

GUNDJEIHMI

ABORIGINAL CORPORATION



Kevin Bodel
Committee Secretary
Joint Standing Committee on Treaties
Parliament House
Canberra
via email: jsct@aph.gov.au

Wednesday December 3rd 2014

Dear Kevin,

Re: *Agreement between the Government of Australia and the Government of India for Cooperation in the Peaceful Uses of Nuclear Energy*

As the representative organisation of the Mirarr people, from whose land a significant portion of Australia's uranium has historically been sourced, Gundjeihmi Aboriginal Corporation welcomes the opportunity to participate in this process.

Please do not hesitate to contact me for any further information.

Yours sincerely,

A handwritten signature in blue ink, consisting of several overlapping, fluid strokes that form a stylized representation of the name 'Justin O'Brien'.

Justin O'Brien
Chief Executive Officer

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Submission to the *Agreement between the Government of Australia and the Government of India for Co-Operation in the Peaceful Uses of Nuclear Energy*

This submission has been prepared by the Gundjehmi Aboriginal Corporation (GAC). GAC is an organisation established, managed and controlled by the Mirarr people to protect and advance their rights and interests.

Gundjehmi Aboriginal Corporation welcomes the opportunity to submit to this process and thanks the committee for considering the views of the Mirarr. This submission will outline the Mirarr's experience of uranium mining on their country and detail their key concerns regarding this proposed Agreement.

The traditional estate of the Mirarr people lies within the bounds of the World Heritage listed Kakadu National Park in Australia's Northern Territory. The Mirarr Senior Traditional Owner Yvonne Margarula leads the Mirarr in their fight to protect country. Yvonne's father, Toby Gangale, opposed plans for uranium exploration and mining on his country in the 1970s but his wishes were over ridden by the Federal Government which pushed ahead with plans for the Ranger uranium mine in 1978.

Today, Mirarr country encompasses the Ranger and Jabiluka Mineral Leases, the mining town of Jabiru and parts of Kakadu National Park. Uranium mining has been taking place on Mirarr land for three decades. Mirarr opposed the establishment of the Ranger uranium mine on their lands and continue to resist all activities that pose a threat to country and culture.

Mirarr have long held concerns regarding all aspects of uranium mining on their land. Of particular relevance to this treaty process are Mirarr's concerns regarding the impacts of uranium once it is exported for use in nuclear power stations and those regarding the potential for uranium from their lands to be used in nuclear weapons.

Nuclear power and weapons

Mirarr are worried by the lack of enforceable safeguards to ensure uranium intended for nuclear power is not diverted to nuclear weapons and these appear to be even weaker than usual in this proposed Agreement. As Traditional Owners, Mirarr bear cultural responsibility for the impacts of any product of their country. Concern about the possibility of uranium from Mirarr land being used to make nuclear weapons was expressed by Senior Traditional Owner, Toby Gangale in 1978, before the decision was made to impose the Ranger uranium mine on the Mirarr people: "What if they make a bomb, same as in Japan?"¹

This possibility is of particular concern to Mirarr in this case because India is not a party to the Nuclear Non-Proliferation Treaty (NPT). It also appears that the proposed Agreement will not require India to meet the same standards of disclosure that Australia demands of its other uranium customer countries. These standards are relied upon to ensure that Australian uranium is not diverted to nuclear weapons programs

¹ *Dirt Cheap* 1980, videorecording, Marg Clancy, David Hay & Ned Lander, Sydney

but in this Agreement that requirement is apparently waived. In recent media reports² it has been noted that a uranium trade deal between India and the US has stalled because the US is insisting on this disclosure, it is vital the Australia requires the same.

The initial text of the proposed Agreement refers to *highest standards of radiation and nuclear safety*. It is hoped that these standards have been strengthened since the nuclear crisis at Fukushima began. In April 2011 following the earthquake, tsunami and subsequent nuclear disaster in Japan, Yvonne Margarula wrote to United Nations Secretary-General Ban ki-Moon. In the letter Yvonne expressed her sorrow at the impact the radiation is having on the lives of people in Japan. She noted that "it is likely that the radiation problems at Fukushima are, at least in part, fuelled by uranium derived from our traditional lands. This makes us feel very sad."

Yvonne also told the Secretary-General "This is an industry that we have never supported in the past and that we want no part of into the future. We all are diminished by the awful events now unfolding at Fukushima. I urge you to consider our viewpoint in your deliberations with governments in relation the Fukushima emergency and the nuclear industry in general." This same message applies to those considering this agreement.

In October 2011 the Australian Safeguards and Non-Proliferation Office confirmed that Australian uranium was inside the Fukushima reactor complex when it melted down. This news reinforced Mirarr concerns about the impacts of materials from their country on the people and places it is sent to. In August of this year Mirarr hosted a visit from Mr Naoto Kan who was the Japanese Prime Minister at the time of the Fukushima disaster. Mr Kan was supportive of nuclear power when he entered the Diet (Japanese parliament) but after experiencing the horror of multiple failed nuclear reactors, seeing thousands of citizens never able to return to their homes and being forced to consider the possibility of evacuating the population of greater Tokyo, he has now concluded that nuclear power must be replaced with renewable energy the world over. Mr Kan and the Mirarr exchanged stories and were both deeply affected by the meeting. The visit reinforced for both parties the dangers posed by exporting uranium from Mirarr lands.

The 2011 UN system-wide study into the implications of the accident at the Fukushima Daiichi nuclear power plant acknowledges the inadequacy of current threat assessments and mitigation planning, including risks from severe and unpredictable weather events³. This is of grave concern to Mirarr particularly given the horrific outcomes currently being experienced in Japan and the likelihood of increased extreme weather events in India as the effects of climate change continue to manifest.

The UN system-wide study also called for uranium producing nations to undertake a cost-benefit assessment of the environmental and community impacts of mining a recommendation supported by the recent JSCOT inquiry into uranium sales to the UAE but to date not acted on by Government. Mirarr believe that this analysis must be undertaken before any further export deals or new Australian uranium mining approvals are granted.

² Times of India, 2014, *India confident of sealing Australia N deal but wary of US*, accessed online November 2014
<http://timesofindia.indiatimes.com/india/India-confident-of-sealing-Australia-N-deal-but-wary-of-US/articleshow/41830409.cms>

³ United Nations 2011, *System-wide study on the implications of the accident at the Fukushima Daiichi nuclear power plant*, para 8

Environmental performance

In the years since it opened in 1980 Ranger uranium mine has been the focus of sustained criticism over its environmental performance, in particular concerns over the management of excess water and mine wastes. There have been over 200 documented spills, incidents and environmental breaches at Ranger.⁴ A 2003 Inquiry into uranium mining by the Australian Senate found that 'ERA failed to inform stakeholders, failed to follow correct procedures and did not take timely action on a number of major incidents'. The Inquiry identified 'a pattern of under-performance and non-compliance' and concluded that changes were necessary in order to protect the environment and its inhabitants from 'serious or irreversible damage'. The same Inquiry made a series of strong recommendations, many of which have not been implemented. Mirarr have made repeated calls for these recommendations to be given effect, in particular those relating to Traditional Owner representation, contaminant measuring, water quality management and groundwater protection.

The Ranger mine has been operating for over three decades and much of the infrastructure is beginning to show signs of age. In the second half of 2013 a series of radiological safety incidents took place at Ranger. The most serious of these was the collapse of a leach tank on the mine site which spilled over one million litres of radioactive acid into the surrounding area. The Federal Government imposed an operational shutdown while a taskforce investigated the incident and made multiple recommendations, many of which are yet to be implemented.

Conclusion and recommendations

The enacting of this Agreement between Australia and India would open the possibility of uranium exports from Mirarr country to India. Gundjehmi Aboriginal Corporation urges the Committee to consider the position of the Traditional Owners from whose country uranium would be mined and shipped overseas.

In considering this Agreement Australia must recognise the responsibilities incumbent upon it as a uranium exporting nation. Contemplating a new uranium customer in the context of heightened concerns regarding nuclear safety would be irresponsible at best and the lack of certainty surrounding the eventual destination and use of Australian uranium in the case of India is deeply worrying to the Mirarr.

It is imperative that no uranium be exported within the current proposed framework. The responsibility Traditional Owners have for the impacts of material from their country demands such safeguards.

⁴ Australian Conservation Foundation, 2005, Submission to the House of Representatives Standing Committee inquiry into the strategic importance of Australia's uranium resources, p30

References

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Times of India, 2014, *India confident of sealing Australia N deal but wary of US*, accessed online November 2014 <http://timesofindia.indiatimes.com/india/India-confident-of-sealing-Australia-N-deal-but-wary-of-US/articleshow/41830409.cms>

United Nations, 2011, *System-wide study on the implications of the accident at the Fukushima Daiichi nuclear power plant*

Appendix

(i) Letter from Yvonne Margarula to UN Secretary-General, Ban ki-Moon

GUNDJEIHMI

ABORIGINAL CORPORATION



Ban ki-Moon
Secretary-General United Nations
760 United Nations Plaza
New York, NY USA 10017

Dear Secretary-General,

It was with great sadness that we Mirarr People of the World Heritage listed Kakadu National Park in the Northern Territory of Australia learned of the suffering of the Japanese people due the recent earthquake, tsunami and nuclear crisis. Our thoughts and prayers are with the people of Japan at this most difficult of times. We hope that individuals, families, communities and the nation may rebuild their lives. We also hope for a speedy resolution to the ongoing Fukushima nuclear emergency.

It is known that Aboriginal people have occupied Australia for some 60,000 years because of an archaeological site on my country in Kakadu, where people, including myself as a child, regularly visited and camped. I am the clan leader, or senior traditional owner, in the world's oldest continuing cultural tradition. We Mirarr are the traditional owners of the land now subject to the Ranger Uranium Mine and the site of the proposed Jabiluka uranium mine. The Ranger mine now produces some 10% of the world's mined uranium. We Aboriginal people opposed Ranger's development and even though our opposition was overruled it has never gone away.

A month ago a delegation of this Corporation, comprising three young Indigenous women from Kakadu, visited Tokyo, Hiroshima and Nagasaki as part of the 72nd Global Peace Voyage of the Peace Boat. Here they met with Hibakusha (survivors of the atomic bombings of Hiroshima and Nagasaki) and people and organisations concerned with nuclear and peace issues. This recent visit heightens the sense of solidarity we feel for the people of Japan in their suffering and reinforces the Mirarr People's position against further uranium mining in Kakadu.

In the early 1970s the Australian Government, as part of its negotiations with Japanese Prime Minister Kakuei Tanaka, committed to the export of uranium from our land at Ranger to Japan. This commitment came many years before the enactment of Aboriginal land rights in the Northern Territory. We were not consulted about this. We opposed Ranger's development. When the Australian Government introduced land rights legislation in 1976 our ability to stop the Ranger mine was blocked by special provisions of the *Aboriginal Land Rights (Northern Territory) Act*. Given the long history between Japanese nuclear companies and Australian uranium miners, it is likely that the radiation problems at Fukushima are, at least in part, fuelled by uranium derived from our traditional lands. This makes us feel very sad.

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Ranger has operated since 1980 and has brought much hardship to local Aboriginal people and environmental damage to our country. For over 30 years we have experienced and lived with the 'front end' reality of uranium mining and we are opposed to any further mining at the Jabiluka site. From 1998, I led an international coalition of environment, peace, faith and human rights groups against Jabiluka's development. We received a lot of support from international networks and institutions such as UNESCO, the European Parliament and the US Congress. Over an eight-month period in 1998 more than 5000 protesters, including myself and other Mirarr traditional owners, peacefully blockaded the Jabiluka site. All our efforts were recognised that year when I was awarded both the Friends of the Earth International Environment Award and the Nuclear-Free Future Award. In 1999 I jointly received, with Jacqui Katona, the Goldman Environment Prize for my efforts to protect my country from uranium mining. We Mirarr remain opposed to Jabiluka's development; the Fukushima incident only strengthens our resolve.

Today some 12 million litres of radioactive contaminated water lies on site at the Ranger Uranium Mine, upstream of Indigenous communities and internationally recognised Ramsar listed wetlands. The mining company, owned by Rio Tinto, has suspended all milling of uranium due to the persistent water management problems and threats posed to the environment. All this is of great concern and is taking place within Australia's largest national park and our homeland, Kakadu.

I am writing to you to convey our solidarity and support with all those people across the world who see in the events at Fukushima a dire warning of the risks posed by the nuclear industry. This is an industry that we have never supported in the past and that we want no part of into the future. We are all diminished by the awful events now unfolding at Fukushima. I urge you to consider our viewpoint in your deliberations with governments in relation the Fukushima emergency and the nuclear industry in general.

In 2009 the European Commission found that approximately 70% of uranium used in nuclear reactors is sourced from the homelands of Indigenous minorities worldwide. We Mirarr believe that this constitutes an unfair impact on Indigenous people now and into the future. We suffer the dangers and long term impacts of the front end of the nuclear fuel cycle so that others overseas may continue to enjoy lives without the awareness of the impacts this has on the lives of others.

For many thousands of years we Aboriginal people of Kakadu have respected sacred sites where special and dangerous power resides. We call these places and this power *Djang*. There is *Djang* associated with both the Ranger mine area and the site of the proposed Jabiluka mine. We believe and have always believed that when this *Djang* is disturbed a great and dangerous power is unleashed upon the entire world. My father warned the Australian Government about this in the 1970s, but no one in positions of power listened to him. We hope that people such as yourself will listen, and act, today.

Yours truly,

Yvonne

Yvonne Margarula

6/4/11