

COPY

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Ottawa, Canada K1A 0H4

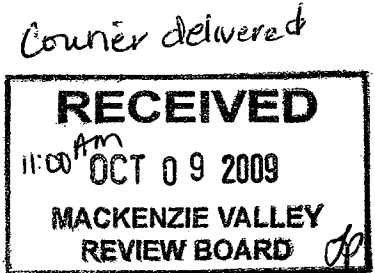
Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

- Alan-fyi

OCT - 6 2009

Your File: EA 03-009

Mr. Richard Edjericon
Chair
Mackenzie Valley Environmental Impact
Review Board
PO Box 938
YELLOWKNIFE NT X1A 2N7



Dear Mr. Edjericon:

**SUBJECT: Report of Environmental Assessment and Reasons for Decision on
the Imperial Dehcho Geotechnical Program (EA 03-009)**

As the federal Minister, and on behalf of the Responsible Ministers with jurisdiction related to the above development (the Government of the Northwest Territories - Department of Environment and Natural Resources, Fisheries and Oceans Canada and Environment Canada), I am writing to convey our decision on the Report of Environmental Assessment and Reasons for Decision on the Imperial Dehcho Geotechnical Program dated February 18, 2005. I regret the delay in concluding this decision.

This decision was made after undertaking consultation with the Mackenzie Valley Environmental Impact Review Board pursuant to sub-paragraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act* and considering:

- the above noted Report of Environmental Assessment and Reasons for Decision;
- correspondence from Imperial Oil Resource Ventures Limited dated June 3, 2005;
- correspondence from Chiefs Keyna Norwegian and David Moses, on behalf of the Dehgah Alliance Society, dated August 4, 2005;
- correspondence from Chief Dennis Deneron of the Smbaa K'e First Nation dated January 11, 2006;

.../2

Canada

- correspondence from Indian and Northern Affairs Canada officials to the Mackenzie Valley Environmental Impact Review Board dated January 16, 2006, in which new information in relation to Measure 10 was provided pursuant to sub-section 130(3) of the *Mackenzie Valley Resource Management Act*;
- correspondence from the Mackenzie Valley Environmental Impact Review Board dated January 27, 2006;
- correspondence from Ms. Marie Lafferty of the Fort Simpson Métis Nation, Local 52, dated February 7, 2006;
- the judicial review filed by the Dehcho First Nations against the Mackenzie Valley Environmental Impact Review Board and Imperial Oil Resource Ventures Limited on February 27, 2006;
- correspondence from Grand Chief Herb Norwegian of the Dehcho First Nations dated March 28, 2006;
- correspondence from counsel for the Mackenzie Valley Environmental Impact Review Board to counsel for the Dehcho First Nations dated April 20, 2006, and attached "Addendum to supplementary Reasons for Decision in respect of Measure 10" dated April 19, 2006;
- correspondence from Indian and Northern Affairs Canada officials to the Pehdzeh Ki First Nation dated July 6 and 18, 2006;
- correspondence from the Mackenzie Valley Environmental Impact Review Board dated September 22, 2006;
- correspondence from the Pehdzeh Ki First Nation in relation to Measure 13 dated April 3, 2008 (attached - new information pursuant to sub-section 130(3) of the *Mackenzie Valley Resource Management Act*); and
- correspondence from the Mackenzie Valley Environmental Impact Review Board dated April 11, 2008.

As you are aware, in 2006, the Responsible Ministers and the Review Board had reached an agreement on revised wording for all but one of the Review Board's recommended mitigation measures as outlined in the Report of Environmental Assessment and Reasons for Decision. Indian and Northern Affairs Canada representatives have subsequently discussed extensively the alternate wording proposed for Measure 13 over the course of several meetings with the Chief, community and Band members of the First Nation involved, the Pehdzeh Ki First Nation. The First Nation has now agreed to the revised wording as outlined in the attached letter dated April 3, 2008.

Pursuant to sub-paragraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act*, the Responsible Ministers have agreed to adopt with modifications the recommendation of the Review Board. The modifications are in regard to nine of the

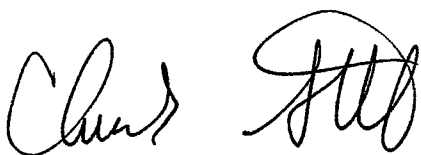
recommended mitigation measures identified by the Review Board as being necessary to prevent a likely significant adverse impact on the environment. The final measures as modified and adopted by the Responsible Ministers are attached and reflect the views expressed by the Review Board in the consultation process and in its correspondence of January 27, 2006 and April 20, 2006. The Responsible Ministers note that the development was modified by the developer's commitments made during the environmental assessment, and further note the additional commitments made by Imperial Oil Resource Ventures Limited in its letter of June 3, 2005.

I wish to address your suggestion as put forth in your letter of April 11, 2008, that I re-appoint past Review Board members in order to complete the 'consult to modify' process initiated by Indian and Northern Affairs Canada following the release of the Review Board's Report of Environmental Assessment and Reasons for Decision. It is Indian and Northern Affairs Canada's view that the 'consult to modify' process as provided for in the *Mackenzie Valley Resource Management Act* has been fulfilled through the Department's previous discussions with the Review Board, which included the opportunity for the Review Board to present its views back to the Responsible Ministers for consideration.

Finally, the Responsible Ministers have noted the Review Board's non-binding suggestions in the Report of Environmental Assessment and will consider these suggestions as appropriate.

I wish to thank the Board for discharging its duties under the *Mackenzie Valley Resource Management Act* in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chuck Strahl', written in a cursive style.

Chuck Strahl

Encl.

c.c.: The Honourable Jim Prentice, PC, QC, MP
The Honourable Gail Shea, PC, MP
The Honourable Michael Miltenberger, MLA
Mr. Willard Hagen

Imperial Dehcho Geotechnical Program Report of Environmental Assessment and Reasons for Decision Measures as proposed for adoption by the Responsible Ministers

Note: All references to the Government of the Northwest Territories, Department of Resources, Wildlife, and Economic Development (RWED) are to be read as referring to the Government of the Northwest Territories' Department of Environment and Natural Resources.

Measure 1 (AS MODIFIED):

In order to prevent significant adverse environmental impacts from the geotechnical work on the K'eotsee Lake watershed and to prevent significant social and cultural impacts on the people of Trout Lake, Imperial must provide opportunities for community environmental monitors and an Elder, all from Trout Lake (along with translators as needed), to be present for all site investigations in the K'eotsee Lake watershed, to provide guidance in the avoidance of heritage sites, and to provide the community with reassurance that Imperial is exercising due diligence regarding environmental precautions in its Dehcho Geotechnical Program.

Measure 2 (NOT MODIFIED):

In order to prevent significant adverse environmental impacts from geotechnical work on K'eotsee Lake and the watershed, Imperial must locate any alternate geotechnical sampling sites as far to the northeast as possible, within the boundaries of the Mackenzie Gas Project development corridor, in order to maximize the distance between geotechnical sites and K'eotsee Lake.

Measure 3 (NOT MODIFIED):

In order to mitigate the significance of the cumulative impacts of the geotechnical work in combination with reasonably foreseeable future developments, the NWT Protected Area Strategy Secretariat and the Sambaa K'e First Nation (SKFN) shall within the next 12 months enter into discussions regarding the SKFN's interest in seeking protected area status for the K'eotsee Lake watershed.

Measure 4 (AS MODIFIED):

In order to prevent a significant adverse social impact on the community of Trout Lake due to traffic safety risks arising from the Imperial Dehcho Geotechnical Program, Imperial will hold a meeting to provide the Sambaa K'e Dene Band with the opportunity to discuss the specific techniques Imperial will use to inform and warn community road users of industrial traffic. Based on this meeting, Imperial shall implement appropriate methods which will, at a minimum, include small advance vehicles with signage and flags (in advance of heavy industrial vehicles) and warning the community road

users of the time periods of major industrial usage, provided that this does not contravene legislated requirements. This meeting shall occur prior to work beginning in areas where the Trout Lake winter road is utilized by Imperial employees and/or contractors.

Measure 5 (AS MODIFIED):

In order to prevent significant adverse social impact on road users in the Dehcho region resulting from increased risks when sharing roads with industrial traffic, Imperial shall, in consultation with the Government of the Northwest Territories (GNWT), develop and adhere to a detailed policy concerning the safe operation of heavy vehicles supporting the Imperial Dehcho Geotechnical Program on Highway 1 and the Highway 1 winter road. Imperial shall ensure that the terms and conditions in any contracts led by it for the Imperial Dehcho Geotechnical Program will make compliance with this policy mandatory. Prior to initiating operations, Imperial will provide copies of the policy to the GNWT and the affected First Nation communities.

Measure 6 (AS MODIFIED):

Imperial will fund the Pehdzeh Ki First Nation and the Samba K'e First Nation to hire their own Community Environmental Monitors. Imperial will also ensure the following:

1. this program will be similar to that conducted by Imperial in the Gwich'in Settlement Area (as per exhibit three provided by Imperial in the December 2, 2004 hearing), and will set out similar roles, training and involvement for the Community Environmental Monitors;
2. this program will include a minimum of 10 days of field observation by the Community Environmental Monitors, to determine existing biophysical conditions, in advance of the geotechnical program; and
3. any reports of findings from advanced field observations by Community Environmental Monitors will be considered by Imperial in the planning and management of the subsequent geotechnical work.

Measure 7 (NOT MODIFIED):

In order to prevent significant adverse cumulative impacts on boreal (woodland) caribou from the Imperial Dehcho Geotechnical Program in combination with reasonably foreseeable future developments, the range area of boreal caribou examined by the Dehcho Boreal Caribou Working Group (DCBCWG)¹ is to be expanded by RWED to include an area, to be determined by the DCBCWG, centred on the route of the Imperial

¹ This refers to the Dehcho Boreal Caribou Working Group as described in the recommendation submitted to the Minister of DIAND by the Review Board in its *Report of Environmental Assessment and Reasons for Decision on the Paramount Resources Ltd. Cameron Hills Expansion Project*, June 1, 2004.

Dehcho Geotechnical Program (and proposed Mackenzie Gas Project corridor) from the Sahtu Settlement Area's boundary in the North to the Alberta border in the south. The DCBCWG will develop a Boreal Caribou Management Plan for this same area within 18 months of the acceptance of this Report of Environmental Assessment by the federal Minister.

Measure 8 (NOT MODIFIED):

In order to prevent significant adverse cumulative impacts on moose from the Imperial Dehcho Geotechnical Program, in combination with reasonably foreseeable future developments, RWED will review the existing baseline information on moose populations, trends, and habitat usage along the Mackenzie Gas Project development corridor in the Dehcho region. This review will include consultation with affected Dehcho communities to identify both existing knowledge and concerns about moose populations. RWED will determine if it has the information it needs to manage cumulative impacts on the moose population from past, present and reasonably foreseeable future developments along the route of the Imperial Dehcho Geotechnical Program. RWED will, within three years, develop a Moose Management Plan for the Dehcho region portion of the Mackenzie Gas Project development corridor.

Measure 9 (AS MODIFIED):

In order to prevent significant adverse environmental impacts, in consultation with the GNWT and Environment Canada, Imperial shall develop a detailed flight impact management plan and require its contractors and personnel to minimize disturbance to wildlife from aircraft overflights related to the Imperial Dehcho Geotechnical Program. In order to address community concerns relating to wildlife disturbance from aircraft overflights, Imperial shall organize, advertise, and hold a meeting to give the affected First Nation communities the opportunity to provide input into this management plan. Prior to initiating aircraft overflights, Imperial will provide copies of the management plan to the GNWT, Environment Canada, and the affected First Nation communities.

Measure 10 (AS MODIFIED):

The Responsible Ministers have deleted this measure.

Measure 11 (NOT MODIFIED):

In order to prevent significant adverse socio-economic and cultural impacts as a result of the Imperial Dehcho Geotechnical Program disturbing wildlife and reducing harvesting success, Imperial is required to give notice to the communities of Wrigley, Fort Simpson, Jean Marie River, Kakisa and Trout Lake, and post notices showing and describing the location and timing of the work in visible locations in these same communities, two weeks before work begins near these communities.

Measure 12 (AS MODIFIED):

In order to prevent significant adverse socio-economic and cultural impacts on harvesters due to increased costs resulting from the need to travel further to hunt because of wildlife disturbances caused by the Imperial Dehcho Geotechnical Program, Imperial's program for harvester compensation must also consider claims for increased fuel costs from harvesters displaced from their traditional harvesting areas.

Measure 13 (AS MODIFIED):

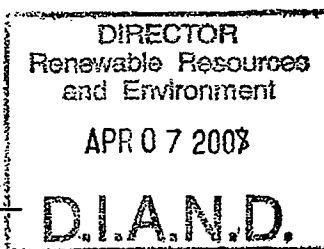
In order to prevent significant adverse social and cultural impacts on the people of the Pehdzeh Ki First Nation in the Blackwater River area and in recognition of the interim land withdrawals negotiated between Canada and the Dehcho First Nations, Imperial shall conduct that portion of its proposed development described in Imperial Oil Resource Ventures Limited's October 27, 2003 Application for Land Use Permits and in the Mackenzie Valley Environmental Impact Review Board's February 18, 2005 *Report of Environmental Assessment and Reasons for Decision* as Borrow Site 9.044B, Borrow Site 9.044A and the Blackwater River Crossing Site, wholly within the subsurface-only withdrawal, or withdrawn, area negotiated as per Article 8 of the Settlement Agreement.

Measure 14 (AS MODIFIED):

Prior to conducting geotechnical investigations at each of the proposed sites surrounding Ochre River, Willowlake River, River Between Two Mountains, Smith Creek and Wrigley, representatives of Imperial and Colt KBR are to provide opportunities for representatives of the Pehdzeh Ki First Nation Pipeline Working Group and community Elders (along with translators as needed), to conduct a site visit with Imperial or its contractors to identify specific locations of heritage resources within these areas. Imperial must avoid disturbing these heritage resources with its geotechnical activities. For the areas of Willowlake River and River Between Two Mountains, the resident Betsedea, Boots and Yendie families must be invited to participate in the site visit to identify specific locations which must not be disturbed, to suggest timing of activities that would cause the least disruption to harvesting and other traditional activities, and to be alerted of the exact timing of Imperial Dehcho Geotechnical Program activities in their traditional areas.

Measure 15 (NOT MODIFIED):

In order to prevent significant adverse environmental impact on the people and land of the Dehcho region from the Imperial Dehcho Geotechnical Program, regulatory authorities shall include in their authorizations those items set out in the Developer's Commitments, listed in Appendix C1 of the Report of Environmental Assessment, that are within their jurisdiction.



**Pehdzeh Ki First Nation
GENERAL DELIVERY
WRIGLEY NT X0E 1E0
Phone: 867 581 3321
Fax: 867 581 3229
Band 756**

April 3, 2008

Mary Tapsell
Special Advisor, Consultation
Renewable Resources & Environment
Indian and Northern Affairs Canada
PO Box 1500
Yellowknife, NT X1A 2R#

VIA FACSIMILE: 1 867 669 2406

Dear Mary Tapsell:

Re: Proposed changes to Measure 13 in the Report of Environmental Assessment: the proposed Geotechnical Program – Blackwater River Area

Regarding Imperial Oil's proposed a geotechnical research program, including a small drilling program in the area of the Blackwater River; that of which Pehdzeh Ki First Nation (PKFN) was in support of the proposed program be subjected to an environmental assessment by the Mackenzie Valley Environmental Impact Review Board; PKFN is aware the Review Board determined that the project could proceed subject to the imposition of measures it considered necessary to prevent a significant adverse impact on the environment.

Subsequently, PKFN is aware that a recommendation is now under review by the Minister of Indian and Northern Affairs and the other Responsible Ministers (Environment Canada, Fisheries and Oceans Canada and the Government of the Northwest Territories) for approval.

PKFN also understands that the Responsible Ministers initiated consultation with the Review Board to modify the recommendation and reached concurrence with the Review Board on all proposed modifications with the exception of Measure 13. Measure 13 relates to conducting geotechnical studies in the Blackwater River Area.

In addition and subsequent to the issuance of the Review Board's *Report of Environmental Assessment and Reasons for Decision* for the proposed

geotechnical program, Canada and the Dehcho First Nation negotiated an Interim Land Withdrawal Agreement. It was determined that the wording originally proposed by the Review Board in Measure 13, was inconsistent with the terms of this Agreement. In order to respect the understanding reached between Canada and the Dehcho First Nations, PKFN agrees with the proposed (following) wording for Measure 13:

In order to prevent significant adverse social and cultural impacts on the people of the Pehdzeh Ki First Nation in the Blackwater River area and in recognition of the interim land withdrawals negotiated between Canada and the Dehcho First Nations, Imperial shall conduct that portion of its proposed development described in Imperial Oil Resource Ventures Limited's October 27, 2003 Application for Land Use Permits and in the Mackenzie Valley Environmental Impact Review Board's February 18, 2005 Report of Environmental Assessment and Reasons for Decision as Borrow Site 9.044B, Borrow Site 9.044A and the Blackwater river Crossing Site, wholly within the subsurface only withdrawal, or withdrawn area negotiated as per Article 8 of the Settlement Agreement.

PKFN is also in agreement with the fact that several of the other measures proposed for adoption will also contribute to the mitigation of significant environmental impacts in the Blackwater River area. In particular, Measure 6, as modified, requires Imperial Oil Ltd. to fund Pehdzeh Ki First Nation to hire its own Community Environmental Monitors, who will conduct field observations prior to work beginning and who will make reports for Imperial's consideration in planning and managing its geotechnical activities.

If you have additional questions or wish to discuss this further, please contact the First Nation via 867-581 3321 or sahchont@yahoo.com.

Sincerely,



Chief Darcy E. Moses
Pehdzeh Ki First Nation