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FAX COVER SHEET



DATE: October 25, 2001

CLIENT #: 216-00.4

To: MVEIRB
Attention: Joe Acron

FAX: 1-867-920-4761
PHONE:

FROM: Louise Mandell

RE: Report of the Mackenzie Valley Environmental Assessment Review Board ("Review Board")'s *Report of Environmental Assessment on the Paramount Resources Ltd. Cameron Hills Drilling Project* (the "Report").

ORIGINAL BEING SENT BY MAIL: YES: NO: **xx**

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MESSAGE

Please see the attached.

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COPY

October 25, 2001

Via Fax (819) 953-4941

The Honourable Robert D. Nault, PC MP
Minister
Indian and Northern Affairs Canada
MINISTER'S OFFICE
10 Wellington Street, North Tower
Hull, PQ
K1A 0H4

Attention: The Honourable Mr. Robert D Nault, P.C. M.P.

Dear Mr. Nault:

**Re: Report of the Mackenzie Valley Environmental Assessment Review Board
("Review Board")'s *Report of Environmental Assessment on the Paramount
Resources Ltd. Cameron Hills Drilling Project* (the "Report").**

We are solicitors for the Ka'a' Gee Tu First Nation, and write on their behalf.

We have received a copy of the above captioned Report, which we understand INAC is to respond to by October 26, 2001. Our clients are extremely concerned about both the substance and the tone of some aspects of the Report, and we draw these concerns to your attention.

The Ka'a' Gee Tu wrote a technical submission for the project which is the subject of the Report (the "Project"). The Ka'a' Gee Tu also participated in several meetings with Paramount, many of which were directed at trying to get the Project's proponent, Paramount Resources Ltd. ("Paramount"), to engage in a traditional knowledge study as part of the review process.

The Ka'a' Gee Tu sincerely believe that had Paramount agreed to co-operatively develop a traditional use and knowledge study, instead of proceeding autonomously, that many of the difficulties which the Ka'a' Gee Tu have with the Project could have been amicably addressed outside the formal environmental review process. Instead, Paramount has gathered some information for a traditional knowledge study, however we note that to date the Company has been unprepared to work with the Ka'a' Gee Tu people to design a study capable of filling in gaps

in existing information. Moreover, the study is not yet complete. The Ka'a' Gee Tu have not seen a draft of this study.

The Review Board closed the Public Registry and made its recommendation to INAC and the Land and Water Board without this study having been completed, or analysed. There has obviously not been any opportunity to review this study, and assess whether it adequately identifies traditional activities in the Project area, an area which forms part of our clients traditional territory, and where they enjoy aboriginal and treaty rights. The Ka'a' Gee Tu believe the Review Board acted prematurely in closing the public registry, effectively preventing any information requests to be generated in response to the study, any critical examination of the study, or any further development of the study under the auspices of Review Board.

The Review Board recorded its decision to not wait for the traditional study (Report, page 29), and then characterized the Ka'a' Gee Tu's participation in the review process as, in effect, not having been in good faith, but rather undertaken as "an opportunity to veto development."

This characterization is unwarranted and is contradicted by the information which was before the Review Board. As the Review Board is aware, the Ka'a' Gee Tu presented Paramount a draft Mutual Benefits Agreement last November, in which the Ka'a' Gee Tu proposed a plan for the regionalization of economic benefits from the Project. There was also correspondence in January, where the Ka'a' Gee Tu expressed dismay that a contract bid was sent to their office on December 21, after they had closed for Christmas, so they missed being able to compete for that contract. The suggestion that the Ka'a' Gee Tu are anti-development is just not true. The Ka'a' Gee Tu want to ensure that whatever development occurs does not prejudice their rights or harm the land, or if they are prejudiced there is an adequate benefit regime in place to identify their losses and to compensate them.

The Ka'a' Gee Tu's Technical Submission does list specific concerns which the Ka'a' Gee Tu have with the Project, which accounts for their current lack of support for the Project, but the Technical Submission also lists specific ways to resolve these problems.

The Ka'a' Gee Tu have persisted in their complaint both with the Company and before the Review Board that Paramount has proceeded with its plan without ever having adequately studied the impact of the Project on their people and on the land. As the Review Board is aware, the Ka'a' Gee Tu had pressed Paramount to assist them in funding their own traditional knowledge study. They have repeatedly stated that Paramount has not done sufficient interviews with their elders to have an in-depth understanding of their occupation and cultural practices. It became apparent during the summer, that Paramount would not agree to this request, as it believed it had collected all relevant information. At that point, the Ka'a' Gee Tu informed Paramount of what little specific information it had on hand regarding the names of trappers in the area, as evidence of the sorts of information which Paramount had not yet collected as part of the consultation process. The Review Board suggests in its Report that the Ka'a' Gee Tu withheld this information, where in reality they had expected Paramount to return to their community to gather more information.

The Review Board also opined that the consultation process "suffered as a result of the [Ka'a' Gee Tu]'s assertion that Paramount should recognize the [Ka'a' Gee Tu] as the primary

traditional land user among the affected first nation communities." The Review Board concluded it would be inappropriate for Paramount to determine which First Nation is the primary traditional land user in the project area. With respect, a traditional study will shed light on this issue. Ka'a Gee Tu have made submissions to the Board on the basis that the Project is proposed to take place on their traditional territory. The Ka'a' Gee Tu should not be singled out for trying to protect their interests in their land if other first nations have been largely silent in the environmental review process. Their interests in the land are not all the same.

The Supreme Court of Canada confirmed in *Delgamuukw* that land which is subject to aboriginal title cannot be used in a way which destroys the ability of the land to sustain future generations of aboriginal people. The Ka'a' Gee Tu have chosen to participate in the Review Process and have insisted on consultation to ensure that the Project impacts would not result in their children no longer being able to live as their parents have lived on the land.

For consultation to be meaningful, the Review Board is required to assess whether activities *might* reasonably infringe on aboriginal and treaty rights, and if so, to ensure there is accommodation such as appropriate compensation package. If the infringement cannot be justified, the Board should disallow the proposed activities. The Review Board did not wait for the traditional study before issuing its Report or have they provided any opportunity to respond to this study. This is an important study in providing meaningful consultation in these circumstances.

We request that you respond to the Report, and advise the Review Board:

- a) to await the completion of the traditional use study;
- b) to provide the opportunity for Ka'a Gee Tu to critique the study and to require the Board if necessary to redirect the Company to assess gaps in the study of information identified by the Ka'a Gee Tu;
- c) to refrain from making any decisions regard the project before these steps have been taken.

Please be advise if questions arise from this letter.

Thank you for your consideration of this letter.

Yours truly,

MANDELL PINDER

Louise Mandell, Q.C.
Barrister and Solicitor

LM/ss
cc: clients