SUBMISSION TO THE NUCLEAR FUEL CYCLE ROYAL COMMISSION

Draft as at 4th Sept 2015

FROM: ANGGUMATHANHA CAMP LAW MOB

This submission is lodged on behalf of the members of this group and their families, the majority of whom identify as Adnyamathanha. We operate out of necessity as an independent group to the Adnyamathanha Native Title Representative Body (NTRB) known as ATLA. To date we have not been notified of the Native Title process for this Royal Commission, and in the absence of any consultation or information from ATLA we represent the wishes of many Adnyamathanha community members on this very important matter.

Who is Anggumathanha Camp Law Mob?

Our group was formed in 2002 because we felt restricted by our NTRB, and we felt unsafe at their meetings. We decided to form a group that could meet independently, where our voices would be heard, and where we could meet in a safe and respectful way. Our group formed at the express wishes of Elders (some of whom have now passed away) who were tired of being excluded, threatened, disempowered and disillusioned by the governance and interpretation of the Native Title legislation.

We provide our members with legal representation on matters relevant under the Aboriginal Heritage and Native Title legal frameworks. This service is free of charge and is not biased toward securing royalty (this is how our NTRB pays its legal team). We regard our core business as heritage protection, good governance according to Adnyamathanha culture, and filling the gaps (such as responding to this Royal Commission) in the absence of any input from incorporated bodies such as our NTRB. We seek to protect our very sacred and special cultural sites, and we seek to support each other in a respectful manner.

We meet every couple of months in Port Augusta and the agenda is very open to the needs of members. As a group we remain unincorporated, we do not have any funds, and we are not supported in any way by our NTRB. Our group works at the direction of Traditional Owners particularly Elders who know specific areas of our lands, and those Adnyamathanha who respect the culture and customs of our ancestors.

Our cultural knowledge is passed on from people who were born and raised the traditional way and knew a great deal about the laws, values and beliefs of our ancestors. Many of us witnessed customary practices as part of everyday life; our world view is based on our upbringing, our first language is Yura Ngawarla. For members of the Anggumathanha group, our connections to country and customary law remains very strong.
Why we do not support the expansion of the nuclear industry in South Australia or anywhere else in Australia:

Our cultural knowledge and customary practices that dates back thousands of years warns us of the dangers associated with particular places in our country; the places where there is uranium is known as vasinyi yarta or poison ground, and we respect our Elders who shared their expert knowledge with us as the parents and grandparents of future generations, and as future custodians of the land and of our culture.

We feel there is enough technology and opportunity available to continue harvesting renewable energy sources (wind and solar particularly) and this is where the priority should be for government and industry in South Australia and elsewhere.

Our past experiences in dealing with mining companies and government regulatory bodies has not been empowering for us; quite the opposite. This makes us very mistrustful of the government’s ability or willingness to represent our interests and fully include us in any decision making.

Since colonisation our lands and resources have been severely depleted, damaged and in some cases completely destroyed against our wishes, without our consent, and in the name of “development” so we ask “Who stands to benefit the most from development? And at what cost to our environment?”

As with our earlier experiences of dealing with government people, we are sceptical that our views will be ignored because we don’t hold powerful positions in society - we speak in the traditional way – as Adnyamathanha experts and leaders not as scientific experts or lawyers.

The lack of a well-thought out engagement strategy tells us that our views are not important, that government and industry will do what they want regardless of public wishes.
Why we are not satisfied with the way this Royal Commission has been conducted:

Yaiindlha Udnuyu ngawarla wangaanggu, wanhanga Yura Ngawarla wangaanggu? – always in English, where’s the Yura Ngawarla (our first language)?

The issues of engagement are many. To date we have found the process of engagement used by the Royal Commission to be very off putting as it’s been run in a real Udnyu (whitesella) way. Timelines are short, information is hard to access, there is no interpreter service available, and the meetings have been very poorly advertised. Engagement opportunities need to be fair and equitable (readily available to all people) and the Native Title interest is no more important than the wider community. A closed and secretive approach makes engagement difficult for the average person on the street, and near impossible for Aboriginal people to participate.

Government continue to use an assimilatory process; they ignore us by refusing to translate information into our first language, and they make no effort to understand our views in our languages as the First Australians. The lack of an interpreter service means we are forced to try and engage using English (or rely on the goodwill of caring community members), and often this means we cannot be part of the engagement process. Even a Plain English summary of the four papers would have been helpful, and more opportunity for people to give oral submissions in their first language with a translator to interpret. We say that government and industry have a moral and ethical obligation to include us as citizens of Australia, and as Traditional Owners of our country. We suspect that many other Australians would have benefited from a Plain English version of the papers and this was suggested by many people who went to the first lot of community meetings held by Kevin Scarce and his team. Not everyone has good English literacy.

Requiring a JP’s signature is a barrier to participation and suggests that ordinary people cannot be trusted; not everyone has easy access to a JP, and the timeline puts pressure on people to do this. We feel this is likely to intimidate people and discourage many from participating.

The lack of advertising, and very short notice on several occasions suggests that government and industry and not serious about wanting to engage with public opinion and don’t value our input. Many people think this suggests the proposal is ‘a done deal’ and that it will go ahead anyway.

We strongly recommend that the Royal Commission do more work on the following issues:

Provide the public with better understanding of the health, cultural, and social impacts in other countries of an expanding nuclear industry (including public anxiety, contaminated areas, effects on public health);

Provide adequate resources to enable all Australians to be part of an informed process – put people before profit;
Develop a compensation package for the likely economic impacts from the negative associations of nuclear industry on local and regional economy – eg. Loss of prices in crops, housing, land, as a result of contamination threats, accidents and breaches of EPA regulations;

Develop actual measures to counter threats from terrorist organisations re: protection to avoid nuclear site attacks, and local capacity to deal with emergency situations;

Tell the public what risk management plans need to be developed for communities impacted by transportation along the travel routes – for example, who will respond to a truck accident and are they equipped to deal with it;

Informed awareness among communities that live along the designated travel routes so they can make decisions about their future;

The nuclear industry must find ways to show respect for the rights of Traditional Owners who are concerned about or opposed to the nuclear industry – monetary compensation via Native Title is not the solution – don’t insult us by simply trying to buy our consent and silence our concerns;

Provide means for ongoing and independent monitoring of dangerous levels of airborne and water-based contaminants in groundwater, along transportation routes, after accidents, and among food sources used by Aboriginal people eg. Nguri, urdlu and warrayi varlu, awi. We have a right to measure and monitor levels of radiation like other people do in countries such as the USA. We know from the Kakadu mine in NT that there is a major problem there with water management that is yet to be resolved.

Find below our response to each of the four papers issued for comment.

We include a list of LIST OF REFERENCES at the end of this submission.
Native Title mathalu utyu-nga nguthaanggu vani ngala ngala.

Native Title mob does not consult properly with the true custodians/Traditional Owners connected to our land. Site surveys are often done by the wrong people, and the process is a whitesella way of engaging with Aboriginal interests.

Anha nguthunu utyu wadu matharu Wilyaru / Yawadi utyu vani mundha ikanda.

It is important that our Camp Law Muda, handed down from Wilyaru and Yawadi law, be followed. It’s our identity, it’s our culture, it’s our Adnyamathanha custom, without a doubt.

Our capacity to speak freely and to feel like we are being listened to is vital in the early stages of exploration before any impact happens. The concerns and wishes of Traditional Owners with direct and ongoing connections to the land are very important, yet we are severely hampered by the following conditions:

When Traditional Owners knowledge is placed as a low priority by government and industry we are silenced. We want to be recognised like the scientific experts, our TO wisdom comes from thousands of years and hundreds of generations of people who have occupied and lived in harmony with the land where the uranium ore is located. We are concerned that the government proposal to expand the nuclear industry is not taking this into consideration, and if this continues the Australian government and the nuclear industry is going to further endanger the environment and threaten the lives of our future generations.

The native title process has been culturally inappropriate, incomplete, and unsafe in our view. NTRB are part of a colonial framework that offers limited capacity to engage with our peoples’ wishes, our culture heritage sites, and our knowledge. The NTRB do not represent all the voices of Adnyamathanha and other TOs – we who know the culture and the land insist on being respectfully included and fully involved outside of the NT negotiations. We recommend a process of engagement that is independent of Native Title so that all Adnyamathanha voices can be heard in regard to the exploration, extraction and milling of uranium.

Its common knowledge that the Flinders Ranges region is geologically unstable, and we believe that this is directly linked to the hundreds of spills that have occurred at Beverley Mine. Our cultural knowledge tells us that uranium is vasyini (poison), that its dangerous to humans, so we say this knowledge needs to be respected. Leave the uranium in the ground in its natural state where it can do no harm.

Exploration and mining has a negative impact on the groundwater, which is already being polluted by in-situ mining at Beverley Mine. This process of putting contaminated water back into the underground water system was approved by government despite community and expert advice to the contrary. Our experience of being ignored stays with us, and having to witness our precious water being contaminated is stays with us, it was not acceptable to us to allow mining
companies to pollute groundwater before and it’s not acceptable now. We recommend that government take on a more responsible role in managing environmental impacts and ensure that ancient water sources are looked after, not destroyed. Underground aquifers are an ancient resource that must not be destroyed for the sake of short term gain.

We want any future development to meet the requirements of the Aboriginal Heritage and Native Title legislation, and to treat consultation and negotiation under these Acts as two separate processes, THEY ARE NOT THE SAME AND CANNOT BE TREATED AS ONE PROCESS, particularly in regard to risks associated with site interference or damage. Our past experiences such as the Beverley Four Mile West impact assessment process lead us to believe that the government does not follow its own legislation, and does not listen to expert recommendations that were commissioned by the Minister for Aboriginal Affairs such as the Fiona Sutherland Beverley Four Mile report.

The Roxby Downs Indenture Act allows wide-ranging and totally indefensible exemptions from key laws such as the SA Aboriginal Heritage Act, Environmental Protection Act 1993, Freedom of Information Act 1991 and Natural Resources Act 2004. The exemptions should be repealed and if any expansion is to proceed, the exemptions should not be extended to cover the expansion. This type of legislation must never again be used to pave the way for industry and to disempower the public.

We remind this Royal Commission of another Royal Commission back in 2008 about royalty money in the Northern Territory. We include two very important and concerning points from the submission from the Australian Conservation Foundation:

- Systemic Aboriginal disadvantage has not been addressed by mining operations and most mining agreements have failed to deliver lasting benefits to Indigenous communities. A dedicated Inquiry should examine and address this continuing failure.

- Indigenous peoples ability to exercise full, free, prior and informed consent and effective input into the activities of mining operations on their traditional lands is compromised by severe capacity and procedural constraints. The legal and approvals framework should be changed to address this power imbalance.

Like the people from the NT we feel very concerned that processes used by government and industry will shut us out rather than include us, especially if our views are in contrast to those of industry.
PAPER 2: Further Processing and Manufacturing

Anggumathanha Muda / Nguthunu wadu nguni utyu yarta irra irraanggu.

According to our culture and customs, old people of the past were very protective of sacred lands.

Wadu mathalu Yura wanggaanggu uta artinyi/mirudityi Muda vuna vuna takadhna.

Camp Law people say don’t interfere with women’s and men’s history.

We speak as Traditional Owners who are connected spiritually, economically, and through our ongoing presence on the land when we say: “Enough is enough … we have suffered the consequences of brutal colonisation, genocide, racism and discrimination for the sake of Udnyu progress, profit making, and political empowerment. Leave our country, our culture, and our peoples in peace … We Yuras are human beings just like the rest of Australians, and we have a human right to freely practice and protect our culture”.

We don’t want more uranium to become available for reprocessing, such as the making of weapons. Leave the uranium in the ground. We want the government and nuclear industry to not open any more mines, not transport even more ore from our lands, and not use this ore or its by-products for making dangerous weapons. South Australians need clean industries such as eco-tourism, and improving technologies to make pastoralism and agriculture more sustainable. Processing uranium makes pollution, uses lots of water, and creates waste.

We are aware that nuclear the advances in using uranium for nuclear power are taking place, but there is still a lot more research that needs to be done to make sure the waste is minimal, and the storage of waste can be stored safely in metropolitan areas rather than in remote locations. There is no need to stockpile waste in one place, it should remain where it is and be cared for there or re-used as the technology develops.

WASTING WATER IN THE DRYEST STATE IN THE DRYEST CONTINENT?

As residents of South Australia we say no to allowing our precious and limited water resources to be used in very large amounts FREE OF CHARGE by mining companies like BHP Billiton. This proponent planned to increase in water consumption from 37 million litres daily (from the Great Artesian Basin) to over 250 million litres daily (up to 42 million litres from the Great Artesian Basin, more from a proposed desalination plant near Whyalla). That’s over 100,000 litres every minute – in the driest state in the driest inhabited continent.

The water take from the Great Artesian Basin (GAB) is a huge risk to the Mound Springs that are listed as an 'endangered ecological community' under federal environment law. BHP Billiton should be required to phase out – not to increase – extraction of GAB water.

The Indenture Act allows BHP Billiton to use massive amounts of water from the Great Artesian Basin for free despite the company's billion dollar annual profits.
We are concerned that increased activities which use huge amounts of water could cause great harm to the Upper Spencer Gulf, posing a threat to the breeding ground of the Giant Australian Cuttle Fish.

We feel betrayed by the government of South Australia which is turning its back on this beautiful part of the world for the sake of economic short term gain. The SA Premier Jay Weatherill was one of the key supporters behind the push to revoke Marathon Resources’ mining license because they were dumping core samples illegally; he supported the ban on mining in the Arkaroola area, he came and met with Traditional Owners at Arkaroola, he shook our hands and sat with us like he was genuine. Yet his government now openly supports expansion of the nuclear industry. Shame on you Jay Weatherill for turning your back on us.
PAPER 3: Electricity Generation

Yurndu akananda, milyera wanguya, awi yarranggu ... inha nguni nguthaalpala electricity.

The sun will come up, the wind will blow, the rain will fall. From these we can make electricity.

Udnyu ngantha, Yura ngantha, pipa/ngawarla utyu ngala ngala.

Your papers and your talk are meaningless without us.

Our knowledge of this land is older than any other body of knowledge. Our culture is the oldest living culture on the planet. As people growing up with the Camp Law we learned from our Elders to love, respect and care for the land and its resources. We have lived this way for thousands of years; we want the Australian population of today to learn from this.

We know that new knowledge such as technology for clean renewable sources of energy is available, and Australia is leading the way in this. We support this as we think that wind, solar, and water power will guarantee a smaller footprint on our endangered environment across the globe. Like all consumers Australians need to learn to reduce our use of natural resources, to use what we have wisely and sparingly. Digging up more uranium for an electricity source should not be considered until there is the technology to use it 100% - if we do ever need to turn to this dangerous substance there should be no waste – that must be the top priority, not big profits and big waste.

We are very concerned that this Royal Commission, and the SA government and the nuclear industry, are not addressing the very real risks of a nuclear disaster taking place. Nuclear power use in places like Fukushima has been a disaster for the people of Japan and for the people of the world. Many of the existing reactors are badly maintained, and they make a lot of waste. Because of disasters, many people were made homeless, their lives have been destroyed, and the ongoing contamination risks to humans, plant, animal and water go on forever. There is nothing than can be done to reverse this terrible situation.

We are concerned that building nuclear power stations provides a target for terrorist attacks. In the event of a disaster or an attack we are concerned that training and emergency services are not equipped and probably not willing to act in such an emergency. We are concerned that evacuation plans don’t exist and exclusion zones in the case of accidents have not been determined. Nuclear power stations need not be the way of the future, from a community safety point of view, and they should never be built in Australia. There should be more government and investor money put into renewable energy and finding better ways to efficiently use other renewable sources. Relying on fossil fuel and putting profit first is a thing of the past. This suggests a lack of long term planning, a lack of forward thinking, and a lack of concern for community safety. Profit is not everything. Our wisdom can be your wisdom.
PAPER 4: Waste Disposal and Storage

Wadu mathanha Yura utyu, Native Title mathalu utyu mukapaanggu.

Native Title has shut Camp Law Yuras out, silenced us, pushed us away.

Ngarpurlaru ngawarla wapu utyu Yurukandyadnha.

Camp Law is important. You must listen to all of us.

We have said several times in the past and we say it again: “This poisonous waste generated by industry and government is not our problem, we did not create it and we did not want it to begin with. Leave uranium and other poisonous substances in the ground, follow the rules for sustainable living with Aboriginal cultural law, and follow the rules of best practice within industry.”

A waste dump for the nuclear industry is a global issue. We don’t want more waste to be generated, and we don’t want the waste any more than other people do, so we ask the government and nuclear industry to stop adding to the waste pile, stop mining uranium, and stop pressuring vulnerable people into being stuck with this waste.

We are concerned at the proposed expansion of the nuclear industry based on our cultural knowledge and based on whitefella science. This is a dangerous and dirty industry, and one that is filled with past and present suffering. In the 1950s and 1960s many of us witnessed the raging dust storms and black clouds that came from Maralinga over to our country in the northern Flinders Ranges, we suffered ill health (sore eyes, running nose and coughing, frightening experiences) and probably a lot more chronic suffering that was not evident at the time. As a consequence of these events we have been subjected to radiation fallout, but never been recognised or recompensed for our suffering. Maralinga country has been ruined by nuclear testing, and the people who have been exposed to radiation go far beyond the immediate testing zone. People are still suffering the consequences, and the land there has been contaminated beyond repair. Aboriginal land is not a dumping ground for radioactive waste that will contaminate the land for thousands of years. If industry and government have safe ways to store radioactive waste, store it in the cities where it can be properly monitored, and where there is the most likely chance of leakages being detected.

The push for a waste dump in SA keeps coming up repeatedly; we didn’t want it then and we don’t want it now.

We have limited resources to draw on so as before our participation comes at a personal cost to the individuals who volunteer their time and expertise; in contrast, government and industry have lots of resources but can’t even offer to provide an interpreter service or pay for our travel to give oral submissions – this exclusive approach and repeated pressure is bordering on harassment. Pressuring poverty stricken and isolated communities is unethical, and the public of SA have faced this issue several times in the last decade or more. Enough is enough.
All of the people of outback South Australia deserve to be treated with respect and dignity, and there should be no elitist meetings behind closed doors with Native Title representatives. We have experienced repeated efforts to force us to agree to a nuclear waste dump, more uranium mines, and increased dangerous ore transported through our land on unsealed and unsafe roads, this amounts to political and corporate bullying of rural and regional Australians.
REFERENCES:

Please find below some supporting evidence including a statement from many SA both Aboriginal and non-Aboriginal who came together in Port Augusta in May 2015 to discuss this important issue. As some of these are not publicly available we would be pleased to forward copies as necessary.

Item 1: Statement by Adnyamathanha Elders Enice Marsh and Linda Coulthard, June 2015

Item 2: Statement arising from the Port Augusta Community Meeting, May 2015


Item 4: Statement by Isabelle Dingaman (Senior Elder) on behalf of Kokatha re: BHP Billiton & South Australian Native Title

Item 5: Beverley Four Mile submission by Anggumathanha Camp Law group, 2008

Item 6: Beverley Four Mile Confidential report by Fiona Sutherland, August 2009 prepared for Client: Aboriginal Affairs and Reconciliation Division, Department of the Premier and Cabinet.

Item 7: Australian Conservation Foundation. Submission to the Inquiry into the Uranium Royalty (Northern Territory) Bill, 2008