



March 12, 2010,

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Senate Legal and Constitutional Committee
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Submission on proposed repeal of the Commonwealth Radioactive Waste Management Act and its proposed replacement legislation – the National Radioactive Waste Management Bill (NRWMB)

Dear Committee members,

The SEARCH Foundation is a non-profit company committed to democracy, social justice and ecological sustainability. We believe that the nuclear fuel cycle is incompatible with ecological sustainability and social justice and democracy, because of the intractable problem of managing high level nuclear waste, the real danger of nuclear weapons proliferation and therefore nuclear war, and the deeply undemocratic laws that governments deem necessary to manage the real dangers of nuclear technology.

While this Bill is about a low-level nuclear waste dump, the nuclear industry sees areas like Muckaty Station as a real option for a global high-level nuclear waste dump and if it goes ahead it there is the real possibility of a much larger and more dangerous proposal coming next. A high-level nuclear waste dump in a remote part of Australia would be a green light for irresponsible expansion for the global nuclear fuels cycle.

Muckaty Station

We understand that Muckaty Station is the only site to be nominated for a low-level nuclear waste dump under the proposed new legislation, the National Radioactive Waste Management Bill. This in itself is a breach of faith by the Labor government on its 2007 election promise.

The nomination of the Muckaty site is highly contested.

It is essential that the Senate Committee pay due respect to the Traditional Owners by travelling to Tennant Creek to take evidence from them directly.

The nomination of the Muckaty site by the Northern Land Council was highly controversial and is strongly contested by many Traditional Owners. Resources Minister Martin Ferguson claims that Ngapa Traditional Owners support the nomination of the Muckaty site but he knows that many Ngapa Traditional Owners oppose the dump. As well as numerous requests for meetings, the Minister received a letter opposing the dump in May 2009 signed by 25 Ngapa Traditional Owners and 32 Traditional Owners from other Muckaty groups.

The Minister is also aware of the unanimous resolution passed by the NT Labor Party Conference in April 2008 which called on the Federal Government to exclude Muckaty on the grounds that the nomination "was not made with the full and informed consent of all Traditional Owners and affected people and as such does not comply with the Aboriginal Land Rights Act".

The Minister also knows that fellow Ministers Jenny Macklin, Kim Carr, Peter Garrett and Warren Snowdon, among others, have acknowledged the distress and opposition of many Muckaty Traditional Owners to the proposed nuclear waste dump.

This Bill is highly coercive

Section 11 of the Bill explicitly overrides any state or territory laws that would hinder site selection.

Section 12 then eliminates Aboriginal interests (the Aboriginal and Torres Strait Islander Heritage Protection Act 1984) and environmental interests (the Environment Protection and Biodiversity Conservation Act 1999) from the process of choosing a site.

Section 13 eliminates the property rights of any individual unlucky enough to be in the path of the dump or its access corridors.

Once a site is chosen, it will be assessed under commonwealth environmental legislation which has almost no mechanisms for preventing the project from going ahead.

All discretion in the hands of the Minister

The Bill places enormous power in the hands of the Minister to assess whether or not the Muckaty nuclear waste dump site should go ahead. The Bill gives no information about how this assessment will be carried out, and the Bill makes it clear that local people have no right of appeal.

The case for a remote dump has never been made

Nuclear waste should be moved as little as possible, and should be stored above ground close to the point of production, close to centres of nuclear expertise and infrastructure.

The Lucas Heights nuclear agency ANSTO is by far the biggest single source of the waste, and all the relevant organisations have acknowledged that ongoing waste storage at Lucas Heights is a viable option — the Australian Nuclear Science and Technology Organisation, the Australian Radiation Protection and Nuclear Safety Agency, the Australian Nuclear Association and even the Minister's own department.

Additionally, requiring ANSTO to store its own waste is the best — and perhaps the only — way of focusing the Organisation's collective mind on the importance of waste minimisation principles.

Any site selection process ought to be based on scientific and environmental siting criteria, as well as on the principle of voluntarism. In 2005, the Howard government chose the NT, and ruled out NSW, for purely political reasons. When the federal Bureau of Resource Sciences conducted a national repository site selection study in the 1990s, informed by scientific, environmental and social criteria, the Muckaty area did not even make the short-list as a "suitable" site.

Therefore we strongly urge the Committee to reject the nomination of Muckaty Station as part of the Bill, to support the repeal of the Commonwealth Radioactive Waste Management Act, and to recommend the Lucas Heights Nuclear Facility as the storage site for low-level nuclear waste in Australia.

Yours sincerely,

Peter Murphy
Coordinator