

KA'A'GEE TU FIRST NATION



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Oct. 3, 2006

Patrick Duxbury
Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board

Re: Paramount Resources Ltd. SDL 8 2-D Seismic Environmental Assessment

This letter is being submitted in response to Paramount Resources Ltd.'s request for ruling regarding the Mackenzie Valley Environmental Impact Review Board's use of draft documents during the SDL8 seismic EA.

A statutory tribunal like the MVEIRB is not bound by the strict judicial rules of evidence, may receive and consider evidence in virtually any form, and can set its own rules of procedure and evidence. This is confirmed by s. 30 of the *Mackenzie Valley Resource Management Act (MVRMA)* and rules 30 and 31 of the Rules of Procedure.

Draft reports, particularly the types of ones listed by the Board in its notice, are of obvious use to the EA process and contribute to the fulfillment of the Board's purposes in s. 9.1 and 114 of the *MVRMA*. The Board's primary purpose is to ensure that the environmental effects of projects are carefully considered, and that the concerns of aboriginal peoples and the public are taken into account. Both objectives would be frustrated if the Board was required to disregard highly relevant information, prepared by expert agencies and/or in co-operation with aboriginal organizations, in final draft form. Neither the *MVRMA* nor the Rules express a clear and definitive intention to exclude draft materials, which is what the Ka'a'Gee Tu say should be required to exclude such useful info from the record.

Rules 30 and 31 contain no such express limit on the use of draft materials, and to the contrary contemplate a broad power to receive relevant evidence. Section 115.1 of the *MVRMA* also clearly creates an obligation on the Board to receive and consider scientific and traditional knowledge documents without any qualification as to their draft status.

With regards to the Dehcho Land Use Plan in particular, the Ka'a'Gee Tu are aware and supportive of the submission that will be made by the Dehcho Land Use Planning Commission on this matter. In addition to the points made by the DLUPC, the Ka'a'Gee Tu would add the following two important considerations.

1) The LUP establishes a floor for development, not a ceiling.

In its Sept. 26, 2006 submission, Paramount again draws on its old and tired argument that it should not be required to do any more than the bare regulatory minimum.

“Where Paramount is already meeting all legislation and guidelines, which we understand are designed to protect the environment, we fail to understand why our Project should be singled out and be held to a standard which potentially puts us at a competitive disadvantage.”

The Ka’a’Gee Tu would point out that the Dehcho LUP as it exists now should, at the very least, be considered a guideline for conditions to be imposed on this and other developments in the Dehcho. Using even this low standard, Paramount clearly is not meeting all guidelines as it asserts.

The Ka’a’Gee Tu would also point out that the Dehcho LUP is similar to the MVEIRB’s own Report of Environmental Assessment in that it establishes minimum conditions, not maximums, which are to be imposed upon development.

The MVLWB and other regulators cannot weaken the conditions imposed by the MVEIRB but are free to impose conditions that are more stringent than those developed by the MVEIRB in its Report of EA.

Similarly, the MVEIRB, regulators and Dehcho communities will not be allowed to weaken conditions in the LUP but will be free to impose more stringent conditions where necessary.

2) Paramount’s exempt status does not make the LUP irrelevant.

Paramount argues that its development is exempt from the LUP because of its status as a pre-existing rights holder and so the individual conditions in the LUP cannot be applied to their project.

The Board is required to consider the information necessary to properly assess and mitigate Paramount’s projects. The LUP is one valid information source that the Board may consider for that purpose; indeed, as noted above, it is arguable that the Board must consider the LUP to properly fulfill its mandate under ss. 114 and 115.1 of the *MVRMA*, in particular the consideration of the input and knowledge of aboriginal peoples.

Thus Paramount’s “exempt” status does not make the LUP irrelevant to the question of how to best assess and manage the impacts of Paramount’s projects. The Board should have regard to mitigation measures, for example, found in the LUP and may recommend that those measures or similar measures be applied to Paramount’s project, if to do so would advance the statutory purposes of the *MVRMA*.

The Ka'a'Gee Tu urge the MVEIRB to reject the request made by Paramount.

Sincerely,

A handwritten signature in black ink that reads "Allan Landry". The signature is written in a cursive, flowing style.

Allan Landry
Ka'a'Gee Tu Band Councilor and Oil and Gas Advisor

Att: DFN Resolution Approving Land Use Plan

DEHCHO FIRST NATIONS

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14th Annual Assembly
Ka'a'gee Tu First Nation
June 27-29th, 2006

Resolution # 1

**RE: Approval and Ratification of the Final
Draft Dehcho Land Use Plan**

Moved by:


Delegate Richard Lafferty
Fort Providence Metis
Council

Seconded by:


Delegate William Michaud
Liidlil Kue First Nations

Passed Unanimously

Certified copy of
resolution made in
Ka'a'gee Tu First Nation,
dated June 28th, 2006.


Herb Norwegian
Grand Chief

WHEREAS, the Dehcho Land Use Planning Committee (DLUPC) was established under the Dehcho First Nations Interim Measures Agreement in 2001 to develop a land use plan for the Dehcho territory that promotes the social, cultural and economic well-being of the residents and communities of the Dehcho territory, having regard to the interests of all Canadians;

WHEREAS, the DLUPC has conducted extensive community consultations on the Land Use Plan throughout the Dehcho territory, including over 140 meetings, two special workshops on wildlife and Dene Nahodhe, two Regional Forums, and 15 Leadership, Elders and Negotiating meetings;

WHEREAS, the DLUPC submitted a Final Draft Land Use Plan to the Dehcho First Nations for approval on May 15, 2006;

WHEREAS, the Dehcho First Nations gave approval-in-principle to the Final Draft Land Use Plan on May 31st, 2006, subject to changes requested by Pehdzeh Ki First Nation, and subject to ratification at the Kakisa Annual Assembly in June 2006; and

WHEREAS, the DLUPC has completed the final revisions requested by Pehdzeh Ki First Nation and presented these revisions to the Dehcho First Nations Leadership;

NOW THEREFORE BE IT RESOLVED, that the Dehcho First Nations strongly support the Plan, and hereby approve and ratify the Final Draft Dehcho Land Use Plan, dated June 2, 2006; and

BE IT FURTHER RESOLVED, that the Dehcho First Nations will work with the GNWT and Canada to secure approval/consideration and full implementation of the Dehcho Land Use Plan by all three Parties as soon as possible.