



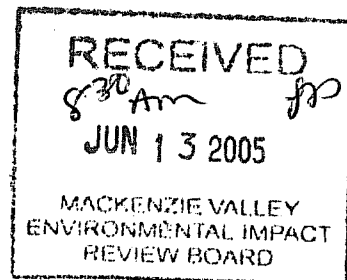
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June 3, 2005

The Honorable Andy Scott
Minister of Indian and Northern Affairs Canada
10 Wellington Street
Hull, Quebec K1A 0H4



Minister Scott,

RE: Environmental Assessment of Type A Land Use Permit Application (MV2003X0045) and Type B Water License Application (MV2003L8-0012)

On 18 February 2005, the Mackenzie Valley Environmental Impact Review Board (MVEIRB) issued its report on the Environmental Assessment of applications by Imperial Oil Resources Ventures Limited (Imperial) to conduct the 2004 Winter Field Geotechnical Investigation program - Deh Cho Region (the Program). This report, sent to yourself, related to the Type A Land Use Permit Application (MV2003X005) and Type B Water License Application (MV2003L8-0012) filed by Imperial with the Mackenzie Valley Land and Water Board (MVLWB) on 28 October 2003.

Imperial understands that a "Consult to Modify" process is being initiated with respect to the MVEIRB report. Imperial has reviewed the report carefully and would like to express its concerns with the report.

First, Imperial disagrees with the conclusion of the report as expressed in the MVEIRB decision, namely:

"It is the Review Board's opinion that without additional mitigation, the proposed development, considered as a whole, would be likely to cause significant adverse impacts on the environment."

Imperial has conducted similar programs in the past three years in the Inuvialuit Settlement Region, the Gwich'in Settlement Area, and the Sahtu Settlement Area without the need for an environmental assessment at all and without any significant adverse impacts on the environment. It is our view that the evidence considered by the MVEIRB during the environmental assessment does not support a conclusion that the program would cause significant adverse impacts on the environment.

Further, Imperial disagrees with the following statement in the report:

"The Review Board also notes flaws in the reasoning behind Imperial's methodology for wildlife impact predictions"

The methodology used by Imperial to predict wildlife impacts is scientifically sound, is supported by peer review and has been used in the environmental assessment of other major developments such as the Alliance Pipeline Project.

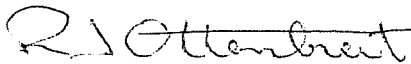
Second, Imperial has concluded that the proposed geotechnical investigation program could not be carried out if the Measures and Suggestions recommended by the MVEIRB were adopted. While Imperial supports some of the recommended Measures, other Measures would preclude executing the program because they require:

- actions by others (First Nations, territorial agencies) which are beyond Imperial's control
- actions by regulators which are outside their legislative mandates
- revisions to previous agreements between the Crown and the Deh Cho First Nations
- changes to previous agreements between Imperial and the Deh Cho First Nations regarding the basis for benefits negotiations

Finally, Imperial is concerned with the prospect of the Minister's approval of a report containing Measure #13 and Suggestions #5, #6 and #7, which if adopted, would have significant adverse impacts on the Mackenzie Gas Project.

I have attached to this letter some background material relating to our concerns along with Imperial's specific concerns with each Measure and Suggestion.

Sincerely,



R.J. Ottenbreit

Attach.

cc: Gabrielle Mackenzie-Scott, Chair,
Mackenzie Valley Environmental Impact Review Board

Background

- **Geotechnical investigation programs collect baseline engineering data (permafrost, soil conditions, sources and quality of gravel etc.) to support preliminary engineering design and regulatory applications for the Mackenzie Gas Project**
- **These programs have been proposed in the four regions and have been successfully executed in the ISR, GSA and SSA**
- **In the Deh Cho Region, the first application for a geotechnical investigation program was made to the Mackenzie Valley Land and Water Board (MVLWB) in October 2002. This application was subsequently withdrawn when Deh Cho First Nations (DCFN) indicated they would refer it to an environmental assessment**
- **Application was resubmitted October 2003 and recommended for approval by the MVLWB. Subsequently, following representation from DCFN, the MVEIRB on its own accord, ordered an environmental assessment in February 2004 citing “public concerns”**
- **Public hearings were held in December 2004 and the MVEIRB issued its report to the Minister of INAC on 18 February 2005**
- **Consult to Modify process is initiated**

Chronology of Regulatory Consideration

- 2002 July
 - Consultation activity begins with Deh Cho First Nations
- 2002 September
 - Draft application review with MVLWB
 - Consultation attempts continue with DCFN *[DCFN reluctant to engage in discussions]*
- 2002 November 19
 - Application filed with MVLWB
- 2003 February
 - 80 IR responses filed with MVLWB *[many relate to MGP or Deh Cho Process matters]*
 - DCFN leaders indicate intention to refer development to Environmental Assessment if benefits agreement not signed
- 2003 March
 - Imperial withdraws application *[unwilling to embark on EA; time window for program missed]*
- 2003 March through 2003 August
 - Imperial continues attempts to engage DCFN in consultation and in benefits discussions *[DCFN and individual First Nations communities reluctant to engage]*
- 2003 September
 - Revised draft application reviewed with MVLWB *[minor additions to 2002 application]*
 - Consultation attempts continue *[DCFN evaluates consultation unit through Pipeline Working Group]*
- 2003 October 28
 - Revised application filed with MVLWB
- 2003 October through 2004 January
 - Additional 30 IR responses filed with MVLWB *[many relating to MGP or Deh Cho Process matters]*

Chronology of Regulatory Consideration (cont'd)

- 2004 January
- MVLWB recommends that development be approved and forwards recommendation to MVEIRB
 - DCFN attempts to have development referred for environmental assessment
 - MVEIRB rules that DCFN is not a First Nations government as defined in MVRMA
- 12 February 2004
- MVEIRB decides to conduct an environmental assessment on its own motion [*citing public concern*]
- 2004 February through 2004 November
- MVEIRB conducts pre-hearing process
 - Imperial submits Developer's Assessment Report (DAR)
 - Imperial files 45 multi-part IR responses with MVEIRB relating to the DAR
- 30 November 2004
- Public hearings in Trout Lake
- 1 December 2004
- Public hearings in Wrigley
- 2 December 2004
- Public hearings in Fort Simpson
- 18 February 2005
- MVEIRB issues report to INAC minister
- June 2005
- Report with INAC Minister [*Consult to modify process initiated*]

MVEIRB Report

Decision:

“It is the Review Board’s opinion that without additional mitigation, the proposed development, considered as a whole, would be likely to cause significant adverse impacts on the environment. In order to prevent these significant adverse impacts, the Review Board has recommended a number of measures in this report.”

The Decision includes:

- 15 recommended Measures
- 11 Suggestions [including 3 directed to the Joint Review Panel for the Mackenzie Gas Project]
- 65 commitments made by Imperial during the regulatory consideration of the applications
- 1 commitment made by GNWT Dept. of Transportation during the public hearings

Imperial's Comments on Measures

Measure 1

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

Imperial Position

Imperial disagrees with the contention that significant adverse environmental impacts would occur, but does agree with the recommended measure.

Measure 2

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

Imperial Position

Imperial cannot change the physical locations where gravel has been deposited. The objective of the Program is to find and delineate potential gravel sources. If Imperial had been aware of alternate sites in proximity to the proposed pipeline route, applications for investigations at these sites would have been included in the original filing.

The proposed routing for the subsequent Mackenzie Gas Pipeline is already at the extreme eastern edge of the corridor identified in the Deh Cho Interim Land Withdrawal Agreement.

Imperial's Comments on Measures

Measure 3

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

Imperial Position

The implementation of this measure is not within the control of Imperial.

Measure 4

In order to prevent a significant adverse social impact on the community of Trout Lake due to traffic safety risks arising from the Imperial Deh Cho Geotechnical Program, Imperial must meet with the SKFN and discuss the specific techniques Imperial will use to inform and warn community road users of industrial traffic. Based on this meeting, Imperial shall implement appropriate methods which will, at a minimum, include small advance vehicles with signage and flags and warning the community road users of the time periods of major industrial road usage. This meeting shall occur prior to work beginning in areas where the Trout Lake winter road is utilized by Imperial employees and/or contractors.

Imperial Position

Agree. This is a normal procedure implemented by Imperial and its lead contractor ColtKBR during geotechnical investigation programs in other regions.

Imperial's Comments on Measures

Measure 5

In order to prevent significant adverse social impact on road users in the Deh Cho region resulting from increased risks when sharing roads with industrial traffic, the MVLWB shall, prior to the issuance of any land use permits for the Imperial Deh Cho Geotechnical Program, require Imperial to submit a detailed policy requiring that heavy vehicles supporting the Imperial Deh Cho Geotechnical Program yield to public traffic, where safe to do so, on Highway 1 and the Highway 1 winter-road. Imperial shall ensure that the terms and conditions in any contracts let for the Imperial Deh Cho Geotechnical Program make compliance with this policy mandatory.

Imperial Position

Agree. This is the documentation of a normal procedure implemented by Imperial and its lead contractor ColtKBR during geotechnical investigation programs in other regions.

Measure 6

The MVLWB must not issue permits or licenses for the Imperial Deh Cho Geotechnical Program until receiving a letter from Imperial making a commitment to fund the Pehdzeh Ki First Nation and the Sambaa K'e First Nation to hire their own Community Environmental Monitors. The letter must also include the following additional commitments:

- 1. This program will be similar to that conducted by Imperial in the Gwich'in Settlement Area, and set out similar roles, training and involvement for the Community Environmental Monitors; and*
- 2. This program will include funding for a minimum of ten days of field observation by the Community Environmental Monitors, to determine existing biophysical conditions, in advance of the geotechnical program.*
- 3. Any reports of findings from advanced field observations by Community Environmental Monitors will be considered by Imperial in the planning and management of the subsequent geotechnical work.*

Imperial Position

Agree, although Imperial questions the value of the proposed ten days of additional monitoring.

Imperial's Comments on Measures

Measure 7

In order to prevent significant adverse cumulative impacts on boreal (woodland) caribou from the Imperial Deh Cho Geotechnical Program in combination with reasonably foreseeable future developments, the range area of boreal caribou examined by the Deh Cho Boreal Caribou Working Group (DCBCWG)²⁴ is to be expanded by RWED to include an area, to be determined by the DCBCWG, centered on the route of the Imperial Deh Cho Geotechnical Program (and proposed Mackenzie Gas Project corridor) from the Sahtu Settlement Area's boundary in the north to the Alberta border in the south. The DCBCWG will develop a Boreal Caribou Management Plan for this same area within 18 months of the acceptance of this Report of Environmental Assessment by the federal minister.

(²⁴ This refers to the Deh Cho Boreal Caribou Working Group as described in the recommendation submitted to the Minister of DIAND by the Review Board in its Report of Environmental Assessment and reasons for decision on the Paramount Resources Ltd. Cameron Hills Expansion Project, June 1, 2004).

Imperial Position

The implementation of this measure is not within the control of Imperial.

Measure 8

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

Imperial Position

The implementation of this measure is not within the control of Imperial. Further, Imperial questions the need a Moose Management Plan.

Imperial's Comments on Measures

Measure 9

In order to prevent significant adverse environmental impacts, the MVLWB shall, prior to the issuance of any land use permits for the Imperial Deh Cho Geotechnical Program, require Imperial to submit a detailed policy requiring its contractors and personnel to minimize disturbance to wildlife from aircraft overflights related to the Imperial Deh Cho Geotechnical Program. This policy shall be developed in consultation with the affected first nation communities, and details of the final policy shall be released to the affected first nation communities. Imperial shall ensure that any contracts let for air transportation include the terms and conditions of this policy.

Imperial Position

Agree. However implementation requires collaboration by First Nations, which Imperial cannot control.

Measure 10

In order to prevent significant adverse cumulative economic and social impacts on communities in the Deh Cho region related to the Imperial Deh Cho Geotechnical Program and reasonably foreseeable future developments along the proposed Mackenzie Gas Project pipeline corridor, the DAS and Imperial must present the MVLWB with evidence of progress towards Access and Benefit Agreements between Imperial and the five DAS member communities affected by the Imperial Deh Cho Geotechnical Program, before Imperial receives any licenses and permits. In the case of a disagreement, whether such progress has been made is to be determined by INAC.

Imperial Position

Imperial is unaware of the legal basis for requiring an Access Agreement with First Nations in the Deh Cho region. Such a requirement is inconsistent with the May 2003 Interim Measures Agreement signed by Deh Cho First Nations, the federal government and the territorial government. Further, Imperial is unaware of the legal basis that would provide for the Mackenzie Valley Land and Water Board to assess evidence of progress towards Access and Benefits Agreements.

Imperial's Comments on Measures

Measure 11

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

Imperial Position

Agree. This is a normal procedure implemented by Imperial and its lead contractor ColitKBR during geotechnical investigation programs in other regions.

Measure 12

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

Imperial Position

Agree.

Measure 13

In order to prevent significant adverse social and cultural impacts on the people of the Pehdzeh Ki First Nation, no land use activities for geotechnical sites within 3 km of either bank of the Blackwater River and within 15 linear kilometers upstream (east) of where the Blackwater River meets the Highway 1 winter road are to be authorized by the MVLWB. The sole exception to this is the proposed Blackwater River pipeline crossing site, which may only be investigated without new access.

Imperial Position

This measure, if implemented, would be a major revision to the Deh Cho Interim Land Withdrawal Agreement between Canada and the Deh Cho First Nation. The implications of implementing this measure and the precedent it would establish for ad hoc revisions, would have serious consequences for the subsequent Mackenzie Gas Project.

Imperial's Comments on Measures

Measure 14

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

Imperial Position
Agree.

Measure 15

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

Imperial Position
Agree.

Imperial's Comments on Suggestions

Suggestion 1

The Joint Review Panel for the Mackenzie Gas Project should take careful note of the high cultural, spiritual, social and ecological importance of the K'eotsee Lake watershed when assessing the Mackenzie Gas Project, including the conditions that the SKFN set out for borrow pit development in the K'eotsee Lake watershed.

Imperial Position

This relates to the Mackenzie Gas Project rather than the geotechnical investigation program considered by the MVEIRB

Suggestion 2

The Samba K'e First Nation (SKFN) should, when choosing Community Environmental Monitors for parts of the Imperial Deh Cho Geotechnical Program in areas traditionally used by both the SKFN and the Ka'a'Gee Tu First Nation (KGTFN), strive to hire an individual (or individuals) also acceptable to the KGTFN.

Imperial Position

Imperial has no control over implementation of this suggestion. Implementation of this suggestion could cause additional delays.

Suggestion 3

Imperial should consider funding the hiring of Community Environmental Monitors by each of the four other affected first nation/aboriginal groups (the Ka'a'Gee Tu First Nation, the Liidlii Kue First Nation, the Jean Marie River First Nation, and the Metis Nation Local 53), for the geotechnical work to be done in their respective areas.

Imperial Position

Imperial agrees with the principle of hiring local environmental monitors. However, Imperial observes that some of the First Nations listed in this suggestion do not agree on the boundaries of "their respective areas" and implementation would be difficult.

Imperial's Comments on Suggestions

Suggestion 4

To ensure that there is opportunity for Traditional Knowledge studies from the Liidlii Kue First Nation, the Metis Nation Local 52, the Pehdzeh Ki First Nation, the Jean Marie River First Nation and the Ka'a'Gee Tu First Nation to influence development design and planning, Imperial should meet with each of these organizations to discuss how to incorporate results of completed Traditional Knowledge studies into the design of the Imperial Deh Cho Geotechnical Program.

Imperial Position

Agree. However, implementation requires collaboration by First Nations, which Imperial cannot control.

Suggestion 5

Imperial should, in order to promote business development among first nation communities along the Mackenzie Gas Project corridor, make public the weighting scheme for the criteria used in evaluating contract bids for the Imperial Deh Cho Geotechnical Program.

Imperial Position

Imperial has disclosed the criteria and has assisted northern businesses in understanding this criteria. However, Imperial regards the weighting scheme as commercially private information.

Suggestion 6

Imperial and both the federal and territorial governments should make efforts to assist first nation communities affected by the Imperial Deh Cho Geotechnical Program and the proposed Mackenzie Gas Project to maximize economic benefits and minimize social and cultural impacts of Imperial's developments in the pipeline corridor region of the Deh Cho.

Imperial Position

Parts of this Suggestion relate to the Mackenzie Gas Project rather than the proposed geotechnical investigation program. For the geotechnical program and the Mackenzie Gas Project, Imperial has, and will continue to make efforts to provide economic benefits and reduce social and cultural impacts in the pipeline corridor.

Imperial's Comments on Suggestions

Suggestion 7

The Joint Review Panel of the Mackenzie Gas Project should consider carefully the issue of whether developer-first nation relationships would be enhanced by agreements defining access rights and benefit distribution and whether such agreements should be required for the Mackenzie Gas Project with all affected first nation communities throughout the Mackenzie Valley.

Imperial Position

This suggestion relates to the Mackenzie Gas Project rather than the proposed geotechnical investigation program considered by the MVEIRB.

Suggestion 8

The Joint Review Panel of the Mackenzie Gas Project should review and carefully consider the social, cultural and ecological importance of the Blackwater River area when assessing the Mackenzie Gas Project.

Imperial Position

This suggestion relates to the Mackenzie Gas Project rather than the proposed geotechnical investigation program considered by the MVEIRB.

Suggestion 9

Imperial should post notices of activity in visible locations in Tulita two weeks prior to work in areas of the program to the north of the Blackwater River, and distribute the same notice to the Tulita Renewable Resource Council. This will enable harvesters from Tulita to focus their efforts in other locations while temporary disturbances from the geotechnical program are affecting wildlife in a given location.

Imperial Position

Agree. This is a normal procedure implemented by Imperial and its lead contractor ColtKBR during geotechnical investigation programs in other regions.

Imperial's Comments on Suggestions

Suggestion 10

Imperial should ensure that the Willowlake River settlement's access road is not damaged by its activities during the Imperial Deh Cho Geotechnical Program.

Imperial Position
Agree.

Suggestion 11

Imperial should, at the end of the Deh Cho Geotechnical Program, prepare a report outlining the implementation status of each of its commitments so that regulatory authorities and parties to this EA can evaluate the effectiveness of these commitments from an impact mitigation standpoint.

Imperial Position

Permits and licenses already require the filing of post-development reports, which are available to northern communities. Imperial does not support the preparation of additional redundant reports.