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Ms Julie Dennett
Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
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Via email: legcon.sen@aph.gov.au

Dear Ms Dennett

I respond to the question on notice from the public hearing held in Darwin on 12 April 2010 into the National Radioactive Waste Management Bill 2010.

In responding to the question on notice, no interpretation should be made that my Government concedes that a facility should be constructed on Muckaty Station. I maintain that the process of site selection should be a national assessment based process based upon best practice scientific and environmental assessments, which includes extensive consultation with all Australians. The selection process should fully comply with Australia's obligations under the *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*.

It is acknowledged that in the interests of administrative necessity, some restriction on the requirements of procedural fairness in the process of approving and selecting a site may be warranted. However, I consider that the Bill should be redrafted to afford a right to people living on or near the selected site, and the Government of the State or Territory in which the site is situated, to make submissions in relation to any proposal to approve land nominated as a site and any proposal to declare the selection of an approved site for the construction and operation of a facility.

As it stands, the Bill provides little to no assurance that the proposed regional consultative committee will afford affected people any effective input into the processes for the selection of the site and the construction and operation of the facility.

Accordingly, the parts of the Bill relating to the regional consultative committee should be amended to:

- require the Commonwealth Minister to establish the committee, rather than vest the Minister with a discretion to establish a committee;
- provide that the committee will facilitate communication between the Commonwealth, the operator of the facility, people living in or near the region where the selected site is situated and the Government of the State or Territory in which the site is situated;
- guarantee the representation of members from the Government of the State or Territory in which the site is situated; and
- establish a process by which the committee may, on its own motion, report to the Minister with recommendations in relation to the selection of the site and the construction and operation of the facility, and require the Minister to respond to those recommendations within a specified time and with reasons for his / her adoption or rejection of those recommendations.

The issues of procedural fairness discussed above are consistent with those raised in the Northern Territory's submission. My Government is not inclined to offer suggestions to close down any perceived legal weaknesses to parties opposed to the Commonwealth's Bill.

Subject to the qualifications above regarding the current process for site selection, as a signatory to well established international standards relating to the safety of radioactive waste management such as the *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management*, the Commonwealth should ensure that the construction and ongoing management of a facility should be consistent with international best practice, that has regard for the well-established practices of numerous waste disposal facilities overseas, under the guidance of national and international regulatory bodies.

My Government has a number of concerns about the legislative void for regulating the construction and operation of a proposed facility, given the number and breadth of State and Territory Acts which will have no application upon commencement of the Bill. When this void is filled, my Government will be pleased to offer its comment.

Should you require any further information on this matter please contact _____ or _____ at the Department of the Chief Minister.

Yours sincerely

PAUL HENDERSON
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