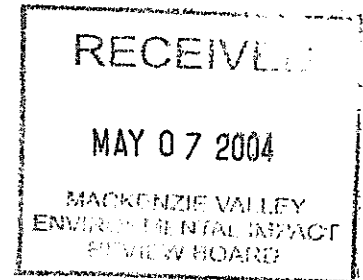




## Deh Cho First Nations Pipeline Working Group

May 4, 2004

Mackenzie Valley Environmental Impact Review Board  
5102-50<sup>th</sup> Avenue  
P.O. Box 938  
Yellowknife NT X1A 2N7  
Fax: (867) 766-7074



Attention: Alan Ehrlich, Senior Environmental Assessment Officer

Dear Mr. Ehrlich:

**Re: Imperial Oil's Proposed Winter Geotechnical Work in the Deh Cho Region  
Draft Term of Reference and Workplan**

The Deh Cho Pipeline Working Group (PWG) has reviewed the Review Board's draft Terms of Reference and Workplan (ToR) for Imperial Oil's winter geotechnical work environmental assessment. Our recommendations are described in the remainder of this letter according to the sections in the ToR. Recommended deletions have a strike-through and recommended additions are underlined.

### 3 Scope of Assessment

The scope of this assessment is the determination of which issues and items will be examined in the environmental assessment described by these terms of reference. As it is not possible to list every possible issue in Section 4, and recognizing that new issues might arise over the course of the EA, any issue raised by any party during the course of this EA that fits within the parameters of Section 117(2) of the Mackenzie Valley Resource Management Act (MVRMA) must be evaluated as part of the EA process.

The Review Board notes that it decided to conduct this Environmental Assessment due to expressed concerns. The applications submitted by Imperial contain information that is useful to an Environmental Assessment. Much of this information would normally be requested in a Terms of Reference. The public record of the Preliminary Screening provides further material for the Review Board's EA consideration, in accordance with section 117 of the ~~Mackenzie Valley Resource Management Act (MVRMA)~~. However, ~~the Board retains the right to raise other issues in the course of the assessment if it deems appropriate.~~

The Review Board has placed the Preliminary Screening record on the Public Registry for this EA. It has also solicited and received detailed comments to supplement the community concerns that were expressed. The Review Board intends to maximize its use of this existing information, but requires more information on certain social, economic, cultural and biophysical impacts. This is reflected in the items requested in Section 4 of this document.

## **4 Terms of Reference**

### **4.1 General Terms**

Imperial is to provide the Review Board with the information requested in section 4.2. This is intended to supplement the information that is already filed on the public record of the Preliminary screening of this development. Responses to the items in Section 4.2 and responses to the Preliminary Screening information requests should be integrated into the existing *Environmental, Socio-Economic and Heritage Resource Overview and Impacts for the 2004 Winter Field Investigation Program in the Deh Cho Region*, and presented as a single Developer's Assessment Report.

For each applicable item under Section 4.2, Imperial is required to:

- Identify the development activity;
- Identify all relevant changes this activity produces in the environment;
- Identify all relevant potential impacts of these changes (with supporting rationale and evidence if possible);
- Propose mitigation measures and provide evidence and/or rationale showing the effectiveness of the mitigation measures; and
- Predict the residual impacts that cannot be mitigated.

When describing impacts, Imperial is expected to characterize the impacts, not the project activities, in terms of:

- Direction (beneficial/adverse);
- Magnitude;
- Geographical extent (spatial boundaries);
- Duration;
- Frequency;
- Probability;
- Reversibility; and,
- Significance.

Although the Review Board will make a final determination of significance, the developer should submit its views on significance for each impact. The assessment must provide, for each issue, an explicit, traceable link between potential impacts and significance. Imperial should describe:

- how significance was determined (i.e., the process carried out or the methods used)
- the basis for the determination of significance (e.g., thresholds, stakeholder input, standards, guidelines, quantitative risk assessment)

Both the process and the basis for significance may vary among issues. Therefore, describe specific methods, where appropriate. In part, the discussion of residual impacts and significance should indicate how the project could contribute to sustainable social and economic development in the project area.

For each impact prediction or proposed mitigation, all uncertainties (e.g. due to poor baseline data or low predictive validity) should be stated explicitly. A precautionary approach should be used where it is identified that a project activity could cause serious or irreversible adverse impact on the environment and the cause and effect relationships cannot be clearly established. For clarity, if the causal link between a project activity and its impact on the environment is confirmed, there is no need to apply a precautionary approach, but rather for preventative or mitigative measures, as appropriate.

## **4.2 Specific Items**

### **A Summary**

A-1 *Non Technical Summary*: Please provide a plain language, non-technical summary of the Developer's Assessment Report (DAR) in both Slavey and English to enable the public to follow the proceedings.

A-2 *Conformity Table*: The DAR is requested to include a table cross referencing the items in these Terms of Reference with relevant sections of the DAR.

~~If requested by the Review Board, the developer will have the summary translated to the appropriate Aboriginal language(s).~~

### **B Developer**

Describe your company's corporate history, the ownership of the proposed development and the organizational structure of the company. Provide a record of environmental performance of the company and its contractors in conducting this type of development

### **C Development Description**

The Board requires a description of selected parts of the development that are not adequately described in the existing material.

*Note: In this section the developer is only asked to provide details on the development itself, not on impacts from the development.*

C-1 *Clearing Access:* Describe the total linear distance, in kilometers, and aerial extent of access that will require the clearing of vegetation, (including both undisturbed vegetation and re-growth).

C-2 *Camp Protocols:* Please describe what policies will be enforced at camps to reduce the risk of disturbance to nearby communities.

## **D Effects of the Physical Environment**

This section pertains to potential changes to the development, e.g. timing or alternative methods, caused by the environment.

D-1 *Description of Effects:* List and describe all effects that the environment may have on your development (e.g. variations in snow depth)

D-2 *Changes to Development:* List and describe any changes or modifications to your proposed development that may be caused by the environment

## **E Alternatives**

Provide an explanation of alternatives to the various parts of the development where appropriate alternatives are possible. This discussion shall include, but is not limited to, locations of camps and of proposed test sites and access. Discuss this in the context of the concerns voiced by communities during the preliminary screening, describing to what degree those concerns have led to changes in development design. Where changes were not made to the project in response to community concerns this was not possible, describe why.

## **F Consultation:**

Consultation is an important component of the EA process and a means by which the concerns and interests of the communities, government and the general public are taken into account.

Outline the consultation activities undertaken in respect of this project, identify and report on key issues raised, and describe how those issues were addressed. More specifically:

- Describe the methods used to identify, inform and solicit input;
- Identify those who provided comments and input including residents and organizations in affected communities, other organizations, resource users and government agencies;
- Describe the outcomes of the consultations including any additional information provided to those consulted and any information provided by them;
- Identify all commitments made in response to concerns;
- Describe and track issues that may be outstanding; and

- Describe how consultation was used in the identification of issues, impact prediction and mitigation, and how it affected the design of the project. Specifically highlight how Imperial collected and used traditional knowledge.

~~F-1 *Issues and commitments:* Identify and reference all commitments made in response to issues raised by communities during consultation. Identify issues that remain unresolved.~~

## **G Assessment Boundaries**

It is recognized that boundaries may vary with project activities and with each impact. For each impact, identify its ecological boundaries, social and economic boundaries, and administrative boundaries, as appropriate.

*G-1 Spatial:* Provide a rationale for setting the spatial boundaries for the impacts described below. In identifying the spatial boundaries give particular attention to: (a) important habitat and range areas (e.g. proportion of population or critical habitat in a specified area); (b) the extent of land use for subsistence, commercial, sport, cultural and recreational purposes; (c) traditional use areas; and (d) the zones of economic impact, including local, regional and territorial scales.

*G-2 Temporal:* Provide a rationale for setting the temporal boundaries for the impacts described below. Temporal boundaries should address the proposed duration and lifespan of project activities and the duration of potential impacts. Where potential residual impacts could persist after decommissioning and abandonment, identify their anticipated duration.

## **H Human Environment**

*H-1 Economic Impacts:* Describe potential direct and indirect economic impacts of the development on communities, including a description of business opportunities and Imperial's contracting process.

Provide an assessment of potential impacts to community and regional infrastructure (including but not limited to all-weather roads, winter roads and community roads in Fort Simpson and elsewhere the Samba-K'e winter road and road infrastructure in Ft. Simpson). Describe detailed mitigations to minimize or avoid those impacts.

Describe potential beneficial impacts to the communities that will not be realized, such as purchasing potable water from communities, and Imperial's rationale for not maximizing local benefits.

*H-2 Social Impacts:* Provide a detailed description of potential social impacts that your development may have on the residents of communities along the development route, including education, training and skills enhancement. Describe ~~Focus on~~ the social impacts related to health and well-being in

communities nearest to camps, including potential changes in pregnancy rates, STDs, and alcohol and drug use. This assessment should include a description of potential direct and indirect impacts on social infrastructure such as medical services and policing. Describe detailed mitigations to minimize or avoid those impacts.

*H-3 Local Cultural and Heritage Resources:* Describe potential impacts on cultural and heritage resources including a detailed description of ~~Describe in detail~~ how field workers will recognize archaeological sites. Describe the mechanism or process that will ensure that those recognizing the archaeological sites will have the authority and means to stop work before disturbance of heritage sites occurs. Describe detailed mitigations to minimize or avoid those impacts.

*H-4 K'eotsee/Traynor Lake:* Describe in detail the proposed development and potential impacts in the K'eotsee Lake watershed, along with details regarding with any concerns voiced, and the commitments of Imperial in response to those concerns in terms of development design. Describe any remaining activities proposed by Imperial within the watershed and their impacts. Describe detailed mitigations to minimize or avoid those impacts.

*H-5 Traditional Land Use:* Discuss the potential impacts of the proposed development on traditional land use and occupation. Describe in detail concerns raised by land users and the commitments of Imperial regarding compensation for trappers and all other traditional harvesters. Describe detailed mitigations to minimize or avoid those impacts.

*H-6 Protected and Withdrawn Areas:* Describe potential impacts on candidate protected areas, including Edehzhie land withdrawal and Pehdzeh Ki Deh areas, and areas which have been withdrawn from development under the Deh Cho Process. Describe in detail potential impacts across the boundaries of the protected and withdrawn areas by proposed development activities outside of the areas. Describe detailed mitigations to minimize or avoid those impacts.

*H-7 Access and Benefits Agreement:* Imperial is to describe its position with regards to the negotiation of an Access and Benefits Agreement for this project that includes the provision of land access fees to the Deh Cho communities. Imperial is to describe its understanding and position as to the ownership of land within the Deh Cho region.

*H-8 Sustainability:* Promotion of sustainable development is a fundamental purpose of EA, which provides an effective means of integrating environmental, socio-economic and cultural factors into decision-making. The EA process allows for the consideration of a project's contribution towards achieving sustainability. The guiding goals and principles of the MVRMA are to ensure that the EA process has regard for the following:

- protecting the environment from significant adverse impacts of proposed developments;
- preserving the cultural identity and values of aboriginal people within a changing northern society; and
- enabling aboriginal people to be equal and full participants in the development of the economy and society.

Reconciling economic development, social equity and environmental quality is at the core of sustainable development. Considering sustainable development in the EA process includes recognizing:

- the potential impacts of the project in relation to the social, economic, cultural and environmental goals and values of the communities;
- the capacity of natural systems to maintain their structure and functions and to support biological diversity and productivity;
- the capacity of the social and economic systems of the human environment to maintain or enhance conditions of self-reliance and diversity;
- the capacity of human environments, including local and regional institutions, to respond to and manage externally induced change;
- the attainment and distribution of durable and equitable social and economic benefits; and
- the rights of future generations to the sustainable use of renewable resources.

Imperial is to provide an evaluation of this project's contribution to sustainability on the basis of the following:

- the extent to which the project will make a positive overall contribution towards the attainment of environmental, social and economic sustainability;
- how the planning and design of the project have considered how it may affect achieving sustainable development; and
- how monitoring, management and reporting systems have incorporated indicators of sustainability.

## **I Physical and Biological Environment:**

*I-1* Vegetation and Plant Communities: Describe how many Describe potential project impacts on vegetation and plant communities including identifying the aerial extent and linear kilometers of the work that will require the removal of vegetation, identifying how much of this is regrowth compared to undisturbed growth, and describing the successional condition and habitat value of the regrowth that is to be removed. Describe detailed mitigations to minimize or avoid those impacts.

- I-2 Aquatic Resources and Habitat: Describe the potential impacts of the project on aquatic resources and habitat. Describe the total number of water crossings for the program, and the total area of watershed upstream of these crossings.
- I-3 Wildlife and Wildlife Habitat: Discuss the potential impacts of the proposed project on wildlife and wildlife habitat, with particular emphasis on boreal (woodland) caribou and moose, and their habitat in the project area. Include discussion of the effects of direct disturbance of the activity (including overflights), increased access, and wildlife responses to disturbance and cutlines. Include ~~documented Traditional Knowledge~~ traditional land use and traditional knowledge considerations in your analysis, such as the Smbaa K'e Traditional Knowledge Study. Describe proposed mitigations (such as access control or noise reduction) in detail. Describe detailed mitigations to minimize or avoid those impacts.
- I-4 SARA: Pursuant to section 79 of the Species at Risk Act, conduct an assessment of the potential effects of the project on species at risk. This assessment should include: identification of species at risk that may be affected by the project, identification of measures to avoid, minimize, and mitigate potential effects on these species or their habitat, and a proposed approach to monitoring of these effects.
- I-5 Water Quality and Quantity: Describe potential impacts on water quality and quantity including the identification of water sources and withdrawal volumes.
- I-6 Terrain, Geology and Soils: Describe the potential impacts on terrain, geology, and soils with particular emphasis on potential erosion problems at disturbed sites.
- I-7 Permafrost: Describe the potential impacts on permafrost. Describe existing trends related to the distribution and characteristics of permafrost in the project area. The use of maps and diagrams is highly encouraged.
- I-8 Noise: Describe potential impacts on the human and biological environment due to an increase in the noise levels (provide existing and predicted noise levels) at project locations.
- I-9 Accidents and Malfunctions: Describe potential accidents and malfunctions and their associated impacts.
- I-10 Waste Disposal: Describe the project's waste disposal procedures, including sewage, drilling muds and hazardous materials, and potential impacts and mitigation measures.
- I-11 Environmental Monitoring and Follow-up: Describe Imperial's proposed environmental monitoring, including wildlife monitoring, and follow-up programs.



## **J Cumulative Impacts:**

Predict the cumulative impacts that might result from ~~access created by the proposed development impacts~~ this project in combination with other past, present or reasonably foreseeable future developments and activities (~~excluding the Mackenzie Valley Pipeline~~). Describe detailed mitigations to minimize or avoid those impacts.

### **EA Schedule**

The PWG has reviewed the EA schedule and has the following recommendations:

- A minimum of 20 days should be allocated for the submission of the DAR;
- A 2<sup>nd</sup> IR round for the communities should be added to the schedule to allow for new questions or follow-up questions to the 1<sup>st</sup> IR round;
- In the event that the conformity and Review Board IR phases occur in less time than is allocated, a minimum of 30 days must be maintained between the submission of the DAR and the due date for the communities' 1<sup>st</sup> round IRs;
- A public hearing should be conducted for this EA. The public hearing should occur a minimum of 20 days after the final IR responses; and
- Technical reports should be due a minimum of 20 days after the transcripts for the public hearing are publicly available.

The above comments have been given in the absence of knowing how much material will be generated by this EA and what issues will arise. Additional time might be required depending upon how the EA unfolds.

Mahsi Cho,

Chief Keyna Norwegian, PWG Chair  
Liidlii Kue First Nation

c.c. PWG Members