

# SAHTU DENE AND METIS

COMPREHENSIVE LAND CLAIM AGREEMENT

ANNUAL REPORT  
OF THE IMPLEMENTATION COMMITTEE

*April 1, 2009 – March 31, 2010*



Northwest  
Territories



Canada

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# GLOSSARY OF ACRONYMS AND ABBREVIATIONS

<b>AANDC</b>	Aboriginal Affairs and Northern Development Canada
<b>CLCA</b>	Comprehensive Land Claims Agreement
<b>CPN</b>	Contracting Policy Notice
<b>DAAIR</b>	Department of Aboriginal Affairs and Intergovernmental Relations (GNWT)
<b>GNWT</b>	Government of the Northwest Territories
<b>IC</b>	Implementation Committee
<b>NWT</b>	Northwest Territories
<b>SDMCLCA</b>	Sahtu Dene and Metis Comprehensive Land Claim Agreement
<b>SLUPB</b>	Sahtu Land Use Planning Board
<b>SLWB</b>	Sahtu Land and Water Board
<b>SRRB</b>	Sahtu Renewable Resources Board
<b>SSA</b>	Sahtu Settlement Area
<b>SSI</b>	The Sahtu Secretariat Incorporated



Photo: A. Veitch

# 1

## OVERVIEW AND BACKGROUND

On September 6, 1993, the Sahtu Tribal Council (later replaced by the Sahtu Secretariat Incorporated (SSI)) and the Government of the Northwest Territories (GNWT) and the Government of Canada (Canada) signed the Sahtu Dene and Metis Comprehensive Land Claim Agreement (SDMCLCA) and the accompanying Implementation Plan. The SDMCLCA took effect on June 23, 1994.

Under the SDMCLCA, the Sahtu received title to 41,437 square kilometres of land, of which 1,813 square kilometres includes mineral rights in the Sahtu Settlement Area (SSA) of the Northwest Territories (NWT).

Other major provisions of the SDMCLCA include:

- Sahtu wildlife harvesting rights and right of first refusal for commercial wildlife activities.
- The establishment of institutions of public government to manage wildlife and regulate land, water, and the environment.

- Guaranteed Sahtu nominees/appointees on institutions of public government.
- Sahtu received \$130 million in tax-free capital transfers.

The SDMCLCA also provides for the negotiation of agreements on self-government, which would be brought into effect through federal or territorial legislation or both.

Section 29.2 of the SDMCLCA provides for the establishment of an Implementation Committee (IC). The IC is comprised of three senior officials, one representing Canada, one representing the GNWT and one representing the SSI.

The IC oversees and monitors the ongoing obligations of the parties pursuant to the SDMCLCA and the Implementation Plan and resolves issues arising with respect to the implementation of the SDMCLCA. The IC is also responsible for preparing a public annual report on its activities conducted throughout the year to implement the SDMCLCA.



Photo: A. Veitch

During the period April 1, 2009 to March 31, 2010 the IC met on May 5th, September 8th and December 3rd, 2009 to consider issues that had been identified by one or more parties and agreed to by the other parties as appropriate for consideration and address through the IC forum. This annual report provides an overview of the issues considered by the IC during this period, the extent to which they were resolved during the period and the future actions to be taken on those issues that are still outstanding.

## Summary of Agreement Provisions

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- **Eligibility and Enrolment:** An Enrolment Board comprised of seven people appointed by the Sahtu Tribal Council, one from each of the Aboriginal communities, was established to enrol those who are entitled to be registered as beneficiaries of the SDMCLCA. Ongoing enrolment is the responsibility of the SSI.
- **Self-Government:** The SDMCLCA provides for the negotiation of self-government agreements through GNWT and federal legislation. Government shall enter into negotiations with the Sahtu Dene and Metis with a view to concluding agreements on self-government. Self-government agreements cannot contradict or be inconsistent with the SDMCLCA. These self-government agreements will address the desire of the Sahtu Dene and Metis to have self-government exercised as close to the community level as is reasonably possible.  
  
A self-government agreement will not affect the Sahtu Dene and Metis right to participate in any constitutional development of the Northwest Territories.
- **Dispute Resolution:** An Arbitration Panel was established to resolve disputes in accordance with the SDMCLCA. The Panel is comprised of eight members appointed by Canada, the GNWT, and the SSI. For more information, please visit the Panel's website at [www.sahtuarbitration.com](http://www.sahtuarbitration.com).
- **Sahtu Organizations:** Designated Sahtu organizations are committed to executing the Sahtu responsibilities outlined in the SDMCLCA. A designated Sahtu organization must be a trust, society, or corporation

established pursuant to federal or territorial legislation. All rights exercisable by a designated Sahtu organization such as receiving and managing financial payments and owning and managing land were assigned by the Sahtu Tribal Council prior to the signing of the SDMCLCA.

- **Financial Compensation:** Under the provisions of the SDMCLCA, Canada paid approximately \$130 million over 15 years to the SSI as the organization representing the Sahtu people. The SSI commenced the repayment of the negotiation loans in 1995. Canada subtracted the loan repayment costs from the capital transfer payments as per section 8.3, Loans Against Capital Transfer.
- **Resource Royalties:** Canada must pay a percentage of resource royalties received from resource development projects operating in the Mackenzie Valley to the Sahtu. Payments with respect to resource royalties received by government are made to the Sahtu on a quarterly basis.
- **Economic Measures:** Government programs for economic development must take into account the objectives of maintaining the traditional economy and economic self-sufficiency of the Sahtu. Government uses methods such as those set out in 12.1.2 of the SDMCLCA to achieve these objectives, which include supporting the traditional economy of the Sahtu, encouraging the development of commercially viable Sahtu businesses and enterprises, providing the Sahtu with business and economic training and educational assistance, and encouraging Sahtu employment in major projects and developments in the public service and public agencies.

With respect to their contracting and procurement obligations, Canada and the GNWT will utilize their best practices and procedures intended to maximize employment and business opportunities for local and regional businesses when conducting public activities in the SSA. The GNWT also has an obligation to give participants the first opportunity to negotiate contracts for activities on Sahtu settlement lands, when the GNWT decides not to go to public tender.

- **Wildlife Harvesting and Management:** Chapter 13 sets out the Sahtu’s wildlife harvesting rights in the SSA and provides for the establishment of the Sahtu Renewable Resources Board (SRRB). It is the responsibility of the Board and all other parties to protect, conserve and manage, in a cooperative spirit, renewable resources within the SSA in a sustainable manner to meet the needs of the public today and in the future. For more information, please visit the Board’s website at [www.srrb.nt.ca](http://www.srrb.nt.ca).

- **Land and Water Regulation:** Chapter 25 of the SDMCLCA provides for the creation of the following implementing bodies pursuant to legislation:

- The Sahtu Land and Water Board (SLWB), which regulates land and water use throughout the SSA. For more information please visit the Board’s website at [www.slwb.com](http://www.slwb.com);

- The Sahtu Land Use Planning Board (SLUPB), which is tasked with developing a land use plan for the SSA and for reviewing and proposing amendments to the plan. For more information please visit the Board’s website at [www.sahtulanduseplan.org](http://www.sahtulanduseplan.org);

This chapter also provides for Sahtu-nominated membership on the Mackenzie Valley Environmental Impact Review Board (MVEIRB), established pursuant to the *Mackenzie Valley Resource Management Act* (1998), which conducts environmental impact assessments of development proposals within the Mackenzie Valley. The SDMCLCA also provides for the ability of the SSI to refer development proposals to MVEIRB which may impact upon the SSA; as well as an opportunity for the SSI to nominate members to Review Board panels which are established from time to time. For more information, please visit the Board’s website at [www.reviewboard.ca](http://www.reviewboard.ca).



Photo: A. Veitch



## IMPLEMENTATION PARTIES

### Sahtu Secretariat Incorporated

The SSI (formerly Sahtu Tribal Council) is made up of seven Sahtu land corporations — four Dene land corporations and three Metis land corporations. During the 2009-2010 reporting period, the SSI was represented on the Implementation Committee by Rocky Norwegian, Implementation Director.

### Government of the Northwest Territories

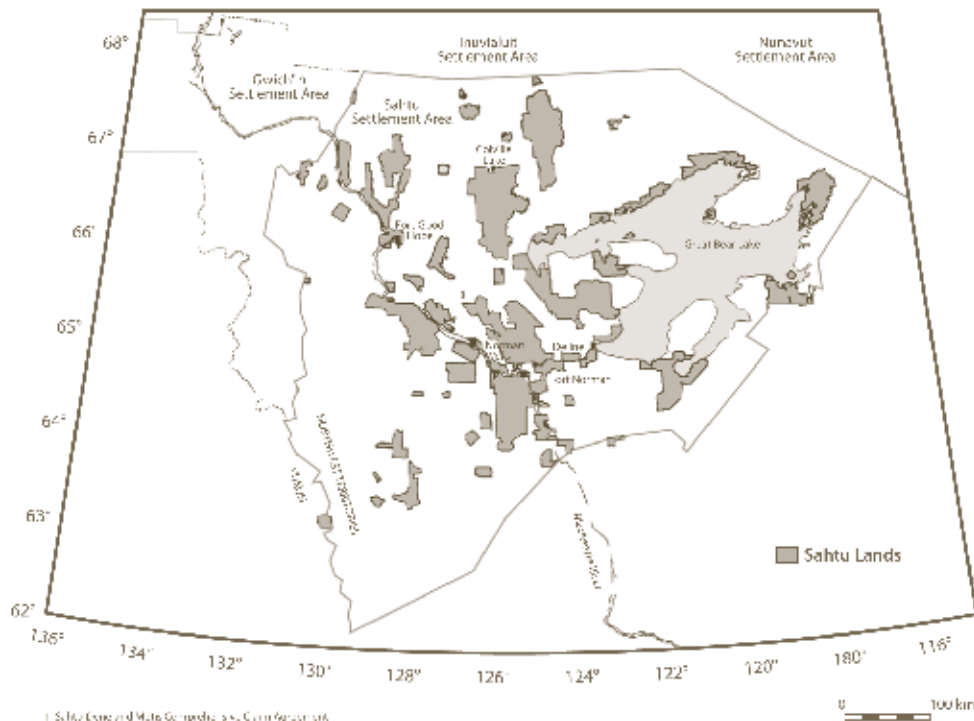
The Department of Aboriginal Affairs and Intergovernmental Relations (DAAIR) is responsible for coordinating the GNWT's implementation activities under the SDMCLCA. The Department coordinates the implementation activities of all GNWT departments, prepares regular status reports for the IC, and prepares the GNWT component of this annual report. During 2009-2010, the GNWT was represented on the IC by Scott Alexander, Director of Implementation, DAAIR.

- More information on the GNWT can be found online at <http://www.gov.nt.ca>
- More information on the DAAIR can be found online at <http://www.daair.gov.nt.ca>

### Government of Canada

The Implementation Branch of Aboriginal Affairs and Northern Development Canada (AANDC) is responsible for monitoring and facilitating the fulfillment of federal government obligations contained in the SDMCLCA and the accompanying Implementation Plan. The Implementation Branch provides funding to the implementing bodies, the SSI, and the GNWT as identified in the Implementation Plan. Kimberly Thompson, Director of the Northwest Territories Implementation Management Directorate, AANDC represented Canada on the IC during 2009-2010.

- More information on the Government of Canada and its departments, programs, and services can be found online at <http://canada.gc.ca/home.html>
- More information on AANDC can be found online at <http://www.aadnc-aandc.gc.ca/index-eng.asp>



## 2009–2010 REPORTING AND 2010–2011 IMPLEMENTATION PRIORITIES

### Annual Reports

The SDMCLCA requires the IC to prepare an annual report each year. Canada is responsible for publishing these reports.

#### Activities: 2009-2010

Canada informed the IC that the 2007-2008 Annual Report is undergoing final approvals and will be printed and formally tabled in Parliament. Drafting of the 2008-2009 Annual Report is underway and drafts will be circulated for comments. A new format is planned for the 2008-2009 report.

#### Next Steps

English and French versions of the 2007-2008 Annual Report are to be printed and distributed. Drafting of the 2008-2009 Annual Report will proceed once the IC discusses the revised report format.

### Regulatory Regime/McCrank Report

The 2008 Neil McCrank Report, entitled *Road to Improvement*, contained recommendations in the area of northern regulatory regimes, concentrating on the Mackenzie Valley. Concern had been expressed about the way the systems operated, the multitude of jurisdictions, and the length of time needed for regulatory approval. Following the report, Canada focussed on a two-stream approach to regulatory improvement, looking at both operational-level improvements in areas of federal responsibility and a long-term action plan for regulatory improvement.

#### Activities: 2009-2010

Canada continued to review the McCrank Report in order to prepare its official response. No deadline had been set.

#### Next Steps

Canada will provide an update to the IC once it has determined how it will respond to the Report.



Photo: Jillian Mazur

## Federal Government Procurement

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Canada continues to examine its contracting processes to identify potential barriers that may hinder access to federal contracts by firms located in land claim areas. In addition, information sessions were provided to federal contracting officers and project managers who supervise contracts where the deliverable of a good, service or construction is delivered in a land claim agreement area. These sessions addressed the contracting obligations of various land claim agreements.

In accordance with Contracting Policy Notice (CPN) 2008-4, federal departments are required to report contractual data where a contract has been awarded in a land claim area. More information is available on AANDC's website at [www.aadnc-aandc.gc.ca/al/ldc/ccl/fcc/index-eng.asp](http://www.aadnc-aandc.gc.ca/al/ldc/ccl/fcc/index-eng.asp).

This CPN came into effect on April 1, 2009.

### **Activities: 2009-2010**

Canada developed a new policy (CPN 2008-4) for federal procurement to address reporting obligations in the various land claim agreements. All federal departments are required to report to AANDC on a quarterly period through the application CLCA.net. The contractual data required to be reported is on any contract awarded in a land claim area.

As well, Canada prepared a CLCA User Guide to assist those in the Procurement Community who deal with contracts in the land claim areas.

The SSI informed the IC that workshops about *How to do Business with the Federal Government* were hosted in Sahtu communities. The SSI expressed that in its view, there is a need for greater Aboriginal content with respect to implementing Chapter 12, especially in the areas of capacity building, training, and employment.

### **Next Steps**

AANDC will continue to provide learning sessions to the federal government procurement community to increase its understanding and awareness of Canada's obligations and best practices when awarding a contract in a CLCA area.

## Economic Measures

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### Three-Year Economic Measures Review

Chapter 12 of the SDMCLCA requires Canada and the GNWT to meet with the SSI at least once every three years to review the effectiveness of economic development programs relating to Sahtu economic self-sufficiency and the efforts to strengthen and maintain the traditional Sahtu economy. The last Three-Year Economic Measures Review was completed in 2007.

The Parties agreed some years ago that Economic Measures Reviews as they had been conducted in the past were limited in their success. It was therefore agreed that, in lieu of a formal review process, the Parties would undertake more practical measures aimed at supporting the advancement of the overall objectives of this chapter. To this end, it was further agreed that in order to ensure that Sahtu communities had an awareness of the availability and nature of government programs and services that support employment and economic development generally, government departments from both the GNWT and Canada would present overviews of all such available programs and services. To accommodate this objective, a four-phased approach was adopted by the Parties. For this cycle, the Parties agreed that these presentations would be held in a central Sahtu community at the time of the year that allowed for easiest travel to encourage greater Sahtu participation and more effective use of resources and time.

### **Activities: 2009-2010**

The Parties discussed the next Economic Measures Review scheduled for the fall of 2010, and established a working group comprised of representatives from each Party to begin planning the review.

Considering lessons learned from the 2007 Economic Measures Review, the Parties agreed that it was a priority to encourage greater Sahtu participation in the process, given the low turn-out in 2007. To achieve this objective, the Parties jointly decided that the Review should be held in a location that would be most convenient for Sahtu participants, and that it should be held in February 2011 in order to allow participants to use the ice road to travel to the review.

### Next Steps

The Economic Measures working group agreed to schedule and participate in a series of conference calls to begin planning the next Economic Measures Review.

## Amendments

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A Rolling Surrender clause has been proposed to amend the SDMCLCA in order to harmonize the SDMCLCA with other land claim agreements. A Land Exchange amendment has also been proposed.

### Activities: 2009-2010

The SSI submitted a signed resolution approving the Rolling Surrender amendment to the SDMCLCA. However, later that year, SSI representatives expressed that the SSI was rescinding its approval. Canada advised that the SSI would need to submit a new resolution confirming such in order to officially halt the amendment, and agreed to hold off on the amendment process to allow the SSI enough time to obtain the new resolution.

The SSI continued to seek final sign-off for the Land Exchange amendment from its Board of Directors.

### Next Steps

The Rolling Surrender amendment to the SDMCLCA is temporarily on hold in order to allow the SSI time to submit a new resolution to rescind their approval, and the SSI will finalize its approval of the Land Exchange amendment.

## Appointments

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Timeliness of Board appointments, specifically the length of time parties take to provide nominees and the length of time required to process appointments in the federal system is a concern for all parties.

### Activities: 2009-2010

A number of appointments were made over the course of the year. However, delays in the federal appointment process held up the reappointment of the Chair to the SRRB. A term of an appointment to the Sahtu Arbitration Panel expired and the Parties reached consensus on re-nominating the member. Canada requested that the SSI provide SRRB nominations to the GNWT and Canada simultaneously in order to ensure that the joint appointments can be made more efficiently.

### Next Steps

The IC will continue to identify and track upcoming Board vacancies. The responsible nominating Party will be encouraged to submit their nominees in advance of term expirations for consideration by the appropriate approving parties (i.e., the Minister of AANDC, or the GNWT Executive Council, and Canada's Governor in Council, depending on the appointment process set out in the SDMCLCA for each Board) in order to make the process more efficient and prevent quorum issues for the Boards. Appointments will remain a standing agenda item.

## Self-Government Negotiations

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The communities of Délı̨ne, Fort Good Hope, Tulita, Colville Lake, and Norman Wells are each at various stages of negotiating individual self-government agreements.

### Activities: 2009-2010

Updates on the status of the various negotiations were provided by the GNWT and Canada at each IC meeting.

### Next Steps

Canada and the GNWT will continue to provide updates on the status of self-government negotiations at IC meetings.

## Implementation Plan Renewal

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The initial SDMCLCA Implementation Plan was signed on September 6, 1993 by Canada, the GNWT, and the Sahtu Tribal Council and was for a ten year period. The Plan contains Activity Sheets which describe how the Parties will go about implementing the activities and obligations required to fulfil the SDMCLCA, as well as an estimate of the associated costs. The plan has undergone a renewal process for the period 2004 to 2014 guided by the Implementation Plan Renewal Working Group.

### Activities: 2009-2010

The new Implementation Plan underwent a final federal review and approval. Limited copies of the plan were printed and distributed to the Parties and an electronic version will be posted to AANDC's website.

### Next Steps

With completion of the new Implementation Plan, this item requires no further action by the IC until the Parties begin the Implementation Plan Review process again for the next 10 year period. Canada is to post the revised implementation plan to AANDC's website.

## Land Surveys

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There are several outstanding issues respecting the survey of Sahtu Lands that remain to be resolved within the SSA. Resolution of many of these issues will require amendments to the SDMCLCA which will help the Sahtu Land owners confirm the boundaries of SSA lands. This, in turn, supports surety of title and economic opportunities for the Sahtu.

### **Activities: 2009-2010**

Canada received written support from the Délı̄ne Land Corporation and Kasho Got'ine Land Corporation to address their outstanding survey requirements and is engaged in discussions with the Tulita District Land Corporation on theirs.

### **Next Steps**

Following receipt of support from the Tulita District Land Corporation, Canada will seek approval from the SSI and the IC, in order to proceed with a request to amend the affected written land descriptions in the SDMCLCA. This will allow the surveys to then be registered in the Land Titles Office.

## Sahtu Land Use Plan

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The SLUPB was established under the *Mackenzie Valley Resource Management Act* (1998), with responsibility for developing a land use plan for the SSA. The SLUPB works with other boards and regulators. The Sahtu Land Use Plan is intended to outline what land uses are allowed, where they are allowed, and under what conditions. The Plan will not affect the subsistence or harvesting activities of SDMCLCA beneficiaries.

### **Activities: 2009-2010**

The second draft of the Plan was released for public comment in 2009.

### **Next Steps**

Following additional consultation and feedback, the SLUPB will identify appropriate changes for the third draft.



Photo: A. Veitch

## Sahtu Land Access Pamphlets

A Working group made up of representatives from the IC (Canada, SSI and the GNWT) is drafting pamphlets that will clarify obligations when accessing Sahtu settlement lands by public and commercial interests. Another pamphlet describing the various boards operating in the SSA has also been drafted.

### Activities: 2009-2010

The Parties reviewed, discussed, and provided comments on drafts of the pamphlets with particular attention on their general readability and the provision of the appropriate level of detail for their target audiences. Emphasis is on plain-language text.

### Next Steps

The pamphlets will be finalized and distributed

## Sahtu and Tłı̨chǫ Overlap Issues

Prior to the signing of the Tłı̨chǫ Agreement, in accordance with the federal approach to an overlap between the traditional territories of two or more Aboriginal groups, the Sahtu and Tłı̨chǫ held bilateral discussions to negotiate and attempt to conclude an overlap agreement, which would set out how their respective rights would operate within the overlapping areas. While some discussions did occur, no formal overlap agreement was achieved.

### Activities: 2009-2010

Canada continued to meet with representatives from Délı̨ne who were designated by the SSI to review and discuss Sahtu concerns with the overlap issue. Canada advised it would be willing to facilitate overlap discussions between the SSI and the Tłı̨chǫ Government. The SSI expressed its concerns with the operation of non-Sahtu Treaty rights within the SSA. Canada maintains its view that the treaty rights co-exist.

### Next Steps

The SSI and Canada will maintain an open dialogue on the subject.

## Implementation Funding

In 2009-2010, Implementation Funding was allocated as follows:

IMPLEMENTING BODY	CORE FUNDING 09/10	SUPPLEMENTARY FUNDING 09/10	TOTAL FUNDING 09/10
Sahtu Renewable Resources Board	\$756,662	N/A	\$756,662
Sahtu Land and Water Board	\$921,295	N/A	\$921,295
Sahtu Land Use Planning Board	\$348,208	Amendment 1: \$600,000	\$948,208
Sahtu Secretariat Incorporated	\$950,346	N/A	\$950,346
Sahtu Arbitration Panel	\$32,499	N/A	\$32,499



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