

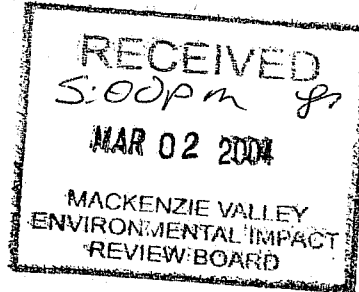
# KATLODEECHE FIRST NATION

## FACSIMILE TRANSMITTAL SHEET

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**Technical Report**

**For:**

**EA03-007 Paramount Cameron Hills Extension**

**Submitted to:**

**Mackenzie Valley Environmental Impact Review Board**

**Submitted by:**

**K'atlodeeche First Nation**

**March 2<sup>nd</sup>, 2004**

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**EA03-007 Paramount Cameron Hills Extension - Technical Report Submission to the Review Board****1. Introduction**

Paramount's project is in the Cameron Hills region of the Northwest Territories, which is part of the traditional lands of the Fort Providence Métis Council (FPMC), the Deh Gah Got'ie First Nation (DGGFN), the K'atlodeeche First Nation (KFN) and the West Point First Nation (WPFN). All 4 of these communities are members of the Deh Cho First Nations (DCFN).

The communities are the traditional land users, caretakers and managers of the Cameron Hills area. They remain dependent upon the land and waters in the area for their culture and livelihood. Their constitutional rights to use and occupy these lands are guaranteed by treaty, and protected by s. 35(1) of the *Constitution Act, 1982*. Given their close ties to the land, they are aware of the extensive environmental, economic and social impacts that this project will bring to their way of life.

The communities have consistently taken the position that this project overlaps with the traditional and contemporary use area of the local people and as such potential impacts and mitigation measures must be fully addressed.

The communities are submitting this technical report to provide the Mackenzie Valley Environmental Impact Review Board (Review Board) with their experience with this project and their recommended measures that must be applied to this project.

**2. The Katlodeeche First Nation**

The ancestors of First Nations like the Katlodeeche lived on this continent long before explorers from other continents first came to North America. The Dene and their descendants have used and occupied their traditional lands in the Hay River and surrounding area of the Northwest Territories from time immemorial. The Katlodeeche is a signatory to Treaty 8 signed in 1899 with Chiefs and Headmen representing Chipewyan, Cree, Dogrib, Slavey and Beaver people and it recognizes the solemn, historical and cultural importance of this treaty.

Any development pertaining to our traditional lands must follow our Position Paper that we served to Paramount and the Government in 1998. Our Position Paper reflects what we as a First Nation believe how the Crown and any Third Party Interest has to address Katlodeeche when our traditional lands have been affected. We expect Paramount and the Government to honour our position and respect these traditional lands that our people depend on.

**3. The Relationship between the People and the Land**

The land is central to the identity and way of life of the communities. There is an expression in the local aboriginal language, which translates to mean, "we are the land." The communities have always lived on the land, and when they take something, they always work to give something back. An offering is one component of showing respect for the land.

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The communities rely, on a year-round basis, on the land. A large portion of the food consumed by the communities comes from the land, through hunting, trapping, fishing and gathering roots and berries. The treaty-protected rights to hunt, fish and trap are central to who the communities are as a people.

The communities continue to teach the young people to learn to live as their Elders did. To know their culture, the children need to know the land. As growing members of their communities, the children repair nets and traps, gather foods, and prepare for upcoming seasons of hunting, trapping or fishing. More than keeping their children occupied, this keeps them imbued in the culture of their people.

The communities ask that the Review Board and its staff take the time to again watch the video that was presented by the Ka'a'Gee Tu First Nation (KTFN) at the Public Hearing in Hay River and to read the KTFN's closing statement. Although the video and closing statement were provided on behalf of the KTFN, the evident close connection to the land by everyone in the community from youth to Elders, and the importance of the Cameron Hills in particular, is applicable to all of the local aboriginal communities.

The communities also ask the Review Board to take the time to read the statement of KFN Chief Roy Fabian during the Public Hearing, which described the concerns that the communities have this project. Katlodeeche traditional lands are reflected in their Position Paper and Katlodeeche still maintains a strong relationship with Cameron Hills and the watershed area. As reflected in our Heritage Resources Impact Assessment Report we are still traditional land users in the Cameron Hills area.

Katlodeeche is asking the Review Board to ensure that Paramount not only protect the land and environment but to ensure the rights of the Dene that are affected are protected and maintained. Paramount has to address ownership, impact benefits, community invest plans and harvester's compensation plan as well.

Specifically "We are taking this step because of our way of life is rooted in fundamental spiritual values concerning our relationship to the Creator, the environment and each other. Our Elders have taught us to look at both the past and the future. We believe in the role of our Elders as the living memory of their ancestors and in their responsibilities as custodians of the lands, waters and resources of their homelands."

Also stated in KFN's Position Paper "The Katlodeeche will be actively involved in the conservation and management of such heritage resources, consistent with the maintenance of the integrity of public archives and national and territorial heritage resources collections and will ensure that decisions and policies will take into account Dene cultural values in relation to the use and protection of such resources. The Katlodeeche First Nation must be consulted in the formulation of government policy and legislation in this regard."

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Paramount's operations, both those approved and those proposed, are capable of transforming the Cameron Hills region from a landscape which has supported the traditional way of life and livelihood of the communities for centuries, to supporting a large scale multi-year economic venture based on oil and gas production.

Despite limited resources, the communities have been involved in the environmental and regulatory processes since the outset of the proposed projects. During this period of time, there has been no workable accommodation for the interference they have and will experience to their economy and way of life caused by the project. While there has been consultation between the parties, this consultation has not been meaningful, and the end result has been that the communities have not been accommodated for the foreseeable infringements of the project on their way of life.

Since January 2002, the parties have endeavored to reach agreement on draft compensation plans. Compensation plans are an extremely important element of the process. It is key to the communities that no irreversible steps are taken in this process before such agreements are in place. Compensation plans must address economic as well as cultural components, and not merely lost revenue from harvesting.

The communities do acknowledge that Paramount has agreed to meet with them on occasion, and that the parties have had positive and fruitful discussions. However, the end result remains that the project has the potential to infringe the treaty and aboriginal rights of the communities, and that no meaningful consultation or workable accommodation has yet been reached.

There have not been any positive moves made by Paramount that fulfills Katlodeeche's Dene and Treaty Rights. Although there has been some discussion with Paramount there has been no address of any impact benefit agreement

**5. Community Participation in the EA Process**

The communities have worked since the outset of the project to be involved in all of the environmental and regulatory processes. However, given the limited financial resources that are available to communities to participate in the EA process, this has been extremely difficult, particularly with the large volume of material and the technical expertise required to understand and to work with the material.

Katlodeeche would like to remind the Review Board of the Position Paper that states "The Katlodeeche First Nation notifies all interested third parties, member First Nations and Government of the following:

Prior to opening any lands within the boundaries of the traditional lands of the Katlodeeche First Nation for oil and gas exploration, government shall notify Chief and Council, provide them with an opportunity to present the views of the Katlodeeche to government on the matter, including impact and benefits plans and other terms and conditions to be attached to rights issuance, and consider such views.

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Before any oil and gas exploration takes place, the developer and Chief and Council shall consult on the exercise of the developer's exploration rights with respect to the environmental impact of the activity and measures to mitigate the impact, impact on wildlife harvesting and means to mitigate these, the location of camps and facilities and other site-specific planning concerns, the expansion or termination of activities and a process for future consultations.

Similar consultations will be held before the exercise of a developer's right to develop or produce mineral."

As a result of their inability to fully participate in the environmental review processes, the communities remain concerned about the potential impacts and the effect these impacts have on their ability to sustain their aboriginal rights. These concerns will remain until the communities have been provided with adequate resources to determine for themselves how significant the impacts of this project will be on the land.

In addition to the lack of resources, the communities have also been hindered by the difficulty in obtaining information pertaining to matters that are important to them. This problem in obtaining information is attributable to four causes:

1. The Review Board has refused to issue some of the Information Requests that were developed by the communities;
2. The Review Board and other parties have refused to answer Information Requests that were issued to them directly by the communities;
3. The Review Board has refused to enforce its Information Requests; and
4. The Review Board has not secured evidence that the measures from EA01-005 have been fulfilled.

***Cause #1***

The communities submitted Information Requests to the Review Board, however, the Review Board refused to issue some of the IRs to the intended IR recipients. This problem was largely in relation to the National Energy Board (NEB) and the Mackenzie Valley Land and Water Board (MVLWB).

In past EAs, and in this EA, the referring body has automatically been granted status as a party. The Review Board's Sept. 24<sup>th</sup> letter during this EA said that the MVLWB was automatically a party and did not need to apply to the Review Board according to the Rules of Procedure.

However, in the Review Board's Jan. 26<sup>th</sup> letter to the FPMC the Review Board cited the fact that the MVLWB was not a party as the reason for not issuing IRs to the MVLWB. The communities do not agree with the Review Board's decision that the MVLWB is not a party to the EA in light of the fact that the MVLWB is the referring body for this EA. With this decision, the Review Board is changing the rules mid-EA. This decision also

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allows the MVLWB to not be accountable to the EA process simply by refusing to register as a party.

The potential exists for this decision to be abused in future EAs. For example, if INAC had no issues in a particular EA and decided not to bother registering as a party, then would INAC be excused from participating in the EA?

The communities also do not agree with the Review Board's refusal to issue IRs to the NEB. The NEB is the designated regulatory agency for this EA and holds valuable information that can and should be used during this EA. With the Review Board's decision, this information is largely inaccessible, to the detriment of the quality of the EA process, and also to the detriment of the quality of the Review Board's decisions.

***Cause #2***

On Jan. 8<sup>th</sup>, the KTFN issued 3 information requests to the Review Board. The Review Board refused to answer these questions. In its Jan 26<sup>th</sup> letter to the KTFN, the Review Board said that IRs may not be directed at the Review Board but no reason was provided supporting that position. The communities want to note that there is no prohibition against sending IRs to the Review Board in the Rules of Procedure.

The right to ask questions comes with a responsibility to answer questions. The Review Board has moved beyond facilitating the environmental assessment to being a participant in it by giving itself the right to ask questions. The Review Board should also be prepared to answer questions.

The questions that were posed by the KTFN do not fit within the Request for Ruling process, as the Review Board was not being asked to make decisions or rulings. The Review Board was being asked for information and positions.

Other organizations, including Paramount, the NEB, INAC and the MVLWB also refused to answer the communities' questions during this EA.

The NEB and the MVLWB both used the Review Board's decision that they were not parties to the EA as the basis for refusing to answer questions from the communities. This ignores that fact that both organizations have a responsibility to be responsive to, and to answer questions from, the communities. The fact that the NEB and the MVLWB were not considered parties in the EA was the reason why the Review Board did not issue the IRs but that decision by the Review Board has no bearing on the right of the communities to ask questions directly of the NEB and the MVLWB or on the responsibility of the NEB and the MVLWB to answer questions from communities. Both the NEB and the MVLWB failed to live up to their responsibilities to the communities.

Paramount and INAC both refused to answer questions from the communities by hiding behind the Review Board's EA process and refusing to answer questions that came directly from the communities. The Rules of Procedure do not prevent or take away the right of parties to ask questions of other parties. The EA process allows the communities



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to ask questions directly of Paramount and INAC and allows them to respond. In fact, the parties dealing with each other directly is the best way to resolve issues and get information more quickly. The communities placed their IRs to Paramount and INAC on the Public Registry and asked that Paramount and INAC also place their responses on the Public Registry. In that way all parties, including the Review Board, would have had the benefit of the question and answer during the EA process. However, both Paramount and INAC refused to respond. With these decisions, Paramount clearly revealed its lack of commitment to a meaningful relationship with the communities and INAC failed to fulfill its fiduciary duties to the communities.

***Cause #3***

Paramount refused to answer, or only gave partial answers to, many IRs that would have provided the communities with required information for them to determine for themselves how extensive the impacts due to this project have been and will be.

The value of the Review Board's IR process, and the EA process as a whole, is greatly diminished when Paramount and others can choose which IRs they will or will not answer.

By accepting and issuing the IRs, the Review Board took ownership of the communities IRs. The onus was on the Review Board to verify that the IRs had been answered in full and to take appropriate action if they had not been. However, the Review Board did not enforce its IR process and much valuable information is missing from the Public Registry.

***Cause #4***

In EA01-005 (the Pipeline and Gathering System EA), the Review Board applied 21 measures with 17 of them being directed to the NEB and/or the MVLWB. The Review Board did not secure evidence on whether or not these measures have been fulfilled.

The KTFN attempted to get this information on the Public Registry by using an IR to the MVLWB and the NEB but the Review Board refused to issue it because it does not consider them to be parties to the EA. When the KTFN went directly to the MVLWB and the NEB to get these questions answered, both organizations refused to answer. Through their combined actions, the Review Board, the NEB and the MVLWB have been placing roadblocks in front of the communities by making it difficult to get information.

As a result, there is no evidence that there is any value to the EA process. If these measures have not been fulfilled then EA01-005 was just a meaningless exercise and this current EA likely is as well.

The communities note that DCFN has had to go to court to try to enforce measures imposed by the Review Board but not implemented by the MVLWB on the Canadian Zinc project.

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By failing to enforce its own measures on the Canadian Zinc project and by failing to obtain evidence that its measures have been fulfilled on this project, the Review Board is not fulfilling its responsibilities to the communities or to the *Mackenzie Valley Resource Management Act (MVRMA)* process as a whole.

**Summary**

Unless the Review Board and the Government of Canada address the issue of adequate participant funding, the extent of the communities' participation in the EA process will remain limited at best.

The Review Board also needs to address the causes of insufficient information being placed on the Public Registry. By not having all of the information that it needs, the Review Board is not going to be able to make the best decisions in its Report of EA.

KFN would like to advise that we require resources to address these issues on a technical and professional basis.

**6. Community Issues**

The following are some of the issues that the communities have raised in this process and the communities' recommended measures to be applied by the Review Board.

**6.1 Consultation and Accommodation**

Full and meaningful consultation with the communities must be part of the environmental assessment process, as well as the project itself. This means that all steps of the process must include the time, the opportunity and the resources for the meaningful participation of the communities. To date, the resources that are required to allow meaningful participation has not been available and this has severely limited the communities' ability to put their positions before the Review Board. Further, the Review Board must address the obligations of the Crown and of Paramount with respect to consultation and accommodation in the project itself.

**6.1.1 Legal Requirements for Consultation**

For an analysis of the legal requirements for consultation, please refer to the KTFN technical report. The 4 communities submitting technical reports support and endorse the position of the KTFN in this regard and state that the consultation and accommodation requirements on Paramount and the Crown apply to all of the local aboriginal communities.

**6.1.2 Paramount's Consultation Record**

In its response to IR 1.2.28, Paramount states, "Paramount has actively consulted with potentially affected communities, including the KTFN and FPMC, regarding its Cameron Hills development. It believes that the extent that aboriginal and treaty rights will be interfered with by its project is minor. The degree of infringement is certainly not at the end of the spectrum requiring accommodation to the extent that the KTFN/FPMC would have to consent for the project to proceed." Furthermore, there has been no consultation with the Katlodeeche with regard to Paramount Issues. As the Position Paper served

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(1998) Paramount should have been fully aware of Katlodeeche's expectations and aware of the process expected with the development on traditional lands. There has been no attempt to fulfill obligations to work on traditional lands with Katlodeeche.

The communities disagree completely with Paramount's assessment of its consultation efforts and the extent of aboriginal rights infringement. Paramount's consultation efforts have relied heavily on simply providing information to communities, instead of incorporating the deep and meaningful discussions, including negotiations, to satisfy case law. Paramount's consultation efforts have fallen far short of that which is required to accommodate the significant infringement of aboriginal rights as a result of this project.

For one example of Paramount's attitude towards community consultations, the FPMC issued an IR directly to Paramount asking why Paramount considered the communities to merely be its neighbors given that the project is on the communities' traditional lands. Paramount refused to answer the FPMC's IR and instead used the Review Board's Rules of Procedure as a shield. A company that was truly interested in effective and open consultations with the communities would have simply answered the question being asked and not tried to duck it.

For another example, Paramount has had significant erosion problems, pipeline breaks and fuel spills in its Cameron Hills operations. Paramount failed to inform the communities of any of these problems and when questioned about it by the KTFN responded by stating "Paramount is not aware of erosion and/or pipeline construction and engineering expertise within the Kakisa community membership; therefore, contact was not made with Kakisa about these specific issues." Paramount is expecting the communities to prove in advance that they are worthy of being consulted by Paramount on specific issues.

Paramount has been clearly informed in the past that the communities are interested in protecting the land and want to be informed of project activities that have harmed, or have the potential to harm, the environment. The communities do not need to prove to Paramount that they are worthy of being consulted. Instead, it is Paramount who needs to prove to the communities that they are worthy of operating on the communities' traditional lands. To date, Paramount has not proven that they are.

As revealed during the Public Hearing, Paramount has no consultation principles to guide its consultation efforts nor has Paramount submitted a consultation plan for the review and approval of the communities to shape the consultative relationship.

In its response to IR 1.2.28, Paramount stated that consultation and accommodation for this project is primarily the responsibility of the Crown. However, during the Public Hearing, the Crown rejected this position advanced by Paramount.

Paramount's actions and responses described above reveal a company that has no interest in developing an effective consultation process with the communities and demonstrates

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that Paramount has a very limited understanding about what effective and meaningful consultation actually entails.

**6.1.3 Government of Canada's Consultation Record**

Since the validity of licenses and permits issued by the Crown is legally vulnerable if the Crown does not consult with Aboriginal peoples, it is obviously in the interest of Paramount to ensure that government does consult or otherwise obtains the support of the Aboriginal people for the required licenses and permits. To date, however, the Government of Canada and its agents such as the MVLWB and the NEB have failed in this regard.

In the Review Board's report for the gathering system and pipeline EA, one of the measures that were applied was directed to INAC. Measure #16 required Indian and Northern Affairs Canada (INAC) to provide copies of Paramount's Benefits Plan annual report to the potentially affected First Nation communities. INAC has not been distributing the annual reports as required and somewhat reluctantly finally agreed to fulfill Measure #16 more than two years later at the recent Public Hearing.

INAC has taken the position that it has no responsibility to consult with the communities about environmental problems in the Cameron Hills or to provide the communities with the inspection reports. Both the MVLWB and the NEB have taken the position that they have no responsibility to inform the communities about environmental problems and INAC has agreed with these positions.

The FPMC issued an IR directly to INAC, however INAC refused to answer this IR because it came directly from the community and not through the Review Board. INAC has not fulfilled its fiduciary duty to the community by refusing to answer its question. Although Katlodeeche had not submitted a similar IR, they strongly support the position of FPMC regarding the EA process.

In response to an IR on INAC's fiduciary duty to the communities, INAC stated that the Review Board and the MVLWB are the primary vehicles for effective environmental assessment consultation with First Nations and Métis groups impacted by proposed developments. INAC is attempting to shift its fiduciary duty to consult onto Boards that have not accepted that role. Consequently, there is a gap in the fiduciary duty process that is not being filled.

INAC has taken the position that it will wait until after the EA and regulatory process have been completed before it will deal with assertions that aboriginal and treaty rights have been infringed. The communities do not accept this response and question the rationale for waiting until the project permits have been issued before addressing potential infringements.

INAC has failed to provide responses to questions that were posed to it by the communities at the Public Hearing.

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The Government of Canada has not presented the communities with any consultation plan for their review and approval and has made no efforts to satisfy its fiduciary duty to the communities.

Katloodeeche served notice of what the expectations were from Paramount and Government and they failed to meet or acknowledge this. Katloodeeche therefore is raising the issue of INACs role and responsibility that has been breach which may warrant litigation.

The NEB, which is an agent of the Government of Canada, has approved project variations that have increased SO<sub>2</sub> emissions without informing or consulting the communities.

**6.1.4 Deh Cho Consultation Principles**

The communities ask that when the Review Board is considering whether the duty of consultation has been met in this case, that they consider the Deh Cho Consultation Principles, available on the Public Registry of this environmental assessment. These principles are summarized as follows:

1. government agencies have a duty to consult;
2. coordination by the government agencies is crucial;
3. project proponents have a duty to consult;
4. negotiations must be part of consultations;
5. Deh Cho leaders must be respected;
6. Deh Cho consultations are more than mere "public" consultations;
7. proponents and the Crown must involve Deh Cho leaders at the early planning stage;
8. consultations must analyze the impact on Deh Cho rights;
9. the Crown and the proponent must accommodate Deh Cho rights;
10. project approval depends on accommodation;
11. communities must have the capacity to consult;
12. community representative may participate in discussions on a without prejudice basis;
13. consultation as defined in the Interim Measures Agreement, is not adequate.

The communities assert that both the Crown and Paramount owe a fiduciary duty of consultation and accommodation to the communities, who can demonstrate a potential infringement of their treaty and aboriginal rights. However, neither organization has come even close to fulfilling its responsibilities to the communities under the Deh Cho Consultation Principles.

The communities have noted that the Review Board issued an IR asking when the Consultation Principles were publicly available. It is the position of the communities that the date of issuance of the Principles is irrelevant as the Principles are directly based upon case law that has been available for varying periods of time. If Paramount and the Government of Canada were interested in an effective and meaningful consultation

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process, they would have been incorporating the latest court decisions into their consultation processes as these decisions were issued

The duty of consultation is one of meaningful consultation, and the duty of accommodation is to seek workable accommodation. The position of the communities is that these duties have not, as of yet, been met, and that this has resulted in significant social impacts and public concern in the communities.

**6.1.5 Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount and the Government of Canada each must submit a draft consultation plan to the communities that adheres to the Deh Cho Consultation Principles and that fulfills each organization's specific responsibilities to the communities. The Government of Canada consultation plan is to cover the activities of its agents including the NEB and the MVLWB.
- 2) The communities will review, amend and approve the Paramount and Government of Canada consultation plans in consultations with each organization.
- 3) These two community-approved consultation plans must be in place prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for this project.
- 4) The NEB is to inform and consult with the communities on any project variation applications received from Paramount.
- 5) The NEB is to provide the communities with copies of the Annual Reports required from Paramount on its Cameron Hills operations. If NEB approval of these reports is required then the NEB is to consult with the communities prior to that approval being issued.

**6.2 Access and Benefits Agreement**

Access and benefits agreements between resource developers and aboriginal communities are the best and most practical way to develop the conditions under which the developers are allowed access to First Nation's traditional lands, to determine how to mitigate impacts and promote benefits to the communities and the environment, and to accommodate aboriginal interests.

In response to IR 1.2.23, Paramount states, "there is no requirement to negotiate an impact and benefits (IBA) with the FPMC." Paramount goes on to state, "Paramount is not aware of any regulatory or legislative requirements applicable to the Cameron Hills project area ... that requires a negotiated Benefits Agreement..." Paramount reiterated its refusal to willingly enter into ABA negotiations during the Public Hearing.

The communities disagree with Paramount's conclusion that there is no requirement for it to negotiate an ABA. Paramount's statements on this matter display a narrow, outdated view of ABAs that relies on legislation and regulations instead of the more powerful and encompassing aboriginal and treaty rights.

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The communities note that the lack of any regulatory or legislative requirement did not prevent BHP and Diavik from entering into agreements with the communities affected by their respective diamond mines.

The communities believe that Paramount's response to IR 1.2.23 and its statements during the Public Hearing clearly reveals its 1950s attitude towards aboriginal communities and does not bode well for future Paramount activities outside of its current Significant Discovery License (SDL) area.

The communities acknowledge that Paramount did propose a community investment plan but that note that the plan was not found to fully address the broader issues that would be contained within an ABA. Consequently, the communities did not accept it. The communities would be prepared to re-consider the draft community investment plan as part of larger ABA negotiations.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount must enter into Access and Benefits Agreement negotiations with the communities.
- 2) INAC is to fulfill the commitment it made in response to IR 1.2.31 in which INAC stated that it would provide funding to communities for Access and Benefits Agreement negotiations.
- 3) An Access and Benefits Agreement must be in place for each community prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for its Cameron Hills project.

**6.3 Socio-Economic Agreement**

In its response to IR 1.2.31(e), INAC states, "A Socio-Economic Agreement is a contractual agreement that captures commitments with respect to opportunities for employment, training and business. It also captures commitments with respect to community and cultural well-being."

The communities recognize the potential value in having a socio-economic agreement in addition to an ABA. A socio-economic agreement would encompass broader public issues beyond the realm of the communities and allow the Government of the Northwest Territories (GNWT) to have a formal role in how the project unfolds and impacts the Northwest Territories as a whole.

It is the position of the FPMC that a socio-economic agreement should be required for this project. Some of the reasons for this position are listed below:

1. In response to IR 1.2.26, INAC states, "The Benefits Plan is a best-case scenario. The legislation makes no reference to enforcing the Benefits Plan." Basically, the

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- Benefits Plan is not enforceable although INAC has a fiduciary responsibility to these communities.
2. There are no ABAs in place for this project and Paramount has stated that it does not intend to complete ABAs with the communities. If the Review Board does not accept the ABA measure recommended by the communities, then a socio-economic agreement would be much more important.
  3. The GNWT has no formal role in how the project unfolds and impacts the Northwest Territories as a whole.
  4. Paramount is refusing to adopt a sole-source contracting approach that would be more successful at creating local benefits from this project.
  5. Paramount has refused to establish northern employment or business targets.
  6. Paramount does not consider the development of sustainable local economies when making project decisions.
  7. Paramount has not been employing a meaningful and effective consultation process to ensure that the concerns of the local communities are collected and incorporated into the project design and mitigation methods.
  8. INAC has not been fulfilling Measure #16 from the Review Board's Jan. 8, 2002 Report of EA concerning the content and distribution of Benefit Plan Annual Reports. It remains to be seen if INAC will follow through on its recent commitment to fulfill Measure #16.
  9. Paramount has a history of being slow to pay its contractors, creating hardship for small northern companies and requiring the CNWT to provide assistance to these companies. In response to IR 1.2.98, Paramount refused to provide the information that was requested on this matter. The communities expect that this issue could be addressed within a socio-economic agreement.

**Recommendations**

The communities are recommending that the following measure be applied by the Review Board:

- 1) Paramount, the GNWT and the communities must conclude a socio-economic agreement prior to the MVLWB or the NEB issuing any additional authorizations to Paramount for this project.

**6.4 Environmental Agreement**

In its response to IR 1.2.31(e), INAC states, "Environmental agreements for projects are considered on a case-by-case basis, generally where gaps in the regulatory legislation exist, or for projects that require long term monitoring."

It is the position of the communities that this project meets both requirements cited by INAC and that an environmental agreement should be in place for this project.

Paramount has a demonstrated history of environmental problems with this project and has not been consulting with the communities on these problems.



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Compounding this is the refusal of government and regulatory agencies, particularly the NEB, the MVLWB and INAC, to accept that they have a responsibility to consult with, or to ensure that Paramount consults with, the local communities on environmental problems.

With a lifespan of 20+ years, this project will require long-term monitoring. To date the monitoring that has occurred has been disjointed with various studies being undertaken with no clear, consistent environmental management system for having these studies reviewed by the communities and appropriate mitigation measures developed. Some examples of the lack of community involvement include the following:

- Paramount did not consult with the communities on the VECs to be used in their Developer's Assessment Report (DAR) for this EA;
- Paramount did not inform or involve the communities in the studies that were completed or the remediation efforts in relation to the erosion problems, pipeline breaks and fuel spills;
- Paramount was not required to consult with the communities on the design of its wildlife monitoring program or to submit its reports to the communities;
- Paramount was not required to consult with the communities on the design of its revegetation plan or to submit its reports to the communities;
- Paramount was not required to consult with the communities on the design of its revegetation monitoring program or to submit its reports to the communities;
- Paramount was not required to consult with the communities on the design of its noise surveys or to submit its reports to the communities;
- Paramount has not completed a Heritage Resources Impact Assessment or a Traditional Use Study that has been led and approved by the communities;
- Paramount was not required to consult with the communities on the design of its permafrost monitoring program or to submit its reports to the communities;
- Paramount did not consult with the communities on or provide copies of its Environmental Protection Plan Manual;
- The NEB did not consult with the communities prior to approving Paramount's Environmental Protection Plan Manual;
- Paramount, the NEB, the MVLWB and INAC all deny that they have any responsibility to inform or consult with the communities about environmental problems associated with the project;
- The NEB has approved project variations that increased SO<sub>2</sub> emissions without informing or consulting with the communities, and
- The NEB has not been providing the communities with copies of the Annual Report required from Paramount on its Cameron Hills operations.

**Recommendations**

The communities are recommending that the following measure be applied by the Review Board:

- 1) Paramount, the Government of Canada (including the NEB), the GNWT and the communities must conclude an environmental agreement prior to the MVLWB or

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the NEB issuing any additional authorizations to Paramount for this project.

**6.5 Traditional Harvesting**

During the 2001 environmental assessment on the Cameron Hills pipeline and gathering system, the lack of a community-accepted, comprehensive process for compensating impacted resource harvesters was a major concern. In response to that concern, the Review Board concluded in its December 3rd, 2001 *Report of Environmental Assessment on the Paramount Resources Ltd. Cameron Hills Gathering System and Pipeline Development* that to prevent significant adverse impacts, the following measures needed to be applied:

- 13) INAC ensures that Paramount discusses its proposed compensation plan with the affected communities and the GNWT. Paramount should widen the scope of the compensation plan as required to ensure that reasonable and credible land and resource use impacts caused by the development and identified by the communities are eligible for compensation.
- 15) INAC and Paramount amend the Benefits Plan approved by INAC on September 25, 2001 to include the revised compensation plan developed as a result of Review Board Measure #13 or that a separate compensation plan be developed to address these concerns. Should Paramount and the communities be unable to come to an agreement on the contents of the revised compensation plan, then INAC should make the final decision and proceed with it: approval of the amended Benefits Plan.
- 17) The MVLWB, the NEB and INAC do not take any irreversible steps in relation to this development until INAC has accepted this recommendation for an amended Benefits Plan. When complete, a copy of the amended Plan should be provided to each of the potentially impacted communities and to the Review Board, the MVLWB, the NEB, INAC and the GNWT.

As a result of the post-Report of EA consultations with the federal Minister and the NEB, Measures #13 and #15 were modified and Measure #17 was deleted:

- 13) Paramount is to discuss, develop and implement a wildlife and resource harvesting compensation plan with potentially affected First Nation communities – Deh Gah Got'ie First Nation, Fort Providence Métis, Ka'a'Gee Tu First Nation, K'atlodeeche First Nation and West Point First Nation. The scope of the plan is to include compensation for hunting, trapping, fishing and other resource harvesting activity losses resulting from the development as agreed to by Paramount and the communities. Paramount is to commence the consultations as soon as possible, with a draft plan submitted to the communities within 60 days of EA Report acceptance by the INAC Minister and a final plan submitted to the communities within 90 days of EA Report acceptance. The plan is to apply retroactively to impacts arising from the start of construction of the gathering facilities and pipeline. If requested by Paramount or any of the communities, the GNWT and

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INAC are to facilitate the discussions on the plan.

- 15) Paramount and the communities are to cooperate to the fullest extent possible in developing the wildlife and resource harvesting compensation plan. If the parties are unable to come to an agreement on the contents of the plan within the 90-day period, an independent arbitrator shall be jointly appointed within 30 days by the GNWT and INAC. The arbitration process shall conclude within 30 days of the appointment of the arbitrator.
- 17) This measure has been deleted.

The proposed process described by the modified Measures #13 and #15 was unsuccessful. It became clear to the communities during this process that the lack of any real enforcement mechanism to require Paramount to come to an agreement with the communities was undermining the negotiating process. The communities also felt that Paramount was attempting to play the communities against each other by applying Paramount's baseless policy that it will only sign on to one agreement with all of the communities as a collective.

An enforcement mechanism such as was applied in the original Measure #17 is necessary before the communities expect any meaningful negotiations by Paramount.

Given the failure of Measures #13 and #15, the Review Board is obligated either to ensure that the measures are finally fulfilled or to apply new measures.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount is to discuss, develop and implement a wildlife and resource harvesting compensation plan with potentially affected First Nation communities – Deh Gah Got'ie First Nation, Fort Providence Métis, K'atlodeeche First Nation and West Point First Nation. The scope of the plan is to include compensation for resource harvesting activity losses resulting from the development such as for hunting, trapping, fishing and other traditional activities as agreed to by Paramount and the communities. The wildlife and resource harvesting compensation plan is to be completed as part of the Access and Benefits Agreement (ABA) negotiations.
- 2) Unless otherwise approved by the communities, the wildlife and resource harvesting compensation plan must be in place prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for this project.

**6.6 Traditional Land Use and Traditional Knowledge Studies**

The Cameron Hills has always been and will always be part of the traditional land use areas of the local aboriginal communities. However, Paramount consistently tries to define traditional land use in the Cameron Hills, and consequently aboriginal and treaty

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rights, solely on the basis of current activities. This does not respect the fact that traditional land use varies from season to season, year to year and decade to decade.

First Nations in the area consider these as traditional lands and they have leadership responsibilities for any consultation or traditional knowledge or access to these lands. Traditional Knowledge is based on sacred and spiritual relationship with Deneneda and therefore this is very specific and requires certain values and beliefs to understand. Paramount needs to gain these values and beliefs in order to be able to meet the needs of the Dene and to address these issues.

To understand the impact of this project on traditional land use and to incorporate traditional knowledge into project design and mitigation, much consultation work with members of the communities needs to be done by Paramount. In the view of the communities, consultation with the individual traditional land users and knowledge-holders is very important.

To date, however, Paramount has not studied nor even identified many community members who have used or are currently using the area. More consultation work is necessary to identify the short-term and long-term implications to this fundamental aboriginal practice and right.

The importance of this work was demonstrated at the community meeting in Kakisa. The Review Board was informed by a couple of Ka'a'Geet Tu trappers that they have not used the Cameron Hills area in the last couple of years. This does not mean that these individuals have given up their right to use the Cameron Hills in the future, nor have they given up their right to have a say in determining how development will occur on the Cameron Hills.

The two trappers who said they have not used the area recently said the reason for this is that they were not getting as many animals as they used to and they felt that the animals were avoiding the area due to the increasing amount of development on the plateau. These statements alone are proof of the infringement of aboriginal rights and title as a result of this project.

When the people of the communities cannot use the land as they have in the past without being concerned about contamination or without trying to avoid developed areas, then that is an infringement of their aboriginal and treaty rights.

The communities realize that to have this traditional land use and traditional knowledge work completed, Paramount must be provided with access to the appropriate community members. However, the communities are not just going to hand over the names and phone numbers of its traditional land users to a company that has refused to even acknowledge that aboriginal and treaty rights exist in the Cameron Hills and has refused to enter into any access and benefits negotiations that are not required by legislation or regulations.

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The first step in the process of effectively integrating traditional land users and traditional knowledge into the project design process is for Paramount to recognize and acknowledge the aboriginal and treaty rights that exist in the Cameron Hills and agree to enter into ABA negotiations. It is through that process that Paramount will be provided access to the communities' traditional land use information and traditional knowledge. However, given statements made by Paramount at the Public Hearing regarding aboriginal and treaty rights and ABA negotiations, it is apparent to the communities that this work will only get done if Paramount has no choice but to do it.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount is to fund traditional land use and traditional knowledge studies that are led by the communities working with Paramount and its consultants. The particulars of completing these studies are to be discussed as part of the Access and Benefits Agreement negotiations.
- 2) Unless otherwise approved by the communities, these traditional land use and traditional knowledge studies are to be completed prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for this project.
- 3) Any required mitigative measures identified by the studies must be incorporated into the project design and operations.

**6.7 Heritage Resources**

Paramount has completed Heritage Resource Impact Assessments (HRIAs) but these studies were not done in partnership with or under the leadership of the communities. For such studies to be considered accurate and valid they must be funded adequately by Paramount but led by the communities working with Paramount and its consultants. However, during the Public Hearing, Paramount refused to commit to undertaking such studies.

The communities have burial sites located inland, including in the Cameron Hills, however the exact locations of these sites are not currently documented. It is the position of the communities that these HRIAs must be completed to appropriately and accurately document the heritage resources of the Cameron Hills and to assess and mitigate potential impacts to them.

In its January 2002 Report of EA, the Review Board applied Measure #12:

- 12) The MVLWB and/or the NEB ensure that Paramount revises its proposed heritage resource discovery process to incorporate the concerns of local communities, including the hiring of local environmental monitors to identify potential heritage resource discoveries.

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In response to this measure, both the NEB and the MVLWB included conditions in their authorizations, including the following condition by the NEB in Order EPO-01-2002:

"Paramount shall ensure that a local person hired as an environmental monitor has responsibility for identifying aboriginal heritage resources during the project clearing, ground-breaking and trenching activities."

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount is to fund Heritage Resource Impact Assessments (HRIAs) that are led by the communities working with Paramount and its consultants. The particulars of completing these studies are to be discussed as part of the Access and Benefits Agreement negotiations.
- 2) Unless otherwise approved by the communities, the HRIAs must be completed prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for this project.
- 3) Any required mitigative measures identified by the HRIAs must be incorporated into the project design and operations.
- 4) Paramount shall ensure that a local aboriginal person hired as an environmental monitor has responsibility for identifying aboriginal heritage resources during the project clearing, ground-breaking and trenching activities.
- 5) Paramount is to directly inform the communities when a potential heritage resource is discovered.
- 6) A Terms of Reference be provided by the communities involved.

**6.8 Timber Harvesting and Windrowing**

Paramount says that some of the timber that it cuts down will be used for the construction of corduroy roads.

In response to IR 1.2.22(c), the GNWT stated the following:

"There currently are no Forest Management Authorizations required by Paramount to conduct their activities. ... However, the timber remains under the control of the GNWT. Therefore, Paramount cannot use the timber for any purpose... If Paramount wishes to use the timber for any purpose (for example: construction of corduroy roads or chipping for insulation) a Forest Management Authorization would be required. If this occurs, timber cutting and reforestation dues would be paid to the GNWT."

In Section 5 (Regulatory Regime) of its EA report, Paramount did not identify a GNWT Forest Management Authorization as a requirement of the project.

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The communities are interested in knowing if Paramount has been in violation of GNWT legislation through the past use of timber for its own purposes without acquiring a Forest Management Authorization. The communities are concerned about adverse impacts on timber resources as a result of unregulated use of timber by Paramount.

Paramount is also proposing that slash and unused timber be windrowed along the rights-of-way with windrow breaks of at least 10 m in width every 400 m. Paramount states that its proposed spacing is to minimize the potential wicking effect during forest fires and to promote wildlife movement.

In response to IR 1.2.50, the GNWT stated that it does not agree that Paramount's proposed windrow break spacing is sufficient. The GNWT requested a minimum break width of 10 m at a maximum distance of every 100 m.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) The GNWT is to investigate Paramount's past use of timber to determine if Paramount has violated GNWT legislation. If yes, then the GNWT is to take appropriate steps to recover timber cutting and reforestation dues that should have been paid and to apply punitive measures to the extent of the GNWT's authority.
- 2) Paramount must apply for a Forest Management Authorization for any use of timber, such as the construction of corduroy roads.
- 3) Paramount must create windrow breaks at least 10 m in width at a maximum spacing of 100 m.
- 4) There must be reforestation for the land to be returned to its original vegetation (minus timber).

**6.9 Watershed Protection**

The communities are very dependent upon the water and the land not becoming polluted. It is of utmost importance to maintain the Tathlina Lake/Kakisa Lake watershed in a pollution free state. Tathlina Lake is particularly sensitive to pollution because it is a shallow lake and does not have the volume and flow required to dilute or flush out materials.

Potential impacts of this project are not confined to the plateau of the Cameron Hills as the water flows off the Cameron Hills into the Tathlina Lake watershed and also into the Hay River watershed. Katlodeeche would like to raise the issue that if any environment is affected involving water that they would feel impacted first because of the flow of the water. If there is any pollution because of the watershed, the people of Katlodeeche and Hay River would be environmentally impacted quicker than any other community. In addition to their concerns about the quality of the water itself, the communities are very concerned about the impact of pollution on their aboriginal right to fish.

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The communities are concerned about the potential for future pipeline breaks occurring that could pollute the water. They are also concerned about erosion and resulting sedimentation into water bodies.

Although the communities are aware that Paramount is supposed to adhere to Department of Fisheries and Oceans (DFO) protocols for water crossings and water withdrawals, the communities do not have faith in DFO's ability to enforce these protocols through timely inspections. The communities also note that the water withdrawal protocol is still being refined.

The communities also remain concerned about the lack of site-specific data that would enable an evaluation of potential water quality impacts due to the high air emissions of this project.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount, the NEB, the MVLWB and INAC must inform and consult with the communities on potential or confirmed impacts to water quality. This includes, but is not limited to, any problems related to erosion, pipeline breaks, sedimentation, water crossings and water withdrawals.
- 2) Paramount, in consultation and partnership with the communities, must complete baseline water sampling and implement a monitoring program with 3-month sampling intervals to determine if air emissions are having an effect on water quality.

**6.10 Accidents and Malfunctions**

The communities remain concerned about the reliability of monitoring and shut-off controls associated with the facility. They are concerned that any accident or malfunction will lead to polluted land and watercourses. There have been large spills in the area arising from Paramount's operations, and the communities are concerned that other spills will occur without their knowledge.

The communities are also concerned that not enough study has been undertaken to understand the relationships between heat transfer from the pipelines to the surrounding ground, melting permafrost, erosion and pipelines breaks.

From reading the INAC inspection reports, it is clear that Paramount does not have an adequate understanding of permafrost issues and has not been acting to repair problems in a timely fashion. For example, a quote from INAC's Sept. 26<sup>th</sup>, 2003 inspection report is: "Subsidence of the trench, between the north and south drainage, is still occurring and appears to be the result of permafrost melting back from the trench walls. The trench is now as wide as 4 m in places."



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There are also numerous other issues identified in the INAC inspection reports that require follow-up. It is apparent from reviewing the inspection reports and INAC's summary of outstanding issues that Paramount has been doing a poor job of handling its drilling muds and cuttings and that Paramount has been having problems with sump subsidence.

The consequences of melting permafrost, pipeline breaks, erosion, contamination from mishandling drillings muds and cuttings, and sump releases could range from minor to severe. Paramount must address these problems.

Paramount did not provide the communities with the information that was requested in IR 1.2.102 on the Cameron Hills statistics on well blowouts, pipeline breaks and spills and a comparison of these figures to industry-wide figures. Although Paramount agreed to provide this information during the Public Hearing, it has still not been provided.

The communities are not aware of any well blowouts in the Cameron Hills and so they are unable to calculate the frequency of such events.

Paramount stated in the DAR that on an industry-wide basis, the probability of a pipeline either leaking or rupturing was  $10.7 \times 10^{-4}$  incidents/km of pipeline/year. The communities are aware of three pipeline breaks in the Cameron Hills in the 2-year history of the gathering system. The communities wanted Paramount to provide a comparison of these numbers to the industry-wide figure. Paramount has not complied with this request.

Working backwards from the industry-wide break frequency and using Paramount's 3 breaks and 2 year operating history, the communities have calculated that to be at the industry average, Paramount would have to have about 1400 km of pipelines in the Cameron Hills gathering system. As Paramount has far less than 1400 kilometers of pipelines, this leads the communities to conclude that Paramount is a high-risk operator that needs to be closely monitored.

Similarly, Paramount has also failed to provide the communities with its Cameron Hills statistics on spills and a comparison of this figure to the industry-wide figure of 2% (Note: Paramount incorrectly had this figure at 0.02% in its DAR.) Using information from Table 5.1-1 in IR 1.2.36 (a high estimate of 45 facilities) and the spill list in IR 1.2.102 (37 spills in the last 2 years), the communities calculate Paramount's spill rate to be approximately 40%, which far exceeds the industry-wide figure of 2%. Again, this leads the communities to conclude that Paramount is a high-risk operator that needs to be closely monitored.

The communities note that Paramount, the NEB, the MVLWB and INAC have all denied that they have any responsibility to inform and consult with the communities about environmental problems. INAC has also said that it has no requirement to provide the communities with its inspection reports.

**Recommendations**

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The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount must directly inform and consult with the communities on any erosion problems, pipeline breaks and spills. Community notification must occur within a similar timeframe as notification is provided to the NEB, the GNWT, INAC and/or the MVLWB.
- 2) Paramount must complete a study on the potential relationships between heat transfer from the pipelines to the surrounding ground, melting permafrost, erosion and pipeline breaks. Paramount must develop and implement mitigative measures as part of this study. Paramount is to work with the communities on the completion of this study.
- 3) Paramount must undertake a study to investigate why its spill rate is far 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 communities on the completion of this study.
- 4) Paramount must develop and implement a protocol to improve its handling of drilling muds and cuttings.
- 5) Paramount must study the cause of its problems with sump subsidence, the potential impacts and risks of sump releases, and develop and implement mitigative measures. Paramount is to work with the communities on the completion of this study.
- 6) INAC and the NEB must provide the communities with copies of inspection reports within 1 week of the inspection occurring. INAC and the NEB must also provide the communities with copies of any orders or instructions that are issued to Paramount within 1 week of the order or instruction being issued.

**6.11 Access**

The communities are concerned that this project will increase access to their traditional territories by non-community members. Their concern is that this will lead to increased pressure on the hunting and fishing resources upon which they rely, and over which they have aboriginal rights, due to more people entering the area.

Representatives of the KTFN recently visited the Cameron Hills and noted that there was no gate being used on the winter road. There was only a trailer with a staff person who records license plate numbers as vehicles pass.

**Recommendations**

The communities are recommending that the following measure be applied by the Review Board:

- 1) Paramount must install, and keep locked, a gate across the winter access road to the Cameron Hills. The gate is to be unlocked only to allow Paramount vehicles to pass. Community vehicles will also be permitted to go through the gate.

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The communities have consistently raised the concern that there has been inadequate consideration of the impacts on air quality. These concerns have been borne out by the evidence being presented in this EA by Environment Canada and the GNWT. The communities are very supportive of the efforts and recommendations being made by the Government of the Northwest Territories and Environment Canada on the issue of air quality.

The communities are very concerned about Paramount's method of increasing stack heights until the air emissions are just below the guidelines. The communities want the total emissions reduced, not just spread over a larger area. The communities are also concerned about the aesthetic impacts of having very tall stacks.

The communities have concerns about the baseline meteorological data from Fort Smith being used at Cameron Hills. The communities want a meteorological station installed on the Cameron Hills to collect data. The communities note that a fire tower on the Cameron Hills could be used for the location of the meteorological station and that the community-owned company Evergreen Forestry Services Ltd., which currently staffs the tower, could be contracted to collect the data.

The communities are concerned about the apparent lack of monitoring and enforcement of air quality emissions. In addition, the Katlodeeche notes that there are prevailing winds that come from the Cameron Hills in the Spring and Fall that are NW towards Hay River. Katlodeeche has a zero tolerance towards emissions as a result of the Paramount Project including any effect on food animals.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount is not to install any stacks that are higher than the average height of the surrounding vegetation.
- 2) Paramount is to immediately install a fuel gas sweetening unit.
- 3) EC and/or the GNWT are to install a meteorological station on the Cameron Hills at the fire tower.
- 4) The NEB, the MVLWB, INAC, the GNWT and Environment Canada are to work together, and with the communities, to develop an air quality monitoring and enforcement protocol for this project.
- 5) All recommendations made by the GNWT and Environment Canada must be implemented.
- 6) The GNWT, NEB, MVLWB, INAC and the MVEIRB establish a Territorial Energy and Utility Board to ensure standards are set to monitor this project and future projects.

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The communities are concerned about the use of drugs and alcohol in industrial camps on their traditional territories. As the inspecting agencies, the communities want the NEB and INAC to include any drug or alcohol observations in their inspection reports.

**Recommendations**

The communities are recommending that the following measure be applied by the Review Board:

- 1) The NEB and INAC must look for and include any drug or alcohol observations in their inspection reports.
- 2) That there be a zero tolerance to alcohol and drugs in all camps and/or work areas.

**6.14 Plants**

In addition to hunting and fishing, the communities also gather roots and berries from the land for sustenance and for medicinal purposes. For example, there is one plant, rat root, which is a medicine used by the communities to diminish pain. This plant grows in creeks and marshes, and is usually gathered in the fall. The communities are concerned that the impact on their gathering patterns and on the plants themselves has not been adequately studied.

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) Paramount is to fund a traditional plant use study led by the communities working with Paramount and its consultants. The study is to evaluate how the project impacts upon traditionally used plants, such as rat root, and how the project impacts upon the communities' plant gathering patterns. This study can be completed as part of the traditional land use study recommended in Section 7.6. The particulars of completing these studies are to be discussed as part of the Access and Benefits Agreement negotiations.
- 2) Unless otherwise approved by the communities, this plant study is to be completed prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for this project.
- 3) Any required mitigative measures identified by the study must be incorporated into the project design and operations.

**6.15 "Wildlife" – Animals, fish, birds, fur-bearing animals and big game**

Hunting and trapping is fundamental to the communities' way of life. It is not yet known what impact this project will have on migratory patterns, and the long-term effects on the ability of the communities to sustain themselves and their children. The concerns with respect to moose and caribou include over-hunting related to access, and changes in populations related to the intensity of the project's activities on our traditional territories.

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In this respect, we support and endorse the submissions made in this EA by the Government of the Northwest Territories, and their concern for the impact of this project on boreal caribou in particular.

The communities remain concerned about the lack of any study of the potential impacts on wolves and wolverines. Paramount has refused to provide the analysis that was requested by the communities.

The impacts on wolves is of significant interest to the communities not only from an environmental perspective but from an economical perspective as local trappers get prices as high as \$400 for wolf pelts.

Wolverines are known to be a sensitive species and the communities feel that special mitigative measures must be applied. However, without appropriate impact analysis, it is difficult to determine what those measures should be.

Paramount has also refused to provide an adequate response to IR 1.2.64, which dealt with impacts on wildlife due to odors and reduced visibility.

During a recent site visit, representatives of the KTFN easily noticed strong odors while driving in the project area. Paramount's response to IR 1.2.64 was that because air quality guidelines are not exceeded, there is no requirement to assess the impacts of odor. This is not an acceptable response for the communities.

Given the statements by Paramount representatives about the low levels of wildlife use, the communities are concerned that the wildlife monitoring program developed by Paramount is not adequately assessing the level of wildlife use of the Cameron Hills. The communities believe that their input into the design of the monitoring program would significantly improve the quality of the data collected

**Recommendations**

The communities are recommending that the following measures be applied by the Review Board:

- 1) All recommendations made by the GNWT must be implemented.
- 2) Paramount is to fund a study of the impacts on wolves and wolverines. The study is to be led by the communities working with Paramount and its consultants.
- 3) Paramount is to fund a study of the impacts on wildlife due to project odors and reduced visibility. The study is to be led by the communities working with Paramount and its consultants. The study is to include buffalo, caribou, moose, bear, wolves, wolverines, martens, birds and any other small fur bearing animals, birds and fish.
- 4) Unless otherwise approved by the communities, these wildlife studies are to be completed prior to any additional authorizations being issued by the MVLWB or the NEB to Paramount for this project.
- 5) Any required mitigative measures identified by the wildlife studies must be

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- incorporated into the project design and operations.
- 6) Paramount is to consult with the communities on modifications to its wildlife monitoring program as Traditional Knowledge can be applied as well.

**6.16 Pipeline and Access Route Selection**

The communities have consistently expressed concern about the creation of new cutlines and believe that route selection should primarily be made on the basis of utilizing existing cutlines. However, Paramount did not answer the IR on this matter, and did not provide a satisfactory answer on this issue during the Public Hearings.

The NEB, the MVLWB and the Review Board all refused to provide answers to the KTFN's IR on this subject and the GNWT and INAC responded that they have no set criteria or criteria weighting that should be applied.

**Recommendations**

The communities are recommending that the following measure be applied by the Review Board:

- 1) The NEB and the MVLWB, in consultation with the communities, must establish a set of criteria and criteria weighting to be used to guide the selection of pipeline and access routes.

**7. Conclusion**

Assessing the long-term impacts of this project on the sustainability of the communities is very difficult. This means that ABAs and other agreements between the parties are very important. Once these agreements have been reached, and a full assessment of the long-term impacts of this project on the traditional way of life of the communities has been realized, then the communities can assess their ability to participate in the new economy of their traditional territories. Until these agreements are in place, the communities feel that no additional authorizations should be issued to Paramount for this project.

If additional authorizations are issued without these agreements, the communities are concerned that the project will go forward without meaningful consultation and workable accommodation and without respect for their land and the future sustainability of their communities. In the absence of resolution of the fundamental issues of conflicting land use between Paramount and the communities, and until such time as there has been meaningful consultation and workable accommodation, the communities adamantly oppose this project.

The communities want to point out that the federal government, prior to the Deh Cho Process and with no aboriginal involvement or consent, issued the Significant Discovery License held by Paramount in the Cameron Hills. It is primarily for that reason that we are in the situation we are in today. However, there have been numerous opportunities for both Paramount and the federal government to rectify past mistakes through the

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building of close working relationships with the aboriginal communities. So far neither Paramount nor the federal government have taken those opportunities.

Unless the corporate attitude of Paramount changes, and changes quickly, problems will continue. Paramount needs to realize that the aboriginal communities are not their "neighbours" but are actually their landlords. Paramount operates on the traditional lands of the communities. Paramount's dealings with the communities need to reflect that fact with the proper respect given to the communities through adequate consultation and accommodation. Thus far, that respect has not been shown.

We want to turn Cameron Hills into a protected land use area and anything outside of Paramount's current will be seriously considered outstanding based on traditional lands and territory issues. The communities are looking forward to a report from the Review Board that emphasizes the significance of the communities being a part of the development process.

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Katlocheeche First Nation  
PO Box 3060 Hay River Reserve NT X0E 1G4  
Tel: 867-874-6701 Fax: 867-874-3229

**NOTICE RESPECTING TRADITIONAL LANDS OF THE HAY RIVER DENE BAND**

This Notice is being sent to you to clarify and reaffirm the position of the Hay River Dene Band respecting its traditional lands in the Northwest Territories. The Hay River Dene Band has the right to use, occupy, controls and manage its traditional lands and will vigorously defend its claim to these lands. It will challenge the validity of competing and overlapping interests to its traditional lands.

We are taking this step because our way of life is rooted in fundamental spiritual values concerning our relationship to the Creator, the environment and each other. Our Elders have taught us to look at both the past and the future. We believe in the role of our Elders as the living memory of their ancestors and in their responsibilities as custodians of the lands, waters and resources of their homelands

The ancestors of First Nations like the Hay River Dene Band lived on this continent long before explorers from other continents first came to North America. The Dene and their descendants have used and occupied their traditional lands in the Hay River are of the Northwest Territories from time immemorial. The Hay River Dene Band is a signatory to Treaty 8 signed in 1899 with Chiefs and Headmen representing Chipewyan, Cree, Dogrib, Slavey and Beaver people and it recognizes the solemn, historical and cultural importance of this treaty.

We are a Treaty First Nation. Our vision of the future for our children will be built on the recognition of the rights of our First Nation and on our treaty relationship with the Crown. Our treaty is the basic building block in the creation of our First Nation. Our historical treaty relationship is sacred. The treaty relationship imposes serious mutual obligations regarding how we want to live together. The Government of Canada believes that treaties and the relationship they represent provide a basis for developing a strengthened and forward-looking partnership with First Nations.

The importance of the treaties is confirmed by the recognition of aboriginal and treaty rights, both historical and modern, and aboriginal title in the Constitution Act, 1982. Section 35 of the Constitution Act protects rights which were existing as of April 17, 1982 when the section came into force and articulates a special fiduciary relationship between the Crown and Aboriginal peoples. The Government of Canada affirms that treaties, both historical and modern, will continue to be a key basis for the future relationship.

We are taking that step together now. In moving forward, the Government of Canada believes that treaties, and the relationship they represent, can guide the way to a shared future. The continuing treaty relationship provides a context of mutual rights and



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responsibilities which will ensure that First Nations and non-Aboriginal people can work together. The Government of Canada recognizes that the importance of the treaties and the treaty relationship must be fully appreciated and the past relationship must be honored in order to move into the future.

Within the context of this special relationship and recognizing the original spirit and intent of Treaty 8, the Government of Canada has an obligation to consult with the Hay River Dene Band with respect to discussions and negotiations it is having with other groups or claimants on any new claims or agreements in the general area of the traditional lands of the Band.

The Government of Canada furthermore has an obligation to protect the traditional lands of the Hay River Dene Band, to keep the Band fully informed of the progress of such discussions and negotiations and to respect the views positions and recommendations of the Band. The Band will treat such information as confidential if so requested by the Government of Canada.

In 1990, the Agreement in Principle (AIP) pertaining to the unfinished Comprehensive Land Claim Agreement between Canada and the Dene Nation and the Metis Association of the Northwest Territories resulted in the identification and acceptance of the traditional lands of the First Nation in the regions including those of the Hay River Dene Band. There was consensus by the First Nations as to the extent of our respective traditional lands. It is fundamental importance today to maintain the quantum and integrity of these traditional lands.

Therefore, the Hay River Dene Band holds the views that the spirit and intent of the 1990 AIP must be maintained with respect to the identification of traditional lands and Dene/Metis lands in general. The Dene/Metis were to be vested with title to approximately 70,000 square miles of land sine fee simple. An initial legal description of the lands including the quantum of each parcel was annexed to the AIP. The 600 square miles (approximate) identified by the Hay river Dene Band are set out on a map initialed by the Chief Negotiator on May 30, 1988. A reproduction of this map identifying the traditional lands of the Hay River Dene Band is attached to this Notice.

The Band is concerned about the lack of consultation, development activity, forest management, harvesting (gathering, hunting, fishing or trapping), overlap agreements, plats, tress, water and wildlife within its traditional lands. It is the intention of the Band to exercise control over its traditional lands and to manage them wisely for future generations. Traditional harvesting and like pursuits and cultural activities such as the manufacture of handicrafts, arts and crafts will contribute to a stronger traditional Dene economy and encourage self-reliance and self-sufficiency.

Land use planning within the boundaries of the traditional lands of the Hay River Dene Band will ensure this type of protection and it should be done in accordance with the July 28, 1983 "Basis of Agreement for Land Use Planning in the Northwest Territories" together with amending agreements. Water resources planning is an integral part of land

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use planning. Where amendments to the July 23, 1983 agreement are sought or subsequent agreements are proposed, the Government of Canada and the Government of the Northwest Territories should include the Hay River Dene Band in the negotiations.

The purpose of land use planning is to protect and promote the existing and future well-being of our band members and children and the existing and future social, cultural and economic well being of the Dene in our region and of the lands used by them for harvesting and other uses of renewable and non-renewable resources and their rights under Treaty 8.

The Hay River Dene Band wishes to protect its heritage resources and those of the Dene people in the Deh Cho, Mackenzie Delta, North Slave, Sahtu and South Slave regions. What we are talking about are archaeological and historic places and sites and burial sites; artifacts and objects of historical, cultural or religious significance and other records which relate to the history and culture of the Dene people. Heritage resources provide a record of Dene use and occupancy of traditional lands through time and are of spiritual, cultural, religious and educational significance.

The Hay River Dene Band will be actively involved in the conservation and management of such heritage resources, consistent with the maintenance of the integrity of public archives and national and territorial heritage resources collections and will ensure that decisions and policies will take into account Dene cultural values in relation to the use and protection of such resources. The Hay River Dene Band must be consulted in the formulation of government policy and legislation in this regard/

The Dene have traditionally referred to certain lakes, rivers, mountains and other geographic features and locations in their traditional lands by traditional or aboriginal names. The Hay River Dene Band will request that the official name of such a place be reviewed so that the Dene traditional name may be recognized in accordance with the applicable government procedure including the toponymic policy of the Government of the Northwest Territories.

The Hay River Dene Band notifies all interested third parties, member First Nations and Government of the following:

Prior to opening any lands within the boundaries of the traditional lands of the Hay River Dene Band for oil and gas exploration, government shall notify Chief and Council, provide them with an opportunity to present the views of the Hay River Dene Band to government on the matter, including impact and benefits plans and other terms and conditions to be attached to the rights issuance, and consider such views.

Before any oil and gas exploration takes place, the developer and Chief and Council shall consult on the exercise of the developer's exploration rights with respect to the environmental impact of the activity and measures to mitigate the impact, impact on wildlife harvesting and means to mitigate these, the location of camps and facilities and

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other site-specific planning concerns, the expansion or termination of activities and a process for future consultations.

Similar consultations will be held before the exercise of a developer's rights to develop or produce mineral.

The Government of the Northwest Territories will involve the Hay River Dene Band in the development and implementation of any Northern Accord on oil and gas development in the Northwest Territories which is negotiated pursuant to the enabling agreement, dated September 5, 1988, between Canada and the Government of the Northwest Territories.

The Hay River Dene Band is a self-governing First Nation. It has the authority, accountability mechanisms and legitimacy to retain the confidence and support of its Band members and of other governments (Federal/Territorial/Municipal/First Nation) and institutions, to govern effectively.

The Government of Canada is prepared to work with our Treaty First Nation to achieve self-government with the context of the treaty relationship. We are currently engaged in a process which links discussions on our historic treaty with governance, jurisdictional and fiscal negotiations. We believe that the decision we have taken affirms our treaty relationship and our right to self-government.

Pat Martel, Chief  
Hay River Dene Band  
April 3<sup>rd</sup>, 1009

DCFN Harvesting Mapping Projects Maps (2p.)/Enc.

OCEN Harvesting Mapping Project Maps										
	Falaise Lake		Sulphur Bay		Tathlina Lake		Buffalo Lake		Steen River	Whitesand River
Fowl & Fishing	YES		YES		YES		YES		YES	N/A
Gathering Areas	N/A		N/A		YES		YES		YES	N/A
Occupancy	N/A		N/A		YES		YES		YES	N/A
Small Game	N/A		YES		YES		YES		YES	YES
Big Game	YES		N/A		YES		YES		YES	N/A
Trapping & Snaring	N/A		YES		YES		YES		N/A	YES
<b>Total Maps</b>	<b>2</b>		<b>3</b>		<b>6</b>		<b>6</b>		<b>5</b>	<b>2</b>

<b>Total Maps</b>	<b>24</b>
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N/A = No Information Provided or Collected

Yes = Information was Provided and Collected

Harvesting Number codes	
Pat Buggins	001
Kandy Buggins	002
Leo Fabian	003
Frank Fabian	004
Roy Fabian	005
James Lamalice	006
Robert Lamalice	007
Wilfred Lafluer	008
Robert MacKay	009
Angus MacKay	010
Peter Sabourin	011
Sonny Sibbiston	012
Joe Smallgeese	013
Daniel Sontfrere	014
Raymond Sontfrere	015
Fred Tambour	016
Fred Martel Jr	017
Sam Buggins	018
Elaine Salopree	019
Roy Buggins	020
Louis Tambour	021
Mary Rose Sabourin	022

# INDEX MAP TRADITIONAL KNOWLEDGE and GATHERING AREA MAPS

