the appropriate government department or agency in the future⁶.

The November Workshop achieved its purposes. While the “lead actors” in the Workshop were Déline’s elders, the DFN, the DLC, the DRRC and Parks Canada, all Parties to the November Workshop agreed on a general vision and preferred option for protecting and managing Sahyoue and Edacho in the future.

⁴ Please see footnote 1 above.

⁵ See Tom Nesbitt, *Facilitator’s Report on the Sahyoue and Edacho Déline Open House (Oct. 24 Evening) and Déline Community Workshop (Oct. 25 & 26/05)* (October 31/05) (available from the author: tom.nesbitt@telus.net).

⁶ Appendix 1 identifies participants in the November Workshop and illustrates the general approach of the October and November Workshops.

1.2 NATURE, APPROVAL AND STRUCTURE OF THIS REPORT

This report (the “Report”) sets out the consensus results of the November Workshop, along with contextual facts by way of explanation for those who were unable to attend⁷.

It is a *facilitator’s* report. In the October and the November Workshops, and in the September 9 and December 16/05 conference calls that proceeded and followed them, my roles were those of a facilitator, a lawyer offering common legal information to all Parties⁸, and a report drafter. My purpose was to help the Parties find a consensus that meets their common interests. In accordance with the principle of party self-determination, substantive decisions remain with the Parties.

By agreement of all Parties, this Report is subject to two levels of approval:

- i. Participants in the November Workshop had until December 16/05 to provide comments on the *accuracy* with which two drafts of the Report set out the November Workshop’s conclusions. On December 16/05, the Parties approved the report in your hands.
- ii. This Report is now subject to final approval by the political leaders of each of the Parties. These leaders will determine whether the general directions set out in the Report and in the November Workshop are acceptable to them.

This Report and any discussions and negotiations to follow between the D line Team and Parks Canada are “without prejudice” to any ultimate agreement and any legal actions among the Parties. Documents that are part of an ongoing discussion or negotiation process and that are “without prejudice” cannot be used as evidence against a party in parallel or subsequent arbitrations or court proceedings. This condition facilitates the settlement of complex discussions and negotiations. It allows the parties to these discussions/negotiations to explore fully their options and gradually assemble the parts of a complex agreement without fear of being held to something they said or did during the discussion/negotiation process and prior to settlement.

This Report is organized as follows:

- a. The Executive Summary (above) summarizes the main conclusions of the November Workshop.
- b. Parts 2 to 6 below describe the November Workshop’s conclusions in more detail.
- c. For those interested in background facts and further particulars, various appendices are referenced in and attached to this Report.

The Report has been written as briefly as possible, so that it will remain accessible to a range of audiences, including participants in the November Workshop and the Parties’ political leaders. For comprehensiveness, the main conclusions of the October Workshop Report⁹ have been amalgamated into this Report.

⁷ For a further listing of work leading up to the October and November Workshops, please see Appendix 2.

⁸ For greater certainty, this Report does not constitute a legal opinion.

⁹ Above, footnote 5.

2. A COMMON VISION

Déline's elders, the DFN, the DLC and Parks Canada have already developed a "Commemorative Integrity Statement" (or "CIS") for Sahyoue and Edacho¹⁰. In so doing, they have already agreed on many of the elements of a common vision for the future protection and management of Sahyoue and Edacho. The CIS's agreed management objectives are attached as Appendix 3 to this Report.

In the October Workshop, Déline re-affirmed and sharpened the focus of its vision. That vision is attached as Appendix 4 to this Report. It should be consulted directly. Its main elements are as follows:

- a. The protection and co-management of Sahyoue and Edacho are integral to the cultural well-being of Déline. "We selected these places not for their beauty, but for what they give back." The culture that Sahyoue and Edacho embody is "our trail to travel on".
- b. Déline's involvement in the protection and co-management of Sahyoue and Edacho is a *responsibility* given to the Sahtugot'ine by their ancestors. Déline must re-claim its role in the protection and management of Sahyoue and Edacho, as foreseen by its prophets.
- c. It is only through fulfilling these responsibilities passed on from the ancestors — protecting, caring for and paying respect to the land, and supporting the elders in passing on Sahtugot'ine beliefs, law, values and practices to the youth — that the Sahtugot'ine can retain their identity and "be who we are". Only thus can the community will be kept "vital and well". Only thus can Sahtugot'ine culture be preserved.
- d. Sahyoue and Edacho are "*sore benegodi*": so real, of such fundamental value, so beautiful or so splendid that they are embedded in the mind; they cannot be dismissed; they are part of the Sahtugot'ine¹¹.
- e. Déline must play a central role in the management of Sahyoue and Edacho — a central role in the development of policy and regulations as well as in operational (or day-to-day) management.
- f. To do this, Déline organizations and individuals will need support in developing their modern-day management capacities and skills. This will take time.
- g. Sahtugot'ine harvesting rights as set out in the Sahtu Dene and Metis Comprehensive Land Claim Agreement (the "SLCA") must be respected in Sahyoue and Edacho.
- h. Sahyoue and Edacho are "teaching and learning places": places to encourage the passing of Sahtugot'ine culture from the elders to the youth, to "help the youth understand who they are", to "stabilize the culture", to "sustain the community as a whole" and to "help the community be a community again".

¹⁰ Parks Canada, *Commemorative Integrity Statement Sahyoue (Grizzly Bear Mountain) Edacho (Scented Grass Hills) National Historic Site of Canada* (2000).

¹¹ One of several powerful terms used by Déline's elders and explained by Charlie Neyelle.

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- i. A “Learning Centre” in Déline, where Sahtugot’ine culture could be systematically researched, documented, displayed, communicated and further developed, should further complement teaching at Sahyoue and Edacho¹².
- j. Sahyoue and Edacho are also important as healing places: “a place of refuge” and “a place to heal ourselves”. The learning centre identified above could be combined into a learning/healing centre.
- k. A management plan should be developed for Sahyoue and Edacho. The management of Sahyoue and Edacho should incorporate Sahtugot’ine cultural values and traditional law: the management plan should give effect to these values and legal rules.
- l. Eco-tourism and other forms of economic development that are consistent with the ecological and cultural integrity of Sahyoue and Edacho should be encouraged and supported.
- m. All of the foregoing will need funding support, whether for capacity building, programs, O&M or capital costs. It is very difficult to carry out sustained and effective cultural development programs in the absence of dependable, ongoing funding.

All Parties to the November Workshop were aware, prior to the Workshop, of the vision set out in Appendices 3 and 4. In the November Workshop, they expressed their agreement with and support for this vision, subject only to the following minor qualifiers:

- i. **The implementation of some elements of the vision (e.g. justice and social programs) is beyond the mandate of Parks Canada. Further, implementation of the vision is contingent on securing new program funding (see below, Part 5).**
- ii. **While DIAND, ENR and CPAWS will likely play a lesser future role at Sahyoue and Edacho than Parks Canada and Déline authorities, they support the vision within their respective jurisdictions and subject to available funding.**

3. A COMMON PREFERRED OPTION

There are potentially many options for realizing the Parties’ common vision to protect and manage Sahyoue and Edacho — in fact, so many options as to be potentially confusing to most audiences. Several options have been before the Parties to the November workshop for essentially eight years¹³. Prior to the October and November Workshops, I thus consulted representatives selected by Déline, Parks Canada and DIAND, in an effort to identify constraints and the most feasible/likely options for achieving the Parties’ interests in protecting and managing Sahyoue and Edacho¹⁴. In so doing, I built not only on previous legal analyses, but

¹² One November Workshop participant has pointed out the link between the concept of a “learning centre” and that of the Déline Knowledge Centre. Representatives of Déline (and others) have put considerable effort into visualizing, conceptualizing and planning a Déline Knowledge Centre. This participant underlines the need for all Parties to work cooperatively on *one* learning/knowledge centre, whatever it is ultimately named.

¹³ See Tom Nesbitt, Nancy Morgan and Andrew Thompson, *Grizzly Bear Mountain, Scented Grass Hills and Sir John Franklin’s 1825 Wintering Quarters: Options for Protecting Cultural Heritage in the Sahtu Settlement Area* (April 21, 1997).

¹⁴ ENR was inadvertently omitted from these consultations, but participated fully in the November Workshop.

also on Parks Canada's *Draft Issue Analysis* (April/05)¹⁵. I concluded that three options were most deserving of serious consideration by the Parties. I made these options available to the Parties prior to and during the October and November Workshops¹⁶.

In their October Workshop, representatives of Déline concluded that "Option 1" (Appendix 5) is the community's preferred option for achieving the vision set out above and in Appendices 3 and 4. Participants in the November Workshop concluded likewise. Option 1 is their preferred option. The common sentiment of the Federal and Territorial Governments may have been best summarized by DIAND: it holds Crown lands in trust for the people of Canada, including the people of Déline. It wants to ensure the most appropriate use of these lands. It has concluded that the Parties' shared vision and Option 1 are indeed the most appropriate use of Sahyoue and Edacho.

For the particulars of Option 1, Appendix 5 should be consulted directly. The main elements of this Option are as follows:

- a. **General:** A new protected area would be established at Sahyoue and Edacho. It would incorporate both the Sahtu and Crown lands portions of Sahyoue and Edacho. It would be managed according to the objectives of the CIS (Appendix 3) and the vision set out in Appendix 4, as amended in discussions and negotiations between Parks Canada and the Déline authority responsible for the Sahtu lands portion of Sahyoue and Edacho. The proposed protected area would be jointly "sponsored", for the purposes of the NWT Protected Areas Strategy (the "PAS"), by Parks Canada and the Déline authority (the DLC/or DFN Government, when established).
- b. **Funding:** The implementation of Option 1 is contingent on Parks Canada securing new program funding for Sahyoue and Edacho.
- c. **Protection:** Administration of the Crown lands comprising Sahyoue and Edacho would be transferred from the Minister of IAND to the Minister of the Environment. Sahyoue and Edacho would be permanently protected under the *Historic Sites and Monuments Act* or other Parks Canada legislation, as well as other applicable legislation. In November/05, the Governor in Council extended to November 2010 the interim land withdrawal protecting the Crown lands as well as the subsurface of the Sahtu lands within Sahyoue and Edacho. In the long term, a permanent land withdrawal of these lands would be instituted.
- d. **Management:** Parks Canada's and the DLC's shared objective here is the co-management of the entire Crown/Sahtu lands parcel making up Sahyoue and Edacho. To accomplish this objective, various legal issues associated with the jurisdiction of the DLC on the Sahtu lands portions of Sahyoue and Edacho will need, in future discussions, to be resolved. These discussions should involve the parties' respective legal counsel. Once established as a protected area, Sahyoue and Edacho management issues would

¹⁵ Policy and Government Relations Branch, National Historic Sites Directorate, Parks Canada, *Draft Issue Analysis: Protection, Presentation and Management of Grizzly Bear Mountain and Scented Grass Hills (Sahyoue and ?Edacho) National Historic Site of Canada* (April 2005).

¹⁶ These options were originally appended to background materials distributed prior to the October and November Workshops, as well as to drafts of this Report. On December 16/05, the Parties directed that they be severed from the Report and made available as a separate document. Please see: Tom Nesbitt, *Sahyoue and Edacho: Protection/Management Options for Consideration Prior to and During the October 25&26/05 and the November 8-10/05 Sahyoue and Edacho Workshops in Déline* (December 17/05), available from the author (tom.nesbitt@telus.net).

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likely be resolved primarily through a Sahyoue and Edacho co-management board. They would be implemented through a small team working out of Déline. Teaching and healing programs would play a central part in Sahyoue and Edacho. The elders and Déline's young people would play a central role in these programs.

- e. **Harvesting Rights:** Participants' harvesting rights would be protected as set out in SLCA, and would be restricted only according to the processes set out in the SLCA, including any section 17.2.5 protected areas agreement.
- f. **Cultural Well-Being:** Déline's cultural well-being is at the heart of the SLCA¹⁷ as well as of the Parties' common vision for Sahyoue and Edacho. Cultural, learning and healing programs, including the elders' passing of Sahtugot'ine culture to the youth, would be central to Sahyoue and Edacho. These programs would likely take place both on the land and in the school in Déline.
- g. **Future Discussions and Negotiations:** The establishment of Sahyoue and Edacho as a protected area would be subject to protected area negotiations, as set out in Chapter 17 of the SLCA. Such negotiations would build on the CIS and the Parties' common vision. The specifics of the protection and future management of Sahyoue and Edacho would be determined in these negotiations and in any discussions that might precede them (below, Part 5). Without prejudging future discussions and negotiations, they would likely address the parties' respective roles in co-management, and they would probably define the roles and provide for the establishment of a Sahyoue and Edacho co-management board, Déline's involvement in operational (or day-to-day) management, various aspects of capacity building, the development of a Sahyoue and Edacho management plan, teaching and healing programs, and a Parks Canada operational presence in Déline, etc.
- h. **Visitor Services and Tourism Development:** Visitor services, visitor experiences and other supports for tourism at Sahyoue and Edacho would be developed over time and cooperatively. They would be subject to the maintenance of the commemorative integrity and environmental quality of Sahyoue and Edacho, and would contribute to the cultural well-being of Déline. Sahyoue and Edacho were established as a National Historic Site because their cultural values help explain and contribute to a better understanding of the cultural heritage of the Sahtugot'ine and thus of all Canadians¹⁸. Visitor understanding and the communication of this heritage would be central to Sahyoue and Edacho¹⁹.

4. REQUIREMENT FOR NEW FUNDING — SUPPORT FOR THE MINISTER

In the November Workshop, Parks Canada's confirmed its need for new program funding if it is to implement Option 1 and establish a new protected area at Sahyoue and Edacho. It informed the Workshop that the Minister of the Environment will need to secure this funding within a federal budget, and that the proposal for new funding for Sahyoue and Edacho would require the support of Cabinet. The Sahyoue and Edacho funding proposal would also have to be approved by Treasury Board.

¹⁷ See sections 25.2.4 and 25.3.12 of the SLCA.

¹⁸ CIS at section 2.1.

¹⁹ See CIS at Part 3.

The other Parties to the November Workshop agree to support the Minister of the Environment in his efforts to secure the new program funding from Cabinet for Sahyoue and Edacho.

5. DISCUSSIONS UNTIL NEW FUNDING DECISIONS ARE MADE

Several elders spoke, in the October and November Workshops, of their frustration that, despite many years of work, the protection and management of Sahyoue and Edacho remain unresolved issues. They have explained the importance of Sahyoue and Edacho — that these places and their connection to the land are “part of who we are”, and “this is something we can’t change” — and they can think of nothing more they can say on these matters to the other two levels of government.

The elders of Déline remind us that the protection of Sahyoue and Edacho is a responsibility passed on to them by their ancestors, which they in turn must pass on to the younger generation. They stress that the land is to be used, shared and cared for by Sahtugot’ine and non-Sahtugot’ine alike — and that the responsibility to protect Sahyoue and Edacho rests with all of the Parties to the November Workshop. They say that the Federal, Territorial and First Nation Governments are like snow, ice and water. While apparently different, they have ultimately the same purpose. They need to work cooperatively together and complete the work on Sahyoue and Edacho. They say the we must all “travel on one trail”.

Through their words and example, Déline’s elders have lead the establishment of the basic principles, values and direction for cooperative work on Sahyoue and Edacho. They want Option 1 implemented as a matter of the first priority. The younger representatives of each of the Parties have now agreed to take up the elders’ challenge and work diligently on completing the work the elders have begun.

Representatives of Déline want in the near future to enter into negotiations with Parks Canada to establish Sahyoue and Edacho as a protected area. Parks Canada informed the other Parties at the November Workshop, however, that it is unable to enter protected area negotiations without an approved financial mandate, including new funding.

As noted above (Part 4), all Parties to the November Workshop agree to support the Minister of the Environment in his attempts to secure new program funding from Cabinet for Sahyoue and Edacho. But no Party knows the time that will be required to secure such funding. Nor do they know whether Cabinet will ultimately approve the requested funding. Nonetheless, they agree to take up the elders’ challenge. They want to use the time between the November Workshop and the ultimate decision on funding to organize themselves for whatever decision is made. In the November Workshop, they agreed on the following sorts of initiatives (note that this list is not exhaustive):

- a. Déline will:
 - i. identify a discussion/negotiating team (the “Déline Team”) and confirm Team members’ reporting relationships to their parent organizations (the DFN, DLC, DRRC, the Elders) and their relationship to Déline’s youth;
 - ii. prepare a new budget proposal to enable the Déline Team to prepare for and participate in discussions — and, if the funding is approved, negotiations — with Parks Canada. DIAND has agreed to help as it is able in providing funding for the Team;

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- iii. prepare a Déline Team discussion/negotiation approach, building on the CIS, the Parties' common vision and Option 1.
- b. Parks Canada is willing to discuss various Sahyoue and Edacho issues with the Déline Team, so long as it is understood that it is not entering into negotiations, including:
 - i. ways of implementing the Parties' common vision;
 - ii. Parks Canada's mandate (including what is within and outside of its mandate);
 - iii. how Sahyoue and Edacho might be co-managed between it and the appropriate Déline land manager, including impact and benefit plans, protected area agreements, and co-management boards established elsewhere in the NWT.
- c. The PAS Sahyoue and Edacho Working Group will complete any outstanding reports and work required under the PAS. The PAS Secretariat will update the Ministers of State (Northern Development), IAND, ENR and the Environment on the relationship between the November Workshop's results and the PAS²⁰.
- d. Representatives of all Parties will take part in a (new) Sahyoue and Edacho Steering Committee. The Steering Committee will help coordinate work resulting from the November Workshop. Among other things, it will provide support, as appropriate, to future discussions between Parks Canada and the Déline Team on Sahyoue and Edacho.

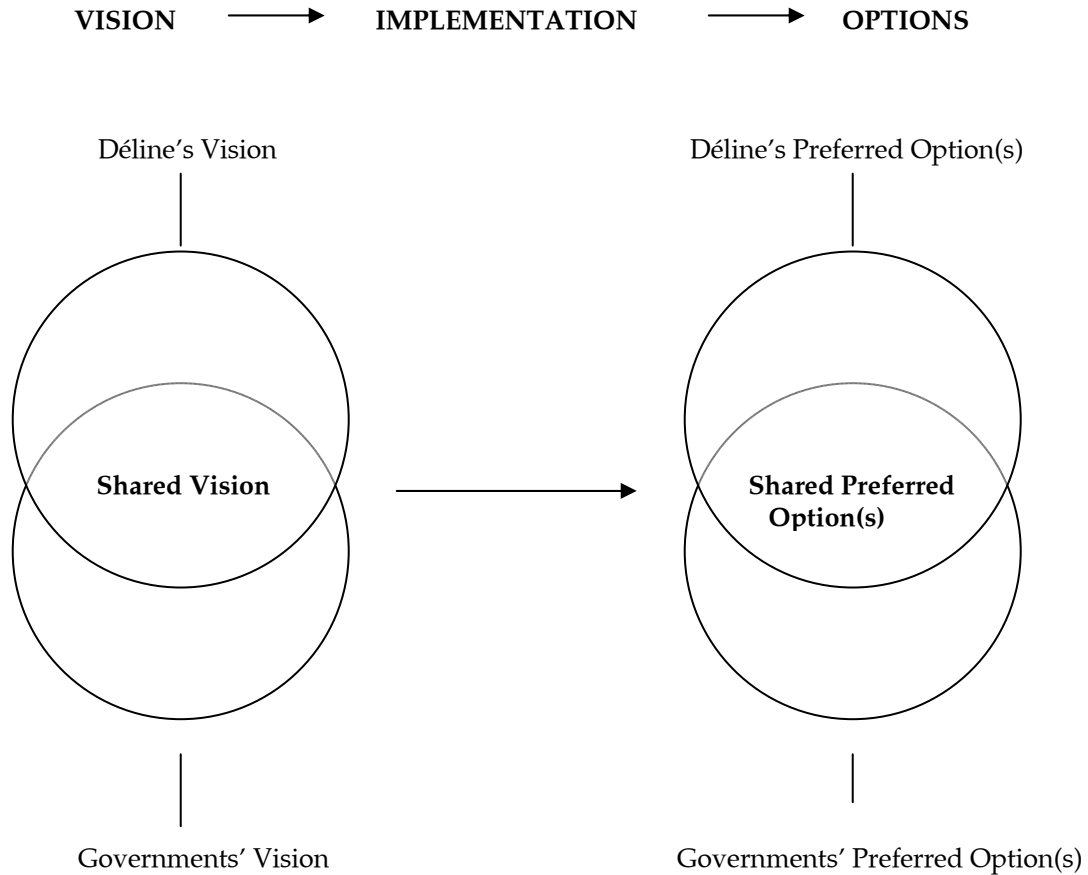
6. ALTERNATIVES FOLLOWING THE FUNDING DECISION

Assuming that their political leaders approve the directions set out above, the Parties have agreed to proceed according to one of two alternatives:

- a. If new funding and Parks Canada's negotiation mandate are approved, the Déline Team and Parks Canada will initiate negotiations regarding the permanent protection and management of Sahyoue and Edacho.
- b. Alternatively, if new funding is not approved, all Parties will re-visit and, if necessary, entirely re-think their options. Parks Canada indicated at the November Workshop that if new funding is refused, it is willing to look at another approach.

²⁰ Ministers Blondin-Andrew, Scott, Miltenberger and Dion.

APPENDIX 1: ILLUSTRATED APPROACH OF OCT. & NOV./05 WORKSHOPS



PARTICIPANTS IN THE NOVEMBER WORKSHOP:

DFN, DLC, DRRRC, Elders: Leroy Andre, Albertine Baton, Collin Bayha, Victor Beyonnie, George Blondin, Joe Blondin Jr., Gary Elemie, Mary Rose Elemie, Andrew John Kenny, George Kenny, Adrian Menacho, Bella Menacho, Jonas Modeste, Leon Modeste, Paul Modeste, Charlie Neyelle, Michael Neyelle, Morris Neyelle, Pauline Roche, Leon Sewi, Rosie Sewi, Andres Suzi-Cho, Alfred Taniton, Cathy Taylor, Archie Tetso, Jane Quitte, Johnny Vital

MVEIRB, SLUPB, SRRB, AURORA COLLEGE, U. ALTA, NORTHER GAS PROJECT SECT'T: Danny Bayha, Peter Menacho, Bella Tselie, Walter Bayha, Glen Guthrie, Christine Tatti, Ken Caine, Irene Betsidea

PARKS CANADA: Margaret Archibald, Kathryn Emmett, Alan Fehr

DIAND: David Livingstone, Greg Yeoman

ENR (GNWT): Steve Hannah

PAS SECRETARIAT: Kris Johnson

CPAWS – NWT: Erica Janes

FACILITATOR: Tom Nesbitt

APPENDIX 2: SUMMARY OF WORK TO DATE ON SAHYOUE AND EDACHO

Much has already been done to identify the values of Sahyoue and Edacho and to give interim protection to these places while their permanent protection is being considered:

- a. In 1993, the Sahtu Dene and Metis Comprehensive Land Claim Agreement (the "SLCA") identified Sahyoue and Edacho as Sahtu heritage places.
- b. In 1998, on the initiative of the elders and leaders of Déline and on the recommendation of the Historic Sites and Monuments Board of Canada, the Minister of Canadian Heritage declared Sahtugot'ine and Edacho to be a national historic site: a site making a fundamental contribution to the heritage of all of Canada.
- c. In 1999, the Sahtu Heritage Places and Sites Joint Working Group recommended surface and subsurface protection for both Sahyoue and Edacho²¹.
- d. In 2000, representatives of the Déline Dene Band, the Déline Land Corporation and Parks Canada developed a "Commemorative Integrity Statement" for this National Historic Site. This Statement identifies the nationally-significant values of Sahyoue and Edacho, and it sets out management objectives for the protection and communication of these values.
- e. In 2000, the federal Cabinet withdrew the lands associated with Sahyoue and Edacho, in order to give interim protection to these areas while discussions proceeded. In 2005, Cabinet extended this withdrawal for a further five years.
- f. From 2000 to 2005, numerous studies under the NWT Protected Areas Strategy have confirmed the cultural and ecological value of Sahyoue and Edacho, and their relatively low non-renewable resource potential.

APPENDIX 3: MANAGEMENT OBJECTIVES OF THE CIS

1. Environmental quality is maintained to a standard where traditional lifestyle and land-use activities can continue to be practiced by present and future generations of the Sahtugot'ine.
2. Forms of land-use which are inconsistent with the values inherent in the commemorative intent for the site do not occur. Examples of inconsistent land-use include mineral exploration, oil and gas development.
3. The cultural values of Sahyoue-Edacho as defined in the statement of commemorative intent and embodied in Sahyoue-Edacho are maintained and strengthened.

²¹ Sahtu Heritage Places and Sites Joint Working Group, Rakekée Gok'é Godi: Places we take care of. Report of the Sahtu Heritage Places and Sites Joint Working Group (December 1999) at 34.

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4. Management of the national historic site is consistent with and respects the continued practice of traditional lifestyle and land-use by the Sahtugotine, including the role of the elders at Sahyoue-Edacho and the transmission of this heritage to the younger generation.
5. The oral histories related to these sites continue to be told and passed on to the future generations of the Sahtugot'ine.
6. As many Canadians and visitors as possible will be aware of, appreciate and understand the important relationship between the Sahtugotine and the land.
7. Management decisions with respect to cultural resources are based on adequate and sound information and are made in accordance with the principles and practice of the Cultural Resource Management Policy.
8. Specific landscape features (including specific sacred sites, places of power, story locations, etc.), and built and archaeological resources (including portages and trails etc.), along with their associated values are treated/respected as part of the living heritage of the Sahtugot'ine.
9. A more complete inventory/evaluation of site resources is completed.
10. Opportunities are made available for young people from Déline to regularly visit Sahyoue-Edacho, to spend time on the land and to use their language. The young people in Déline are aware of Sahtugot'ine heritage, including traditional place names associated with *Sahyoue-Edacho*.
11. Mechanisms are in place and applied to ensure the present-day high levels of environmental quality and biodiversity standards are retained and protected.
12. The resources and their associated values are not lost, impaired or threatened from natural processes, for example erosion and decay, within or outside of the site.
13. The cultural resources and their associated values are not lost, impaired or threatened from human actions within or outside of the site.
14. The historic values of the resources are communicated to visitors and the general public. The public is aware of and appreciates the heritage of the Sahtugot'ine.
15. Visitors are able to hear of and, where appropriate, witness Sahtugot'ine cultural practices at Sahyoue-Edacho. Visitors respect and do not interfere with Sahtugot'ine cultural practices and their transmission to the younger generation.
16. Visitor numbers and activities do not impair the commemorative integrity of Sahyoue-Edacho.
17. The overall heritage presentation experience conveys the reasons for the national significance of the site.
18. Visitors and non-visitors who experience heritage presentation and the site stewards understand the reasons for the national historic significance of the site.
19. The effective communication of messages and their understanding is monitored.

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20. Part of the heritage presentation experience conveys the messages not related to national significance.
21. The messages not related to national significance and their presentation do not overwhelm or detract from the presentation and understanding of the site's national significance.
22. Both visitors and non-visitors who receive messages not related to national significance understand them.
23. The effectiveness of communication of messages not related to national significance and their understanding are monitored.
24. Sahyoue-Edacho national historic site membership in the larger family of national historic sites is made known, and information about other national historic sites is provided to the public.

APPENDIX 4: DÉLINE'S VISION FOR SAHYOUE AND EDACHO

Any vision has several complementary elements. The central themes of the vision expressed by Déline in the October Workshop are as follows:

- a. The protection and co-management of Sahyoue and Edacho are integral to the cultural well-being of Déline. "We selected these places not for their beauty, [or "what we could do with them",] but for what they give back." The culture that Sahyoue and Edacho embody is "our trail to travel on".
- b. Déline's involvement in the protection and co-management of Sahyoue and Edacho is a *responsibility* given to the Sahtugot'ine by their ancestors. Déline must re-claim its role in the protection and management of Sahyoue and Edacho, as foreseen by its prophets.
- c. It is only through fulfilling these responsibilities passed on from the ancestors — protecting, caring for and paying respect to the land, and supporting the elders in passing on Sahtugot'ine beliefs, law, values and practices to the youth — that the Sahtugot'ine can retain their identity and "be who we are". Only thus can the community will be kept "vital and well". Only thus can Sahtugot'ine culture be preserved.
- d. To the elders, Sahyoue and Edacho are "*sore benegodi*": so real, of such fundamental value, so beautiful or so splendid that they are embedded in the mind; they cannot be dismissed; they are part of the Sahtugot'ine²².

More specific elements of Déline's vision for Sahyoue and Edacho as follows:

- e. Déline must play a central role in the management of Sahyoue and Edacho — a central role in the development of policy and regulations as well as in operational (or day-to-day) management.

²² Term used and explained by Charlie Neyelle.

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- f. To do this, Déline organizations and individuals will need support in developing their modern-day management capacities and skills. This will take time.
- g. Sahtugot'ine harvesting rights as set out in the Sahtu Land Claim Agreement (the "SLCA") must be respected in Sahyoue and Edacho.
- h. Sahyoue and Edacho are "teaching places": places to encourage the passing of Sahtugot'ine culture from the elders to the youth, to "stabilize the culture", to "sustain the community as a whole" and to "help the community be a community again".
 - i. Many young people in Déline now need support in understanding who they are, where they have come from and where their future directions could lie — thus in developing their capacities. Sahyoue and Edacho could help in very real ways in grounding these young people in their culture.
 - ii. Specific cultural teaching programs at Sahyoue and Edacho could include traditional skills and management practices, knowledge of the land, the stories associated with these places, their associated Sahtugot'ine cosmology and philosophy, and Sahtugot'ine cultural values (sharing, mutual respect, and independent thought and observation, etc.).
 - iii. Young people will need to spend *time* out on the land, just as they need to spend a considerable amount of time in school. A teaching centre(s) should be established at Sahyoue-Edacho. It could be modeled on the Déline Uranium Team's traditional camps.
 - iv. Community- and school-based teaching should complement the land-based teaching of Sahtugot'ine culture at Sahyoue and Edacho.
 - v. In the past, specific sites at Sahyoue and Edacho were used for rites of passage for young males and females from youth to adulthood. These practices should be re-established and supported.
- i. A "Learning Centre" in Déline, where Sahtugot'ine culture could be systematically researched, documented, displayed, communicated and further developed, should further complement teaching at Sahyoue and Edacho. Other work at the Learning Centre could include research into and documentation of how other aboriginal peoples are preserving and passing on their cultures. The Learning Centre could combine elements in support of Tukut Nogait National Park as well as of Sahyoue and Edacho.
- j. Sahyoue and Edacho are also important as healing places.
 - i. Specific programs re. healing at Sahyoue and Edacho might include smoke houses, tepees and places where justice issues can be addressed. The learning centre identified above could be combined into a learning/healing centre.
 - ii. Traditional medicines are found at Sahyoue and Edacho. They can contribute to the health and healing of the community as a whole. The traditional medicine practices of Déline should be revived and supported.
- k. A management plan should be developed for Sahyoue and Edacho.

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- i. The management of Sahyoue and Edacho should incorporate Sahtugot'ine cultural values and traditional law: the management plan should give effect to these values and legal rules.
 - ii. Both places contain sacred and other sites that need to be identified, monitored, protected and treated with special forms of respect, again according to traditional Sahtugot'ine values and law. Both places also contain spectacular vistas. Traditional rules governing the visitation of these places should be incorporated into the management plan and communicated to visitors.
 - iii. Traditional trails should be mapped and maintained, and the elders should be involved in mapping.
 - iv. Different families' strengths, skills and roles should be integrated into the management of Sahyoue and Edacho.
- I. Eco-tourism and other forms of economic development that are consistent with the ecological and cultural integrity of Sahyoue and Edacho should be encouraged and supported.
 - i. Tourists could be told stories and introduced to Sahtugot'ine cultural practices at different sites in Sahyoue and Edacho.
 - ii. As visitation to Sahyoue and Edacho increases, a watchman program could be developed.
 - iii. Sahyoue, Edacho, Tuktut Nogait, Edaiila and other places of cultural significance within the Great Bear Lake watershed could be developed as complementary elements of an eco-tourism development strategy for Déline.
 - m. All of the foregoing will need funding support, whether for capacity building, programs, O&M or capital costs. It is very difficult to carry out sustained and effective cultural development programs in the absence of dependable, ongoing funding.

APPENDIX 5: OPTION 1

TERMS For easier reading, in the discussion that follows:

- a. "mineral" and "mineral exploration and development" include oil and gas, and oil and gas exploration and development;
- b. "Historic Sites and Monuments Act" ("HS&MA") includes that Act and any successor legislation currently being developed by Parks Canada; and
- c. "Sahyoue and Edacho" refers to the Crown and Sahtu lands that the Sahtugot'ine and the Government of Canada have agreed to commemorate as the Sahyoue / Edacho National Historic Site.

OPTION 1: Parks Canada – Déline Co-Management of Sahyoue and Edacho with New Program Funding

WITHOUT PREJUDICE

- a. Sponsorship: joint Parks Canada/ Déline Land Corporation or Déline First Nation Government sponsorship
- b. Budget: protection and management with new long-term funding to Parks Canada.
- c. Protection:
 - i. on the Crown lands portions of Sahyoue and Edacho, protection using the *Historic Sites and Monuments Act* (“HS&MA” — federal protected areas legislation) and other applicable legislation;
 - ii. in the interim, while Government explores its ability and willingness to implement Option 1, the current land withdrawal is extended (now done);
 - iii. would incorporate a permanent withdrawal, under the *Territorial Lands Act*, of the mineral or subsurface rights of the Crown Lands;
 - iv. on the Sahtu lands portions of Sahyoue and Edacho, protection using a permanent withdrawal, under the *Territorial Lands Act*, of the subsurface rights underlying the Sahtu lands.
- d. Management:
 - i. With the application of the HS&MA to the Crown lands portion of Sahyoue and Edacho, these lands would be brought under the administration of the Minister of the Environment and Parks Canada; a protected area agreement would be mandated; and these lands would no longer be subject to the jurisdiction of the Sahtu Land Use Planning Board (“SLUPB”) and the Sahtu Land and Water Board (“SL&WB”). Co-management — Déline and Parks Canada — becomes possible.
 - ii. Co-management details would be negotiated over the next few years in accordance with the protected area agreement requirements of Chapter 17 of the SLCA.
 - iii. Déline involvement in “operational” or day-to-day management of Sahyoue and Edacho would be negotiated over the next few years;
 - iv. Renewable resources harvesting is managed throughout the Sahtu settlement area, including in Sahyoue and Edacho, by the Sahtu Renewable Resources Board (“SRRB”) and the appropriate Renewable Resources Council (“RRC”), in this case, the Déline Renewable Resources Council (“DRRC”). This would continue.
 - v. The management of the Sahtu lands portions of Sahyoue and Edacho and their inclusion in the protected area remains a question: see “h” below.
- e. Harvesting Rights: recognition of harvesting rights as set out in SLCA, including the right to establish camps (ss. 13.4.10 & 13.4.11). Harvesting rights can be restricted only according to processes set out in the SLCA, including a section 17.2.5 protected area agreement: details would be negotiated over the next few years.
- f. Potential Tourism Benefits: probably low at first but potentially growing over time.
- g. Public Funding Issues:

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- i. Option 1 requires Parks Canada securing new funding from Cabinet: potential public funding related to co-management, custodianship, any enforcement, and Commemorative Integrity Statement, etc;
- h. Legal Issue (Management and Inclusion of Sahtu Lands):
 - i. Need to clarify the relative jurisdictions of Parks Canada, any negotiated co-management board established pursuant to a protected area agreement, the Sahtu Land Use Planning Board (“SLUPB”), the Sahtu Land & Water Board (“SL&WB”) and the Déline Land Corporation (“DLC”) on the *Sahtu* lands portions of Sahyoue and Edacho.
 - ii. With that clarification, need to establish mechanisms to include the Sahtu Lands portions of Sahyoue and Edacho into the larger protected area and to assure the management of the Crown and Sahtu portions of Sahyoue and Edacho to consistent objectives and standards.
 - iii. These issues are probably best resolved in discussions involving legal counsel over the next few years. The relative effects of several legal authorities would need to be considered, including ss. 34 and 52 of the MVRMA and ss. 17.1.2, 19.1.6, 26.2.2, 26.2.3, 26.4.3 and Chapter 25 of the SLCA.
- i. Future Negotiations: Without prejudging future negotiations, they would presumably build on the agreed Commemorative Integrity Statement, the common vision of the November Workshop and subsequent political direction. Assuming increased funding, future negotiations would probably also recognize harvesting rights and provide for economic benefits and the establishment of a co-management board along the lines of the Tuktut Nogait National Park Management Board or the Nahanni Consensus Team (SLCA, s. 17.2.6).