



Pehdzeh Ki First Nation

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April 16, 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 EA12013-02 – PKFN Indigenous knowledge, concerns, and recommendations re moose and caribou

I write to provide more information about moose, caribou, and our relationships with them, relating to the Project.

Moose, boreal caribou, and barren-ground caribou are essential for PKFN and our Ndeh. They are vital for our physical, cultural, economic, social, and spiritual wellbeing. We want them to thrive.

In our view, Project data gaps and definitions have led to incorrect conclusions, inadequate mitigation measures, and lack of accommodation regarding moose, caribou, and their critical habitat, explained below.

We also expect that the Project and its impacts on moose and caribou are highly likely to cause significant adverse impacts on our community, also explained below.

1. Confidential submissions include knowledge relating to moose and caribou

The Review Board has agreed to accept documents sharing sensitive knowledge in confidence. Summaries will be posted to the Public Registry. Our confidential submission "3: Moose & Caribou" provides visual and written information about moose and caribou land uses, and our members' land uses, within the proposed corridor and borrow sources areas. Our confidential submission "1: Watercrossing Areas" includes

written information from land users about moose and caribou habits; habitat; harvesting; and significance to our members and to our abilities to exercise our Aboriginal and Treaty rights. Summaries will be provided for the Registry.

2. Detailed Biophysical Data re Locations of Concern

Due to capacity constraints, we are not yet able to provide detailed biophysical data regarding the significant pastures, calving areas, watercrossing areas, and wildlife corridors in the Project Area and LAA. Our land users are deeply knowledgeable about these areas. We asked to invite the Review Board's moose and caribou expert, John Nishi, to Pehdzeh Ki to show him the locations of concern, but were advised it was not suitable. We welcome any questions that the Board may have.

3. PKFN Knowledge about Moose and Caribou in Project Area and Local Assessment Areas

The proposed route passes directly through key moose and caribou habitat that includes wetlands, pastures, calving areas, mineral licks, and salty water sources that are essential for antler health.

Watercrossing areas on the proposed route include pastures and calving areas for moose and boreal caribou. The winter road is already too close to them, which distresses our members. The moose and caribou must have peace in the summer to build up their strength to survive winter and calving.

The proposed route also crosses significant moose and caribou corridors. Moose and caribou rely on them to access the Dehcho and other watercourses. They use these areas for travel, feeding, and shelter from bugs.

These vulnerable low-lying pasture and calving areas and corridors are one of the main reasons that we call for a more inland route. A more inland, elevated route would impact fewer pastures, calving areas, corridors, and salty water sources and allow moose and caribou to continue their preferred movements.

4. Winter road impacts missing from DAR analysis

- a. Our members report winter road and watercrossing impacts that are missing from the DAR analysis. We have observed decreased moose and caribou presence and movement along the winter road and near its watercrossings. The permanent bridges loudly expand and contract with changing temperatures and scare away moose and caribou, especially near Vermillion Creek South Bridge and Dam Creek Bridge.
- b. We observe serious ground stability problems along the winter road, particularly near watercourses. These are not surprising due to the low-lying wetlands. An

all-season road will exacerbate these problems and/or, efforts to overcome them will further alter the watercrossing areas and increase moose and caribou avoidance.

- c. Without a detailed understanding of the winter road and watercrossings' impacts on our cultural uses, the cumulative effects of an all-season road cannot be understood.

5. PDR Moose Pasture Data Issue

PKFN has questions about how Dessau mapped moose pasture data for the 2012 PDR. Dessau did not make a comprehensive study of moose pastures but did note some knowledge shared by our members. We question why Dessau mapped the areas mentioned by members as circular polygons or even points rather than detailed polygons. This approach under-represents the pasture areas.

6. DAR Data and Route Concerns

- a. PKFN questions the GNWT's prediction that barren-ground caribou will not interact with the proposed Project and can be excluded from the residual effects assessment. Our confidential submission "2:Land Use and Occupancy" indicates our interaction with barren-ground caribou in the Project and Local Assessment Areas. A comprehensive study of our current land users is needed to meaningfully address this data gap.
- b. PKFN is seriously concerned that the DAR underestimates the consequences of opening access to critical moose and caribou habitat, via the highway, from the winter road season to all-season. More understanding of seasonality, for species, Indigenous harvesting, and visitor behaviour, is needed.
- c. During the technical sessions, the developer stated that 8 "optimizations" from the 2012 PDR were incorporated into the proposed route.¹ We reiterate that all of them fail to protect critical moose habitat and hunting areas between Strawberry Creek and Dam Creek. GNWT's refusal to consider routing outside the 1 km corridor meant that no alternatives could be explored that would not cross this ground. PKFN continues to request that the all-season highway not cross this area.

7. Proposed Route and Borrow Source Sites Impacts on Moose and Caribou

¹ PR285, Transcript of Technical Sessions, Day 3, pages 47-48, lines 27-8, and page 148, lines 10-25.

Based on our experience, our knowledge holders and harvesters predict that it is highly likely that the all-season highway and borrow source sites, as planned, will significantly negatively alter moose and caribou movement and health.

These changes will be caused by the change from winter to all-season sensory disturbance and human presence in the PDA and LAA. We have already observed decreased moose and caribou presence at watercrossings and along watercourses in the PDA and LAA, including along the Dehcho, following permanent bridge constructions. All-season road construction, and then traffic and visitors travelling too close to pastures, calving areas, and corridors during operation, will add year-round stress to populations.

We expect avoidance to increase, including animals avoiding crossing the all-season road, and avoiding their watercourse corridors. We expect that animals being unable to access their preferred habitat will negatively affect their health.

We also predict that the road's construction and use, and borrow source access and use, will exacerbate ground changes that will affect moose and caribou habitat. These changes are coming from the existing winter road and climate change and are observed to be accelerating. Given long timeline for construction and indefinite operation, we predict climate change will cause even more ground changes before construction and operation.

Our knowledge-holders also predict a high likelihood of increased harvest pressure on moose and caribou through increased access and overharvesting, and a high likelihood of direct mortality due to collision with vehicles. In our experience, vehicles, including heavy vehicles, regularly exceed speed limits on the winter road and we expect speeding to be easier and even more common on the all-season road. It is concerning that the developer has no data on winter road collisions.

Our members are familiar with the winter road route in all seasons and have described the current ground stability issues. We are certain these problems will increase with all-season use and advancing climate change. Our knowledge-holders identified high slide risks near sensitive pastures and habitat.

8. Interconnected impacts (residual and cumulative) on moose, caribou, and PKFN

Our way of life is interconnected with the moose and caribou. The lands alongside the Dehcho, and the waterways that feed into it, are critically important to our members just as they are to the moose and caribou. Healthy shorelines and waterways are vital to their health and to our physical, cultural, social, and spiritual health. Our confidential submission 3: Moose & Caribou" shows a minimum concentration of moose, barren-

ground caribou, and boreal caribou harvesting sites affected by the proposed route and borrow source sites. We expect accelerating climate change impacts, such as wildfires and declining water levels, to add further stress and harm to moose and caribou populations and habitat.

The all-season road construction and operation on the proposed route will interfere with our abilities to harvest moose and caribou. As described above, our land users have stated that for public safety they will not be able to hunt near the all-season highway. And, our knowledge-holders expect that the all-season road will increase the moose and caribou decline near the Dehcho. Both will make it more difficult for our members to access hunting opportunities because they will have to travel farther, taking more time away from home responsibilities and other work, and costing more for fuel. Our members already report that they cannot afford to hunt in the RAA.

We expect these problems to increase food insecurity in our community. We predict these impacts to be significant because our members are already under significant economic and food security stress. Any reduction in easily accessible local harvesting in the Project Area and Local Assessment Area will be intolerable. There is no reason to expect food costs to decrease in future and we have seen our already-high reliance on country foods increase even further in recent years. It is dangerous for our community for harvesting to become more difficult while we increasingly depend upon it.

As discussed in the technical sessions, our members are also seriously concerned that year-round road access will increase outsider access to hunting moose and caribou. Since the GNWT describes moose as plentiful in the Dehcho region, we expect increased hunting by visitors. Similarly, we predict all-season access will increase moose and caribou poaching. It is concerning that the GNWT has no data on poaching so cannot discuss it meaningfully. Increased access will add pressure on the populations that we depend upon.

We are also seriously concerned about ignorant, harmful behaviours by visitors who do not know how to conduct themselves. There is already conflict with visiting hunters who over-harvest. We also have problems with outsiders who use our cabins but do not treat them properly. Our cabins are very important to our harvesting and to our youth education activities. We expect all these problems to increase with year-round access. These problems are very distressing to our community.

9. How Impacts on Caribou and Moose will Affect PKFN's Ability to Exercise Rights

As described above, we expect the all-season highway's construction and operation to cause moose, boreal caribou, and barren-ground caribou to decline in our key harvesting areas.

Our way of life is interconnected with the moose and caribou. Even small impacts on moose and caribou will lead to serious negative impacts on the practices that sustain our members, families, and community. It is understood in environmental assessment that impacts on species or habitat can have a different scale of impacts on Indigenous peoples.

Project impacts on moose and caribou will cause problems including:

- a. Interference with our abilities to exercise Aboriginal and Treaty harvesting rights.
- b. Interference with our abilities to exercise Aboriginal and Treaty intangible rights (cultural, spiritual, and linguistic) relating to moose and caribou harvesting and uses.
- c. Interference with our abilities to uphold our Dene laws and responsibilities to protect our Ndeh and way of life.
- d. Interference with our abilities to exercise our Dene laws and responsibilities that flow from our relationships with moose and caribou, and to educate our youth and future generations in these relationships and responsibilities.
- e. Infringement upon our ability to exercise rights flowing from our unceded Aboriginal title.² These include:
 - the exclusive right to decide how the land will be used;
 - the right of enjoyment and occupancy of the land;
 - the right to possess the land;
 - the right to the economic benefits of the land;
 - the right to pro-actively use and manage the land; and
 - the exclusive right to benefit from uses of the land, as long as they are consistent with the collectively-held nature of Aboriginal title, and enable enjoyment of the land by future generations.³
- f. Increased food insecurity and associated harms for individuals, families, and our community.
- g. Increased challenges to health and wellbeing. Harvested foods are the most healthy, and adherence to our traditions relating to moose and caribou is a vital

² PKFN is both a Treaty and Aboriginal rights-holding group. Canada negotiated Treaty 11 with our ancestors in 1921, which was entered into under the leadership of Chief Julian Yendo.

The continued existence and exercise of PKFN's Aboriginal title is judicially accepted in the Supreme Court of the Northwest Territories' decision in *Paulette, Re Application to File a Caveat*, in which Morrow J. held that "there is sufficient doubt on the facts that aboriginal title was extinguished" (42 DLR (3d) at 8). This decision was overturned by the NTCA only on the issue of whether a caveat could be filed before a land grant exists.

Canada's ongoing negotiations of Comprehensive Land Claims Agreements with Dene Nations in the NWT also indicates recognition that Aboriginal title was not extinguished.

³ *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44 at paras 73 and 88.

source of wellbeing. The GNWT and PKFN predict that the all-season road will increase risks to public safety and access to drugs, alcohol, and related harms. There are many obstacles to our members' access to external health and wellbeing services. We need our ongoing relationship with moose and caribou and good access to harvesting to support us to withstand the problems that will come with the highway.

All interference with the exercise of our rights relating to moose and caribou risks decreasing knowledge of and adherence to our legal order, particularly laws around sharing and a collective mindset. It also risks increasing the loss of Dene Zhatie.

For example, sharing what you have and helping each other are two Dene laws articulated in the Dehcho First Nations *Nahe Náhodhe – Our Way of Life* project. These are followed in Pehdzeh Ki.⁴ These laws can be further described in English as, “help your other relatives with what you have,” and “wherever you’re living, if there are Elders among you, you respect and help them.” We teach our young people share meat with others after a hunt. If you catch something while hunting, it isn’t just for you. The Creator gave it to you, and you must respect the animal and make sure everyone gets a share, especially the Elders.

For these laws to continue to be followed once the all-season highway is built, social relations, traditional skills, and realistic access to harvesting must be maintained.

h. DAR Threshold for Significance is Flawed and Masks Impacts

The developer’s analysis tells us that interference with our harvesting and other practices in the Project Area and Local Assessment Area is acceptable because we can go to other places in the Regional Assessment Area (aka the Moose and Caribou LAA) instead.⁵

However, this assumption is incorrect. These areas are not interchangeable with other parts of our Ndeh. Our practices in different areas are not the same. As stated during the technical sessions, the lands alongside the Dehcho, and particularly the areas where other watercourses join the Dehcho, are uniquely important to our traditional land use practices that are constitutionally protected as Aboriginal and Treaty rights. And, as stated above, members already report that they cannot afford to hunt elsewhere in the RAA.

⁴ “Nahe Náhodhe – Our Way of Life” (2019) at 4-5, online (pdf): *Dehcho First Nations* <dehcho.org/wp-content/uploads/2022/03/Dene-Laws-compressed-2.pdf>.

⁵ DAR, 8.3.12, 11.0, 11.1.6, and 11.6.1.

PKFN strongly objects to the developer's chosen threshold for "significant" impacts on cultural and traditional uses. The developer defined this threshold as that which would "result in the long-term loss of availability of traditional resources for cultural use or access to traditional resources or areas, such that cultural use is critically reduced or eliminated within the RAA" [emphasis added].⁶ This threshold is dangerous. It is flawed because it assumes that areas within the RAA are interchangeable. It masks the vital and unique cultural and traditional uses within the LAA. And, it is set so high that it prevents taking seriously our concerns about impacts that do not approach the "elimination" of a cultural use.

10. Proposed mitigation measures are insufficient

PKFN does not have confidence in the developer's proposed mitigations to impacts on moose, boreal caribou, and barren-ground caribou. Problems include:

- vagueness,
- reactive rather than preventative,
- lack of specificity at the LAA level, and
- they propose to involve PKFN only via "engagement", not decision-making, which ignores our legal authority to make decisions regarding our Ndeh.⁷

In our view, creating one "Renewable Resources Officer" position to conduct harvest monitoring and enforcement is unlikely to succeed. This task is much larger than one person could manage. Also, to succeed, any harvest monitoring and enforcement approach must be required to reflect by Dene knowledge, to ensure effectiveness for the species and habitat, and to prevent conflict with and within our community.

We also find the baseline data insufficient and call for immediate monitoring, led by communities and with external funding and support.

Project plans must include specific, detailed foresight into concerns raised by PKFN including:

- poaching,
- out of region hunters,
- non-Indigenous hunters,
- food security issues increasing reliance on harvesting,
- the accelerating climate change impacts on populations, habitat, and harvesting (such as wildfires), and

⁶ DAR, 11.1.6.

⁷ For more detail, see PKFN's April 9, 2025 response to the Board regarding land management.

- realistic, culturally appropriate enforcement and alternatives.

The Project is permanent and it is reasonable to expect these issues to occur. GNWT should not rely on monitoring to tell them *when* issues have occurred, because by then it is likely too late to manage a problem, particularly any problems with hunting. In that kind of situation, GNWT would end up relying on enforcement, which is difficult to make effective, adversarial, and culturally inappropriate in PKFN's Ndeh if conducted by colonial governments. Education and prevention are critical.

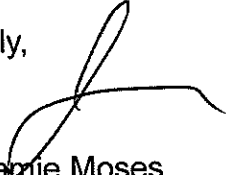
PKFN shares the concerns and questions expressed by the Délı̨në Renewable Resources Council (IR 1, Jan 21, 2025) and looks forward to the GNWT's detailed responses. Similarly, we share the Gwich'in Tribal Council's concerns regarding Indigenous decision-making in the proposed adaptive management and mitigation design, stated in their IRs 4, 5, 6 (January 17, 2025).

**11. Moose and caribou mitigation measures recommended by PKFN
PKFN calls for the GNWT to:**

- Reroute inland, away from the low-lying habitat and corridors relied upon by moose, boreal caribou, barren-ground caribou and our members.
- Immediately fund a comprehensive study of PKFN land users by culturally competent community researchers that includes identifying barren-ground caribou interactions within the Dehcho Project and Local Assessment Areas, and alternate routing areas. This study must be conducted in a way that allows for knowledge transmission to and skills development for our young people.
- Build wildlife crossings (overpasses and/or underpasses) on the alternate route where appropriate, as decided with PKFN.
- Immediately fund and support communities to conduct baseline food security studies.
- Prior to operation, establish a 10-year moratorium on outsider hunting in our Ndeh to establish a reliable baseline and ensure our Guardian program is up and running and properly prepared.
- Immediately fund administrative costs and harvester incentives for voluntary annual Indigenous harvest reporting to Indigenous governments, while recognizing that any data usage is at their discretion and member trust must be protected.
- Fund signage, educational materials, and educational opportunities in Dene Zhatie and English to teach visitors how to conduct themselves
- Support PKFN's developing Guardians program (described in detail in PKFN's April 9, 2025 Response to the Board.).
- Change the significance threshold to address the LAA.

Assessing impact “significance” requires deciding what changes are and are not acceptable. **PFKN calls for the GNWT and Review Board** to deeply incorporate the values of the communities and land users who will be most affected when making these assessments.

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