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# FAX COVER SHEET

**DATE:** December 17, 2004

**CLIENT #:** 216-00.4

**TO:** Mackenzie Valley Environmental Impact Review Board  
**Attention: Mary Tapsell**  
**Manager of EIA**

**FAX:** 1-867-766-7074  
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**CC:** Ka'a'Gee Tu First Nation  
**Attention: Allan Landry**

**FAX:** 1-867-825-2002  
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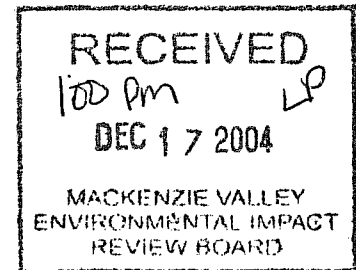
**FROM:** Louise Mandell, Q.C.

**RE:** Paramount Cameron Hills Extension Environmental Assessment

**NUMBER OF PAGES INCLUDING COVER SHEET:** *54*

**ORIGINAL BEING SENT BY MAIL:** No

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



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December 17, 2004

**Via Fax: 1-867-766-7074**

Mackenzie Valley Environmental Impact Review Board  
 200 Scotia Centre  
 Box 938  
 Yellowknife, NT X1A 2N7

**Attention: Mary Tapsell**  
**Manager of EIA**

Dear Sirs:

**Re: Paramount Cameron Hills Extension Environmental Assessment**

We act on behalf of the Ka'a'Gee Tu First Nation on all matters related to the Paramount Cameron Hills Extension EA03-005. As requested by the Mackenzie Valley Environmental Impact Review Board (the "Board") we are writing to provide comments on the Federal Minister's and the NEB's proposed modifications to the Board's recommended measures in its June 1<sup>st</sup> Report of Environmental Assessment.

***The Honour of the Crown is at Stake***

The Supreme Court of Canada recently issued two important decisions concerning Canada's duty to consult and accommodate Aboriginal peoples: *Haida Nation v. British Columbia (Minister of Forests)* 2004 SCC 73; *Taku River Tlingit v. British Columbia (Project Assessment Director)* 2004 SCC 74.

These cases are directly relevant to this environmental assessment. The Supreme Court of Canada clarified that the honour of the Crown is at stake in its dealings with Aboriginal peoples, and there is the requirement that meaningful consultation take place prior to the approval of projects that will infringe Aboriginal title and rights.

The Ka'a'Gee Tu submit that the process being followed in the post-report decision-making process for this environmental assessment and the substance of the Federal Minister's and the NEB's proposed modifications represents an "an impoverished vision of the honour of the Crown" (*Taku River Tlingit*). Specifically, we note the following:

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- The Federal Minister has not responded to the Ka'a'Gee Tu's letters (July 20, August 10, August 31, November 19, December 13) concerning post-report decision-making in this environmental assessment.
- Given that the Board has frequently stated that post-report decision-making is the Federal Minister's and the NEB's process, the Ka'a'Gee Tu are unclear as to why it is the Board requesting comments, how the Board intends to use the comments, whether the Federal Minister and the NEB will consider them, and what the process is.
- The Federal Minister and the NEB are now trying to delete and/or modify the Board's recommendations, which addressed infringements of Ka'a'Gee Tu Title and Rights, without meaningful consultation with the Ka'a'Gee Tu.
- As will be discussed in more detail below, the Federal Minister is using his Ministry's own failure to support a proper impact assessment of the project on the title and rights of the Ka'a'Gee Tu to justify deletion of recommendations that aim at the protection of those rights. Such faulty reasoning cannot be sustained.

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

- The Federal Minister, the NEB and the Board should institute a process to review the recent decisions of the Supreme Court in the context of this environmental assessment, and ensure that the post-report decision-making process meets the standards set by the Supreme Court of Canada.
- As the Federal Minister and the NEB submitted their proposed modifications prior to the release of the Supreme Court of Canada decisions, they should withdraw all of their proposed modifications, and reconsider them in light of the recent case-law.
- The Federal Minister, the NEB and the Board must take steps to fully include the Ka'a'Gee Tu in post-report decision-making, including their consultations with the Board, and to provide clarity, in writing, concerning the process to be followed, including a written response to Ka'a'Gee Tu's submissions.

### ***Requirement for an EIR***

Pursuant to sections 130(1)(b) and 131(1)(b) of the *Mackenzie Valley Resource Management Act* there is a limit on the modifications to a recommendation. Where a recommendation is rejected an EIR is to be ordered. As the Board states in their *Procedures for Consultation under the MVRMA* "if the changes proposed fundamentally alter the purpose, substance or effect of a recommendation this is tantamount to a rejection of the recommendation. The proper course of action, in this instance, is to reject the original recommendation thus triggering an EIR."

The Federal Minister proposes deleting a number of the Board's recommendations, and substantially modifying others. Similarly, the NEB proposes substantial modifications to certain recommendations, which the Ka'a'Gee Tu submit are tantamount to a rejection. As such, if the proposed modifications proceed in their current form an EIR is legally required. We note in this

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regard that in 2002 the Federal Minister requested and the Board agreed to, over strenuous objection from the Ka'a'Gee Tu, substantial modifications and deletions of recommendations to the Cameron Hills – Paramount EA. Despite this fact, and in contradiction to both the MVRMA and current Board policy, no EIR was triggered.

We are uncertain as to why the Federal Minister and the NEB are not being more transparent and straightforward in simply stating that their intention is that this project be submitted to an EIR. The proposed modifications can have no other legally permissible effect if they are adopted, and as such the Ka'a'Gee Tu would encourage the Federal Minister and the NEB to clearly state the intention to order an EIR.

### *Review of Proposed NEB Modifications*

In its letter of October 1, 2004 (attached) the Ka'a'Gee Tu submitted their comments on the original proposed modifications of the NEB. These comments reiterated the Ka'a'Gee Tu's letter of June 24, 2004 (attached) which commented on the original Board recommendations. The final proposed modifications of the NEB do not respond to the core concerns and issues previously raised by the Ka'a'Gee Tu. The Ka'a'Gee Tu re-submit all of the proposed word changes in their letter of October 1, 2004. In particular, the Ka'a'Gee Tu highlight the following points:

- The Ka'a'Gee Tu oppose the NEB's proposed modifications to information sharing provisions of the Board's recommendations. Information should be directly provided to the Ka'a'Gee Tu. As such, the language of recommendations 2 and 4 should be changed as indicated in the Ka'a'Gee Tu's previous correspondence. Further, modifications to the information sharing provisions represent a significant change tantamount to a rejection.
- The Ka'a'Gee Tu oppose the restriction of information sharing to just analyzed data. Without access to the raw data, it is impossible to verify the accuracy of Paramount's analysis.
- The Ka'a'Gee Tu re-state that the changes to recommendations 5 and 6 constitute a substantial modification tantamount to a rejection. As originally written, the recommendations required Paramount to take specific steps that would directly result in decreased air emissions and improved air quality in the Cameron Hills. The modified recommendations simply impose a monitoring plan on Paramount that might not ever require actual emissions reductions.
- In relation to Draft Condition 1, the NEB explains that it is required to carry out, to the extent of its authority, any recommendation that it adopts. The wording of the condition should clearly state this limitation on the discretion of the Chief Conservation Officer, and also appropriately structure the use of discretion to ensure that power is exercised in a manner consistent with the obligations owed to the Ka'a'Gee Tu.

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For additional details on these and other issues, the Board should review the Ka'a'Gee Tu's June 24<sup>th</sup> and October 1<sup>st</sup> letters.

### ***Review of Proposed INAC Modifications***

The Ka'a'Gee Tu have not previously been granted an opportunity to comment on the Federal Minister's proposed modifications. The specific comments below reiterate the comments submitted by the Ka'a'Gee Tu in their letters of June 24, November 19, and December 13.

### **Recommended Measure 7**

Recommended Measure 7 states:

The Review Board recommends that the Government of Canada (INAC and Environment Canada) and the Government of the Northwest Territories, implement recommendation 7 from the Ranger-Chevron EA by June 2005.

*7. Air Quality – The Review Board recommends that the GNWT and Environment Canada, working with the industry and affected communities, develop enforceable air quality guidelines or standards for oil and gas industry operation in the NWT, or adapt regulations from adjoining jurisdictions as appropriate. These guidelines should include the use of latest technologies and good industry practices, and a system of monitoring that would be sufficient to build a baseline database over the long term and to demonstrate the maintenance of existing environmental quality.*

INAC has proposed deleting this recommendation.

The Ka'a'Gee Tu submit the following:

- INAC accepted this measure already for the Chevron environmental assessment. The Board's re-statement of this measure in this EA suggests that proper work has not been done by the governments. If INAC, Environment Canada and the Government of the Northwest Territories really do recognize and acknowledge the importance of air quality standards, then why hasn't this measure already been fulfilled, as required by section 130(5) of the MVRMA?
- What steps will the Board take to ensure that the federal and territorial governments fulfill their legal commitments under the MVRMA both for this Chevron EA measure and for the final measures that will result from this EA?
- The Ka'a'Gee Tu do not accept the Federal Minister's and the NEB's view that modified measures 5 and 6 satisfy the original intent of the Board's measures. The Ka'a'Gee Tu view these modified measures as rejections of the original measures, which should trigger an EIR.
- The deletion of measure 7 will result in an EIR being legally required.

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- INAC proposes deleting this measure because it is not specific to the project. Similar to Recommendation 12, INAC should be proposing ways to make the recommendation project specific, not simply deleting it.

### **Recommended Measure 11**

Recommended Measure 11 states:

The Review Board recommends that the Department of Fisheries and Oceans conduct regular site visits to the Cameron Hills to inspect for, determine if any impacts to fish or fish habitat. Reports of these inspections must be made publicly via DFO and also be sent directly to Ka'a'Gee Tu First Nation, in a plain language version.

INAC proposes limiting reporting to situations "not related to an investigation".

In principle, the Ka'a'Gee Tu are not opposed to this modification. However, the Ka'a'Gee Tu are concerned about the ambiguity of the term "investigation". INAC should clarify what is meant by the term investigation, when an investigation is triggered, and what reports will be delivered to the Ka'a'Gee Tu once an investigation has been completed.

### **Recommended Measure 12**

Recommended Measure 12 states:

The Review Board recommends that RWED will, within the next six months, initiate the formation of a Deh Cho Boreal Caribou Working Group (DCBCWG). The working group will, among other things, consider: habitat identification, range plan development, thresholds, monitoring systems, adaptive mitigation, research programs and cumulative effects models. In addition, it will coordinate its activities with similar working groups in Alberta and British Columbia.

INAC proposes a number of changes to clarify the meaning of the recommendation so that it reads as follows:

The Review Board recommends that RWED will, within the next six months, initiate the formation of a Deh Cho Boreal Caribou Working Group (DCBCWG). RWED shall lead the DCBCWG in the development of a Boreal Caribou Management Plan for boreal caribou populations in the southern Deh Cho (south of the Mackenzie River and east of the Liard River) within 18 months. In developing the Boreal Caribou Management Plan, RWED shall ensure that the DCBCWG considers, among other things: habitat identification, range plan development, thresholds, monitoring systems, adaptive mitigation, research programs and cumulative effects models. RWED shall also coordinate the DCBCWG's activities with similar working groups in Alberta and British Columbia; and operate within the framework of recovery planning for Boreal Caribou in the NWT, and develop a Boreal Caribou Management Plan specifically for the Cameron

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Hills area. RWED shall provide applicable thresholds for the Project to the MVLWB over time based on the outcomes of future research and natural changes to the boreal caribou habitat.

In principle the Ka'a'Gee Tu are not opposed to this modification. However, the Ka'a'Gee Tu submit that the measure could be improved in a number of ways.

- The measure should explicitly state that the Ka'a'Gee Tu are to be a member of the Caribou Working Group.
- In the final sentence of the proposed modification, RWED should be changed to DCBCWG. The DCBCWG should provide the applicable thresholds for the project to the MVLWB.

Also, in keeping with recent recommendations that were provided to the Board for the Imperial Oil winter geotechnical EA, the Ka'a'Gee Tu suggest the following two modifications to the DCBCWG:

- The mandate of the DCBCWG should be expanded to include moose; and
- The DCBCWG should jointly report to both the GNWT and the Deh Cho Land Use Planning Commission (DCLUPC).

The Ka'a'Gee Tu value and appreciate all wildlife species, not for just what they provide to people, but also for their right just to exist and share the land. However, as a result of their historical and current importance for food and other purposes, it is clear that the two species that are most connected to the Ka'a'Gee Tu traditional way of life are caribou and moose.

The Ka'a'Gee Tu also feel that it is important that the DCBCWG report to the DCLUPC. The DCLUPC was established three years ago through a tri-partite agreement between the Dehcho First Nations, Canada and the GNWT. The Committee is in now in the latter stages of developing a draft land use plan for the entire Dehcho territory, which will be presented to the DFN and Canada for approval. The report of the DCBCWG could be essential to the development of the land use plan. Further, if the Land Use Planning Committee does not receive the report of the DCBCWG, these two bodies could end up with incomplete and inconsistent recommendations.

### **Recommended Measure 13**

Recommended measure 13 states:

The Review Board recommends that the MVLWB adopt an average linear disturbance target of 1.8 km per km squared as a boreal caribou disturbance threshold for the entire Cameron Hills, NT area, in order to prevent significant adverse environmental impacts on boreal caribou populations whose range includes the Paramount SDL and surrounding area. This shall be considered in all future land use applications in the area.

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INAC proposes changing the wording as follows:

The MVLWB shall include conditions in its authorizations for this Project that will ensure boreal caribou do not experience significant disturbance as a result of Project activities. As part of this, the MVLWB should define a geographic area for the Project area based on an ecologic classification system developed by the GNWT. The MVLWB should also consider the applicability of targets for habitat disturbance. Such conditions shall be reviewed annually and adjusted as necessary, based on the best available scientific information, other advice and Project area information including Paramount reports and plans (see below).

Paramount shall submit an annual report to the MVLWB detailing disturbance to boreal caribou habitat resulting from past Project activities and the state of regrowth of disturbances. The annual report shall be similar to proponent reports done in other jurisdictions such as British Columbia or Alberta. Paramount shall also include its plans that may affect boreal caribou habitat for the upcoming year.

The Ka'a'Gee Tu submit that the changes are generally acceptable, but the following issues should be addressed.

- The linkage between the DCBCWG and the MVLWB needs to be explicitly made otherwise the MVLWB will be under no obligation to implement the DCBCWG's recommendations
- The annual report from Paramount should be submitted directly to the Ka'a'Gee Tu.

Based on these changes, the Ka'a'Gee Tu submit measure 13 should read as follows:

*The MVLWB shall include conditions in its authorizations for this project that implement all recommendations of the DCBCWG. Until the DCBCWG has commenced its work and started issuing recommendations, the MVLWB shall take interim direction from RWED on:*

- 1. defining a geographic area for the project area that is based on an ecological classification system developed by the GNWT and that also considers the area of Paramount's SDLs and PLs; and*
- 2. applying thresholds for habitat disturbance. Such thresholds shall be reviewed annually and adjusted as necessary based on the best available scientific information, other advice and project information.*

*Paramount shall submit an annual report to the MVLWB, RWED, the DCBCWG and the Ka'a'Gee Tu detailing disturbance to boreal caribou resulting from past project activities and the state of regrowth of disturbances. The annual report shall be similar to reports done in other jurisdictions such as British Columbia or Alberta. Paramount shall also include its plans that may affect boreal caribou habitat for the upcoming year.*



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**Recommended Measure 15**

Recommended Measure 15 states:

The Review Board recommends that Paramount and the other parties to the unfinished Cameron Hills Wildlife and Resources Harvesting Compensation Plan developed in response to measures 13 and 15 of EA01-005 complete the compensation plan. If a compensation plan cannot be completed by these parties within 90 days of the federal Minister's acceptance of this report, this matter will proceed to binding arbitration, pursuant to the *NWT Arbitration Act*. A letter signed by the parties, indicating agreement to the compensation plan or in the case of arbitration, the arbitrator's decision must be filed with NEB and MVLWB prior to the commencement of Paramount's operations under land use permit MV2002A0046.

INAC proposes deleting the recommendation for the following rationale:

- The *NWT Arbitration Act* does not apply, and the Board does not have authority to refer the matter to arbitration.
- The Board did not provide an analysis as to whether or not there will actually be a reduction or loss of wildlife in the area, and how this will impact the aboriginal communities.

The Ka'a'Gee Tu are opposed to deleting this recommendation, and as stated in our letter of June 24, 2004, feel the recommendation must be strengthened. INAC's rationale for deleting this recommendation is puzzling and incoherent. Specifically, the Ka'a'Gee Tu submit the following:

- The substance of the Board's recommendation was that a compensation plan should be completed prior to the project beginning. The possibility of the matter being referred to arbitration was an effort by the Board to ensure the matter was dealt with in a reasonable timeframe. The matter of arbitration and the specific applicability of whether or not the *NWT Arbitration Act* applies is largely irrelevant. The Board could have simply stated that the parties must complete a plan prior to the commencement of Paramount's operations. INAC's position that arbitration is not permitted does not address in any way the substance of the recommendation, or provide any reason for its proposed deletion.
- Regardless, it is not clear nor is it explained by INAC why they take the view that the Board cannot impose measures that use arbitration in this context. As required and authorized by section 128(1)(b)(ii) and the Sahtu and Gwich'in Land Claim Agreements, the Board is making recommendations to the Federal Minister concerning how to avoid a significant adverse impact. There is no indication in the *Mackenzie Valley Resource Management Act* that the Board cannot impose such a measure nor is there any indication that the Federal Minister cannot accept such a

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measure and require some form of agreement to be completed prior to a project going ahead. There is also no reason provided by the Federal Minister why he cannot require an arbitral process even if it were not required by the EA. What the Federal Minister appears to have forgotten is that Paramount is seeking to obtain an entitlement in the form of a permit. The permit, if it were granted, would allow Paramount to undertake activities which will significantly impact Ka'a'Gee Tu title and rights. Paramount has no right or claim to the permit, but rather must meet certain criteria to gain that entitlement. The Federal Minister, because of a concern about legal technicalities of the process outlined by the Board, is seeking the deletion of the entire recommendation. Such resort to legal technicalities to remove measures aimed to protect the Aboriginal title and rights of the Ka'a'Gee Tu is not reflective of the honour of the Crown.

- The Federal Minister states that the Board failed to provide an analysis as to whether or not there will actually be a reduction or loss of wildlife, and how this will impact on aboriginal communities. The Federal Minister's position is tantamount to an admission that proper assessments, through consultation, and study of the Ka'a'Gee Tu's title and rights has not taken place. In fact, the Ka'a'Gee Tu have been pressing Paramount for years, without success, to undertake such studies collaboratively with their community, and to take measures to provide compensation and benefits to the Ka'a'Gee Tu for use of their traditional territory as well as impacts. Given this, the only logical and legally permissible course is to require that a proper study of impacts is done. In this regard, it is important to note the factual history of this matter. To date no impact study has ever been undertaken with the involvement of the Ka'a'Gee Tu to assess the Project's impacts on the way of life of the Ka'a'Gee Tu, although the Ka'a'Gee Tu have fought hard at every stage of the Project's review and negotiated directly with Paramount for such a study to be completed. The Ka'a'Gee Tu have been without funds to complete such a study, and funding was refused them by INAC. For INAC to use the fact that a proper analysis of impacts has not been done – something which they failed to fund and support – as a rationale for deleting recommendations aimed to protect Ka'a'Gee Tu's title and rights, is dishonourable.
- By declaring that the Board has imposed this measure “without providing an analysis as to whether or not there will actually be a reduction or loss of wildlife in the area” (emphasis added), the Federal Minister is attempting to impose a burden of proof on the Board that far surpasses that which is required by the legislation. Section 128 of the MVRMA only requires the Board to conclude that impacts will be likely, not that they will actually occur.
- The Minister appears to be trying to restrict the Board to only recommending mitigative measures if it concludes that there is likely to be a significant adverse impact. The Board has refuted this restrictive interpretation and concluded in its *Legal Basis for Recommendations* that the Board “can recommend measures to prevent an impact that is not yet significant from becoming so”.
- By requesting that this measure be deleted because of a lack of rationale in the Board's Report of EA, the Federal Minister is again ignoring the evidence that is on

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the public record in favour of using legal technicalities to delete a measure that is aimed to protect the Aboriginal title and rights of the Ka'a'Gee Tu. If, in the federal Minister's opinion, the Board has not provided its rationale for this measure, the Minister should just ask the Board to provide its rationale, not try to delete the measure.

- If the Federal Minister's representatives had fully participated in this EA process, there would be no doubt as to the likelihood of these impacts and the requirement for a compensation agreement. At the Kakisa public hearing, at which the Minister sent no representatives to listen to the Ka'a'Gee Tu's concerns, Ka'a'Gee Tu harvesters directly told the Board that there are already less animals in the Cameron Hills because of this project and that they have had to find alternative locations for their hunting and trapping activities. There is also plenty of scientific evidence on the record indicating that the existing caribou habitat disturbance levels in the project area have already surpassed the critical threshold at which the local caribou population will suffer significant impacts.
- The deletion of measure 15 will result in an EIR being legally required.

### **Recommended Measure 16**

Recommendation 16 states:

The Review Board recommends that the GNWT develop a socio-economic agreement with Paramount in consultation with affected communities before operations proceed under the land use permit MV2002A0046. The socio-economic agreement is to address issues such as employment targets, educational and training opportunities for local residents and a detailed ongoing community consultation plan.

The Federal Minister proposes deleting the recommendation for the following reasons:

- A lack of evidence of effects makes the need for a socio-economic agreement unnecessary and unfeasible. This is even though, except for a few exceptions, Paramount did not quantify or describe the expected socio-economic effects of the project.
- Paramount is not proposing untested mitigation measures. Where Paramount quantified the effect of its project, it used results achieved on past projects.
- There is not a sufficiently clear basis on which to impose measures on Paramount.
- Consultation with communities is the responsibility of Paramount. Socio-economic agreements do not involve consultation with select communities.

The Ka'a'Gee Tu are opposed to deleting this recommendation, and as stated in our letter of June 24, 2004, feel the recommendation must be strengthened. The Federal Minister's rationale for

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deleting this recommendation is incoherent and puzzling. Specifically, the Ka'a'Gee Tu submit the following:

- It defies logic that the fact that Paramount “did not quantify or describe the expected socio-economic effects of its proposed project” and “predicted that there would be minimal socio-economic effects” could lead to the Federal Minister’s conclusion that there is a “lack of evidence of effects” that makes a socio-economic agreement “unnecessary”. If indeed there was a lack of evidence related to limited quantification and description, then the only proper response is to order that a proper study and quantification of effects takes place in an EIR. The Minister’s reasoning runs counter to all sound environmental and management policy, and is at odds with basic tenets of assessment schemes, which requires proponents to actually analyze the possible or likely impacts of their projects, and to account for them if they go forward. Mere “predictions” and failures to “quantify or describe” impacts, are no substitute for actually doing an assessment of impacts.
- Similarly, it is unclear why the Minister is placing reliance on developers commitments in another environmental assessment. A socio-economic agreement is to be based on the actual effects of a specific project on specific interests and rights as well as the fact that a project may take place in the territory of the Ka'a'Gee Tu. Reliance on “past projects” is not an adequate or proper barometer. If this were the case then there would be little utility or purpose to environmental assessment processes. Based on the Minister’s reasoning general and universal criteria should be applied to all projects. Such an approach is obviously unworkable from a social, environmental, and management perspective, and it is not the approach followed in Canadian law and policy. It was unclear why Canada wants to resort to such an approach when the Ka'a'Gee Tu’s title and rights are at stake.
- The Federal Minister’s concerns that there are a lack of predictions and commitments and the wording of the recommendation is unclear are not a basis on which to remove the recommendation, but rather to clarify and strengthen it. As stated above (recommendation 15) the Ka'a'Gee Tu have long fought, to no avail, to be fully included in an assessment of impacts from the proposed project. For a variety of reasons, in which the Minister is complicit, this has not occurred.
- As the Supreme Court of Canada recently affirmed, the Crown cannot delegate its duty of consultation and accommodation. (*Haida*) As such, the Minister is in error when he writes “in the context of the proposed project and a socio-economic agreement, consultation with communities is the responsibility of the Proponent. Socio-economic agreements, in the sense described in the MVEIRB Report, do not involve consultation with select communities”. The fact of the matter is that the project area is in the territory inhabited by the Ka'a'Gee Tu and on the land which sustains them. Proper consultation and collaboration with the Ka'a'Gee Tu on impacts and benefits has not taken place.

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- The proposed project will take place in the territory which the Ka'a'Gee Tu have occupied and used since time immemorial. The Ka'a'Gee Tu must receive benefits from the use of their territory, as well as compensation for impacts. The Board's recommendation is only a good first step in the direction of properly recognizing the implications of Ka'a'Gee Tu title. What ultimately is required is a comprehensive Impact and Benefits Agreement prior to the project proceeding.
- The deletion of measure 16 will result in an EIR being legally required.

**Recommended Measures 1, 8, 10, 14 and 17 and Suggestions of the Board**

INAC proposes accepting these measures as originally written.

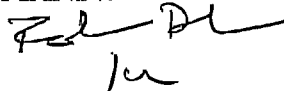
The Ka'a'Gee Tu re-assert that these recommendations should be modified in accordance with the views expressed in our letter of June 24, 2004.

The Ka'a'Gee Tu also re-assert the comments in our letter of June 24, 2004 concerning the Board's suggestions. In particular, the Ka'a'Gee Tu reiterate that suggestions 4 and 5 should be elevated to the status of recommendations as described previously.

If you have any questions concerning the above, please do not hesitate to contact us.

Yours truly,

MANDELL PINDER



Louise Mandell, Q.C.  
Barrister & Solicitor

LM/dg

Encls. (Copies of June 24th and Oct. 1st, 2004 letters)

cc: Clients

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