



Australian Government

Department of the Environment and Energy

Ref: EC17-000161

Ms Christine McDonald
Committee Secretary
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms McDonald

Response to questions on notice - Inquiry into the protection of Aboriginal rock art of the Burrup Peninsula

I write to provide a response to questions on notice from the senate inquiry into the protection of Aboriginal rock art of the Burrup Peninsula which was held 17 February 2017. The Department of the Environment and Energy's responses are attached to this letter (**Attachment A**).

I bring to your attention new information in relation to condition 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approval for the Yara Pilbara Nitrates Technical Ammonium Nitrates facility that may be relevant to the inquiry, which has been provided to the Department since the hearing.

Air Quality Monitoring

Condition 9 of the EPBC approval requires the establishment of an air quality baseline after not less than 24 months of monitoring beginning from the commencement of construction of the facility.

Yara Pilbara Nitrates had indicated that the baseline monitoring report would be submitted to the Department by the 21 February 2017. Advice from Yara Pilbara Nitrates provided to the Department on 8 and 16 February 2017 identified potential delays in finalising the baseline air quality monitoring report, following a review of the data by an air quality expert engaged by the company.

Yara Pilbara Nitrates wrote to the Department on 10 March 2017 to confirm that baseline monitoring for Total Suspended Particulates, one of the five parameters specified in condition 9, had not been undertaken at all monitoring sites (**Attachment B**). In this letter the company advised that its air quality expert continues to undertake baseline monitoring and analysis, prior to submission of the baseline monitoring report to the Department.

The Department has advised Yara Pilbara Nitrates that it will engage an independent expert to review the company's baseline methodology and results to ensure that the baseline air quality dataset enables robust monitoring of any potential impacts to Aboriginal rock art, as protected as matters of national environmental significance under the EPBC Act approval.

As the company has not yet concluded their baseline monitoring, they are not currently in breach of condition 9 of the EPBC Act approval.

Aboriginal Rock Art

Following claims reported in the media made by Professor John Black of potential impacts to Aboriginal rock art as a result of industrial emissions from future industrial facilities located in the Burrup Peninsula. The Department has written to CSIRO requesting that CSIRO provides an explanation of the robustness of the CSIRO monitoring program, in light of Professor Black's work and any other relevant literature.

Under condition 7 of the EPBC Act approval, the company is required to submit an Operational Environmental Management Plan for approval by the Minister prior to commencement of operations. This plan has been submitted by the company and is currently under review by the Department. Through the Department's review process, the plan will not be considered for approval until it satisfactorily meets the requirements of the EPBC Act approval for protection of Aboriginal rock art in the Burrup Peninsula.

If you have any questions in relation to this letter or the attached please contact Ms Monica Collins, Assistant Secretary.

Yours sincerely

Matt Cahill
15 March 2017

- A: Department of the Environment and Energy response to Questions on Notice
- B: Letter from Yara Pilbara Nitrates to the Department of the Environment and Energy dated 9 March 2017

**Inquiry into the protection of Aboriginal rock art of the Burrup Peninsula
Questions on notice
Department of Environment and Energy**

Response to Written Questions on Notice

1. *Who wrote the Aboriginal Management Plan for the Commonwealth?*

Answer:

Condition 7(c) of the EPBC Act approval for the Yara Pilbara Technical Ammonium Nitrate facility requires the development and submission of an Aboriginal Heritage Management Plan for approval by the Minister.

The final version of the Aboriginal Heritage Management Plan, submitted to the Department for approval, was written by Kellie Hill Consulting on behalf of the approval holder.

2. *You have said that the endorsement required for the Aboriginal Management Plan was written by Dr Erick Ramanaidou of CSIRO. He is an expert in spectroscopy, is it appropriate for someone who is not an expert in Aboriginal Heritage to endorse this plan?*

Answer:

The Aboriginal Heritage Management Plan, required under condition 7(c) does not require endorsement. Under condition 10(c) (iii), written endorsement is required from a *Heritage Monitor* or *Suitably Qualified Person (Heritage)* on the suitability of additional rock art monitoring sites, prior to the commencement of monitoring at those additional rock art sites.

Heritage Monitor is defined as a suitably qualified expert with at least five (5) years' experience in Indigenous heritage or archaeology.

Suitably Qualified Person (Heritage) is defined as a person with at least a Bachelor's degree with Honours in archaeology or five (5) years' experience in Indigenous heritage or archaeology recognised by a relevant body such as the Australian Association of Consulting Archaeologists.

The *Heritage Monitor* is Dr Erick Ramanaidou (CSIRO). At the time the monitoring required under condition 10 commenced, Dr Ramanaidou had in excess of 5 years' involvement in rock art monitoring within the Burrup region.

3. *Has any study ever been done on the rocks themselves to determine their capacity to withstand acid depositions from industry?*

Answer:

A study undertaken by CSIRO and published in 2007 evaluated the role that dust may play in rock surface modification, by fumigating rock samples taken from the Burrup Peninsula with extreme concentrations of pollutants (organic solvents and acids). The paper is published on the Western Australian Government's website at:

http://web.archive.org/web/20091002111652/http://www.dsd.wa.gov.au/documents/BI_BurrupRockArtCSIROFieldStudies.pdf

On 2 March 2017, the Department was provided with a copy of a peer reviewed paper written by Professor Black entitled the *Theoretical effects of industrial emissions on colour change at rock art sites on Burrup Peninsula, Western Australia*. The paper focuses on the theoretical impact of acidity of rock surfaces and potential degradation of rock art. The Department is reviewing this paper, and has referred to it to the CSIRO for their review and assessment of the claims made by Professor Black.

4. *What is the current total pollution load in the Burrup a) for the current development b) for current development and the TAN plant?*

Answer:

The Australian Government only regulates those facilities in the Burrup Peninsula that are subject to an approval given under the EPBC Act. The Western Australian Government has responsibility for monitoring all industrial facilities in the Burrup Peninsula. Details of air pollution studies for the Burrup Peninsula are published by the Department of Environment Regulation on their website at <https://www.der.wa.gov.au/our-work/programs/36-burrup-rock-art-monitoring-program>.

The EPBC Act approval for the Technical Ammonium Nitrate facility does not set a total pollution load, but requires the establishment of a baseline dataset (condition 9) for future monitoring. The baseline dataset has not been completed, and has not yet been provided to the Department.

5. *What is the existing emission load from the YARA Fertiliser plant?*

Answer:

The Yara Fertiliser facility is subject to a 'not a controlled action' decision under the EPBC Act (EPBC 2001/199) and is not therefore subject to regulation by the Department. At the time of that decision, the Burrup Peninsula had not been listed as a National Heritage Place under the EPBC Act, and could not be considered as a factor in the making of that decision.

The Western Australian Government, as the regulator of the Yara Fertiliser facility, is best placed to provide this information.

6. *You have approved another Industrial plant which will emit into the atmosphere 25.2 t/yr (greater than 600 tonnes over the lifespan of the facility) of PM10 sized particles, 135 t/yr of NOx, 163.7 t/yr of N2O and 19.6 t/yr of NH3 that will be dispersed to the environment. Why did you consider the Ammonium Nitrate plant as a standalone development when it was not?*
- *Why did you not consider the cumulative emission load from the Fertiliser and the Ammonium Nitrate plant?*

Answer:

Cumulative impacts were assessed in the Public Environment Report and the Assessment Report (the Report and Recommendations of the Environmental Protection Authority dated January 2011) for the assessment and approval process

under the EPBC Act, and were taken into consideration in the approval of the action. The Public Environment Report is published on the website of the Western Australian Office of the Environmental Protection Authority.

7. *Why did the Department approve the TAN plant without knowing what effect that will have on what is the world's oldest and largest gallery of ancient rock art?*

Answer:

The action is subject to a controlled action approval. The impacts of the action on the Dampier Archipelago (including Burrup Peninsula) National Heritage Place were carefully considered during the assessment. Conditions have been applied to the approval to monitor and manage any potential impacts to matters of national environmental significance, including conditions to monitor the Aboriginal rock engravings.

8. *Are you aware that the Burrup is a nitrogen poor environment and that adding nitrogen particles will stimulate plant and microbial growth?*

Answer:

The Department notes from Hansard, statements provided by Professor Black speculating that the Burrup Peninsula is a nitrogen poor environment, and that Nitrogen, in addition to other elements, is known to be a stimulant of plant and microbial growth.

The EPBC Act approval requires air quality and rock art monitoring in order to detect any impacts from industrial emissions, and includes a condition to develop a management response if changes to rock art are detected.

9. *We have received evidence that weathering caused by lichens and mosses will affect the petroglyphs.*
o *Have you considered this in your decision making?*

Answer:

The Department notes from Hansard, statements provided by Professor Black speculating that increased nitrogen could cause impacts on the petroglyphs by stimulating lichen and moss growth.

Any changes in patination, including any discolouration, of the surface of the rock art or surrounding rock surface would be detected by the colour contrast and spectral mineralogy Monitoring Program.

10. *What is the air monitoring schedule?*

Answer:

The schedule for air quality monitoring is outlined in condition 9 of the EPBC Act approval for the Technical Ammonium Nitrates facility.

'To protect the values of the Dampier Archipelago (including Burrup Peninsula) National Heritage Place, particularly the **rock art sites**, the person taking the action must undertake an air quality monitoring program. The air quality monitoring program must:

a) Undertake air quality monitoring at three (3) sites as shown in Attachment 2. These sites being sites previously selected, designed, fenced off and used in the original Western Australian **Department** of Environment and Conservation (WA DER)/CSIRO air quality monitoring program.

- Site 5 - Burrup Road site
- Site 6 - Water tanks site
- Site 7 - Deep Gorge site.

The air quality monitoring must be undertaken for a period of not less than 24 months beginning from the commencement of construction. The results of this monitoring will be used to establish baseline data on levels of:

- Ammonia (NH₃);
- Nitrogen Oxides (NO_x);
- Sulphur Oxides (SO_x); and
- Total suspended particulates (TSP), including dust at those rock art sites.

- b) Ensure that the monitoring of air quality at **rock art sites** is undertaken by a **suitably qualified person (Air Quality)**.
- c) Ensure air quality readings during the twenty four (24) months of baseline monitoring are taken at least four (4) times in every 12 months.
- d) Ensure that the baseline data established from the air quality monitoring is reported to the **Department** in writing within 12 months of the completion of construction or following twenty four (24) months of baseline monitoring (which ever finishes last). The report must include a map clearly showing the location of each rock art site being monitored.
- e) Ensure air quality monitoring of the rock art monitoring sites (sites 5, 6 and 7) is continued for an additional period of five (5) years, following the establishment of baseline data and once operation has commenced, to record levels of NH₃, NO_x, SO_x and TSP, including dust.
- f) Report the results of the five (5) years of monitoring following the establishment of baseline, as per condition 9(e) above, to the Department, in writing, within two (2) months of that years monitoring having been completed.'

11. *Given that Yara was in breach of their approval; what was the basis for the variation dated 10 February 2014 to condition 10(C)iv, in which the Department extended by 16 months the requirement to comply with the condition 10(C)i?*

- *Has Yara now supplied the relevant report?*
- *If so, on what date was it submitted and who conducted the survey?*

Answer:

A variation to EPBC Act approval condition 10(c) (iv) for the Yara Pilbara Technical Ammonium Nitrate facility was made on 10 February 2014.

The variation was requested by the company and was made in response to delays in finalising consultation with the Murujuga Aboriginal Corporation.

The report on the first year of monitoring under condition 10 was undertaken by Dr Erick Ramanaidou, Deborah Lau and Tracey Markley of CSIRO and was finalised on 12 May 2014. The report is publicly available on the Yara website at http://yara.com.au/images/250-200-REP-CSIRO-0001_tcm583-234216.pdf

12. *Given that Yara is in breach of their approval (condition 10(C)i-variation 18 Dec 2013); what action has the Department taken to enforce this condition, or to prosecute Yara?*
- *If no action has been taken, why not?*

Answer:

The Department has not determined Yara to be in breach of condition 10(c) (i) of the EPBC Act approval for the Technical Ammonium Nitrate facility.

13. *On what basis has the Department determined the qualifications and suitability of the heritage person (condition 10(C)iii-variation 18 Dec 2013)?*

Answer:

Condition 10(c) (iii) of the EPBC Act approval requires written endorsement of the additional rock art monitoring program by a *Heritage Monitor* or other *Suitably Qualified Person*.

Heritage Monitor is defined as a suitably qualified expert with at least five (5) years experience in Indigenous heritage or archaeology.

Suitably Qualified Person (Heritage) is defined as a person with at least a Bachelor's degree with Honours in archaeology or five (5) years' experience in Indigenous heritage or archaeology recognised by a relevant body such as the Australian Association of Consulting Archaeologists.

The Heritage Monitor is Dr Erick Ramanaidou (CSIRO). At the time the monitoring required under condition 10 commenced, Dr Ramanaidou had in excess of 5 years' involvement in rock art monitoring within the Burrup region.

Dr Ramanaidou holds a PhD and has authored more than 70 technical publications and reports.

14. *Given the apparent reliance on Burrup Rock Art Monitoring Management Committee (BRAMMC) and the subsequent Burrup Rock Art Technical Working Group (BRATWG); what reliance have they placed on advice of the rock art expert and on what basis do they accept the qualifications of said person?*

Answer:

This is a matter for the Western Australian Government.

15. *Are the conditions set for acid emissions by the Commonwealth in its approval of the ammonium nitrate plant based on the CSIRO's Gillett report?*
- *Given the evidence the Committee has received, do you now accept that the CSIRO Gillett report is fatally flawed and cannot be used to assess the impact of the proposed emission levels on the Rock Art?*

Answer:

The EPBC Act approval for the Technical Ammonium Nitrates facility does not have conditions that set acid emissions. Condition 9 of the EPBC Act approval requires air quality monitoring for Ammonia (NH₃), Nitrogen Oxides (NO_x), Sulphur Oxides (SO_x); and Total suspended particulates (TSP), including dust.

16. *Please outline how your approval and the conditions you have set are consistent with your legal responsibilities under EPBC to adhere to the precautionary principle and to take all relevant considerations into account?*

Answer:

The precautionary principle was considered in assessing the likely long-term or permanent damage of the proposal to listed threatened and migratory species, and National Heritage. The approval requires baseline monitoring for air quality (condition 9) and rock engravings (Condition 10), and ongoing monitoring following commencement of the activity. Contingency measures are required should changes be detected to the rock engravings (condition 11).

17. *Since the CSIRO has admitted it has not done statistical modelling of colour data over time and in an email to Professor Black has admitted that far from their conclusion previously "that there is no measurable impact on the rock art" now says, "Significant colour change has been recorded," can you guarantee that there has been no deterioration in the Rock art which you have a legal responsibility to protect?*

Answer:

The Department is actively engaging with the CSIRO in relation to claims made by Professor Black, and has asked that written advice be provided of the robustness of the organisation's rock art monitoring program in light of Professor Black's journal article and any other relevant literature.

18. *What action do you propose to take now?*
- *Will you now stop the process, review and strengthen the conditions of approval and recommend that the YARA plant does not proceed in the Burrup and be relocated to the Maitland Industrial Estate?*

Answer:

The Department has written to the CSIRO in relation to claims made by Professor Black, and has asked that assurance be provided of the robustness of the organisation's rock art monitoring program in light of Professor Black's journal article and any other relevant literature.

In the event that it can be established there is an actual or potential significant impact to matters protected under the EPBC Act, the Minister may suspend or revoke an approval, or vary the conditions attached to an approval.

The Australian Government has no power to direct an approval holder to relocate an action that is the subject of an EPBC Act approval.

19. *Why didn't you rule out this development in the first place and recommend that it be located on the Maitland Industrial Estate which was established for this purpose?*

Answer:

Each proposal referred under Part 7 of the EPBC Act is assessed in detail (and includes a public consultation stage). The Minister then makes a decision on whether or not to approve it. There is no power under the EPBC Act to dictate to a proponent where an activity can be undertaken.

20. *Did the Commonwealth require a disaster risk assessment, including, a terrorism assessment before approving the Ammonium Nitrate explosives plant on the Burrup Peninsula given its proximity to the Aboriginal rock Art, and its proximity to two major natural gas plants and the second largest bulk export port in the world?*

- *If yes, who did it and please provide.*
- *If not, why not?*
- *Given the massive explosions caused by ammonium nitrate if detonated, how will a fire be extinguished in the plant, since foam cannot be used?*

Answer:

The EPBC Act approval condition 7 requires the approval holder to have an Emergency Response Plan. The plan, published on Yara Pilbara Nitrates website, includes details of measures to be taken in the instance of an emergency.

21. *Can you guarantee that there is sufficient fresh water on site to minimise the risk of fire?*

Answer:

The EPBC Act approval condition 7 requires the approval holder to have an Emergency Response Plan. The plan, published on Yara Pilbara Nitrates website, includes details of measures to be taken in the instance of an emergency.

22. *WA Premier Barnett has admitted that the YARA ammonium nitrate plant poses an unacceptable risk to public health and safety 1.5 kms beyond its boundaries. See extract below from Mr Barnett's letter to Robin Chapple MLC 2016:*

"The rationale for wishing to see the MLKC (Murujuga Living Knowledge Centre) moved away from Hearson Cove is primarily one of public health and safety, rather than because of the visual effect of the Yarra Technical Ammonia Plant. There are restrictions on where sensitive land uses can be located due to public risk and safety issues associated within industrial sites. The proposed Hearson Cove site is located within 1.5 kilometres of the Yara Nitrates Technical Ammonium Nitrate plant and the Yara Pilbara Fertilisers ammonia plant. Preliminary discussions with relevant State agencies have indicated that the development of the MLKC at Hearson Cove could present an unacceptable risk to public health and safety. These risks are much reduced at the Conzinc Bay location."

- *What are all the risks he is describing?*
- *Do they include PM10 particles adverse impacts on human health?*
- *Do they include carbon monoxide poisoning?*

- *Did the Commonwealth have access to assessments from relevant WA Government agencies and consider them before approving the plant?*
- *If not, why not?*

Answer:

Questions explaining the views of the Western Australian Government are best directed to the Western Australian Government. The Department had access to the assessment Public Environment Report from the Western Australian Department of Environment Regulation and considered this before approving the action.

23. *How can you say there will be "no damage to rock art and people" when there is clearly a risk to people and their safety?*

Answer:

The EPBC Act provides for protection of matters of national environmental significance. The EPBC Act does not incorporate provisions relating to human health and safety, which are matters for the Western Australian Government.

24. *How many spills of ammonia have there been from the YARA Fertiliser plant?*
- *Please provide details of each spill.*

Answer:

The question is best directed to the Western Australian Government who is the regulator of the Yara Fertiliser facility, or to Yara Pilbara Nitrates Pty Ltd. The Department does not regulate the Yara Fertiliser facility.

25. *Why has the Commonwealth failed to set any condition for the release of ammonia to the environment?*
- *What impact has that had on health and safety of workers and on the environment?*
 - *Why have you taken no action?*

Answer:

Air quality monitoring for ammonia is explicitly required under condition 9 of the EPBC Act approval. The EPBC Act does not extend to health and safety considerations, which are matters for the Western Australian State Government.

26. *When rock art is potentially being threatened by industrial emissions within the Federal Government National Heritage Listed area of Burrup Peninsula, why has the Federal Government not intervened to prevent the WA government from insisting on a confidentiality agreement for Professor Black who conducted a full statistical analysis of the colour change data obtained by CSIRO?*
- *Is this standard practice and is it in the interest of Australian democracy?*

Answer:

The Department has written to the Western Australian Government requesting that Professor Black's report be provided, along with any findings or response from the Western Australian Government.

27. *Who were the internal and independent reviewers of Professor Black's reports to the WA Government?*
- *Were they paid?*
 - *Are they regular clients of the WA Government?*

Answer:

Questions regarding the review process of Professor Black's report by the Western Australian Government should be directed to the Western Australian Government.

28. *On what grounds has the WA Government refused to release the reports and scientific papers prepared by Professor Black on reanalysis of the CSIRO data?*
- *Why are these reports still under review?*
 - *What is standard practice for selecting internal and external peer reviewers?*

Answer:

Questions regarding the review process of Professor Black's report by the Western Australian Government should be directed to the Western Australian Government.

29. *Has the Department ensured that all conditions of the EPBC have been complied with?*
- *What has been done about reports of emissions that are unrealistic?*
 - *What penalties have been applied?*

Answer:

The Department has a compliance monitoring program that includes ensuring approval holders are compliant with EPBC Act approvals. More information about the program is available on the Department's website.

The Department conducted a compliance monitoring inspection of the Yara Nitrates facility in September 2016.

There has been three instances of non-compliance with the Technical Ammonium Nitrate facility EPBC Act approval, all being administrative in nature (late submission of reports). The Department is currently making inquiries in relation to the third non-compliance, which was self-reported by Yara Pilbara Nitrates.

30. *Due to the a) extreme doubt about the CSIRO's reports on the effects of emissions on the Burrup rock art and b) there being scientific evidence from peer-reviewed journals which show rock art in the vicinity of the Technical Ammonia Plant is likely to be degraded within a human generation, will the Government insist that the modular-constructed Plant is moved to the Maitland Industrial Estate where it is less likely to damage rock art?*

Answer:

The Department has written to the CSIRO in relation to claims made by Professor Black, and has asked that assurance be provided of the robustness of the organisation's rock art monitoring program in light of Professor Black's journal article and any other relevant literature.

In the event that it can be established there is an actual or potential significant impact to matters protected under the EPBC Act, the Minister may suspend or revoke an approval, or vary the conditions attached to an approval.

The Australian Government has no power to direct an approval holder to relocate an action that is the subject of an EPBC Act approval.

Response to Questions on Notice in Hansard

1. *Senator Siewert: Who did the rock art survey in a two-kilometer radius of the rock art sites and when were they done?*

Answer:

Condition 10 (c) requires rock art monitoring at six locations within 2km of the project site.

The rock art has been monitored by the CSIRO. The monitoring commenced in early 2014.

A copy of the report for the first monitoring event required under condition 10(c) is published at:

http://yara.com.au/images/250-200-REP-CSIRO-0001_tcm583-234216.pdf

2. *Senator Siewert: Who initiated the variations to approval conditions?*

Answer:

There have been two variations to the EPBC approval conditions for the Technical Ammonium Nitrates facility.

The first variation was made 18 December 2013, and was initiated by the Department following discussions with the company. The variation tightened monitoring requirements relating to potential impacts to Aboriginal rock art, including outlining management responses should monitoring identify the likely occurrence of a potential impact. Additionally, the variation improved consultation requirements with the Murujuga Aboriginal Corporation in relation to the rock art monitoring program.

The second variation was made 3 February 2014, and was initiated by the approval holder. The variation extended the timeframe for consultation with the Murujuga Aboriginal Corporation in relation to the rock art monitoring program.

3. *Senator Siewert: How is data presented in compliance and monitoring reports relating to the action?*

Answer:

Copies of compliance and monitoring reports are available on Yara Pilbara's website at <http://yara.com.au/about-yara/about-yara-local/yara-pilbara/nitrates/>. The website includes reports required under the Western Australian and EPBC Act approvals.

4. *Chair: Were studies on rock resilience to acid available at the time of the assessment and approval of the action?*

Answer:

A 2007 CSIRO study (published on the Western Australian Government's website at: http://web.archive.org/web/20091002111652/http://www.dsd.wa.gov.au/documents/BI_BurrupRockArtCSIROFieldStudies.pdf) was referenced in the Assessment Report for the EPBC Act Part 8 assessment, and was before the Delegate for the Part 9 approval decision under the EPBC Act.

5. *Chair: What monitoring is being done to determine whether there has been a change to rock art that will then trigger mitigation measures (under condition 11).*

Answer:

The monitoring program is outlined in condition 10 of the EPBC Act approval for the Technical Ammonium Nitrates facility. Annual reports outlining details of this program are published on Yara Pilbara Nitrates' website. There has not been a trigger event to require the implementation of the measures in condition 11.

6. *Chair: There are air quality monitoring figures that cannot be believed because they have negative numbers, can you confirm this is the data you are relying on?*

Answer:

Yara Pilbara Nitrates has not yet completed their air quality emissions baseline monitoring as per condition 9 of the EPBC Act approval. No air quality emissions monitoring data is required to be submitted to the Department until the baseline has been established.

Emissions data published by the company to date are not a requirement of the EPBC Act approval. Questions relating to that report are best directed to the Western Australian State Government and Yara Pilbara Nitrates.

7. *Senator Siewert: What engagement has there been between the Department and CSIRO?*

Answer:

The Department has been engaging with the CSIRO in relation to the concerns raised in Professor Black's recent journal article. The Department most recently met with the CSIRO on 10 March 2017 and has requested that written advice be provided of the robustness of the organisation's rock art monitoring program in light of Professor Black's journal article and any other relevant literature.

8. *Senator Smith: Is the Western Australian Government reviewing of Professor Black's work?*

Answer:

The Department has been advised by the Western Australian Government that Professor Black's report is currently subject to review.



10th March 2017

Our Reference: 200-200-LET-DOE-0005

Your Reference: EPBC 2008/4546

Mr Matt Cahill
First Assistant Secretary
Environment Standards Division
Department of the Environment & Energy
GPO Box 787
CANBERRA ACT 2601
Email: _____

Dear Matt,

Subject: Federal Approval EPBC 2008/4546 Baseline Monitoring

Thank you for the opportunity to brief Officers from the Department of Environment & Energy (DoEE) on Thursday 2nd March 2017 and on-going constructive discussions with the Department on Yara Pilbara Nitrates Pty Ltd (YPN) Technical Ammonium Nitrate plant on the Burrup Peninsula. As discussed at the meeting, Yara along with its Joint Venture partner, Orica Ltd, acknowledges the significance of the area and the need for appropriate measures to ensure protection of the rock art.

As outlined at our briefing, issues have been identified with the data collection for the baseline air quality monitoring as required under the above EPBC approval. As advised, Yara Pilbara Nitrates (YPN) engaged an independent air quality management expert to assess all data and equipment within the monitoring program. In conducting their analysis, Strategen identified issues relating to the data collection for the baseline monitoring for Total Suspended Particulates (TSP). TSP is one of five components of the air quality baseline monitoring. It became apparent from Strategen's analysis that TSP monitors were not installed at two monitoring points and that PM10 monitors may have been installed in place to provide a reference calculation to TSP. This was only confirmed to Yara Pilbara after the Senate Inquiry hearing. Investigations into the data supplied by these monitors and other matters are still continuing.

Yara Pilbara Nitrates Pty Ltd

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Yara Pilbara's air quality monitoring expert is still conducting baseline monitoring, and analysing the data prior to the company submitting a report to the Department. YPN is not yet in a position to submit Air Quality Monitoring data to establish a pre-operational baseline as required by Condition 9. YPN will advise once the baseline monitoring is complete.

YPN welcomes the opportunity to work with DoEE on establishing a TSP baseline that is scientifically credible, consistent with the original intent of the condition and safeguards the rock art.

YPN acknowledges that the DEE will have the baseline monitoring methodology and results independently assessed before further considering YPN's request for approval and compliance with Condition 9.

Please do not hesitate to contact me if you have any queries. Further details can and will be provided as soon as they become available.

Yours Sincerely,

Brian HOWARTH

Health, Environment, Safety & Quality Manager

Yara Pilbara Nitrates Pty Ltd

cc Monica Collins

Alex Taylor