

COPY

FAX COVER SHEET

DATE: August 31, 2004

CLIENT #: 216-00.4

TO: Indian Affairs and Northern Development
Attention: The Hon. Andy Scott

FAX: 1-819-953-4941

CC: Ka'a'Gee Tu First Nation
Attention: Allan Landry

FAX: 1-867-825-2002

CC: Government of the Northwest Territories
Attention: Hon. Joe Handley, Premier

FAX: 1-867-873-0169

CC: National Energy Board
Attention: Kenneth Vollman, Chair

FAX: 1-403-292-5503

CC: Government of Northwest Territories
Attention: Hon. Brendan Bell
Minister of Resources, Wildlife and
Economic Development

FAX: 1-867-873-0169

CC: Government of Canada
Attention: Hon. Geoff Regan
Minister of Fisheries and Oceans

FAX: 1-613-947-7081

CC: Government of Canada
Attention: Hon. Stéphane Dion
Minister of Environment Canada

FAX: 1-819-953-3457

CC: Government of Northwest Territories
Attention: Hon. Ethel Blondin-Andrew
Minister of State (Northern Territories)

FAX: 1-613-992-7411

CC: Government of Canada
Attention: David Livingstone
Dept. of Indian Affairs and Northern
Development, Director, Renewable
Resources and Environment

FAX: 1-867-669-2707

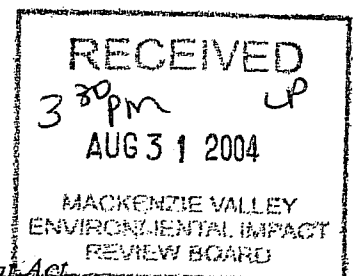
CC: Mackenzie Valley Environmental Impact Review
Board
Attention: Todd Burlingame, Chair

FAX: 1-867-766-7074

FROM: Louise Mandell, Q.C.

NUMBER OF PAGES: 4

RE: Mackenzie Valley Environmental Impact Review Board's
Reasons for Decision for the Paramount Resources Ltd.
Cameron Hills Extension Environmental Assessment and
Sections 130 and 131 of the *Mackenzie Valley Resource Management Act*



August 31, 2004

Via Fax: 1-819-953-4941

Indian Affairs and Northern Development
Terrasses de la Chaudière, North Tower
Suite 2100 - 10 Wellington Street
Gatineau, Quebec K1A 0H4

Attention: The Hon. Andy Scott, P.C., M.P.

Dear Sirs:

**Re: Mackenzie Valley Environmental Impact Review Board's
Reasons for Decision for the Paramount Resources Ltd.
Cameron Hills Extension Environmental Assessment and
Sections 130 and 131 of the *Mackenzie Valley Resource Management Act***

We are writing on behalf of the Ka'a'Gee Tu First Nation in response to your letter of August 19, 2004 addressed to the Mackenzie Valley Environmental Impact Review Board. In your letter you initiate consultation with the Board, pursuant to subparagraph 130(1)(b)(ii) of the *Mackenzie Valley Resource Management Act*, regarding suggested modifications to the measures recommended by the Board in the Paramount Resources Limited Cameron Hills Environmental Assessment and Report.

Further to our letter to you of July 20, 2004, the Ka'a'Gee Tu First Nation expect full and unconditional inclusion in the post-Report decision-making process with respect to any issues which involve the Ka'a'Gee Tu. In particular, there has been no agreement reached with respect to the accommodation of their short and long term interests, rights and title. The Ka'a'Gee Tu expect that prior to the project proceeding, negotiations will be concluded and an agreement reached with them. Certain recommendations of the Board currently support this result to some degree, and our clients are adamant that at least these protections be maintained, and preferably strengthened. To exclude the Ka'a'Gee Tu First Nation in any way would be a fundamental breach of the constitutional and fiduciary duty on the Crown to consult and accommodate.

We expect that the Responsible Ministers, their Ministries, and the Board, will provide for the full inclusion of the Ka'a'Gee Tu First Nation by copying them on all correspondence,

providing them with full information on suggested modifications and recommendations, and inviting them to fully participate in any meetings.

We are also in receipt of a copy of the Board's "Procedures for Consultation Under the MVRMA". We note that in the procedure the Board states that the Responsible Minister's and the NEB have "no explicit statutory obligation under the MVRMA to include others in a consultation, including the parties to an EA or an EIR. Since the consultation takes place on the request of the [Responsible Ministers or the NEB], any decision about involving others, such as the parties to an EA or an EIR, is for them to make." The lack of an explicit statutory obligation does not mean that the Responsible Ministers are under no legal obligation to fully include the Ka'a'Gee Tu First Nation in the process.

We also note the Board's current policy states that pursuant to the MVRMA once the Responsible Ministers initiate a process to modify a Board's recommendation, "the recommendation must either be adopted with modifications or rejected. If rejection occurs, the Act makes it mandatory for an EIR to be conducted." The Board also states that "there is a limit on the federal Minister and Responsible Ministers'...capacity to modify a recommendation. If the changes proposed fundamentally alter the purpose, substance or effect of a recommendation this is tantamount to a rejection of the recommendation. The proper course of action, in this instance, is to reject the original recommendation thus triggering an EIR".

In 2002, the Minister requested and the Board agreed to, over strenuous objection from the Ka'a'Gee'Tu, substantial modifications and deletions of recommendations to the Cameron Hills - Paramount EA. Despite this fact, and in contradiction to both the MVRMA and current Board policy, no EIR was triggered. We are placing you and the other Responsible Ministers on notice that current decision-making in the Cameron Hills - Paramount EA is an opportunity to correct this wrong, and we expect that the Responsible Ministers will consult and accommodate the interests of the Ka'a'Gee'Tu accordingly.

In your letter you indicate that regional officials, under the direction of Mr. David Livingstone, Director of Renewable Resources and Environment, will be in contact with the Board to provide suggested modifications to the recommended measures and to set up a meeting. The Ka'a'Gee'Tu First Nation looks forward to being contacted by Mr. Livingstone and the Board concerning the suggested modifications and to arrange their attendance at the meeting.

We look forward to hearing from you.

Yours truly,

MANDELL PINDER



Louise Mandell, Q.C.
Barrister & Solicitor

LM/RD/jd

216-00.400426

ccs: Clients

Hon. Joe Handley, Premier of the Northwest Territories

Kenneth Vollman, Chair of the National Energy Board

Hon. Brendan Bell, Minister of Resources, Wildlife and Economic Development, NT

Hon. Geoff Regan, Minister of Fisheries and Oceans

Hon. Stéphane Dion, Minister of Environment Canada

Todd Burlingame, Chair of the Mackenzie Valley Environmental Impact Review Board

Hon. Ethel Blondin-Andrew, Minister of State on Northern Development, Northwest Territories

David Livingstone, Director, Renewable Resources and Environment, DIAND