

Déline 2021 ʔelets'ewéhkwe Godi
Virtual Public Listening Session (PLS) Update



Déline 2021
Public Listening
Tich'adi hé Gots'edi
Living with Wildlife

Notice of Confidentiality Motion

Notice to Parties and the public, **August 11, 2022**



The SRRB is hereby providing notice of a confidentiality motion by Dehla Got'ine (Colville Lake) for the Déline 2021 ʔelets'ewéhkwe Godi (Public Listening Session - PLS). Parties and the public are invited to file submissions on the Motion by **August 25, 2022**.

Motion and Opportunity to Respond

The Motion seeks to protect confidential Traditional Knowledge information under the SRRB's *Rules for Hearings* Sections 12.21 and 12.22. The information was provided during the Déline 2021 Virtual PLS by an Elder as part of the Fort Good Hope witness panel.

The Motion explains that the Elder shared Traditional Knowledge about a geographical feature of the landscape of Dehla Got'ine traditional territory. The Motion explains the information is sacred and belongs to that family and Dehla Got'ine. A family member of the Elder who resides on the traditional territory of Dehla Got'ine requests the information be treated as confidential, and Dehla Got'ine agrees.

A version of the Motion is attached, with the personal identifying information of the individuals redacted on the SRRB's direction. With this Notice, Fort Good Hope is specifically and particularly being invited to provide a response to the Motion. Other PLS parties are also being given notice of the Motion and the opportunity to respond to the Motion.

The SRRB requests submissions on the Motion be filed by **August 25, 2022**.

Final Written Comments and Record Closure

The SRRB thanks Parties that submitted Final Written Arguments. The PLS Record remains open until the Board issues its disposition of the outstanding Motion.

Contact Us!

Please do not hesitate to contact the SRRB at (780) 686-5318 or info@srrb.nt.ca if you have any questions or if you would like more information.

SAHTU RENEWABLE RESOURCES BOARD

(“SRRB” or “Board”)

Deline 2021 Virtual Public Listening: Tłch'ádıı hé Gots'edi (Living with Wildlife) – Predators and Competitors

(“Deline PLS 2021”)

MOTION TO PROTECT CONFIDENTIAL TRADITIONAL KNOWLEDGE

Colville Lake Renewable Resources Council
Ayoni Keh Land Corporation
Behdzi Ahda” First Nation

(collectively, “Dehlá Got'ıne”)

Overview

1. On April 25-29, 2022, the SRRB conducted the Déłıne PLS 2021, to address the topic of Tłch'ádıı hé Gots'edi (Living with Wildlife) – Predators and Competitors.
2. The Dehlá Got'ıne bring a motion to request that confidential, proprietary, and sensitive Traditional Knowledge, shared in the Déłıne PLS 2021, be protected pursuant to Rule 12.21, 12.22 12.23, 15.2, 15.4, and 15.5 of the Rules for Hearings for the SRRB, dated October 23, 2019 (the “Rules”).
3. ██████████ an Elder, representing Fort Good Hope, shared Traditional Knowledge about a geographical feature of the landscape of Dehlá Got'ıne traditional territory.
4. The Traditional Knowledge is sacred and belongs to ██████████ family and the Dehlá Got'ıne. ██████████ came to this information through ██████████ ancestors and their connection with the landscape of Dehlá Got'ıne traditional territory.
5. ██████████ who is a member of the Dehlá Got'ıne, resides on the traditional territory of the Dehlá Got'ıne, ██████████ has stated that he wishes that this Traditional Knowledge should remain confidential and the Dehlá Got'ıne are in agreement.
6. The confidential Traditional Knowledge is sacred to ██████████ family and the Dehlá Got'ıne and should not have been shared. The sacredness of the Traditional Knowledge is diminished if it is widely shared in a public setting and therefore must be kept private and confidential. The confidential Traditional Knowledge has been in ██████████ family for generations and the Dehlá Got'ıne since time immemorial. There are specific protocols for

sharing this confidential Traditional Knowledge, and it was not appropriate to do so in a public hearing/ listening session.

7. Dehlá Got'jne seeks to protect the confidential Traditional Knowledge by striking a few sentences of the Deline PLS 2021 written record, and audio recordings of the Deline PLS 221 be managed in such a way as to protect the confidential Traditional Knowledge.

Decision Sought

8. The Dehlá Got'jne seek the following:
 - a. That parties to be served with motion materials be limited to Fort Good Hope RRC;
 - b. That the confidential Traditional Knowledge be removed from any items posted to the public registry;
 - c. Any copies of documents (including electronic copies) within SRRB's possession containing the confidential Traditional Knowledge be destroyed and replaced with copies in which the confidential Traditional Knowledge has been redacted;
 - d. In the alternative to (b), that any copies of documents (including electronic copies) within SRRB's possession containing the confidential Traditional Knowledge be placed in sealed envelopes, marked "CONFIDENTIAL", and placed in secure storage.

Reasons why the Decision should be Granted

9. The *Sahtu Dene Metis Comprehensive Land Claim Agreement* (the "Treaty"), at 13.8.18, empowers the SRRB to "make rules respecting the procedure for making applications, representations and complaints to it, including the conduct of hearings before it, and generally respecting the conduct of any business before it. The Board has done so by enacting the Rules.
10. Rule 2.1 defines "Elder" as meaning "a member of a Sahtu community or Sahtu Organizations recognized as such in accordance with Sahtu culture, customs and traditions.
11. Rule 2.1 also defines "Traditional Knowledge" as meaning "knowledge and values, which have been acquired through experience, observation, from the land or spiritual teachings, and handed down from one generations to the another."
12. Rules 12.21, 12.22, 12.23 provide as follows:
 - 12.21 Any Party seeking to protect confidential, proprietary or sensitive information (including Traditional Knowledge) in a Hearing may make a Motion requesting such information be protected.

12.22 A Motion to protect confidential, proprietary or sensitive information should include the following information, as applicable:

(a) A brief description, in general and non-confidential terms, of the nature of the information which the Party seeks to protect;

(b) A description of the privacy or confidentiality issues associated with the information which the Party seeks to protect;

(c) The reason why the Party is asking that the information be protected, including any specific harm that could result if the information is not protected; and

(d) An indication of whether the Party seeks to protect all or only part of any specific document or oral submission.

12.23 Where the Board approves the request to protect such information, the Board will issue a decision setting out the arrangements for receiving the evidence and outlining how the evidence is to be treated on the public record including whether and how it will be posted to the public registry or included in proceeding transcripts and any other terms appropriate in the circumstances.

13. As the relevant sections of Rule 12 require a motion to be brought, the following parts of Rule 15 are pertinent:

15.2 Any issue requiring a ruling or decision that arises in the course of a Hearing shall be brought to the Board's attention by way of a written Motion.

[...]

15.4 A Motion shall include a clear, concise statement of the relevant facts, the details of the ruling or decision being sought and the reasons why the ruling or decision should be granted.

15.5 All Motions in writing shall be filed with the Board and copies served on all the Parties.

14. The Rules provide for flexibility for how the SRRB is to apply them. Rule 3.6 states:

3.6 On its own initiative or at the written or oral request of an individual, body or agency participating in a Board process under these Rules, the Board may dispense with, vary or supplement any part of these Rules that it considers necessary for a fair determination of an issue by way of a direction on procedure.

15. Section 3.1 Rules also set out the principles that will guide how the Rules will be interpreted and applied. Specifically, the Objectives set out in sections 1.1.1 and 13.1.1 of the Treaty are to guide the Board. The relevant portions of these Objectives include:

1.1.1

[...]

(c) to recognize and encourage the way of life of the Sahtu Dene and Metis which is based on the cultural and economic relationship between them and the land;

[...]

(f) to provide the Sahtu Dene and Metis with wildlife harvesting rights and the right to participate in decision making concerning wildlife harvesting and management;

[...]

(g) to provide the Sahtu Dene and Metis the right to participate in decision making concerning the use, management and conservation of land, water and resources;

13.1.1

[...]

(d) to respect the harvesting and wildlife management customs and practices of the participants and provide for their ongoing needs for wildlife;¹

Protecting the Confidential Traditional Knowledge

16. The objectives of the Treaty and the establishment of the SRRB is to provide for co-management over wildlife in the Sahtu Settlement Area, so that Indigenous communities in the Sahtu, such as the Dehlá Got'jne, can fully participate in decision-making about wildlife, in a way that is consistent with their culture and their relationship with the animals and the land.

17. As such, the SRRB must be a forum where participants, especially Elders, feel comfortable sharing Traditional Knowledge.

¹ Treaty, 1.1.1 and 13.1.1.

18. In cases of inadvertent disclosure of confidential Traditional Knowledge, the SRRB must be able to act nimbly to reduce the harm of such disclosure.
19. The SRRB must also remain cognizant of the family linkages between neighbouring communities, such as Dehlá Got'jne and Fort Good Hope. Due to these linkages, it may be the case that Fort Good Hope members are in possession of Traditional Knowledge that also belongs to Dehlá Got'jne.
20. That being the case, it is important for the SRRB to be attentive to situations when one community is seeking protection for its information when it has been disclosed by a member of a different community.
21. In our case, the confidential Traditional Knowledge was disclosed by a member of Fort Good Hope, who had this information by virtue of [REDACTED] familial relationship with Dehlá Got'jne.
22. Pursuant to Rules 12.21 and 12.22, Dehlá Got'jne therefore requests that this information be redacted from any items posted to the public registry.
23. Moreover, to reduce the risk of inadvertent disclosure in the future, Dehlá Got'jne requests that any copies of documents (including electronic and audio copies) within SRRB's possession containing the confidential Traditional Knowledge be destroyed and replaced with copies in which the confidential Traditional Knowledge has been redacted.
24. In the alternative to the relief sought in paragraph 23, Dehlá Got'jne requests that any copies of documents (including electronic copies) within SRRB's possession containing the confidential Traditional Knowledge be placed in sealed envelopes, marked "CONFIDENTIAL", and placed in secure storage.

Limiting Number Of Parties Who Participate In Motion

25. We recognize that Rule 15.5 provides that motion materials should be served on all parties in the proceeding.
26. However, considering the subject matter of the motion, we ask that the Board use its powers under Rule 3.6 to vary on Rule 15.5, to permit service only to Fort Good Hope Renewable Resource Council ("FGH RRC") as it is "necessary for a fair determination" of this motion.
27. Dehlá Got'jne are sensitive to the fact that information that should have been kept confidential was shared in an open hearing. Serving all the parties in the Deline PLS 2021 would only draw attention to the confidential Traditional Knowledge and increase the likelihood of disclosure.

28. Moreover, the Traditional Knowledge sought to be protected is not central to the matter before the Board, and is of tangential relevance to any of the issues before it. Striking the confidential Traditional Knowledge from the record cannot be realistically expected to prejudice any party.

29. The only party with a direct interest in the determination of this matter is FGH RRC, since it was a Fort Good Hope member who shared this knowledge.

30. As such, we request that the Board permit the motion materials to be served only upon FGH RRC and no other party.

SUBMITTED June 27, 2022 to the Sahtu Renewable Resources Board by Ms. Jennifer Duncan, Legal Counsel to Dehlá Got'ıne and Mr. Larry Innes, OKT Law, Legal Counsel to Dehlá Got'ıne.

