



Dehcho Land Use Planning Committee

May 15, 2006

Paula Pacholek, Joint Review Panel Manager
Joint Review Panel – Mackenzie Gas Project
Suite 302, 125 Mackenzie Road
P.O. Box 2412
Inuvik, NT X0E 0T0

RE: Excerpts from the Final Draft Dehcho Land Use Plan relevant to the MGP

Dear Ms. Pacholek,

The Dehcho Land Use Planning Committee would like to thank the Joint Review Panel for the opportunity to present comments on the Mackenzie Gas Project. This submission will be presented at the May 17-18, 2006 Topic-Specific General Hearing in Fort Simpson for the information and consideration of the Panel. The purpose of this submission is to inform the JRP of the contents of the Plan pertaining to the Mackenzie Gas Project so they are aware of the conditions that the Plan sets for this project, should the Plan be approved before the MGP receives its final authorizations.

The Dehcho Land Use Planning Committee (“the Committee”) was established in May 2001 under the Dehcho First Nations Interim Measures Agreement (IMA) as a tri-partite Committee with representation from the Dehcho First Nations, the GNWT and Canada. The Committee has been working over the last four years on the development of a land use plan (“the Plan”) for the Dehcho territory for lands outside the existing boundaries of a local government and Nahanni National Park Reserve. The IMA states:

“The purpose of the Plan is to promote the social, cultural and economic well being of residents and communities in the Dehcho territory, having regard to the interests of all Canadians. Taking into consideration the principles of respect for the land, as understood and explained by the Dehcho Elders, and sustainable development, the Plan shall provide for the conservation, development and utilization of the land, waters and other resources in the Dehcho territory.”

The Committee has now completed the Final Draft Dehcho Land Use Plan. It was submitted to the Dehcho First Nations today (May 15, 2006) for their consideration and approval. Following approval by the Dehcho First Nations, the Plan will be forwarded to the GNWT, Minister of Environment and Natural Resources for approval, and the Minister of Indian and Northern Affairs Canada (DIAND) for favourable consideration. In keeping with this approval process, the Plan is not being distributed or made public until such time as the Dehcho First Nations have approved it.

As such, the Committee is confining the contents of this submission to information directly relevant to the Mackenzie Gas Project – the definition, relevant Conformity Requirements, the Zone Description for the pipeline corridor and map, and a brief overview of other zones crossed or affected by the Mackenzie Gas Project (attached).

Once the Plan is approved and favourably considered by the three Parties (DFN, GNWT and Canada), it will be implemented by means of a revised set of land withdrawals and written policy direction from the Minister of DIAND to the MVLWB, binding on the Board with respect to the exercise of its functions. The land withdrawals will implement zoning restrictions pertaining to oil and gas and mining. The binding policy direction on the MVLWB will implement surface restrictions and most of the Conformity Requirements of the Plan. Canada committed to implement the approved Plan as part of the DFN Pipeline Settlement Agreement. By approving the Plan, the Parties agree to implement the Conformity Requirements within their jurisdiction and ensure that new land and water uses comply with the Plan.

The Plan does not supersede any Acts, Regulations or Agreements but is meant to enhance and add value to the way the land, water and resources are managed in the Dehcho territory. The requirements in the Plan add to, rather than taking away from, any existing regulatory requirements. **Conformity with the Plan does not imply approval or consent for any use of land, water or other resources, by Responsible Authorities or Dehcho First Nation(s).**

Once the Plan is made public, the Committee will be happy to send a copy of the Plan and Background Report to the Joint Review Panel and answer any additional questions they may have. In addition, all public information related to the Plan is posted to our website and available for download (www.dehcholands.org). DFN has indicated they may approve the Plan at either their upcoming Leadership Meeting on May 31, or at their annual assembly in Kakisa, June 26-30th, 2006.

If you have any questions or would like to discuss the Plan or this submission further, please contact me at (867) 699-3164 or hwiebe@dehcholands.org.

Sincerely,



Heidi Wiebe, Executive Director
Dehcho Land Use Planning Committee

Attchmt: Definition, Relevant Conformity Requirements and Zone Descriptions.

Introduction

The Committee specifically requested feedback from Imperial Oil on the November 2005 Draft Plan on the sections pertaining to the MGP. Imperial Oil submitted comments (available at http://www.dehcholands.org/docs/public_comments/individual_submissions/Imperial%20Oil_Jan%2030-06.pdf) which were reviewed and considered by the Committee. Many of the requested changes were accepted, though not all. Overall, the Committee reviewed and considered over 500 comments as part of final revisions. At the same time, the Plan was revised for legal consistency and clarity, so the initial layout and format has changed significantly from the November Draft.

Definition

During the last round of comments, Imperial Oil requested the definition for the Mackenzie Valley Pipeline revert to the definition used in the June 2005 Draft of the Plan. The Committee accepted this comment. The definition appearing in the Final Draft Plan is provided below.

“Mackenzie Valley Pipeline” means the land use as defined in Section 1.1.1.2 of the "Application for Approval of the Mackenzie Valley Pipeline, Volume 1: Pipeline Project Overview" submitted by Imperial Oil Resource Ventures Limited to the National Energy Board on October 7, 2004. This includes the possible expansion to 1.9 Bcf/d described in this section insofar as all additional components remain within the defined pipeline corridor. The pipeline includes ancillary infrastructure and activities including but not limited to compressor stations, heater stations, meter stations, block valves, pig receivers, gathering systems, processing facilities, well sites, pump stations, production facilities, remote maintenance base sites, access roads, camps, barge landings, airstrips, staging areas, borrow sites, water crossings, road/pipeline crossings, land leases, quarrying, water use, timber storage and any other construction only workspace required, and any other infrastructure or activity essential to the construction or operation of the Mackenzie Valley pipeline within the Dehcho territory.¹

Conformity Requirements (CR), Actions (A), and Recommendations (R)

The Final Draft Plan includes 25 Conformity Requirements which set rules for the sustainable use and development of resources in the Dehcho territory. Upon approval and implementation of the Plan, these Conformity Requirements must either be met before a land use is approved, or be attached to the authorization as a condition of approval. The relevant Conformity Requirements as they appear in the Final Draft Plan are provided below.

The Plan also includes Actions and Recommendations. Actions are measures directed at the Parties that do not regulate land or water use (e.g. complete research or hold meetings). They were developed to resolve larger issues or data gaps needed to move the Plan forward during future review cycles. By approving the Plan, the Parties agree to make best efforts to complete Actions pertaining to them. Recommendations are statements which provide advisory guidance to various governments, Responsible Authorities and organizations on additional measures that will help achieve the goals of the Plan. They are not legally binding requirements but should be given consideration in future land use decisions and policy initiatives. Relevant Actions and Recommendations are also included in this submission.

Land Use Zones (associated maps and tables cannot be shown until the Plan is public)

CR #1: (1) Subject to (2) and (3) below, Responsible Authorities will not authorize land uses related to oil and gas operations, mining, forestry, tourism or agriculture in a zone unless that land use is shown as permitted for the zone in Map 1 and Table 1.

(2) The restrictions on forestry in Conservation Zones and Special Management Zones under (1) do not apply to:

(a) Forest management activities required for fire and disease prevention (including harvesting and prescribed burns); or

(b) Salvage logging following fires, disease or insect infestations in Dehcho forests, providing that salvage activities will not increase the level of environmental disturbance or hinder natural regeneration processes.

(3) In relation to the Mackenzie Valley Pipeline:

(a) The restrictions in Conservation Zones and Special Management Zones under (1) do not apply to activities essential to the construction or operation of the pipeline or an alternative pipeline with similar specifications within the Mackenzie Valley Special Infrastructure Corridor (Zone 34), which includes the recently negotiated corridor north of Fort Simpson (Łíídlı́ı́ Kúé) to the boundary with the Sahtu Settlement Area.

(b) Outside Zone 34, the restrictions in Conservation Zones and Special Management Zones under (1) do not apply to essential infrastructure required for the Mackenzie Valley Pipeline, to the extent that such infrastructure is permitted by CR #2 (2) below.

(c) For greater certainty, any future expansion or tie-in to the Mackenzie Valley Pipeline in Zone 34 is subject to the restrictions in the Conservation Zones and Special Management Zones that overlap with Zone 34.

Mackenzie Valley Pipeline

The Plan recognizes that applications for a proposed Mackenzie Valley Pipeline are in progress. While the pipeline is a transboundary use affecting lands across multiple settlement regions, this Plan can only provide direction for pipeline construction, operation and reclamation within the Dehcho territory.

Under the Plan, the pipeline and associated infrastructure will lie within Zone 34 (the Special Infrastructure Corridor) and will cross Zones 1, 3, 4, 5, 22, 23, 27, 28, 29 and 33. Associated infrastructure will also be required in Zone 2.

The Plan recognizes the need for access and infrastructure outside of the designated corridor. Additional access, gravel resources, camps and minor infrastructure will be managed in accordance with the Conformity Requirements of the Plan (primarily Community Involvement, Transportation Corridors, Granular Resources and Public Infrastructure) and further conditions imposed in the course of regulatory approval.

It is not anticipated that feeder pipelines will extend across any Conservation Zones during the next five years. Any requests to address future expansion of the pipeline and related

infrastructure, or to extend feeder pipelines across any Conservation Zone, will be addressed through Plan revision or amendment.

Should the pipeline and associated infrastructure or an alternative pipeline with similar specifications be approved, the following specific Conformity Requirement will apply to its development in the Dehcho territory.

CR #2: (1) Responsible Authorities will not authorize the development of the Mackenzie Valley Pipeline or any alternative pipeline with similar specifications, except in the Mackenzie Valley Special Infrastructure Corridor (Zone 34), which includes the recently negotiated corridor north of Fort Simpson (Łíídlı́ Kúé) to the boundary with the Sahtu Settlement Area.

(2) Outside the Mackenzie Valley Special Infrastructure Corridor, Responsible Authorities will not authorize essential infrastructure required for the Mackenzie Valley Pipeline, such as barge landing sites, construction material stockpile sites, fuel storage sites, camps, supply roads, airstrips and helipads, and borrow sites, in a Conservation Zone unless it is not reasonably feasible to locate it elsewhere, and the infrastructure

a) avoids the most sensitive ecological and cultural areas and minimizes impacts to traditional land use and occupancy activities in the area through appropriate mitigation; and

b) minimizes the area affected, the intensity of disturbance, and uses the best available technology to minimize environmental impacts.

R #1: The applicant for the Mackenzie Valley Pipeline or an alternative pipeline with similar specifications, is encouraged to consider the values and intent of the Plan's underlying zones and harmonize its activities with the intent of those zones wherever possible.

Community Involvement

The lack of community involvement in decision-making is a major issue in the Dehcho territory. Community involvement is the process of informing communities, and obtaining feedback and input from affected peoples. Only through early, continuous and meaningful discussions can communities be assured that their concerns over use of the land are heard. While community involvement does not imply consent by the First Nation(s) or community, it may result in some changes to proposed activities due to information brought forward during informed discussions with communities. The Mackenzie Valley Land and Water Board has developed guidelines to assist applicants in developing effective community involvement processes². The guidelines state that the purpose of community involvement prior to application is:

- To allow the proponent the opportunity to discuss the project with the community;
- To incorporate concerns of the community, clan, family, and traditional knowledge;
- To identify impacts and demonstrate how negative impacts will be mitigated; and
- To advise the community that an application is forthcoming.

Effective community involvement generally requires meetings to be held in the affected communities. As a result of such discussions, the final application should be better designed and more appropriate to local values, needs and conditions, increasing the likelihood of approval through the regulatory process.

CR #6: (1) Before deciding whether to authorize a land use or on what terms, Responsible Authorities will require applicants to demonstrate meaningful community involvement with affected communities and individuals.

(2) The degree and nature of community involvement required will be appropriate to the scale and potential impacts of the proposed land use.

(3) Community involvement

(a) will begin prior to the application and will continue throughout the life of the proposed land use at intervals appropriate to the nature of activities;

(b) will include full and direct reporting of land use activities to the affected communities in plain language; and

(c) will be carried out in English and the local language.

(4) For greater certainty, this requirement is distinct from any consultations carried out by government, or from any duty to consult held by government.

A #6: Affected First Nation(s) will make best efforts to participate in community involvement activities.

Public Infrastructure

There is an ongoing need for the development of public infrastructure outside of existing community boundaries to serve the needs of communities, and existing and future land uses. Minor infrastructure includes such things as fuel caches, navigation markers, communication towers, fire towers, storage buildings and similar infrastructure. Larger infrastructure may be required for community development and includes sewage lagoons, water treatment plants, airstrips, landfills, docks and associated structures or buildings. Even minor infrastructure can impact important conservation values if constructed in the wrong location so this Conformity Requirement sets conditions for development within Conservation Zones. Infrastructure not requiring land use permits or water licences is permitted throughout the Dehcho territory.

CR #8: Responsible Authorities will not issue a land use permit or water licence relating to public infrastructure in Conservation Zones unless the applicant can demonstrate that

a) there is an immediate need for the infrastructure;

b) the reasonably foreseeable future infrastructure needs of the affected area and users have been considered in the selection of appropriate design and location;

c) environmental, social, economic and cultural values were considered in selecting the site; and

d) appropriate mitigation measures are in place to buffer ecologically and culturally sensitive areas from impacts.

Granular Resources

Nearby access to granular resources is a key requirement for many land uses or maintenance activities to be economical. While development of new granular deposits is not consistent with the intent of Conservation Zones or some Special Management Zones, restricting access to deposits in these areas may have significant impacts on land uses expected to occur in other Zones. Section 20 of the Dehcho First Nations Interim Measures Agreement set conditions for the issuance of quarrying permits in lands for which the surface is withdrawn. The Plan reaffirms these conditions in the following Conformity Requirement, but applies them to Conservation Zones instead because the revised land withdrawals through which the Plan is implemented does not include surface land withdrawals (only subsurface withdrawals).

CR #9: Responsible Authorities will not issue a permit for quarrying under the *Territorial Quarrying Regulations* in Conservation Zones unless

- a) the quarrying is for sources of material which had been opened prior to Plan approval;
- b) the quarrying is for new sources of material required for essential community construction purposes;
- c) the quarrying has the consent of the Dehcho First Nation(s); or
- d) it is a case where, in the opinion of the Minister of DIAND, no alternative source of supply is reasonably available in the surrounding area and after consultation with the Dehcho First Nation(s).

Transportation Corridors

The goal of the Plan is to facilitate efficient transportation access to the land and resources while preventing a proliferation of unnecessary roads and impacts. There are some areas of significant value that are better protected by restricting transportation routes. The Samba K'e Dene Band (Trout Lake) does not want an all weather road to their community. On the other hand, careful planning needs to occur to avoid isolating resource development areas without adequate access. The following Conformity Requirement will guide transportation corridor development within the Dehcho territory.

CR #10: (1) Before deciding whether to authorize land uses that would create a new transportation corridor (including seasonal roads, all weather roads and railways), Responsible Authorities will require applicants to submit a transportation planning study and a routing study.

(2) The transportation planning study will demonstrate

- a) consideration of reasonably foreseeable transportation needs for the affected zones;
- b) that the proposed transportation corridor is the most appropriate type and/or level for the affected zones;
- c) meaningful community involvement with the affected First Nation(s) on the construction, operation and abandonment of the transportation corridor; and

d) discussions with other potential users of the proposed transportation corridor to identify additional considerations.

(3) The routing study will consider alternative routings and demonstrate

a) that first consideration was given to routing the corridor through General Use Zones wherever feasible, followed by Special Management Zones;

b) where there is no reasonably feasible alternative to routing the corridor through a Conservation Zone

(i) that the route follows existing transportation corridors, or

(ii) where there is no feasible existing route, that the route is the shortest possible, while avoiding the most sensitive ecological and cultural areas, and minimizes impacts to traditional land use and occupancy activities in the area through appropriate mitigation;

c) that the proposed routing will minimize the area affected and the intensity of disturbance to ecological and cultural values through the use of best available technology; and

d) that the proposed routing will benefit affected communities.

(4) Responsible Authorities will consider the information obtained when making their decisions and will not authorize a land use except in accordance with the conditions in (2) and (3).

Zone Descriptions

The Plan includes 5 Zone Types: Conservation Zones, Protected Areas Strategy Zones, Special Management Zones, General Use Zones and Special Infrastructure Corridors (pipeline and infrastructure corridors). The Mackenzie Valley Pipeline corridor is one of the Special Infrastructure Corridors (there are two). It crosses several other zones. This section describes the zone types, provides the full zone description and a map for Zone 34 (the Mackenzie Valley Special Infrastructure Corridor), and a brief overview of the other zones affected by Zone 34.

Conservation Zones are areas having significant ecological and cultural values. They are meant to provide flexible protection to lands of important cultural or ecological value. Of the five types of land use controlled by zoning, only tourism is permitted in Conservation Zones, subject to the Plan's Conformity Requirements. Two of the zones prohibit tourism as well. There are 18 Conservation Zones covering 38.1% of the Plan Area. The Mackenzie Valley Special Infrastructure Corridor provides a passage through four Conservation Zones.

The **Protected Areas Strategy Zone** is a separate designation for Candidate Protected Areas with Interim Protection. At the moment, only Edézhíe (Zone 1) has this designation, covering 12.0% of the Plan Area. Edézhíe has been withdrawn from disposition through the Protected Areas Strategy (PAS) process. Once established as a protected area, it will be managed under the legislation and authority of the sponsoring agency and an applicable Management Plan. In the interim, it is subject to the Plan. The Protected Areas Strategy Zone designation provides the same level of protection as a Conservation Zone.

Special Management Zones are areas where there is significant potential for both conservation and resource development together. Special Management Zones were established to promote certain types of land use or protect values while allowing some forms of land use to proceed. To achieve these goals, each Special Management Zone prohibits at least one of the five land use types addressed, while permitting others, subject to the Plan's other Conformity Requirements. There are 14 Special Management Zones covering 24.4% of the Plan Area.

General Use Zones permit all land uses, subject to the Plan's Conformity Requirements. General Use Zones cover 25.5% of the Plan Area. They are not numbered.

Special Infrastructure Corridors delineate two study corridors for proposed pipeline projects. The construction and operation of a pipeline is permitted within these corridors, subject to the Plan's Conformity Requirements, even where the corridors cross Zones where oil and gas operations are not permitted otherwise. All zone requirements and restrictions continue to apply in the corridors except where and to the extent that the Plan states an exception.

(1) The Mackenzie Valley Special Infrastructure Corridor (Zone 34) delineates a study corridor for the proposed Mackenzie Valley Pipeline and associated infrastructure based on the routing of the proponent and negotiated corridors through existing land withdrawals. The corridor crosses Zones 1, 3, 4, 5, 22, 23, 27, 28, 29 and 33, with additional infrastructure lying in Zone 2. This zone overlays 0.6% of the Plan Area.

Zone 34: Mackenzie Valley Special Infrastructure Corridor

Permitted Uses

- Mackenzie Valley Pipeline

Zone Description and Objectives

The Plan recognizes that applications for a proposed Mackenzie Valley Pipeline are in progress. The Mackenzie Valley Special Infrastructure Corridor (Zone 34) delineates a study corridor for the proposed Mackenzie Valley Pipeline and associated infrastructure. The intent is to constrain pipeline construction to this corridor and provide direction for pipeline construction, operation and reclamation within the Dehcho territory. Should the pipeline and associated infrastructure or an alternative pipeline with similar specifications be approved, CR#1(3) and CR #2 will apply to its development in the Dehcho territory.

The Plan recognizes the need for access and infrastructure outside of the designated corridor. Additional access, gravel resources, camps and essential infrastructure will be managed in accordance with the Conformity Requirements of the Plan (primarily Community Involvement, Transportation Corridors, Granular Resources and Public Infrastructure) and further conditions imposed in the course of regulatory approval.

The zone reflects a combination of existing land withdrawals south of Fort Simpson (Łíídlı́ Kúé) a new corridor recently negotiated by DFN, the Pehdzeh Kı First Nation, and INAC, and the 1 km wide corridor proposed by the applicant. Zone 34 has been amended to reflect the recently negotiated corridor, which extends north of Fort Simpson (Łíídlı́ Kúé) to the boundary with the Sahtú Settlement Area. The withdrawn portions of the corridor south of Fort Simpson (Łíídlı́

Kúé) varies from 2-5 km, whereas the corridor north of Fort Simpson (Líídlıı Kúé) is generally less than 2 km. Zone 34 overlays 0.6% of the Plan Area.

The Special Infrastructure Corridor crosses Zones 1, 3, 4, 5, 22, 23, 27, 28, 29 and 33, with additional infrastructure lying in Zone 2. The applicant for the Mackenzie Valley Pipeline or an alternative pipeline with similar specifications is encouraged to consider the values and intent of the Plan's underlying zones, and harmonize its activities with the intent of those zones wherever possible.

Conservation Values

The corridor contains critical habitat for boreal woodland caribou and wolverine, which are listed by COSEWIC as threatened and species of special concern respectively, and are protected under the *Species at Risk Act*. There is also critical habitat for moose and waterfowl within this zone. The corridor passes through many culturally significant areas with high levels of traditional land use and occupancy.

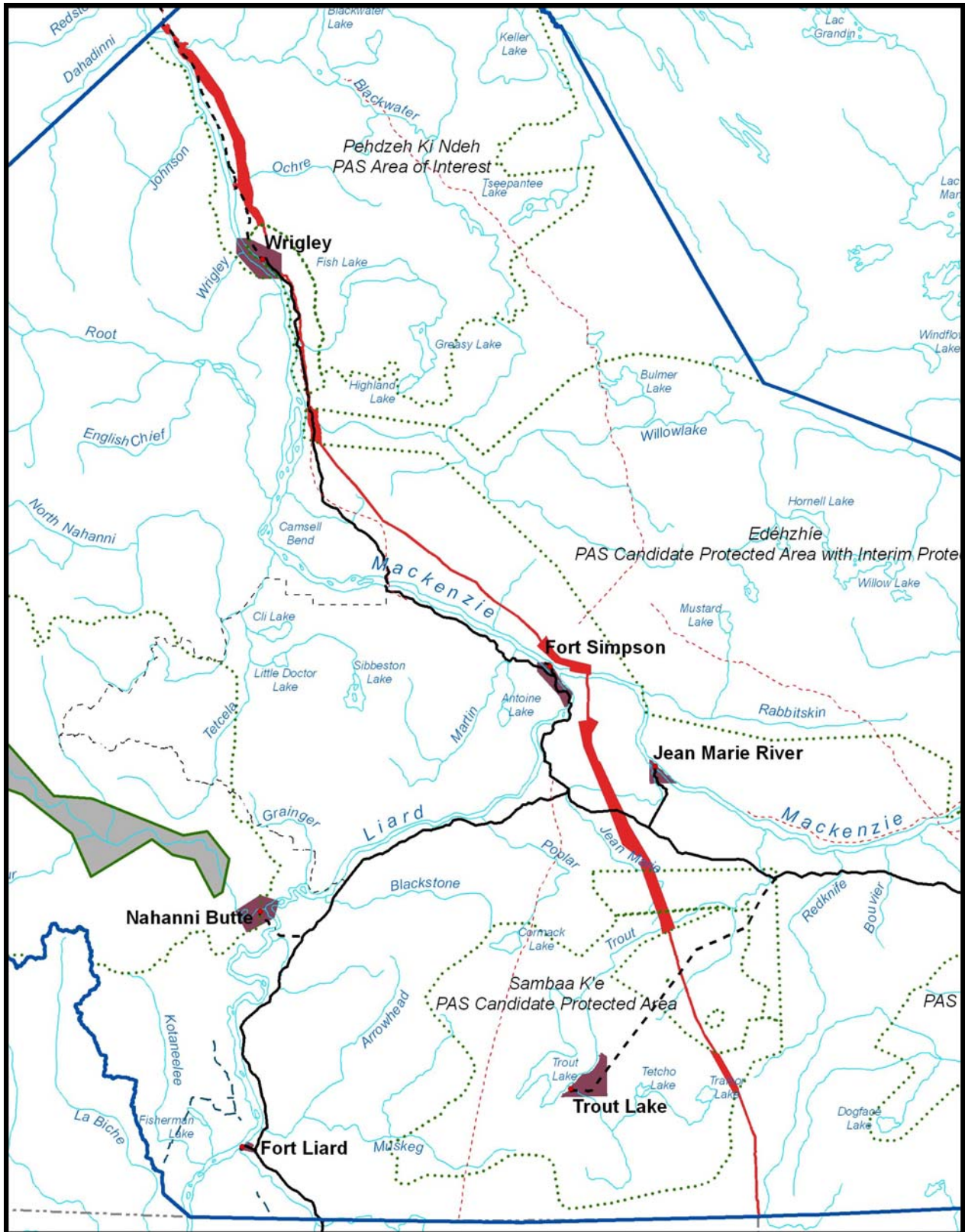
Resource Potential

There are small areas of agricultural potential around Jean Marie River (Tthets'éhk'edélı) and some forestry (sawlog) potential along the corridor west of Jean Marie River (Tthets'éhk'edélı). Tourism potential is restricted to small areas of high potential along the Mackenzie River (Dehcho). The estimated remaining recoverable gas potential is <50 million m³ / quarter grid, with the exception of crossing an area of 50-100 million m³ / quarter grid potential in the Trout River Zone (Zone 27). Mineral development potential is also low or uncertain within the zone delineation.

Specific Conformity Requirements

- CR #2: Mackenzie Valley Pipeline

Zone 34 – Mackenzie Valley Special Infrastructure Corridor



Summary of Zones Crossed or Affected by Zone 34

Zone #	Zone Name	Zone Type	Permitted Uses					Comments
			O&G	Mining	Forestry	Tourism	Agriculture	
1	Edézhzhíe	PAS				✓		Negotiated corridor; PAS Candidate Protected Area with Interim Protection
2	JMR Five Lakes	CZ				✓		Borrow pit only (no corridor); important for traditional use, interest in community-based tourism
3	Sibbeston Plains	CZ				✓		Negotiated corridor; important area for traditional use and tourism
4	Pehdzeh Ki Ndeh	CZ				✓		Recently negotiated pipeline corridor; important area for traditional use and wildlife, pursuing protection through PAS
5	Sambaa K'e / Redknife River	CZ				✓		Negotiated corridor; important area for traditional use, woodland caribou, PAS Candidate Protected Area
22	Franklin Mountains	SMZ			✓	✓		Recently negotiated pipeline corridor; community interest in sustainable forestry
23	Rabbitsskin / Ndulee	SMZ			✓	✓		Proponent's 1 km wide corridor; important area for traditional use
27	Trout River	SMZ	✓					Proponent's 1 km wide corridor; community interest in sustainable oil and gas development
28	Jean Marie River – South	SMZ	✓		✓	✓	✓	Negotiated corridor; community interest in sustainable oil and gas, forestry and tourism
29	Jean Marie River – North	SMZ			✓	✓	✓	Mostly negotiated corridor; community interest in sustainable forestry and tourism
33	Cameron Hills	SMZ	✓	✓	✓	✓		Proponent's 1 km wide corridor; key sustainable development area for oil and gas and forestry

References

¹ Mackenzie Gas Project. 2004. Application for Approval of the Mackenzie Valley Pipeline, Section 1.1.1.2, Volume 1, Mackenzie Gas Project, Canada.

² MVLWB. 2003. Public Involvement Guidelines for Permits and License Applicants to the Mackenzie Valley Land and Water Board, Available Online (<http://www.mvlwb.com/doc/Public%20Involve%20Guide%20Oct2003.pdf>).