

December 6, 2004

Distribution;

**RE: NEB Consult to Modify, Paramount Cameron Hills Extension EA03-005**

In follow up to the November 29 request for the parties' comments and input related to the Responsible Ministers' proposed modifications to the recommended measures contained in the Paramount Resources Ltd. Report of Environmental Assessment issued June 1, 2004, the Board would also like to solicit comments on the National Energy Board's (NEB) proposed modifications. Enclosed you will find the full record of the NEB consult to modify process for your perusal. The Board is interested in hearing any final comments from the parties to the EA on the proposed wording changes. Written comments will be accepted by the Review Board until 5:00 p.m. December 17, 2004.

The Review Board's Reference Bulletin, outlining the Review Board's procedures on post-Report of Environmental Assessment consultation, as defined in Sections 130 and 131 of the *Mackenzie Valley Resource Management Act* (MVRMA) is available on the website at [www.mveirb.nt.ca](http://www.mveirb.nt.ca).

If you require any further information or wish to seek clarification on this matter, do not hesitate to contact Kimberley Cliffe-Phillips, the Environmental Assessment Officer charged with this file at: (867) 766-7062 or Mary Tapsell, Manager of Environmental Assessment at: (867) 766-7063.

Yours truly,

Kimberley Cliffe-Phillips



NEB File: 2620-D-4-7  
Review Board File: EA03-005  
28 October 2004

Mr. Todd Burlingame  
Chair  
Mackenzie Valley Environmental Impact Review Board  
PO Box 938  
Yellowknife, NT X1A 2N7  
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Dear Mr. Burlingame,

**Paramount Resources Ltd. Cameron Hills Extension Project  
National Energy Board Reasons for Alteration of the Proposed Modifications to the  
Recommended Measures**

The National Energy Board's (NEB) 15 October 2004 correspondence regarding its draft proposed conditions and proposed modifications to the recommended measures and initiation of the consult to modify process indicated that reasons for alterations to the proposed modifications made as a result of the NEB's request for comment process would be provided. The attached document provides the reasons for the NEB's actions in response to the substantive comments received with respect to the NEB's request for comment process.

These reasons, together with the proposed modifications and draft conditions and the comment letters sent earlier, will provide the Review Board with sufficient detail to prepare its view on the matter. Once you have prepared those views, the NEB would appreciate receiving them for consideration.

Please contact Laura Van Ham, Environmental Specialist for the NEB at (403) 292-4931 if further information is required. We look forward to your response regarding the NEB's proposed modifications.

Yours truly,

T.M. Baker  
Chief Conservation Officer

Attachment

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c.c.

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**National Energy Board Reasons for Alteration of the Proposed Modifications to the  
Mackenzie Valley Environmental Impact Review Board Recommended Measures (EA03-005)  
for the Paramount Resources Ltd. (Paramount) Cameron Hills Extension Project**

**Prepared by the National Energy Board (NEB)**

The following provides the reasons for the NEB's actions in response to the substantive comments received with respect to the NEB's request for comment process. The discussion is divided into two parts: general comments that were raised with respect to more than one recommended measure; and, comments specific to a recommended measure. This information is intended to supplement that already supplied in the NEB 15 October 2004 *Draft Proposed Conditions and Proposed Modifications to the Mackenzie Valley Environmental Impact Review Board Recommended Measures (EA03-005)*.

## **GENERAL COMMENTS**

### **Information distribution**

Paramount: Paramount submits that regulators should be responsible for the identification and the distribution of the information that is to be collected and reported for the project. Paramount also states that, subject to confidentiality concerns outlined below, it has no problem with the Ka'a'Gee Tu First Nation (KTFN) obtaining whatever information regarding Paramount's operations that it requires through the appropriate regulatory agency.

KTFN: The KTFN says that Paramount has a legal obligation to provide information to it and that the Mackenzie Valley Environmental Impact Review Board (Review Board) has recognized this. According to the KTFN, the NEB modifications fail to recognize this legal obligation to provide information.

NEB response: The NEB will identify in its authorization(s) requirements for information collection, reporting and distribution on matters that are within the NEB's mandate. The NEB's authorization(s) will indicate that it is the proponent's responsibility to collect, prepare reports and distribute the information to specified parties.

The NEB considers it appropriate to require Paramount to make certain information "readily available to the public" and for Paramount to recommend, and the NEB to approve, the method for doing that. Having this information "readily available" will satisfy any obligation to provide the information to the KTFN.

Thus, for recommended measures 2 and 4, the NEB is not persuaded that it should change its position that it is not justified in requiring Paramount to report to parties external to regulatory agencies, and agencies providing specialist advice to the regulatory agencies.

For recommended measure 9, the NEB accepts that direct reporting to the KTFN on environmental problems (i.e., erosion and/or sediment deposits into waterbody/watercourse) was identified in the Review Board's analysis as a key component of the recommended measure. Accordingly, the NEB adopts the Review Board's original wording with respect to information recipients in this measure.

### **Confidentiality of information**

Paramount: Paramount submits that, while it does not object to providing all data to regulatory agencies, it requests that only the summary reports be distributed to other members of government and the public to maintain confidentiality over the raw data.

KTFN: KTFN submits that Paramount fails to demonstrate the confidential nature of the information and the production of this information is required.

Government of Northwest Territories (GNWT): The GNWT indicate that the data and reports regarding the ambient environment are of use to everyone and should be made readily available.

NEB Response: The NEB recognizes that the raw data could have commercial value to Paramount. The NEB also notes that, while the raw data would certainly be of value to ambient air quality and meteorological monitoring initiatives in the Northwest Territories, the primary intent of recommended measures 3 and 4 is to ensure that activities in the Cameron Hills field do not exceed relevant air quality standards. It is the responsibility of the regulators to ensure that Paramount appropriately collects, analyzes and reports on the ambient air data to meet this intent, and as such the NEB will require that Paramount supply raw data and reports to air quality staff within the federal and territorial government for the purpose of data quality assurance. The public will have access to the analyzed data in reports prepared from the raw data, but the NEB does not find justification for making the raw data available to the public. Public access to the raw data will be left to Paramount's discretion. However, in the interest of compiling a more complete data set of meteorological and ambient air quality conditions in the Northwest Territories, the NEB hopes that Paramount would explore opportunities to cooperate with air quality sections of the GNWT and Environment Canada (EC).

## **RECOMMENDED MEASURE 2**

### **Report timing**

Paramount: Paramount requests report preparation within 16 months to allow 12 months of data collection and 4 months to prepare the report.

KTFN: KTFN submits that timing should be left as recommended by the Review Board.

NEB Response: The NEB finds it appropriate to indicate a report due date to avoid a reporting period that depends on an undefined start date. For practical reasons, reporting on recommended measure 2 is linked to other environmental reporting requirements in the NEB's draft proposed conditions 3 and 4 (address reporting requirements for recommended measures 2, 9, 3, 4, 5 and 6). Combining environmental reporting requirements into one yearly submission allows for more manageable tracking by regulatory agencies, predictable timing for interested members of the public to access the reports and consistent reporting periods for Paramount. The report due date (1 June of each year) is based on the KTFN suggested deadline for installation and operation of the meteorological and gas analysis monitoring equipment (31 March 2005) and Paramount's request for additional months to analyze and report on the data collected over the year (at a minimum, allows Paramount two months to analyze and report on the data). The NEB anticipates that Paramount will be able to install and begin operation of its equipment before the 31 March deadline and that all substantive development activities undertaken during that winter season

would be completed with time allowed for Paramount to comply with all environmental reporting requirements by the 1 June due date. Due to the limited months of meteorological and gas analysis data collection available before 1 June 2005, the reporting on condition 3.c. and 3.d. is expected to be less conclusive in 2005 than in the year(s) to follow.

### RECOMMENDED MEASURE 3

#### Period of data collection

Paramount: Paramount requests that only one year of data collection be required as per draft modeling guidelines for the Northwest Territories and due to the results of the air quality assessment in the DAR, and EC confirmation, which indicate air quality guidelines would be met for the development scenarios.

GNWT: The GNWT submits that one year of data collection is considered a minimum requirement for modeling purposes, and that 5 years is preferable. The GNWT reiterates that the meteorological data collection is to be used for on-going tracking and assessment of air pollution episodes and that it is concerned with the model inputs used in the DAR air quality assessment.

Environment Canada: EC reiterated its concerns regarding the data input in the model (e.g., lack of on-site meteorological data, stack height manipulation and the uncertainty in emission rates due to uncertainty in the type of fuel to be used at the facility) and noted that slight modifications to the input can cause predictions to exceed air quality standards.

KTFN: KTFN disagree with Paramount's request.

NEB response: The NEB notes the issues raised by the GNWT and EC with respect to the model inputs and timeframes for meteorological data collection, recognizes that air quality and related public concern are key issues in the environmental assessment, and sees value in incorporating local meteorological data in modeling of the various development scenarios. Accordingly, Paramount will be required to collect meteorological data until such time that an acceptable modeling exercise is undertaken that demonstrates current and expected future emissions in the Cameron Hills field are well within limits of relevant air quality standards. Acceptability of the modeling exercise will be determined by the Chief Conservation Officer in consultation with federal and territorial government air quality staff.

### RECOMMENDED MEASURE 4

#### Requirement for gas analysis monitoring

Paramount: Paramount request that the requirement for gas analysis monitoring be considered only if the results of the meteorological data collection and subsequent re-modeling confirm the need for and appropriate location of gas analysis monitoring.

GNWT: The GNWT submits that timely implementation of gas analysis monitoring would help to alleviate immediate concerns with respect to the:

- high level of public concern regarding air quality;
- predicted current SO<sub>2</sub> emissions being within 98% of air quality standard; and,

- uncertainty in the model inputs and the quality and quantity of emission sources in the field.

**KTFN:** The KTFN disagree with Paramount's request.

**NEB response:** The NEB is of the view that immediate installation of the gas analysis monitoring equipment is justified for the reasons noted by the GNWT above and considering that the results of re-modeled development scenarios are unlikely to be available until after at least 1 year of meteorological data collection and report preparation. The purpose of the data collection is to ensure that current and near-future operations in the field do not exceed relevant air quality standards. Paramount will be required to collect gas analysis monitoring data until the data, along with acceptable re-modeling, demonstrate that current and expected future emissions in the Cameron Hills field are well within limits of relevant air quality standards. The decision to no longer require Paramount to collect gas analysis monitoring data will be made by the Chief Conservation Officer in consultation with federal and territorial government air quality staff.

## **RECOMMENDED MEASURES 5 and 6**

### **Modification is a rejection of the original measure**

**KTFN:** The KTFN submit that the original measures outline steps that Paramount had to complete to reduce its emissions and that the NEB's proposed modifications to the measures do not impose emission reduction requirements upon Paramount. The KTFN claim that the NEB's proposed modifications would constitute a fundamental change to the purpose, substance or effect of the recommendation and this requires the NEB to refer the project to environmental impact review.

**NEB response:** In the absence of any other relevant measurement to gauge the justification for including authorization conditions related to air quality matters, the NEB is using air quality standards as the limit against which to measure oil and gas related emissions. Without evidence that Paramount has exceeded relevant air quality standards, the NEB will not require Paramount to change its operations. However, in the event that air quality standards have been, or will be exceeded, the NEB's modification will impose emission reduction requirements on Paramount. The NEB feels that this modification maintains the intent of the original recommended measures while respecting the extent of the NEB's regulatory authority over air quality.

The NEB is not persuaded that modifications to these measures amount to a rejection of the entire Review Board recommendation.

### **Identification and selection of mitigation options**

**Paramount:** Paramount requests removal of the reference to a "comprehensive listing" of mitigation options, a change from "all possible mitigation" to "appropriate mitigation" and a change from "best available technology" to "best economically achievable technology".

**GNWT:** The GNWT recognizes that not all technology will be appropriate for a variety of reasons, including economics, but regulatory agencies will require a comprehensive listing of all available technology to determine whether the appropriate mitigation has been selected.

**KTFN:** The KTFN submits that Paramount has demonstrated that its view of "appropriate" environmental management is inconsistent with that of the KTFN, other First Nations, regulators,

government and the Review Board. The changes limit mitigation options under discussion. The use of "best available technology" is the standard for modern environmental management.

NEB response: The NEB finds that in order for the well-timed selection of the most appropriate mitigation technology, the emission mitigation plan must include a comprehensive listing of all available mitigation options and a rationale where options are rejected. This provides Paramount with a clear and defensible plan to reduce its emissions to acceptable levels and allows regulatory agencies to determine, and the public to be aware, that appropriate mitigation has been selected.

#### **Requirement to review and update the plan**

Paramount: Paramount requests that the requirement to review and update the plan be based on a significant change or modification made during the life of the project.

KTFN: The KTFN request that Paramount be required to review and update the plan yearly.

NEB response: As the modified recommended measure includes consideration of Paramount's current and proposed development scenarios during preparation of the emission mitigation plan, review and updating of the plan is not anticipated to be necessary on an annual basis. Review and update of the plan would be necessary if there is a change in Paramount's planned activity that results in notable and unaccounted increases in field emissions and/or if new air emission mitigation technology is introduced that should be considered by Paramount in its project planning. The need for review and update of the plan will be determined by the Chief Conservation Officer in consultation with federal and territorial government air quality staff.

### **RECOMMENDED MEASURE 9**

#### **Affected First Nation**

KTFN: The KTFN identify the potential for inconsistency in the way various parties interpret the phrase "affected First Nation".

NEB response: The NEB recognizes the issue of variable interpretation and as such adopts the Review Board's original wording with respect to the distribution of reports to and notification of the KTFN.

### **DRAFT CONDITION 1**

#### **Discretion of the Chief Conservation Officer**

KTFN: The KTFN Request that the NEB provide an explanation for the discretion the Chief Conservation Officer would exercise with respect to the statement "Unless the Chief Conservation Officer otherwise directs".

NEB Response: As there is no application before the NEB, and the components of an application may not include all the components evaluated in this environmental assessment, it is necessary for the Chief Conservation Officer to maintain discretion in requirements for environmental protection. It is the practice of the Chief Conservation Officer to use the criteria of equivalency of protection in



allowing changes to methods of environmental protection, similar to what is allowed by section 16. of the *Canada Oil and Gas Operations Act* regarding regulations. In regulating the proposal for development in this environmental assessment, the NEB is required by the *Mackenzie Valley Resource Management Act* to carry out, to the extent of its authority, any recommendation that it adopts.

**DRAFT CONDITION 3.B. (NOW DRAFT CONDITION 3.D.)**

**Removal of the requirement for proof on cumulative sulphur emissions**

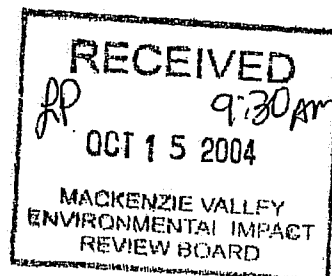
NEB comment: The NEB removed the requirement for Paramount to provide evidence that cumulative sulphur emissions in the Cameron Hills field do not exceed 1 tonne/day for the following reasons:

- the NEB finds that, based on Paramount's current and near future proposed operations, cumulative sulphur emissions are well below 1 tonne/day and as such provision of evidence by Paramount is deemed unnecessary at this point in time; and,
- if over the course of future operations the NEB finds that cumulative sulphur emissions are approaching the 1 tonne/day limit, or some other relevant contemporary limit, Paramount will be required to provide the evidence identified above.



NEB File: 2620-D-4-7  
Review Board File: EA03-005  
15 October 2004

Mr. Todd Burlingame  
Chair  
Mackenzie Valley Environmental Impact Review Board  
PO Box 938  
Yellowknife, NT X1A 2N7  
Facsimile (867) 766-7074



Dear Mr. Burlingame,

**Paramount Resources Ltd. Cameron Hills Extension Project  
National Energy Board Draft Proposed Conditions and Proposed Modifications to the  
Recommended Measures**

The National Energy Board (NEB), has received and reviewed the Report of Environmental Assessment and Reasons for Decision on the Paramount Resources Ltd. (Paramount) Cameron Hills Extension Project (Report) dated 1 June 2004 prepared by the Mackenzie Valley Environmental Impact Review Board (Review Board). The Report contains a recommendation (Recommendation) that approval of the Cameron Hills Extension Project (Development) be made subject to the imposition of the measures contained in the Report.

The NEB is proposing to adopt the Recommendation with modifications pursuant to paragraph 131(1)(b) of the *Mackenzie Valley Resource Management Act*. Before consulting with the Review Board, the NEB provided an opportunity to Paramount and the other parties to the Environmental Assessment (EA) to comment on the modifications and the resulting draft conditions to a possible future authorization.

The NEB received comments by way of letter from Paramount, Environment Canada, Fisheries and Oceans Canada, Government of Northwest Territories, and the Ka'aGee Tu First Nation. Copies of the letters are attached as new information that has been considered by the NEB.

As a result of comments received, the NEB has altered the proposed modifications and draft conditions. The altered proposed modifications and conditions are also attached. Further reasons for the changes will follow. These reasons, together with the proposed modifications and draft conditions and the comment letters will provide the Review Board with sufficient detail to prepare its view on the matter. Once you have prepared those views, the NEB would appreciate receiving them for consideration.

Please contact Laura Van Ham, Environmental Specialist for the NEB at (403) 292-4931 if further information is required. We look forward to your response regarding the NEB's proposed modifications.

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15 October 2004

Yours truly,



T.M. Baker  
Chief Conservation Officer

Attachments (8) NEB proposed modifications document  
Paramount Resources Ltd., letter dated 21/09/04  
Environment Canada, letter dated 16/09/04  
Environment Canada, letter dated 24/09/04  
Fisheries and Oceans Canada, letter dated, 28/09/04  
Government of Northwest Territories, Resources Wildlife and Economic Development,  
letter dated 30/09/04  
Mandell Pinder on behalf of the Ka'aGee Tu First Nation, letter dated 1/10/04  
Paramount Resources Ltd., letter dated 6/10/04

15 October 2004

c.c.:

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Mackenzie Valley Land and Water Board

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**National Energy Board Draft Proposed Conditions and Proposed Modifications to the  
Mackenzie Valley Environmental Impact Review Board Recommended Measures (EA03-005)  
for the Paramount Resources Ltd. Cameron Hills Extension Project**

**Prepared by the National Energy Board<sup>1</sup>**

**The Proposal for the Development:**

The National Energy Board (NEB) considers the proposal for the development to be that included in the Mackenzie Valley Land and Water Board's (MVLWB) referral to the Mackenzie Valley Environmental Impact Review Board (Review Board) for environmental assessment (EA), specifically:

*The application by Paramount Resources Ltd. to the Mackenzie Valley Land and Water Board for amendments to a Type 'A' Land Use Permit (MV2002A0046) and Type 'B' Water Licence (MV2002L1-007) for a 5 Well Drilling and Tie-in Project.*

Currently, there is no application before the NEB for proposed development in the Paramount Cameron Hills field<sup>2</sup>. However, Paramount would be required to apply to the NEB for an authorization in order to carry out the development proposed in the application to the MVLWB. The NEB is responsible for carrying out, to the extent of its authority, the adopted recommended measures referred to in the Review Board's recommendation on EA03-005 in any NEB authorization issued for the proposal for the development described above. The NEB would accomplish this through a future authorization or as a component of environmental protection for the existing oil and gas activity in the Cameron Hills field.

Subject to modification, the recommended measures would have relevance to all potential development activity in the Cameron Hills field. Accordingly, the NEB would examine the suitability of implementing the intent of the recommended measures should additional application(s) be received.

**General Comment on the Recommended Measures:**

In general, the NEB agrees with the intent of the Review Board's recommended measures. However, detail within each measure is sometimes incompatible with the NEB's standard operating procedures and/or jurisdiction. Given the scope of the EA, some of the recommended measures have been modified to allow for incorporating changes to industry and regulator best practice that will occur over the life of the Cameron Hills field.

The NEB's proposed modifications to the recommended measures are based on a goal oriented approach involving mechanisms to:

- track responsible field development (i.e., non-compliance, environmental protection, monitoring and remediation);
- ensure reporting to appropriate government agencies and members of the public, and opportunity for other public and government agencies to access reports; and,
- incorporate change to industry and regulator best practice over the life of the field development.

<sup>1</sup> Incorporates comments from the Federal and/or Responsible Ministers with jurisdiction or expertise related to the recommended measure and consideration of comments received from the parties to the EA.

<sup>2</sup> The Paramount Cameron Hills field includes all of Paramount's Significant Discovery Licence (SDL) and Production Licence (PL) areas in that field.

Highly prescriptive conditions should be avoided unless they are technically justified and essential for environmental protection. NEB, and other agency, standard operating procedures during inspection, audits and appropriate enforcement actions would identify issues and corrective action in Paramount's commitment compliance, environmental protection, monitoring, remediation and reporting systems.

#### **Purpose of the Request for Comment Process**

If the NEB adopts, with or without modification, the recommended measures presented by the MVEIRB, the NEB is then responsible, to the extent of its authority, for ensuring these measures are carried out. These measures will become the basis for conditions the NEB will issue on existing or applied for oil and gas activity in the Cameron Hills field. After consideration of the recommended measures, and the NEB's proposed modifications to them, the NEB has found that a number of non-standard conditions are likely required to carry out the recommended measures. The nature of the conditions and the modifications to the recommended measures has led to the NEB's decision to request comment from those directly affected parties identified during the EA process. The NEB will consider comments received on both the draft proposed conditions and the modifications to the recommended measures, then finalize the proposed modifications document and consult with the MVEIRB. The proposed conditions will be finalized after completion of the consultation with the MVEIRB and be issued to Paramount through future authorizations or as requirements under the NEB's regulations.

#### **Discussion Outline:**

The discussion for each recommended measure is divided into three sections:

**Review Board Recommended Measure** – provides original wording, with problematic segments underlined and numbered.

**Proposed Modification** – the NEB's proposed modification. The proposed modifications incorporate comments from the Federal and/or Responsible Ministers with jurisdiction or expertise related to the recommended measure.

**Rationale for the Proposed Modification** – provides rationale for modification correlated with number segments of the Review Board recommended measure.

The NEB draft proposed conditions are presented following the recommended measures discussion. Each proposed condition is correlated to the numbered recommended measure(s) that it is intended to address. Proposed conditions will either be issued with a future authorization or as a component of environmental protection planning and environmental reporting required under the NEB's Production and Conservation Regulations.

## RECOMMENDED MEASURE 2

### Review Board Recommended Measure:

The Review Board recommends that Paramount prepare a report within 12 months<sup>1</sup> and thereafter, annually, until the developments on the SDL<sup>2</sup> are abandoned and restored, for distribution in plain language to the parties in this EA.<sup>3</sup> This report will outline the implementation status<sup>4</sup> of each commitment made during the course of this EA, as set out in Appendix A.<sup>5</sup>

### Proposed Modification:

The Review Board recommends that Paramount prepare a report in plain language by June 1, 2005 and thereafter, annually, until the developments on the Cameron Hills SDL(s) and PL(s) are abandoned and restored that outlines the status of compliance with commitments Paramount made during the course of this EA. In the event of non-compliance, the report will provide a plan for achieving compliance or detail as to why compliance cannot be achieved. Paramount will submit the annual report to appropriate regulatory agencies and make it readily available through an approved distribution medium to other members of government and the public.

### Rationale for the Proposed Modification:

1. Report timing – The NEB suggests that the a June 1 submission date would allow Paramount to complete its winter activities, process necessary environmental data and prepare and distribute the report with sufficient time prior to the next season start-up to make relevant changes to operations. The NEB would require submission of this report along with other components of the annual environment report required by the NEB's Draft Proposed Condition 3. Combining annual environment reporting requirements into one yearly submission allows for more manageable tracking by regulatory agencies, predictable timing for interested members of the public to access the report and consistent reporting periods for Paramount.
2. Location reference – Stating SDL excludes portions of the Cameron Hills field that have been converted to PL. Proposed modification is more inclusive.
3. Reporting – It is a given that throughout the life of the development, report requirements, distribution mediums and recipients will undergo substantial change. The proposed modifications to statements regarding reports are intended to ensure that the right people receive copies of the appropriate information reported on a suitable schedule, and that all interested persons have reasonable ease of access to this information. The modifications also allow regulators the necessary liberty to adapt authorization conditions with respect to reporting. Regulators would decide and/or approve reporting and distribution requirements on an issue by issue basis, and these requirements would evolve as technology changes and the field development proceeds.

Based on review of the Review Board's analysis (Section 4.1.3 of the Report on EA), the NEB suggests that the intent of this recommended measure is to ensure that Paramount demonstrate that it has fulfilled commitments made during the course of the EA. Since it is the responsibility of the regulator to track that commitments made by an applicant are fulfilled, the NEB does not find justification in requiring Paramount to report on compliance directly to non-regulatory bodies.

4. Implementation status – The NEB attaches standard conditions to authorizations/approvals that require companies to comply with all commitments made during the course of the environmental review and a senior official of the company to report to the NEB that the development is in compliance or provide detail on the non-compliances. The desired end result of the conditions is to ensure that:

- no hazardous non-compliances occur, as a result of not implementing proposed mitigation, that would cause potential adverse environmental effects (measured by inspection, audit and receipt of company compliance letter);
- accountability of condition compliance is with a senior official of the company; and
- the NEB receives notification of and reasons for non-compliance to conditions.

Non-compliance is either reported by the company or discovered through the NEB's standard operating procedures, including condition compliance tracking, construction and operation inspections and audits during the life of development. Evolved through experience, the combination of the standard conditions and operating procedures enable the NEB to focus on the issue (i.e., non-compliance) and provides an efficient system for bringing the company back into compliance.

5. List of commitments – The list of commitments in Appendix A does not include all the commitments made by Paramount during the course of the EA. The proposed modification is more inclusive.



### RECOMMENDED MEASURE 3

#### Review Board Recommended Measure:

The Review Board recommends that prior to the issuance of any further licenses or permits<sup>1</sup> Paramount install a meteorological station (at minimum must monitor wind speed, wind direction and temperature)<sup>2</sup> in the Cameron Hills SDL to gather baseline data related to its development. Meteorological data will be provided annually to air quality staff of GNWT-RWED and Environment Canada along with a detailed re-modeling of Paramount's various development scenarios to ensure onsite meteorological conditions are reflected in the modeled outputs.<sup>3,4,5</sup>

#### Proposed Modification:

The Review Board recommends that Paramount install and begin operation of meteorological monitoring equipment in the Cameron Hills SDL(s) and PL(s) by March 31 2005 (at minimum must monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous, continuous basis). The purpose of the monitoring equipment is to provide on-site meteorological information for inclusion in subsequent re-assessments (dispersion modeling) of facility emissions as well as on-going tracking and assessment of air pollution episodes should they occur. Following regulator approval of sufficient meteorological data collection, Paramount will undertake a detailed re-modeling of the various development scenarios to ensure on-site meteorological conditions are reflected in the modeled outputs. Meteorological data and re-modeled development scenarios will be provided to appropriate government agencies. Re-modeled development scenarios will also be made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain and report on-site meteorological monitoring will be reviewed on an annual basis by the appropriate government agencies.

#### Rationale for the Proposed Modification:

1. Timing - The NEB suggests that the issue is for Paramount to accurately model its development scenarios and track ongoing emissions in order to ensure, at a minimum, that relevant air quality standards are met or operational changes are implemented to reduce emissions to meet aforementioned standards. The NEB's proposed modification ensures this is achieved in a reasonable timeframe (i.e., this winter) without unnecessary delay in the application process and even without additional application for field development. The NEB could carry out this recommended measure either through an authorization or as a component of environmental protection planning required under its Production and Conservation Regulations. This requirement would remain on the field until such time that the NEB, in consultation with appropriate federal and/or territorial government air quality staff, decides that current and expected future emissions in the Cameron Hills field are within the acceptable limits of relevant air quality standards.
2. Meteorological requirements – More detail added to better reflect the data collection processes necessary to provide information for dispersion modeling.
3. Purpose – Describes the intent of the recommendation.
4. Reporting – It is a given that throughout the life of the development, report requirements, distribution mediums and recipients will undergo substantial change. The proposed modifications to statements regarding reports are intended to ensure that the right people receive copies of the appropriate information reported on a suitable schedule, and that all interested persons have reasonable ease of access to this information. The modifications also allow regulators the necessary liberty to adapt authorization conditions with respect to reporting. Regulators would decide and/or approve reporting

and distribution requirements on an issue by issue basis, and these requirements would evolve as technology changes and the field development proceeds.

For this particular recommended measure, re-modeling of the development scenarios is not necessary on an annual basis. Rather, the development scenarios can be re-modeled once sufficient on-site meteorological data has been collected. The need to conduct further re-modeling of the development scenarios would be determined by appropriate government agencies as development of the field progresses.

5. **Timeframe for monitoring** - The NEB will, in consultation with appropriate federal and/or territorial government air quality staff, evaluate the justification for this recommended measure based on current and expected future operations, the re-modeled development scenarios and results from ambient gas monitoring. This would follow receipt of Paramount's annual environment report, which would include evaluation of the status of air quality in the Cameron Hills.

#### RECOMMENDED MEASURE 4

##### Review Board Recommended Measure:

The Review Board recommends that Paramount install a continuous<sup>1</sup> gas analysis monitoring system to track ambient air quality (at minimum 1 hour SO<sub>2</sub> and NO<sub>2</sub>)<sup>1</sup> and provide the data to the general public via website, to be updated no less than monthly if a live connection is not available.<sup>2</sup> Annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to all potentially affected communities<sup>2</sup> and government in a plain language document throughout the life<sup>3</sup> of the Paramount operations at Cameron Hills.

##### Proposed Modification:

The Review Board recommends that Paramount install and begin operation of instantaneous, continuous gas analysis monitoring by March 31 2005 to track ambient air quality (at minimum 1 hour average SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S concentrations should be calculated and recorded). Data and plain language annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to appropriate government agencies. The plain language annual reports will also be made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain and report on ambient air quality monitoring will be reviewed on an annual basis by the appropriate government agencies.

##### Rationale for the Proposed Modification:

1. Detail added to clarify components of an ambient air quality monitoring program that were determined to be appropriate for the Cameron Hills field (based on government discussions and public interest) and timing for installation of the equipment.
2. Reporting – It is a given that throughout the life of the development, report requirements, distribution mediums and recipients will undergo substantial change. The proposed modifications to statements regarding reports are intended to ensure that the right people receive copies of the appropriate information reported on a suitable schedule, and that all interested persons have reasonable ease of access to this information. The modifications also allow regulators the necessary liberty to adapt authorization conditions with respect to reporting. Regulators would decide and/or approve reporting and distribution requirements on an issue by issue basis, and these requirements would evolve as technology changes and the field development proceeds.

Based on review of the Review Board's analysis (Section 4.2.1.4 of the Report on EA), the NEB suggests the intent of this recommended measure is to ensure that Paramount accurately measures and models field emissions and avoids exceedence of relevant air quality standards and that it is the responsibility of the regulator to ensure that Paramount comply with this measure. The NEB finds value in Paramount making its annual report available to the public, however, provision of raw data to the public is deemed unnecessary. Furthermore, the NEB finds justification in Paramount's request to maintain confidentiality over the raw data collected in relation to meteorological conditions and ambient air quality in the project area. The NEB will require that Paramount submit the raw data to regulatory agencies and appropriate federal and/or territorial government air quality staff for the purpose of quality assurance, with the understanding that the data would not be circulated publicly unless agreed to by Paramount. However, in the interest of compiling a more complete data set of meteorological and ambient air quality conditions in the Northwest Territories, the NEB hopes that Paramount would explore opportunities to cooperate with air quality sections of the Government of Northwest Territories and Environment Canada.

3. **Timeframe for monitoring** – The NEB can not find justification to condition this throughout the life of the field (i.e., if it is demonstrated that operations are well within the acceptable limits of relevant air quality standards, and no further operational changes are anticipated that would change this, monitoring may no longer be required). The NEB will, in consultation with appropriate federal and/or territorial government air quality staff, evaluate the justification for this recommended measure based on current and expected future operations, the re-modeled development scenarios and results from ambient gas monitoring. This would follow receipt of Paramount's annual environment report, which would include evaluation of the status of air quality in the Cameron Hills.

## **RECOMMENDED MEASURES 5 and 6**

### **Review Board Recommended Measure 5:**

The Review Board recommends that Paramount install an amine fuel sweetening unit at the Central Battery (H-03) location prior to bringing any further wells online or pipe in sweet fuel from outside Cameron Hills, as per Paramount's original development plan.<sup>1</sup>

### **Review Board Recommended Measure 6:**

The Review Board recommends that any further combustion engines being installed for line heaters and pumpjacks at the Cameron Hills operation must use the sweetened fuel or an alternate source of no sulphur fuel.<sup>1</sup>

### **Proposed Modification:**

The Review Board recommends that prior to any new production from the Cameron Hills field, Paramount submit to regulatory agencies, for approval, and appropriate federal and/or territorial government air quality staff an emission mitigation plan for the Cameron Hills field. The emission mitigation plan will detail:

- a strategy for demonstrating that current and future SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards;
- a statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field;
- a contingency plan for selection of mitigation measures to be implemented in the event that SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will include,
  - a comprehensive listing of all the mitigation options (e.g., pollution prevention planning, best management/environmental practices, best available technology, etc.) currently employed and proposed for future options, along with triggers and/or timelines for implementation, and
  - the mitigation options considered and rejected, along with rationale for rejection.

Throughout the life of the Cameron Hills field, Paramount should be required to review and update the plan in the event of changes to its field development scenarios or improvements in available mitigation technology.

### **Rationale for the Proposed Modification:**

1. The NEB suggests that the issue is to ensure, at a minimum, that in the Cameron Hills field, relevant air quality standards are met or operational changes are implemented to reduce emissions to meet aforementioned standards. The NEB does not find technical justification for applying conditions to meet recommended measures 5 and 6 at this stage of the Cameron Hills field development. Recommended measures 5 and 6 are prescriptive and do not reflect the need for an air quality strategy throughout the life of the field development. The proposed modification addresses what the NEB believes to be the issue that inspired recommended measures 5 and 6, by ensuring that field emissions are maintained well within the limits of relevant air quality standards through the use of the most appropriate mitigation technology. The proposed modification also requires advance planning for implementing operational changes and, in combination with recommended measures 3 and 4, allows for appropriately timed and innovative modifications to future developments within the field.

In the past, the NEB has imposed conditions that require applicants to provide evidence that emissions are maintained within relevant air quality standards. If not within relevant standards, the NEB has the option to shut-down portions of an operation until evidence is provided to show

otherwise. Where warranted, the NEB intends to impose similar conditions on future authorizations/approvals.

## **RECOMMENDED MEASURE 9**

### **Review Board Recommended Measure:**

The Review Board recommends that Paramount continue to monitor all work sites for erosion, and take appropriate measures in advance to avoid such problems. The Review Board recommends appropriate erosion mitigation measures be identified in advance<sup>1</sup> and authorized by the NEB and INAC inspectors, and that any remediation of sites be documented and reported to regulators and the Ka'a'Gee Tu First Nation on a quarterly basis.<sup>2</sup>

### **Proposed Modification:**

The Review Board recommends continued monitoring for erosion by Paramount of all work sites, and the implementation of appropriate mitigation and remediation measures. Regulators should include appropriate permit conditions to prevent and remediate erosion. Paramount should be required to submit to regulatory agencies and the Ka'a'Gee Tu First Nation, and make readily available to the public and other government agencies, annual reports detailing mitigation or remediation measures taken by Paramount in response to erosion and/or sediment deposits into a waterbody/watercourse. Any deposit of sediment into a waterbody/watercourse should require Paramount to immediately implement mitigation or remediation measures and notify the appropriate government agencies and the Ka'a'Gee Tu First Nation.

### **Rationale for the Proposed Modification:**

1. Proposed modification clarifies responsibility for ensuring that appropriate mitigation and remediation measures are identified in advance of activity.
2. Timing of reports – The NEB considers annual reporting to be more appropriate as any substantive erosion or sediment release into waterbody/watercourse occurrences would be identified through regulator inspections and direct notification from Paramount.

**National Energy Board Draft Proposed Conditions to address  
 Mackenzie Valley Environmental Impact Review Board Recommended Measures for the  
 Paramount Resources Ltd. Cameron Hills Extension Project – EA03-005**

Measure	NEB Draft Proposed Conditions
1, 8, 10	1. Unless the Chief Conservation Officer otherwise directs, the applicant shall implement or cause to be implemented all of the policies, practices, mitigative measures, recommendations and procedures for the protection of the environment referred to in the Mackenzie Valley Environmental Impact Review Board Environmental Assessment process (EA 03-005), its application and any subsequent filings made in support thereof, and its undertakings to other regulatory agencies.
3, 4, 5, 6, 9	2. For the time period that the Chief Conservation Officer, in consultation with appropriate federal and/or territorial government air quality staff, determines is appropriate, the applicant shall as a component of environmental protection planning required under section 60. of the Production and Conservation Regulations ensure that: <ul style="list-style-type: none"> <li>a. a qualified air quality specialist install, begin operation by March 31 2005 and maintain in the Cameron Hills SDL(s) and PL(s),                             <ul style="list-style-type: none"> <li>i. meteorological monitoring equipment to monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous continuous basis,</li> <li>ii. instantaneous, continuous gas analysis monitoring to track ambient air quality, including, at a minimum, calculation and recording of 1 hour average SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S concentrations;</li> </ul> </li> <li>b. data collected under conditions 2.a.i. and 2.a.ii. are submitted to air quality staff at Environment Canada and the Government of Northwest Territories in a manner approved by the Chief Conservation Officer;</li> <li>c. following Chief Conservation Officer approval of sufficient collection of meteorological data under condition 2.a.i., detailed re-modeling of the various development scenarios for the Cameron Hills field is undertaken by a qualified air quality specialist and submitted to the Chief Conservation Officer and air quality staff at Environment Canada and the Government of Northwest Territories in a manner approved by the Chief Conservation Officer;</li> <li>d. reports prepared under condition 2. c. are made readily available to the public and other government agencies in a manner approved by the Chief Conservation Officer;</li> <li>e. prior to new development activity, an environmental protection plan is submitted to the Chief Conservation Officer, that outlines,                             <ul style="list-style-type: none"> <li>i. current mitigation, monitoring and remediation commitments with respect to environmental protection for all construction and operation activities to be carried out in the Cameron Hills field,</li> <li>ii. a plan for notification of government agencies and other affected parties in the event of an unforeseen construction or operational incident that affects components of the environment, and,</li> <li>iii. a contemporary Cameron Hills field emission mitigation plan that details,                                     <ul style="list-style-type: none"> <li>• a strategy for demonstrating that current and future SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality</li> </ul> </li> </ul> </li> </ul>



Measure	NEB Draft Proposed Conditions
	<p>standards,</p> <ul style="list-style-type: none"> <li>• a statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field,</li> <li>• a contingency plan for selection of mitigation measures to be implemented in the event that SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will include,                             <ul style="list-style-type: none"> <li>⇒ a comprehensive listing of all the mitigation options (e.g., pollution prevention planning, best management/environmental practices, best available technology, etc.) currently employed and proposed for future options, along with triggers and/or timelines for implementation, and</li> <li>⇒ the mitigation options considered and rejected, along with rationale for rejection.</li> </ul> </li> </ul> <p>f. plans prepared under condition 2. e.iii. are submitted to air quality staff at Environment Canada and the Government of Northwest Territories and made readily available to the public and other government agencies in a manner approved by the Chief Conservation Officer; and,</p> <p>g. in the event of any deposit of sediment into a water body/watercourse, it immediately implement mitigation or remediation measures and notify the Chief Conservation Officer, appropriate government agencies, including Fisheries and Oceans Canada and Environment Canada, and the Ka'a'Gee Tu First Nation.</p>
<p>2, 9, 3, 4, 5, 6</p>	<p>3. The applicant shall include in the annual environment report for the Cameron Hills field that is to be submitted to the Chief Conservation Officer by June 1 of each year (section 88. of the Production and Conservation Regulations):</p> <ul style="list-style-type: none"> <li>a. a confirmation, by an officer of the company, that the approved facilities were completed and constructed in compliance with all applicable conditions in this [authorization (or approval)]. If compliance with any of these conditions cannot be confirmed, the officer of the company shall file with the Chief Conservation Officer details as to why compliance cannot be confirmed;</li> <li>b. a description of all environmental mitigation and remediation measures taken by Paramount in the Cameron Hills field in response to erosion and/or sediment deposits into a waterbody/watercourse;</li> <li>c. a plain language report on that status of air quality at Cameron Hills, incorporating the data collected under conditions 2.a.i. and 2.a.ii., and re-modeling under 2.c. as available, prepared by a qualified air quality specialist;</li> <li>d. for a time period that the Chief Conservation Officer, in consultation with appropriate federal and/or territorial government air quality staff, determines is appropriate, provision of evidence to the Chief Conservation Officer that current SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field do not result in exceedences of relevant air quality standards.</li> </ul>
<p>2, 9, 3, 4, 5, 6</p>	<p>4. The applicant shall ensure that the annual environmental report prepared under condition 3. is made readily available to the public and other government agencies in a manner approved by the Chief Conservation Officer.</p>

<b>Measure</b>	<b>NEB Draft Proposed Conditions</b>
9	5. The applicant shall ensure that the information reported under condition 3.b. is provided directly to the Ka'a'Gee Tu First Nation.



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NEB / ONE

October 6, 2004

332511

National Energy Board  
444 Seventh Avenue S.W.  
Calgary, Alberta  
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via Fax: 292-5503

Attention: Mr. T. M. Baker, Chief Conservation Officer

Dear Sir:

**Re: Paramount Resources Ltd Cameron Hills Extension Project  
Response to Reviewers Comments on the National Energy Board Draft Proposed  
Conditions and Proposed Modifications to the Recommendations  
NEB File: 2620-D-4-7  
Review Board File: EA03-005  
Paramount File: SL005212**

Paramount Resources Ltd. ("Paramount") has now had the opportunity to review the comments provided by Environment Canada ("EC"), Department of Fisheries and Oceans ("DFO"), Northwest Territories Resources, Wildlife and Economic Development ("RWED") and the Ka'a' Gee Tu First Nation ("KTFN") in relation to the National Energy Board's ("NEB") Draft Proposed Conditions and Proposed Modifications to the Mackenzie Valley Environmental Impact Review Board ("MVEIRB") Recommendations. Paramount is grateful for the opportunity to respond to the issues raised by these parties and provides its comments as follows.

As a preliminary comment, Paramount wishes to re-emphasize the scope of the Environmental Assessment ("EA"), in which the MVEIRB established that the individual components of the development under assessment generally are not likely to have a significant adverse effect and directed that the EA focus on the cumulative effects of drilling, testing and tie-in of up to 50 additional wells over a period of 10 years, production of oil and gas over 15 to 20 years and abandonment and reclamation of the entire development. Paramount's submission refers to this forward looking, very optimistic project as the "planned development case". Paramount has consistently stated that the cumulative effects presented in the Developer's Assessment Report ("DAR") presents the maximum development, contemplating that all wells will be drilled, are commercially viable and will warrant tie-in, and will maintain a 10 year production life. Based on statistics to date, approximately 60% of the wells included in the DAR will actually be completed and tied in, and all of that development will certainly not occur in the next year or even the next five years. The application by Paramount that triggered this assessment is the drilling and tie-in of five new wells, not the fifty that are assessed in the DAR. If and when Paramount decides to drill or tie in further wells, it will submit an application at that time. The

DAR assesses possible cumulative impacts that will be spread over the next fifteen to twenty years, and many of which will likely never actually occur or that will not occur simultaneously. However, in order to be conservative the DAR assumes that all wells will be drilled and operating at the same time. For all these reasons, Paramount submits that it is premature to require all measures for the full development case be completed by Paramount at this time.

Another general issue is the continual insistence by various parties that it is not sufficient that Paramount's most conservative modelling meets the relevant Guidelines, because that is merely "polluting to a limit". Clearly it is desirable to minimize emissions to the extent possible, and Paramount has enumerated a number of ways in which it has designed the project to reduce emissions. In addition, Paramount will ensure that it remains within limits imposed by the applicable Guidelines. However, minimization of emissions must also be done within the context of the desire for economic growth. Therefore, there must be a balance achieved between economic development and pollution control. The appropriate and fair way to achieve that balance is to require all developers to adhere to published regulations and Guidelines. If those regulations and Guidelines are not sufficiently protective, they should be changed to be more stringent. It is not appropriate to develop ad hoc standards that will apply to Paramount in this development only. In their comments, certain parties appear to be advocating that Paramount should be expected to not only meet the current standards, but to exceed current standard to some undisclosed level. Not only does such an approach potentially put Paramount at a commercial disadvantage in relation to other developers, but it also raises questions of administrative fairness by changing the rules as to acceptable emission limits mid-stream.

#### **Replacement of "instantaneous, continuous" with "regular"**

With respect to the comment that it is not appropriate to replace the words "instantaneous, continuous" with "regular" in relation to collection of meteorological data, Paramount wishes to clarify its intention for requesting this change. Paramount's concern was that the previous wording would require it to have measurements taken and transmitted every second, which would be exceptionally costly. In addition, the wording appeared to make no allowance for the equipment to be down due to malfunction or for servicing. Paramount's intention is to install electronic monitoring equipment that will provide the hourly averages required for comparison to one hour air quality standards. This type of monitoring will allow collection of the data required for dispersion modelling. It would appear that the difference among the approaches was semantic, not substantive.

#### **Maintenance of Confidentiality over Raw Data**

Paramount wishes to reiterate that it is seeking to maintain confidentiality only over the raw data that is collected in relation to meteorological conditions and ambient air quality in the project area. It has no objection to providing the raw data to the applicable regulatory bodies in the discharge of their jurisdiction regarding the project. It also has no objection to the dissemination to the public of summary data and reports in relation to the meteorological and air quality monitoring. However, Paramount would oppose the release to the public of the raw data because of the proprietary nature of the data. It is the norm that collected meteorological and air quality data can be licenced on a commercial basis to other parties. For example, the meteorological data

from Fort Smith that was used in Paramount's modelling in the DAR was licenced by Paramount from Fort Smith for a fee. The release of the raw data to the public at large would destroy the commercial value of this data.

In addition, some of the data used for modelling, such as digitized topography, was licenced from third parties, and the terms of Paramount's licence for use of that data does not permit it to be released to the public.

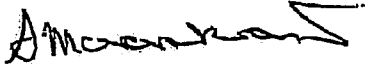
#### **Provision of Information to the KTFN**

Within the limits discussed above, Paramount is not opposed to the KTFN having access to regulatory information about its operations in the Cameron Hills. However, it has sought the advice of legal counsel and it disagrees with the interpretation of KTFN's counsel that *Haida Nation v. Minister of Forests*, 2004 B.C.S.C. 1243 ("Haida") imposes a legal obligation for it to report directly to the KTFN. In that case Weyerhaeuser was prepared to provide certain data if the Haida would sign an appropriate confidentiality agreement, but they were unable to agree on the terms of such an agreement. Weyerhaeuser had also provided access to the data to the Province and had no objection to the Province sharing the information with the Haida. The court found that there was no necessity for an order that Weyerhaeuser disclose the information because the Haida could obtain relevant information and reports through the Province.

Paramount is mandated to make extensive filings with various regulatory bodies that are represented in this process, both on a routine basis, and in the event that any spills or other mishaps occur. Subject to confidentiality concerns that were outlined above, Paramount has no problem with KTFN obtaining whatever information regarding Paramount's operations that it requires through the appropriate regulatory body. Since primary responsibility for any consultation occurs through the Crown, it is appropriate that the Crown should provide the underlying information to support any necessary consultation. As stated in Paramount's prior submission to the NEB, it believes that it is preferable that the regulatory body to whom the information is submitted decide what information can appropriately be released to the public, including aboriginal groups.

Paramount appreciates the opportunity to make its submissions to the NEB. If we can be of further assistance, please do not hesitate to call Shirley Maaskant at (403) 290-3618.

Yours truly,



Shirley Maaskant  
Regulatory & Community Affairs Coordinator

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NEB / ONE

332466

October 1, 2004

Via Fax: (403) 292-5503

National Energy Board  
444 Seventh Avenue S.W.  
Calgary, Alberta T2P 0X8

Attention: Mr. T. M. Baker  
Chief Conservation Officer

Dear Sirs:

**Re: Paramount Resources Ltd. Cameron Hills Extension Project – Comments and Reply of the Ka'a'Gee Tu First Nation in response to the NEB's Draft Modifications of the MVEIRB Recommendations**

We are writing on behalf of the Ka'a'Gee Tu First Nation to submit comments in response to the National Energy Board's ("NEB") September 13, 2004 draft proposed conditions and proposed modifications addressing the Recommendations of the Mackenzie Valley Environmental Impact Review Board ("MVEIRB") on the Paramount Resources Ltd. Cameron Hills Extension Project. We are also replying to the September 21, 2004 submission of Paramount Resources Ltd. ("Paramount").

The Ka'a'Gee Tu appreciate the opportunity to respond to the proposed modifications. We hope that this indicates that post-Report decision-making in this, and other, Environmental Assessments will increasingly be an open and transparent process, and as outlined in our letters of July 20 and August 31, fully allow for the participation of the Ka'a'Gee Tu. We expect that DIAND will use a comparable process for developing its modified measures in advance of consultations that may result in modifying the recommendations.

In this submission we do not re-state, or retract, the comments the Ka'a'Gee Tu made in their June 24, 2004 letter replying to the MVEIRB's recommendations. This letter is restricted to commenting on the NEB's proposed modifications, as compared with the original MVEIRB recommendations.

### General Comments

We raise a few general points prior to addressing each of the NEB's proposed modifications and conditions.

#### *Issuance of Permits Without Sufficient Consultation and Accommodation*

As established in *Haida Nation v. British Columbia (Minister of Forests)* (2002) 99 B.C.L.R. (3d) 209 (C.A.), supplementary reasons (2002), 5 B.C.L.R. (4th) 33, both the Crown and a third party who has been issued a permit or tenure have legal duties to consult and seek a workable accommodation of Aboriginal interests when activities having potential impacts will take place in the traditional territory of a First Nation. Paramount has been issued permits to conduct operations in the traditional territory of the Ka'a'Gee Tu without legally required consultation and accommodation taking place. The Crown and Paramount have not fulfilled these duties to date.

Paramount's response to the MVEIRB's recommendations and to the NEB's modification illustrates their failure to acknowledge the scope and nature of these legal obligations. Similarly, as will be outlined below, the NEB's proposed modifications do not meet the standards of consultation and accommodation.

The Ka'a'Gee Tu expect that legal obligations of consultation and accommodation will be met by both the Crown and Paramount.

#### *Reporting and Information Sharing with the Ka'a'Gee Tu*

Throughout the environmental assessment process the Ka'a'Gee Tu has raised the issue of Paramount's lack of communication, and its unwillingness to accept that it has any responsibility to keep the Ka'a'Gee Tu informed about how the project is developing. This included a lack of information in relation to environmental problems that have occurred on-site.

Information sharing is not merely a moral obligation to inform one's neighbours of how one's conduct may impact on them. With respect to First Nations, it is also a legal obligation, rooted in the constitutional necessity for consultation with Aboriginal peoples when their interests are impacted. This was illustrated in the recent decision of the British Columbia Supreme Court in *Haida Nation v. Minister of Forests*, 2004 BCSC 1243. In that case, Weyerhaeuser, who held a tree farm license that had been issued without consultation and accommodation, was refusing to produce information and reports to the Haida. The Court ordered that the Haida are entitled to the receipt of the information from Weyerhaeuser, and made provision for the receipt of that information.

The MVEIRB acknowledged the lack of information being provided to the Ka'a'Gee Tu and this fact was specifically reflected in their recommendations. The MVEIRB included provisions requiring Paramount to report and provide information to the Ka'a'Gee Tu and other Aboriginal communities. In particular, the MVEIRB laid out requirements for the distribution of project reports and for notification of the communities in the event of the environmental problems/issues. These reporting provisions are a vital and important part of the recommendations.



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The NEB's modifications effectively delete these reporting requirements. The NEB modifications, if adopted, would only require that Paramount's reports be made "readily available" to the "government and the public". This proposed modification fails to recognize the importance of this issue to the Ka'a'Gee Tu, overrides a matter that the MVEIRB found significant and substantive, and fails to recognize the legal obligations owed to Aboriginal peoples. Further, it removes responsibility from Paramount to keep the communities informed, and places the responsibility and cost on the communities – even though the communities did not ask for this project to occur on their lands.

Paramount, as is made clear in its submission, only seeks to further limit any obligation they may have to share information with the Ka'a'Gee Tu. Paramount refuses to accept that it has a responsibility to automatically and directly provide information to the Ka'a'Gee Tu, and further takes the position that it should not have to provide information to the Ka'a'Gee Tu upon request. Paramount clearly does not acknowledge or understand the responsibilities it assumed when it proceeded to work on Ka'a'Gee Tu lands without the consent of the community.

### ***Requirement of an EIR***

Pursuant to s. 131(1)(b) of the *Mackenzie Valley Resource Management Act* there is a limit on the modifications to a recommendation. As the MVEIRB 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 Ka'a'Gee Tu are of the position that a number of the NEB's proposed modifications, including the provisions concerning reporting requirements, if adopted, would constitute a fundamental change to the "purpose, substance, or effect" of a recommendation. As such, it would be legally required that an EIR take place. We note in this 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.

In the specific comments below we have noted which proposed NEB, or Paramount, modifications would, if adopted be "tantamount to a rejection of a recommendation" and thus trigger an EIR. We expect that the MVRMA and the MVEIRB's policy, unlike in 2002, will be followed in this instance.

### **NEB Proposed Modification to Recommended Measure 2**

#### **MVEIRB's Recommendation**

The Review Board recommends that Paramount prepare a report within 12 months and thereafter, annually, until the developments on the SDI<sup>1</sup> are abandoned and restored, for distribution in plain language to the parties in this EA<sup>2</sup>. This report will outline the

implementation status<sup>3</sup> of each commitment made during the course of this EA, as set out in Appendix A.<sup>4</sup>

### **NEB Proposed Modification**

The Review Board recommends that Paramount prepare a report in plain language within 12 months and thereafter, annually, until the developments on the Cameron Hills SDL(s) and PL(s) are abandoned and restored that outlines the status of compliance with commitments Paramount made during the course of this EA. In the event of non-compliance, the report will provide a plan for achieving compliance or detail as to why compliance cannot be achieved. Paramount will submit the annual report to appropriate regulatory agencies and make it readily available through an approved distribution medium to other members of government and the public.

### **Ka'a'Gee Tu Response to NEB Modifications**

1. The Ka'a'Gee Tu accept the more inclusive proposed change of "SDL" to "SDL(s) and PL(s)" because only stating "SDL" excludes portions of the Cameron Hills field that have been converted to PL (Production License).
2. The Ka'a'Gee Tu, for the reasons outlined in our general comments above, do not accept the deletion of the specific reporting requirement to the parties to the EA. Paramount must be required to provide reports automatically and directly to the Ka'a'Gee Tu. This modification alters the original intent and purpose of the MVEIRB's recommendation. The original MVEIRB requirement for Paramount to directly provide the annual report to the parties to the EA (including the Ka'a'Gee Tu) has been deleted by the NEB and should be put back into the measure.
3. The Ka'a'Gee Tu accept the requirement that Paramount outline not only the implementation status of its commitments but also provide a plan for achieving compliance (or a reason for why compliance is not possible).
4. The Ka'a'Gee Tu accept the proposed modification to ensure that Appendix A is more inclusive.

### **Ka'a'Gee Tu Review of Paramount's Comments**

*Paramount is requesting that the 12-month time-frame for producing the first environmental compliance report be extended to 16 months to allow for 12 months of data collection and 4 months of report preparation.*

The NEB should reject this request. Paramount has known since June 1<sup>st</sup> that this measure would likely be applied to the project. A responsible and proactive company would have immediately started data collection and report preparation. By the time the project permits are actually issued, it is likely that at least 6 months will have passed since the Report of EA was released. With the additional 12 months allowed by the measure after the permits are issued,

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Paramount will have had approximately 18 months since learning that they would need to submit such a report until the report is due.

*Paramount is requesting that it not be required to provide information to the Ka'a'Gee Tu upon request.*

The NEB should reject this request for the reasons discussed previously.

### **Ka'a'Gee Tu Proposed Modification**

The Ka'a'Gee Tu submit that the proposed modification be as follows:

The Review Board recommends that Paramount prepare a report in plain language within 12 months and thereafter, annually, until the developments on the Cameron Hills SDL(s) and PL(s) are abandoned and restored that outlines the status of compliance with commitments Paramount made during the course of this EA. In the event of non-compliance, the report will provide a plan for achieving compliance or detail as to why compliance cannot be achieved. Paramount will submit the annual report to appropriate regulatory agencies and the Ka'a'Gee Tu. Paramount shall also make it readily available through an approved distribution medium to other members of government and the public.

### **NEB Proposed Modification to Measure 3**

#### **MVEIRB's Recommendation**

The Review Board recommends that prior to the issuance of any further licenses or permits<sup>1</sup> Paramount install a meteorological station (at minimum must monitor wind speed, wind direction and temperature)<sup>2</sup> in the Cameron Hills SDL<sup>3</sup> to gather baseline data related to its development. Meteorological data will be provided annually to air quality staff of GNWT-RWED and Environment Canada along with a detailed re-modeling of Paramount's various development scenarios to ensure onsite meteorological conditions are reflected in the modeled outputs.<sup>4,5,6</sup>

#### **NEB Proposed Modification**

The Review Board recommends that Paramount install meteorological monitoring equipment in the Cameron Hills SDL and PL over the winter of 2004/2005 (at minimum must monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous, continuous basis). The purpose of the monitoring equipment is to provide on-site meteorological information for inclusion in subsequent re-assessments (dispersion modeling) of facility emissions as well as on-going tracking and assessment of air pollution episodes should they occur. Following collection of sufficient meteorological data, Paramount will undertake a detailed re-modeling of the various development scenarios to ensure on-site meteorological

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conditions are reflected in the modeled outputs. Meteorological data and re-modeled development scenarios will be provided to appropriate government agencies, and made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain and report on-site meteorological monitoring will be reviewed on a regular basis by the appropriate government agencies.

#### **Ka'a'Gee Tu Response to NEB's Modifications**

1. The Ka'a'Gee Tu are concerned by the fact that the language change from "prior to the issuance of any further licenses or permits" with the phrase "over the winter of 2004/2005" theoretically allows Paramount to proceed with some work before installing the meteorological station. This proposed modification could be improved by specifying a date for the meteorological station to be operational.
2. The Ka'a'Gee Tu accept the NEB's addition of more detail to better reflect the data collection processes necessary to provide information for dispersion modeling.
3. The Ka'a'Gee Tu accepts the NEB's change from "SDL" to "SDL and PL" because only stating "SDL" excludes portions of the Cameron Hills field that have been converted to PL (Production License). However, this change could be improved by pluralizing "SDL" and "PL" to be consistent with the NEB's modification for Measure #2.
4. The Ka'a'Gee Tu are concerned about the phrase "following collection of sufficient meteorological data" for describing when Paramount must re-model its project's impacts on air quality. In the MVEIRB's original measure, Paramount was required to re-model on an annual basis. The NEB's modification removes the reference to a specific period of time and also leaves it up to Paramount to decide how much meteorological data must be collected before it has to re-model. This is not an acceptable change. The NEB must either specify a period of time for the re-modeling or clarify that the determination of what is "sufficient meteorological data" is the regulators' decision, not Paramount's. The Ka'a'Gee Tu's preference would be to maintain the annual requirement that was imposed in the MVEIRB's original measure.
5. In the original MVEIRB recommendation there was no requirement for Paramount to report to the communities or to make their collected data and re-modeling results available to the public. The Ka'a'Gee Tu appreciate that the NEB has added a reporting requirement, and this is an improvement from the MVEIRB's measure. However, the wording of the reporting requirement, for the reasons discussed earlier, is insufficient. Paramount should be required to report directly to the Ka'a'Gee Tu.
6. The original MVEIRB measure was open-ended in that it did not specify how long Paramount had to operate the meteorological station. Presumably, Paramount would have had to monitor and report for the lifespan of the project. The NEB modification removes this open-ended problem by stating that the requirement to continue monitoring and reporting will be reviewed on a "regular" basis. The Ka'a'Gee Tu submit that this proposed modification should be improved by clarifying what is meant by "regular" basis. One suggestion would be to replace "regular" with "annual".

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**Ka'a'Gee Tu Review of Paramount's Comments**

*Paramount is requesting that it only be required to operate the meteorological monitoring equipment for a period of 12 months instead of having the regulators review on a regular basis the necessity of continuing the monitoring.*

The NEB should reject this request. Paramount wishes to change the recommendation so that it can stop monitoring unless it is told to continue, and thus shift responsibility from itself to the regulators. As well, this proposed change would enable Paramount to seek the discontinuation of monitoring after 12 months.

*Paramount is requesting that the "instantaneous, continuous" monitoring be reduced to "regular" monitoring.*

The NEB should reject this request. Paramount has presented no rationale for it.

*Paramount is requesting that it not be required to provide the collected data to the public due to confidentiality concerns.*

The NEB should reject this request. Paramount has failed to demonstrate the confidential nature of this information and, for the reasons outlined earlier, the production of this information is required.

*Paramount is requesting that it not be required to provide information to the Ka'a'Gee Tu upon request.*

The NEB should reject this request for the reasons discussed previously.

**Ka'a'Gee Tu Proposed Modifications**

The Ka'a'Gee Tu submit that the proposed modification be as follows:

The Review Board recommends that Paramount install meteorological monitoring equipment in the Cameron Hills SDL(s) and PL(s) and that it be operational by March 31, 2005 (at minimum must monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous, continuous basis). The purpose of the monitoring equipment is to provide on-site meteorological information for inclusion in subsequent re-assessments (dispersion modeling) of facility emissions as well as on-going tracking and assessment of air pollution episodes should they occur. By May 31, 2006, and on an annual basis thereafter, Paramount will undertake a detailed re-modeling of the various development scenarios to ensure on-site meteorological conditions are reflected in the modeled outputs. Meteorological data and re-modeled development scenarios will be provided to appropriate government agencies and the Ka'a'Gee Tu. Paramount shall also make the data and re-modeling results readily available through an approved distribution medium to other members of government and the public. The requirement to maintain and report on-site meteorological monitoring will be reviewed on an annual basis by the appropriate government agencies.

### NEB Proposed Modification to Recommended Measures 5 and 6

#### **MVEIRB's Recommendation 5**

The Review Board recommends that Paramount install an amine fuel sweetening unit at the Central Battery (H-03) location prior to bringing any further wells online or pipe in sweet fuel from outside Cameron Hills, as per Paramount's original development plan.<sup>1</sup>

#### **MVEIRB's Recommendation 6**

The Review Board recommends that any further combustion engines being installed for line heaters and pumpjacks at the Cameron Hills operation must use the sweetened fuel or an alternate source of no sulphur fuel.<sup>1</sup>

#### **NEB Proposed Modification**

The Review Board recommends that prior to any new production from the Cameron Hills field, Paramount submit to regulatory agencies, for approval, and appropriate federal and/or territorial government air quality staff an emission mitigation plan for the Cameron Hills field. The emission mitigation plan will detail:

- a strategy for demonstrating that current and future SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards;
- a statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field;
- a contingency plan that includes a comprehensive listing and a decision tree for selection of all possible mitigation options to be implemented in the event that SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will outline,
  - the mitigation options (e.g., pollution prevention planning, best management/environmental practices, best available technology, etc.) currently employed and proposed future options, along with triggers and/or timelines for implementation, and
  - the mitigation options considered and rejected, along with rationale for rejection.

Paramount should be required to review and update the plan on a regular basis throughout the life of the Cameron Hills field.

#### **Ka'a'Gee Tu Response to NEB Modifications**

The Ka'a'Gee Tu oppose the proposed modifications. The NEB has combined Measures 5 and 6 into one measure that severely weakens the original measures to the point that the modification is actually a rejection of the original measures. The original measures outlined, detailed and focused steps that Paramount had to complete to reduce its air quality emissions. The modification proposed by the NEB does not impose any emission reduction requirements upon Paramount.

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The clear intent of Measures 5 and 6 was that Paramount would have to take specific steps to decrease its air emissions, regardless of what the existing standards are. The imposition of a monitoring plan does not satisfy the intent of the original measures. The MVEIRB found technical justification to apply these measures and that is all that is required for the NEB to be required to fulfill these measures.

If the NEB feels strongly that there is no technical justification for these 2 measures and is refusing to impose them on Paramount, then the proper course for the NEB under the MVRMA is to explicitly reject the measures. Regardless, the NEB's proposed modification, if it were adopted by the MVEIRB, is tantamount to a rejection.

The NEB is correct that the imposition of this type of mitigation plan is justified for this project. However, the requirement for this plan should be included in the NEB's proposed modification for Measure 4 (which is discussed below). It should not be used to replace Measures 5 and 6.

#### **Ka'a'Gee Tu Review of Paramount's Comments**

*Paramount is requesting that instead of committing to "minimizing emissions" that it instead only be required to commit to "adhere to emissions guidelines for emissions".*

The NEB should reject this request. It reflects an outdated and inappropriate view of environmental management for a project of this nature. Acceptable environmental management is focused on reducing emissions, not meeting guidelines.

*Paramount is requesting that instead of being required to describe all possible mitigation options that it only be required to describe "appropriate" mitigation options.*

The NEB should reject this request. Paramount has demonstrated that its view of "appropriate" environmental management is inconsistent with that of the Ka'a'Gee Tu, other First Nations, regulators, government, and the MVEIRB. Allowing Paramount to report on only what it considers appropriate mitigation options will severely limit the options under discussion.

*Paramount is requesting that instead of using "best available technology" that it only be required to use "best economically achievable technology".*

The NEB should reject this request. The use of "best available technology" is the standard for modern environmental management.

*Paramount is requesting that it only be required to update and review the plan if a significant change or modification occurs during the life of the project.*

The NEB should reject this request, and further change "regular basis" to "annual basis". Significant changes and modifications are constantly occurring with this project. Paramount is planning on adding new wells, gathering lines and facilities every year for another 10 years.

### **Ka'a'Gee Tu Proposed Modification**

The original Measures 5 and 6 should be applied as the MVEIRB wrote them.

### **NEB Proposed Modification to Recommended Measure 4**

#### **MVEIRB's Recommendation**

The Review Board recommends that Paramount install a continuous<sup>1</sup> gas analysis monitoring system to track ambient air quality (at minimum 1 hour SO<sub>2</sub> and NO<sub>2</sub>)<sup>1</sup> and provide the data to the general public via website, to be updated no less than monthly if a live connection is not available.<sup>2</sup> Annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to all potentially affected communities<sup>2</sup> and government in a plain language document throughout the life<sup>3</sup> of the Paramount operations at Cameron Hills.

#### **NEB Proposed Modification**

The Review Board recommends that Paramount install instantaneous, continuous gas analysis monitoring over the winter of 2004/2005 to track ambient air quality (at minimum 1 hour average SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S concentrations should be calculated and recorded). Data and plain language annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to appropriate government agencies and made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain ambient air quality monitoring will be reviewed on a regular basis by the appropriate government agencies.

#### **Ka'a'Gee Tu Response to NEB Modifications**

1. The Ka'a'Gee Tu accept the NEB's addition of detail, as compared to the original measure, by specifying that the gas monitoring must be instantaneous, must include NO<sub>x</sub> (instead of just NO<sub>2</sub>) and H<sub>2</sub>S, and must be installed over the winter of 2004/05. However, this could be improved by specifying a date for the gas monitoring system to be operational.
2. For the reasons discussed earlier, the Ka'a'Gee Tu are opposed to modification to the reporting requirement. Paramount must be required to provide reports automatically and directly to the Ka'a'Gee Tu.
3. The original MVEIRB measure required Paramount to monitor and report for the lifespan of the project. The NEB modification states that the requirement to continue monitoring and reporting will be reviewed on a "regular" basis. The Ka'a'Gee Tu are concerned about this weakening of the recommendation. The NEB's proposed modification could be improved by clarifying what is meant by "regular". "Regular" should be replaced with "annual".

As discussed previously, the NEB's proposed modification for Measures 5 and 6, with certain changes, should be added to this measure.



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**Ka'a'Gee Tu Review of Paramount's Comments**

*Paramount does not want to have to proceed with the air quality monitoring unless the meteorological monitoring and modeling indicates that there might be a problem.*

The NEB should reject this request. Obtaining accurate on-site meteorological data and combining that with poor and incomplete on-site air quality data will not produce accurate or valid modeling results. Collecting the air quality data as described by the modified measure is a necessary step in producing valid modeling results.

*Paramount is requesting that it not be required to provide the collected data to the public due to confidentiality concerns.*

The NEB should reject this request. Paramount has failed to demonstrate the confidential nature of this information and, for the reasons outlined earlier, the production of this information is required.

*Paramount is requesting that it not be required to provide information to the Ka'a'Gee Tu upon request.*

The NEB should reject this request for the reasons discussed previously.

**Ka'a'Gee Tu Proposed Modifications**

The Ka'a'Gee Tu submit that the proposed modification be as follows:

The Review Board recommends that Paramount install instantaneous, continuous gas analysis monitoring to track ambient air quality (at minimum 1 hour average SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S concentrations should be calculated and recorded) and that the monitoring system be operational by March 31, 2005. Data and plain language annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to appropriate government agencies and the Ka'a'Gee Tu. Paramount shall also make the reports readily available through an approved distribution medium to other members of government and the public. The requirement to maintain ambient air quality monitoring will be reviewed on an annual basis by the appropriate government agencies.

The Review Board also recommends that prior to any new production from the Cameron Hills field, Paramount submit an emission mitigation plan for the Cameron Hills field to the regulatory agencies, to appropriate federal and/or territorial government air quality staff, and to the Ka'a'Gee Tu. Paramount shall also make the plan readily available through an approved distribution medium to other members of government and the public.

The emission mitigation plan will detail:

- a strategy for demonstrating that current and future SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards;
- a statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field;
- a contingency plan that includes a comprehensive listing and a decision tree for selection of all possible mitigation options to be implemented in the event that SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will outline.
  - the mitigation options (e.g., pollution prevention planning, best management/environmental practices, best available technology, etc.) currently employed and proposed future options, along with triggers and/or timelines for implementation, and
  - the mitigation options considered and rejected, along with rationale for rejection.

Paramount shall be required to review and update the plan on an annual basis throughout the life of the Cameron Hills field.

**NEB Proposed Modification to Recommended Measure 9**

**MVEIRB's Recommendation**

The Review Board recommends that Paramount continue to monitor all work sites for erosion, and take appropriate measures in advance to avoid such problems. The Review Board recommends appropriate erosion mitigation measures be identified in advance<sup>1</sup> and authorized by the NEB and INAC inspectors, and that any remediation of sites be documented and reported to regulators and the Ka'a'Gee Tu First Nation on a quarterly basis.<sup>2</sup>

**NEB Proposed Modification**

The Review Board recommends continued monitoring for erosion by Paramount of all work sites, and the implementation of appropriate mitigation and remediation measures. Regulators should include appropriate permit conditions to prevent and remediate erosion. Paramount should be required to submit to regulatory agencies, and make readily available to the public and other government agencies, annual reports detailing remediation measures taken by Paramount in response to sediment deposits in water bodies and erosion. Any deposit of sediment into a water body / watercourse should require Paramount to immediately implement remediation measures and notify the appropriate government agencies and affected First Nations.

### **Ka'a'Gee Tu Response to NEB Modifications**

1. The Ka'a'Gee Tu accept, as compared to the original measure, the proposed NEB modification clarifying responsibility for identification of mitigation measures and the requirement that both itself and the MVLWB to include erosion conditions in permits.
2. For reasons outlined earlier, the Ka'a'Gee Tu are opposed to modification to the reporting requirements. Paramount must be required to provide reports automatically and directly to the Ka'a'Gee Tu.
3. The Ka'a'Gee Tu submit that quarterly reporting is appropriate. If the NEB insists on a modification to annual reporting then the Ka'a'Gee Tu submit that the annual report have a due date of July 1st each year.
4. The Ka'a'Gee Tu accept that the additional requirement that Paramount notify "affected" First Nations if there is any deposit or sediment into a water body or watercourse is an improvement over the MVEIRB's recommendation. However, the use of the term "affected" is a concern and should be deleted. As demonstrated during the course of the EA, Paramount has a very narrow, and incorrect, view of what constitutes an "affected" First Nation. This view holds that if Paramount can fix the problem without the communities finding out, then the communities are not affected.

The modification would be acceptable if both the NEB and Paramount accepted that any environmental problems due to this project affect the First Nations. However, it would be easier to just remove any qualifier from Paramount's obligation to notify the First Nations.

### **Ka'a'Gee Tu Review of Paramount's Comments**

*Paramount is requesting that it not be required to do "continuous" monitoring.*

The NEB should reject this request. Paramount has encountered erosion problems on this project, which justify continuous monitoring in some form. This could be as simple as training the project employees to recognize the signs of erosion, to always be on the look-out for erosion problems and to initiate proper procedures when erosion is discovered.

*Paramount is requesting that the regulators not be required to include erosion prevention and remediation conditions in permits.*

The NEB should reject this request. Regulators are supposed to impose conditions to protect the environment. Paramount's request is unusual and unjustified.

*Paramount is requesting that it not be required to provide information to the Ka'a'Gee Tu upon request or to notify the Ka'a'Gee Tu if the project causes sedimentation problems.*

The NEB should reject this request for the reasons discussed previously.

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**Ka'a'Gee Tu Proposed Modifications**

The Ka'a'Gee Tu submit that the proposed modification be as follows:

The Review Board recommends continued monitoring for erosion by Paramount of all work sites, and the implementation of appropriate mitigation and remediation measures. Regulators should include appropriate permit conditions to prevent and remediate erosion. Paramount should be required to submit annual reports due on July 1st of each year detailing remediation measures taken by Paramount in response to sediment deposits in water bodies and erosion to regulatory agencies and to the aboriginal communities that were registered as parties in this EA. Paramount shall also make the reports readily available to the public and other government agencies. Any deposit of sediment into a water body / watercourse should require Paramount to immediately implement remediation measures and notify First Nations and the appropriate government agencies.

**NEB Draft Condition 1**

NEB Draft Condition 1 states:

Unless the Chief Conservation Officer otherwise directs, the applicant shall implement or cause to be implemented all of the policies, practices, mitigative measures, recommendations and procedures for the protection of the environment referred to in the Mackenzie Valley Environmental Impact Review Board Environmental Assessment process (EA 03-005), its application and any subsequent filings made in support thereof, and its undertakings to other regulatory agencies.

**Ka'a'Gee Tu Response to Draft Condition 1**

Draft Condition 1 is meant to address MVEIRB Measures 1, 8 and 10, which the NEB has accepted as written by the MVEIRB.

The Ka'a'Gee Tu are concerned about the words "unless the Chief Conservation Officer otherwise directs" in Draft Condition 1. Potentially, this language grants the discretion to the NEB to allow Paramount to not do what it has committed to do or what it has been instructed to do by the MVEIRB.

Such a result is not permissible. The NEB is required under the *MVRMA* to carry out and enforce the final measures adopted after an EA. The NEB does not have the discretion to choose to ignore or not enforce an adopted measure. Similarly, the implementation of all of the "policies, practices, mitigative measures, recommendations and procedures for the protection of the environment" that were referred to during the EA form part of the MVEIRB's decision and also must be enforced by the NEB. It is not clear on what legal basis the NEB asserts it may assume this discretionary authority in a condition. Indeed, for the NEB to be empowered to dispense with adopted MVEIRB recommendations on the discretion of the Chief Conservation Officer would undermine the integrity of the environmental assessment process.

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If the NEB concludes that a clause granting discretion to the Chief Conservation Officer is permissible and necessary, then it is required that there be some structure to that discretion. As has been clarified by the Supreme Court of Canada in *R. v. Adams* [1996] 3 S.C.R. 101, where there is a lack of criteria pertaining to the exercise of discretion, a regulatory scheme must structure the exercise of a discretionary power to ensure that the power is exercised in a manner consistent with the Crown's special fiduciary duties towards aboriginal peoples. It is also established that constitutional provisions can act as a brake on apparently broad discretions. (*Slaight Communications v. Davidson* [1989] 1 S.C.R. 1038)

The NEB must clarify the purpose and on grounds on which it is assuming discretion to in relation to adopted MVEIRB recommendations, and either delete the phrase or appropriately structure this use of discretion to ensure that power is exercised in a manner consistent with the obligations owed to the Ka'a'Gee Tu.

Other than the issue of discretion, the Draft Condition is acceptable to the Ka'a'Gee Tu for implementing Measures 1, 8 and 10 with one exception. It must be clear to Paramount that in implementing Measure 10, it is not within Paramount's discretion to determine whether or not the Ka'a'Gee Tu are "affected" or "potentially affected" by a spill. Paramount must accept that the Ka'a'Gee Tu are affected by all spills that occur in their traditional territory and simply notify the Ka'a'Gee Tu. Language to this effect needs to be added to the Draft Condition.

Further, MVEIRB Measure 17 (Paramount directly notifying the Ka'a'Gee Tu of potential heritage resource discoveries) is similar in both its intent and application as Measure 8. Measure 17 should be brought under the enforcement umbrella of Draft Condition 1.

#### **Ka'a'Gee Tu Proposed Modifications**

The NEB should apply Draft Condition 1 to Measure 17. The NEB must also clarify the issue relating to the discretion it is to be granted, and the basis for that discretion. Draft Condition 1 should be modified as follows:

~~Unless the Chief Conservation Officer otherwise directs, the~~ The applicant shall implement or cause to be implemented all of the policies, practices, mitigative measures, recommendations and procedures for the protection of the environment referred to in the Mackenzie Valley Environmental Impact Review Board Environmental Assessment process (EA 03-005), its application and any subsequent filings made in support thereof, and its undertakings to other regulatory agencies. For additional clarity, in implementing Review Board Measure 10, Paramount is to notify the Ka'a'Gee Tu. It is not within Paramount's discretion to determine whether or not the Ka'a'Gee Tu are "affected" or "potentially affected".

#### **NEB Draft Condition 2**

NEB Draft Condition 2 states:

For the time period that the Chief Conservation Officer, in consultation with appropriate

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federal and/or territorial government air quality staff, determines is appropriate, the applicant shall as a component of environmental protection planning required under section 60. of the Production and Conservation Regulations ensure that:

- a. a qualified air quality specialist install over the winter of 2004/2005 and maintain in the Cameron Hills SDL(s) and PL(s),
  - i. meteorological monitoring equipment to monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous continuous basis,
  - ii. instantaneous, continuous gas analysis monitoring to track ambient air quality, including, at a minimum, calculation and recording of 1 hour average SO<sub>2</sub>, NO<sub>2</sub> and H<sub>2</sub>S concentrations;
- b. following Chief Conservation Officer approval of sufficient collection of meteorological data as per condition 2.a.i., detailed re-modeling of the various development scenarios for the Cameron Hills field is undertaken by a qualified air quality specialist;
- c. plain language annual reports on that status of air quality at Cameron Hills, incorporating the data collected as per condition 2.a.ii., are prepared by a qualified air quality specialist;
- d. data, re-modeling and reports collected or prepared as per conditions 2.a., b., and c. are made readily available to the public and other government agencies in a manner approved by the Chief Conservation Officer;
- e. an environmental protection plan is submitted to the Chief Conservation Officer, that outlines,
  - i. current mitigation, monitoring and remediation commitments with respect to environmental protection for all construction and operation activities to be carried out in the Cameron Hills field,
  - ii. a plan for notification of government agencies and other affected parties in the event of an unforeseen construction or operational incident that affects components of the environment, and,
  - iii. a contemporary Cameron Hills field emission mitigation plan that details,
    - a strategy for demonstrating that current and future SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards,
    - a statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field,
    - a contingency plan that includes a comprehensive listing and a decision tree for selection of all possible mitigation options to be implemented in the event that SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will outline,
      - ⇒ the mitigation options (e.g., pollution prevention planning, best management/environmental practices, best available technology, etc.)

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currently employed and proposed future options, along with triggers and/or timelines for implementation, and

⇒ the mitigation options considered and rejected, along with rationale for rejection;

- f. data, re-modeling, reports or plans collected or prepared as per conditions 2.a., b., c. and e.iii. are submitted to the Chief Conservation Officer and air quality staff at Environment Canada and the Government of Northwest Territories in a manner approved by the Chief Conservation Officer; and,
- g. in the event of any deposit of sediment into a water body / watercourse, it immediately implement remediation measures and notify the Chief Conservation Officer, appropriate government agencies and affected First Nations.

#### **Ka'a'Gee Tu Response to Draft Condition 2**

Draft Condition 2 is meant to address Review Board Measures 3, 4, 5, 6 and 9, which the NEB has proposed to modify. Due to concerns expressed earlier, Draft Condition 2 is not capable of fulfilling MVEIRB Measures 5 and 6, which should be implemented as written. The NEB will have to develop new conditions for Measures 5 and 6.

Draft Condition 2 can cover modified Measures 3, 4 and 9 with some changes required to address the suggested modifications that were described previously for the NEB's proposed modified measures.

#### **Ka'a'Gee Tu Proposed Modifications**

The Ka'a'Gee Tu submit that Draft Condition 2 should be modified as follows:

For the time period that the Chief Conservation Officer, in annual consultation with appropriate federal and/or territorial government air quality staff, determines is appropriate, the applicant shall as a component of environmental protection planning required under section 60. of the Production and Conservation Regulations ensure that:

- a. a qualified air quality specialist install ~~over the winter of 2004/2005~~ and maintain in the Cameron Hills SDL(s) and PL(s),
  - i. meteorological monitoring equipment to monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous continuous basis,
  - ii. instantaneous, continuous gas analysis monitoring to track ambient air quality, including, at a minimum, calculation and recording of 1 hour average SO<sub>2</sub>, ~~NO<sub>2</sub>~~, NO<sub>x</sub> and H<sub>2</sub>S concentrations;
- b. the equipment referred to in 2.a. will be operational by March 31, 2005;
- c. following Chief Conservation Officer approval of sufficient collection of meteorological data as per condition 2.a.i., by May 31, 2006, and on an annual basis thereafter, detailed re-modeling of the various development scenarios for the Cameron Hills field is undertaken by a qualified air quality specialist;

- 18 -

- d. plain language annual reports on that status of air quality at Cameron Hills, incorporating the data collected as per condition 2.a.ii., are prepared by a qualified air quality specialist;
- e. data, re-modeling and reports collected or prepared as per conditions 2.a., b.c., and ~~e.~~ d. are provided by Paramount to appropriate government agencies and the Ka'a'Gee Tu. Paramount shall also make the reports readily available to the public and other government agencies in a manner approved by the Chief Conservation Officer;
- f. prior to any new production from the Cameron Hills field, an environmental protection plan is submitted (and reviewed and updated annually) to the Chief Conservation Officer and the Ka'a'Gee Tu, that outlines,
- i. current mitigation, monitoring and remediation commitments with respect to environmental protection for all construction and operation activities to be carried out in the Cameron Hills field,
  - ii. a plan for notification of the Ka'a'Gee Tu, government agencies and other affected parties in the event of an unforeseen construction or operational incident that affects components of the environment, and,
  - iii. a contemporary Cameron Hills field emission mitigation plan that details,
    - a strategy for demonstrating that current and future SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards,
    - a statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field,
    - a contingency plan that includes a comprehensive listing and a decision tree for selection of all possible mitigation options to be implemented in the event that SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will outline,
      - ⇒ the mitigation options (e.g., pollution prevention planning, best management/environmental practices, best available technology, etc.) currently employed and proposed future options, along with triggers and/or timelines for implementation, and
      - ⇒ the mitigation options considered and rejected, along with rationale for rejection;
- g. data, re-modeling, reports or plans collected or prepared as per conditions 2.a., ~~b., c.,~~ and ~~e. c.,~~ d. and f. iii. are submitted to the Chief Conservation Officer, the Ka'a'Gee Tu, and air quality staff at Environment Canada and the Government of Northwest Territories in a manner approved by the Chief Conservation Officer; and,
- h. in the event of any deposit of sediment into a water body / watercourse, it immediately implement remediation measures and notify the Chief Conservation Officer, appropriate government agencies and affected First Nations.



**NEB Draft Condition 3**

NEB proposed Draft Condition 3 states:

For a time period that the Chief Conservation Officer, in consultation with appropriate federal and/or territorial government air quality staff, determines is appropriate, the applicant shall by 1 June of each year provide evidence to the Chief Conservation Officer that:

- a. current SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field do not result in exceedences of relevant air quality standards; and,
- b. cumulative sulphur emissions from all sources in the Cameron Hills field do not exceed 1.0 tonne/day.

**Ka'a'Gee Tu Response to NEB Draft Condition 3**

Draft Condition 3 is meant to address Review Board Measures 3, 4, 5, and 6, which the NEB has proposed to modify. Due to concerns expressed earlier, Draft Condition 3 is not capable of fulfilling Review Board Measure 5 and 6, which should be implemented as written. The NEB will have to develop new conditions for Measures 5 and 6.

Draft Condition 3 can cover modified Measures 3 and 4 with a couple of changes required to address the suggested modifications that were described previously for the NEB's proposed modified measures.

**Ka'a'Gee Tu Proposed Modifications**

For a time period that the Chief Conservation Officer, in annual consultation with appropriate federal and/or territorial government air quality staff, determines is appropriate, the applicant shall by 1 June of each year provide evidence to the Chief Conservation Officer and to the Ka'a'Gee Tu that:

- a. current SO<sub>2</sub>, NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field do not result in exceedences of relevant air quality standards; and,
- b. cumulative sulphur emissions from all sources in the Cameron Hills field do not exceed 1.0 tonne/day.
- c.

**NEB Draft Condition 4**

The NEB's proposed Draft Condition 4 states:

The applicant shall include in the annual environment report submitted to the Chief Conservation Officer for the Cameron Hills field (section 88. of the Production and Conservation Regulations):

- a. a confirmation, by an officer of the company, that the approved facilities were completed and constructed in compliance with all applicable conditions in this [authorization (or approval)]. If compliance with any of these conditions cannot be confirmed, the officer of the company shall file with the Chief Conservation Officer details as to why compliance cannot be confirmed; and,

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- b. a description of all environmental remediation measures taken by Paramount in the Cameron Hills field during the course of the previous year.

#### **Ka'a'Gee Tu Response to Draft Condition 4**

Draft Condition 4 is meant to address Review Board Measures 2 and 9, which the NEB has proposed to modify. Draft Condition 4 can cover modified measures 2 and 9 with a couple of changes required to address the suggested modifications that were described previously for the NEB's proposed modified measures.

#### **Ka'a'Gee Tu Proposed Modification**

The Ka'a'Gee Tu submit that Draft Condition 4 should be modified as follows:

The applicant shall include in the plain language annual environment report submitted to the Chief Conservation Officer, and to the Ka'a'Gee Tu, for the Cameron Hills field (section 88. of the Production and Conservation Regulations):

- b. a confirmation, by an officer of the company, that the approved facilities were completed and constructed in compliance with all applicable conditions in this [authorization (or approval)]. If compliance with any of these conditions cannot be confirmed, the officer of the company shall file with the Chief Conservation Officer and to the Ka'a'Gee Tu details as to why compliance cannot be confirmed; and,
- c. a description of all environmental remediation measures taken by Paramount in the Cameron Hills field during the course of the previous year.

#### **NEB Draft Condition 5**

NEB's Draft Condition 5 states:

Unless otherwise directed by the Chief Conservation Officer, the applicant shall ensure that the annual environmental report prepared as per condition 4. is made readily available to the public and other government agencies in a manner approved by the Chief Conservation Officer.

#### **Ka'a'Gee Tu Response to Draft Condition 5**

Draft Condition 5 is meant to address Review Board Measures 2 and 9, which the NEB has proposed to modify.

The Ka'a'Gee Tu make no comments on the wording of Draft Condition 5.

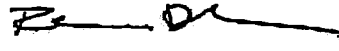
- 21 -

**Conclusion**

The Ka'a'Gee Tu appreciate this opportunity to make a submission concerning the NEB's proposed modifications. They look forward to being fully included in all further aspects of the post-Report decision-making process.

Yours truly,

MANDELL PINDER

  
*for*

Louise Mandell, Q.C.  
Barrister & Solicitor

LM/dg

ccs: MVEIRB  
Paramount Resources Ltd.  
Clients



Northwest  
Territories Resources, Wildlife and Economic Development

MAIL ROOM  
SALLE DE COURIER

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NEB / ONE

SEP 30 2004

332441

Mr. T.M. Baker  
Chief Conservation Officer  
National Energy Board  
444 - 7th Avenue SW  
Calgary, AB  
T2P 0X8

Dear Mr. Baker:

**Paramount Resources Ltd Cameron Hills Extension Project  
Request for Comment on the National Energy Board Draft Proposed  
Conditions and Proposed Modifications to the Recommendation**

The Department of Resources, Wildlife and Economic Development (RWED) has reviewed the National Energy Board's (NEB) "Draft Proposed Conditions and Proposed Modifications to the Recommendation to the Mackenzie Valley Environmental Impact Review Board Report of Environmental Assessment and Reasons for Decision for the Paramount Resources Ltd. Cameron Hills Extension Project - EA03-005" issued September 13, 2004. RWED believes the NEB's suggested modifications and proposed conditions represent the most appropriate approach to addressing concerns regarding Paramount's future development proposals, while still maintaining the intent of the Mackenzie Valley Environmental Impact Review Board (MVEIRB) recommended measures.

RWED has also reviewed Paramount's response to the above NEB documents dated September 21, 2004. RWED disagrees with Paramount's suggested changes, with specific details as follows:

**Recommended Measure 3**

- Paramount's suggestion to limit the operation of the meteorological station to a period of 12 months.

In their rationale section, Paramount references the draft modelling guidelines for the Northwest Territories.

.../2



- 2 -

It is premature to reference guidelines which have not yet undergone final changes prior to adoption by the Government of the Northwest Territories. Regardless, the guidelines actually state that one year worth of on-site meteorological data is the **minimum** requirement but that five years is preferred. Decommissioning the station after only one year would deprive Paramount of the collection of a more statistically meaningful and representative data record to use in the future modelling assessments to which they have committed. In addition, modelling is not the only use for the meteorological data. As stated in the NEB modification, the meteorological data is also to be used for "on-going tracking and assessment of air pollution episodes should they occur".

- Paramount's suggestion to replace the words "instantaneous, continuous" with "regular".

Electronic monitoring equipment produces readings every few seconds (i.e. instantaneous and continuous) and this is the type of equipment that should be installed. The term "*regular*" is vague and could simply mean a site employee noting the meteorological conditions for a few moments at the top of each hour. This would not provide the detailed information required for dispersion modelling.

- Paramount's suggestion that "*government agencies*" be responsible for distribution of data and reports.

While RWED cannot speak for the NEB or other agencies that may undertake this task, RWED does not wish to become a clearinghouse for industry-generated material. Also, RWED is unsure why Paramount would seek to restrict distribution of reports and data pertaining to the ambient environment on the basis of "confidentiality" as stated in their rationale. The ambient environment is of use to everyone and information on possible impacts should be readily available. In other jurisdictions (e.g. Alberta, BC), industry is required to conduct ambient monitoring and this data is freely available to the public.

- Paramount's suggestion to delete the final sentence which states "The requirement to maintain and report on-site meteorological monitoring will be reviewed on a regular basis by the appropriate government agencies."

Given RWED's opposition to the fixed time limit for operation of the meteorological station, some form of regular review of the requirement will be necessary.

RWED would also like to correct some of the misleading statements expressed in Paramount's rationale for their suggested changes.

.../3

- 3 -

Paramount persists in emphasizing that the modelling results presented in their Developers Assessment Report (DAR) showed that all air quality standards would be met although they are well aware that the issue of concern to the agencies was not with the predicted results *per se* but with the modelling inputs used to derive those results. The MVEIRB agreed with the concerns in making its recommended measures.

To our knowledge, Environment Canada did not confirm that Paramount's current and planned developments would meet all relevant guidelines. Environment Canada simply confirmed that using the same questionable modelling inputs and the same model resulted in the same predicted concentrations detailed in the DAR. They also confirmed that use of more appropriate modelling inputs resulted in predicted concentrations that exceeded air quality guidelines.

#### Recommended Measure 4

- Paramount's suggestion to delay the installation of ambient gas monitoring equipment.

Paramount's DAR modelling - despite use of questionable inputs - indicated ambient concentrations within 98% of the SO<sub>2</sub> air quality standard which RWED feels is sufficient justification to require ambient gas monitoring. There is also considerable uncertainty surrounding the quality and quantity of emission sources and a high level of public concern regarding air impacts from this facility. Timely implementation of ambient monitoring as detailed in the NEB suggested modifications will address some of the uncertainty and concern regarding facility emissions while Paramount gathers sufficient meteorological data to conduct revised modelling.

Paramount's concern regarding the location of the monitoring equipment is recognized but should not be used as an excuse to delay installation. The modelling predictions in the DAR, while questionable, still provide an indication of the likely location of greatest impact (i.e. the area surrounding the central battery facility H-03). Use of qualified air quality representatives and professional judgment should allow installation in a representative location. Should subsequent remodelling indicate other areas of potential impact, the equipment can be relocated or additional equipment installed at that time.

- Paramount's suggestion to delete the word "instantaneous".

Removal of "instantaneous" could result in installation of equipment that would not provide the hourly averages required for comparison to 1-hour air quality standards - e.g. monthly sulphation plate sampling could be construed as "continuous".

.../4

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- Paramount's suggestion that "government agencies" be responsible for distribution of data and reports.

See RWED comments for Recommended Measure 3.

- Paramount's suggestion to delete the final sentence which states "The requirement to maintain ambient air quality monitoring will be reviewed on a regular basis by the appropriate government agencies."

Given RWED's opposition to delaying installation of the ambient gas monitoring equipment, some form of regular review of the requirement will be necessary.

#### Recommended Measures 5 and 6

- Paramount's suggestion to amend the second bullet of the emission mitigation plan to reflect a commitment to "adhere to emissions guidelines" rather than minimizing emissions.

RWED is uncertain to which "emission guidelines" Paramount is referring but would argue that that any company should adhere to the accepted limits. Paramount's suggested change indicates that they are willing to do the minimum rather than committing to ongoing review of operational practices and use of new technology to ensure emissions are minimized where possible.

- Paramount's suggested changes to the contingency plan referred to in the third bullet of the emission mitigation plan.

The regulatory authority and other interested parties will require a "comprehensive listing" of "all possible" options in order to determine whether the "appropriate" mitigation option has been selected.

- Paramount's suggested change to the first bullet of the contingency plan.

RWED recognizes that not all technology will be appropriate for a variety of reasons, including economics, but as stated previously, all options need to be reviewed to determine if those chosen are appropriate. Paramount can detail those considered inappropriate (see second bullet of contingency plan).

- Paramount's suggestion that the emission mitigation plan need only be reviewed and updated "if a significant change or modification occurs during the life of the project."

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A regular review of the plan will encourage and allow the company to incorporate and adopt new operational practices and technology throughout the life of the project, rather than only when a "significant change or modification" occurs.

A handwritten signature in black ink, appearing to read 'Peter Vician', followed by a horizontal line.

Peter Vician  
Deputy Minister

c. See Distribution List



**Distribution List**

**National Energy Board**  
Mr. T.M. Baker  
Chief Conservation Officer  
Fax: 292-5503

**Deh Cho First Nation**  
Mr. Herb Norwegian  
Grand Chief  
Fax: 867-695-2038

**K'atlodeeche First Nation**  
Mr. Roy Fabian  
Chief  
Fax: 867-874-3229

**West Point First Nations**  
Ms. Karen Felker  
Chief  
Fax: 867-874-2486

**Fort Providence Metis Local 57**  
Mr. Albert Lafferty  
President  
Fax: 867-699-4319

**Ka'a'Gee Tu First Nation**  
Mr. Lloyd Chicot  
Chief  
Fax: 867-825-2002

**Deh Gah Got'ie First Nation**  
Mr. Grey Nyuli  
Fax: 867-699-3210

**Fort Providence Resource  
Management Board**  
Mr. Rick Sanderson  
Fax: 867-699-3133

**Northwest Territories Metis Nation**  
Mr. Rob Tordiff  
President  
Fax: 867-872-2772

**Government of Northwest Territories  
Resources, Wildlife and Economic Development**  
Mr. Gavin More  
Manager, Environmental Assessment  
Email: [gavin\\_more@gov.nt.ca](mailto:gavin_more@gov.nt.ca)

**Fisheries and Oceans Canada**  
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Habitat Biologist  
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**Indian and Northern Affairs Canada**  
Mr. Fraser Fairman  
Environmental Scientist  
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**Environment Canada**  
Mr. Wade Romanko  
Emergencies and Assessment Officer  
Email: [wade.romanko@ec.gc.ca](mailto:wade.romanko@ec.gc.ca)

**Mackenzie Valley Environmental Impact  
Review Board**  
Ms. Kimberley Cliffe-Phillips  
Environmental Assessment Officer  
Email: [Kimberley@mveirb.nt.ca](mailto:Kimberley@mveirb.nt.ca)

**Mackenzie Valley Land and Water Board**  
Mr. Stephen Mathyk  
Regulatory Officer  
Fax: 867-873-6610



Fisheries  
and Oceans

Pêches  
et Océans

Fish Habitat Management  
Suite 101, 5204-50<sup>th</sup> Avenue  
Yellowknife, Northwest  
Territories  
X1A 1E2

Your file *Votre référence*

Our file *Nos références*

SC02081

September 28, 2004

National Energy Board  
444 Seventh Ave. SW  
Calgary, AB  
T2P 0X8

Attention: Laura Van Ham

**RE: Paramount Resources Ltd. Cameron Hills Extension Project, National Energy Board Draft Proposed Conditions and Proposed Modifications to the Recommendation- DFO Comments**

Dear Laura:

The Department of Fisheries and Oceans, Fish Habitat Management – Western Arctic Area (DFO) has reviewed NEB's draft proposed modifications to recommendations in MVEIRB's Report of Environmental Assessment, as well as Paramount's response dated September 21 and Environment Canada's letter sent to the NEB on September 16.


DFO supports the proposed modifications as submitted by the National Energy Board with one exception. DFO concurs with Environment Canada regarding draft condition number 2. Rather than using the term "appropriate agencies", the condition should specifically refer to Environment Canada and DFO as stated in the NEB rationale for the modification to measure 9.

If you have any questions, please contact me at (867) 669-4931.

Bruce Hanna  
Habitat Biologist  
Fish Habitat Management  
Department of Fisheries and Oceans- Western Arctic Area

Cc: Wade Romanko - EC  
Fraser Fairman - INAC  
Shirley Maaskant - Paramount Resources  
Kim Cliffe-Phillips - MVEIRB

Canada

 Environment Canada / Environnement Canada  
 Environmental Protection Branch  
 Suite 301, 5204 - 50<sup>th</sup> Avenue  
 Yellowknife, NT X1A 1E2  
 Tel: (867) 689-4700  
 Fax: (867) 873-8185

September 24, 2004

Laura Van Ham  
 National Energy Board  
 Exploration and Production  
 Operations Business Unit  
 444 7th Avenue SW  
 Calgary, AB T2P 0X8  
 Fax: 403-292-5876

**RE: Paramount Resources Ltd. Cameron Hills Extension Project**

After a thorough review and careful consideration of the options put forward by Paramount Resources, Environment Canada reiterates its support of the conditions proposed by the National Energy Board (NEB) as stated in its *Draft Proposed Conditions for the Paramount Resources Cameron Hills Extension Project*. Environment Canada (EC) believes NEB's conditions best meet the intent (both in content and spirit) of the measures recommended by the Mackenzie Valley Environmental Impact Review Board for the Cameron Hills Project.

Environment Canada (EC) also wishes to address Paramount's comments to Recommended Measure 3 and clarify EC's position on the air quality modeling, as presented in the Developer's Assessment Report (DAR). In its submission to the Mackenzie Valley Environmental Impact Review Board (MVEIRB), EC confirmed that using the same input data and air quality model used by Paramount generated the same air quality predictions as presented in the DAR. However, EC also reported concerns regarding the input data, specifically the lack of on-site meteorological data, stack height manipulation and the uncertainty in emission rates due to uncertainty in the type of fuel (sweet or sour) to be used at the facility. EC demonstrated that slight modifications to these inputs can cause predictions to exceed ambient air quality standards. Further, EC is concerned that the Paramount modelling approach of "polluting up to a limit" is contrary to the spirit of pollution prevention and the Continual Improvement/Keeping Clean Areas Clean strategies advocated in the Canada-wide Standards as endorsed by the Canadian Council of Ministers of the Environment.

I can be contacted at (867)669-4736 (by e-mail at [wade.romanko@ec.gc.ca](mailto:wade.romanko@ec.gc.ca)) for any questions or comments with regard to the foregoing.

Sincerely,




Wade Romanko  
 Emergencies and Assessment Officer  
 Environmental Protection Branch (EPB), Yellowknife.

cc: Dave Fox, Air Issues Specialist, Air Quality Section, EC Yellowknife.



Environment Canada / Environnement Canada



 Environment Canada / Environnement Canada  
 Environmental Protection Branch  
 Suite 301, 5204 - 50<sup>th</sup> Avenue  
 Yellowknife, NT X1A 1E2  
 Tel: (867) 669-4700  
 Fax: (867) 873-8185

September 16, 2004

Laura Van Ham  
 National Energy Board  
 Exploration and Production  
 Operations Business Unit  
 444 7th Avenue SW  
 Calgary, AB T2P 0X8  
 Fax: 403-292-5876

**Re: Paramount Resources Ltd. Cameron Hills Extension Project**

Environment Canada has reviewed the National Energy Board's (NEB) draft conditions and proposed modifications to the recommendations for the Cameron Hills Extension Project.

Environment Canada requests the wording to be revised for NEB's draft condition number 2, part g, to identify "Environment Canada and the Department of Fisheries and Oceans" rather than the term "appropriate agencies", similar to your rationale for modifications for Measure 9. This change would better reflect our role and responsibilities in the application of the Fisheries Act.

Changes to NEB's proposed modifications or draft conditions for the Paramount Resources Ltd. Cameron Hills Extension Project would require further review. I can be contacted at (867)669-4736 (by e-mail at [wade.romanko@ec.gc.ca](mailto:wade.romanko@ec.gc.ca)) for any questions or comments with regard to the foregoing.

Sincerely,



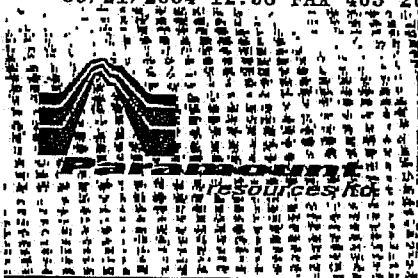
Wade Romanko  
 Emergencies and Assessment Officer  
 Environmental Protection Branch (EPB), Yellowknife.

cc: Stephen Harbicht, Head of Assessment and Monitoring, EPB  
 Mike Fournier, Environmental Assessment Coordinator, ECB  
 Bruce Hanna, Habitat Biologist, Western Arctic Area, DFO

Standard Paper / Papier standard



**Canada**



MAIL ROOM  
SALLE DE COURIER

4700 Bankers Hall West, 18th and 19th Street SW, Calgary, Alberta, Canada T2P 5C5 www.paramountres.com  
tel 403 290 3600 fax 403 262 7994

2004 SEP 21 P 1:15

NEB / ONE

332322

September 21, 2004

National Energy Board  
444 Seventh Avenue S.W.  
Calgary, Alberta  
T2P 0X8

Via Fax: 292-5503

Attention: Mr. T. M. Baker, Chief Conservation Officer

Dear Sir:

**Re: Paramount Resources Ltd Cameron Hills Extension Project  
Request for Comment on the National Energy Board Draft Proposed  
Conditions and Proposed Modifications to the Recommendations  
NEB File: 2620-D-4-7  
Review Board File: EA03-005  
Paramount File: SL005212**

Paramount Resources Ltd. ("Paramount") is hereby submitting comments in response to the National Energy Board's ("NEB") September 13, 2004 draft proposed conditions and proposed modifications that are intended to address the Recommendations contained in the June 1, 2004 report prepared by the Mackenzie Valley Environmental Impact Review Board.

Paramount supports the NEB's approach and agrees that a number of non-standard conditions are likely required to carry out the proposed recommended measures. However, Paramount wishes to suggest some changes to the NEB's proposed modifications.

It is Paramount's belief that the question of what materials are to be distributed to other government agencies and the public should be the decision and responsibility of the regulatory agency to which the information is provided. As such, Paramount would suggest that it is preferable that the regulator in question distribute reports and assessments that are provided to it. Paramount is willing to provide materials in digital format or with multiple copies in order to facilitate this process.

**NEB Proposed Modification to Recommended Measure 2**

The Review Board recommends that Paramount prepare a report in plain language within 12 months and thereafter, annually, until the developments on the Cameron Hills SDL(s) and PL(s) are abandoned and restored that outlines the status of

compliance with commitments Paramount made during the course of this EA. In the event of non-compliance, the report will provide a plan for achieving compliance or detail as to why compliance cannot be achieved. Paramount will submit the annual report to appropriate regulatory agencies and make it readily available through an approved distribution medium to other members of government and the public.

**Paramount's Comments:**

Paramount supports the Proposed Modification, taken in context with the Rationale presented, with the inclusion of the following additional modifications noted by bold italic and/or strikethrough below.

"The Review Board recommends that Paramount prepare a report in plain language within ~~16~~ 12 months and thereafter, annually, until the developments on the Cameron Hills SDL(s) and PL(s) are abandoned and restored that outlines the status of compliance with commitments Paramount made during the course of this EA. In the event of non-compliance, the report will provide a plan for achieving compliance or detail as to why compliance cannot be achieved. Paramount will submit the annual report to appropriate regulatory agencies *in a format that would allow government agencies to distribute the results through an approved distribution medium to other members of government and the public.* ~~and make it readily available through an approved distribution medium to other members of government and the public."~~

Paramount is recommending the first report be submitted within 16 months to allow for 12 months of data collection followed by report preparation time, hence the 16 months proposed.

**NEB Proposed Modification to Recommended Measure 3**

The Review Board recommends that Paramount install meteorological equipment in the Cameron Hills SDL & PL over the winter of 2004/2005 (at minimum must monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an instantaneous, continuous basis). The purpose of the monitoring equipment is to provide on-site meteorological information for inclusion in subsequent re-assessments (dispersion modeling) of facility emissions as well as on-going tracking and assessment of air pollution episodes should they occur. Following collection of sufficient meteorological data, Paramount will undertake a detailed re-modeling of the various development scenarios to ensure on-site meteorological conditions are reflected in the modeled outputs. Meteorological data and re-modeled development scenarios will be provided to appropriate government agencies, and made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain and report on-site meteorological monitoring will be reviewed on a regular basis by the appropriate government agencies.

**Paramount's Comments:**

As a preliminary comment, in reviewing Proposed Modifications to Recommendations 3 and 4, Paramount found that the wording could be interpreted as having two meanings. First, that the equipment, either meteorological or for monitoring air quality, was to be installed and data collected and reported for the winter of 2004/2005. The second interpretation is that the equipment is to be installed in the winter of 2004/2005 and operated indefinitely. After making inquiries of NEB staff, Paramount now understands that the latter meaning is the one intended. The suggested changes to the Proposed Modifications to Recommendations 3 and 4 that follow are based on this understanding.

Paramount supports the Proposed Modification, taken in context with the Rationale presented, with the inclusion of the following additional modifications noted by bold italic and/or strikethrough below.

"The Review Board recommends that Paramount install meteorological equipment in the Cameron Hills SDL & PL over the winter of 2004/2005, *which it will operate for a period of 12 months* (at minimum must monitor and record wind speed, wind direction, standard deviation of wind direction and temperature on an ~~instantaneous,~~ *regular* continuous basis). The purpose of the monitoring equipment is to provide on-site meteorological information for inclusion in subsequent re-assessments (dispersion modeling) of facility emissions as well as on-going tracking and assessment of air pollution episodes should they occur. Following collection of sufficient meteorological data, Paramount will undertake a detailed re-modeling of the various development scenarios to ensure on-site meteorological conditions are reflected in the modeled outputs. Meteorological data and re-modeled development scenarios will be provided to appropriate government agencies *in a format that would allow government agencies to distribute the results and made readily available* through an approved distribution medium to other members of government and the public. ~~The requirement to maintain and report on-site meteorological monitoring will be reviewed on a regular basis by the appropriate government agencies.~~"

Paramount's proposed modifications conform to its June 14, 2004 response to the MVEIRB Recommendations that the air quality assessment completed as part of the DAR confirmed that all air quality guidelines would be met not only for the proposed development but also for all of Paramount's planned activities in the Cameron Hills. While Environment Canada also independently confirmed that the current application as well as the planned developments in the Cameron Hills would meet all relevant guidelines, Paramount recognizes that concerns remain regarding the use of meteorological data from Fort Smith. Though Paramount believes that it is not necessary, it is willing to install a meteorological station to collect a full year of on-site data. Since the draft modeling guidelines for the Northwest Territories confirm that the use of one year of on-site or five years of data from a nearby airport are suitable for dispersion modeling, the station would be decommissioned once a full year of data were collected.

While Paramount will provide all of the data to the appropriate regulatory authority, it is requested that only the summary report, and not the data itself, be distributed to other members of the government and the public to maintain confidentiality.

**NEB Proposed Modification to Recommended Measure 4**

The Review Board recommends that Paramount install instantaneous, continuous gas analysis monitoring over the winter of 2004/2005 to track ambient air quality (at minimum 1 hour average SO<sub>2</sub> and NO<sub>x</sub> and H<sub>2</sub>S concentrations should be calculated and recorded). Data and plain language annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to appropriate government agencies and made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain ambient air quality monitoring will be reviewed on a regular basis by the appropriate government agencies.

**Paramount's Comments:**

Paramount supports the Proposed Modification, taken in context with the Rationale presented, with the inclusion of the following additional modifications noted by bold italic and/or strikethrough below.

*"The Review Board recommends that if newly acquired meteorological data and subsequent modeling conclude that applicable guidelines cannot be met, Paramount will install instantaneous, continuous gas analysis monitoring over the winter of 2004/2005 to track ambient air quality (at minimum 1 hour average SO<sub>2</sub> and NO<sub>x</sub> and H<sub>2</sub>S concentrations should be calculated and recorded). Data and a plain language annual reports on the status of the air quality at Cameron Hills will be provided by Paramount to appropriate government agencies in a format that would allow government agencies to distribute the results through an approved distribution medium to other members of government and the public, and made readily available through an approved distribution medium to other members of government and the public. The requirement to maintain ambient air quality monitoring will be reviewed on a regular basis by the appropriate government agencies."*

Draft Recommendation 3 contemplates on-site meteorological monitoring, which Paramount has already committed to gather for a one year period. This on-site meteorological monitoring is a prerequisite to any future ambient monitoring. Paramount considers it premature to conduct ambient air quality monitoring until follow-up modeling is completed using on-site meteorological data to confirm both the need for, and an appropriate location, for ambient monitoring.

While Paramount will provide all of the data to the appropriate regulatory authority, we request that only the summary report, and not the data itself, be distributed to other members of the government and the public to maintain confidentiality.



**NEB Proposed Modification to Recommended Measure 5 and 6**

The Review Board recommends that prior to any new production from the Cameron Hills field, Paramount submit to regulatory agencies, for approval, and appropriate federal and/or territorial government air quality staff an emission mitigation plan for the Cameron Hills field. The emission mitigation plan will detail:

- A strategy for demonstrating that current and future SO<sub>2</sub> and NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards;
- A statement describing Paramount's commitment to minimizing emissions from facilities in the Cameron Hills field;
- A contingency plan that includes a comprehensive listing and a decision tree for selection of all possible mitigation options to be implemented in the event that SO<sub>2</sub> and NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in measured or predicted exceedences of relevant air quality standards, the contingency plan will outline
  - The mitigation options (e.g. pollution prevention, planning, best management/environmental practices, best available technology, etc.) currently employed and proposed future options, along with triggers and/or timelines for implementation; and
  - The mitigation options considered and rejected, along with rationale for rejection.

Paramount should be required to review and update the plan on a regular basis throughout the life of the Cameron Hills field.

**Paramount's Comments:**

Paramount supports the Proposed Modification, taken in context with the Rationale presented, with the inclusion of the following additional modifications noted by bold italic and/or strikethrough below.

"The Review Board recommends that prior to any new production from the Cameron Hills field, Paramount submit to regulatory agencies, for approval, and appropriate federal and/or territorial government air quality staff an emission mitigation plan for the Cameron Hills field. The emission mitigation plan will detail:

- A strategy for demonstrating that current and future SO<sub>2</sub> and NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field will not result in exceedences of relevant air quality standards;
- A statement describing Paramount's commitment to *adhere to emissions guidelines for minimizing* emissions from facilities in the Cameron Hills field;
- A contingency plan that includes a ~~comprehensive listing and a decision tree~~ for selection of *the appropriate* all-possible mitigation options to be implemented in the event that SO<sub>2</sub> and NO<sub>x</sub> and H<sub>2</sub>S emissions in the Cameron Hills field result in

measured or predicted exceedences of relevant air quality standards, the contingency plan will outline

- The mitigation options (e.g. pollution prevention, planning, best management/environmental practices, best *economically achievable* available technology, etc.) currently employed and proposed future options, along with triggers and/or timelines for implementation; and
- The mitigation options considered and rejected, along with rationale for rejection.

Paramount should be required to review and update the plan *if a significant change or modification occurs during the life of the project* on a regular basis throughout the life of the Cameron Hills field."

#### NEB Proposed Modification to Recommended Measure 9

The Review Board recommends continuous monitoring for erosion by Paramount of all work sites, and the implementation of appropriate mitigation and remediation measures. Regulators should include appropriate permit conditions to prevent and remediate erosion. Paramount should be required to submit to regulatory agencies, and make readily available to the public, and other government agencies, annual reports detailing remediation measures taken by Paramount in response to sediment deposits in water bodies and erosion. Any deposit of sediment into a water body/watercourse should require Paramount to immediately implement remediation measures and notify the appropriate government agencies and affected First Nations.

#### Paramount's Comments:

Paramount supports the Proposed Modification, taken in context with the Rationale presented, with the inclusion of the following additional modifications noted by bold italic and/or strikethrough below.

~~"The Review Board recommends continuous monitoring for erosion by Paramount of all work sites, and the implementation of appropriate mitigation and remediation measures. Regulators should include appropriate permit conditions to prevent and remediate erosion. Paramount should be required to submit to regulatory agencies, and make readily available to the public, and other government agencies, annual reports detailing remediation measures taken by Paramount in response to sediment deposits in water bodies and erosion. Any deposit of sediment into a water body/watercourse should require Paramount to immediately implement remediation measures and notify the appropriate government agencies and affected First Nations.~~ *in a format that would allow government agencies to distribute the results through an approved distribution medium to other members of government and the public and* ~~and make readily available to the public, and other government agencies, annual reports detailing remediation~~ *or mitigation* ~~measures taken by Paramount in response to sediment deposits in water bodies and erosion. Any deposit of sediment into a water body/watercourse should require Paramount to immediately implement remediation~~ *mitigation* ~~measures and notify the appropriate government agencies and affected First Nations.~~ *in a format that would allow government agencies to distribute the results through an approved distribution medium to other members of government and the public"*

Paramount certainly understands the importance of proactively applying erosion control measures and it continues to do so throughout the project area. However, it suggests the deletion of the sentence "Regulators should include appropriate permit

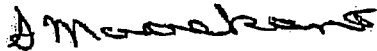
conditions to prevent and remediate erosion" as it is concerned that such permit conditions could leave Paramount without the necessary flexibility to deal with site specific conditions, which are often determined during field activities. If and when an erosion issue arises, site specific mitigative measures will be applied to ensure the issue is addressed for the future. In an event that triggers the Spill Response Plan, potentially affected First Nations, communities and Regulatory authorities would be contacted.

In conclusion, Paramount appreciates the opportunity to provide its perspective on the proposed modifications of the Recommendations of MVEIRB Report of Environmental Assessment and Reasons for Decision for Paramount Resources Ltd. Cameron Hills Extension Project EA03-005.

Paramount stated in its June 14, 2004 response to the MVEIRB Recommendations that it sincerely believes that its Application relied on extensive research and accepted science, and was in accordance with all regulatory requirements. Nevertheless, Paramount hopes that its acceptance of these stringent modified recommendations illustrates its willingness to work with the regulatory bodies involved in this matter wherever economically and technically feasible, even where the applied standards may exceed legislative requirements.

Thank you for your careful consideration of our response. If we can be of further assistance, please do not hesitate to call Shirley Maaskant, at (403) 290-3618.

Yours truly,



Shirley Maaskant  
Regulatory & Community Affairs Coordinator

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