

EA 03-009



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Dec. 9th, 2004

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Mackenzie Valley Environmental Impact Review Board
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Dear Ms. Mackenzie-Scott

RE: EA03-009 Imperial Oil Geotechnical Program in the Dehcho Region

Please find attached the final technical report from the Dehghah Alliance Society. This final technical report is also to serve as our written closing statement for the Dec. 2nd public hearing in Fort Simpson.

Our technical report is a summary of Dehcho concerns and issues with the winter work geotechnical program. However, this technical report does not include our final recommendations with regards to impacts on public traffic and public roads. The DAS has not yet been provided with the answers to questions recently sent to the Department of Transportation. Once we have been provided with those answers, we will consider the material and provide the Review Board with our final positions and recommendations on that matter.

Sincerely,

LKFN Chief Keyna Norwegian
President, Dehghah Alliance Society

c. DFN Leadership

Technical Report

For:

EA03-009 Imperial Oil Geotechnical Program in the Dehcho Region

Submitted to:

Mackenzie Valley Environmental Impact Review Board

Submitted by:

Dehghah Alliance Society

December 9th, 2004

Technical Report Summary

The Dehghah Alliance Society (DAS) has reviewed the materials provided by Imperial Oil and discussed this project both within and between the communities. The DAS has decided that to meet the Review Board's requested submission deadline of today, the technical report could only be submitted as a draft report.

The DAS anticipates reviewing additional information from Imperial Oil both before and during the public hearings. As well, the DAS intends to carefully consider the comments made by members of the public at the hearings before it will put forward its final conclusions and recommendations. The DAS anticipates providing its final technical report as soon as is feasible after the completion of the public hearings.

The DAS has put forward 24 recommendations on the following 8 subjects:

- Access and Benefits Agreement
- Harvester Compensation Agreement
- Areas Important to the Well-Being of the Communities
- Traditional Knowledge
- Caribou and Moose
- Environmental Monitors
- Project Clearings and Timber Resources
- Project Traffic

These recommendations are listed together at the back of the technical report for easy access.

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1 Introduction

Imperial Oil's geotechnical project is proposed on the traditional lands of the 6 communities that comprise the Dehghah Alliance Society (DAS):

- Pehdzeh Ki First Nation (PKFN)
- Liidlai Kue First Nation (LKFN)
- Fort Simpson Metis Local (FSML)
- Jean Marie River First Nation (JMRFN)
- Sambaa K'e Dene Band (SKDB)
- Ka'a'Gee Tu First Nation (KTFN)

The DAS represents the local interests of each of the above communities as well as the regional issues of Dehcho First Nations.

The Dehcho people are the primary users, caretakers and managers of the land. The communities remain dependent upon the land and waters in the area for their culture and livelihood. Their constitutional rights to use and occupy these lands are guaranteed by treaty, and protected by s. 35(1) of the *Constitution Act, 1982* which states that:

The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

The land is central to the identity and way of life of the Dehcho people. Given their close ties to the land, the communities are aware of the extensive environmental, economic and social impacts that this project will bring to their way of life.

The Dehcho rely on and use the land on a year-round basis. The fact that this project is occurring in the winter is not a mitigative factor that reduces the impacts upon the people. A substantial portion of the food consumed by the Dehcho people comes from the land, through hunting, trapping, fishing and gathering roots and berries. Their treaty-protected rights to hunt, fish and trap are central to who the Dehcho are as a people. Infringement upon these rights must be avoided where possible. If it is not possible to avoid infringing these rights, then these rights must be accommodated through negotiation and mitigation.

The DAS has been discussing this project with Imperial Oil for a substantial period of time but still has some substantial concerns that have yet to be accommodated. The DAS is submitting this technical report to provide the Mackenzie Valley Environmental Impact Review Board (Review Board) with an explanation of our concerns and the recommended measures that must be applied to accommodate those concerns.

2 Consultation and Accommodation

It is clear that the proposed project will have significant impacts on Dehcho communities and in particular on their treaty harvesting rights and on areas of cultural and spiritual importance. Under these circumstances it is clear that the MVEIRB, as an agency of the Crown with decision-making powers, has a legal obligation to ensure that the concerns of DAS communities outlined in this report are accommodated. The Supreme Court of Canada in the Haida and Taku River decisions recently affirmed this obligation.

In our submission, the Board can meet its legal obligations by requiring the proponent to enter into Access and Benefits Agreements (ABAs) and harvester compensation agreements as a condition precedent to the issuance of authorizations.

The DAS would also like to comment on the lack of any federal government representation at any of the 3 public hearings for this EA. As the ultimate decision maker on this project, the DAS questions on what basis the Minister of Indian and Northern Affairs Canada (INAC) will be making his decision given that INAC did not see fit to send a single representative to these hearings.

This issue is particularly important for the Trout Lake and Wrigley hearings as there is no transcription of these hearings. Even with transcription, simply reading what was said does not convey the emotion and conviction with which the communities spoke about our land and our concerns with this project. The DAS is extremely disappointed and disturbed at the approach INAC has taken with this project and fail to see how that approach has fulfilled the federal government's responsibility to consult with the communities and accommodate our concerns.

3 Concerns and Recommendations

The following are some of the issues that the DAS has raised in this process and the DAS's recommended measures to be applied by the Review Board.

3.1 Access and Benefits Agreement

An Access and Benefits Agreement (ABA) between a developer and aboriginal communities is one of the best and most practical ways to develop the conditions under which developers are allowed access to a First Nation's traditional lands, to determine how to mitigate impacts and promote benefits to the communities and the environment, and to accommodate aboriginal interests.

Over the last year, the DAS has been having discussions with Imperial Oil on a "Winter Work Agreement" which is essentially an ABA for this geotechnical project that reflects that short-term and temporary nature of this project. Although the DAS has been unable to reach an agreement with Imperial Oil, the DAS is still interested in talking to see if a deal can be reached.

The winter work agreement, if finished, would cover various topics including environmental protection and consultation procedures, however, the major issue of disagreement between the DAS and Imperial Oil has been Imperial's refusal to alter its contracting process to reflect the concerns of the communities and maximize the potential local benefits that are achievable.

The communities have wanted to have a reasonable assurance that local businesses will obtain the majority of the value of the project contracts. The communities have presented Imperial Oil with numerous options that would achieve this assurance but has consistently been met with refusal by Imperial Oil. The DAS' representative discussed this matter at the public hearing:

16 What the communities had initially wanted
17 from Imperial Oil was the implementation of a -- not a
18 guarantee for the local communities, but some sort of an
19 advantage. We were looking for something similar to
20 what the GNWT does with the Business Incentive Program,
21 by which 15 percent of an advantage is provided to local
22 communities. Imperial, quite flatly rejected that idea.

23
24 The communities came back with another
25 option and said, okay, how about for contracts that are

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1 awarded on our land, but are not awarded to our
2 businesses, then we want to be awarded -- given,
3 basically a cash payment of 15 percent of the value of
4 the contract, which would basically serve as an access
5 fee for companies coming in from outside this area, who
6 want to work on their land, there should be an access
7 fee. Imperial rejected that idea.

8 We then went back to our original

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9 suggestion of a BIP, and what we said there was, okay,
10 Imperial's concern was for the very large contracts,
11 that the 15 percent might be a very large dollar figure.
12 So what we suggested was that there be a sliding scale.

13 For contracts less than a hundred
14 thousand dollars (\$100,000), 15 percent would be the
15 BIP. For contracts between a hundred thousand (100,000)
16 and a million, there'd be a 10 percent advantage. And
17 that for contracts over a million dollars, perhaps only
18 a 5 percent advantage.

19 So the communities have been quite
20 flexible, we're not looking for guarantees, but we are
21 looking for some concrete advantage that the local
22 companies will have over companies from outside of this
23 area.

Imperial Oil continues to insist that its current contracting process will be sufficient to ensure that local business obtain the majority of the benefits and it will not alter its process to reflect community concerns.

Despite Imperial's assurance that its current contracting process would work to the advantage of the local communities, Imperial's confidence has not been backed up by results. In 2003, Imperial Oil had 16 contracts up for bids in the Dehcho region. Of the 14 contracts that were conditionally awarded, 12 went to local businesses and it is this figure that Imperial keeps reciting whenever it is questioned. However, the awarding of 12 of the 14 contracts creates a false impression of the amount of local benefits as the 2 contracts that were not awarded to local businesses were the two largest contracts (general services) and were worth about half of the total project budget.

This situation contrasts sharply with the situation in the Gwich'in, Sahtu and Inuvialuit land claim areas where 100% of the value of the contracts went to local businesses. Imperial Oil refuses to accept that the same contracting process that is successful in the northern land claim areas will not produce the same results in the Dehcho despite the clear evidence from the 2003 conditional contracts. Because of their isolation, the local businesses in the Gwich'in, Sahtu and Inuvialuit areas do not have to compete with non-local businesses in the same way the local Dehcho businesses must compete with non-local businesses from Hay River and elsewhere.

The communities believe that the contracting process could be altered to provide a more effective assurance of local contracts through an adjustment of the bid evaluation criteria weighting. Imperial has refused to provide the criteria weighting to the communities during meetings and has now also refused to provide it to the Review Board by stating that the weighting is confidential (see response to IR 2.5). The DAS do not believe that Imperial Oil has demonstrated any valid reason why the bid evaluation weighting criteria need to be kept confidential. The DAS' representative questioned Imperial Oil on this matter at the public hearing but did not receive satisfactory responses:

14 MR. JOE ACORN: Joe Acorn. I -- I still
15 don't think he's answering the question asked, but we're
16 not going to pursue it any farther.

17 Suffice to say, that we don't see that
18 Imperial has made the case for why the bid evaluation
19 criteria should be kept confidential. They could list a
20 whole host of criteria that they use in evaluating the
21 proposals. If we don't know the weighting that they
22 apply to those criteria, then we don't know really what
23 they are using in selecting the contractors for this
24 project.

This refusal to provide the criteria weighting is yet another example of the attitude that Imperial has taken towards the issue of an access and benefits agreement. The DAS has continually been stone-walled by Imperial. The DAS is willing to negotiate a fair and reasonable agreement with Imperial but to do so it requires Imperial to also be ready to negotiate instead of the consistent "take-it-or-leave-it" approach that the DAS has had to endure.

If this project were to be approved and to proceed in the absence of an access and benefits agreement with the DAS, there will be significant concern within the communities. The level and certainty of the public concern that this situation would create would easily surpass the *Mackenzie Valley Resource Management Act's* (MVRMA's) threshold for requiring an Environmental Impact Review (EIR).

Recommendations

The DAS is recommending that the following measure be applied by the Review Board:

- 1) Imperial Oil must negotiate and conclude an Access and Benefits Agreement with the DAS, or the individual DAS member communities, prior to any authorizations being issued by the MVLWB to Imperial for this project.

3.2 Harvester Compensation Agreement

As part of the winter work agreement negotiations, the DAS has wanted to also include a harvester compensation agreement. However, due to the problems that have been encountered in negotiating the winter work agreement, there has been no progress towards a compensation agreement.

Recognizing the fact that a winter work agreement might not be reached, the DAS asked Imperial in IR 2.20 to describe what type of compensation program Imperial would put in place for the project. The DAS viewed this as an opportunity for Imperial to demonstrate that it is taking the communities' concerns regarding impacts on harvesters seriously.

Imperial's response to this IR was thoroughly disappointing. The very brief response provided nowhere near the level of detail and assurance that would be acceptable to the DAS. For an example of a suitable agreement, the Review Board should review the draft compensation agreement that has been submitted to it by the SKDB.

It is obvious to the DAS that if the communities' harvesters are to have a reasonable level of protection, a negotiated compensation agreement between the DAS and Imperial is absolutely essential. The DAS' representative discussed this matter at the public hearing:

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11 As something just to clarify the point
12 you made earlier today, was that impacts on the
13 harvesters should not just be limited to direct impacts,
14 such as damaging a trap, and the indirect impacts such
15 as animals not being caught, as a result of that first
16 impact.

17 A situation Wrigley described yesterday
18 has happened, and will happen again, by which the
19 harvesters are on the land and have been unsuccessful,
20 due to project activities. That was due to the summer's
21 reconnaissance program.

22 We have every reason to believe the same
23 thing will happen with the winter geotech, and every
24 other significant project that's going to come along in
25 relation to this Mackenzie Gas Project.

This subject was discussed at length at both the Trout Lake and Fort Simpson hearings. If this project were to be approved and to proceed in the absence of a harvester compensation agreement with the DAS, there will be significant concern within the communities. The level and certainty of the public concern that this situation would create would easily surpass the *MVRMA*'s threshold for requiring an EIR.

Recommendations

The DAS is recommending that the following measure be applied by the Review Board:

- 1) Imperial Oil must negotiate and conclude a Harvester Compensation Agreement with the DAS, or the individual DAS member communities, prior to any authorizations being issued by the MVLWB to Imperial for this project. The scope of the agreement(s) is to include compensation for resource harvesting activity losses, both direct and indirect, resulting from the development such as for hunting, trapping, fishing and other traditional activities as agreed to by Imperial and the DAS. This agreement will include compensation for the project disturbing wildlife and resulting in unsuccessful harvesting trips. The harvester compensation agreement is to be completed as part of the Access and Benefits Agreement (ABA) negotiations.

3.3 Areas Important to the Well-Being of the Communities

The communities have identified some proposed work locations as not acceptable and Imperial Oil has been informed of these locations. In some instances, the communities and Imperial have been able to achieve a satisfactory resolution but in other instances they have not. The DAS' representative provided an overview of this issue and the communities' positions at the public hearing:

1 The next one (1) was areas important to
2 the well being of the communities. The communities have
3 identified some work locations that are not acceptable,
4 and Imperial Oil has been informed of the locations.

5 In the last two (2) days the Board has
6 had very detailed explanations of these, primarily in
7 relation to the K'eotsee Lake Watershed for Trout Lake,
8 and Blackwater for Wrigley, and to a lesser extent, also

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9 Willow Lake River.

10 The communities -- oh, we recognize that
11 this project is -- this environmental assessment is on
12 the winter geo-technical project, not the Mackenzie Gas
13 Project. It is impossible to separate the two (2)
14 completely.

15 Some activities that are being proposed
16 for this project, are directly leading into the
17 Mackenzie Gas Project, and frankly -- and go other way.
18 But they're being -- what's being proposed here is a
19 result -- is a result of what is being proposed for the
20 Mackenzie Gas Project. They want to put a compressor
21 station or a camp in a specific location, well now
22 they've got to do the geo-technical data to find out if
23 it's a suitable location.

24 The communities recognize that some
25 project facilities, and the pipeline itself, have to go

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1 through their territory. For instance, with the
2 Blackwater River, the communities are not expecting them
3 to route the pipeline across the other side of the
4 Mackenzie River. The pipeline will have to cross the
5 Blackwater River at some point. Where that happens is
6 something that can be subject to negotiation. Other
7 things are not up for negotiation.

8 Imperial has been informed for quite a
9 long while that Blackwater is important. Now, if this
10 Board sees fit to give Imperial approval to do geotech
11 work in the Blackwater area, it will disappoint the
12 communities, but what you are essentially giving them
13 approval to do was waste their own money, because quite
14 frankly, there will never, ever be a compressor station
15 built in the Blackwater River area.

16 There will never, ever be a nine hundred
17 (900) person camp built in the K'eotsee Lake Watershed.
18 The communities will not let this happen.

19 And Imperial persisting with this
20 application, long after these concerns have been raised
21 with them, and these positions made clear, what frankly
22 goes against Imperial's statements that they respect and
23 listen to the views of the communities.

24 I noted yesterday, or not yesterday, two
25 (2) days ago in Trout Lake, when Mr. Hawkins was being

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1 question by Alan Landry, about the necessity of this
2 project. Mr. Hawkins replied that if the geo-technical
3 data comes back and tells the proponent that a project
4 facility has to be moved. So for instance, the geotech
5 is poor at a particular location, and the pipeline
6 crossing will have to be moved, they will do it.

7 And in essence, what the communities are
8 asking for is for Imperial to give the same respect to

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9 the communities that they're giving to the geo-technical
10 data. If the data says don't do it here, they're not
11 going to do it. The communities are saying, don't do it
12 here, they shouldn't do it. That's flat -- there's
13 nothing more that really should be going into that.

14 When the communities make their views
15 know, they should not have to engage in months of debate
16 and argument with Imperial, over why they don't want to
17 be in this area. The communities asked Imperial for
18 their Bid Evaluation Weighting Criteria, and Imperial
19 responded, that's confidential, we're not going to give
20 it to you.

21 Basically, just trust us, and we'll make
22 sure that the contracts go to local companies. Well,
23 when the communities say stay out of a certain area, we
24 say to Imperial, trust us. We should not have to
25 justify why this area is important to Imperial Oil, nor

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1 should we have to provide all of our data and all of our
2 reasoning for that.

3 The communities have seen fit to provide
4 a certain amount of information to the Board yesterday
5 and the day before, to justify why Blackwater and why
6 K'eotsee Lake are important. But the communities do not
7 believe it should ever have come to that.

8 When Imperial was informed of the
9 importance of these communities -- of these areas quite
10 some time ago, Imperial should not have persisted in
11 pursuing these Applications any further and they should
12 have set to work identifying alternative locations at
13 that time.

It is obvious that Imperial Oil has not taken the community concerns as seriously as it should have and has continued to push ahead to obtain authorizations for work in areas that the communities do not want them working in. Imperial has not been doing the necessary work to identify alternative project locations.

Another issue for the communities was discussed at the Trout Lake hearing. Imperial Oil stated that this project was not necessary. The communities' position is that if this project is not necessary, then it should not be allowed to proceed. Unnecessarily disturbing the land is not acceptable to the communities. Also, given that this project is not necessary, the communities expect that the deletion of some of these project sites should not be an insurmountable problem for Imperial Oil.

The DAS also wants to point out that the communities are only asking that a small number of the total project sites be deleted from this project. The DAS' representative commented on this at the public hearing:

15 But there's one (1) more
16 general comment on the important areas, and I forgot to
17 bring this up earlier, was that there are about -- I

18 think there's over sixty-five (65) sites that are being
19 proposed for this project. The communities have
20 accepted the vast majority of these sites, despite the
21 fact that besides Blackwater, besides Willow Lake,
22 besides K'eotsee, there are a lot of important areas in
23 the Dehcho Region.

24 There are three (3) proposed protected
25 areas right now, one (1) around Trout Lake, and then

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1 we've got the Horn Plateau and then we've got an area
2 north of Pehdzeh Ki that includes Blackwater, and then
3 we've also had significant surface and sub-surface
4 withdrawals under the Dehcho Interim Measures Agreement.

5 Despite the fact that many of the
6 proposed project locations are located in some of these
7 existing and proposed protected areas, the communities
8 are not opposing.

9 The sites that we have brought to your
10 Board's attention and have brought to Imperial's
11 attention, are the ones that are really important to the
12 communities, and we want to see that reflected -- we
13 would like to see that reflected in the Review Board's
14 report.

15 We are not bringing forward frivolous
16 concerns. Many of the sites we have not even mentioned
17 in our written submissions, we have not mentioned in our
18 hearings. With appropriate environmental management,
19 much of this project can be completed successfully, but
20 we expect that the concerns brought forward for the
21 specific areas that were mentioned over the last few
22 days, will be seriously dealt with, both by the Review
23 Board and by Imperial Oil.

The current problem areas are the Keotsee Lake watershed, and the Blackwater, Ochre and Willowlake Rivers, all of which are important harvesting locations. As well, there are 5 unfinished TK studies that might identify more unacceptable sites.

3.3.1 Keotsee Lake Watershed

At the Trout Lake hearing, the SKDB presented its case for why the Keotsee Lake watershed is an important area for the community that must be protected. The DAS supports the SKDB on this issue and urges the Review Board to issue a decision that respects the community's position.

3.3.2 Blackwater River

The PKFN Elders, land users and community leaders presented a strong case as to why the Blackwater River area is so important to the community. The DAS expects that the Review Board will thoroughly consider that information and render a decision that respects the value of this area to the community. To assist the Review Board, the statements made by the PKFN Elders will be translated and transcribed. These statements will be submitted to the Review Board as soon as they are available.

Imperial Oil has been aware of the concerns that community has with any development at Blackwater River since 2003. To reinforce the community's position, on July 19, 2004, former Chief Tim Lennie of PKFN provided a letter to Imperial that stated the community's opposition to work in the vicinity of the Blackwater, Ochre and Willowlake Rivers.

The DAS issued IR 2.29 to Imperial asking what the company has done in response to the community's position such as changing the project design and/or identifying alternative project sites.

In its response to the IR, Imperial stated merely that it has written a series of letters to the community asking for meetings to discuss the community's position. The DAS' representative questioned Imperial Oil on this matter:

2 The next topic is Blackwater. In IR
3 2.29, that was sent to Imperial Oil, we asked for some
4 very specific -- basically we wanted to know exactly
5 what Imperial has done in response to the concerns that
6 have been stated about Blackwater, in terms of changing
7 the project design, or identifying alternative project
8 sites.

9 In your response to that IR, you simply
10 provided a series of letters that you wrote to the
11 community, and our question is, is all you have done in
12 response to these concerns, is write letters to the
13 communities? Have you not actually done any work in
14 identifying alternative project sites in the Blackwater
15 area?

16 MR. JIM HAWKINS: Mr. Poplin, would --
17 would you care to respond to the ways in which the
18 research project has been modified in response to these
19 concerns, please?

20 MR. JIM POPLIN: Jim Poplin, Imperial
21 Oil. I -- I was involved in a -- some community
22 consultations that -- that we tried to do in -- in
23 August, or I'm sorry, in July of this year, in response
24 to our summer work, and to discuss Blackwater and -- and
25 a number of other issues that were of particular

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1 importance to the Pehdzeh Ki.

2 We had hoped to find out more about what
3 the concerns were and -- and would be trying to address
4 some of those concerns. Unfortunately, we ended up
5 really not being able to discuss those and, as a result,
6 the -- any options were -- were not really -- were put
7 on the table or -- or progressed at that time.

8 MR. JIM HAWKINS: Dee Brandes, are --
9 are you able to build on that response at all?

10 MS. DEE BRANDES: Thanks, Jim. Dee
11 Brandes with Imperial Oil.

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12 The concerns that were expressed
13 regarding Blackwater River have historically been broad
14 in their nature. Indeed, we heard expressions of
15 concern, but the types of specifics that were revealed
16 to us in the letter on Monday -- that I had received on
17 Monday -- had never previously been noted to us.

18 MR. JOE ACORN: Joe Acorn. Just a
19 couple of things.

20 First is that Imperial selected the sites
21 in Blackwater in the first place without consulting the
22 Community. You were made aware that the communities had
23 some concerns about those sites, even if you were not
24 provided with the specifics. You did not need to have
25 the specifics before you started evaluating alternative

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1 sites in that area that could have been used.

2 And the second point is, yes, I -- we
3 will agree that you were not provided the detailed
4 information that you were yesterday, previously, and
5 part of that is the -- is that Imperial has not
6 respected that the processes that the Community has
7 wanted to use in dealing with Imperial on this project
8 and on other projects.

9 That from the very beginning, Wrigley has
10 been very clear that before they would discuss project
11 specifics, they wanted a Memorandum of Understanding in
12 place between the Community and the Company on how
13 consultation would occur, on how harvesters would be
14 compensated and on how contracts would be awarded and
15 how benefits would accrue to the community.

16 Once that general global agreement was in
17 place, the community would have been willing at any time
18 to then provide those specifics to the -- to the
19 Company. However, the negotiations with Imperial on
20 negotiating that MOU have not gone anywhere from the
21 Community's standpoint because we had not been met with
22 negotiation from Imperial's side of it.

23 The Community is not going to provide
24 specific information when they don't know, and they're
25 not going to help Imperial along in this process when

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1 Imperial is not, on the other hand, making agreements
2 with the communities.

3 There's a definite process in place.
4 They have to come to an agreement with the communities
5 first and then you'll get the specifics. That's what
6 the Community's been saying from the beginning.

7 Yesterday, the specifics were finally
8 provided because the Community feels now their backs are
9 against the wall. This Hearing was their last
10 opportunity in which they could finally try to influence
11 this project before the Board makes its decision. The

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12 Community did not want to provide that information
13 yesterday, but they had felt they had to.
14 Negotiations are still ongoing with an
15 MOU with Imperial Oil and, in fact, I'm flying back up
16 to Wrigley tomorrow morning to try and continue those
17 negotiations. It is the opinion of the Community that
18 the detailed information provided yesterday should not
19 have been released publicly until those negotiations are
20 concluded.

It is apparent that Imperial has done very little work on changing the project design and/or identifying alternative project sites in response to the community's concerns about working in the Blackwater River area.

15 MR. ALAN EHRLICH: Okay. And I think
16 that's most of my questions. I've got one (1) more.
17 Has -- two (2) more actually.
18 Has Imperial had a look at comparable
19 sites that are of geo-technical interest as alternatives
20 to the Blackwater area?
21 THE CHAIRPERSON: Jim...?
22 MR. JIM HAWKINS: Mr. Poplin, would you
23 answer that please?
24 MR. JIM POPLIN: Given the -- the late
25 start of our -- our summer program, we were unable to --

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1 to do much in the way of investigating alternative
2 sites, we didn't start that work until September, or the
3 second week in September.
4 We -- we are at least on paper evaluating
5 an alternative site, but they haven't gone on the
6 ground, or -- or spent the necessary time to -- to
7 determine whether or not that site may be acceptable or
8 not as a -- as a compressor site.

Despite repeated attempts by the community to develop a Memorandum of Understanding with Imperial, PKFN has not yet been able to get Imperial to agree to a satisfactory MOU that would provide the guidelines for how the community and company would work together to improve this project and mitigate community concerns.

Before moving ahead with a geotechnical program in this area, Imperial Oil needs to first come to agreement with PKFN on the route the pipeline will take through the Blackwater River area. Once that route has been agreed to, then the community will be in a position to consider allowing only the geotechnical work that is absolutely necessary for the safe design and construction of the pipeline project. Any geotechnical work that is not absolutely required would not be acceptable. The DAS' representative discussed this issue at the public hearing:

7 And on the second point regarding geotech
8 and the Blackwater area, even if they are not doing

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9 geotech for the Blackwater compressor station right now,
10 they're going to be in the future, and the geotech they
11 are proposing to do right now, is in locations that were
12 not accepted by the community.

13 For instance, they plan to do some
14 geotech on the pipeline -- I believe on the pipeline
15 crossing for the Blackwater River. The community has
16 never accepted that that is the appropriate location
17 where the pipeline should cross the Blackwater River.

18 If they want to do geotech, they need to
19 come and talk to the communities about the routing
20 around the Blackwater River area, then they can identify
21 suitable geotech for that routing that has been accepted
22 by the communities.

Given the importance of obtaining data for the pipeline crossings, the PKFN have consented to allowing the proposed Blackwater River pipeline crossing location to be investigated but only if no new access is created and there is no drilling in the river.

PKFN consenting to allow the crossing location to be investigated in no way implies that PKFN has agreed that this crossing location is acceptable to the community. The final crossing location is to be determined in consultations between Imperial Oil and the community.

Recommendations

The PKFN, in both its oral and written presentations, has provided the Review Board with recommendations on the proposed work sites in the Blackwater River area. The DAS supports those recommendations and they are repeated here. The Review Board should refer to the PKFN submission for more information on these recommendations.

- 1) The Blackwater River camp is to be deleted from the project.
- 2) Borrow sites 9.038PA, 9.038PB, 9.091P, 9.044PA, 9.044PB and 10.001P are to be deleted from the project.
- 3) The investigation at the proposed Blackwater River pipeline crossing be permitted as long as no new access is created and there is no drilling in the river.

3.3.3 Willowlake River

PKFN is recommending that borrow site 20.025P be deleted from this project. PKFN has given conditional approval for the proposed Willowlake River crossing to be investigated as long as there is no drilling in the river. Also, the proposed Willowlake River camp is acceptable only at the old bridge construction site with no new clearing activity. For more information on these recommendations, please refer to the PKFN submission.

LKFN also has concerns regarding the Willowlake River operations as it relates to potential impacts on the residents (the Betsedea family) of a small settlement at the mouth of the river. Imperial Oil needs to accommodate the Betsedea family in its operations including hiring a local environmental monitor, providing other employment

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opportunities, and delivering firewood and saw logs from project operations to the community members. Of particular importance, the privacy of the residents must be respected and impacts upon them minimized. Special care should be taken to ensure that the settlement's access road is not damaged.

Recommendations

The DAS is recommending the following:

- 1) The Willowlake River camp is acceptable only at the old bridge construction site with no new clearing activity.
- 2) Borrow site 20.025P is to be deleted from the project.
- 3) The investigation at the proposed Willowlake River pipeline crossing be permitted as long as no new access is created and there is no drilling in the river.
- 4) Imperial Oil needs to accommodate the Betsedea family in its operations including hiring a local environmental monitor, providing other employment opportunities, and delivering firewood and saw logs from project operations to the community members. Of particular importance, the privacy of the residents must be respected and impacts upon them minimized. Special care should be taken to ensure that the settlement's access road is not damaged.

3.3.4 Other PKFN Recommendations

PKFN also made recommendations for other project sites that these sites either be deleted or approved with conditions. These recommendations are listed below. For more information on these recommendations, please refer to the PKFN submission.

- 1) Frost Heave 17 is to be deleted from the project.
- 2) Borrow sites 10.013P, 10.014AP, 10.020P, 10.037P, 10.120P and 10.038PA are to be deleted from the project.
- 3) Borrow sites 11.019P, 11.021P, 11.033P, 11.055PA, 11.055PB and 20.018P be permitted only on the condition that Imperial Oil has concluded a Memorandum of Understanding with the PKFN. If there is no MOU, then these 6 sites should be deleted.
- 4) The Smith Creek pipeline crossing investigation site is to be deleted from the project.
- 5) The River Between Two Mountains pipeline crossing investigation site is only acceptable if no new access is created and if there is no drilling in the river.

3.3.5 Kakisa River Watershed

The Ka'a'Gee Tu First Nation in Kakisa is primarily interested in any project activities that occur in the watershed of the Kakisa River. The Ka'a'Gee Tu extensively rely on the land, water and wildlife in this watershed for their sustenance as a people. Protection of this environment is of utmost importance to the community.

There are 5 project locations that are within the Kakisa River watershed: 1 frost heave site and 4 borrow sites. These sites are:

- Frost Heave Site FH22
- Borrow Sites 20.006P, 20.066P, 20.008P and 20.068P

The Ka'a'Gee Tu want to be directly involved in any project activities in the Kakisa Lake watershed.

Recommendations

The DAS, on behalf on the Ka'a'Gee Tu, are making the following recommendations:

- 1) A member of the Ka'a'Gee Tu First Nation is to be hired an as Environmental Monitor for all work in the Kakisa River watershed.
- 2) Imperial Oil is to fund a study and work with the Ka'a'Gee Tu to research and document the existing baseline environmental conditions in this portion of the Kakisa River watershed.

3.4 Traditional Knowledge

Despite other differences, the DAS communities and the Imperial have managed to develop working relationships, particularly on the issue of traditional knowledge (TK) studies. So far, however, only the SKDB has completed their TK study.

The LKFN, FSML, PKFN, JMRFN and KTFN all at various stages of their TK studies – a couple of the studies are just getting underway while others are almost to the point of producing draft reports.

These TK studies are using extensive community input from the Chief, Band Council, Elders, land users and other community members. The study methodologies consist of one-on-one interviews, videotaped flights over the project area and group discussions.

As was demonstrated to the Review Board at the Trout Lake hearing, the value that these studies will have in identifying issues and mitigating impacts due to this project are immense. This is clearly demonstrated by the SKDB study, which concluded that certain project locations and activities were unacceptable and the project design had to be, and was, altered.

The preference of the DAS would be that this EA not be concluded before the unfinished TK studies have been concluded. However, as there is some uncertainty as to when the 5

TK studies will be completed, the DAS understands that keeping the EA open is problematic.

The next best scenario is for the Review Board to create provisions for the TK studies to have a strong influence over this project. For the 5 unfinished TK studies, there is a strong likelihood that there are project sites and activities that will be deemed unacceptable by the communities. These sites must be protected and activities restricted by the Review Board's recommendations.

Recommendations

The DAS is recommending that the following measure be applied by the Review Board:

- 1) Imperial Oil is not to do any work on this project that violates the recommendations that will be made in the unfinished TK studies by LKFN, FSML, PKFN, JMRFN and KTFN.

3.5 Caribou and Moose

The Dehcho value and appreciate all wildlife species, not for just what they provide to people, but also for their right just to exist and share the land. However, as a result of their historical and current importance for food and other purposes, it is clear that the two species that are most connected to the Dehcho traditional way of life are caribou and moose.

In its Developer's Assessment Report (DAR), Imperial Oil concluded that there would be no significant impacts upon caribou or moose based on limited analysis and extremely limited baseline information (less than ½ page for both species). Given the limited baseline data and analysis provided, it is difficult to either agree with or dispute what Imperial has concluded.

To obtain an accurate assessment of the potential impacts on caribou and moose, an intensive baseline study of species populations and distributions is required along with the development of scientifically defensible thresholds for disturbance.

Given the temporary nature of this project with no permanent project facilities, the DAS can understand that Imperial Oil would not want to complete such studies for this project. However, in the absence of such information, it is difficult for the DAS or the Review Board to confidently accept Imperial's conclusions of no significant impacts.

In making its decision on this matter, the Review Board needs to keep in mind that this project is simply a forerunner of many intrusions on the land associated with the Mackenzie Gas Project (MGP). Impacts on caribou and moose will become more pronounced the further the MGP progresses. The lack of baseline data and thresholds will become more critical over time. The DAS' representative discussed this issue at the public hearing:

9 Now the reason we feel that this is
10 justified bringing this recommendation forward at this

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11 time is that this project is simply one of the first
12 significant incursions onto the land as a result from
13 the Mackenzie Gas project.

14 It's the first of many and we feel the
15 earlier that this group starts its work, the better off
16 we will all be and waiting for the Mackenzie Gas project
17 Applications and the Joint Review Panel would be simply
18 ignoring this responsibility.

19 I think there's sufficient evidence right
20 now to suggest that we need to start establishing
21 disturbance thresholds for the caribou and moose, and
22 identifying exactly how big are these populations, where
23 do they live, what kind of habitat do they have and how
24 are they being disturbed.

The DAS is aware that in the Review Board's Report of Environmental Assessment for the Cameron Hills Extension Project, the Review Board recommended that the GNWT create a Deh Cho Boreal Caribou Working Group (DCBCWG) that would work in partnership with the communities. Recently, Indian and Northern Affairs Canada (INAC) proposed modifying the Review Board's recommendation but the modifications are relatively minor and it appears as though the DCBCWG will become a reality sometime in 2005. INAC's proposed modification is:

"The Review Board recommends that RWED will, within the next six months, initiate the formation of a Deh Cho Boreal Caribou Working Group (DCBCWG). RWED shall lead the DCBCWG in the development of a Boreal Caribou Management Plan for boreal caribou populations in the southern Deh Cho (south of the Mackenzie River and east of the Liard River) within 18 months. In developing the Boreal Caribou management Plan, RWED shall ensure that the DCBCWG considers, among other things: habitat identification, range plan development, thresholds, monitoring systems, adaptive mitigation, research programs and cumulative effects models. RWED shall also coordinate the DCBCWG's activities with similar working groups in Alberta and British Columbia; and operate within the framework of recovery planning for Boreal Caribou in the NWT, and develop a Boreal Caribou Management Plan specifically for the Cameron Hills area. RWED shall provide applicable thresholds for the project to the MVLWB over time based on the outcomes of future research and natural changes to the boreal caribou habitat."

The DAS feel that the formation of the DCBCWG is a positive development and one that should be expanded somewhat to take into consideration the significant development activities that will be occurring along the proposed MGP pipeline corridor for the next 20-30 years. Specifically, the DAS is recommending that the mandate of the DCBCWG be expanded to include moose and to include an area roughly centered on the proposed pipeline corridor from the Sahtu border in the north to the Alberta border in the south.

We also feel that it is important that the DCBCWG report to the Dehcho Land Use Planning Committee (DCLUPC). The DCLUPC was established three years ago through

a tri-partite agreement between the Dehcho First Nations, Canada and the GNWT. The Committee is now in the latter stages of developing a draft land use plan for the entire Dehcho territory which will be presented to the DFN and Canada for approval. The report of the DCBCWG could be essential to the development of the land use plan. Further, if the Land Use Planning Committee does not receive the report of the DCBCWG, these two bodies could end up with incomplete and inconsistent recommendations.

Recommendations

The DAS is recommending that the following measures be applied by the Review Board:

- 1) The mandate of the Deh Cho Boreal Caribou Working Group is to be expanded to include moose.
- 2) The mandate of the Deh Cho Boreal Caribou Working Group is to be expanded to include an area roughly centered on the proposed pipeline corridor from the Sahtu border in the north to the Alberta border in the south. The DCBCWG will develop a Boreal Caribou Management Plan specifically for this area. The DCBCWG will jointly report to the Deh Cho Land Use Planning Commission and the GNWT in completing its work.

3.6 Environmental Monitors

Imperial Oil has committed to employing environmental monitors from the communities to work on all aspects on this project. These monitors will be hired by and report to the communities and Imperial Oil will be billed for these services.

An outstanding issue, however, is the provision on appropriate training for the environmental monitors. Without adequate training, the quality of the monitoring will suffer and the impacts of this project will be more numerous and extensive.

Recommendations

The DAS is recommending that the following measure be applied by the Review Board:

- 1) Imperial Oil and/or the federal government must ensure that adequate resources are provided to the communities to properly train some community people for job opportunities as environmental monitors for this project.

The DAS also supports and endorses the recommendations for environmental monitoring that were put forward by the SKDB and the PKFN. Those recommendations should be adopted and applied for all 6 of the DAS communities.

3.7 Project Clearings and Timber Resources

Over the course of this EA, Imperial has made some commitments that have satisfied some of the DAS' concerns:

- Topsoil will not be removed at the boreholes;

- The boreholes clearings will be kept to 6 m x 10 m with the maximum size of 10 m x 10 m used only if required.
- The test pit clearings will be kept to 15 m x 15 m with the maximum size of 25 m x 25 m used only if required.
- Topsoil removal around the test pits has been reduced from an area of 6 m x 15 m to an area of 6 m x 6 m.

The DAS appreciates the efforts that Imperial is making to reduce its footprint. The only outstanding DAS concern relates to the additional access to the land that is created by these clearings, the larger test pit clearings in particular. There is a concern within the DAS that these clearings could be used for helicopters bringing in hunters from outside the Dehcho region. The clearings would provide access to areas that are now largely inaccessible.

In IR 2.19(a), the DAS asked Imperial Oil to discuss what additional measures could be taken to reduce the increase in access due to project clearings. Imperial failed to provide the requested information, instead choosing to just state that its plan to roll back slash is sufficient.

The DAS does not accept Imperial's position on this matter and feel that additional reasonable steps can and should be taken. The DAS would prefer one of two options:

1. Imperial will plant young trees (at least a couple of meters high) in the cleared areas; or
2. Imperial will use the trees that it cuts down to create tripods in the cleared areas.

Imperial is to create these barriers to access at sufficiently close distances to prevent a helicopter from landing in the clearings.

The DAS is also concerned about some of the inspection reports from INAC on Imperial Oil's previous geotechnical operations in the Gwich'in area. These reports indicate that Imperial's clearing techniques resulted in excessive disturbance of the tree root balls. The DAS does not want to see this problem repeated in the Dehcho region.

The DAS would also like to see greater emphasis on recovering timber from project operations. Cleared timber that is not used for project operations should be delivered to the nearest community for use as firewood or saw logs. For example, all sites from Willowlake River south to BP #11.033P should have salvaged timber brought to the Betsedea encampment at the mouth of the Willowlake River.

Recommendations

The DAS is recommending that the following measures be applied by the Review Board:

- 1) In the cleared areas, Imperial Oil will 1) plant young trees (at least a couple of meters high) or 2) use the trees that it cuts down to create tripods. Imperial is to create these barriers to access at sufficiently close distances to prevent a helicopter

from landing in the clearings.

- 2) Imperial shall use proper timber cutting equipment, not cat clearing, to reduce timber damage and increase salvageable timber.
- 3) Imperial shall deliver cleared timber that is not used for project operations to the nearest community for use as firewood or saw logs.

3.8 Project Traffic

The DAS is concerned about both the interference project traffic will have with the traveling public and the damages project traffic will have on the public roads.

3.8.1 Impacts on Public Traffic

This issue was discussed at the public hearings with particular emphasis at the Trout Lake hearing in relation to the project's use of the Trout Lake Winter Road.

People living in the Dehcho region routinely have to deal with large trucks traveling on narrow, poor-quality roads. In the winter, poor visibility due to swirling snow can be additional problem. For those people traveling behind these trucks, it is difficult to pass the trucks. For those people heading towards these trucks, they frequently have to get on the shoulder of the road to avoid an accident. Stories of people having to hit the ditch are far too common.

The DAS does not want this project to add to existing problems and feel that with some simple mitigative measures, Imperial Oil can reasonably address this concern.

The DAS issued IRs (2.12(a) and 2.13(a)) to Imperial Oil and the GNWT, respectively, on the traffic volumes on public highways that will be used by this project. The intention of these IRs was to obtain the data necessary to determine the expected rates of interaction between public traffic and project traffic on the primary access routes.

The GNWT was asked to provide data on expected traffic volumes for each of the 3 primary routes for the winter period excluding this project. Imperial Oil was requested to provide data on the expected traffic volumes solely due to this project.

The GNWT provided the data requested in the format requested but Imperial Oil did not. Consequently it is not possible to design mitigative measures that would allow the quantitative calculation of the expected impact these measures would have on Imperial Oil.

The lack of data from Imperial therefore required the development of qualitative mitigative measures. In its response to IR 2.12(c), Imperial Oil listed the speed limits that would be used on each of the primary access routes. These limits are:

- Highway #1 – 90 km/hr for both light and heavy vehicles

- Highway #1 Winter Road – 35 km/hr for light vehicles and 17.5 km/hr for heavy vehicles
- Trout Lake Winter Road - 35 km/hr for light vehicles and 17.5 km/hr for heavy vehicles

These limits are expected to roughly be the speed at which project vehicles will be traveling and these speeds are acceptable if there is no public traffic. To mitigate the impacts of this project on public traffic, it will be necessary to establish lower limits for the speed of project vehicles when they are approached, either from the front or from the behind, by public traffic.

Given the lack of data provided by Imperial, it is not possible to determine the impact that these lower speed limits will have on Imperial's operations but the impact is not expected to be significant given that the Average Annual Daily Total (AADT) of public traffic is only 50-60 vehicles per day on Highway #1 and likely significantly lower on the two winter roads.

Recommendations

The DAS is recommending that the following measure be applied by the Review Board:

- 1) At the first safe opportunity to do so, project vehicles will slow to 40 km/hr on Highway #1 when approached from the front or from the behind by public traffic. On the winter roads, project vehicles will come to a complete stop. Once the public traffic has safely passed, the project vehicles may resume their normal speeds.

The DAS might have additional recommendations to make on this matter. The DAS wants to review the IR response that will be provided by the GNWT's Department of Transportation and might alter or add to this recommendation as required.

3.8.2 Impacts on Public Roads

The DAS's primary concern on this topic is damage that this project will cause to the Trout Lake Winter Road and resulting secondary impacts upon both the traveling public and on the Sambaa K'e Development Corporation.

In responding to IR 2.10(a), Imperial Oil acknowledges the potential for this project to damage the winter road when it states:

"Imperial understands that there might be two levels of maintenance programs by the Government of the Northwest Territories – Department of transportation. One will be normal maintenance and the other might address maintenance resulting from additional use of the Winter Road as a result of Program activities." (emphasis added)

The people living in Trout Lake require that this road be maintained in a safe, operational state. The winter road season is short enough without having additional closure due to

repairs required from this project. As well, the Sambaa K'e Development Corporation has a fixed value contract with the Department of Transportation to maintain the winter road. The SKDB is concerned that the Development Corporation will be forced to absorb the costs associated with additional maintenance due to this project.

In its response to IR 2.10(b), the GNWT states that: "Maintenance costs to the Sambaa K'e Development Corporation are not expected to rise...". Given that Imperial Oil expects that there will be additional maintenance, the SKDB fails to see the GNWT's rationale for its statement and will be seeking additional information at the public hearings. This issue was extensively discussed at the public hearings in Trout Lake and Fort Simpson, resulting in an information request being issued to the DOT. The DOT has not yet provided their response to that IR.

As well as the potential damage to public roads, the DAS is also concerned about the potential for significant environmental impacts in the event that a fuel tanker was to have an accident. The DAS is particularly concerned about this potential on the narrow winter roads. Imperial Oil has proposed measures to reduce the likelihood of such an occurrence and does have some capability to respond but the DAS believes that the most effective measure to prevent such an incident would be strict enforcement of the large vehicle speed limit of 17.5 km/hr on the winter roads. The DAS suggests that drivers found exceeding the speed limit should be firmly dealt with, up to and including the imposition of fines or dismissal from the project.

Recommendations

The DAS will not be making its final recommendations on this issue until after it has considered the IR response that will be provided by the GNWT's DOT.

3.9 2003 Summer Reconnaissance Program

Members of the Jean Marie River First Nation were not involved in the 2003 summer reconnaissance program. When questioned on this lack of community involvement in IR 2.4, Imperial Oil responded to IR 2.4 (a) by stating:

"The Band Council of Jean Marie River was offered the opportunity to participate in the 2003 summer reconnaissance work used for planning the program. They chose not to participate in the 2003 summer reconnaissance work."

Imperial also stated in its response to IR 2.4(b):

"As mentioned in the response to IR 2.4A, the Jean Marie River First Nation was offered the opportunity to participate in the selection of sites and access routes in their traditional land use area. As well, information regarding Imperial's selection of the sites and access routes was offered to the Jean Marie River First Nation. The Jean Marie River First Nation chose not to receive this information."

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As read, the responses from Imperial Oil create the impression that the JMRFN has been unreasonable and refused to be consulted on this project. These impressions are incorrect and it is important to correct the record for the sake of the Review Board's understanding of the situation.

Although what Imperial wrote in response to the IRs is technically correct, these responses do not provide the full context of the situation. The use of foul language by industry representatives will not be tolerated under any circumstances, even if industry is not getting the response it is wanting from the community. Imperial Oil must at all times be respectful of the JMR Chief and any other member of the community.

The JMRFN was fully justified in its position to refuse to participate in the summer reconnaissance program. Since that time both the community and Imperial have worked to improve the relationship and both parties are now working on a TK study in the community. The JMRFN want to continue to improve its relationship with Imperial Oil and do not want to dwell on this unfortunate incident.

However, due to the lack of involvement by JMRFN in the summer reconnaissance program and the fact that the JMRFN TK study has not yet been completed, it is necessary that if one or more of the proposed project locations are unacceptable to the community, that there be a requirement for Imperial Oil to alter its project plans. This matter was discussed previously in the Traditional Knowledge section.

Recommendations

No specific recommendations are required as this matter was already addressed in the recommendations in the Traditional Knowledge section of this report.

4 Recommendations Summary

The DAS is recommending that the following measures be applied by the Review Board:

- 1) Imperial Oil must negotiate and conclude an Access and Benefits Agreement with the DAS prior to any authorizations being issued by the MVLWB to Imperial for this project.
- 2) Imperial Oil must negotiate and conclude a Harvester Compensation Agreement with the DAS, or the individual DAS member communities, prior to any authorizations being issued by the MVLWB to Imperial for this project. The scope of the agreement(s) is to include compensation for resource harvesting activity losses, both direct and indirect, resulting from the development such as for hunting, trapping, fishing and other traditional activities as agreed to by Imperial and the DAS. This agreement will include compensation for the project disturbing wildlife and resulting in unsuccessful harvesting trips. The harvester compensation agreement is to be completed as part of the Access and Benefits Agreement (ABA) negotiations.
- 3) The Blackwater River camp is to be deleted from the project.
- 4) Borrow sites 9.038PA, 9.038PB, 9.091P, 9.044PA, 9.044PB and 10.001P are to be deleted from the project.
- 5) The investigation at the proposed Blackwater River pipeline crossing be permitted as long as no new access is created and there is no drilling in the river.
- 6) The Willowlake River camp is acceptable only at the old bridge construction site with no new clearing activity.
- 7) Borrow site 20.025P is to be deleted from the project.
- 8) The investigation at the proposed Willowlake River pipeline crossing be permitted as long as no new access is created and there is no drilling in the river.
- 9) Imperial Oil needs to accommodate the Betsedea family in its operations including hiring a local environmental monitor, providing other employment opportunities, and delivering firewood and saw logs from project operations to the community members. Of particular importance, the privacy of the residents must be respected and impacts upon them minimized. Special care should be taken to ensure that the settlement's access road is not damaged.
- 10) Frost Heave 17 is to be deleted from the project.
- 11) Borrow sites 10.013P, 10.014AP, 10.020P, 10.037P, 10.120P and 10.038PA are to be deleted from the project.

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- 12) Borrow sites 11.019P, 11.021P, 11.033P, 11.055PA, 11.055PB and 20.018P be permitted only on the condition that Imperial Oil has concluded a Memorandum of Understanding with the PKFN. If there is no MOU, then these 6 sites should be deleted.
- 13) The Smith Creek pipeline crossing investigation site is to be deleted from the project.
- 14) The River Between Two Mountains pipeline crossing investigation site is only acceptable if no new access is created and if there is no drilling in the river.
- 15) A member of the Ka'a'Gee Tu First Nation is to be hired as an Environmental Monitor for all work in the Kakisa River watershed.
- 16) Imperial Oil is to fund a study and work with the Ka'a'Gee Tu to research and document the existing baseline environmental conditions in this portion of the Kakisa River watershed.
- 17) Imperial Oil is not to do any work on this project that violates the recommendations that will be made in the unfinished TK studies by LKFN, FSML, PKFN, JMRFN and KTFN.
- 18) The mandate of the Deh Cho Boreal Caribou Working Group is to be expanded to include moose.
- 19) The mandate of the Deh Cho Boreal Caribou Working Group is to be expanded to include an area roughly centered on the proposed pipeline corridor from the Sahtu border in the north to the Alberta border in the south. The DCBCWG will develop a Boreal Caribou Management Plan specifically for this area. The DCBCWG will jointly report to the Deh Cho Land Use Planning Commission and the GNWT in completing its work.
- 20) Imperial Oil and/or the federal government must ensure that adequate resources are provided to the communities to properly train some community people for job opportunities as environmental monitors for this project.
- 21) In the cleared areas, Imperial Oil will 1) plant young trees (at least a couple of meters high) or 2) use the trees that it cuts down to create tripods. Imperial is to create these barriers to access at sufficiently close distances to prevent a helicopter from landing in the clearings.
- 22) Imperial shall use proper timber cutting equipment, not cat clearing, to reduce timber damage and increase salvageable timber.
- 23) Imperial shall deliver cleared timber that is not used for project operations to the nearest community for use as firewood or saw logs.

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- 24) At the first safe opportunity to do so, project vehicles will slow to 40 km/hr on Highway #1 when approached from the front or from the behind by public traffic. On the winter roads, project vehicles will come to a complete stop. Once the public traffic has safely passed, the project vehicles may resume their normal speeds.

5 Conclusion

This submission from the DAS is being made on behalf of all 6 DAS communities, however, the Review Board needs to consider the separate presentations and submissions made by SKDB and PKFN. Not all of the positions and recommendations made by those two communities are repeated here but they are supported by the full DAS.

As well, the DAS would also like to remind the Review Board to consider the valuable input provided by Fort Simpson residents Gerry Antoine (consulting and accommodating residents in the area of the River Between Two Mountains) and Dennis Nelner (businesses opportunities and the government's role in this process).

In conclusion, below the DAS has included substantial portions of the statement made to the Review Board in Fort Simpson by LKFN Chief and DAS President Keyna Norwegian.

19 There is all kinds of concerns about the
20 proposed development, you know. Right now, this Hearing
21 is just for the winter work alone and, knowing that, and
22 then I stress to my members, though, hopefully some of
23 them had -- were able to express their concerns here
24 today on the impacts of a something as little as doing
25 winter work in our area.

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1 Knowing that winter work is ready to be -
2 - to be approached and ground breaking -- ground
3 breaking for our -- our land, it's -- it's scary, you
4 know. Like, this is -- this is it, you know.
5 You allow this to happen on our
6 traditional area without the members fully understanding
7 it or accepting it is something that's hard on myself
8 and my members.

9 For years we've been saying all along
10 that proper consultation within our First Nations people
11 is a priority and after yesterday's meeting there's
12 still a lot of confusion of what is happening to date.

13 So, my membership made it loud and clear
14 that I do not have that mandate to support this
15 pipeline. I just want to fill in a little bit in
16 regarding the Dehghah Alliance Society. It's not
17 different than the -- what the Dehcho pipeline working
18 group was doing; their mandate is for the full Dehcho
19 First Nations. We will continue to work with the past
20 and previous resolutions regarding preparing for the
21 pipeline.

22 The -- with the Dehghah Alliance Society
23 it's -- had caused some confusion that there was a
24 division in the -- in the Dehcho, but this Dehghah
25 Alliance Society was passed by the leadership and that

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1 including the communities of Hay River Reserve and Fort
2 Providence. And these other surrounding communities of
3 Nehanni Butte were in support of the Dehghah Alliance
4 Society.

5 So, we do have our leadership behind us
6 in regarding the Dehghah Alliance Society and their
7 mandate will continue to pressure for impact benefits
8 and its -- in regarding even to access benefits for the
9 winter work or any type of work that happens in the --
10 in the Dehcho.

11 We want to be fully compensated and, you
12 know, we're not talking about being compensated by beads
13 and trinkets. Let's get serious and see what it has --
14 this project can do to impact the impacts that we are
15 going to be exposed to. How is that going to be
16 mitigated between the First Nations and the proponents
17 of the gas pipeline?

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15 We offer the following recommendations
16 for your consideration; effective economic consultation
17 resulting in impact benefit agreements, engage in local
18 capacity first and work through locals.

19 You know, like, I don't believe that we,
20 as First Nations People, from this land here that you're
21 visiting can be able to sit back and allow a project of
22 this magnitude to happen without full support of the
23 First Nations and making sure that we will benefit
24 properly and adequately from this project.

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9 We sit here and talk about benefits and
10 getting the jobs and getting monetary compensation for
11 using our lands and that doesn't even start where the
12 environmental impacts of this magnitude is going to
13 happen and affects the people.

14 We've been talking all along that there
15 are people who are on the proposed pipeline right --
16 right-of-way whose lives will be disrupted by this work
17 and even during the winter work where there is families
18 that are still living alongside the pipeline whose
19 depends on the trapping and hunting of -- of that area.

20 They -- their life will be disrupted this
21 winter if this work is to proceed. The animals will be
22 scared and -- and so forth and -- and that's a known
23 fact that animals do run when they hear machineries in
24 the bush.

25 So, there are peoples' lives that will be

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1 impacted and disrupted for this winter works alone and
2 for us to proceed at -- at that rate that we've gone is
3 quiet unacceptable to us and we -- we've stated our case
4 over and over and to us it -- it seems that it hasn't
5 been going anywhere.

6 You know, like, if the Proponents are --
7 are serious about this project, I think they have to get
8 have to get serious about making sure that we, the
9 people of the Dene, are fully adequately and consulted
10 with and -- and compensated and we're not only talking
11 about the -- the jobs and getting the contracts, but
12 fully compensated and that our harvesters are taken care
13 of.

14 The Dehghah Alliance Society continued to
15 run themselves under the Dehcho's resolutions that were
16 passed in the past and will continue to -- to strive to
17 work to that and one (1) of them is definitely the --
18 the -- our environment and just making sure that's taken
19 care of and that our -- our people that still do use the
20 land, and there are people that are -- have some
21 disruption in -- in their lives from the -- the proposed
22 pipeline route.

23 And I think after a few days of doing our
24 research and realizing that there is a lot of
25 information out there that hasn't even brought to the

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1 table yet, of exactly how much peoples' lives this
2 winter work and let alone the -- the major project is
3 going to affect peoples' lives. And there are -- are a
4 lot of people out there who's very unsupportive of this
5 project today.

6 Our youth are -- are one (1) of our --
7 our tools, that we try to listen to their concerns and
8 if the message from the youth are coming that we're not
9 ready and, you know, what's the difference from now than
10 twenty (20) years ago when Thomas Berger passed through
11 here. There's no strides have been made.

12 There's no fulfilment or anything that
13 the Federal Government could have done to alleviate some
14 of these issues that Berger had put on the table. And
15 so we always say all -- all along that our leaders today
16 are more educated and more aware of the situation that
17 we're in and the politics and how we have as rights --
18 as Treaty rights is, if our Treaty rights are -- are a
19 question of us proving to the territorial -- I mean, to
20 the Federal Government that we are landowners and yet
21 the United Nations recognize the Treaty rights as a
22 governing body.

23 So, you know, like, we can take this out
24 and drag it on and prove to everybody that, yes, we as
25 Dene people of the land are -- this is our land. This

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1 is our backyard that you are crossing and proposing to
2 disrupt and I think it's time we start talking fairly
3 and adequately within each other.

4 The Dehghah Alliance funding that's been
5 proposed for the next -- this fiscal year and next
6 fiscal year, is pennies to compare to the dollars that
7 the Mackenzie Valley Boards have themselves, and also the
8 Proponents of the -- the Mackenzie Gas Project, our --
9 our money is very, very inadequate and it doesn't even
10 compare to what the budget you have, the Board has and
11 also the Proponents have and that's definitely an issue
12 that this Dehghah Alliance will continue to strive in
13 making sure that that is known out there, that it --
14 we're -- we're literally ants against giants on this
15 project and I hope today -- some day that we can all be
16 able to sit down and look at each other equally and --
17 and adequately. So, with that, Massi.