IR 03-009

Mackenzie Valley Environmental Impact Review Board

Oct. 28, 2004

Chief Keyna Norwegian
Pipeline Working Group Chair
c/o Dehcho First Nations
PO Box 89
Ft. Simpson, NT
X0E 0N0

Dear Chief Norwegian,

Re: Proposed Information Requests

Thank you for your proposed Information Requests (IRs) regarding Imperial Geotechnical program in the Dehcho. The Board has issued all of your proposed IRs. However, the following three sub-points were not issued, for reasons explained below.

- IRs 1 and 3 were directed at Indian and Northern Affairs Canada (INAC), the National Energy Board and the Mackenzie Valley Land and Water Board. Of these organizations, only INAC is a registered party to this environmental assessment. The Board can only issue IRs to parties, so these IRs were only directed to INAC.
- IRs 10 and 18 asked what additional unrecoverable costs GNWT would face to maintain transportation infrastructure because of the project. Part (d) of each then went on to ask what programs GNWT will cut to cover these costs. The Board found that part (d) of these IRs was not sufficiently relevant to the EA, and issued IRs 10 and 18 without that part.
- IR 12 (d) requested calculations of stopping distances for different weights and speeds of vehicles. This part of this IR was removed because the Board found it was not sufficiently relevant to the EA.

We appreciate your participation this stage of the environmental assessment, and look forward to receiving responses to the IRs. If you have any questions, please contact Alan Ehrlich, Senior Environmental Assessment Officer, at (867) 766-7056.

Sincerely,

Mary Tapsell
Manager of Environmental Impact Assessment

Box 938, 5102-50th Avenue, Yellowknife, NT X1A 2N7 Phone: 867-766-7050 Fax: 867-766-7074 Web Site: www.mveirb.nt.ca

Dehcho First Nations
Pipeline Working Group

Oct. 29, 2004

Mackenzie Valley Environmental Impact Review Board
5102-50th Avenue
Yellowknife, NT X1A 2N7
Fax: (867) 766-7074

Attention: Mary Tapsell

Dear Ms. Tapsell:

Re: Review Board's Oct. 28th Reasons for Decision on Dehcho Pipeline Working Group Information Requests

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The Dehcho Pipeline Working Group (PWG) has reviewed the Oct. 28th Reasons for Decision and has the following questions and comments.

Refusal to Issue IRs to the NEB and the MVLWB
The Review Board states that PWG IRs 1 and 3 were only issued to INAC because it is the only registered party among the three intended recipients: INAC, the NEB and the MVLWB.

The PWG would like to remind the Review Board that in its June 14th letter, it denied party status to INAC and the other government departments on the basis that "Directly affected party status is not necessary for government departments which can participate fully in the EA because of Responsible Minister status." INAC, RWED, DFO and Environment Canada were all denied party status and were instead noted just to be Responsible Ministers.

The PWG notes that under Section 22 of the *MVRMA*, the Review Board may obtain information from the NEB and the MVLWB, both of which are an "agency of the federal government." Section 22 does not distinguish between "independent" or "non-independent" agencies.

Furthermore, Section 121 of the *MVRMA* requires that both the NEB (as the designated regulatory agency) and the MVLWB (as a regulatory authority) must make written reasons available for any decision they make under the process established by Part 5 of the *MVRMA*.

Clearly, both the NEB and the MVLWB have responsibilities under the *MVRMA* during the entire course of the EA process.

Please provide the PWG with a more substantive explanation as to why the Review Board has refused to issue IRs to the NEB and the MVLWB. The PWG will expect that the Review Board's response will provide a detailed explanation as to (1) why the Responsible Ministers and Federal Minister are subject to IRs and (2) why the Designated Regulatory Agency and a Regulatory Authority are not subject to IRs.

Relevance to the EA

The Review Board refused to issue 3 parts of the PWG's IRs because the Review Board had determined that those parts were "not sufficiently relevant to the EA."

All three of these deleted IRs were directly relevant to this EA. Two of them were necessary to gain a full and complete understanding of the potential socio-economic impacts on the region. The third was necessary to allow the PWG to develop mitigation options and to understand how those mitigation options would impact upon Imperial's operations.

In the future, it would make for a more cooperative approach if, instead of just deleting the communities' IRs, the Review Board would simply ask for some additional rationale when the Review Board does not understand the relevance of an IR to the EA.

Mahsi Cho,

Chief Keyna Norwegian, PWG Chair
Liidlii Kue First Nation

c.c. PWG Members