



Pehdzeh Ki First Nation

Box 56
Wrigley, NT X0E 1E0
Phone: 867-581-3321
Toll Free: 1-855-813-5223
Fax: 867-581-3229
Band 756

April 9, 2025

Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre, 5101 50th Ave
PO Box 938
Yellowknife, NT X1A 2N7

To the Review Board:

Re EA1213-02 – Mackenzie Valley Highway – Responses to RB Information Requests 44 & 49, and technical session map request

The Review Board requested the following information from PKFN on January 17, 2025:

IR 44: *Please provide the Board with recommendations and suggestions for how you wish to participate in wildlife co-management decisions and monitoring activities.*

IR 49:

1. *What projects has the GNWT provided funding for monitoring?*
2. *What supports are required for enhancing the effectiveness of monitoring in the region for the MVH?*

Response to Request for Visual Information in Technical Sessions

During the technical sessions, Alan Erlich requested visual information about areas relating to the Project that PKFN has already identified as high priority for protection and conservation.¹ A map is attached.

This map was compiled by the Dehcho Land Use Planning Committee in 2006. The Dehcho Land Use Plan is still in development. We do not assert that the zoning is in

¹ PR283 – Transcription: Technical Sessions Day 1 (Nov. 19, 2024), p. 146, lines 12-13.

effect. We are indicating our ongoing land management activities, our conservation goals for these areas, and that they have been consistent over time.

In *Map 1: Land Use Zones* (revised June 2, 2006), note:

- a. Conservation Zone 4, which includes protections for Ti K'ee Ti Deh (Blackwater River), Tsiah Dehé (Ochre Creek), and other watercourses;
- b. Special Management Zones 22 and 36, which indicate an area of interest for a Protected Area under the GNWT Protected Areas Strategy; and
- c. the Special Infrastructure Corridor, which encompasses the Enbridge pipeline and was contemplated for the Mackenzie Gas Project. PKFN members have explained that any further development was envisioned to take place within this corridor, which was chosen for its stability.² From PKFN's perspective, development such as the all-season highway should take place within the special corridor that Elders and knowledge-holders already identified to contain developments.

² See, for example, PR311 – Wrigley Community Session Report at pages 15, 18, and B-5.

Response to IR 49(1): *What projects has the GNWT provided funding for monitoring?*

The GNWT has hired a monitor to accompany several short-term field studies. The GNWT has not provided long-term funding for environmental monitoring or for training in non-traditional monitoring.

Responses to IR 49(2) and IR 44:

Legal Context re Monitoring and Management Decisions in PKFN Ndeh

PKFN exercises inherent rights and relies deeply on traditional harvesting. Our people have been facing many of the same colonial land issues for generations.³ We are uniquely vulnerable regarding the Project for reasons including:

1. We are not legally protected by a final agreement that sets requirements for co-management and standards for participation and benefits.
2. We have no direct representation in existing environmental co-management processes. Other than participating in federal processes under the *Mackenzie Valley Resource Management Act*, PKFN is only represented along with the other Dehcho Nations on the MVEIRB and MVLWB by the Dehcho nominees.
3. With no final agreement, we are not an ACCWM member or contributor, although the Bluenose East herd range extends into our Ndeh and our members have reported interactions with barren-ground caribou.
4. Our Elders' land management goals have been stalled by the extended Dehcho First Nations Final Agreement negotiation process, with several serious consequences for PKFN.
 - a. There is no wildlife management board in the Dehcho.
 - b. The Project's plan states that "*GNWT and co-management boards will continue to manage harvesting as "[r]esponsibility for wildlife management, including harvest management, is shared between governments, users, and renewable resources boards set up under land claim agreements*".⁴ The GNWT typically says "Indigenous governments" when referring to governments other than the GNWT and Canada. This statement makes no room for PKFN other than as "users", a category shared with the general public.
 - c. The Dehcho Land Use Plan remains in draft so zoning that reflects our goals, including conservation and special management zoning, is not in place (see attached maps).
 - d. The final agreement process has been prolonged by Canada and GNWT's refusal to recognize unceded title and inherent rights. It may not be

³ See, for example, PR283 – Transcription: Technical Sessions Day 1 (Nov. 19, 2024), p. 87, line 21.

⁴ DAR, s. 10.4.4.3.1.2, p. 10-72 or pdf p. 1290.

completed by the time the Project is underway or even in operation. In the meantime, the GNWT asserts unilateral authority to make decisions regarding and benefit from our title lands. PKFN is limited to the GNWT's "engagement", putting PKFN in a position of having to react to GNWT's proposals rather than exercise pro-active planning or decision making. We have seen, for example with the winter road bridges determining all-season routing without notice to PKFN before their installation, that GNWT's conduct makes PKFN vulnerable.

5. PKFN has never signed on to Devolution. We value the ongoing nation-to-nation relationship our ancestors entered into with the Crown via the oral agreements made as Treaty 11. We have never ceded authority to the GNWT, including land management authority. GNWT does not represent the Crown. Although legislation purports to delegate authority over our Ndeh to GNWT under the *Northwest Territories Devolution Act*,⁵ Canada has not acquired unencumbered title, and therefore could not delegate authority over the land to GNWT. The common law principle that "no one can give what they do not have" applies. GNWT's continued efforts to exercise land management authority over our Ndeh are an abrogation of our decision-making authority under the common law, the *Constitution Act 1982*, and under Article 26 of the *United Nations Declaration on the Rights of Indigenous Peoples*.
6. GNWT acts without acknowledging our legally recognized and constitutionally protected rights to govern ourselves and our lands according to our own laws and authority. Our experience of Project engagement has been extremely challenging and gives us low confidence in the proposed adaptive management and co-management processes. As two examples, please note GNWT's long-term refusal to meaningfully consider routing outside their preferred corridor, and GNWT's statement on a wildlife research permit application form that we had "been consulted" before even sending us the application and its background information.⁶
7. As discussed in the technical sessions, there are big differences between worldviews and what PKFN and the GNWT may find "reasonable" or "practical".
8. According to the GNWT, surface interim land withdrawal orders do not affect public road construction as they do not require a disposition under the *Public Highways Act*. PKFN continues to ask how GNWT purports to have received authority over lands never ceded or surrendered to the Crown.
9. As stated above, our members expected that future development would and should take place within the Special Infrastructure Corridor (see Map 1,

⁵ SC 2014, c 2.

⁶ GNWT-Infrastructure, Wildlife Research Permit Application re Mackenzie Valley Highway Winter 2025 Geotechnical Project Bear Den Survey, p. 3, signed Oct. 22, 2024 by GNWT-INF prior to sending to PKFN.

attached). They note that alternate routing near the Enbridge pipeline would travel through areas covered by subsurface withdrawals only. The proposed route, on the other hand, affects mostly areas covered by surface and subsurface withdrawals. We understand the GNWT's position that land withdrawals do not affect the Project. However, to PKFN, the differences in the land withdrawals in these areas reflect our development and conservation goals.

We respectfully suggest that it may be useful to EA discussion for the GNWT to provide a visual of land withdrawals.

10. The Project will rely heavily on future regulatory processes for completion and oversight. Current Canadian law only allows for PKFN to be consulted in these processes, rather than for us to participate directly as a decision-maker.
11. We are years if not generations away from the full implementation of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*, SNWT 2023, c 36.
12. Our community is small, which creates capacity challenges. There is an ongoing history of our members having to leave our community against their true wishes. This largely began when Canada relocated our community in 1965, but failed to provide the housing they promised at the new location. It was continued by residential schooling. Our vision is to make it possible for our members who have had to relocate for housing, work, education, and health reasons, to return home.

PFKN's History and Vision of Land Management

We have always been environmental monitors and managers, observing our Ndeh and acting to protect its health and our own. Our "data" is found in our Indigenous knowledge.

Our Elders, many of whom are no longer with us, understood our inherent rights and Dene responsibilities. They had a clear vision for our Ndeh, which we have shared throughout our involvement in, for example:

- land discussions with the Crown in the 1960s and 1970s,
- the Berger Inquiry,
- participation in the land claims process,
- the ongoing draft "Respect for the Land: The Dehcho Land Use Plan", or, "Ndéh Ts'edīichá: Dehcho Ndéh T'áh Ats'et'ī K'eh Eghálats'ênda".
- the GNWT Protected Area Strategy,
- consultation regarding the Nahanni National Park expansion, and
- the creation and ongoing guardianship of the Edézhíe Protected Area.

We continue work towards our Elders' vision. Here are some examples:

- In the absence of a final agreement and Land Use Plan, we have begun to prepare our own Land Use Plan based in our Dene laws, but this undertaking cannot be completed in time for this EA.
- We have completed a draft Engagement Policy to guide engagement regarding any proposed activities in our territory.
- We are pursuing a Guardian program under Canada's Project Finance for Permanence.
- We are working towards an Indigenous Protected and Conservation Area in our Ndeh.
- Our ancestors managed controlled burns to benefit the land and moose. Today, in the face of increasing wildfires, we act to protect our people and land.⁷

Land management must give appropriate weight and respect to Dene laws. Our laws, embodied in our people and way of life, reflect principles of sharing and putting the community and Ndeh first. Our community also values autonomy, self-reliance, and the preservation of our cultural and legal traditions to govern our lands and resources.

Project impacts on PKFN land management

We understand that the MVEIRB does not have jurisdiction to assess or validate Treaty or Aboriginal rights, including title. The Board assesses Project impacts, and how they may impact Indigenous peoples' abilities to conduct the activities that Canadian law protects as rights. We wish to make clear that, just as the Project will impact our abilities to exercise our harvesting rights, it will also have significant, long-term, irreversible adverse impacts on our abilities to conduct land management and decision-making. The Project plans do not address these impacts.

PKFN recommendations regarding land management

1. Both monitoring and management, including enforcement, must be community-driven. PKFN must be centrally involved in both harvesting management and population management.
2. PKFN requires funding and technical support to work with land users, and documented knowledge from land users who are no longer with us, to identify environmental indicators that are based in our land uses and values, before MVH construction.

⁷ Cabin Radio, "Wrigley Leaders Taking Action to Protect Community From Wildfire", July 7, 2022. Online: <https://cabinradio.ca/98664/news/dehcho/wrigley-leaders-taking-action-to-protect-community-from-wildfire/>

3. PKFN requires funding and technical support to work with land users, and documented knowledge from land users who are no longer with us, to document environmental impacts from existing developments, prior to construction. The highway is planned to bring development into our region and this information will be critical to understanding and managing cumulative impacts.
4. We seek funding, training, and skills-building support to increase our community capacity in land monitoring and management. We are confident in our ability to manage our lands. We have young people who want to take on this work, and Elders who want to pass on their teachings. These young people need training in non-traditional land monitoring and management skills. We need training opportunities that can take place within our community, and culturally competent technical experts in non-traditional monitoring and management who can work with us.
5. We seek funding and training to enable our members to conduct the following activities to steward the land through spending extended periods on the land. We plan for a combination of full-time employment and seasonal contracts. Skills development, mentorship, and activities must include:
 - In-depth, ongoing land, language, and cultural knowledge and training
 - Documenting activities and environmental and cultural values
 - Sampling and monitoring, particularly non-invasive methods
 - Mapping
 - Trail and cabin building
 - Data management, evaluation, and reporting
 - Safety training and licenses (jet boat, skidoo, first aid, etc)
 - Communications
 - Project management
 - Grant writing
 - Navigation, survival, search and rescue, and other on the land skills
 - Enforcing permit violations in coordination with permitting staff.
6. Relationship-building and education is critical. GNWT needs a better understanding of our unique situation, and of its own relationship to our people and Ndeh. We predict that very difficult conversations and decisions will be needed between PKFN and GNWT in future, especially with the accelerating impacts of climate change. If, as one example, populations decrease and a reduced harvest must be considered, we must all be prepared to address it. GNWT must be able to understand our role as decision-makers.

A positive example is the GNWT's decision to withdraw the borrow source site at Mount Gaudet from consideration for the Project, based on our explanation that PKFN cannot consent to quarrying at this sacred location.⁸

The Mount Gaudet Access Road was scoped as a capacity-building project for PKFN and we appreciate the GNWT's commitment to identifying and developing a comparable project in its place.

7. Responding to LKFN's request that GNWT partner with their Guardian program, the developer stated:

“... the GNWT is committed to working with the Łı́ıdlıı Kųę First Nation, other Indigenous governments, and specific other affected parties (such as Renewable Resources Councils) to explore opportunities for local involvement, including Indigenous Guardians, in Project-specific monitoring throughout all phases of the Project, to the extent reasonably practicable.⁹

PKFN expects to be involved in monitoring throughout all phases of the Project, beginning immediately with support to establish community-developed indicators and baseline monitoring. We remain concerned that the GNWT will solely decide what is reasonable and practicable.

8. The GNWT has stated:

Highways are the responsibility of the GNWT-INF. The GNWT and the community and/or Indigenous Governments of Wrigley, Tulita and Norman Wells will exchange land so that the segment of the planned transportation corridor to be built on lands currently owned by the community/Indigenous Governments will rest upon territorial land following the Project's construction.¹⁰

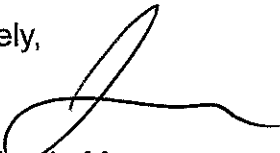
PKFN has not received any information from the GNWT about land exchange and respectfully suggests that more detail would be useful to the EA.

⁸ DAR, “Table 5.4: Proposed Primary Material Sources (Borrow Sources and Quarries) to be Used for Construction and Operations and Maintenance”, footnote 6, page 5-29. Discussed in technical sessions here: PR285 – Transcription: Technical Sessions Day 3 (Nov. 21, 2024), p. 49 line 10 – p. 51 line 10.

⁹ April 9, 2025, GNWT response to R2-LKFN-09.

¹⁰ DAR, s. 9.9.2.1.1, “Construction”, at p. 9-204.

Sincerely,

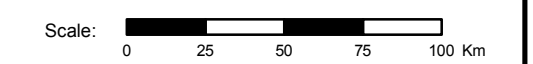
A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line that tapers to the right.

Chief Jamie Moses

Map 1
Land Use Zones

NOTE: Existing uses present on the day prior to Plan approval are not subject to the Plan.

- Legend**
- Edézhzié Protected Areas Strategy Zone (12.0% of Plan Area)
 - Conservation Zone (38.3% of Plan Area)
 - Special Management Zone (28.9% of Plan Area)
 - Special Infrastructure Corridor
 - General Use Zone (20.8% of Plan Area)
 - Land Use Zone Number
 - Community Boundary
 - National Park / Park Reserve
 - Government Protected Area Initiative
PAS / Nahanni Park Expansion
 - Proposed Oil and Gas Rights Issuance Area
(Shown for illustrative purposes only)
 - Plan Area
 - Interim Measures Agreement Boundary
 - Provincial / Territorial Boundary
 - Domestic Fishing Area
 - Proposed Mackenzie Gas Pipeline
 - Existing Pipeline
 - Road, All Weather
 - Road, Winter Access Only
 - Road, Historic Winter
 - Trail
 - Community



Projection: Lambert Conformal Conic
Central Meridian 122°W, Reference Latitude 60°N
Standard Parallels at 60°N and 65°N

Compiled by: Dehcho Land Use Planning Committee
June 03, 2006

Land Use Zones Revised: June 02, 2006

