

**Supplementary submission by the Australian Government
Department of the Environment and Heritage to:**

**Standing Committee on Industry and Resources
Inquiry Into Developing Australia's Non-Fossil Fuel Energy
Industry**

**Case Study – STRATEGIC IMPORTANCE
OF AUSTRALIA'S URANIUM RESOURCES**

The Department of the Environment and Heritage advises the Committee that some material provided to the inquiry, both in submissions and evidence, is considered to be either factually incorrect or otherwise misleading.

For reference, some of these issues and explanatory material from the department are contained in the following supplementary submission to the Committee.

Submission	Issue	Response
<p>#27 Dr G Mudd p2</p>	<p>The submission states: “Attached to this submission are the principal academic publications associated with the above research and consulting work. These works compile the currently known picture of environmental problems and impacts associated with uranium mining in Australia...”</p>	<p>The list consists of 16 publications dating from 1998 to 2005, and they are not considered to authoritatively “compile the currently known picture of environmental problems and impacts associated with uranium mining in Australia...”.</p> <p>For the information of the committee, the Supervising Scientist has, since 1978 been involved in research on the impacts of uranium mining in the Alligator Rivers Region of the NT. A bibliography of publications and presentations from 1978 to 30 June 2005 runs to 129 pages.</p> <p>The bibliography is available at http://www.deh.gov.au/ssd/publications/pubs/ssd-bibliography.pdf, or a hard copy can be provided upon request.</p>
<p>#27 Dr G Mudd p8</p>	<p>The submission states: “The current state of knowledge of the legacy of environmental impacts at past and present Australian uranium projects is detailed in the attached papers and reports ... Based on these wide-ranging and extensive reviews (which have never been undertaken by government agencies or regulators... it is clear that accounting for the long-lasting environmental impacts has never been a feature of the uranium industry in Australia.”</p>	<p>A vast body of knowledge accumulated on uranium mining in the Alligator Rivers Region was created as a result of work undertaken by staff of the Supervising Scientist, a Commonwealth government statutory officer. Dr Mudd’s statement that “it is clear that accounting for the long-lasting environmental impacts has never been a feature of the uranium industry” is incorrect.</p> <p>The Ranger Uranium Environmental Inquiry (also known as the Fox inquiry), conducted in the 1970s considered a very wide range of potential environmental impacts. The current Ranger Environmental Requirements (ERs) specifically address environmental concerns; the Primary Environmental Requirements are:</p> <p>“The company must ensure that operations at Ranger are undertaken in such a way as to be consistent with the following primary environmental objectives:</p> <ul style="list-style-type: none"> (a) maintain the attributes for which Kakadu National Park was inscribed on the World Heritage list; (b) maintain the ecosystem health of the wetlands listed under the Ramsar Convention on Wetlands (i.e. the wetlands within Stages I and II of Kakadu National Park); (c) protect the health of Aboriginals and other members of the regional community; and (d) maintain the natural biological diversity of aquatic and terrestrial ecosystems of the Alligator Rivers Region, including ecological processes.” <p>In relation to the final disposal of tailings, the ERs require that “the tailings are physically isolated from the environment for at least 10,000 years” and that “any contaminants arising from the tailings will not result in any detrimental environmental impacts for at least 10,000 years”.</p>

<p>#27 Dr G Mudd p14</p>	<p>“Until a situation is developed whereby a statutory, independent regulatory body is established to regulate uranium mining and strictly enforce legitimate community expectations, there can and should be no confidence placed in existing state resource agencies regulating uranium mining.”</p>	<p>The Supervising Scientist is an independent, statutory office holder with responsibility for environmental supervision and research in relation to the Alligator Rivers Region.</p> <p>The Supervising Scientist is not a regulator, but works closely with regulators (the NT Department of Primary Industry, Fisheries and Mines and the Commonwealth Department of Industry, Tourism and Resources) and other stakeholders in ensuring that the environment remains protected from adverse effects of uranium mining in the Region.</p>
<p>#41 Mr Justin Tutty para 4.1</p>	<p>“While the miner has committed to improved procedures, and ERISS (the regulating authority) has made some effort to increase off-site monitoring...”</p>	<p>The Environmental Research Institute of the Supervising Scientist (ERISS) has no regulatory nor supervisory roles. It is a research organisation under the direction of the Supervising Scientist. The Office of the Supervising Scientist has a range of supervisory roles, but is not a regulator.</p> <p>Day-to-day regulation of Ranger is the responsibility of the NT Department of Primary Industry, Fisheries and Mines (DPIFM).</p>
<p>#48 Australian Conservation Foundation (ACF) p18</p>	<p>“Between December 1999 and April 2000 an estimated two million litres of material containing high levels of manganese along with uranium, radium and a suite of other contaminants escaped from a broken pipe and the RRZ.”</p>	<p>The Supervising Scientist’s investigation concluded that some 2000m³ (2,000,000L) of water leaked from the Tailings Water Return Pipeline, but that the amount leaving the RRZ (Restricted Release Zone) was in the order of some 85m³ (85,000L).</p> <p>The Supervising Scientist subsequently concluded that “the leak of tailings water had no adverse ecological impact on Kakadu National Park.”</p> <p>In addition, Report Number 3 of the Independent Science Panel (ISP) (September 2000) noted, “[o]n the evidence of the modelling and non-statutory biological monitoring at the compliance point on Magella Creek it was concluded that there had been no adverse effect on water quality as a consequence of the leak. Hence the World Heritage values of the Kakadu National Park had not been affected. The ISP accepts this interpretation.”</p> <p>[http://www.deh.gov.au/ssd/uranium-mining/arr-mines/pubs/isp-icsu-3.pdf]</p>
<p>#48 ACF pp18-19</p>	<p>“Many of the recommendations which arose from the Supervising Scientists report into the 2000 leak have still not been implemented by ERA. Indeed a full two years after the recommendations were made an ERA internal review into a subsequent leak reported that “full compliance with the recommendations cannot be achieved with current resources”...”</p>	<p>Implementation of the recommendations in the report on the leak was a matter for a number of organisations, not just ERA. An assessment of the recommendations by the Ranger Minesite Technical Committee confirms that they have been fully implemented.</p>

<p>#48 ACF p21</p>	<p>“The incidents detailed above are part of a litany of operational errors and procedural failures at ERA’s Ranger operation... there is an urgent and real need for effective action in order to protect the magnificent Kakadu region.”</p>	<p>The number of reported incidents at Ranger is indicative of the rigorous regulatory regime that has resulted in the reporting of incidents that would be considered to be below the threshold level to be reported at other mining operations. Monitoring and research by the Supervising Scientist since 1978 has concluded that there has been no harm to the environment in Kakadu as a result of mining operations at Ranger, confirming the efficacy of the regulatory regime.</p>
<p>#48 ACF p21</p>	<p>“The regime does not provide adequate transparency, rigour, recourse or confidence and is not consistent with community expectation, best regulatory practice and Australia’s domestic and international responsibilities to protect the values and properties of the World Heritage listed Kakadu National Park.”</p>	<p>The Supervising Scientist provides a comprehensive public annual report each year, as well as providing reports to twice-yearly meetings of the Alligator Rivers Region Advisory and Technical Committees.</p> <p>Results of the NT Department of Primary Industries, Fisheries and Mines’ check monitoring programs are also provided as a report to the Alligator Rivers Region Advisory Committee twice annually.</p> <p>In addition, monitoring data are regularly published on the Supervising Scientist’s website.</p>
<p>#48 ACF p22</p>	<p>“the reduction of a Commonwealth ‘on-ground’ presence in Kakadu”</p>	<p>Research staff from the Environmental Research Institute of the Supervising Scientist were relocated to Darwin in 2002. However, the Supervising Scientist’s monitoring and inspection capacity in Jabiru has actually increased. Prior to 2001, the Supervising Scientist did not have an independent monitoring program. He now has a full chemical, radiological and biological monitoring program and all of the staff conducting this program reside at Jabiru. In addition, since 2002, the supervisory branch of the Supervising Scientist has had a person located in Jabiru who is in a position to respond quickly to incidents at the mine .</p>
<p>#48 ACF p22</p>	<p>“the repeated unwillingness or inability of OSS [Office of the Supervising Scientist] to uphold the integrity of the Ranger ER’s through using the full suite of options, including legal action”</p>	<p>The Supervising Scientist’s programs are directed at ensuring that the Environmental Requirements (ERs) are adhered to.</p> <p>The research program is directed at determining the best ways to protect the environment, a key element of the ERs. The supervisory program, through assessment of proposals and auditing, ensures that the ERS are implemented. The monitoring program checks that the requirements of the ERs for the protection of people and the environment are indeed being met.</p> <p>With respect to legal action, the Supervising Scientist has only an advisory role. Any decision to proceed with legal action or not is a matter for the Northern Territory regulator or the Minister for Industry, Tourism and Resources, not the Supervising Scientist.</p>
<p>#48 ACF p22</p>	<p>“the degree of regulatory capture and the organisational independence of the OSS, dramatically evidenced with the movement of the former</p>	<p>The Supervising Scientist’s independence has been demonstrated through the thoroughness and impartiality of investigations conducted on incidents at Ranger in 2000, 2002 and 2004. Those reports were highly critical of ERA, yet ERA accepted the reports for their</p>

	Assistant Secretary to a senior management position at ERA during the 2003 contamination investigation?"	<p>professionalism and integrity. The use of two 2004 Supervising Scientist's reports by the Northern Territory Government as the basis for a successful prosecution of ERA is clear evidence that the Supervising Scientist is not subject to regulatory capture.</p> <p>The reference to one of the Supervising Scientist's staff accepting a position with ERA is not evidence of a decline in the organisational independence of the Supervising Scientist. The person concerned responded to a vacancy advertised in the <i>Weekend Australian</i> and being the best applicant, was offered a position.</p>
#48 ACF p22	"the adequacy of OSS funding and resources"	<p>Whilst every organisation may argue that it could do more with more funds, the funding currently provided to the Supervising Scientist is considered adequate for the Supervising Scientist to fulfill his role.</p> <p>It should be noted that there is a statutory committee, the Alligator Rivers Region Technical Committee, which assesses what research is needed to protect the environment and which organization should do it. It provides advice to the Minister on these issues and can, if it believes it necessary, recommend that additional funding be given to the Supervising Scientist to enable ERISS to carry out essential research. No such recommendation has been made in the last 5 years.</p>
#48 ACF p22	"the over-reliance on company provided data, processes and analysis"	<p>This assertion demonstrates that the ACF is not familiar with the current monitoring regime.</p> <p>Since 2001 the Supervising Scientist has run an independent chemical, biological and radiological monitoring program in the Alligator Rivers Region. It is on the basis of these data, not only those of the company, that the Supervising Scientist reaches conclusions about the effect of uranium mining on people and the environment.</p> <p>In addition, all of the data arising from the Supervising Scientist's programs are made public as quickly as possible. Results are placed on the Supervising Scientist's website, and are summarised in the Supervising Scientist's annual report and in twice-yearly reports to the Alligator Rivers Region Advisory Committee.</p>
#48 ACF p22	"the OSS prioritising ERA's operational needs over other considerations"	<p>There is no evidence to support this assertion.</p> <p>The Supervising Scientist's report into the 2004 Ranger water contamination incident makes public in an appendix all of the correspondence between the Supervising Scientist, the NT regulator and the mining company related to the recommencement of operations following the incident. It is quite clear from this correspondence that the Ranger mill remained closed for fourteen days until the Supervising Scientist was satisfied that all necessary steps had been taken to ensure, , "that the environment and the health of workers and the local people would not be put at risk as a result of an incident like this in the future."</p>

<p>#48 ACF p23</p>	<p>“the lack of adequate monitoring of social and cultural impacts”</p>	<p>During the Kakadu Region Social Impact Study in 1996-97, the Aboriginal Project Committee commissioned a study on what social impact monitoring was needed and who should do it. The independent consultant recommended that Environmental Research Institute of the Supervising Scientist should do it and the Supervising Scientist agreed to undertake the program if asked. However, having considered the recommendation, the Aboriginal Project Committee stated in its report that this idea “was treated sceptically by the Committee... the Committee preferred the idea of a new and separate entity...”. The Deputy Chair of the Aboriginal Project Committee was the then Executive Officer of the Gundjeihmi Aboriginal Corporation. The reason that this work is not carried out by the Supervising Scientist is that the local Aboriginal people, including the Ranger traditional owners, rejected the idea.</p>
<p>#48 ACF p23</p>	<p>“the failure to adequately engage Traditional Owners or reflect their concerns”</p>	<p>The Supervising Scientist has a full-time employee in Jabiru whose specific role involves day-to-day communication and engagement with Aboriginal people, particularly the Traditional Owners. The Supervising Scientist Division (SSD) has developed very successful relationships with the Traditional Owners to the extent that some of them now regularly work in the SSD monitoring program. Recently, the Executive Officer of the Gundjeihmi Aboriginal Corporation stated publicly that the Traditional Owners trusted the Supervising Scientist. An example of Traditional owner involvement is the revision of water quality guidelines, where the views of Traditional Owners were expressly solicited, and specifically taken into account in the revised guidelines.</p>
<p>#48 ACF p23</p>	<p>“the over-reliance on voluntary and informal agency-ERA understandings”</p>	<p>No reason is given for this assertion.</p>

<p>#48 ACF p23</p>	<p>The ACF's submission refers to a recommendation of the UNESCO World Heritage Committee expert assessment mission that visited Kakadu in 1998, which states (in part), "potential dangers to the cultural and national values of Kakadu National Park posed primarily by the proposal for uranium mining and milling at Jabiluka. The mission therefore recommends that the proposal to mine and mill uranium at Jabiluka should not proceed." The submission adds that, "[it] is increasingly clear that Australia's performance in relation to the protection of Kakadu is failing the test of international and domestic expectation and best practice. The continuing failure of the current regulatory and environmental protection frameworks in Kakadu serves only to heighten these concerns and does nothing to advance our international reputation or stature."</p>	<p>The World Heritage Committee, after considering a significant amount of evidence during 1998-2000, changed its stated 1998 position. The whole World Heritage Committee process was undertaken in the context of the development of Jabiluka during 1998 and 1999. The focus of the exercise was, therefore, to determine the extent to which Jabiluka developments might impact upon Kakadu National Park. Report Number 3 of the Independent Scientific Panel (ISP), of September 2000, noted that:</p> <p><i>Although the ISP considers that the SS has identified and quantified all the principal risks to the natural values of the Kakadu World Heritage site that can presently be perceived to result from the JMA proposal, and has shown these to be very small or negligible, the ISP and IUCN consider that there is still need for a more comprehensive risk assessment of both the freshwater and the terrestrial ecosystem at a landscape – catchment scale. This is because the region is subject to major seasonal or long-term changes unrelated to those which might arise from mining activity.</i></p> <p>[http://www.deh.gov.au/ssd/uranium-mining/arr-mines/pubs/isp-icsu-3.pdf]</p> <p>At the 24th Session of the World Heritage Committee, held in Cairns in November-December 2000, the World Heritage Committee concluded that, "the currently approved proposal for the mine and mill at Jabiluka <i>does not</i> threaten the health of people or the biological and ecological systems of Kakadu National Park that the 1998 Mission believed to be at risk.</p> <p>[http://whc.unesco.org/archive/repcom00.pdf]</p>
<p>#48 ACF pp27-28</p>	<p>The submission notes, in relation to Nabarlek: "one Traditional Owner had indicated no desire to have bush tucker grow on the Nabarlek site; he indicated that he would not eat bush tucker... from the site. This would suggest possible concerns in relation to radiological contamination."</p>	<p>The statement cited is taken from the summary record of the 12th ARRTC meeting, which was held in September 2003.</p> <p>The selective use of material from the summary record by the ACF ignores another statement "that Traditional Owners had said they had no concerns about radiological issues."</p>

<p>#52 Friends of the Earth p8</p>	<p>“The approval of the Jabiluka project situated within the World Heritage listed Kakadu National Park clearly demonstrates a failure to represent public interest and environmental protection ahead of private interest. Mining, milling and tailings waste disposal within a sensitive ecosystem subject to monsoon rainfall will inevitably have environmental impacts.”</p>	<p>At the 24th Session of the World Heritage Committee, held in Cairns in November-December 2000, the World Heritage Committee concluded that, “the currently approved proposal for the mine and mill at Jabiluka <i>does not</i> threaten the health of people or the biological and ecological systems of Kakadu National Park that the 1998 Mission believed to be at risk. [http://whc.unesco.org/archive/repcom00.pdf] That conclusion was the result of a comprehensive scientific assessment.</p>
<p>Hansard 19/08/05 Dr G Mudd I&R44</p>	<p>Dr Mudd said: “With Ranger, the regulator has said that under the existing arrangements the rehabilitation bond is somewhere in the order of \$30 million, but the total rehabilitation costs to do a decent job on that is somewhere in the order of \$180 million. Why has the regulator allowed that situation to develop? Because they are both the promoter and regulator.”</p>	<p>The regulator, in this case, is the Department of Industry, Tourism and Resources (DITR). Each year DITR gets an independent assessor to make an assessment of the cost of rehabilitating the Ranger site based on an assumption of immediate closure. This assessment is used to set, annually, an amount that ERA is required to provide to DITR and which is held in a trust fund. Some \$41.4 million is currently held in trust with a further \$23.6 million available though a bank guarantee. On 22 July 2005 ERA announced to the stock exchange that it has developed a full-term mine closure model (as opposed to immediate closure), which is currently costed at some \$176 million. This figure includes a wide range of company costs that are not factored into the annual assessment, and the two different amounts should not be directly compared as they relate to different things.</p>