

Indian and Northern Affairs Canada  
Environment & Conservation

# Fax:

To: Mr. Todd Burlingame, Chair Mackenzie Valley Environmental Impact Review Board

Fax: 766-7074

Date: November 17, 2004

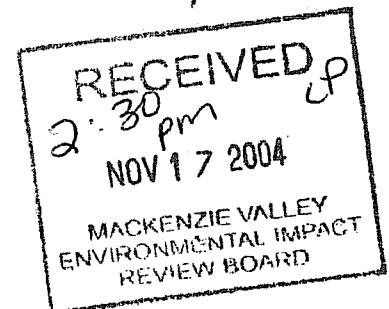
Subject: Paramount Resources Limited Cameron Hills Extension Project

Pages: 9 (Including Cover)

Comments: Please see the attached letter with the proposed modifications and supporting rationale for your consideration for the Paramount Resources Limited Cameron Hills Extension Project.

If you have any questions or require additional information please do not hesitate to contact me at 867-699-2587 or by e-mail at [fairmanf@inac.gc.ca](mailto:fairmanf@inac.gc.ca).

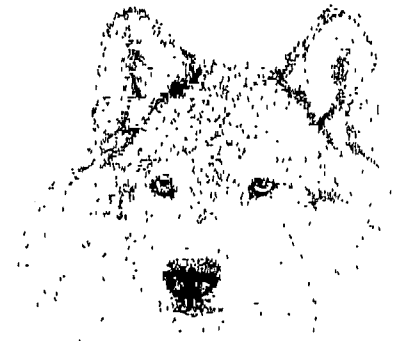
Thank you, Fraser Fairman



From The Desk Of:

Fraser Fairman, Environmental Scientist

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By Facsimile: (867) 766-7074

Wednesday, November 17, 2004

Mr. Todd Burlingame  
Chair  
Mackenzie Valley Environmental  
Impact Review Board  
P.O. Box 938  
YELLOWKNIFE, NT X1A 2N7

Dear Mr. Burlingame:

**Re: Paramount Resources Limited Cameron Hills Extension Project**

As follow-up to the August 19, 2004, letter from Minister Scott, agreeing to initiate consultation with the Mackenzie Valley Environmental Impact Review Board ("Review Board"), we specifically want to address recommended measures R7, R11, R12, R13, R15, and R16 for the above noted project. We have prepared modifications with supporting rationale for your consideration and comment.

A meeting is tentatively scheduled during the week of November 22, 2004, to discuss the proposed modifications, as arranged with the Review Board's Manager of Environmental Assessment.

Yours sincerely,

David Livingstone  
Director, Renewable Resources and Environment Directorate

c.c.: Gavin More, Government of the Northwest Territories  
Wade Romanko, Environment Canada  
Bruce Hanna, Fisheries and Oceans Canada  
Laura Van Ham, National Energy Board

**Canada**

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**ASSESSMENT OF MEASURES FOR THE PARAMOUNT RESOURCES  
LIMITED CAMERON HILLS EXTENSION PROJECT**

**RECOMMENDED MEASURE 1**

Accept

**RECOMMENDED MEASURE 2**

National Energy Board (NEB)

**RECOMMENDED MEASURE 3**

NEB

**RECOMMENDED MEASURE 4**

NEB

**RECOMMENDED MEASURE 5**

NEB

**RECOMMENDED MEASURE 6**

NEB

**RECOMMENDED MEASURE 7**

The Review Board recommends that the Government of Canada (INAC and Environment Canada) and the Government of the Northwest Territories, implement recommendation 7 from the Ranger-Chevron EA by June 2005.

**7. Air Quality** - *The Review Board recommends that the GNWT and Environment Canada, working with the industry and affected communities, develop enforceable air quality guidelines or standards for oil and gas industry operation in the NWT, or adapt regulations from adjoining jurisdictions as appropriate. These guidelines should include the use of latest technologies and good industry practices, and a system of monitoring that would be sufficient to build a baseline database over the long term and to demonstrate the maintenance of exiting environmental quality.*

**Suggested modification:**

Remove

**Rationale:**

The Government of Canada, as represented by Environment Canada (EC), and Indian and Northern Affairs Canada (INAC), and the Government of the Northwest Territories (GNWT), as represented by the Department of Resources, Wildlife and Economic Development (RWED), recognize and acknowledge the importance of enforceable air quality guidelines and standards within the Northwest Territories. However, our understanding of the Environmental Assessment process is that the Review Board recommended measures should be focused on the project under review and such measures as may be required to mitigate environmental impacts of that project.

The National Energy Board (NEB) has the legislated authority to impose conditions requiring proponents and operators of oil and gas developments to provide evidence that air emissions from project operations are not resulting in unacceptable impacts to air quality (e.g. exceeding relevant air quality standards such as the Alberta Energy and Utilities Board Guide 60: Upstream Petroleum Industry Flaring Guide). The NEB is empowered to impose penalties, including shut-down of operations, if any facility does not comply with the conditions imposed.

For the Paramount Resources Ltd. Cameron Hills Extension Project, the NEB, in consultation with EC, INAC, and RWED, has proposed modifications to the Review Board's recommended measures R2, R3, R4, R5, and R6, which the agencies are satisfied will meet the intent of the original recommended measures pertaining to air quality issues and reporting. The NEB has also indicated that the general condition and selection of relevant air quality standards to be included in their future regulatory instruments would be made in consultation with appropriate federal and territorial government air quality staff. In the opinion of EC, INAC, and RWED, the Review Board's recommended measures related to enforceable air quality guidelines or standards that are specific to the Paramount Project will be addressed through the NEB authorizations/approval process.

Therefore, it is suggested that recommended measure 7 be removed and, in these matters the NEB be considered as the agency responsible for the enforcement of air quality guidelines for the Paramount Project.

**RECOMMENDED MEASURE 8**

Accept

**RECOMMENDED MEASURE 9**

NEB

**RECOMMENDED MEASURE 10**

Accept

### **RECOMMENDED MEASURE 11**

The Review Board recommends that the Department of Fisheries and Oceans conduct regular site visits to the Cameron Hills to inspect for determine if any impacts to fish or fish habitat. Reports of these inspections must be made publicly via DFO and also be sent directly to Ka'a'Gee Tu First Nation, in a plain language version.

#### **Suggested modification:**

The Review Board recommends that the Department of Fisheries and Oceans conduct regular site visits to the Cameron Hills to inspect for, and determine if any impacts to fish or fish habitat have occurred. Reports of these inspections, if not related to an investigation, must be made publicly available via DFO and also be sent directly to Ka'a'Gee Tu First Nation, in a plain language version.

#### **Rationale:**

During ongoing investigations, DFO enforcement does not comment or release detailed information to the public about investigations. DFO feels this could compromise a case and can lead to the case being tried in the media rather than in the court as it should be. After a case is dealt with, DFO will be in a better position to comment.

### **RECOMMENDED MEASURE 12**

The Review Board recommends that RWED will, within the next six months, initiate the formation of a Deh Cho Boreal Caribou Working Group (DCBCWG). The working group will, among others things, consider: habitat identification, range plan development, thresholds, monitoring systems, adaptive mitigation, research programs and cumulative effects models. In addition, it will coordinate its activities with similar working groups in Alberta and British Columbia.

#### **Suggested modification:**

The Review Board recommends that RWED will, within the next six months, initiate the formation of a Deh Cho Boreal Caribou Working Group (DCBCWG). RWED shall lead the DCBCWG in the development of a Boreal Caribou Management Plan for boreal caribou populations in the southern Deh Cho (south of the Mackenzie River and east of the Liard River) within 18 months. In developing the Boreal Caribou Management Plan, RWED shall ensure that the DCBCWG considers, among others things: habitat identification, range plan development, thresholds, monitoring systems, adaptive mitigation, research programs and cumulative effects models<sup>1</sup>. RWED shall also coordinate the DCBCWG's<sup>2</sup> activities with similar working groups in Alberta and British Columbia; and operate within the framework of recovery planning for Boreal Caribou in

the NWT<sup>3</sup>, and develop a Boreal Caribou Management Plan specifically for the Cameron Hills area<sup>4</sup>. RWED shall provide applicable thresholds for the Project to the MVLWB over time based on the outcomes of future research and natural changes to the boreal caribou habitat.

**Rationale:**

- 1) This clarifies the purpose of the DCBCWG.
- 2) As worded in the MVEIRB measure, it is not clear whether "it" refers to RWED or the DCBC Working Group. This change clearly indicates that it is RWED that will coordinate activities with adjacent jurisdictions.
- 3) The additional phrase clarifies that the DCBCWG will function within the NWT framework for recovery planning for boreal caribou as this will be the territory-wide decision-making process. It is also intended to complement the application of other land use planning systems in the Deh Cho Region that are under development.
- 4) A coordinated and defined mechanism for developing actions needed to prevent Project specific significant adverse environmental impacts on boreal caribou populations will be satisfied by the Boreal Caribou Management Plan.

**RECOMMENDED MEASURE 13**

The Review Board recommends that the MVLWB adopt an average linear disturbance target of 1.8 km per km squared as a boreal caribou disturbance threshold for the entire Cameron Hills, NT area, in order to prevent significant adverse environmental impacts on boreal caribou populations whose range includes the Paramount SDL and surrounding area. This shall be considered in all future land use applications in the area.

**Suggested Modification:**

The MVLWB shall include conditions in its authorizations for this project that will ensure boreal caribou do not experience significant disturbance as a result of Project activities. As part of this, the MVLWB should define a geographic area for the project area<sup>1</sup> based on an ecologic classification system developed by the GNWT. The MVLWB should also consider the applicability of targets for habitat disturbance. Such conditions shall be reviewed annually and adjusted as necessary, based on the best available scientific information<sup>2</sup>, other advice and project area information including Paramount reports and plans (see below).

Paramount shall submit an annual report to the MVLWB detailing disturbance to boreal caribou habitat resulting from past Project activities and the state of regrowth of disturbances. The annual report shall be similar to proponent reports done in other

jurisdictions such as British Columbia or Alberta. Paramount shall also include its plans that may affect boreal caribou habitat for the upcoming year<sup>3</sup>.

**Rationale:**

- 1) The geographic scope of the 'entire Cameron Hills, NT' is not clearly defined in the original measure and there is no direction in the original measure on how the MVLWB would decide. Defining the boundaries of this geographic area based on an ecological classification is required to ensure compatibility with the boreal caribou management units or ranges that will be prescribed in the boreal caribou management plan suggested in modified measure 12.
- 2) Thresholds, developed as part of boreal caribou management plans, will be provided to the MVLWB as part of the recovery plans by RWED.
- 3) The requirement for annual reports to the MVLWB by Paramount Resources Ltd. will permit the MVLWB to track new disturbances related to Project activities as well as considering past disturbance that are satisfactorily regrown when considering changes to thresholds for the project area.

**RECOMMENDED MEASURE 14**

Accept

**RECOMMENDED MEASURE 15**

The Review Board recommends that Paramount and the other parties to the unfinished Cameron Hills Wildlife and Resources Harvesting Compensation Plan developed in response to measures 13 and 15 of EA01-005 complete the compensation plan. If a compensation plan cannot be completed by these parties within 90 days of the federal Minister's acceptance of this report, this matter will proceed to binding arbitration, pursuant to the *NWT Arbitration Act*. A letter signed by the parties, indicating agreement to the compensation plan or in the case of arbitration, the arbitrator's decision must be filed with NEB and MVLWB prior to the commencement of Paramount's operations under land use permit MV2002A0046.

**Suggested modification:**

Remove

**Rationale:**

The *NWT Arbitration Act* applies in situations where the parties have agreed in writing

to submit their differences to arbitration, or where the matter is referred to arbitration pursuant to another Act (Sections 2 and 3 of the *NWT Arbitration Act*). There is no statutory authority in the *Mackenzie Valley Resource Management Act* (MVRMA) that would allow the Review Board to refer the matter to arbitration, and there is no evidence that the parties have consented to this arrangement. Arbitration cannot be unilaterally imposed upon parties.

The Review Board is required to consider both the environmental impact, and the significance of that impact when recommending a mitigative measure. In this case, the Review Board has recommended the mitigative measure without providing an analysis as to whether or not there will actually be a reduction or loss of wildlife in the area, and how this will impact the aboriginal communities.

### **RECOMMENDED MEASURE 16**

The Review Board recommends that the GNWT develop a socio-economic agreement with Paramount in consultation with affected communities before operations proceed under the land use permit MV2002A0046. The socio-economic agreement is to address issues such as employment targets, educational and training opportunities for local residents and a detailed ongoing community consultation plan.

#### **Suggested Modification:**

Remove

#### **Rationale:**

A follow-up program such as a socio-economic agreement can act as an early warning system to identify unexpected negative effects and trigger adaptive management of those effects. With few exceptions, the Proponent did not quantify or describe the expected socio-economic effects of its proposed project. In fact the Proponent predicted that there would be minimal socio-economic effects. The lack of evidence of effects makes the need to a follow-up program, such as a socio-economic agreement, unnecessary and unfeasible in this case.

For the previous MVEIRB environmental assessment that required a socio-economic agreement, virtually all of the commitments captured in the resulting agreement were taken from the developers commitments made during the environmental assessment. In this assessment, the Proponent generally described the efforts it would undertake to minimize socio-economic effects, it did not describe the specific measures that would be put in place. The Proponent is not proposing untested mitigation measures, the effectiveness of which should be confirmed through a follow-up program. Where the Proponent did quantify the expected effect of its project (e.g., 25% employment), it used the results achieved on past projects.



The proposed measure forces the GNWT to unilaterally "develop" an agreement with the Proponent in the absence of any identified effect and commitments to mitigation. It is not feasible to develop a socio-economic follow-up program given the lack of predictions and commitments that have been accepted by the MVEIRB in the environmental assessment. The qualifying phrase "*issues such as...*" makes it unclear what would be required in a socio-economic agreement. This is not a sufficiently clear basis on which to impose measures on the Proponent.

In the context of the proposed project and a socio-economic agreement, consultation with communities is the responsibility of the Proponent. Socio-economic agreements, in the sense described in the MVEIRB Report, do not involve consultation with select communities.

### **RECOMMENDED MEASURE 17**

Accept