

* * * COMMUNICATION RESULT REPORT (3. SEP. 2008 8:08) * * *

FAX HEADER: McCluskys Lawyers

TRANSMITTED/STORED :	3. SEP. 2008 8:06	ADDRESS	RESULT	PAGE
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3 September 2008

ATT: Graeme Smith
 Northern Land Council
 PO Box 55
 Tennant Creek
 Northern Territory 0861

BY FAX: (08) 8962 1636

Dear Sir,

RE: Muckaty Land Trust – Proposed Radioactive Waste Facility

We have been asked to write to you on behalf of the following Ngapa, Milwayi, Ngarrka, Wintiku and Yapayapa Elders and Traditional Owners of the land within the Muckaty Land Trust:

1. Dick Foster Jangala- Ngapa;
2. May Foster Napanangka – Ngapa / Wirntiku;
3. Beasley Anderson Jakamarra - Ngapa;
4. Anne Anderson Napurmla - Ngapa
5. Diane Stokes Nampijinpa – Milwayi /Yapayapa;
6. Sammy Sambo Jungarrayi – Milwayi;
7. Bunny Bennet Naparula - Milwayi;
8. Gladys Brown Nungarrayi – Milwayi / Ngarrka;
9. William Graham Jakamarra - Ngarrka;
10. Bindi Martin Jakamarra - Ngarrka;
11. Pieta Laughton – Ngarrka;
12. Timothy Manfong Jupurrula – Ngarrka;
13. Louie Martin Nakamarra – Ngarrka;
14. Susan Nelson Nakamarra - Ngarrka;
15. Penelope Phillips - Wirntiku; and
16. Ruth Phillips Napangarti - Wirntiku;

(“Muckaty Traditional Owner group”)

Significant concerns have been expressed by the members of the Muckaty Traditional Owner group listed above in relation to the development of and dealings relating to a proposed federal radioactive waste facility, which we are instructed may be constructed on land within the Muckaty Land Trust.

Such concerns include:

1. lack of consultation with Traditional Owners and members of the community interested in the land, contrary to the requirements under s 23 of the *Aboriginal Land Rights (Northern Territory) Act 1976*, in particular, complaints include:

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Significant concerns have been expressed by the members of the Muckaty Traditional Owner group listed above in relation to the development of and dealings relating to a proposed federal radioactive waste facility, which we are instructed may be constructed on land within the Muckaty Land Trust.

Such concerns include:

1. lack of consultation with Traditional Owners and members of the community interested in the land, contrary to the requirements under s 23 of the *Aboriginal Land Rights (Northern Territory) Act 1976*, in particular, complaints include:

- a. community members being provided with unreasonable short periods (if any), of notification of meetings concerning the proposed use of the land;
 - b. ongoing negotiations with some members of the community, namely certain members of the Ngapa group in confidence and to the exclusion of other Traditional Owners with regard to the proposed use of the land; and
 - c. failure to respond to correspondence and requests made on behalf of Traditional Owners seeking:
 - i. information concerning the proposed use of the land, in this regard we refer to a letter from Traditional Owners to the NLC dated 1 December 2006; and
 - ii. to arrange a meeting to facilitate public discussions concerning the proposed use of the land, in this regard we refer to a letter from Traditional Owners to the NLC dated 1 March 2007.
2. lack of provision of information requested, contrary to the requirements under s 23 of the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Corporations (Aboriginal and Torres Straits Islander) Act 2006* in particular, complaints include:
- a. non provision of access, on request, to information concerning the Muckaty Aboriginal Corporation including:
 - i. minutes of meetings held including minutes of Muckaty Aboriginal Corporation ("the Corporation") Annual General Meetings;
 - ii. details as to the Governing Committee / Board of the Corporation;
 - iii. details as to membership of the Corporation including refused access to the Register of Members; and
 - iv. decisions made by the Governing Committee.
 - b. lack of provision of information concerning the proposed federal radioactive waste facility, contrary to the requirements under s 23 of the *Aboriginal Land Rights (Northern Territory) Act 1976*, in particular complaints include:
 - i. lack of provision of details as to the current state of negotiations concerning any proposed radioactive waste facility; and
 - ii. lack of provision of details as to any payments made to individuals to date or which will be made in the future in relation to any radioactive waste facility.

3. a perceived conflict of interest arising from Ms Amy Lauder's position on the Council of the Northern Land Council and as Chair of the Muckaty Aboriginal Corporation and being one of the Traditional Owners who nominated the area for assessment.

We note that our client's are most concerned about these matters, which we understand have been communicated to you on numerous occasions since 2006.

As you are no doubt aware, when the Muckaty Land Trust (Land Claim No 135) ("the Land Trust") was recommended by the Aboriginal Land Commissioner, it was found that there was a sufficient degree of overlap between and links between the subject groups including affiliations through shared dreaming and shared areas of land to justify the establishment of one single land trust. In this context, we note that most if not all the recognised dreaming sites within the Land Trust, in the area where this proposed waste facility is to be located are shared dreaming sites between the Milwayi, Ngapa, Ngarrka and Yapayapa.

You will note from the attached plan that sites, Murunju-Mantang (66), Karakara (51), Lungkarta (5), Karntawarralki (74), and an unnamed site (109) are in the immediate vicinity of the proposed site. According to the Land Commissioners Report, Murunju-Mantang (66) is shared between Ngapa and Yapayapa, Karakara (51) is shared between Ngapa and Yapayapa, Lungkarta (5) is shared between Ngapa and Ngarrka, Karntawarralki (74) is a Milwayi site and the unnamed site (109) is a Ngarrka site.

Decisions which concern this single land trust, must be made in full consultation with all Traditional Owners of the land within the Muckaty Land Trust and with the Muckaty Aboriginal Corporation. We are instructed that this has not occurred and on this basis, the Nomination process is flawed and ought be declared invalid, void and of no effect.

We are instructed to inform you that the Traditional Owners listed above:

1. oppose any Radioactive Waste Facility and associated infrastructure on any part of the land within the Muckaty Land Trust;
2. require that the Northern Land Council convene a meeting to be held in mid to late September 2008, to enable all Traditional Owners to be provided with the opportunity to be heard in relation to this issue; and
3. demand that all planning processes in relation to this proposed site and Nomination cease, pending the outcome of an open and independent inquiry into the Nomination of the site.

Further, we are instructed by the Traditional Owners listed above to request the following documentation as a matter of priority:

1. a full and frank comprehensive update on the current status of planning for any use of the land within the Muckaty Land Trust including a copy of the recent report prepared by Parsons Brinkerhoff;
2. all documents which have passed between the Muckaty Aboriginal Corporation and the Northern Land Council with regard to any proposed use of the land within

the Muckaty Land Trust including correspondence, emails and agreements entered into between that corporation or representatives (whether or not in their representative capacity) of that Corporation;

3. a copy of all Nomination documentation concerning the Nomination of land within the Muckaty Land Trust for its proposed use as a radioactive waste dump and associated infrastructure including the Nomination itself and all notes and minutes of meetings of the Muckaty Aboriginal Corporation and the Northern Land Council relating to the Nomination;
4. the provision of details of any and all payments made to individuals or groups in relation to a proposed radioactive waste facility including payments made to individuals or groups in relation to the Nomination and for access to land for tests, surveys or the taking of samples;
5. that any future meetings be properly notified to this office and to each of the Senior Elders listed above providing at least 14 days notice, appropriate transport arrangements and held at a place and time convenient for Traditional Owners to attend;
6. the provision of all minutes of meetings held by the Muckaty Aboriginal Corporation including details as to any and all decisions made by the Corporation held by the Northern Land Council;
7. the provision of details as to the current Governing Committee / Board of the Muckaty Aboriginal Corporation; and
8. full details as to current membership of the Muckaty Aboriginal Corporation.

We consider this matter to be of importance and justifies a response as a matter of priority.

Yours faithfully



MCCLUSKYS

Cc: Northern Land Council, Darwin.
The Honourable Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs.

