



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION  
TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE

**Reference: Environmental regulation of uranium mining**

TUESDAY, 22 OCTOBER 2002

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BY AUTHORITY OF THE SENATE

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**SENATE**  
**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY**  
**AND THE ARTS REFERENCES COMMITTEE**

**Tuesday, 22 October 2002**

**Members:** Senator Allison (*Chair*), Senator Tierney (*Deputy Chair*), Senators Lundy, Mackay, Tchen and Wong

**Substitute members:** Senator Crossin for Senator Mackay, Senator Buckland for Senator Lundy and Senator Scullion for Senator Tierney

**Participating members:** Senators Abetz, Bolkus, Boswell, Brown, Buckland, George Campbell, Carr, Chapman, Conroy, Coonan, Eggleston, Chris Evans, Faulkner, Ferguson, Ferris, Harradine, Harris, Knowles, Lees, Mason, McGauran, Murphy, Nettle, Payne and Watson

**Senators in attendance:** Senators Allison, Buckland, Crossin, Nettle and Scullion

**Terms of reference for the inquiry:**

For inquiry into and report on:

The regulatory, monitoring, and reporting regimes that govern environmental performance at the Ranger and Jabiluka uranium operations in the Northern Territory and the Beverley and Honeymoon *in situ* leach operations in South Australia, with particular reference to:

- (a) the adequacy, effectiveness and performance of existing monitoring and reporting regimes and regulations;
- (b) the adequacy and effectiveness of those Commonwealth agencies responsible for the oversight and implementation of these regimes; and
- (c) a review of Commonwealth responsibilities and mechanisms to realise improved environmental performance and transparency of reporting.

**WITNESSES**

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**Committee met at 1.06 p.m.****MARR, Mr Alec, National Campaign Director, The Wilderness Society**

**CHAIR**—Welcome. I declare open this public hearing of the Senate Environment, Communications, IT and the Arts References Committee in relation to its inquiry into the environmental regulation of uranium mining. The committee prefers all evidence to be given in public, but should you at any stage wish to give your evidence, part of your evidence or answers to specific questions in private, you may ask to do so and the committee will consider your request. You are reminded that the evidence given to the committee is protected by parliamentary privilege and that the giving of false or misleading evidence may constitute a contempt of the Senate. I invite you to make an opening statement after which we will go to questions.

**Mr Marr**—Thank you for taking the time to take my evidence; I appreciate it. Our basic recommendations are covered in the first page of our submission. Given that the Wilderness Society has an anti-uranium policy, the conclusions are probably not that surprising. Particularly in relation to the issues surrounding Kakadu, we find ourselves in a fairly predictable mess and, hopefully, the committee can play a role in extracting everybody from it. The problems we have in Kakadu are not surprising. They were predicted before the mining operations commenced not just for Ranger but also for Jabiluka. Jabiluka probably has the least excuse of any mining operation simply because the same company already had a track record of making a mess in Kakadu with Ranger. The processes that have been gone through to get Jabiluka to the point it is at now have totally subverted anything that you could describe as good environmental practice.

One of the things that the committee ought to be prepared to consider is that both those operations should be closed. I know that this inquiry is really about how we regulate the uranium mining industry but, if you can never say no, then yes does not have a lot of value. There is enough evidence not only of the existing problems with Ranger but also of a track record already at Jabiluka before the mines become operational. We need to take action as fast as we can to make sure that we do not compound the existing problems. My greatest involvement has been in the Jabiluka issue. The Jabiluka proposal has been around a long time. People have been concerned about it for a long time.

The processes that were gone through to get Jabiluka to the point that it is at now were outrageous by any stretch of the imagination. We had a series of the best scientists in Australia telling the company that they had completely messed up the engineering for the mine. The scientists told them years before they started digging holes there that, if they built the mine and operated it to the planned specifications, they would have problems that they would have great difficulty managing. The only reason the problem is not even greater is simply that, as a result of some of the evidence given by scientists, they did re-engineer some parts of the mine. That was after it had already been approved by Environment Australia. So Environment Australia had already given them an open cheque effectively.

One of the messes they made at Ranger was massively miscalculating the level of evaporation for mining operations. That is why they have had such continuing problems with water management at Ranger. Amazingly, when they released the first lot of recommendations or designs for Jabiluka, they had done the same thing again. They have improved things a bit but not to a point where they can manage the water properly. They were told before they even

started constructing the mine decline that, if they built the mine to the specifications, they would have massive water management problems. One of the problems associated with Jabiluka is that, if you have a spill at Jabiluka, there is nowhere else the water can land except in those World Heritage wetlands.

This entire thing has been predictable. It was the one place guaranteed to produce a brawl between the entire environment movement, the government and the company. North, the original parent company of ERA when the mine commenced, were a very ideological company. They were very determined to have head-on collisions with the environment movement. They did that all over Australia. Rio, since they have acquired Jabiluka, and ERA have been a lot more sensible, I think, than North. But it is quite clear at the moment that their intention is to sit on the Jabiluka deposit in the hope that either the international markets will improve and that the traditional owners will change their minds, or that perhaps the rest of the Australian community will suddenly have a change of heart about digging yet another uranium mine at Kakadu. I think those things are very unlikely.

It is pretty clear that the regulation regime is a complete failure. It would have been even worse except for the scrutiny and pressure put on through the World Heritage Committee. Despite that, it has still been a comprehensive failure and it leads to the conclusion that this kind of activity in a World Heritage area is totally impossible to regulate. It is better than it would have been but it is still pretty disastrous. At the moment you have a big hole in the ground with a massive water management problem. The company has no intention of developing the mine in the medium term. That is good; it takes some of the immediate pressure off. I think we should be recommending to the government that they commence negotiations with the company to acquire the lease, rehabilitate it, and put it back in the World Heritage area.

ERA only dig holes in the ground. One of the things we looked at when we were commencing our initial corporate campaign against North was whether we should wind the company up and then redistribute the assets back to the shareholders. The problem is the only thing they have is a hole in the ground at Kakadu. There is not a lot to redistribute. You are not going to change ERA's mind because the only reason they exist is because of those mines at Kakadu.

But Rio has a much broader table to work on. They did not acquire ERA for its uranium deposits; they acquired North for its iron ore assets in Western Australia, picking up the woodchip operations in Tasmania and the mining operations in Kakadu as mere by-products of acquiring the company for completely different purposes. Rio has plenty of other uranium deposits in the world that it can develop other than the ones in Kakadu. So if people were serious, there ought to be a way of reaching an accommodation with Rio Tinto to make sure that the lease is acquired and the land is reincorporated back into the World Heritage area.

One of the things that the committee can certainly do is to demand an upgraded environmental bond for that mining operation. It is clear already, before it has even become operational, that it is creating environmental problems and that the company is completely incapable of meeting even the most basic requirements. That also ought to be tied to ongoing liability, until people are satisfied that the environmental issues there have been resolved.

I am told that there is a Jabiluka closure plan. I think making that public would be useful. That would be the first step in designing a plan that solves the problem. If they have a closure

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plan, what are the conditions under which it would be executed? How much money is required, what is the timetable and what rehabilitation works are required? The government will say, 'Who wants to spend all this money on acquiring a lease?' I would guess that they have probably spent \$10 million at this point just keeping Kakadu off the endangered list, as a result of Jabiluka. They are still spending a fortune to keep the international community at bay and sedated, through both ERA and Foreign Affairs. They put the most enormous lobbying effort that anyone has ever seen into keeping Kakadu off the endangered list in the first place and it cost a fortune. They had an unlimited budget.

If you look at page 5 of our submission, you will see that the reason the World Heritage in Danger process was so important was that, had Kakadu gone on the endangered list, we would have then gone to the other countries who are signatories to the World Heritage convention and argued that—and I think their judgment and ours was that we would have won that argument—if Kakadu was on the endangered list, they could not have then allowed the importation of uranium into their countries because it would contravene this section of the World Heritage convention. The result was that, when it looked like Kakadu would go on the World Heritage in Danger list, a number of ERA's customers said, 'If it goes on the in danger list, we will not buy uranium from Jabiluka, but we also will not buy it from Ranger. We will not buy it from anywhere in Kakadu.'

At that point, we are told that—and maybe this is something the committee would like to investigate with the government—the government was threatened with a massive liability claim by the company. Their argument was that they met all the government's regulations and yet they were suffering all these consequences. The result of that was a big bust-up in cabinet. Foreign Affairs were told to clean up the mess and were given an unlimited budget. The initial claim was expected to be somewhere between \$200 million and \$400 million. They knew they could spend whatever was required on an international lobbying effort and that it would come out at less than that. That resulted in what was unquestionably one of the biggest lobbying efforts on an environmental issue that certainly anyone in the World Heritage Committee has ever seen—and probably the biggest that Australia has ever undertaken, to my understanding.

The fact is that a fortune has already been spent to create a messy hole in the ground that has no medium-term prospect of going ahead. It will keep costing the company a lot of money. For Rio, the public relations disasters associated with a major spill up there will vastly outweigh anything they will ever get back from the Jabiluka uranium deposit. I think if they were offered a reasonable deal then an accommodation might be able to be reached. That is the best outcome for everybody involved. One of the really bad things for the traditional owners—and I am not here to speak on their behalf—is that while this hangs over their heads, it keeps creating uncertainty and continues to prey on their minds. ERA has certainly been prepared to play fairly nasty internal politics within the local Aboriginal community to try to force the mine to go ahead. So the sooner we can resolve the matter, the better it will be for everybody. I might leave it there.

**Senator SCULLION**—You speak about Environment Australia effectively giving an open cheque before certain safeguards have been put in place. Do you accept that Environment Australia is a body that comes from best science? Do you think it is a reasonable body?

**Mr Marr**—No, absolutely not. I think Environment Australia basically, like good bureaucrats, take their orders from the government of the day. It was quite clear that the

government of the day was determined to bend whatever rules were required to make sure that this mine went ahead. For instance, if you look at the recommendations that former Minister for the Environment and Heritage, Senator Hill, made, straight away they were watered down by the then Minister for Resources and Energy, Senator Parer. Once the government's trajectory on this particular project was made clear, people went off and did what they could to justify the mine. Where they could not definitively say, 'We have taken that into account,' they would say, 'We will take that into account.' At no point did they say, 'Stop construction until these issues are resolved.' In fact, it was exactly the reverse of that. That is why we found ourselves 18 months into a project when they were still going off to do baseline studies and ridiculous things like that. That is hardly based on good environmental evidence. The other thing they never managed to do was come up with a credible bunch of scientists who could actually address the issues that were raised by the Australian National University scientists, who are some of the best in the country.

**Senator SCULLION**—So the Australian National University produced scientists who went out and did some work, and you are saying that Environment Australia did some work that did not correlate or agree with that science?

**Mr Marr**—In a lot of cases they did not do the science. They said that they would do the science at some point. They accepted that a lot of the baseline data had never been collected, yet they were forced in one form or another to continue to facilitate the operation. They spent the whole time on the back foot.

**Senator SCULLION**—So you say the Australian National University has done a great deal of science in the area?

**Mr Marr**—The individuals from the ANU who put submissions together to the World Heritage Committee and gave evidence to the committee investigation team have all done very extensive research in the area.

**Senator SCULLION**—I take it those documents would be available to us? You are talking about some reports that were done by the Australian National University scientists. Would those reports be available to us?

**Mr Marr**—Yes. They are submissions, not reports.

**Senator SCULLION**—Submissions, yes. I would be interested in reading those. You say in your submission that all uranium mines in Australia have resulted in localised environmental damage. I accept that when you have to put a road somewhere, you will have some environmental damage because you are removing things to put the road there. Generally, outside the process of mining and outside the mine site seems to be the context—certainly under which I have approached the issue—of localised environmental damage. Are you referring to damage outside of the mining operation, such as putting a shed there, or are you talking about environmental damage that is caused by uranium or radioactive material spilling out? What sort of environmental damage are you alluding to?

**Mr Marr**—In all instances there has been major contamination of sites, particularly with Kakadu. One of the big problems is that there are a whole range of catchments that run into the Kakadu World Heritage area and existing mines that have been developed have all created

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damage around their own mine sites. Certainly in the case of Jabiluka and Ranger, there have been downstream effects. You also have a series of other deposits that all run into the park, so you are not just getting the initial damage from those mining operations but a major cumulative—

**Senator SCULLION**—Within the mine site itself?

**Mr Marr**—No. There is a lot of stuff that has happened outside Ranger, which is not just the mine site. The committee have been up there already, haven't you?

**Senator SCULLION**—Yes.

**Mr Marr**—How you can argue that a massive hole in the ground like Ranger is not environmental damage, I have no idea.

**Senator SCULLION**—And you would not normally associate it with terms like open pit mining? That is what I am asking. It is something that is normally an accepted part of mining: that there is going to be an effect on the environment. That is what I want to get to. You said there has been some downstreaming impact outside the mining areas. What sort of environmental damage has been done there?

**Mr Marr**—Elevated levels of uranium have been found there.

**Senator SCULLION**—What sort of environmental damage has that caused?

**Mr Marr**—A perfect example is the wetlands in Kakadu. One of the reasons they were put on the World Heritage List was that they were uncontaminated—and now they are. You can argue whether or not this is going to have a significant long-term effect on some of the biota there, but you cannot argue about the fact that one of the very reasons those wetlands were put on the World Heritage List has already been destroyed, because it is no longer a contamination free catchment—as it was before the mining started.

**Senator SCULLION**—When we heard evidence from the Office of the Supervising Scientist, I asked if detectable levels had increased at all in the wetlands outside the mining areas, and they said there had never been a detectable increase in the levels of any contamination whatsoever in any of the wetlands of Kakadu. What do you say to that? Or perhaps you can point to evidence that contradicts that.

**Mr Marr**—What I say to you is that you cannot have a series of spills into those wetlands without any increase in the background levels. They have actually accepted that, in the conversations I have had with them.

**Senator SCULLION**—You talk about a series of spills. As I understand it, there has been no level of material leave the mine site itself, outside the last monitoring point, that has been above acceptable water standard levels; a water standard that has been developed and accepted internationally. So, when you are talking about a spill, are you talking about a focus level spill or a spill of a significant quantity of contaminated water? We have not taken any evidence that would demonstrate that has happened.

**Mr Marr**—There have been a series of spills. You can argue about what an acceptable level is, but certainly in a World Heritage area the threshold is much lower than it is, say, near a national park. There have already been a series of spills there that have been alarming. The Minister for the Environment and Heritage himself, after the last lot, started his own investigations and decided to get people together and bang their heads together because he was so concerned. You can keep blundering along, but sooner or later you are going to have a big mess. You can argue about how many angels can dance on the head of pin, if you like, but it is pretty clear that the standard of regulation, the quality of regulation and the ability to oversee that regulation up there are totally unacceptable at the moment. This is exactly why the environment minister himself started rounding people up to see what he could do to tighten things up—and this is after he had given all those wonderful assurances to the World Heritage Committee that they had world's best practice, blah blah blah.

**Senator SCULLION**—Again, can you try to point me to any evidence at all that there has been any detectable—with our technology—impact on the environment outside the mine sites in Kakadu?

**Mr Marr**—I think I can reasonably assure you that, by dumping extra uranium levels into those waters there, you are having an impact. Whether we can measure the levels and how long they will take to have an impact is an argument—

**Senator SCULLION**—We are talking about levels that I understood were well below 20 per cent those for a safe standard for drinking water, for example. These are focus levels; they are not low. It has been put to us that, before the mine was there, when the land was in its natural state, there would have been in the creeks, after a major flush by rain after the dry season, increased levels of uraniferous material taken down as part of something that probably had been happening for hundreds of years. The sorts of levels that we are talking about—certainly from all the evidence I have heard—would be appropriate; we are not talking about a level that I need to be concerned about. But you are talking about levels that would have localised environmental damage, so they have to be fairly significant. We are getting into something that I do not know or have not heard in evidence. What you are putting to me now is that we have significant localised environmental damage. From my brief knowledge of the sorts of levels of radioactivity you would have to detect, obviously it has to be very severe.

**Mr Marr**—The levels probably would have to be severe before you saw a rapid and demonstrable impact on the biota there. But the current set of circumstances ought to be a matter of the gravest concern. I also believe that they are going to have a very big job on their hands when they come to rehabilitation when the mining operations cease, because it is already clear that a number of subterranean waterways are not properly mapped or understood. They really do not have any clear idea of what the long-term consequences of that are going to be. It has been seen with Jabiluka, and with Ranger as well, that these guys keep making it up as they go along. They say, 'Oh well, market conditions have changed,' or, 'This deposit's not as rich as we thought, so now we're going to do this and we're going to do that.' The OSS and Environment Australia simply help to facilitate whatever the company's latest plans are, when they still do not have an overall understanding of how those ecosystems up there work.

**Senator SCULLION**—In your opening remarks, you spoke about the potential for a spill in Jabiluka and said that it basically cannot go anywhere else other than into the wetlands. On our visit there, I noticed there was a large dam—not a tailings dam—to catch the water; they also

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had evaporation techniques in place, and they had sprinklers and sprayers over quite a large area. I understand that the proposal when they put that mine in was to move that rock to Ranger to have it milled and processed there. When you talk about a spill, are you talking about a spill in the event that they were to mill and process the uranium on the site, or are you simply talking about their capacity to hold run-off water?

**Mr Marr**—I am talking about their capacity to hold run-off water, in the short term anyway. This is another classic example of a complete failure of process. The original idea was to mill the ore at Ranger. The traditional owners would not allow that to occur, so—if you can believe it—the government went off and facilitated the building of a milling operation and storage at Jabiluka itself, which was never envisaged in the original project. They did that entirely on the run, because the company was putting pressure on the government, and the government made sure that the project was facilitated. But they still did not have—

**CHAIR**—I am sorry to interrupt this. It is my understanding that the approval is already provided for milling at Jabiluka.

**Mr Marr**—That is right, yes.

**CHAIR**—ERA wishes to mill at Ranger.

**Mr Marr**—Originally, they had intentions of doing the milling at Ranger, and they started the project off in the belief that they would be able to bludgeon the traditional owners into submission on that. When that did not occur, part way through the process they then decided to get the approval for the Jabiluka milling operation. They did not go back and ask questions from the base; they just added a few more bits on as they went. That is one of the reasons they were continually on the run.

**Senator BUCKLAND**—Just in case I have been asleep, the milling is done at Ranger.

**Senator SCULLION**—Yes, they are milling at Ranger but not Jabiluka ore.

**CHAIR**—We are talking about Jabiluka.

**Senator BUCKLAND**—Not Jabiluka?

**Mr Marr**—Not the Jabiluka ore.

**Senator BUCKLAND**—Okay.

**Mr Marr**—The traditional owners will not allow the Jabiluka ore to be milled at Ranger. So that has added an extra \$200 million to the cost of the operation, and it has also led to a whole lot of very contorted performances from ERA in order to retrofit to the Jabiluka milling option the approvals they had already been given.

**Senator SCULLION**—You mentioned that ERA and Rio Tinto have opportunities to develop other uranium mines around the world. Do you have any problems with them mining uranium in other parts of the world?

**Mr Marr**—Yes, I do. I have a lot of problems with Rio Tinto, but the fact is they exist, they have got existing uranium deposits. My point is not, ‘Let’s go off and give this problem to someone else.’ My point is that they have existing operational uranium deposits which would meet any of their short-term requirements for markets and, therefore, it is not necessary for them to develop Jabiluka as a corporate strategy.

**Senator SCULLION**—You have said that all uranium mines in Australia have resulted in localised environmental damage. No doubt you are aware of the Beverley prospect? I have to say that, when I visited there, I almost did not know I was on a mine site, having visited other mine sites in the world. As you say, they are normally horrid holes in the ground—it is a necessary part of mining—and this was just a whole bunch of pipes sticking out of a paddock. I would say, on the face of it, there was very little change to the vista there. Would you agree that that may not fit into having ‘localised environmental damage’?

**Mr Marr**—I have not been to Beverley, but I do know that they are doing most of the damage underground rather than above ground, so I am not surprised it does not look particularly dramatic on the surface.

**Senator SCULLION**—I had not heard of the Jabiluka closure plan either. Where did you get the information that there was a plan? Where did that come from?

**Mr Marr**—I understand that was mentioned in evidence to the committee.

**Senator BUCKLAND**—If they were mining iron ore or coal in that area rather than uranium, would you have a difficulty with that?

**Mr Marr**—Absolutely, I would; yes. You have been to Kakadu. It is quite clear that the areas that are in current mineral leases are an integral part of the Kakadu World Heritage area. Both the cultural and the environmental values of the surrounding World Heritage area flow through those leases. There is no question—

**Senator BUCKLAND**—Let us forget the cultural part, because you said you are not representing the people.

**Mr Marr**—That is fine; it is not my area. Certainly, the environmental values of the surrounding park run through those leases in the same way that, when you have a spill at Jabiluka, it ends up in the World Heritage area. You can have your nice administrative bit of sophistry that says, ‘We drew a line on that,’ and say that this is no longer part of the World Heritage area, but physically and ecologically it is an integral part. So, yes, I would have exactly the same problem whether it was coal, tin or anything else. You should not have mines in those particular lease areas, but there is a particular issue with uranium because of the really bad track record of this company and because of the long-term effects of this particular mineral.

**Senator BUCKLAND**—It is not part of our inquiry, but it needs to be brought in. I am not sure why it is not part of our inquiry. What is your position in relation to the Roxby Downs operation, Olympic Dam?

**Mr Marr**—It should not be operational.

**Senator BUCKLAND**—But that is the Wilderness Society's view, isn't it, that the whole thing should be closed down and you cannot do it?

**Mr Marr**—Yes. We believe uranium mining is an immoral act.

**Senator BUCKLAND**—I accept that. I may not agree with you, but I accept your position in relation to that. You said that the committee could demand an upgrade of the bond. Just explain that to us.

**Mr Marr**—I do not have all the details on this but I know that there is an environmental bond associated with both Ranger and Jabiluka. I am not sure exactly how big it is at the moment. Every time I tried to get to the bottom of it, it just got greyer and greyer the closer I thought I was getting. Certainly, one thing the committee could be demanding is to know exactly what the bond is and exactly what conditions are associated with it. I will guarantee you that, given the scale of the problems that the community is likely to face once these mining operations are finished, it is probably massively inadequate. I would be amazed if it is not.

**Senator BUCKLAND**—How does it help your cause by having a greater bond or greater knowledge if in fact you want to close the operation down?

**Mr Marr**—It does not solve any of the short-term problems at Kakadu, but hopefully it provides some funds to do the ongoing remedial actions that are going to be required whenever the mining stops—whether that is tomorrow or in 20 years time.

**Senator BUCKLAND**—Even holding that position, why do you argue that the only option is closing down mining rather than installing effective regulation? Some regulations regarding uranium mining, and in fact mining of any type, are fairly strict. If the mine were removed from that site—we are playing 'what if', I guess, and that is a little bit unfair—and it was a couple of hundred kilometres from a heritage area, would you have the same difficulty with that?

**Mr Marr**—There are simple ways to disaggregate some of the things you have put together. As I said, we are opposed to uranium mining so, even if it were removed from Kakadu, we would still have that problem. Let us say it was a coal mine; we do not have a policy of no coal mining anywhere in Australia. The one thing that was quite clear when the government decided to proceed down the Jabiluka path is that, because of the siting of it, it was the one place that was guaranteed to mobilise the entire environmental community to the point of a head-on collision. It is not an accident that this has been one of the most contentious issues between the government and the environment movement in the last five years.

If you cannot stop uranium mining that is in the middle of a World Heritage area and against the wishes of traditional owners, you can be certain that protected area systems across the rest of the country are not worth very much. That is exactly one of the reasons why North were determined to build that mine there. It is not the only reason but it was one of them, because they were a very ideological company. It is also one of the reasons why Rio have taken a much more sensible business approach and said, 'We don't need this deposit right now. We know that, if we try to develop this operation, the public relations cost is going to far outweigh any money we might be able to make out of it, so we'll sit on the deposit.'

**Senator BUCKLAND**—But they—be they CRA, Rio Tinto or anyone else—would have put the mine there or started mining in the first place because the ore was there. You do not dig a hole where you are not going to get a return, do you?

**Mr Marr**—That is exactly with ERA have done. They really have been an abysmal performer in terms of their stock price and that is because they are just wasting shareholders' money. The only reason Rio are prepared to put up with it is that they are making a strategic decision to sit on what is a quite rich uranium deposit and see if the international market picks up. They are speculating. Rio are speculating at the moment. They are not investing money in Jabiluka. They would never—in fact, I have had this conversation with them—put a cent of their own money into the Jabiluka uranium deposit at this point in history.

**Senator BUCKLAND**—They may be speculating, but you are speculating on coming to that conclusion as well, aren't you?

**Mr Marr**—Yes. I think it is a fairly well-educated guess. I have had exactly these kinds of conversations with them, and we quickly reached agreement on the immediate financial value of the Jabiluka deposit. Just so you know, because they were forced to go down the Jabiluka milling alternative, which they never wanted to do in the first place, it meant they had to put \$200 million of their own money into getting the thing up and operational. One of my arguments to them was, 'You can put this \$200 million into some other mining operation that's not contentious somewhere else in the world where you can make a profit. Or you can divert that \$200 million of your own money into an unprofitable venture that's going to derail any public relations exercise you try to develop over the next five years. It's not a very sensible business approach.' I do not know how strongly they viewed that but that is exactly the strategy that they have adopted. They have not put a cent of their own money into it since they acquired the company by accident.

**Senator NETTLE**—I have a question that relates to something you put in your submission. I will read it out for the other senators and Hansard. It relates to a motion that I understand was passed at a meeting of the ACIUCN just last week. It says:

ACIUCN welcomes the recent statements from Rio Tinto's Sir Robert Wilson in relation to the rehabilitation of the Jabiluka mine site. ACIUCN notes that the IUCN Council has previously supported rehabilitation of the Jabiluka mine site. ACIUCN urges Rio Tinto to commence discussions with traditional owners and other stakeholders with regard to rehabilitation of the Jabiluka mine site.

ACIUCN further urges Rio Tinto to initiate discussions with traditional owners and the NT and Commonwealth Governments about the future of the Jabiluka mineral lease. ACIUCN acknowledges and supports the view of traditional owners that following full rehabilitation the Jabiluka lease should be retired and that the area should be handed back to traditional owners for incorporation into Kakadu National Park.

Can you tell us about the implications of the passing of this motion?

**Mr Marr**—Again, we have to speculate here, but it is very unusual to be able to get a resolution like that through the Australian Committee of IUCN. IUCN is made up of half government and half NGOs so any resolution that goes through has to be supported by both government and non-government parties. It is not an accident that the Australian Committee of IUCN has had difficulty saying very much on Jabiluka up to now because Environment Australia has not allowed the committee to do that. The only way that resolution could have got through was with the active support of Environment Australia. My question is: why would Environment Australia, having spent a fortune of taxpayers' money making sure that IUCN did

not try to water down the position on Jabiluka, suddenly start doing things to make a rod for their own back?

My only hope out of that is that maybe the company is more open to suggestion on the rehabilitation side of things than they have been up to now. I have not had a chance to talk to either Rio or Environment Australia since that resolution was passed, but I think that is the only sensible interpretation I can come up with. That resolution could not have gone through without the support of the federal government.

**Senator NETTLE**—So Environment Australia were present when that resolution was passed and they voted for the resolution?

**Mr Marr**—Yes.

**Senator NETTLE**—What do you think that says about the federal government's position on rehabilitation of Jabiluka?

**Mr Marr**—It has to mean one of two things: one is that they determined to put some pressure on Rio, in which case the Australian Committee of IUCN is not exactly the most powerful lever they could use; or, maybe, they are setting up the framework in agreement with Rio Tinto to move forward—but I do not know.

**Senator NETTLE**—Do you have any understanding of what the action out of that motion might be with regard to rehabilitation of Jabiluka? Do you have any views on what sort of action should come out of such a resolution?

**Mr Marr**—A recommendation from this committee to the government that they proceed on the basis of that resolution would be very helpful. If the government wants to do that, that is some justification for them to do so. If they do not want to do that, it is no skin off anybody's nose anyway. I have been the primary person dealing with Environment Australia on this matter internationally for the last five years and that is a very significant change of direction—so that will not be an accident. I have not got all the answers on that at the moment, but I intend to find them out in the next week or so. It would certainly be something that the committee should investigate.

**CHAIR**—In your submission you draw attention to the Environment Protection Biodiversity Conservation Act and say that it has weakened the Commonwealth's powers. Are you suggesting that it has done so in relation to any of the four mines that this inquiry is looking into?

**Mr Marr**—It has weakened the World Heritage convention implementation in Australia in general. In that case, yes, it applies to both Ranger and Jabiluka.

**CHAIR**—How?

**Mr Marr**—Basically the original legislation said that you had to protect the property. What the Australian government has been pushing primarily since the Jabiluka stuff took off is that you should not damage the values. The reason you can dig a big hole at Jabiluka—like the decline there—and make the general mess they have there without affecting the values is that,

unless you can prove that this rock has been damaged or that this is not the best rock in the world—

**CHAIR**—But the approval for Jabiluka came through well before the EPBC Act was in place.

**Mr Marr**—Yes, but this argument had already been well developed so, when EPBC was being negotiated, it was just slipped in there.

**CHAIR**—Slipped in where?

**Mr Marr**—Slipped into the EPBC Bill.

**CHAIR**—What was slipped into the EPBC Bill?

**Mr Marr**—The fact that now you did not have to look after the property; you have to look after the values of the property.

**CHAIR**—I think we have just established that Jabiluka was not subject to the EPBC Act.

**Mr Marr**—A very extensive debate, particularly internationally, was already happening around whether or not Kakadu was being damaged by Jabiluka. The argument that Environment Australia put forward was that their job was to look after the values and not the property. That bit of sophistry means that, instead of looking at the property as a whole, you look at subsets of the property and that allows you the loophole to build your mines and whatever else you want to do. All I am saying is that, when the EPBC legislation went through, this was already the established approach on World Heritage issues and that that has been built into the act—that is all.

**Senator BUCKLAND**—I want to clear something up for the record. You said that the company played fairly nasty politics with the local Indigenous people to get the project to go ahead. What evidence do you have of that?

**Mr Marr**—It is not my business to speak on behalf of Aboriginal people, but—

**Senator BUCKLAND**—Well you cannot make that claim then, can you?

**Mr Marr**—I can make that claim, but I think you need to follow that up with the appropriate representatives. It is simply an observation of how the company operates and it is one of the reasons ERA—and I can make this claim as well—is deeply disliked in large parts of the Territory, because of their behaviour. I will give you an example. At one stage of the game there was a problem around the Boiwek site. They were building a shaft that would intersect with the Boiwek site.

**Senator BUCKLAND**—But I—

**Mr Marr**—No, I will finish answering your question. I spent the day with the mine manager out on the site, and I said, ‘What are you going to do about the Boiwek site? This is going to

cost you an extra \$10 or \$20 million.’ He said, ‘No, our Aboriginal liaison officers will solve that problem.’ He did not see it as an engineering problem at all; he saw it as a social engineering problem. So that is part of the basis of that assertion, but I am not the best person to quiz on that.

**Senator BUCKLAND**—Okay.

**Senator SCULLION**—On a point of clarification, you talked about the traditional owners’ resistance to having uranium mines near Kakadu. As I can recall the evidence, certainly, from the representatives of the traditional owners, whilst that is quite clear for Jabiluka, they appeared to be very supportive of the mine at Ranger. Notwithstanding their concerns in a whole range of evidence they put about the potential environmental damage and how we need to increase monitoring and a whole range of those things, their position was that the traditional owners supported the mine at Ranger for a whole range of employment and other reasons. Do you accept that the traditional owners support Ranger?

**Mr Marr**—No, I do not, because in all the conversations I have had with them they have said exactly the opposite. Again, I am not their spokesperson, but—

**Senator SCULLION**—It is just that their spokespeople certainly gave me the impression that they supported one but not the other.

**Mr Marr**—Did they clearly say to you, ‘We support the Ranger uranium mine’? I have never heard that said.

**Senator SCULLION**—Certainly that was what was said to me, yes. In a comparison of the two mines, one was clearly absolutely not supported, but they accepted that there was a clear flow of benefits from Ranger. They had wide environmental concerns and gave comprehensive evidence to the committee about those concerns. But, on the issue of having a mine at Ranger and the wider benefits that flowed, they said that there were different issues associated with Ranger as opposed to Jabiluka: they had agreed to Ranger, there were no cultural issues with Ranger that they now saw with Jabiluka and they were supportive of Ranger.

**Mr Marr**—That is not my understanding, but I was not there.

**Senator NETTLE**—Senator Scullion, that was not my impression from their evidence.

**CHAIR**—We will have to check the *Hansard*. Thank you very much for appearing before us today. That concludes the hearing.

**Committee adjourned at 1.54 p.m.**