

Senate Legal and Constitutional Committee

RE: National Radioactive Waste Management Bill 2010

Dear Senators,

I write to lodge my concern about the National Radioactive Waste Management Bill 2010, the process of consultation with Territorians about this document, and the subsequent concern that has caused in the community. I will also address my deep concern about this very inquiry.

Despite being one week late, please accept this submission in the spirit of inquiry.

By way of introduction, I was born and raised in Tennant Creek and have always lived in the Territory. My background in the media since the age of 15 has put me in good stead to be able to hear the stories and concerns of Territorians from every creed and walk of life. The issue of a nuclear dump has divided opinion as a result of a number of factors – I appreciate this is not the issue being looked at for the basis of this inquiry. However, this emotional response has been underpinned by an air of secrecy at all levels of this process.

In the second reading of the bill in the Federal Parliament, Mr Martin Ferguson, Minister for Resources and Energy said: *“The government is committed to ensuring community input and an open dialogue with regional interests on this important project”*. However, this very inquiry had a submissions window of just two weeks to consider the bill and formulate an informed response. An unfair process for those with legal understandings and a clear grasp of the attached processes. When you consider the majority of people living in the Barkly are further disadvantaged by either not communicating with English as their first language, or with limited access to internet and communication devices.

Recommendation: At the conclusion of this process, enact a broader inquiry which actually seeks out to hear from those most likely to be affected, and overcomes language, location, and procedural barriers.

Senator Crossin, the chair of this inquiry, told the *Northern Territory News* there were only four submissions from Tennant Creek about this issue. This stands as further proof of my deep concerns about the narrow scope of addressing this matter. To further compound this concern, your committee has refused to visit Tennant Creek based on the very academic notion of the amount of submissions. This notion in itself is offensive and unfair. In 2007, the Federal Court of Australia was convened under a tent on the dusty dance ground of the Nyinkka Nyunyu Art and Cultural Centre in the township of Tennant Creek for the handing down of an historic land consent determination. People came from far and wide to be a part of this occasion and the powers that decided to take that step were praised. Minister Ferguson, in his second reading speech in the house, said of the bill: *“It provides procedural fairness – a right for people to be heard”*.

Recommendation: Convene this inquiry in Tennant Creek to give those people a chance to be involved. Include a public education campaign to involve

Territorians in democracy.

The bill, by my interpretation, is a carbon copy of the Commonwealth Radioactive Waste Management Act 2005. While the opening of the new bill repeals that previous act, it maintains the essence of the previous act – which was widely condemned by the former opposition as it made its passage through Parliament. I appreciate there have been some changes, including allowing decisions to be reviewable. That needs to be applauded. But, as I said earlier, the very essence of the act to be repealed is embodied in this new bill. *“Cautious and comprehensive evaluation is necessary to verify whether a site is suitable for a facility, to ensure the safe management of Australia’s radioactive waste and protection of people and the environment,”* Minister Ferguson said in his second reading speech. Yet that idea is at odds with what is happening. A deal was brokered – by the former government – with the Northern Land Council, that is being maintained by this new government. If that *“cautious and comprehensive evaluation”* were actually the case, wouldn’t the slate have been wiped clean and a transparent process have been enacted to choose a new site. There is an air that the Muckaty site has been upheld out of ease. In fact, whole sections are included in this bill that set down easier ways of land councils working directly with the commonwealth to make these sorts of decisions

Recommendation: If the government is sincere about wanting a transparent and clear process to select a site to house the nuclear dump, a new bill needs to be drafted that reflects that aspiration.

Clauses ten, eleven, and twelve of part three – selecting a site, are of great concern. This section of the bill further erodes the powers of the Territory and gives the commonwealth the ability to carry out tasks they just would not have the benefit of in a state. The government is using the constitutional weakness of the Territory’s unequal sovereignty – because we are not a state – to force this facility on the NT. If in fact the Minister does want a transparent and fair process, then why not do away with these sections of the bill. While the government is legally able to enact legislation which overrides any law in the Territory, is that fair. It becomes a moral issue. Clause twelve extinguishes the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* and the *Environment Protection and Biodiversity Conservation Act 1999*.

Recommendation: Sections of this act which put the Northern Territory on a deliberately unequal playing field compared to the states be removed. This Senate inquiry explore why the two acts in clause twelve are being extinguished and what the impact of that will be.

There is great concern about the environmental surveys and the choice of Muckaty to house the facility. There is an obvious need for transportation of waste to be done safely. Having a facility in the middle of the country – thousands of kilometres from any of the places where the waste will originate does not make sense.

Recommendation: Full and thorough considerations needs be given to the environmental implications and impact of transferring waste and storing it in this area.

Thank you for your time and consideration of my submission. You have a great

opportunity to address concerns of Territorians, and involve them fully in the processes of parliament and democracy.

Yours Sincerely

Daniel Bouchier
22 March 2010