

20 March 1999

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

Dear Sir,

**Re: Parliamentary Inquiry into the Reeves
Report on the Aboriginal Land Rights (Northern Territory) Act**

The submission that follows is made in reference to oral evidence given by Mr. Colin Agnew in Darwin on Thursday, 4 March 1999 in which he cited and quoted from my published work. The submission contains clarification of points that arise from Mr. Agnew's reference to my work. I would also welcome the opportunity to make an oral submission on this matter.

Yours sincerely,

Nancy M. Williams, Ph.D., F.A.S.S.A.
Adjunct Professor, Centre for Indigenous Natural and Cultural Resource Management
Northern Territory University

Mr. Colin Agnew, Managing Director of Nabalco Proprietary Limited, made an oral submission to the Committee on 4 March 1999 in Darwin. Nabalco is the Manager of the Gove Joint Venture, whose main business is bauxite mining and alumina processing in the area of the Gove Peninsula, on land owned by Yolngu clans and leased by the Commonwealth Government to the mining consortium. The Yolngu are the Aboriginal people of northeastern Arnhem Land.

In his oral submission, Mr. Agnew cited and quoted from my published work in relation to the nature of boundaries on Yolngu lands. He linked his interpretation of my work to comments he made on issues of concern to Nabalco pertaining to the distribution of statutory royalty equivalents.

The Yolngu system of land tenure contains detailed and precise means of defining boundaries and indicating their location. My published work in which boundaries and their meanings are described includes *The Yolngu and Their Land: a System of Land Tenure and the Fight for its Recognition* (Stanford University Press 1986) and a chapter titled "A Boundary is to Cross" in *Resource Managers* (Westview Press 1982, reprinted by Aboriginal Studies Press 1986), a book that I co-edited.

In what follows I correct Mr. Agnew's errors of interpretation and clarify certain issues relating to boundaries in the Yolngu system of land tenure. I do not deal with royalties, which are the responsibility of the Northern Land Council and the Yolngu recipients.

In a section of *The Yolngu and Their Land* titled **The nature of geographic boundaries**, I wrote, "Boundaries are always marked by natural features . . . differential elevations, including, for example, the specific location of a change in gradient [may] serve as boundaries. Land forms such as hills, mountains, cliffs, and particular kinds of each may also serve as boundary markers. Streams, rivers, drainage basins, watersheds, and specific features of each may mark boundaries. Vegetation types, edaphic characteristics such as the size of soil particles, gravel, sand, or rock, their colour, and other physical

features as well as varying combinations of all the characteristics may serve to indicate boundaries.

"Boundaries are not simply defined by, say, a hill or a river. For example, a boundary may be located near the crest of a hill, but just short of the summit where a slight change in gradient occurs. Another boundary may lie along the water line on one side of a stream. Still another may be marked by a slight change in gradient which occurs in association with a combined change in drainage pattern, soil type, and vegetation . . . Where there is no ecological shift permitting such boundary definition, Yolngu use single features such as boulders or trees . . .

"Some boundaries fall along the borders of what are basically ecologically defined areas, that is, they run along the perimeters of such areas. For example, an area referred to as *dol* includes a stream along which certain species of paperbark trees grow plus a surrounding area of . . . monsoonal forest . . . (p. 82).

After providing additional means by which Yolngu may define the physical existence of boundaries, I refer to the use of boundaries and the implication of precision: ". . . The degree of precision with which Yolngu define boundaries is analogous to conventions with which Europeans are familiar. For example in a pastoral area . . . a boundary between properties is held to exist although it may be unmarked. The area in which it exists is known and several means are available by which it may be precisely defined if necessary: through title search, the use of surveying instruments, or the construction of fences, for example. In an urban area, streets, foot paths, fences, hedges and the like are understood to mark the boundaries of owned lots of various size, yet some other means of determining the boundary may be employed should a dispute between owners arise or should the municipality require an easement . . .

"The fact that in particular instances people may not make boundaries precise should not obscure the fact that they have concepts of boundary, nor should it obscure the significance of boundaries that may have been precisely held in the past. Boundaries are,

in general, only as precise as they need to be and they may be precise or imprecise for a number of reasons. If a Yolngu person professes a lack of precise knowledge about a boundary or refrains from stating its precise details, it may mean that relations between the owners on opposite sides of the boundary are amicable (or that person may intend to convey such a message). Conversely, describing a boundary in great detail may reflect a dispute about its location. European real estate owners are familiar with similar conventions. It is as misleading to infer that boundaries do not exist or cannot be made precise from lack of explicit description or discussion as it is to infer that where there are no disputes about property there are no rights in property. Reticence to locate precise boundaries may even indicate concern about the consequences of doing so, that is, of challenging existing harmonious relations"(pp. 83-84).

Mr. Agnew's reference to my work is apparently only to the quotation he provided and is misleading because of the absence of context. The quotation is from *Country* by Peter Sutton (Aboriginal History Monograph 3, 1995): That book includes anthropologists' assessments of descriptions and analyses of boundaries in the book by Davis and Prescott, *Aboriginal Frontiers and Boundaries* (MUP 1993). My short contribution suggested that Yolngu would find the names and lines on Davis's map incorrect. I said with respect to my own explanations of Yolngu boundaries, "I have tried to . . . explain what I believe are the principles that Yolngu use to negotiate [their interests in land] and they include the means (including physical features) by which they may indicate the location of boundaries in any given landscape or seascape. I have tried to show how the location of boundaries may be indicated by the ways, sometimes very subtle ways, in which people may seek permission to cross them"(p. 126).

Negotiation of interests in Yolngu land, including the settling of boundaries, is a Yolngu responsibility. It is of the greatest import to Yolngu people and is in the hands of Yolngu leaders, who undertake the negotiations with great seriousness and often in a ritual context. I believe that my responsibility as an anthropologist is not to intrude in that process but to describe its terms and thereby to assist non-Yolngu people to understand the outcome.

Mr. Agnew's contention that I say I "cannot draw defined boundaries" is misleading. Defined boundaries do exist. When a boundary needs to be defined, there is a Yolngu procedure in place and Yolngu people with the authority to define it.

Nancy M. Williams

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