

12 March 1999

Mr James Catchpole
Inquiry Secretary
House of Representatives
Standing Committee on Aboriginal
and Torres Strait Islander Affairs
Parliament House
CANBERRA ACT 2600

Via Facsimile: 02-6277-2219

Dear Mr. Catchpole,

NORMANDY MINING LIMITED'S RESPONSE TO THE REEVES REPORT RECOMMENDATIONS

Thank you for the opportunity to respond to the recommendations of the Reeves Report on the Aboriginal Land Rights (NT) Act (ALRA).

Normandy Mining Limited submits the following comments for the Standing Committee's consideration.

In particular, we comment on the following proposals:

- The system of regional land councils;
- The structure and functions of the Northern Territory Aboriginal Council;
- Modifications to the mining provisions of the Act; and
- Access to Aboriginal land including the removal of the permit system.

Normandy has not sought to make direct comment upon proposed changes to the Aboriginal Benefits Reserve. This is an area that our company has little involvement with.

Regional Land Councils

Normandy Mining Limited does not support the proposal to create a larger number of smaller sized, regional land councils.

The premise behind having smaller land councils appears to be to enhance the degree of control available to family or language groups. The ALRA as it stands protects the current land councils by providing them with a statutory function. Aboriginal People have no choice but to use either the existing land councils and all of their various statutory functions or 'services' or start a new land council. This is a recipe for fragmentation and disharmony, essentially because it prevents Aboriginal people from making their own choices and decisions. The ALRA directs Aboriginal people to use the land councils as their legal representatives and advisors. At the same time, the land councils have been given a statutory right to receive a portion of the mining royalties that their clients receive and have, in turn, a controlling interest in the Aboriginal Benefits Reserve. The direct involvement of the land councils in this way dilutes the equity in royalties and other compensation payments that flow back to Aboriginal people. This appears to place the land councils in a position where, in some cases, their interests could be compromised.

Like all other Australians, Aboriginal people should be free to choose their legal representatives for the important issues of land, access and land use. Neither the land councils nor the proposed NTAC should be forced upon them in this respect.

The ALRA could enhance Aboriginal people's control and equity if it were altered to allow Aboriginal people to choose their own legal representatives. They should also have the complete power to dismiss any legal representatives and advice. There is no reason why the existing land councils could not continue to offer their services for relevant matters. However, they should have to compete in the market place.

There are issues which arise with mining developments on Aboriginal land where royalties or other financial benefits are payable under the Act. In our view, Aboriginal people should be able to control directly and in the first instance, where, how much and the identity of any recipients of equity in their royalties. A greater proportion of the funds paid in this way should flow directly back to relevant local Aboriginal communities and groups. Royalties and similar benefits sometimes seem to be used for works or infrastructure and services that may have been provided by government had royalty revenue not been available.

Simply directing Aboriginal people to establish more land councils is not feasible. The existing land councils are vastly under-resourced and it is unlikely that any more

funds would be available for a larger number of land councils. The best solution would be to increase the resources of the existing land councils.

Decentralisation of councils could also cause complications if a company wants to explore large tracts of land. In this case they may find themselves having to deal with a number of land councils rather than one, thus compromising established negotiating processes and efficiencies. This would negatively affect both the companies involved and the Aboriginal groups. Negotiations would be further compromised if land councils continue to be under-resourced.

Northern Territory Aboriginal Council (NTAC)

We do not fully support the proposal to create a single, centralised body such as the Northern Territory Aboriginal Council. We would, however, support the creation of a single agency that dealt with the current functions of the Aboriginal Benefits Reserve, as long as the NTAC did not have any functions, statutory or otherwise as a land council. Alternatively, the NTAC could take on some of the current functions of the Commonwealth and Northern Territory Ministers, e.g. granting permission to enter into negotiations with Traditional Owners, granting extensions to negotiating periods, endorsing agreements, etc.

Mining Provisions

Normandy Mining Limited supports the proposal to change the ALRA to allow for reconnaissance exploration. However, consideration should be given to altering the ALRA so that for low impact reconnaissance exploration, consultation and not negotiation is required.

The other proposed changes will have no new material effect upon the workings of the ALRA, and in our opinion, only assist in formalizing processes.

If Traditional Owners are free to access their own legal advice this would have an impact upon the existing powers of regional land councils under the ALRA in terms of consent and veto. Some of these powers may have to be devolved to Traditional Owners and their legal representatives, the Commonwealth Minister, or the proposed Northern Territory Aboriginal Council.

Access and Access Permits

Normandy Mining Limited does not support the proposal to remove the permit provision. Aboriginal people should retain the right to control access onto their lands and the permit system appears the best way to manage visitors, transients, tour operators, exploration/mining companies, etc.

Normandy is not adversely affected by the current permit system, either in terms of cost or process. It is probably a little bureaucratic but this could be reduced by making provision for entering into longer term permits for specific purposes or general access agreements.

Concluding Comments

The ALRA has now been in place for over 22 years and since that time it has played a key role in assisting with many advances in mining and on Aboriginal issues in terms of communication, attitudes, Aboriginal participation in the industry and broader community relations. There is no doubt in our minds, however, that without the goodwill of the land councils this would have been very difficult to achieve under the processes as set down by the ALRA.

These advances have really only become apparent over the past decade. The changes that Normandy Mining Limited has proposed are in light of the fact that we believe that the ALRA is workable, is still maturing, and was conceived at a time when circumstances were different. We think that the essence of the Act should remain but could be improved upon in the small but significant ways that we suggest here.

Thank you for allowing us to provide input into your important endeavour.

Yours sincerely,

(File signature inserted)

Michael Coughlan
Manager – Indigenous Issues