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Hon Peter Foster MLC
Chair, Standing Committee on Environment and Public Affairs
Legislative Council Committee Office
Via email: env@parliament.wa.gov.au

Your ref: A921131, Petition No. 030

Dear Chair,

I wish to thank the committee for the opportunity to make a submission on this incredibly important issue.

It needs to be noted from the outset that whilst I was the tabling member on behalf of the Banjima people, I do not in this submission speak for the Banjima people. I merely make observations about why this catastrophe has been allowed to continue and why there seems to be little enthusiasm for any meaningful remediation or indeed the ability of the Banjima people to gain access to their traditional lands now determined to be comprised of 175 parcel(s) of land declared contaminated sites under the Contaminated Sites Act.

So who are the players in this catastrophe: *The WA State Government, Mr Langley Frederick George "Lang" Hancock, Mr Ernest Archibald Maynard "Peter" Wright, Colonial Sugar Refining Co. Ltd, Australian Blue Asbestos Ltd, West Australian Blue Asbestos Fibres Ltd, Hancock Prospecting Pty Ltd, Wright Prospecting Pty Ltd, Mount Bruce Mining Pty Ltd, Hamersley Exploration PTY Limited, Pilbara Port Railroad and Resource Company, Drillex (Aus) Pty Ltd, Micalco, International Mining and Technical Consultants and Hanwright*, to name the most obvious.

The two issues I will attempt to address will be: who is responsible for the clean-up liability, and what methods and costs are available for such a clean-up.

1. The responsibility can be attributed to many parties, over many years who have held or acquired the tenements that held or led to the tailings piles.ⁱ ⁱⁱ A total of 3,265,000 tonnes of rock was mined leaving behind 3,104,000 tonnes of contaminated crocidolite tailings. These were defined to be in two leases referred to as No 1 and 2 West Pilbara Tenement number 200 and 205 respectively, these covered the Colonial Mine and Wittenoom Mines, referred to as Tailings leases number 1 and 2.ⁱⁱⁱ These were in fact TL 47/1 and TL 47/2 established under the 1904 Mines Act.^{iv} The ownership over these tenements changed a number of times:
 - 1962/01/24 Australian Blue Asbestos Ltd (first owner) was granted permission to amend the name of the holding company to that of Australian Blue Asbestos Pty Ltd,^v
 - 1967/03/22 Australian Blue Asbestos Pty Ltd Tailings leases Nos. 1 & 2 holding 96 shares, it is unknown who the other shares were held by, were transferred to Wright Prospecting Pty Ltd and Hancock Prospecting Pty Ltd respectively taking 48 shares each in both tenements,
 - 1978/10/27 Wright Prospecting Pty Ltd and Hancock Prospecting Pty Ltd respectively attempted to transfer the holdings of TL 47/1 and TL 47/2 to Mount Bruce Mining Pty Ltd. This application was rejected by the Minister for Mines,^{vi}
 - 1979/08/08 Tailings leases Nos. 1 & 2 at that time held by Wright Prospecting Pty Ltd (48 shares) and Hancock Prospecting Pty Ltd (48 shares) were forfeited for non-payment of rent. This was gazetted on 17 August 1979.

The responsibility for the tailings piles therefore lies in my view with the State by virtue of the confiscation, Wright Prospecting Pty Ltd and Hancock Prospecting Pty Ltd (I'm not defending them) were denied the ability to deal with the tailings by the State taking control of them. This is confirmed by Mr Hugh Jones to the Select Committee on Wittenoom and a letter by Jeff Carr MLA Minister for Mines^{vii}

2. The first costing and methodology I will refer to is contained in the Hawthorne & Associates Report July 1985 to the Mines Dept of WA giving an estimate of costs between \$23.9M - \$34.7M. This involved either the complete clean-up option of both sites to just the clean-up of the tailings by either Hydraulic Stowage of fine materials (tails) into the old shafts or by damming the gorge below the Colonial Mine and flooding the area or a combination of both.^{viii} Please note, part of this proposed cost would be significantly reduced after a later clean-up of debris from main mill, workshops, top loco shed, crusher buildings and all materials within the area known as the Colonial Site, Power House and the Wittenoom site. A cost estimate in excess of \$20M, by Jeff Carr MLA Minister for Mines, using both options mentioned above.^{ix} In 1993 Mr Hugh Jones agreed that the government was not committed to spending more than \$5M.^x A further document on the costings of the clean-up is held by the Contaminated Sites - Department of Lands, this document *153351_Wittenoom_Phase_2_Report.pdf*^{xi} is not in the public domain but should be acquired by the committee.

What I find distressing is that Minister Redman signed off on a Briefing Note, from his Department to the Minister of Lands, which stated "Securing the tailings for perpetuity is cost prohibitive - State funding could be more effectively spent targeting measures that reduce/stop people entering the area"^{xii}. I'm sure that the Banjima people, who the courts determined had native title over this area would be appalled that the Government is going to deny them access to their homelands.

Whilst I'm aware of hundreds of documents and reports held by former Member, Hon Robin Chapple, they are not in my prevue. These documents and the Transcript of Evidence Taken at Perth on Tuesday, 12 October 1993^{xiii} would provide the Committee with much greater evidence.

Kind regards,



Hon Brad Pettitt
Friday, 12th November 2021

ⁱ Transcripts of Evidence by Hugh Jones, Select Committee on Wittenoom reappointed 10 May 1994

ⁱⁱ Department of Mines Tengraph records covering the 1904 Mines Act & the subsequent Mining Act 1978

ⁱⁱⁱ Statement Hugh Jones, Select Committee on Wittenoom

^{iv} Tengraph

^v Mines Department Records

^{vi} Mines Department Records

^{vii} Letter Min Mines – Hon Tom Stephens MLC 9th December 1988

^{viii} Document released to the Hon Robin Chapple by the Speaker to the House on 16 September 2021, under Standing Order 30

^{ix} Letter Min Mines – Hon Tom Stephens MLC 9th December 1988

^x Evidence to the Select Committee on Wittenoom 14.12.93 Page 10

^{xi} An attachment to an email to McMahon Services by the Contaminated Sites Department of Lands, East Perth, on Monday 11th of January 2016 at 11:51 AM

^{xii} Briefing Note for the Minister for Lands, Min number: MIN 2016-0879, Dol file: L00289-2013

^{xiii} Select Committee on Wittenoom