An Update of Miscellaneous Items re Impediments to Exploration

(G.M.Derrick, 7 March 2003)

The following notes are a collection of anecdote and recent conversations and revelations regarding Exploration permitting in general. They simply serve to follow on from material contained in my original submission to the Prosser inquiry.

1. The Bureaucracy:

a. Permitting and Native title matters are now treated by the one department – the Dept of Natural Resources and Mines (DNRM), a merged entity of Natural Resources with the old Mines Department, with the latter apparently being thoroughly emasculated in the process. Morale is at an all-time low, and numerous users have declared the department in its current permitting operations to be a "shambles." Company reps. phoning in for information on current applications get 5 different people on 5 different occasions, and/or fall victim to the flexitime/RDO/leave syndrome within the department. At the time of the merger it was stated that the level of service would be maintained. This has NOT happened.

b. ***Time delays cause mine closure and jobs losses.*** A mid-size company with an operating mine required more ore to keep the operation viable. To gain ore it needed granting of mining leases near its existing operations. It completed an ILUA with the local native title claimants, and in the course of events the matter went to the **Federal Native Title Tribunal**. The company expected ML clearances within 4 months or so. Instead, the NTT took ***nine months*** to complete its work, by which time the company had run out of ore, and was forced to close down the operation and layoff 70 persons. The mine is currently on care-and-maintenance.

2. Abuse of Low Impact Exploration procedures

a. In 1999-2000 the low impact exploration procedures offered explorers the opportunity to get on the ground quickly and without much cost; the tradeoff was of course that low impact exploration would never find an orebody, and construction of any new tracks was banned. The time frame for this procedure was about two to three months. In 2002-2003, the time frame is officially **about 6 months**. Following granting of an EPM by the Department , the company has then to negotiate an access agreement with any native title claimants. **One company's experience is that this simple procedure took over 18 months and $100,000 to sort out.**
And this, one is reminded, is for LOW IMPACT WORK.

It may not be fully appreciated that in Low Impact Exploration, the Department starts its rental clock ticking from the time it makes the grant to the company. In the above case, the company still had to pay rent to the department despite the fact that it could not set foot on the ground for at least 18 months. This "dead rent" is part of the $100,000 cost noted above.

Once a company has things sorted out in its head about what procedures work and what the best approach may be, it is estimated by some that the average cost for an applicant to simply gain access to the EPM granted to them, without complications, would be about $20,000 to $30,000. For many junior explorers this remains a significant impost.

c. **Role of Lawyers – Case history 1** – in at least one company's experience, the lawyer acting for the Kalkadoon people was a hindrance rather than a help in trying to reach simple conclusions like an access agreement. The company claims that the lawyer's first brief to himself was to generate a climate of suspicion and antagonism, when all the company wanted to do was to talk co-operatively and directly with the claimant group and explain what their proposed activities involved. Some lawyers may take an aggressive stance because they see that as their primary role – promote the anti-mining rhetoric. Educating the lawyers has a place in trying to make it all happen.

Lawyers - Case history 2: Under low impact procedures, the company notified native title claimants upon lodgement of the EPM application. This occurred in September 2002. There is officially a 3 month period minimum before the consultation period (for an access agreement) commences – in this case December 2002. As of March 2003 there has been no response whatever from the lawyer acting for the claimant group. The company has asked repeatedly for a response, but none has been forthcoming. At this stage the company will be forced to refer the matter for mediation to the Mining Registrar, and ultimately to the Land and Resources Tribunal. The lawyer is the same person as that operating in the first case described above.

By contrast, an access agreement is about to be successfully concluded in three months or so in another part of Queensland,, the main difference being that the company is talking directly to the claimant group, with **no lawyers** involved in the process.

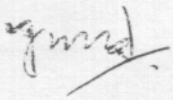
3. **Informing the Traditional owners:** as a follow on from the role of lawyers, at least two State/Territory Mines Departments (SA, NT) have programs for introducing traditional owners to operating examples of mining projects, and exploration techniques. These programs involve taking Traditional owners to various mine sites within or outside the state or territory and showing them all that is involved – from discovery to mining to rehabilitation, with examples of wealth creation and opportunity for indigenous people on the way through this process. It is a program to be applauded, and I am interested to do similar work in Mt Isa. It brings inclusion, understanding, respect and education into the process, in the hope of streamlining and facilitating exploration permitting.

4. **Uncertainty about reversion to the Commonwealth Act.**

In June 1999 Mr Beattie announced that he ***"had fixed Native Title"***; He has fixed it so well that in March 2003 the state is scrapping its Alternate State Provisions (ASP) process and is reverting back to the original terms of the Commonwealth Native title Act. Part of the reason for this, according to the State, was that the Senate had disallowed some aspects of the original State package. This decision to phase out the ASP was announced on 28 November 2002, and the required changes are incorporated in a new bill **"Natural Resources and other legislation Amendment Bill 2003",** to take effect from the 31 March 2003. Under the Commonwealth scheme the full right to negotiate applies to mining leases and claims. For exploration permits there are "expedited procedures" that are used, if the application satisfies Section 237 of the Native Title Act 1993. Explorers were very wary of, if not frightened by, the concept of "Right to Negotiate" at the exploration stage, and companies are no doubt dusting off the old act to reacquaint themselves as to what may be in store. ILUAs will continue to be recognised as an alternative scheme for exploration permitting. Yet another set of laws loom as a hurdle over which explorers must jump.

5. **The KERG (Kalkadoon Explorer Reference Group) ILUA**

I pass on one small comment on the current operations of this ILUA; one company claims that the payments it makes as part of the ILUA (access fee $10 per subblock, $700 administrative payment, $2000 inspection cost, $1,000 monitoring cost etc etc.) have been "frozen" by the department (DNRM). These monies are paid by the company to the Kalkadoon people through the department, but for some reason it has not been passed on. The company suggests that it may be because the Kalkadoon people themselves are having some difficulty deciding who gets what payments, which in turn binds the hands of the Department. Others would have a better idea as to how the KERG ILUA is operating at present, but see Item 1a in this update.



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