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EAO3-005
KTFN Re: Paramount REA
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c.c. Herb Norwegian, Grand Chief of DCFN (867) 695-2038
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Melody McLeod, Chair of the MVLWB 873-6610

From: Joe Acorn (867) 873-9190

Date: June 24, 2004

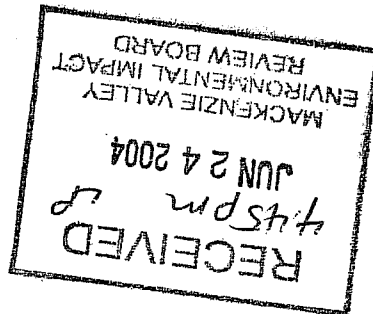
Pages: 20 including the cover page

Re: Paramount Resources Ltd.'s Cameron Hills Extension Project

The attached letter provides the Ka'a'Gee Tu First Nation's response to Mackenzie Valley Environmental Impact Review Board's Reasons for Decision for the Paramount Resources Ltd. Cameron Hills Extension Environmental Assessment and Paramount's June 14th Letter to the Review Board.

If there are any questions, please contact me at (867) 766-2455 or Allan Landry at (867) 825-2000.


Joe Acorn



June 24, 2004

To: Andrew Mitchell, Minister of Indian and Northern Affairs Canada
Joe Handley, Premier of the Northwest Territories
Kenneth Vollman, Chair of the National Energy Board
Brendan Bell, Minister of Resources, Wildlife and Economic Development
Geoff Regan, Minister of Fisheries and Oceans Canada
David Anderson, Minister of Environment Canada

Re: **Review Board's Reasons for Decision for the Paramount Resources Ltd. Cameron Hills Extension Environmental Assessment and Paramount's June 14th Letter to the Review Board**

The Ka'a'Gee Tu First Nation (the "KTFN") has reviewed the Mackenzie Valley Environmental Impact Review Board's (the "Review Board") June 1st Reasons for Decision for Paramount Resources Ltd. Cameron Hills Extension Project. In addition, the KTFN has reviewed Paramount's letter of June 14th stating its views concerning the Board's recommendations and suggestions.

We feel that it was improper for Paramount to send its June 14th letter. It is an attempt by Paramount to circumvent the rules of procedural fairness and improperly influence the Responsible Ministers' use of discretion. We expect that the Responsible Ministers will not consider Paramount's letter when reaching a decision. In the event that the Responsible Ministers do consider Paramount's letter, and given the fact that the letter has been widely disseminated, the KTFN have no choice but to respond.

Preliminary Issues Raised in Response to Paramount's June 14th Letter

Prior to reviewing each of the Review Board's recommendations and suggestions, and Paramount's comments on them, we address a number of preliminary points raised in Paramount's letter of June 14th.

1. "Accommodation" of Industry

In the 2nd paragraph of its letter, Paramount states "It is essential that the [regulatory] regime evolve in a way that ensures fairness to all stakeholders while accommodating the industry's legitimate exploration and development pursuits."

The KTFN acknowledge that Paramount does hold a Significant Discovery License (SDL) but that SDL does not give Paramount a right to develop this land however it sees fit. Under the *Mackenzie Valley Resource Management Act (MVRMA)*, Paramount can only develop the land subject to any conditions placed on it by the Review Board and the Mackenzie Valley Land and Water Board (MVLWB). If Paramount is unwilling to meet the conditions for development required by the Review Board and the MVLWB pursuant to the *MVRMA*, then Paramount cannot proceed with any additional development.

Further, there is no obligation on the Review Board and the MVLWB to “accommodate” Paramount’s interest in this land. There is a constitutional and legal requirement for the Crown and industry to accommodate Aboriginal title and rights, including treaty rights. The only legal requirements for accommodation in this context are in relation to constitutionally protected rights of the KTFN over whose lands these developments are being proposed.

2. EA Methodology and Review Board Decision-Making

In the 3rd paragraph of its letter, Paramount states, “Independent consultants retained by Paramount, Golder Associates, conducted an extensive assessment using accepted engineering and environmental methodologies”. This statement by Paramount is nothing more than an attempt to ignore the facts. Paramount’s methodologies were consistently and continually criticized during the EA process, particularly during the public hearing, by the KTFN, the other aboriginal communities, Environment Canada and the Government of the Northwest Territories (GNWT). The Review Board itself further criticized Paramount’s EA methodologies in its decision.

When referring to the Review Board’s decision-making process, Paramount states that the Review Board’s decision must be “in accordance with ... current federal and territorial legislation and guidelines.” On page 13 of their letter, reiterating a point they raise in response to many of the recommendations, Paramount states, “in cases where Paramount is already meeting all legislation and guidelines, we fail to understand why our project should be delayed further”.

These statements by Paramount illustrate a fundamental lack of understanding of the EA process, and the legal framework within which a development, such as the Cameron Hills Extension Project, takes place. The legislative framework that the Review Board must adhere to is the *MVRMA*. The process mandated in the *MVRMA* requires the Review Board to undertake a contextual review of a proposal in order to assess potential adverse impacts, and identify the necessary steps to mitigate those impacts. In completing its assessment, the Review Board is obligated to impose mitigations and conditions that may exceed other legislative requirements if it determines that the legislative requirements are not sufficient in the particular circumstances of the proposal.

3. Paramount’s Resistance of Direct Reporting Requirements

A consistent theme of Paramount’s comments on the Review Board’s recommendations is that it resists the need for any direct reporting requirements from Paramount to the KTFN. Paramount’s resistance to report directly to the KTFN demonstrates Paramount’s struggle to accept the realities of the legal and social environment in which industry must operate if they wish to undertake projects such as the Cameron Hills Expansion. The KTFN, since time immemorial, have been stewards of the environment, and the constitution and law of Canada affirm the central and essential role of their communities in regulating activities in their traditional territory. Direct reporting to the KTFN of

Paramount's activities that relate to the interests of the KTFN is a basic and fundamental obligation, which is necessary both in order to achieve successful environmental management, and to respect the interests, rights and role of Aboriginal peoples.

KTFN Comments on the Review Board's Recommendations and Paramount's Response

Recommendation 1

The Review Board recommends that regulatory authorities include in their authorizations those items set out in the Developer's commitments, outlined in Appendix A, that are within their jurisdiction.

Paramount's Comment

Paramount had no comment on this recommendation.

KTFN's Comment

While the KTFN do not have a concern with the intent of the recommendation, the KTFN are concerned that the language in the recommendation is not strong or clear enough to ensure full implementation of Paramount's commitments.

The KTFN's concerns are based on the phrase "that are within their jurisdiction". The KTFN are concerned that some of Paramount's commitments will not be considered to be within the jurisdiction of either the MVLWB or the NEB and thus will not be enforced.

Prior to the National Energy Board (NEB) and the Responsible Ministers accepting this recommendation, the KTFN recommend that the following must occur:

- The MVLWB and the NEB each must review Paramount's commitments and identify to the Review Board which commitments are considered to be within their respective jurisdictions;
- The Review Board must identify which of Paramount's commitments will not be captured by either the MVLWB or the NEB; and
- The Review Board must identify an enforcement process for those commitments that will not be captured by either the MVLWB or the NEB.

Recommendation 2

The Review Board recommends that Paramount prepare a report within 12 months and thereafter, annually, until the developments on the SDL are abandoned and restored, for distribution in plain language to the parties in this EA. This report will outline the implementation status of each commitment made during the course of this EA, as set out in Appendix A.

Paramount's Comment

Paramount has asked for this recommendation to be deleted. It is Paramount's position that this recommendation would lead to a duplication of effort and that it already reports to government and regulatory bodies.

KTFN's Comment

Paramount's comment has no validity with regards to the KTFN. Paramount has a demonstrated history of not keeping the KTFN informed of its project activities. This recommendation cannot duplicate what is not currently being done.

The KTFN have also found the NEB and INAC to be less-than-forthcoming with information when requested. Furthermore, the KTFN need to be made aware that an issue exists before it will seek additional information. According to Paramount, the KTFN should be using our time and money to continually monitor the files of other organizations, none of which are based in Kakisa, to keep up-to-date on their project activities. This is an inappropriate attitude when Paramount is operating on KTFN lands. A direct reporting relationship from Paramount to the KTFN is the best way for the KTFN to stay informed of Paramount's activities.

The KTFN accept this recommendation as written but would suggest that the Review Board itself should be added to the list of organizations that receive this annual report.

Recommendation 3

The Review Board recommends that prior to the issuance of any further licenses or permits Paramount install a meteorological station (at minimum must monitor wind speed, wind direction and temperature) in the Cameron Hills SDL to gather baseline data related to its development. Meteorological data will be provided annually to air quality staff of GNWT-RWED and Environment Canada along with a detailed re-modeling of Paramount's various development scenarios to ensure on-site meteorological conditions are reflected in the modeled outputs.

Paramount's Comment

Paramount has asked that this recommendation be amended to only require the collection of 1 year of meteorological data. Paramount stated: "Though Paramount believes that it is not necessary, we are willing to install a meteorological station to collect a full year of on-site data."

KTFN's Comment

What Paramount is willing or not willing to do has no relevance to the NEB and the Responsible Ministers when considering this recommendation. The only relevant factor is how much on-site air quality data is required to obtain accurate modeling results. Given that the modeling to date has shown that Paramount will be within 2% of guidelines, there is ample reason in these circumstances to invoke the precautionary

principle and to collect a larger-than-normal amount of baseline information to ensure the most accurate modeling results possible.

The KTFN accept the wording of this recommendation as written with one exception. The KTFN want to have data and modeling results provided directly to them by Paramount.

The KTFN will oppose any inclusion of a maximum period of baseline data collection. The KTFN would only accept a specified minimum period of data collection followed by periodic review to determine if additional data collection is necessary.

Recommendation 4

The Review Board recommends that Paramount install a continuous gas analysis monitoring system to track ambient air quality (at minimum 1 hour SO₂ and NO₂) and provide the data to the general public via website, to be updated no less than monthly if a live connection is not available. Annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to all potentially affected communities and government in a plain language document throughout the life of the Paramount operations at Cameron Hills.

Paramount's Comment

Paramount has asked that this recommendation be deleted citing that there is no precedent for continuous monitoring and that modeling has shown that guidelines will not be exceeded.

KTFN's Comment

There is no requirement for the Review Board to base its decision on precedents in the Northwest Territories. The absence of continuous monitoring for other projects merely indicates that the circumstances for those projects did not require continuous monitoring, not that the regulators could not impose it if they chose to.

The KTFN would like to note that it is not aware of any recent precedent in the NWT for a company so blatantly implementing the "solution to pollution is dilution" approach to environmental management as Paramount has with its excessive stack heights. Nor are the KTFN aware of any precedent for a company determining that it will operate within 2% of guidelines and considering that to be acceptable without attempting any emissions reductions.

Paramount's modeling has shown that it will operate within 2% of guidelines. The KTFN believe that Paramount can and will exceed the guidelines on a periodic basis when less-common atmospheric conditions exist. The KTFN believe that the circumstances for this project justify this measure.

The KTFN would accept the recommendation as written but suggest that it could be improved with 2 specific additions:

- The gas monitoring system must be operational prior to any additional wells being connected to the gathering system; and
- The gas monitoring system must be operational for the operational lifespan of the Cameron Hills project.

The recommendation could also be improved by specifying that the gas monitoring system must monitor those areas determined most likely to have poor air quality.

Recommendation 5

The Review Board recommends that Paramount install an amine fuel sweetening unit at the Central Battery (H-03) location prior to bringing any further wells online or pipe in sweet fuel from outside Cameron Hills, as per Paramount's original development plan.

Paramount's Comments

Paramount has asked that this recommendation be deleted. Paramount states that this measure is not justified and that there is no basis for requiring Paramount to exceed current guidelines. Paramount also states that it "would endeavor to install this technology at a time in which it would maximize shareholder value."

KTFN's Comment

The KTFN believe that there is more than adequate justification for this recommendation:

- Paramount's modeling has shown that it will operate within 2% of guidelines. The KTFN believe that Paramount can and will exceed the guidelines on a periodic basis when less-common atmospheric conditions exist.
- Paramount's modeling was based on data from Fort Smith, not from the Cameron Hills.
- Paramount has demonstrated its commitment to the "solution to pollution is dilution" philosophy. The KTFN do not believe Paramount will ever install an amine sweetening unit until it is forced to do so by regulators.
- The *MVRMA* mandates the protection of the people and environment in the Mackenzie Valley. The protection of Paramount shareholder value is not an objective of the *MVRMA* and is not a factor for the NEB and the Responsible Ministers to consider when discussing this recommendation.
- The practice of EA takes into account many factors and it is not just a straight comparison to guidelines, as Paramount is trying to reduce it to. The Review Board has considered all of the factors and determined that adequate protection for the environment can only be ensured through the use of an amine sweetening unit.

Paramount states that there is no evidence that its modeling is flawed. The KTFN believe that ample concerns with the modeling have been noted by the GNWT and Environment Canada.

The more important issue for the KTFN is that Paramount's entire approach to environmental management, including no attempt at emissions reductions, is flawed.

The KTFN support the recommendation as written but suggest that it could be rearranged as follows to be clearer:

The Review Board recommends that Paramount:

- 1) *Installs an amine fuel sweetening unit at the Central Battery (H-03) location; or*
- 2) *Pipes in sweet fuel from outside Cameron Hills, as per Paramount's original development plan;*

prior to bringing any further wells online.

Recommendation 6

The Review Board recommends that any further combustion engines being installed for line heaters and pumpjacks at the Cameron Hills operation must use the sweetened fuel or an alternate source of no sulphur fuel.

Paramount's Comment

Paramount has asked that this recommendation be deleted. Paramount says that there is no evidence or legislation supporting this recommendation.

KTFN's Comment

There has been ample evidence presented to indicate that there are legitimate concerns for the quality of the air in the vicinity of the Cameron Hills project. That is the only evidence required for the Review Board to impose this recommendation to minimize potential air quality impacts. No legislative basis beyond the *MVRMA* is required for the Review Board to make this recommendation or for the NEB and the Responsible Ministers to accept it.

The KTFN accept this recommendation as written.

Recommendation 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.

Paramount's Comment

Paramount did not take a position beyond stating that it believes that this process has already started.

KTFN's Comment

The KTFN accept the intent of this recommendation as written but would like some additional clarity as to what is being required. The KTFN understand this recommendation as requiring the GNWT and Environment Canada to fulfill this recommendation not just in relation to the Ranger EA but now also in relation to the Cameron Hills EA.

Recommendation 8

The Review Board recommends that Paramount modify its spill reporting procedures for the Paramount Cameron Hills developments to include notice of spill occurrences to potentially affected communities. Spills must be reported according to the NWT Spill Reporting Procedures.

Paramount's Comment

Paramount has asked that this recommendation be deleted. Paramount says that it is already adhering to existing spill reporting processes and that it will notify communities if they are potentially affected by a spill.

KTFN's Comment

The NWT Spill Reporting Procedures or the requirements of the NEB do not prevent the Review Board from making this recommendation. The Review Board has decided that direct notification from Paramount to the KTFN is required and the KTFN support that decision.

The KTFN take no comfort in Paramount's assurances that they would be notified in the event that the community might be affected by a spill. Paramount has already suffered pipeline breaks and large spills with no notification to the KTFN. This leaves the KTFN to wonder what magnitude of a spill would ever compel Paramount to voluntarily notify the KTFN. It seems that to accept Paramount's view, the KTFN would not need to be notified for anything less than a massive spill directly into the Cameron River.

The KTFN suggest that the recommendation would be improved by requiring the following:

1. The NWT Spill Reporting Procedures are to be rewritten to explicitly require direct spill notification from a developer to local communities;
2. The NEB and the GNWT are to keep the KTFN informed of the status of investigations and remediation of spills; and
3. Paramount must undertake a study to investigate why its spill rate is higher than the industry-wide figure. Paramount must develop and implement mitigative

measures to bring its statistics in line with the industry-wide figure of 2%. Paramount is to work with the KTFN on the completion of this study.

Recommendation 9

The Review Board recommends that Paramount continue to monitor all work sites for erosion, and take appropriate measures in advance to avoid such problems. The Review Board recommends appropriate erosion mitigation measures be identified in advance and authorized by the NEB and INAC inspectors, and that any remediation of sites be documented and reported to regulators and the Ka'a'Gee Tu First Nation on a quarterly basis.

Paramount's Comment

Paramount has asked that this recommendation be deleted. Paramount provides a long list of reasons why they should not need to do this but do not directly address the issue of reporting to the KTFN.

KTFN's Comment

If, as Paramount states, they are already doing what is required by this recommendation then there is no need for Paramount to ask that this recommendation be deleted.

The basic issue, and the one that Paramount did not address, is that Paramount does not want any direct reporting relationship from it to the KTFN. This theme is prevalent throughout Paramount's letter, not just in its comments for this recommendation.

The KTFN support the intent of this recommendation as written. Paramount failed to inform the communities about its erosion problems and the MVLWB, INAC and the NEB all deny that they have any responsibility to do so. Expecting the KTFN to stay up-to-date by regularly searching through the files of organizations that are not located in Kakisa is not reasonable or feasible.

Paramount states that the information about its erosion problems was publicly available but that is only partially true. INAC and the NEB refuse to make their inspector's reports available until after an identified problem has been resolved. Even then, the KTFN cannot be expected to ask for information about an event that they were not even aware had occurred. As long as Paramount and the government refuse to voluntarily accept the responsibility for notifying the KTFN about environmental problems, then recommendations such as this one from the Review Board will continue to be necessary.

The KTFN suggest that the recommendation would be improved by requiring the NEB and INAC to provide the KTFN with copies of inspection reports within 1 week of the inspection occurring. INAC and the NEB must also provide the KTFN with copies of any orders or instructions that are issued to Paramount within 1 week of the order or instruction being issued.

Recommendation 10

The Review Board recommends that Paramount, in the case of an isolated water crossing, maintain downstream water flow at pre-in-stream work levels. All in-stream work must be completed as expediently as possible to mitigate disruption of fish movements.

Paramount's Comment

Paramount has asked that this recommendation be deleted because it duplicates what Paramount is already doing.

KTFN's Comment

If, as Paramount says, this recommendation just duplicates requirements that are already placed on Paramount, then there should be no concern from Paramount for this recommendation to remain as is.

The KTFN accept this recommendation as written.

Recommendation 11

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

Paramount's Comment

Paramount had no comment on this recommendation.

KTFN's Comment

The KTFN accept this recommendation as written but suggest that it could be improved by specifying what is meant by "regular" site visits. The KTFN suggest that these visits should be at least twice a year.

Recommendation 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 other 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.

Paramount's Recommendation

Paramount has asked that this recommendation be deleted because it does not specifically address or mitigate impacts of Paramount's Cameron Hills project.

KTFN's Comment

The KTFN accept this recommendation. Paramount's simplistic approach of deleting the recommendation is not appropriate or helpful. Rather the KTFN suggest that the following sentence be added to the recommendation.

"The NEB and the MVLWB will implement all recommendations of the DCBCWG for Paramount's Cameron Hills project for both existing authorizations and future authorizations."

Recommendation 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 for the area.

Paramount's Comment

Paramount has asked that this recommendation be deleted citing a variety of reasons, including the nature of the evidence presented on this issue.

KTFN's Comment

Contrary to Paramount's statement, the KTFN, the GNWT and the Review Board considered the evidence presented by Paramount. Paramount's evidence was simply found to be lacking in both substance and credibility.

The gist of Paramount's argument seems to be that there has been no firm proof presented that their project has or will negatively impact caribou. Paramount is attempting to place the burden on other parties to prove that there will be significant impacts instead of accepting that the burden falls to Paramount to prove that its project will not significantly impact caribou. Paramount has failed in that regard and the Review Board was justified in placing this measure on the Cameron Hills project, particularly in light of research from northern Alberta that has shown the 1.8 km/km² value to be an important threshold.

Paramount argues that only linear disturbances that open up access to the area (i.e., roads and pipeline routes) should be considered and that oil and gas operations in the area such as seismic lines should be excluded. This position by Paramount has no credibility and is completely unsubstantiated.

The KTFN, the GNWT and the Review Board all accept that there are some uncertainties and that is the primary reason for the Review Board's recommendation that the DCBCWG should be formed. These uncertainties, however, do not prevent the Review Board from placing reasonable mitigative measures such as this on the Cameron Hills project. The Review Board adopting Paramount's approach of doing nothing while the necessary studies are being completed would be irresponsible and would not be employing the precautionary principle. If the future studies and recommendations of the DCBCWG indicate that a higher linear density can be tolerated, then the 1.8 value can be increased.

The only valid argument advanced by Paramount was that the recommendation provides no reference to the area that should be used to calculate the linear density. The KTFN believe that a specific defined area should be used, with that area being Paramount's SDL. The KTFN are concerned that if a larger area that covers the entire Cameron Hills were to be used, then the area within the SDL would have linear densities far above the 1.8 value while still maintaining the 1.8 average for the entire area.

The KTFN suggest that the recommendation should have the following 2 changes made to it:

1. "average linear disturbance target" should be changed to "maximum average linear disturbance value"; and
2. "the entire Cameron Hills, NT area" should be changed to "Paramount's Cameron Hills SDL".

Recommendation 14

The Review Board recommends that Paramount locate at least 50% of all proposed and planned development in the Cameron Hills SDL, as described in Paramount's Developer's Assessment Report, on areas that are currently disturbed (as of the date of Ministerial approval of this Report of Environmental Assessment). This requirement should be included as a condition in land use permit MV2002A0046.

Paramount's Comment

Paramount asked that this recommendation be re-worded to remove the 50% target and replace it with a reference to Paramount maximizing the use of previously disturbed areas.

KTFN's Comment

The KTFN are opposed to the suggested change by Paramount. Acceptance of Paramount's suggestion would reduce this recommendation to nothing more than an unenforceable, feel-good recommendation with no possibility for determining if the recommendation is in fact being implemented.

Paramount has demonstrated in the past through its various actions that it is not a "carrot and stick" type of company with which regulators can be light-handed in return for progressive environmental management. Recommendations worded in the manner as suggested by Paramount will fail to produce any meaningful results.

Paramount fits the mold of a "command and control" company where environmental improvements are only obtained through the use of rigid and enforceable regulatory terms and conditions. Paramount uses the phrase "technically and environmentally practical" but the KTFN's experience with Paramount is that what Paramount considers "economically practical" will dictate how this project is designed and implemented.

The KTFN supports the recommendation as written unless Paramount or another party can propose an alternative process in which defined targets and enforceable provisions are included.

Recommendation 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.

Paramount's Comments

Paramount doesn't actually say what it wants done with this recommendation but does say that it is concerned that the recommendation appears to give the KTFN the ability to extract concessions out of Paramount by delaying the project.

Paramount says that it participated fully and cooperatively in the negotiations and places the blame for the lack of an agreement on the communities.

Paramount concludes that it is inappropriate for this project to be delayed until the agreement is finalized.

KTFN's Comments

The KTFN find Paramount's comments to be entirely without merit.

The KTFN note that their Technical Report recommended that the compensation plan form part of a broader Access and Benefits Agreement ("ABA"), which would include accommodating the legal right of the KTFN to benefit from the resources of their territory.

The process outlined by the Review Board does not put Paramount in an unfair negotiating position. It simply implements what is legally necessary in order for the Crown to provide for certainty of tenure. The process establishes a clear timeline, and encourages all parties to seek a positive outcome if they wish to avoid the risks of having a neutral third party impose an agreement. Both the KTFN and Paramount risk losing in arbitration if either presents an unreasonable negotiating position. The process proposed by the Review Board is also enforceable with an end date that should not delay Paramount's winter 04/05 work, assuming that the NEB's and Responsible Ministers' responses to the Review Board's report occurs within a reasonable time frame.

Concerning Paramount's previous participation in the negotiation/mediation, Paramount came to the table with a rigid and pre-determined set of items that it was willing to talk about and would not consider issues brought to the table by the KTFN. An agreement could not be reached in that context.

The KTFN state that delaying further work until an agreement is in place is entirely appropriate. What was inappropriate was for Paramount to have proceeded to work on KTFN land without having such an agreement in place.

Recommendation 16

The Review Board recommends that the GNWT develop a socio-economic agreement with Paramount in consultation with affected communities before operations proceed under 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.

Paramount's Comments

Paramount has asked that this recommendation be deleted on the basis that it has fulfilled its legislative requirements for an INAC-approved Benefits Plan. Paramount is also concerned that this recommendation will delay the project.

KTFN's Comments

In the KTFN Technical Report Recommendations, the KTFN recommended that Paramount and the Government of Canada (including its agents the NEB and the MVLWB) each must engage in a process of finalizing consultation plans with the KTFN, and that an ABA, socio-economic agreement, and environmental agreement be entered into prior to any additional authorizations being granted to Paramount for the Cameron Hills Extension Project.

The KTFN note that mining companies have come to accept that ABAs, socio-economic agreements and environmental agreements are now simply a cost of doing business in the NWT. These types of agreements are being applied to mines of various sizes despite the fact that there are no legislative requirements for the agreements. The Review Board's

recommendation is a long overdue, first step towards applying the same standard to oil and gas projects that is routinely applied to mining projects.

Aboriginal communities no longer accept having no control over how projects unfold in their traditional territory, and obtaining little to no benefits from projects on their traditional lands. The INAC-approved Benefits Plan relied on by Paramount is entirely inadequate to meet the new realities of non-renewable resource development in the NWT. That Benefits Plan is vague, unenforceable and has never been agreed to by the KTFN.

The KTFN make the following suggestions concerning the Review Board's recommendation:

- The recommendation should be re-worded to be clear that the KTFN are to be a party to and negotiate the socio-economic agreement, not just consulted on an agreement between Paramount and the GNWT. In addition, the parties should be required to undertake consultation in a manner respectful of the Deh Cho First Nation Consultation Principles.
- The recommendation should be expanded to require an ABA between Paramount and the KTFN and an environmental agreement between the KTFN, Paramount, INAC and the GNWT. The KTFN provided ample justification for requiring these agreements in its technical report to the Review Board.

It is the position of the KTFN that no work should be allowed to proceed in the Cameron Hills without these agreements in place.

Recommendation 17

The Review Board recommends the KTFN be notified directly if any heritage resources are suspected or encountered during Paramount's activities in the Cameron Hills.

Paramount's Comment

Paramount has asked that this recommendation be deleted based on the reason that it has no legislative requirement to contact the KTFN.

KTFN's Comment

As stated before, the Review Board is not bound by legislation or regulations when developing its recommendations. The only restriction on the Review Board is adherence to the *MVRMA*. That the Review Board can and will go beyond legislative requirements in its recommendations has already been accepted by the Responsible Ministers.

In its Report of EA for the North American General Resources project in Drybones Bay, the Review Board exceeded the legislative requirement by expanding the exclusion zone

around heritage sites from 30 m to 100 m. The Responsible Ministers accepted this recommendation.

The KTFN support the intent of this recommendation but suggest that it could be clarified by changing "notified directly if" to "notified directly by Paramount if".

Suggestion 1

The Review Board suggests that a member of the KTFN be invited by DFO to accompany its inspectors while conducting inspections in the Cameron Hills operations area.

Paramount's Comment

Paramount has no comment on this suggestion.

KTFN's Comment

The KTFN accept this suggestion as written.

Suggestion 2

The Review Board suggests the agencies responsible for water resource management and protection increase their monitoring and enforcement efforts commensurate with the increase in the scope of Paramount's development in the Cameron Hills area.

Paramount's Comment

Paramount asks that this suggestion be deleted. Paramount feels that this suggestion implies wrong-doing on its part and that this is not true.

KTFN's Comment

There is ample evidence of environmental problems, with erosion and fuel spills being the most prominent. Paramount has acknowledged that it has higher than average spill rates and pipeline breaks. Based on the history of this project and the proposed expansion, the Review Board suggesting increased monitoring and enforcement activity is simply a prudent move based on obvious evidence.

Suggestion 3

The Review Board suggests that the MVLWB and NEB specify low-impact seismic lines (currently ≤ 4.5 m wide average, maximum ≤ 5 m wide, maximum line of sight ≤ 200 m) as the current standard for geophysical programs in boreal caribou habitat, as outlined in the MVEIRB 2003 draft document: Reference Bulletin - Preliminary Screening of Seismic Operations in the Mackenzie Valley.

Paramount's Comments

Paramount has suggested that this suggestion be deleted because the appropriate studies have not yet been completed to develop defensible criteria.

KTFN's Comments

The KTFN note that Paramount is again advocating the irresponsible "do nothing" course of action until formal studies and recommendations have been developed.

The KTFN view this suggestion as a precautionary measure that can be utilized until final recommendations are developed by the DCBCWG.

Suggestion 4

The Review Board suggests that RWED determine the need for cooperative research to document the impacts of the Cameron Hills development on marten, wolf, and wolverine populations.

Paramount's Comments

Paramount questions the need for this suggestion by stating that it is inappropriate to focus this research on Paramount's activities.

KTFN's Comments

Given that the objective of this process is to assess and mitigate the impacts of Paramount's project, Paramount's position that this suggestion is inappropriate is baseless.

The KTFN are recommending that this suggestion be elevated to a recommendation based upon the importance of these species to the KTFN. Further details are provided in the KTFN's technical report.

Suggestion 5

The Review Board suggests that the discussion and drafting of the community investment plan be resumed between the KTFN and Paramount, with a target date of completion and implementation of November 30, 2004.

Paramount's Comments

Paramount finds this suggestion to be inappropriate, again using the argument that there is no legislative requirement for such an agreement. Paramount also implies that its willingness to proceed with this plan hinges upon it getting its way with the Review Board's other recommendations.

KTFN's Comments

As described earlier, the Review Board can go beyond legislative requirements in developing its recommendations and suggestions. Paramount's lack of understanding of this issue has been a hindrance to obtaining meaningful resolution of issues with Paramount.

The KTFN are recommending that this suggestion be upgraded from a suggestion to a recommendation with the objective being the completion of an ABA between the KTFN and Paramount prior to any further project development occurring. Further details on this issue are provided in the KTFN's technical report and in our comments on Recommendation 15 and Recommendation 16.

Suggestion 6

The Review Board suggests that Paramount continue discussions with the Hay River Health and Social Services with regards to services (emergency or other) that may be utilized by the company in certain instances.

Paramount's Comments

Paramount states that it has already made this commitment.

KTFN's Comments

The KTFN accept the suggestion as written.

Conclusion

The KTFN appreciate the opportunity to provide the KTFN's perspective on the Review Board's Decision and to respond to Paramount's comments.

As noted earlier, two of the themes underlying Paramount's comments are its antipathy to any direct reporting requirement to the KTFN, and conviction that they are only responsible to do what may be minimally required by legislative enactments.

From the perspective of the KTFN, these themes reveal Paramount's resistance to accepting the current legal and social framework governing such projects in the Northwest Territories. This framework requires that the KTFN be consulted and accommodated. It also calls for the required environmental management that addresses substantively and contextually the potential impacts of these proposed developments.

If Paramount is unable or unwilling to do what is required of it to achieve a successful project in the Cameron Hills, then Paramount should cease operating in the Cameron Hills.

Sincerely,



Allan Landry
KTFN Band Councilor and Oil and Gas Advisor

- c.c. Herb Norwegian, Grand Chief of Deh Cho First Nations
- Todd Burlingame, Chair, Mackenzie Valley Environmental Impact Review Board
- Melody McLeod, Chair, Mackenzie Valley Land and Water Board