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WA Supreme Court hears James Price Point challenge

Patrick Pearlman, Principal Solicitor

Over 4-5 June 2013, the Supreme Court of Western Australia heard The Wilderness Society WA Inc's (TWS) and Goolarabooloo lawman Richard Hunter's legal challenge against the State's approval of James Price Point as the site of a massive 3,000ha liquefied natural gas (LNG) precinct for processing and shipping gas produced from the offshore Browse Basin. James Price Point is located on the Dampier Peninsula coast some 52km north of Broome and, among other things, is home to critically endangered species of flora and fauna, internationally significant fossilised dinosaur footprints and significant Aboriginal heritage sites.

The legal challenge actually involved two different decisions: first, the approval of the site as a "strategic proposal" for which the formal proponent is the Premier of WA, Colin Barnett, as Minister for State Development; and second, the approval of Woodside Energy Ltd's "derived proposal" to put an LNG processing and shipping facility on roughly one-half of the area allocated for the LNG Hub Precinct. An article in the EDOWA's March 2013 newsletter provides a fuller background and overview of the issues involved in the legal challenge.

The 4-5 June trial was the culmination of a legal process that began in mid-December 2012 and took several twists and turns before being presented to Chief Justice Wayne Martin. For one, Woodside - the proponent of the derived proposal (meaning the builder and operator of the actual, as opposed to conceptual, facility), publicly announced on 17 April 2013 that it had decided not to go forward with its LNG plant because the project did not offer sufficient economic return. This was followed by Woodside's Chairman announcing at the company's annual general meeting on 24 April 2013 that the >> page 3

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James Price Point. Ingetje-Tadro

EPA releases basic framework for future environmental assessments

Jessica Smith, Solicitor

In early June this year, the WA Environmental Protection Authority (EPA) released a new Environmental Assessment Guideline (EAG), EAG No9, which sets forth the process whereby the EPA makes decisions about the likely significance of impacts of a proposal as part of the environmental impact assessment process under the *Environmental Protection Act 1986* (WA) (EP Act). EAG No9 is entitled "Application of a significance framework in the environmental impact assessment process: Focusing on the key environmental factors". As described by the EPA, the "Significance Framework" set forth in EAG No9 is used to determine the likely significance of a proposal and to make decisions throughout the EIA process - from its decision on whether or not to assess a proposal, through to its recommendations to the Minister for Environment on whether or not a proposal should be implemented, and the recommended implementation conditions. This framework is applied to each of the environmental factors and associated environmental objectives described in another EPA guideline, EAG No8 "Environmental Factors and Objectives". Depending on the significance of impacts related to each relevant environmental factor, the EPA may decide: whether a proposal needs to be assessed and, if so, the level of assessment; whether a proposal's impacts are so significant that it should be rejected outright; and >> page 3

Suite 4, 544 Hay Street, Perth 6000
Tel (08) 9221 3030 • Fax (08) 9221 3070 • FREECALL 1800 175 542 • edowa@edowa.org.au • www.edowa.org.au

EPA's disturbing approach to "efficiency" in environmental impact assessment

Patrick Pearlman, Principal Solicitor, and staff

In the EDOWA's view, and as alluded to in this newsletter's article regarding EAG No9, the WA Environmental Protection Authority (EPA) and its staff in the Office of the EPA (OEPA) have adopted a disturbing approach to increasing the "efficiency" of the environmental impact assessment process, by essentially abdicating its clear statutory responsibilities to the environment to other government agencies. This *de facto* practice has now been enshrined in Environmental Assessment Guideline No9, released earlier this month.

The EDOWA believes that the EPA's approach undermines the goal of environmental protection, the scheme of the EP Act, and the EPA's role itself, by deferring decisions about environmental issues to other decision-makers when the environmental impact assessment process under the EP Act is premised on the notion that:

- The EPA is the expert decision-maker on environmental issues.
- The EPA assesses projects first and then other decision-makers follow.
- The EPA deals with issues of significance based on consideration of environmental factors, not other regulatory processes.

Under the EP Act, which is the foundational environmental law in WA, the environmental impact assessment process is the critical approval process for proposals which may significantly affect the environment. Since the EP Act's enactment in 1986, Parliament has required that process to be undertaken by an independent, expert advisory body - the EPA. Yet in confining the EP Act to only those areas where other regulators don't operate, and to a very narrow range of issues, the EPA is deferring its responsibilities to other, non-expert agencies which may not actually assess environmental impacts. In doing this the EPA is making decisions in a way which is potentially unlawful under the EP Act.

The EDOWA is particularly concerned about the following:

- The OEPA is encouraging proponents not to refer their proposals in the first place, and instead is encouraging proponents to use "behind closed doors", pre-referral processes to limit the referrals which are made.
- The EPA is approving significant changes to proposals under section 45C of the EP Act, again using behind closed doors processes so that those changes to proposals do not receive proper and public scrutiny. The section 45C process was used, for example, in connection with the LNG Hub at James Price Point, in order to accommodate changes to the design of the proposed Integrated Marine Facility that included a substantial incursion into the coast and over 50% increase in the amount and duration >> page 4

Genetically modified organisms *v* organic producers: restoring the balance

Matt Olson, EDOWA Volunteer

David Gould / Getty Images @ www.treehugger.com

In 2010 the former Minister of Agriculture and Food, Terry Redman, granted an exemption order for genetically modified (GM) Roundup Ready canola, paving the way for the first licenses to be issued to farmers wishing to plant GM canola. A good deal of public debate has taken place regarding the dangers and benefits of such a decision. While both sides continue to gather evidence favouring and against the use of GM crops, no definitive answer exists as to whether the dangers of GM crops outweigh the benefits, and both sides possess valid points. This would appear to support the argument that both GM and GM-free farming methods have the right to exist, and that the market has a right to choose. Yet that right to choose is being eroded by mounting evidence that the rights of pro-GM parties are superseding those supporting the GM-free position since Minister Redman's pivotal decision. The potential dilemma regarding the spread of GM crops into areas where they are unwelcome has become a reality in the case of Steve Marsh, and in the haulage of GM canola. Mr Marsh's case, in particular, characterises the difficulties of legitimising GM crops – by government statute and regulation giving the GM crop industry not equal rights, but superior rights over agriculturalists following traditional or organic methods.

According to publicly available records, Mr Marsh owns a farm near Kojonup, where he grew organic oats and wheat. GM canola seeds blew onto his property from a distant neighbouring field, covering the majority of Mr Marsh's organically-certified farm and thereby annulling his National Association of Sustainable Agriculture (NASAA) certification. The result was the loss of projected revenue from his crops and farm for many years, until he can requalify for organic status. The issue of GM crop encroachment in the Marsh case was a known problem – GM contamination of non-GM crops is not new. Two prominent Canadian cases, *Monsanto v Schmeiser* (2001) and *Hoffman v Monsanto and Bayer* (2005) >> page 5

Challenge to James Price Point

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company had already spent $1.5 billion on environmental studies, reports, etc. related to development of the site. Then, when the legal team for TWS and Mr Hunter suggested to the State's lawyers that Woodside's change of heart might alleviate the need for a hearing right away on their challenge, the State insisted that the Court press on. In that vein, the State has also pressed on with the expenditure of public funds to compulsorily acquire land at the site (or more precisely, the right of Native Title claimants to the land). In a 20 June 2013 media release, the Premier stated that this is "prudent" and that "[t]he gas is there and it is just a matter of time before it is used" – notwithstanding the fact that the State approvals to be furthered by the acquisitions are currently under challenge in the Supreme Court.

TWS and Mr Hunter originally raised numerous grounds in challenging the State approvals but scaled back those grounds ultimately to focus primarily on the participation in the State Environmental Protection Authority's (EPA) assessment process by several EPA members who had direct or indirect pecuniary (ie, financial) interests in the proposed development. Under section 12 of the *Environmental Protection Act 1986* (WA) (EP Act), Authority members are excluded from participating in the discussion, consideration or voting upon matters in which they have such interests. In TWS' and Mr Hunter's case, three of the Authority's five members were affected by section 12 - stemming from, among other things, shares owned in Woodside or another member of the joint venture to develop an LNG plant at James Price Point. However, the Authority's Chairman allowed these three members to continue participating in the environmental assessment process for nearly 40 months, despite their disclosed interests (a fourth member who disclosed such an interest was excluded by the Authority Chairman).

Not until 1 March 2012 did the Chairman finally act to exclude the interested members from further participation in the assessment process and then carried the assessment process forward alone (purporting to act by delegated authority, which itself raised significant legal questions). However, as the TWS and Mr Hunter maintained, by this point the damage had been done as only another three months elapsed before a final decision was issued, that decision reflected many of the decisions made by the Authority with the participation of disqualified members, and - by his own admission – the Chairman's decision was influenced by the views and decisions of the interested Authority members over the course of the assessment. That the views of those conflicted members may have infected the Chairman with their bias - the principle of the so-called "bad apple in the barrel" – was another argument presented for the Court to consider.

Another argument advanced by the TWS' and Mr Hunter's lawyers was that the EPA could not lawfully delegate its collective decision-making obligation to a single person but rather was obligated to make decisions by vote of no less than 3 members under section 11 of the EP Act. In this case, the Minister for State Development's "strategic proposal" for an LNG Precinct was decided by one Authority member (ie, the Chairman), while Woodside's "derived proposal" to build and operate a facility on a part of the site was decided by two Authority members (namely the Chairman and Deputy Chairman).

The Court has reserved its decision and a ruling is not expected for at least six to eight weeks.

(EDOWA's Principal Solicitor acted as junior counsel for TWS and Mr Hunter in the case: *The Wilderness Society v The Minister for Environment*, Civ No 3044 of 2012).

EPA releases EA framework

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if assessed and recommended for approval, what implementation conditions ought to be imposed.

All these decisions are recommendations that are ultimately acted on by the Environment Minister.

EAG No9 provides useful guidance in understanding the EPA's approach to assessing proposals under the EP Act, but it does raise some concerns. For instance, EAG No9 indicates that where another regulatory agency has some responsibility for dealing with a particular environmental factor, the EPA may decide not to assess that environmental factor in respect of a proposal. This approach was evident in the recent assessment of the Wiluna uranium mine in which the EPA chose not to impose conditions with regard to radiation impacts (arguably the most significant environmental impacts associated with the proposal) on grounds there were other agencies, such as the Department of Mines and Petroleum and the Radiological Council, that could deal with such impacts.

As we've noted in past newsletters (see our May 2012 edition), the EPA's approach is also concerning because it is ultimately the EPA that is the agency that has been given responsibility for high-level environmental impact assessment in WA and other regulatory agencies don't necessarily have the same powers or expertise as the EPA. It is therefore a matter of some concern that the EPA would, essentially, defer to those other agencies under EAG No9. There is also concern whether the EPA adequately follows up on its assumption that other agencies' will adequately deal with the impacts and what the EPA will do where that assumption proves unfounded.

The EDOWA encourages anyone concerned about environmental impact assessments in WA to familiarise themselves with EAG No 9. The Guideline is publicly available at http://www.epa.wa.gov.au/Policies_guidelines/EAGs/Pages/default.aspx. While the EPA has chosen not to seek public comment on EAG No 9 for the time being, it has (as noted above) already begun assessing proposals in accordance with this framework and will continue to use it on a trial basis for a year. Once that year is up, the EPA has indicated that it will seek public feedback on EAG No 9 and we encourage members of the public to consider providing their comments to the EPA on how well the Guideline has worked.

EPA's "efficiency" disturbing

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of dredging for the proposal. Because those changes were handled under section 45C, the public was never allowed to make submissions about their environmental impacts.

- The EPA is deciding not to formally assess proposals on the basis that their impacts may be managed by another government agency. Whether or not another agency can or will manage impacts is not, the EDOWA believes, actually relevant to whether a proposal has a significant impact on the environment. This can only be assessed by considering the environmental impacts themselves.
- The EPA is deciding not to assess some issues during a formal assessment, again on the basis that they may be managed by another government agency;
- The OEPA is removing many key proposal characteristics from schedule 1 of Ministerial approvals on the basis that they may be dealt with by other regulators.
- The EPA is not recommending conditions for Ministerial approvals where another agency may deal with the issue. On this point, the EDOWA notes that the recent decision on the Gindalbie's Shine project saw no substantive conditions being imposed at all.

Some obvious practical issues with the EPA's approach are pointed out in our May 2012 newsletter, and include:

- The other decision-maker may not have the expertise to assess environmental impacts.
- The other decision-maker may decide not to assess environmental impacts adequately, or at all, even if they have some power to do so. It is particularly ironic that another decision-maker could reasonably decide not to assess environmental impacts on the basis that the EPA didn't think there was a significant issue. If this happens the EPA can't force the decision-maker to reconsider the environment, or even re-call its own decision.
- The other decision-maker may not have the same powers as the EPA to require a proponent to prepare environmental impact assessments. The EPA can require investigations, information, independent reviews etc, under the EP Act. Few other agencies have these powers at the assessment stage of proposals.
- The public is excluded from many other decision-making processes, whereas there is a known, relatively open process for people to make submissions in the EPA's environmental impact assessment process.
- Very few other decision-making processes have the statutory appeals processes which the EPA's assessment process does which, while not perfect, is better than no appeals process at all.
- The decision-maker may not have the resources to assess the environmental impacts. Again, if this happens, the EPA can't force the decision-makers to consider the environment, or even re-call its own decision.

In the EDOWA's view, the fact that other decision making processes may apply and thus cause "inefficiencies" and "duplication" is simply not a valid reason for the EPA to decline to perform its statutory duty to assess the environmental significance of proposals and their likely impacts.

The EDOWA, together with The Wilderness Society and The Conservation Council of Western Australia, have jointly communicated these concerns to the EPA and State government officials, and requested they they reconsider continuing with this approach. ■

EDOWA and Environs Kimberley team up for Broome community legal presentations

Patrick Pearlman, Principal Solicitor, and Jessica Smith, Solicitor

In partnership with Environs Kimberley, EDOWA solicitors Patrick Pearlman and Jessica Smith offered community legal presentations to residents of the West Kimberley at the Lotteries House, 642 Cable Beach Road in Broome, on 27 June 2013. The presentations are part of EDOWA's ongoing effort to expand its presence and availability to remote regional areas of Western Australia and to continue improving its outreach to Traditional Owner communities in the Kimberley.

EDOWA's community legal presentations are offered free of charge and are open to all members of the public. In the case of the Broome event, two hour-long presentations were given:

- Using the Commonwealth EPBC Act to protect monsoon vine thicket – now that you've got a matter of national environmental significance, how do you protect it?
- Fracking and unconventional gas development in the West Kimberley – legal issues, rights and remedies.

Attendees at the event were also given a brief update by the EDOWA solicitors on the status of local Broome residents' legal challenge to the State's approval of the LNG Hub at James Price Point on the coast 52km north of the city.

The CLE presentations were also bookended by a three-hour legal advice session at which local residents could seek legal advice from EDOWA solicitors on matters of public interest environmental law, and a social mixer with attendees.

Environs Kimberley Executive Director Martin Pritchard organised the event venue and also spoke to attendees about his organisation's efforts to educate and empower Kimberley communities to access the political, regulatory and legal systems to protect their legal rights.

Mr Pritchard can be contacted at Environs Kimberley, PO Box 2281, Broome, 6725; phone 9192 1922, fax 9192 5538, mobile 0427 548 075, or envrkimb@wt.com.au ■

GM v organic crops

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brought the problem to light many years before Minister Redman's decision to grant the exemption order in 2010. In both cases, farmers had their GM-free canola fields contaminated by neighbouring GM canola. In the *Schmeiser* case, the farmer became aware that contamination had occurred but continued the traditional practice of collecting seed from his crops. Despite the contamination being accidental and no fault of Mr Schmeiser, he was held to be in breach of a Monsanto patent. In *Hoffman*, the flip-side of the GM coin was evident. A number of organic canola farmers in Saskatchewan lost their organic certification due to GM canola spread. In *Hoffman*, the judge stated that any express grant of a license to have dealings with GM crops eclipses any "duty of care not to release these substances into the environment". That decision effectively exempted GM farmers from any duty of care to prevent GM contamination and treated GM products, for legal purposes, as a naturally occurring organism. In essence, genetic modification works as both a sword and a shield for GM farmers and producers: Inadvertent contamination of GM crops by neighbouring natural strains may give rise to a patent-infringement claim, while contamination of unmodified crops by GM strains conveys no right to relief. Australia seems to be following this path.

In Australia, the Office of the Gene Technology Regulator (OGTR) has stated that "Roundup Ready canola and InVigor canola are as safe for human health and the environment as conventional canola" (See Office of the Gene Technology Regulator, 'Fact Sheet – GMOs approved for commercial release in Australia: GM Canola', http://www.ogtr.gov.au/internet/ogtr/publishing.nsf/content/factcanolaApr10-htm, 2010. This shows that the policy stance in Australia seems to be similar to the ruling in *Hoffman*, that GM crops have equal footing with non-modified crops. However, this proposition has yet to be tested in court.The trend to considering GM crops as being on equal footing with non-modified crops gives the misleading impression that they are equally represented at law. The guise of equality is quickly shed where a conflict arises, as the above examples show. Only the GM agriculturalists have express legal rights and, therefore, protection under intellectual property law. In fact, the patent holder is almost completely cocooned from liability and the only way to challenge the damage caused by the patentee's product is to question the procedural or scientific validity of the patent or license granted.

Challenging a patent holder's scientific studies is extremely difficult due to the cost and resources required. Consequently, the only practical recourse to challenge a patent holder is to look for afailure to comply with the application process. Even then, the successful pursuit of such action would not prevent the patentee from reapplying for the patent or licence, and would merely serve as a stopgap measure.The protection given to the patent holder provides the injured farmer with little recourse other than to sue the GM farmer (as in the Marsh case) or the State or Federal Government for the damage done to their property. In *Hoffman*, it was argued that the defendants had trespassed by contaminating the organic canola fields with GM canola. However, this claim was dismissed by the Court of the Queen's Bench Saskatchewan, stating that the certification for commercial release indicates no need for confinement or control. The consequence of the *Hoffman* decision is that a farmer is not responsible for the spread of their GM crop. This decision has not yet been adopted into Western Australia or Australian law, which is why the Marsh case is pivotal, as it will set a precedent on this issue for our nation. If the courts should decide not to follow the Canadian example, then Western Australian GM farmers will have a common law defence against the incursion of GM organisms onto non-GM farms.

Non-GM farmers in WA do have the option to seek compensation from the Government, particularly the Department of Agriculture and Food (DAF) and the OGTR, for their handling of the GM assessment process. It is now evident that the Roundup Ready canola advice trial was extremely optimistic when it stated that most canola pollen only travels ten metres from the plant, and that the current buffer zone recommendation of five metres for GM canola bordering non-GM canola is completely inadequate. The GM canola that affected Marsh's property travelled hundreds of metres, and although the Roundup Ready canola Risk assessment and Risk Management Plan (RARMP) mentions a 0.04% "outcrossing" at 400m, the extent of contamination of Mr Marsh's property points to a much higher percentage. The Supreme Court agreed, on merit, that the government-approved buffer zones are inadequate when it granted Marsh a temporary injunction for a 1.1km buffer zone until the court action is resolved. The issue of spread is perhaps the least challenging factor that the DAF, under authority from the OGTR, had to consider in its assessment, and the most obvious issue that a layperson can observe and test – yet that assessment proved completely ineffective in the Marsh case. This calls into question other aspects of the government regulator's assessment process that cannot be observed so easily and require specialised studies and knowledge. Again, however, such investigations are beyond the means of most affected parties to challenge in court.

A discrepancy in rights exists, as GM canola currently appears able to spread with impunity, forcing farmers whose land is affected to either adopt the GM product, face court action for patent breach, or take costly and time-consuming court action to protect organic crops.

The conflict between GM and non-GM farmers' rights was created by a government decision to legitimise GM agriculture and leave non-GM agriculture "as is". Whether intentional or not this has changed both farmers' rights and liabilities. The most effective solution will be through a government decision to right the problem. Some suggested starting points would be further independent trials for spread conducted on existing GM farms and surrounding areas; a pause in the granting of licenses until such trials are complete; increasing the buffer zone to more than 1km; implementing and adhering to GM-free areas as advocated by the *Genetically Modified Crops Free Areas Act 2003*; and the creation of traditional and organic legal rights. ■

2012 amendments to the WA Mining Act now in effect

Annaleen Harris, Solicitor

The open cut mining pit at Talison Mineral's Greenbushes mine in WA. Stephen Hutcheon @ www.smh.com.au

The *Mining Amendment Act 2012 (WA)* (MAA) came into full force on 2 February 2013, providing a more flexible operating regime for mining companies under the *Mining Act 1978 (WA)* (Mining Act). The MAA was released in response to a statutory review into the operation and effectiveness of the *Mining Amendment Act 2004* (WA) prompted by complaints from the mining industry.

To name but a few of the changes wrought by the MAA, the mining applications process has been made less rigorous for mine proponents, the application of the Mining Act has been broadened to capture mining on Commonwealth land and *in situ* processing of resources, and the scope of activities covered by miscellaneous licences has been widened.

More specifically, the MAA:

- Enables mining on land over which the Commonwealth holds a freehold or leasehold interest, or land that is otherwise vested in the Commonwealth. However, the State will not have the power to resume Commonwealth land, and both the written consent of the WA Minister for Mines and Petroleum and the agreement of the Commonwealth Minister for Sustainability, Water, Population and Communities is required for mining to proceed.
- Simplifies the application process for listed companies wishing to apply for mining leases. Previously, mining lease applications were required to be accompanied by either a "mining proposal" or a "statement and mineralisation report". Listed companies now simply lodge a "resource report" outlining the location of the mineral resources and submit the report to the ASX.
- Broadens the definition of "mining operation" to include combustion and operations by which a processed mineral resource is produced and recovered. Burning coal underground to obtain gas is now a "mining operation" for the purposes of the Mining Act.
- Widens the scope of miscellaneous licences to encompass purposes "connected with mining" in amore general sense, rather than the "mining operations" only. This means that miscellaneous licences can now be granted at earlier stages of prospecting and exploration, before mining operations commence.
- Extends the time for compulsory partial surrender of an exploration licence from five to six years after the grant of the licence. This allows mining companies a further year to conduct exploration activities before finalising their decision to surrender an area. Moreover, the requirement to surrender used to apply to all exploration licences granted over more than one block but now applies only to exploration licences covering in excess of ten blocks. Exploration licenses with approved retention status have now also been made exempt from compulsory partial surrender.
- Doubles the number of areas under licence allowed to survive compulsory surrender. The MAA allows proponents to hold six discrete areas under licence, rather than three after surrender.

Interestingly, the MAA also contains some amendments to the Mining Act which may have a positive impact on the environment, including extending the time limit for prosecuting an offence under the Mining Act from 12 months to three years, increasing the penalties for various breaches of the Mining Act, and requiring the Mining Warden to declare an interest, either direct or indirect, to the parties in a matter being heard before him.

For more information or specific advice regarding application of either the Mining Act or the MAA, contact the EDOWA on 9221 3030, or visit our website at www.edowa.org.au

EDOWA encourages feedback for stakeholder reference groups

Jessica Smith, Solicitor

The EDOWA is now a member of a number of different stakeholder reference groups focused on environmental issues, including those for the Environmental Protection Authority (EPA), the Department of Environment and Conservation (DEC) and the Department of Mines and Petroleum (DMP).

Participation in these groups allows the EDOWA to stay up to date with law and policy reforms affecting these agencies, have a better understanding of the agencies' internal processes, and raise any concerns that we, our members, clients or other interested persons may have about public interest environmental law issues.

We encourage EDOWA members, clients and others to provide feedback to us where they have concerns about issues such as the adequacy of environmental regulation, public participation in environmental decision-making processes, transparency, access to information and so forth. We can then pass on that feedback to the relevant agencies, where appropriate, with a view to improving environmental laws and policies in Western Australia.

If you would like to provide feedback to the EDOWA on these types of issues, please contact us on (08) 9221 3030 or at edowa@edowa.org.au

It's tough to remain a climate-change sceptic when even Big Oil throws in the towel

Emily Austin, EDOWA volunteer

Pedro Armestre/Mario Gómez @ http://bldgblog.blogspot.com.au/2007/11/climate-change-escapism.html.

The next time you're confronted by the standard denials of so-called climate change sceptics, consider this:

In a 29 May 2013 address to shareholders, Rex Tillerson, CEO of Exxon Mobil, the world's most valuable company, admitted human-induced climate change is under way but suggested that humanity cannot afford to stop it (See Julian Cox: Seeking Alpha, at http://seekingalpha.com/article/1475061-exxon-mobil-ceo-we-re-going-in-can-t-pull-up-brace-for-impact).

According to Mr Tillerson: "The real question is, do you want to keep arguing about [how to stop climate change] and pursuing something that cannot be achieved at costs that will be detrimental? Or do you want to talk about what's the path we should be on, and how do we mitigate and prepare for the consequences as they present themselves?"

But Mr Tillerson's comments are not simply representative of even the energy industry's confession that our fossil fuel-based economy is heating the planet and changing our climate – they are a sign of the continued struggles faced by climate activists. After the energy industry reportedly spent decades and billions of dollars promoting "uncertainty", Exxon now suggests it's simply too late to do anything about climate change because, according to Mr Tillerson, action to prevent it will cause human "suffering". As Mr Tillerson puts it, "[Wind]mills won't do it, solar panels won't do it [and] bio-fuels won't do it." It appears that action to save the planet is apparently going to cause more human "suffering" than the change in climate Exxon concedes to – though a Tuvaluan whose homeland is being swallowed by rising sea levels might beg to differ. Mr Tillerson's justification for inaction is that "you don't know exactly what your impacts are going to be." Perhaps, then, this is not a concession but merely a more diluted breed of climate scepticism. However, the fact remains that even Exxon, a leader in the energy industry, has conceded that climate change is under way and we are the culprits – which is more than is conceded by some.

You can view the full transcript of Mr Tillerson's comments at http://finance.yahoo.com/news/exxonmobil-corporation-ceo-hosts-annual-221305776.html

Lake Powell before and after the 2002 drought.
John Dohrenwend, University of Arizona

Got any fundraising ideas?

If you have ideas for EDOWA fundraising events please contact **Jane Siddall** at jsiddall@edowa.org.au or on 9221 3030 Monday, Tuesday or Thursday.

Thank you.

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