

March 15<sup>th</sup> 2010.

## **Submission to Senate Inquiry: National Radioactive Waste Management Bill 2010**

To whom it may concern,

I am writing to express my opposition to the introduction of the National Radioactive Waste Management Bill 2010 (NRWMB), my disgust that the Australian Labor Party would attempt to replace the previous Commonwealth Radioactive Waste Management Act 2005 (CRWMA) with such an appalling, equally undemocratic and highly coercive bill that is contrary to its national platform and stated commitments to a “process for identifying suitable sites that is scientific, transparent, accountable, fair and allows access to appeal mechanisms”. I urge the committee to reject this appalling piece of legislation.

At the ALP National Conference 2007 the Labour Party committed itself, upon re-election to:

- Not proceed with the development of any of the current sites identified by the Howard Government in the Northern Territory, if no contracts have been entered into for those sites.
- Repeal the Commonwealth Radioactive Waste Management Act 2005.
- Establish a process for identifying suitable sites that is scientific, transparent, accountable, fair and allows access to appeal mechanisms.
- Identify a suitable site for a radioactive waste dump in accordance with the new process.
- Ensure full community consultation in radioactive waste decision-making processes.
- Commit to international best practice scientific processes to underpin Australia's radioactive waste management, including transportation and storage.

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.

The remaining provisions in the bill vest total discretion in the hands of the Minister to pursue the sole current nomination at Muckaty Station.

Everyone is well aware that the nomination of the Muckaty site, north of Tennant Creek in the NT, is highly contested. The NRWMB leaves Muckaty as the only site that will be initially considered under the NRWMB despite widespread opposition and a flawed nomination process for the Muckaty site.

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

He would also have read the submission by Muckaty Traditional Owners to the 2008 Senate Inquiry into the Commonwealth Radioactive Waste Management Act 2005 ([http://www.aph.gov.au/Senate/Committee/eca\\_ctte/radioactive\\_waste/submissions/sub95.pdf](http://www.aph.gov.au/Senate/Committee/eca_ctte/radioactive_waste/submissions/sub95.pdf)).

Mr Ferguson is also aware of the unanimous resolution passed by the NT Labor Conference in April 2008 which states:

*"Conference understands the nomination of Muckaty as a potential radioactive dump site, made under the CRWMA legislation, 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 (ALRA). Conference calls for the Muckaty nomination to also be repealed when the CRWMA legislation is overturned."*

Mr Ferguson also knows that Ministers Jenny Macklin, Kim Carr, Peter Garrett and Warren Snowdon among others have publicly acknowledged the distress and opposition of many Muckaty Traditional Owners.

The fact that despite all this he has persisted with the Muckaty nomination and allows it to stand adds to the glaringly obvious failure to consult with or respect the wishes and rights of Traditional Owners and evidences he is unable to deal responsibly with the issue of radioactive waste management.

In the face of this it is even more disturbing that the NRWMB place all discretion in the hands of the minister.

The NRWMB provides the Minister with the power to assess whether or not the Muckaty site should go ahead. We are not provided with information as to how this assessment will be carried out. What the bill does make clear is that local people have no right of appeal. This is entirely inappropriate. I have witnessed, in the period of more than two years that this proposal has been a part of his portfolio, that Minister Ferguson has refused numerous respectful requests from community members at the proposed sites to come and meet with them on country, he has also failed numerous times to respond to correspondences regarding this issue, and has

failed also to meet with delegations that have travelled great distances to meet with him. This does not bode well for either a fair process or surety of community consultation.

Further to this, in regard to scientific process, Muckaty was not short-listed when scientific and environmental criteria were used by the federal Bureau of Resource Sciences' National Repository Project in the 1990s which assessed various sites around Australia for a repository for low-level waste (LLW) and short-lived intermediate-level waste (SLILW). The lack of scientific evidence supporting its consideration is given extra weight when one notes that the Tennant Creek area is earth quake prone and was the site of the strongest recorded quake in the Northern Territory.

I would like to point out that the case for a remote dump has never been made. The Labour party committed to establish a dump in accordance with a new process. But this new process should absolutely include the consideration of not establishing a dump at all. Due to the highly dangerous nature of nuclear waste it is widely understood that nuclear waste should be moved as little as possible, and should be stored above ground close to the point of production and the sites of nuclear expertise and infrastructure. The greatest source of waste designated for the nuclear waste dump is the Lucas Heights Reactor and Australia's nuclear expertise is heavily concentrated at Lucas Heights. ANSTO has acknowledged that ongoing waste storage at Lucas Heights is a viable option and has increased its storage capacity as a contingency in the event that the NT dump plan is delayed or abandoned. Others that have concurred with this are: the Australian Radiation Protection and Nuclear Safety Agency; the Australian Nuclear Association and Minister Ferguson's own department. It is internationally recognised that the best approach for minimising the creation of radioactive waste, which is the best interests of everyone, is to require the creators of the waste to store it on site.

If transportation of nuclear waste is to be considered it is essential that all those affected by the passage of nuclear waste be thoroughly consulted and have their rights also upheld. This bill strips away those rights entirely.

I would like to also like to refer now to the public commitments made by Prime Minister Kevin Rudd, on behalf of the government, in the historic apology to the Stolen Generations, where he claimed that:

*"The time has now come for the nation to turn a new page in Australia's history by righting the wrongs of the past and so moving forward with confidence to the future. We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians."*

and further to this made a commitment to:

*"A future where this Parliament resolves that the injustices of the past must never, never happen again. A future where we embrace the possibility of new solutions to enduring problems where old approaches have failed. A future based on mutual respect, mutual resolve and mutual responsibility. A future where all Australians, whatever their origins, are truly equal partners, with equal opportunities and with an equal stake in shaping the next chapter in the history of this great country, Australia."*

The National Radioactive Waste Management Bill 2010 is in total contrast to those promises. It pursues old failed approaches and fails to embrace new solutions, continuing instead with the radioactive racism of successive governments that have attempted to impose a nuclear waste dump on an indigenous community. This speaks of a future not of mutual respect and equal stakes but of total lack of respect, justice and equal opportunity and a future shaped only by the heavy hand of government that is stripping away rights of the people.

If the government has told a lie, as would be evidenced by the introduction of this bill and the acceptance of the Muckaty nomination, then it begs the question: How can it be trusted on any matter, especially one as important as the responsible management of nuclear waste that requires isolation from people and the environment for at least 250,000 years? It is a shame on the government that they are even proposing this bill and it will be an abomination if it is passed. It is incredible to think that after more than two years of waiting for the Labour party to fulfil its pre-election promise to withdraw the CRWMA and adhere to a fair and scientific process with community consultation that an more heavy handed, undemocratic bill should be introduced.

Whilst I understand it is not within the terms of reference of this inquiry, I would further recommend the immediate removal of Minister Ferguson from this portfolio due to his inability to adhere to Labour Party policy, his contempt for the concerns of people of Australia and his appalling handling of this deeply important and sensitive issue.

In closing I would like to add that, one would think by now, after many years of failed attempts by successive governments to impose a nuclear waste dump, due to widespread opposition by the Australian people both at proposed sites, along proposed transport corridors and in the general community, that it was time the government take this issue seriously and treat it with the respect that it demands in terms of public health, environment and issues of social justice and that is demanded by the people of Australia.

I recommend that the Senate Committee pay due respects to the Traditional Owners by travelling to Tennant Creek to take evidence from them directly.

It is with great urgency that I request this bill be rejected.

Yours sincerely,

Michaela Stubbs