

Indian and Northern
Affairs CanadaAffaires indiennes
et du Nord Canada

Environment & Conservation
Box 1500
YELLOWKNIFE NT X1A 2R3

November 5, 2004

DIAND File Number: 7392-7-J1
MVEIRB File Number: 03-009

Alan Ehrlich
Senior Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
P.O. BOX 938
YELLOWKNIFE NT X1A 2N7

BY FAX: 766-7074

**Re: DIAND Response to Round Two Information Requests Concerning the
Environmental Assessment of the Imperial Oil Resources Ventures Ltd.
Deh Cho Geotechnical Program**

Dear Mr. Ehrlich:

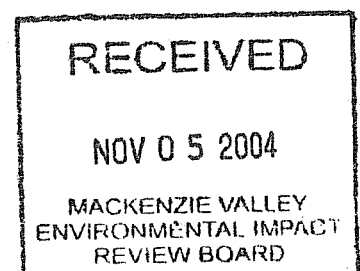
Enclosed please find DIAND's responses to Information Requests #1 and #3, as issued by the Mackenzie Valley Environmental Impact Review Board October 26, 2004.

Please note that paper copies of the requested inspection reports have been hand-delivered to your office.

If you have any questions about these responses, please contact Lorraine Seale by phone at 669-2590 or via email at sealel@inac-ainc.gc.ca.

Yours sincerely,

DL David Livingstone
Director, Renewable Resources and Environment



**Responses to Round Two Information Requests
Imperial Deh Cho Geotechnical Program
Environmental Assessment 03-009**

IR #1 - TO: INDIAN AND NORTHERN AFFAIRS

**REFERENCE: ToR Section B-1 Developer Profile
DAR Section 1.4 Developer's Profile**

PREAMBLE:

In Section 1.4, Imperial Oil states it has successfully completed similar geotechnical investigation programs in other northern regions in a safe and environmentally sensitive manner. These other programs include projects in the Inuvialuit, Gwich'in and Sahtu land claim areas during the winters of 2003 and 2004.

INAC and the NEB both have responsibilities for inspecting oil and gas projects such as those noted above and should have inspection reports available.

REQUEST: Please provide the following information.

- a) *Copies of all inspection reports resulting from Imperial Oil's 2003 and 2004 winter geotechnical projects in the Inuvialuit, Sahtu and Gwich'in land claim areas. Highlight any problems, concerns or infractions.*

DIAND Response:

Each of the above-noted projects was inspected on several occasions by staff from DIAND's North Mackenzie District. Copies of those inspection reports have been hand-delivered to the Review Board's office. Please note that in the Inuvialuit Settlement Region, DIAND inspected only those portions of the project located on Crown land.

Concerns noted during these inspections were as follows:

Inuvialuit Settlement Region: Land Use Permit N2002S0041

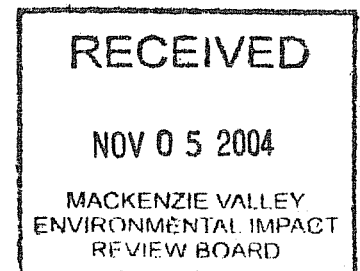
June 13, 2003 - no concerns highlighted
April 10, 2003 - no concerns highlighted
April 2, 2003 - see explanatory remark in relation to condition K
March 24, 2003 - see explanatory remark in relation to condition D
March 18, 2003 - see explanatory notes in relation to conditions D and K

Sahtu Settlement Area: Land Use Permit S03S - 009

June 30, 2004 - see note in relation to condition N
March 29, 2004 - see comments xii, xvi, xix, xviii, xix, and xxiv
March 8, 2004 - see comment i
March 4, 2004 - see comments ii, v, and viii
February 25, 2004 - see comments i and ii
February 7, 2004 - no concerns highlighted

Gwich'in Settlement Area: Land Use Permit G03S003

July 30, 2004 - no concerns highlighted
June 30, 2004 - see Notes 1, 2, 3, and 4
April 13, 2004 - see Notes 1, 2, 3, and 4



April 2, 2004 – See Note 1
 March 16, 2004 – See Notes 1, 2, and 3
 February 20, 2004 - See Notes 1, 2, and 3
 February 6 & 9, 2004 – See notes in relation to conditions C and D.
 April 9, 2003 - no concerns highlighted

b) *Copies of any orders or instructions that were issued to Imperial.*

DIAND Response:

Copies of any orders or instructions issued to Imperial by DIAND's North Mackenzie District Office are included in the documents provided in response to a).

c) *Identify any outstanding concerns and plans for resolving those concerns.*

DIAND Response:

DIAND's North Mackenzie District office has identified no outstanding concerns with these three projects.

d) *Assuming that Imperial Oil will receive the approvals required to proceed with the winter work in the Dehcho region, please confirm that the INAC inspectors will provide the Dehcho Pipeline Working Group and the individual Dehcho communities with copies of inspection reports, and any orders or instructions issued to Imperial, as soon as they are prepared.*

DIAND Response:

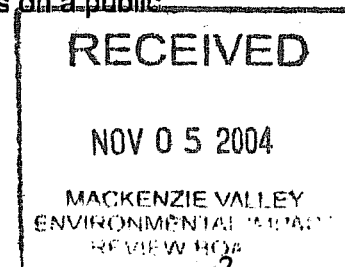
DIAND does not automatically provide copies of inspection reports, orders or instructions to third parties not responsible for ensuring compliance, enforcement or administration of legislation or authorizations which they inspect. DIAND's South Mackenzie District Office provides copies of all inspection reports, orders and instructions to the Mackenzie Valley Land and Water Board, which places them on a public registry.

e) *If the position taken in responding to (d) is that the INAC and NEB inspectors will not provide inspection information directly to the Dehcho PWG and the individual communities, please explain how INAC and the NEB will ensure that the PWG and individual communities will be made aware of, and kept informed on, environmental problems identified by the inspectors.*

DIAND Response:

DIAND's South Mackenzie District Office provides copies of all inspection reports, orders and instructions to the Mackenzie Valley Land and Water Board. The Mackenzie Valley Land and Water Board subsequently places these reports, orders and instructions on a public registry, which any interested party may review.

DIAND is not able to comment on NEB inspections.



Imperial Deh Cho Geotechnical Program Round Two IRs -- DIAND Response to IR#1

**Responses to Round Two Information Requests
Imperial Deh Cho Geotechnical Program
Environmental Assessment 03-009**

IR #3 - TO: INDIAN AND NORTHERN AFFAIRS

REFERENCE: *No reference*

PREAMBLE:

Government agencies that issue authorizations must discharge the Crown's fiduciary duty in an effort to justify infringement of aboriginal or treaty rights. The Supreme Court of Canada has established conditions that must be satisfied in this process such as ensuring that aboriginal people receive economic benefits from the land and resources in question and that management decisions and processes about land and resources must include significant involvement, with the bare minimum being deep and meaningful consultation.

On June 1, 2004, the Review Board issued its Report of Environmental Assessment and Reasons for Decision on the Paramount Resources Ltd. Cameron Hills Extension Project. On Page 51 of that report, the Review Board stated:

"The Review Board further acknowledges the efforts of the Deh Cho First Nation in establishing the Deh Cho First Nation Consultation Principles (Appendix D), and supports the use of these principles as guidelines to conducting meaningful consultation with Deh Cho communities."

REQUEST:

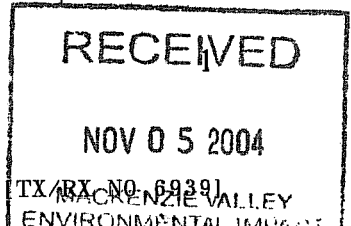
- a) *Does your organization accept that its consultation activities must abide by the Dehcho Consultation Principles?*
- b) *If yes, explain how your consultation process for this project has satisfied the requirements of the Dehcho Consultation Principles.*
- c) *If no, identify which principles your organization does not accept and explain why.*

DIAND Response:

DIAND does not consider this Information Request to be relevant to the environmental assessment of Imperial Oil Resource Ventures Limited's proposed Winter Geotechnical Program.

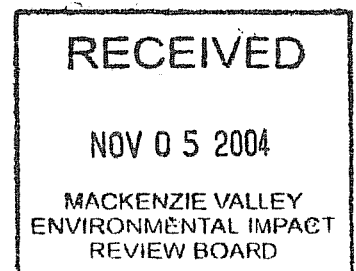
Canada maintains that consultations with Aboriginal groups are one way to help further the Crown-Aboriginal relationship and to understand and consider the concerns of Aboriginal groups. Consultation issues are in a state of flux as decisions in the cases of *Taku* and *Haida* are about to be released by the Supreme Court of Canada. The "Dehcho Consultation Principles" are one interpretation of how consultation should be undertaken. Commenting specifically on those principles is inappropriate at this time. However, the *Mackenzie Valley Resource Management Act* ("MVRMA") has established an institution of public government to undertake the environmental assessment of proposed developments. The Mackenzie Valley Environmental Impact Review Board ("Review Board") is the primary vehicle for effective environmental assessment consultation with First Nations that may be impacted by proposed developments. Pursuant to the provisions of the MVRMA, the Review Board is to

Imperial Deh Cho Geotechnical Program Round Two IRs -- DIAND Response to IR#3



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ensure that the concerns of Aboriginal people and the general public are taken into consideration during this process, including providing an opportunity for participation in the environmental assessment process.



Imperial Deh Cho Geotechnical Program Round Two IRs – DIAND Response to IR#3