

December 23, 2002

Mr. David H. Searle, C.M., Q.C. *via fax 604 632 4861 and regular mail*  
Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Suite 2100  
1075 Georgia Street West  
Vancouver, BC V6E 3G2

Dear Mr. Searle;

**Re: North American Tungsten Corporation Ltd. - Stay Application**

Thank you for your letter dated December 6, 2002 on behalf of North American Tungsten Corporation Ltd. (NATCL). Mr. Burlingame has declared an apprehension of bias on the NATCL file and therefore as Alternate Chair of the Board I have been dealing with this issue. You had requested that the Mackenzie Valley Environmental Impact Review Board (Review Board) stay its environmental assessment proceedings before it, pending a determination of the appeal, which NATCL has decided to take before the Court of Appeal, in respect of the decision of Honourable Justice V.A. Schuler of the NWT Supreme Court.

Justice Schuler's decision had upheld a decision made in July 2002 by the Mackenzie Valley Land and Water Board (MVLWB). That decision included in part:

- That s.157.1 of the *MVRMA* does not apply to the CanTung development i.e. that CanTung is subject to Part 5 of the *MVRMA* and the water license application can be referred to the Review Board for an environmental assessment (this would otherwise exempt this development from environmental assessment on the basis of its original license predating June 22, 1984).
- To refer the NAT CanTung Mining and Milling development to the MVEIRB for EA pursuant to ss. 125(1) of the *MVRMA*.

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The Review Board has decided to deny your request for a stay of its environmental assessment (EA) proceedings for the following reasons:

1. The MVLWB has issued a one-year extension (to November 29, 2003) of the current CanTung water license to permit NATCL to continue operations while the Review Board conducts its environmental assessment of the water license renewal application. Should the Review Board's Report of an Environmental Assessment not be completed and the Minister of Indian and Northern Affairs acceptance of the Report not be in-hand by November 29, 2003, NATCL would need to suspend its operations until this has occurred.
2. There is no assurance, as you have alluded, that the appeal process would be completed quickly.
3. At the same time, the clock is still running on the one-year license extension granted by the MVLWB. While we have made no comment on the granting of that extension, we are faced nevertheless with a time constraint that now puts procedural pressures on everybody; it can impede the quality of the EA. The risk of compromising the integrity of the EA was too great for the Review Board to take.

We appreciate that there is a corresponding risk that if the Court of Appeal overturns the Honourable Justice Schuler's decision, then the EA would not be required and a considerable time and effort by the parties would have been for naught. We do *not* want to be seen as prejudging the legal stature and reasoning of either Justice Shuler or the Justices of the Court of Appeal whose expertise unlike ours is to interpret the law—and who we fully defer to and respect.

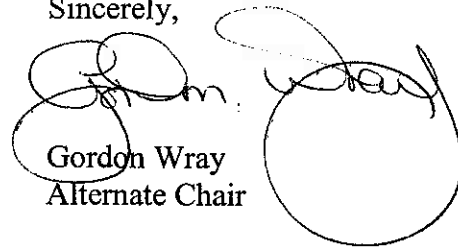
But, again, we also have a serious duty to all parties before us that if we do stay the proceedings at this time, there will probably be an insufficient time to conduct a quality and timely environmental assessment of the CanTung mining and milling development prior to the November 29, 2003 expiry date of the current water license. This corresponding risk to the process and quality of the EA was too great in the Review Board's mind to take even if the proceedings were stayed for only a short time.

In summary, we will move forward with the EA pending any decision of the Court of Appeal. By mid-January, the Review Board will distribute a draft work plan and draft terms of reference for comment by NATCL, other parties to the EA proceedings, as well as the general public. To move the process along as quickly as possible, the Review Board has targeted approval of the work plan and final EA terms of reference by the end of January.



Should you have any questions, please call me as soon as possible at (867) 766-7050

Sincerely,



Gordon Wray  
Alternate Chair

Cc: EA Distribution List  
(including letter Faskin Martineau  
to the Review Board dated December 6, 2002)





# Mackenzie Valley Environmental Impact Review Board

Box 938, 5102-50th Avenue, Yellowknife, NT X1A 2N7

**Date:** Dec.24, 2002  
**From:** Alan Ehrlich, A/ Manager of EIA  
**Pages:** 7 including these 2 cover pages  
**File:** EA02-003 NAT CanTung Mining and Milling Development  
**Subject:** Resumption of Environmental Assessment

*Please see the attached letter from the Review Board to Fasken Martineau DuMoulin LLP.*

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