

# Supplementary Submission to Senate Inquiry

## Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008

Submitted by Dr Jim Green (Friends of the Earth) and Natalie Wasley (Beyond Nuclear Initiative).

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The following points were compiled in response to the Northern Land Council supplementary submission (96A) to the Senate Committee Inquiry on this matter.

### 1. The previous national study to identify waste dump sites:

The Northern Land Council supplementary submission states " ... all Aboriginal land in the Northern Territory was excluded even if it appeared scientifically suitable."

This is referred to footnote 45: *This is clear from the study's methodology. Advice provided by Pat Davoren, Department of Education, Science and Training, August 2005.*

However, there is no mention of NT land being excluded in any of the relevant government literature (cited below) and it appears that the NLC is relying on incorrect advice from Mr Davoren.

\* National Resource Information Centre, Dept of Primary Industries and Energy, 1992, "A Radioactive Waste Repository for Australia: Methods for Choosing the Right Site: A Discussion Paper".

\* Bureau of Resource Sciences, 1997, "A Radioactive Waste Repository for Australia: Site Selection Study - Phase 3 Regional Assessment: A Public Discussion Paper"

\* National Resource Information Centre, Dept of Primary Industries and Energy, 1992, "A Radioactive Waste Repository for Australia: Site Selection Study - Phase 2: A Public Discussion Paper"

### 2. The number of trucks

The NLC attacks Dr Jim Green from Friends of the Earth for allegedly overstating the number of trucks of radioactive waste to be sent to the repository.

The NLC claims that "up to 150 trucks" would travel to the proposed repository in the first year. Presumably that refers to the stockpile of waste destined for the repository from Lucas Heights. It overlooks, among other things:

- 200 trucks (2,000 cubic metres of waste) from Woomera.
- up to 500 trucks (5,000 cubic metres) of dismantled reactor components (HIFAR and OPAL).

- the possibility of 100+ trucks of waste from non-Commonwealth sites (if the government, or some future government) opens the repository to non-Commonwealth waste.

Since the NLC has provided the current Senate Inquiry with the above information, it can be assumed that Traditional Owners have also been provided with this advice by the NLC.

NLC mentions "... occasional transport of intermediate level waste under high security (this waste will ultimately be stored in a deep geological repository at another location distant from Muckaty Station)."

In fact, the federal government has made very little, if any, progress towards the establishment of a deep geological facility. Interim storage at Muckaty could last for decades, centuries or millenia.

### **3. The process by which land is returned**

There is a provision in the Commonwealth Radioactive Waste Management Act that states if any contamination has occurred on land used for a dump, it will not be returned to Traditional Owners.

The return of the Land is firstly at the discretion of the Minister, and also must be consented to by the relevant land council.

It is possible that the Minister or the land council may not consent to have the interest in land returned.

### **4. Indemnity by the Commonwealth**

Commonwealth Radioactive Waste Management Act (2005)

Section 14H

The Commonwealth must indemnify each Land Trust specified in a declaration under section 14C, and keep the Land Trust indemnified, against any action, claim or demand brought or made against the Land Trust in respect of any liability arising from, or damage caused by, ionising radiation from any act done or omitted to be done by or on behalf of the Commonwealth in relation to the transport of controlled material to or from, or the management of controlled material at, a facility on the land specified in the declaration.

Julie Bishop (former Science Minister), when accepting the Muckaty nomination, said in her second reading speech: *We will not be returning a dirty or polluted site... However, in the extremely unlikely event that contamination occurs as a result of use of the land for the facility, the traditional owners will be indemnified by the Commonwealth against any resultant claims.*

Commonwealth indemnity for any future claims likely make it more appealing for land councils to nominate land, as it mitigates future liability on their part.

### **5. Use of reactor for science**

The NLC presents information purporting to justify the Lucas Heights reactor on the grounds of its contribution to scientific research.

The NLC does not appear to be appraised of the following:

a. The 1993 Research Reactor Review's conclusion on the scientific uses of a new reactor was that "at present the case for a new reactor on science grounds cannot be sustained ..."

b. Prof. Barry Allen, former Chief Research Scientist at ANSTO, argues that "... the reactor will be a step into the past ... (it) will comprise mostly imported technology and it may well be the last of its kind ever built. More importantly, anticipated developments in functional magnetic resonance imaging may well reduce the future application of reactor-based nuclear medicine. Certainly the \$300 million reactor will have little impact on cancer prognosis, the major killer of Australians today. In fact, the cost of replacing the reactor is comparable to the whole wish list that arguably could be written for research facilities by the Australian Science, Technology and Engineering Council (ASTEC). ... Apart from the neutron-scattering element of the reactor, there will be little research and development yet it will make a large dent in the budget for Australian research, which at this point is so badly needed in order to take us into the next century. ... The decision to proceed with a new reactor is not wrong, but it is a far cry from the optimal expenditure of funds that Australia badly needs in science and technology."

\* Allen, Barry, 1997, "Benefits of Nuclear Reactor Still Unclear", Search, Vol.28(9), p.259.

c. Dr. John Stocker, who in 1997-98 was Chief Scientist and Chair of the government's advisory body the Australian Science, Technology and Engineering Council (ASTEC), said that neither he nor ASTEC were consulted by the government before announcing the decision to replace HIFAR (Pockley, 1997).

\*Pockley, Peter, 1997, "Senate Inquiry into Research Reactor", Search, Vol.28(10), p.296.

d. Prof. Ian Lowe (1993), from Griffith University, analysed the reactor/science debates during the RRR and concluded: "In summary, science policy considerations suggest strongly that a new research reactor should not be a high priority for Australia's small public sector research budget."

\* Lowe, Prof. Ian, 1993, Annexure to the Sutherland Shire Council's First Round Supplementary Submission to the Research Reactor Review.

e. In 1993, the head of the CSIRO said that it could not support a new reactor if funding was not addition to usual science funding, and that more productive research could be funded for the cost of a reactor.

f. The 2001 Senate inquiry into the new Lucas Heights reactor stated:

"The Committee notes that the decision to build a new research reactor was taken without a comprehensive review of scientific

research funding in Australia that may have given the Government and the Australian people a better understanding of where investment would be most productive. It is disappointed that the decision about the new reactor was made without broad consultation with the scientific community. ... The Committee finds that no conclusive or compelling case has been established to support the proposed new reactor and that the proposed new reactor should not proceed."

The NLC does not attempt to justify the reactor for medical isotope production - presumably because that specious argument has previously been rejected by senior Labor MPs, by the Labor-dominated 1999 and 2001 Senate inquiries, and by nuclear medicine experts such as the above-mentioned Prof. Barry Allen.

## **6. Responses to correspondence**

The NLC claims that all correspondence sent from Traditional Owners and other groups have been answered. This is incorrect, as at least two letters- from the Arid Lands Environment Centre-Beyond Nuclear Initiative (dated September 16, 2008) and the Top End Aboriginal Conservation Alliance have never been acknowledged as received, or responded to.

## **7. Answers to questions on notice**

In the interview on CAAMA radio submitted as a Media Monitors transcript in the NLC Supplementary submission, Amy Lauder states *'We're protecting our own Ngapa site. Only the Ngapa people, Ngapa Traditional Owners only, that's me, myself, my sister and my brother. And our children are the custodians'*.

In contrast, at the Alice Springs Senate Hearings Mr Ron Levy, NLC lawyer, claimed *"the precise number of the group concerned...40 or 50 people, if you include younger people"*. It is important to clarify which claim is correct, as this indicates how many people were said to have nominated the area on Muckaty and also indicate how many people will receive the financial payments from this action.

The NLC supplementary submission is still vague as to the exact number of people attending meetings and which group they are from, using terms like *"from various groups"* and *"well attended"* (meetings). The supplementary submission does not address clear questions from Muckaty Traditional Owners and the Senate Committee Members as to who attended and who signed regarding the waste dump, which are critical points of contest in this discussion.

The NLC attempt to undermine critics by stating they have acted *'without reference to...anthropological advice'* (section 1). However, the NLC also repeatedly says this advice is sensitive and cannot be provided publicly (s.2).

## **8. Contested nomination**

It is important to note that the NLC accepts there is strong contest to the Muckaty nomination from Traditional Owners of Ngapa and other groups within the Muckaty Land Trust. While the NLC continues to state its consultation and nomination processes were sufficient under the current law (Commonwealth Radioactive Waste

Management Act) it also accepts there is contention which would likely lead to a legal challenge if this Act was repealed.