

FAX COVER SHEET

DATE: December 13, 2004

CLIENT #: 216-00.4

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

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

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CC: Mackenzie Valley Environmental Impact Review
Board
Attention: **Mary Tapsell, Manager of
Environmental Impact Assessment**

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FROM: Louise Mandell, Q.C.

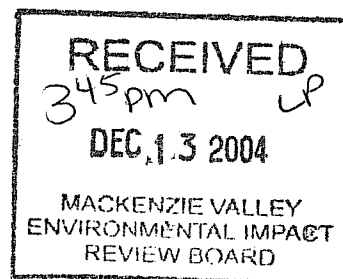
RE: **INAC's Proposed Modifications -
Paramount Resources Ltd. - Cameron Hills Environmental Assessment**

NUMBER OF PAGES INCLUDING COVER SHEET: 3

ORIGINAL BEING SENT BY MAIL: NO

Please see attached our letter to you of today's date.

Thank you.



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AS SOON AS POSSIBLE.**

December 13, 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.**
Minister

Dear Hon. Andy Scott:

**Re: INAC's Proposed Modifications -
Paramount Resources Ltd. - Cameron Hills Environmental Assessment**

We are writing further to our letters of July 20, August 10, August 31, and November 19 in regards to the Mackenzie Valley Environmental Impact Review Board's (the "Board") recommendations in the Paramount - Cameron Hills Environmental Assessment.

Your Ministry provided its proposed modifications to the recommendations of the Board on November 17, 2004. On November 18 the Supreme Court of Canada issued landmark decisions concerning aboriginal title and rights (*Haida Nation v. British Columbia (Minister of Forests)* 2004 SCC 73; *Taku River Tlingit v. British Columbia (Project Assessment Director)* 2004 SCC 74). These cases are directly relevant to this environmental assessment. The Supreme Court of Canada clarified that the honour of the Crown is at stake in its dealings with Aboriginal peoples, and there is the requirement that meaningful consultation take place prior to the approval of projects which will infringe aboriginal title and rights.

The post-report decision-making process in this environmental assessment and the substance of INAC's, as well as NEB's, proposed modifications represent "an impoverished vision of the honour of the Crown" (*Taku River Tlingit*). Specifically, we note the following:

- You have not responded in substance to the Ka'a'Gee Tu's letters concerning post-report decision-making in this environmental assessment. Given that the Board has frequently stated that post-report decision-making is the federal Minister's and the NEB's process, the Ka'a'Gee Tu are unclear as to why it is the Board requesting comments from the parties on INAC's proposed modifications, how the Board intends to use the comments, whether you will consider them, and what the process is.
- You are now trying to delete and/or modify the Board's recommendations which addressed infringements of Ka'a'Gee Tu title and rights, without consultation with

the Ka'a'Gee Tu. Similarly, the NEB's proposed modifications significantly weaken the reporting and information sharing requirements to the Ka'a'Gee Tu.

- The rationale provided by your Ministry for deleting the recommendations uses your Ministry's own failure to support a proper impact assessment of the project on the title and rights of the Ka'a'Gee Tu to justify deletion of recommendations that aim at the protection of those rights. Such faulty reasoning cannot be sustained.

As such, the Ka'a'Gee Tu submit that the following steps must immediately be taken:

- A process should be instituted to review the recent decisions of the Supreme Court in the context of this environmental assessment, and ensure that post-report decision-making meets the standards set by the Supreme Court of Canada.
- As all of the recommendations and the proposed modifications were submitted prior to the release of the Supreme Court of Canada decisions, all of the proposed modifications should be withdrawn, and reconsidered in light of the recent case law.
- We encourage you to take steps to fully include the Ka'a'Gee Tu in post-report decision-making, including your consultations with the Board, and to provide clarity, in writing, concerning the process to be followed, and including a written response to Ka'a'Gee Tu's submissions.

The Ka'a'Gee Tu are addressing the same concerns to the NEB. As well, the Ka'a'Gee Tu will be further addressing these points in full, as well as commenting on all of the proposed modifications, in its reply to the Board's request for comments.

We look forward to receiving your reply to this, and our previous, letters.

Yours truly,

MANDELL PINDER



Louise Mandell, Q.C.
Barrister and Solicitor

LM/dg

ccs: Clients
MVEIRB