

# **Regulating the Ranger, Jabiluka, Beverley and Honeymoon Uranium Mines**

## **Government Members dissenting report**

### **Introduction**

1 Government members of the committee strongly reject the inferences and statements made in the committee report that misrepresent the nature and severity of reported incidents at the mining operations being reviewed.

2 The emotive nature of much of the evidence provided to the committee, and the final report itself, reinforces the Government Senators' belief that this enquiry was manipulated by many contributors to the committee, to champion a call for an end to uranium mining in Australia.

3 A considerable number of submissions was received by the committee with a large number of these submissions and witnesses providing comment, evidence and opinion relating to either the initial approval process that authorized mining to be undertaken, or in the case of Honeymoon and Beverley mines, the extraction processes utilised.

4 Government Senators believe that the committee was restricted solely to investigating the adequacy, effectiveness and performance monitoring and reporting regimes and regulations of existing mines, and the agencies responsible for the oversight and implementation of these regimes. It was not in the terms of reference to review the approval process that was initially imposed.

5 While it could be argued that this information provided background to the community perceptions of the environmental considerations of the mines in question, any review, if warranted, is for a later date or later committee.

6 The committee's terms of reference were to undertake an enquiry into:  
The regulatory, monitoring, and reporting regimes that govern environmental performance at the Ranger and Jabiluka uranium operations in the Northern Territory and the Beverley and Honeymoon in situ leach operations in South Australia, with particular reference to:

a) the adequacy, effectiveness and performance of existing monitoring and reporting regimes and regulations;

b) the adequacy and effectiveness of those Commonwealth agencies responsible for the oversight and implementation of these regimes; and

c) a review of Commonwealth responsibilities and mechanisms to realise improved environmental performance and transparency of reporting.

7 It is the view of Government Senators that the environmental monitoring and management regimes of all four mines investigated has met the legislative and regulative requirements with no environmental impact being experienced by the surrounding biosphere.

8 While Government Senators believe the performance of existing monitoring and reporting regimes and regulations has been adequate and effective there remains a need for vigilant monitoring and assessment of the processes by the responsible authorities.

9 The key finding of Government Senators in this committee is the issue of poor stakeholder communications. In the face of no substantiating evidence being provided to the committee of any detrimental effect caused to the environment outside of the mining leases, it remains a serious concern to Government Senators that there is the level of misinformation and anxiety among stakeholders that appears to exist.

10 In the case of the Ranger project in the Northern Territory there has been over 20 years of mining and processing without a single event resulting in a release of contaminants from the mining lease. Even so the committee heard evidence from Traditional Owners outlining their fears for their health and the safety of their traditional country.

11 Government Senators find it unacceptable that this level of concern should exist and recommend that the process of publicly informing all stakeholders be immediately reviewed.

12 There is no question that there needs to be continual monitoring of mine site operations in order to ensure that there is no detrimental effect upon the surrounding environment. Of equal importance is the requirement to ensure that there is accurate and timely information, based upon scientifically verifiable monitoring procedures, provided to all stakeholders that reflects environmental considerations.

13 Government Senators believe that this is being done by the mining companies and the monitoring agencies but is not being passed on effectively to all stakeholders by the responsible bodies.

14 For this reason Government Senators reject the report of the committee and the majority of the recommendations there in. As the Government Senators believe that there can always be areas for improvement a number of additional recommendations are also included.

### **Ranger and Jabiluka**

15 Submissions were provided to the committee from a number of eminent scientists and research officers as well as from community and interest groups. Government Senators are concerned that the majority report downplays any submission that may in any way endorse the present environmental management regimes, while relying heavily on any submission that was critical of the mining company practices and the associated monitoring activities and processes that are in effect.

16 The committee received significantly conflicting opinions provided by the various scientists, industry and advocacy groups that gave evidence. Government Senators believe that the true measure of the effectiveness of ERA mining operations and the role performed by the Office of the Supervising Scientist, OSS, must rest with their record of performance. On this there have been no incidents where environmental damage can be inferred.

17 Government members believe that findings must also be based on fact and not on a pre existing philosophical opposition to uranium mining.

18 Notwithstanding the fact that some of the recommendations contained in the committee's report may provide some enhancement to the environmental monitoring of the aforementioned mining operations, Government Senators reject the entire report for the reasons highlighted above.

19 There has not been a single occurrence where there has been any contaminants leave the mine site lease and enter the surrounding Kakadu National Park. Indeed in 26 years of operations there has only been one incident that has had any effect on Kakadu wild life and that was a diesel fuel spill in 1995 into a man made retention pond on the mining lease. In that case a number of birds were killed when they came into contact with the fuel.

20 It would be naive to claim, and certainly ERA have not, that there have been no accidents, mechanical failures, spills or human error incidents during mining operations at the Ranger mine site. The real issue that needs to be investigated with respect to Ranger operations is how are these incidents detected, reported, contained and rectified. Of equal importance is the remedial action taken by ERA and the monitoring authorities to ensure that any incident is not repeated.

21 In the case of ERA and the Ranger Uranium mine evidence was provided that the regulations and practices in force at all times were adequate and have been continually reviewed and improved after any reported event to ensure that future incidents would be prevented or minimised.

22 The committee report quotes evidence provided by Dr Gavin Mudd at length in the report. Government Senators have serious concerns relating to Dr Mudd's evidence and his reported actions discrediting the research and findings of other scientists.<sup>1</sup> When questioned by Senator Buckland about Dr Mudd's own research into Ranger, Dr Mudd responded that he had not completed any.<sup>2</sup> In fact, Dr Mudd's contribution was based on his review and interpretation of other scientists work. On this basis the Government Senators agree with Senator Buckland's sentiments as reproduced below:

Senator BUCKLAND—So there is no independent sampling of the water or, indeed, of the flora?

Dr Mudd—No. Generally I have only ever reviewed the existing literature that is out there and talked to groups like the OSS and asked some of these questions.

Mr Ralph—What would you call 'independent'? The Supervising Scientist claims to be independent.

Senator BUCKLAND—I understand that but, from listening to yesterday's and today's evidence today, there is some criticism of the OSS. I do not know whether it is justified; that is not for me to say at this stage. It worries

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1 Submission from Dr Pirlo 19 Sept 2003

2 Handsard ref Tuesday 1 October 2002 SENATE—*References* ECITA 151

me that no-one has commissioned some independent testing by, for example, a university. Let me tell you that I am concerned about it. However, I always think that, if there is a problem, someone will try to see whether the data you are examining is matching up. I have to say that I do not put a lot of weight on the report of an extremely high level of contamination, and I might not put very much weight on extremely low levels of contamination either.

23 A continuing theme present throughout the committee's enquiry into Ranger and Jabiluka was the issue of information reporting and dissemination to stakeholders and traditional owners.

24 Government Senators can only deduce from the evidence provided that the Gundjehmi Aboriginal Corporation, GAC, the body responsible for disseminating information relating to mine site events to Traditional Owners, have not fulfilled their responsibility of accurately and succinctly informing stakeholders of mine site issues.

25 On 7 October 2003 ERA announced that their Head Office would be relocating from Sydney to Darwin. Government Senators believe that by co-locating all key stakeholders within the Northern Territory, communications between ERA, the Commonwealth and Northern Territory governments, the Northern Land Council and the Traditional Owners will be improved.

### **ERISS move from Jabiru to Darwin**

26 Government members agree that the relocation to Darwin should help to retain staff and assist in attracting a higher level of scientific staff. The government members of the committee acknowledge that it is the OSS rather than ERISS that is responsible for the day to day management and monitoring of environmental issues at the mine site. It is therefore deemed acceptable that ERISS be based in Darwin where it can best be resourced to fulfil its research functions.

27 If after a matter of time there is evidence that this arrangement could be improved, or that there are deficiencies in the research and monitoring of environmental factors caused through a direct consequence of the move, a reassessment should be made.

### **Monitoring Point Trigger Levels**

28 Uranium is a naturally occurring mineral in the region and there will be heightened concentrations of uranium in the environment from time to time due to wholly natural occurrences.

29 For context the Australian drinking water standard for drinking water is 20 parts per billion uranium. Jabiru drinking water has an average of 6 to 7 parts per billion. Against this background the key monitoring point MG009 has a focus point of 0.2 parts per billion and a threshold level of 5.8 parts per billion. Government members agree with the committee's report that these levels are scientifically defensible, and further believe, that the present levels provide extremely robust safeguards for the environment.

30 One of the highest concentrations recorded by ERA at Gulungul Creek occurred prior to any mining or processing activities commencing at the site. That was on 23 June 1980 with mining and processing not occurring until 1981. It is therefore imperative that focus and threshold levels remain a product of science and not based upon any arbitrary figure.

31 On this basis Government Senators reject the recommendation to lower the trigger levels on the basis of:

- Excessively low levels would result in naturally occurring fluctuating of uranium levels creating an unacceptable rate of unnecessary actioning by ERA.
- Trigger levels continue to be set based on science.

## Communication

32 As mentioned earlier in the report, communication is a major issue of concern in the Northern Territory. Procedures need to be established which improve communication between the traditional owners, the SSD, DBIRD, ERA and the NLC. A set of reporting procedures needs to be established and agreed to by all major stakeholders. Such procedures need to accommodate the cultural differences between the traditional owners and the other stakeholders and be presented in such a way that is readily absorbable by the traditional owners and not be presented in complicated scientific terminology. The traditional owners do not think in terms of statistics, but rather in terms on how an event or incident may affect them, their food sources and their land.

33 The Government Senators members eagerly await the deliberations currently taking place in regards to the Section 44 agreement. This agreement sets out the requirements for ERA to observe while operating on Aboriginal lands and is presently being negotiated with the Northern Land Council. Government Senators believe that the successful signing of a new agreement will significantly contribute to the removal of the present conflicting expectations that currently exist.

34 Despite there being no evidence of contaminants leaving the mine site, the committee was informed of a level of uncertainty and fear about the safety of the surrounding land, water and traditional food sources.<sup>3</sup>

35 The role traditional owners play in the data collection processes by ERISS should be commended and expanded to include the involvement of Traditional Owners in selecting where samples should be collected and what specific items are required to be tested. Testing items that are identifiable to Traditional Owners will provide a clearer understanding than the presentation of scientific facts and figures.

36 Government members were greatly concerned by the influence that the Gundjehmi Aboriginal Corporation, (GAC), has over interaction between the Mirrar and the other stakeholders. As the GAC are responsible for liaising with and providing information to the traditional owners, there is significant concern among government members of the committee that the GAC are not reliably reporting issues and facts to the traditional owners. It is

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3 Mr Nayinggul Tuesday, 1 October 2002 SENATE—*References* ECITA 157

believed that the GAC are running with an emotive anti-mining sentiment rather than presenting information in an appropriate format to traditional owners based on scientific fact.

## **South Australia – Beverley and Honeymoon**

37 Government Senators believe Beverley and Honeymoon mines to be the most environmentally friendly mine sites that they have ever seen. Parliament, indeed all Australians, should be encouraging such passive means of mining rather than promoting old fashioned and intrusive technologies.

38 The bulk of the evidence provided to the committee on these two mines related to issues surrounding the ISL mining method technique, and the approval process undertaken by the Government in granting an authority to mine.

39 As with the Ranger and Jabiluka mine in the Northern Territory, the committee was not charged with reviewing the approval process or the technique being used. The committee was investigating whether the environmental management, monitoring and reporting regimes were adequate to protect the surrounding environment from detrimental effects from the mining operations.

40 The biggest environmental area of concern with Beverley and Honeymoon is the disposal of waste water and any possible long term effect upon the aquifers. Evidence provided by the mining companies through their Environmental Impact Studies, as part of their approval process, and evidence provided to this committee claim that the approved operating regime will pose no threat to the surrounding environment.<sup>4</sup>

41 Government Senators found that there was sufficient monitoring being conducted at both the Honeymoon and Beverley mine sites to detect any incident that could impact upon the environment. Government Senators also found that the management regimes in place were also capable of containing any such incident and initiating any necessary action that would be required to safeguard the surrounding environment.

42 Government Senators recommend that an on site register of all incidents occurring on the mine site be maintained and kept on site, with a reporting procedure similar to that imposed upon ERA in the Northern Territory be instigated.

## **Traditional Owner Relations**

43 There are a number of issues pertaining to the Traditional Owners of the Beverley Mine site, notably the breakdown in communication, royalty payments and employment opportunities.

- Employment - Government Senators acknowledge the efforts made by Heathgate Resources to fulfil its requirements to employ traditional owners, however greater effort is required to increase this number. Government Senators appreciate the economic constraints that restrict the number of low skilled workers that can be employed within any mining operation but still

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4 Dr Matthews, submission 16 p17; Heathgate Resources Pty Ltd submission 70a p34 AND Dr Bush Handsard Adelaide 4 October 2002 p 234

believe that Heathgate Resources should source further Indigenous employees from the surrounding region and initiate an improved training program.

- Royalty and like payments - An effort must be made to ensure that royalty and like payments are made on time and that the disputes among the traditional owners themselves be sorted out as soon as possible. The Government acknowledges that this issue is largely out of the hands of Heathgate Resources, but suggests that Heathgate and the Traditional Owners open direct lines of communication to facilitate this issue.

- Communication - Communication between the traditional owners, supervising authorities and Heathgate Resources Pty Ltd needs to be reviewed. Government Senators do however concede that this issue is tied up with the fiscal considerations discussed above. Clear and open lines of communication will facilitate a greater understanding of all stakeholder requirements and also aid in the remediation of the royalty payment problems.

44 Regular formal reporting and information forums should be adopted to ensure Traditional owners, mine operators and government regulators can discuss and progress outstanding issues.

## **Honeymoon**

45 The environment surrounding the Honeymoon site has already been significantly altered by pastoral activity, and does not enjoy the rich and complex biodiversity values when compared to the Kakadu region in the Northern Territory.

46 The Government Committee members recommend that a comprehensive biodiversity sampling program be carried out prior to full-scale mining to establish a database of existing biodiversity values including existing flora and fauna.

47 A continuous monitoring and review process could then be implemented that would provide reliable environmental impact analysis which would in turn increase the levels of understanding of mining operations by Traditional owners and environmental groups.

## **Additional Government Senators Recommendations**

### **Ranger and Jabiluka**

#### **Recommendation 1**

**That a watching brief be maintained over the operations of ERISS in Darwin and if deficiencies in the research and monitoring functions are detected as a consequence of the move from Jabiru, a reassessment should be made.**

#### **Recommendation 2**

**The involvement of Traditional Owners in the collection of samples for environmental impact testing be expanded to include the collection of traditional foods and other samples from areas of importance to Aboriginal people. The areas where samples are collected should also be expanded to include areas not necessarily adjacent to the mine, but are considered important to Aboriginal people.**

### **Recommendation 3**

**The reporting and publicising of mine site events be reviewed to ensure that any information is relayed in the specified timeframes to all stakeholders in a format that they both require and understand. It is unacceptable to Government Senators that many stakeholders do not have a true and accurate appreciation of the nature of reported events.**

### **Beverley and Honeymoon**

#### **Recommendation 4**

**A comprehensive report of all mine site events be maintained and kept on site. All stakeholders should be informed of any event through a similar process as utilised in the Northern Territory by ERA.**

#### **Recommendation 5**

**All events regardless of the assessed potential for environmental impact be investigated by a single independent body with the results of any investigation made available to all stakeholders in a timely manner.**

#### **Recommendation 6**

**Prior to full scale mining at Honeymoon a comprehensive biodiversity audit be conducted in order to establish a baseline of database of existing biodiversity values. This study should also include ground water samples of all adjacent aquifers.**

### **Additional Comments on the Committee Report Recommendations**

#### **Recommendation 1**

**Government members support the Mirrar in their wish to actively participate in their land's management and Protection and recommends that they be actively involved in the identification and collection of samples for testing for possible contaminants. Government Senators do not support the recommendation that the Mirrar being given a position on the Minesite Technical Committee as this is a role for the Northern Land Council under the Northern Territory Land Rights Act (1976).**

#### **Recommendation 2**

**ERA have announced that they will not proceed with any mining operations at Jabiluka without the support of the Mirrar.**

**Public perception can be addressed by ensuring that individuals and organisations responsible for presenting information to stakeholders do so in an accountable manner by disseminating details in a format readily understood.**



### **Recommendation 3**

**3a) Current legislation is working well between the Commonwealth and the States and Territories.**

**3b) Government Senators agree that the roles and responsibilities for all committees must be clearly defined and that members of these committees be accountable for their actions.**

**3c) Mining is no longer proposed for Jabiluka.**

**3d) Oppose: Mine operators are currently bound by rehabilitation and decommission requirements.**

**3e) Oppose: what would be defined as a “tougher approach”? Would this require the re-writing of legislation of the current definitions of breaches in environmental regulations? Furthermore, what will be defined as a “significant breach”?**

### **Recommendation 4**

**The Environmental Aspects of Uranium Mining in the Alligator Rivers Region are continually being monitored with changes and enhancements to processes and practiced being implemented where necessary. Government Senators believe that this process is far more beneficial than conducting a review of regulations at a prescribed time.**

### **Recommendation 5**

**ERA is already committed to achieving certification with ISO 14001 by July 2003 with certification by July 2005.**

### **Recommendation 6**

**6a) Significant monitoring is already being undertaken by ERA and the OSS. ERA also conducts an extensive regime of operational monitoring in addition to the comprehensive statutory compliance monitoring program.**

**6b) A large number of both statutory and operation sites are current monitored by ERA and supervising authorities. If the OSS determine that there is a requirement for additional monitoring then they should be increased. Other wise any increase is merely an added expense for both the OSS and for ERA providing no added protection for the environment.**

**6c) Government Senators believes that the current water quality monitoring at Jabiluka is both appropriate and being conducted in accordance with the applicable authorisation.**

**6d) There was no evidence provided to the committee which established that additional testing would provide any additional information on environmental impact. Government Senators believe that in the face of the evidence provided, additional water bores and monitoring sites may well have more of an impact on the environment than the mining operations themselves.**

6e) as per 6d above.

6f) A landscape-scale program has already been proposed by the ERISS which will entail collaboration from a range of stakeholders.

#### **Recommendation 7**

Funding for forums to discuss social and environmental impacts of mining on Aboriginal lands is already in place. The concerns that to accept and use this funding may somehow endorse mining, especially Jabiluka, must be allayed so that progress can be made.

#### **Recommendation 8**

Water quality and load limits must be set based upon science that take into consideration naturally occurring events. If through monitoring and research ERISS determine that the range of possible contaminants being tested needs to be expanded then they should be incorporated into the testing regime.

#### **Recommendation 9**

9a) On the subject of a greater number of groundwater monitoring bores, the ERA comments that: groundwater movement in the deeper aquifers, even when associated with preferred pathways, is slow and that an appropriate monitoring strategy is generally not related to frequency of sampling.

#### **Recommendation 10**

The ERA states that as planning for decommissioning proceeds, such investigations have commenced and models have been developed and run. Reports of such investigations have been provided to stakeholders. Discussions with stakeholders regarding decommissioning and rehabilitation strategies that require the support of such groundwater models are in progress.

#### **Recommendation 11**

Government Senators believe that the OSS monitoring and testing regime for mill tailings is sufficient. Further that specialist studies and investigation of the fractured rock aquifer in relation to potential contaminant transport in groundwater will continue to be invested by ERA and its consultants in relation to secure containment of tailings in pits and post-rehabilitation behaviour of the mine-site.

#### **Recommendation 12**

Annual evaluations of wetland filters are already undertaken. Additional investigations are carried out from time to time to determine specific behaviours of constructed wetland filters and the results have been reported to stakeholders and also published. As a key operational feature of the minesite, ERA have committed to maintaining their efficiency of operation and has planned to decommission and rehabilitate these areas at

the end of mine life, as detailed in Annual Amended Plans of Rehabilitation that are approved by stakeholders and governments as part of the Authorisation.

#### **Recommendation 13**

Government Senators believe that compliance with recommendations 12 and 13 will result in a shutdown of mining operations while testing is carried out. Any monitoring and testing can safely be completed while operations continue.

#### **Recommendation 14**

There has been a tendency in the majority report to place great emphasis on Mr Kyle's allegations, even though there are serious inconsistencies relating to Mr Kyle's allegations, namely:

in relation to the Dec 1997 tailing spill at the Ranger Mine, the statutory report of the incident insisted that "full remedial action (a complete clean-up) had been performed immediately. This was not consistent with Mr Kyle's recollections or observations". In relation to the same incident, the OSS investigated Mr Kyle's claims and conclude that the ERA had neither underreported nor misreported this incident.

No evidence has been found that ERA has operated otherwise than in accordance with its Authorisation and then Commonwealth's Environmental Requirements. ERA concede that they cannot report how, why or who deleted and corrected the test reading concentration in their records. Process changes have been implemented to correct procedures.

#### **Recommendation 15**

Government Senators acknowledge that there are some problems with the current reporting regime such as the use of technical language and the poor understanding of the reporting system itself, but believe that any further calls to reduce the time permitted to release a report would place undue pressure on the writers to produce reports that have not been adequately investigated for the purposes of informing the public.

Government Senators recommend that further attention be provided by groups responsible for disseminating reports to do so in a manner that is acceptable and understood by the relevant stakeholder.

Government Senators reject the calls by the GAC for access to additional reports that the GAC believe exist. This is viewed as an attempt by the GAC to impinge ERA in a cover up of environmental impacts that are clearly not supported by the scientific evidence.

## **SOUTH AUSTRALIA**

### **Recommendation 16**

**There was no evidence that supported the claims that mining operations at Honeymoon pose a serious risk to the environment. The ISL mining technique is not “experimental in nature” as it is utilised in other countries that have similar geographical structures.**

**South Australian and Commonwealth regulators have the view that “the mine has been demonstrated to cause little if any long term environmental damage, especially in the context of the highly saline and contaminated state of the natural groundwater in the basal aquifer.” Additionally, “Heathgate provided studies that dismissed the ACF assertion that ISL practices at Beverley are responsible for a moving liquid pollution plume in the groundwater, one that may well pollute or otherwise adversely affect a connected aquifer”.**

**Note Environment Australia’s comments: “a high degree of control of mining fluids is a strength of the ISL mining techniques”.**

### **Recommendation 17**

**Refer Government Senators Recommendations. A single independent authority should be responsible for monitoring and investigating any minesite events.**

**All data and reports relating to monitoring and incident reporting should be made available to all stakeholders.**

### **Recommendation 18**

**Government Senators do not accept the committee’s contention that there are significant environmental risks posed by the Beverley mine. The operation standards at Beverley are considered equal to or higher than those applying at any other ISL uranium project in the world. Furthermore, there is at present no evidence to suggest that ISL is the cause of any large-scale, severe environmental problems at or near the Beverley Mine.**

**Government members of the Committee support the South Australian and Commonwealth Governments playing a more active and assertive role in assessing and regulating ISL mining at Beverley.**

### **Recommendation 19**

**Government Senators argue that mining and its regulation must be the responsibility of the relevant department of mines and their scientists. Environmental agencies should be responsible for environmental considerations only.**

### **Recommendation 20**

**The BECC comprises of officers of Commonwealth and South Australian Government regulatory agencies, and two representatives of Heathgate Resources. This partnership arrangement aims to enhance mining company-government understanding. This**

partnership would dissolve if the BECC reported to only one Federal Government agency.

#### **Recommendation 21**

**Government Senators oppose having the regulation of incidents being subject to public consultation. Even environmental groups would argue that there is a level of expertise involved in determining the basis of incident categories which in general, the public would have little expertise in.**

**All incidents regardless of their perceived level of impact should be thoroughly investigated by the one agency.**

#### **Recommendation 22**

**An incident recording and reporting process similar to the process applying in the Northern Territory should be instigated.**

#### **Recommendation 23**

**Government Senators strongly believe that a collaborative approach to testing and monitoring should be followed. This is exactly what is practiced in Beverley and Honeymoon.**

#### **Recommendation 24**

**Prior to full scale mining an audit of biodiversity values should be undertaken as per government senators' recommendation No 6.**

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Senator for the Northern Territory

Senator Tsebin Tchen  
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