

Waging Paperfare: Subverting the Damage of Extractive Capitalism in Kakadu

Tess Lea
University of Sydney

Kirsty Howey
University of Sydney

Justin O'Brien
Gundjehmi Aboriginal Corporation

ABSTRACT

Drawing on campaigns waged and administrative burdens managed by the Gundjehmi Aboriginal Corporation (GAC) in Kakadu National Park to manage the effects of existing uranium mining and further proposed mining, this article draws attention to some of the techniques and coalitions that GAC has created to manage its would-be managers. It uses the case of monitoring the operations and particularly the rehabilitation of the Ranger Uranium mine and of halting the opening of a second mine, known as Jabiluka, to consider the less conspicuous paperwork battles that take place amid and in the aftermath of these public battles. In considering these contests, we argue that the double valency of holding to account needs to be considered, to avoid dichotomising Indigenous people as either co-opted by or opposed to administration, a bifurcation which fails to recognize the complexity and inevitability of contemporary Indigenous management regimes. This is neither a celebration of Indigenous counter-administration, nor a false positing of Aboriginal alternatives to institutionalized worlds. Concluding, we note that when the organizational toil of drawing the locus of power in decision-making towards Aboriginal interests is made apparent, the notion that there is an alternative to institutionalized forces of settler colonialism, represented by Indigenous resistance, is complicated. We mark this organizational work as evidencing the unrelenting nature of administrative violence under active colonization.

Keywords: Kakadu National Park, Ranger uranium mine, Mirarr, administrative violence, indigenous policy, anthropology of bureaucracy, paperfare.

The State never tires, never ages, never needs a rest (Roy 2016:126)

In July 2007, 1 month after the Australian Government declared the Northern Territory Emergency Response (NTER), authorizing increased powers of surveillance and micro-control over the everyday behaviours of Aboriginal people in the Northern Territory (NT) (Altman and Hinkson 2007; Morrison 2017), Rio Tinto's new Chief Executive Officer, Tom Albanese, confirmed that the mining giant would no longer pressure the Mirarr people to give Rio Tinto's subsidiary, Energy Resources of Australia (ERA), development approval for the multi-billion-dollar Jabiluka uranium deposit that sits on their traditional lands. 'We have for a long time made the commitment that further development would be subject to the prior informed consent of the traditional landowners', London-based Albanese insisted (Fitzgerald 2007). Albanese's declaration in fact restated the legal effect of the *Jabiluka Long Term Care and Maintenance Agreement* signed by ERA 2 years prior in 2005; an agreement which requires the consent of the Mirarr for Jabiluka to ever be developed. But in making this press statement, Albanese also publicly rebuked and distanced himself from ERA's dogged pursuit of mining against the wishes of traditional owners over the previous decade. The symbolic importance was unmistakable. Further undermining of Mirarr

legitimacy would not be tolerated, Albanese's announcement declared. ERA could no longer insinuate that external agitators had manipulated a pliable Indigenous group into opposing Jabiluka. They could no longer trivialize the extensive and dangerous Boyweg-Almudj (knob-tailed gecko and rainbow serpent) sacred site complex, under threat from Jabiluka, as a mere water soak.¹

The two announcements – a national emergency asserting a need to 'normalize' Indigenous communities, together with a vow to cease cultural undermining – could not seem further apart. On the one hand, the government was resuming paternalistic control policies and insisting on the necessity of radical disempowerment; on the other, a powerful international corporation was publicly declaring its recognition of Indigenous demands (a noble avowal which must nevertheless be read in the context of international scrutiny of Jabiluka and of changed market conditions following Rio's acquisition of ERA).² What unites both, however, is their operation as real forces to be dealt with by the Mirarr through their local representative political body, the Gundjeihmi Aboriginal Corporation (GAC).³ Mirarr country is encapsulated inside an iconic World Heritage listed national park whose boundaries also encircle the Jabiluka mineral lease and Ranger uranium mine project area (see Fig. 1). Drawing on a combination of fieldwork, an ethnography of documents (as per Sullivan 2012) and first-hand 'insider' experience⁴ of Kakadu administration, in this essay we revisit the backstory to Rio Tinto's concession that Mirarr traditional owners will always have the determining say on any future mining activities in their country. Returning to this battle and bringing it into the contemporary period, we make the point that organizations like GAC are at the frontlines of a struggle which, because it operates through institutional genres (documents, meetings, legal and scientific negotiation), appears more benign and inconsequential than it is. Thinking through what kind of battleground this is forms one of our concerns.

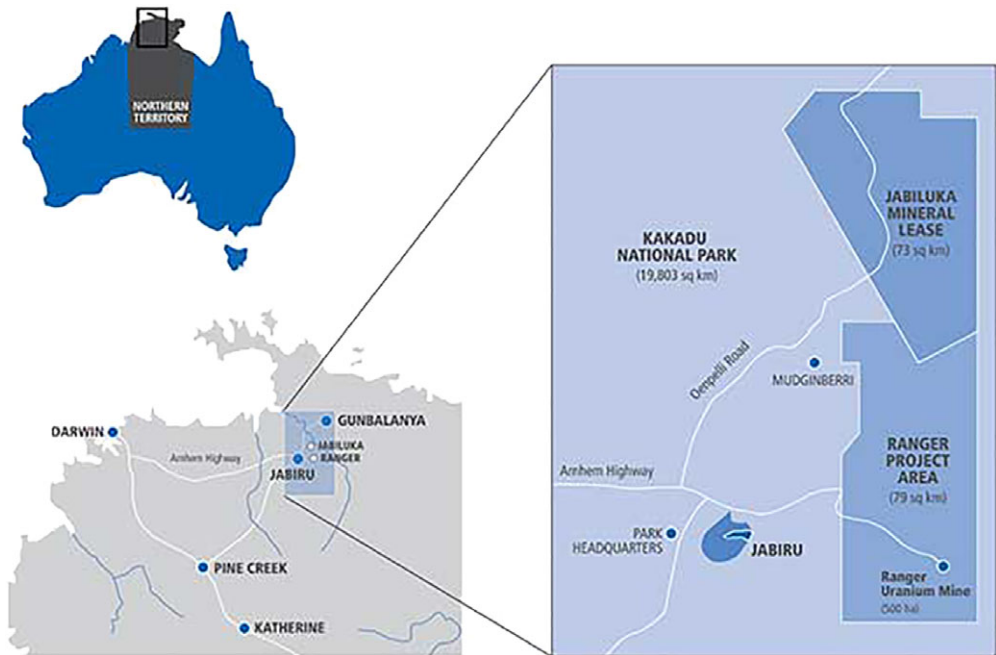


Figure 1: Map showing the location of Kakadu National Park, Jabiru, and the Jabiluka and Ranger mineral leases (Energy Resources Australia n.d.). The Jabiluka mineral lease and the Ranger Project Area are excluded from the park. [Color figure can be viewed at wileyonlinelibrary.com]

The unrelenting, detailed, and arcane nature of these contests also puts into question the notion that Indigenous groups who, through historical and political circumstance, still reside on their original country represent a sanctuary from bureaucratized, industrialized modes of being in the world (see also Lea 2019). Rather, the Mirarr dwell at the nexus of Cold War energy politics, ecological risk, contamination, and the negotiation of future livelihoods. It is a conflict theatre with no apparent end.

Rio Tinto's allowance is and should be seen as a remarkable feat, born from long Indigenous-led campaign efforts. As we elaborate below, Ranger Uranium mine was legally authorized, as was Jabiluka. Defeating Jabiluka was an intervention in what should have been a *fait accompli*; and stopping it means Ranger will reach the end of its life without a new mine to continue in its stead. This victory nonetheless has left the Mirarr with fresh burdens, from inventing new economies in an environmentally threatened zone, marketing the fragile wetlands of Kakadu for tourism just as these risk sea level inundations from climate change; and, our focus here, of enforcing rehabilitation of a decommissioned uranium mine, with its billions of litres of contaminated water, millions of tonnes of toxic tailings and few precedents to draw upon. Ensuring compliance with environmental requirements demands ongoing vigilance and administrative insistence. This essay asks: just what kind of battle is this?

In what follows, our attention pivots from the work of disrupting authorized mining at Jabiluka and eventually, the decommissioning of Ranger, to the ongoing requirement to battle through paperwork to attenuate the damages of uranium mining and processing. By emphasizing the toil that takes place in the aftermath of more visible campaigns, we aim to show the less dramatic ways in which the state intensifies its grip through what here we call, recruiting Rob Nixon's term for the latency of environmental damage, slow *administrative* violence (*cf.* Nixon 2011). We consider such work as a legally endorsed mode of draining remote Indigenous lifeworlds, without visible violence or notable theft, and see these as the conditions that Indigenous coalitions must negotiate and endure if they are to even partially realize their own desired outcomes. For want of a better summary term, we are calling this battleground *paperfare* to signal its ubiquity and pervasiveness, its exhausting and always dangerous potential, despite the lack of obvious weaponry.

Even so, while we recognize the latent administrative violence inherent in much paperfare, we argue against any tendency to essentialise its complexities, as per conceptualisations of Indigenous administrative naiveté or co-option by state interests in the face of bewildering governmental technologies. Instead, we argue that the Mirarr people, together with the many necessary non-Indigenous brokers, translators, and semiotic performers (Mosse and Lewis 2006) who are strategically enlisted as allies, deploy increasingly sophisticated management techniques to manage contemporary settler incursions. This unsettles the age-old binary whereby Indigenous people are perceived as either co-opted by a state or corporatist agenda (with their Indigeneity somehow eroded through their imagined acquiescence to Foucauldian techniques of governmentality) or rendered as oppositional and anterior to it (where their purer Indigenous essence is somehow preserved intact). In contrast, we describe how tactics of counter-administration within the terrain of paperfare can be a tool for forcing important concessions towards Indigenous interests, without suggesting the possibility of either complete overturn or escape.

Counter-administrative tactics are always double-edged. Among other ramifications, the available time to live outside the pressures of state and corporate demands is eroded through engagements in regulatory mazes, for the politics of engaged refusal exacts harsh physical and temporal tolls. The case study site, Mirarr country in Kakadu, is also one where people have remained on their country through long eras of de-territorialisation and have also been formally recognized by the legal machinery of the state. That the struggles

to manage state and corporate intrusion are as relentless as ever in turn exposes the fiction that it is only the displaced and the dispossessed who are at risk of settlement damage (Bessire 2014). As Audra Simpson notes of forms of covenant-making over Indigenous lands, often transacted under conditions of duress, '[t]he condition of Indigeneity globally is to know this. Indigenous peoples are grappling with the fiction of justice while pushing for justice' (Simpson 2016:329).

DURESS, DECEIT, AND THE PRICE OF RECOGNITION: A BACKSTORY

Stopping Jabiluka meant halting a legally authorized uranium mining operation in its tracks. The Jabiluka deposit was one of four uranium deposits discovered in the East Alligator Rivers region of the Northern Territory from 1969, known as Ranger, Jabiluka, Nabarlek, and Koongarra. Its mining was 'approved' via a 1982 agreement between Pancontinental Mining and the Northern Land Council (NLC) under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (*Land Rights Act*) on behalf of the Mirarr traditional Aboriginal owners, whereupon a mining lease was granted under the *Mining Act 1980* (NT). However, extraction plans had stalled under the Australian Labor Party's (ALP) policy to effectively only have three uranium mines operational in Australia at the same time: the Ranger mine south of Jabiluka (already on Mirarr country), Nabarlek in Arnhem Land, and Olympic Dam in South Australia (Panter 1991).

Upon his election in 1996, Prime Minister John Howard lifted the ALP's restrictive uranium policy: Jabiluka was to proceed. With land rights sorted and mining and environmental approvals secured,⁵ ERA swiftly commenced construction of its new mine. A 1.5-km-deep tunnel was blasted and excavated so that the underground ore body could be accessed; roads were levelled; a water management pond was excavated and lined. ERA's plans to extend uranium mining for 30 years in the region were well on track. The Jabiluka deposit, despite a 13-year policy pause, thus assumed a seemingly unstoppable normative force as a resource that would be extracted. Stopping the mine was an extraordinary feat. For the Mirarr, whose country included not only the Jabiluka deposit, but also the nearby operational Ranger Uranium Mine and parts of Kakadu National Park, it meant a long and tiring campaign. It meant standing by their unpopular conviction that the 1982 Jabiluka mining agreement had been obtained under conditions of deceit and duress (Scamary 2013).

For good David-and-Goliath narrative reasons, the more visible aspects of the Jabiluka campaign—the public marches and blockades, arrests, slogans, and banners—have attracted considerable academic attention (Banerjee 2000; Lawrence 2000; O'Brien 2003); but they obscure the document-led quagmires that had to be navigated at the time and since, both to escalate global attention and to drag environmental and human health protections from the 'helping state' (Gupta 2012). In short, to establish Jabiluka's illegitimacy, the Mirarr also deployed a textual-legal arsenal. For example, they successfully petitioned the Australian Parliament for multiple parliamentary inquiries into uranium mining.⁶ They challenged the validity of ERA's NT mining lease in the Federal Court on the basis that it was the Commonwealth, and not the Northern Territory, that owned uranium in the NT. They went to the NT Supreme Court to question the mining construction approval process; and they returned again to the Federal Court to dispute the Commonwealth Environment Minister's decision not to direct an inquiry into environmental aspects of the proposal to export uranium from Jabiluka.⁷ They sought to invoke a World Heritage in Danger listing, lobbying UNESCO to send a Special Mission to investigate the threats posed to the world heritage values of Kakadu National Park, prompting an unprecedented public hearing of the UNESCO World Heritage Committee. These ultimately unsuccessful court cases and

appeals to international bodies escalated the public profile of the issues, but this is not our key point. Rather, we want to emphasize that these were administratively waged interventions: exhausting appeals and counter-measures conducted through highly prescribed genres of institutional intervention.

The battles *en papier* of Jabiluka two decades ago were buttressed and spurred by an underpinning regulatory convergence zone which has been inhabited by the Mirarr continuously for over 40 years. The administrative theatre of operations of the Ranger Uranium Mine originally commenced in a spectacularly public tangle of ‘greenfields’ legislation and experimental policy in the mid-1970s. It is difficult to overstate just what a convoluted, complex, and confounding socio-political policy space Kakadu National Park is. Even at its beginnings, it was described as a ‘controlled disaster zone’ (Lawrence 2000:105). The clear contradiction of uranium mining inside a national park on recognized Aboriginal land was a forced amalgamation fashioned around military-industrial interests. In the nuclear imperialism of Cold War politics, Australia raced to provide the USA and Britain with ‘the magic new stuff of geopolitical power: uranium’ (Hecht 2006:323). Rum Jungle uranium mine near Darwin in the Northern Territory, which operated from 1954 to 1971 to supply uranium for British and American military interests, was one toxic result.⁸ Today, Rum Jungle is a highly contaminated abandoned mine site promised as Aboriginal land once its long-overdue remediation is completed by the Commonwealth. As with Kakadu, this will involve intense paperfare to make even partially true.

The aerial radiometric surveys that ‘discovered’ uranium in the Alligator Rivers Region in 1969 were also state-supported initiatives made urgent by a British and American sprint to secure what was then thought to be rare supplies of a weaponisable ore. Between uranium’s change in status from rare-and-must-be-seized to ubiquitous commodity, nuclear energy plants had emerged as the solution to power generation in the face of fossil fuel shortages. In 1974, Prime Minister Gough Whitlam entered a Memorandum of Understanding (known colloquially as the ‘Lodge Agreement’, after the official Prime Ministerial residence in Canberra where the agreement was secured) with the joint-venturers at Ranger to confirm the Australian Government’s intention to develop and sell the high-grade uranium for Japan’s nascent nuclear energy industry, with the government holding a 50% stake in the venture (the ownership stake was later relinquished, but the government still contributed 72.5% of the construction costs of the mine, mill, and infrastructure). Bowing to public pressure, 2 years later the government established a public inquiry into uranium mining at Ranger: the Ranger Uranium Environmental Inquiry, also known as the Fox Inquiry (Fox 1976; Fox et al. 1977). Notwithstanding the independence and detailed breadth of the 3-year inquiry, it ultimately sanctioned the development of the mine as foreshadowed in the Lodge Agreement.

At the same time, in the same place, and entirely related to the imposed uranium deal (Anon 1977), the Australian Government had also agreed to establish Australia’s first jointly managed national park and the first legislation recognizing traditional Indigenous rights to land (in the form of freehold title owned by Aboriginal land trusts, albeit in the Northern Territory only). The eventual *Aboriginal Land Rights (Northern Territory) Act 1976* gave ‘traditional Aboriginal owners’⁹ the right to stop mineral exploration and mining on Aboriginal land except where it conflicted with ‘the national interest’. But with uranium mining at Ranger, the perceived national necessity of mining uranium did not even have to be invoked: the commodity had already been effectively sold. To double down on the forced terms of ‘negotiation’, as if anticipating the need to stay the course of state insistence through time, the right to veto mining at Ranger was also removed in the legislation itself. Nonetheless, to follow the form initiated by the *Land Rights Act*, the NLC and the Commonwealth had to make an agreement specifying some of the terms under which uranium

mining activities could take place. Such was the political expediency of Ranger that the government additionally granted the Commissioners the powers of the Aboriginal land commissioner, allowing the environmental inquiry to hear and make formal findings in relation to the first ever land rights claim under the *Land Rights Act* (also prepared by the NLC).

Slowing this backstory down a little makes clear how such political projects are enacted through conditions of legally authorized constraint, enacted through paperfare. Section 41 (1) of the newly minted *Land Rights Act* provided that traditional Aboriginal owners, through the NLC, had the right to veto mining and exploration on Aboriginal land. A sub-clause of the same section stipulated that the veto did not apply to the Ranger Project Area. Instead, the NLC (on behalf of traditional Aboriginal owners) and the Commonwealth had to make an agreement. If there was a stalemate in negotiations the Minister could appoint an arbitrator to determine the terms and conditions of the agreement and enter into the agreement on the Land Council's behalf. This is sly colonialism, insisting on a civil process to take resources without bloody violence, through techniques of paperfare. Indeed, the agony of this administrative process is captured in the documentary *Dirt Cheap* (Clancy et al. 1980). In this ground-breaking recording, the defeating moment as local landowners experience the betrayal required under the *Land Rights Act* over the Ranger Agreement is underscored by the image of a platinum pen being handed to a reluctant Aboriginal hand to sign the document.

For the Mirarr, who had opposed uranium mining at Ranger during the preceding Fox Inquiry in alliance with several Aboriginal groups and the NLC itself, the recognition of land rights thus came at the cost of a highly controversial mining operation at the base of a sacred site, in the catchment of fragile wetlands. The final compromise saw Aboriginal land granted under the nascent *Land Rights Act*, the establishment of what would become Australia's largest terrestrial national park, and the green light for uranium mining to proceed at Ranger under 50% Commonwealth ownership.

ASSERTING A PLACE AT THE TABLE

In some respects, mining activities in Kakadu are subject to higher levels of scrutiny than are commonly afforded to mining on Aboriginal land. Since the Commonwealth owns 'prescribed substances', including uranium, Ranger and the stalled Jabiluka operation are both authorized by the Commonwealth's *Atomic Energy Act 1953* (Cth). Mining at Ranger is subject to compliance with environmental requirements appended to an authority under this act. Uniquely, monitoring and peer review of Ranger's environmental performance is conducted by a dedicated agency, the Office of the Supervising Scientist, created by the *Environment Protection (Alligator Rivers Region) Act 1978* (Cth). But the Office of the Supervising Scientist has no direct regulatory or enforcement role. Its work is informed by a set of 'working arrangements' first negotiated by exchange of letters between Prime Minister Fraser and the Northern Territory's first Chief Minister, Paul Everingham, in 1978 and revised a number of times since. These working arrangements purport to give the Northern Territory the authority to regulate 'day-to-day' mining operations at Ranger pursuant to its own legislation, currently the *Mining Management Act* (NT) 2001.¹⁰

To add to the complexity, a confounding mix of overlapping jurisdictional parties and representative committees, government agencies, and organizations, all claim some role in the governance of arrangements in the Kakadu region. Beginning with the mine itself, and in addition to ERA and the Office of the Supervising Scientist, these include: the Alligator Rivers Regional Advisory Committee, the Alligator Rivers Regional Technical Committee, the Minesite Technical Committee, the Commonwealth Department of Industry, Innovation and Science, and the NT Department of Primary Industry and Resources. Broadening to

Kakadu National Park, there are Aboriginal landowners, other Indigenous residents and community members, the NLC, the Director of National Parks, the West Arnhem Regional Council, the Jabiru Town Development Authority,¹¹ the Kakadu Board of Management, the Kakadu Tourism Consultative Committee, the Kakadu Research and Management Advisory Committee, and the UNESCO World Heritage Centre. Many fields of endeavour in the region are subject to a raft of regulatory complexity, and Aboriginal lives are lived under administration of codified provisions within various bureaucratic instruments – determining, *inter alia*, where people live, what they can hunt, and many of their interactions, *via* state or registered actors, between each other.¹²

It could be argued that simply being an Aboriginal policy subject anywhere mirrors the web of regulation and political entanglement seen at the Ranger Uranium Mine, but a defining difference is this: at Ranger, through perseverance, the Mirarr traditional owners have carved out a determinative role within these administrative thickets. Colloquially, this would be expressed as having an elbow at the table, the table and elbowing both expressing back-room scenes of administrative prosecution and power.

This status was achieved partly through publicly visible political activism, such as the Jabiluka blockade (the defining environmental justice movement of its era), where over 5000 students, environmentalists, scientists and concerned citizens blockaded the Jabiluka site in 1998 in support of and in collaboration with the Mirarr people. But as we have stressed, the paper-based strategies deployed by the Mirarr were just as critical. Take, for example, the work of the Mirarr to bring Jabiluka to the world stage in their efforts to have Kakadu inscribed on the List of World Heritage in Danger by UNESCO. This relied on an extraordinary network of carefully curated alliances scaffolded by innumerable documentary exchanges (Altman 2012). As O'Brien has elsewhere related (2014), GAC legal representative Bruce Donald worked to secure the organization's status to appear before the UNESCO World Heritage Committee by correspondence from 1997. After this attempt was thwarted by the Australian Government, GAC then enlisted former Prime Minister Gough Whitlam to petition the Committee on their behalf in parallel with a coordinated letter campaign from a national alliance of environmental NGOs. The past-tense phrase 'coordinated letter campaign' disguises its labour. Simply think of a small Indigenous organization conducting an international campaign against the resources and media alliances of the national government and the mining industry who were claiming threats to nation-state sovereignty, to conjure this disproportionately armed battleground.

Mirarr status to be heard by UNESCO eventually secured, GAC further recruited four eminent Australian scientists and the pre-historian John Mulvaney to write to the Committee raising their concerns about the Australian Government's environmental assessment of Jabiluka. GAC's persistent paper-based petitioning resulted in the Committee eventually sending a Special High Level Mission to Kakadu to investigate, which recommended that Kakadu be listed as in danger. This visit was itself a world precedent, and potentially threatened UNESCO's vulnerable standing as a registration body for global cultural and environmental heritage in contexts where nation state interests have superior jurisdiction. Indeed, their probing unleashed a furious response from both the Australian national government and Jabiluka proponents – again in the form of submissions running to hundreds of pages long – when the UNESCO World Heritage Committee convened an extraordinary hearing following their site visit. While the Committee decided in July 1999 not to list Kakadu as in danger, it said it was 'gravely concerned about the serious impacts on the living cultural values of Kakadu National Park posed by the [Jabiluka] proposal' (<https://whc.unesco.org/en/soc/2330>). Meanwhile, the thrust and counter-thrust of this non-decision had attracted valuable international attention, gained as much through a trial of correspondence and diplomacy as from barricades and banners.

These strategies served to make ‘Jabiluka’ a household name in Australia (O’Brien 2014:320), and inserted the Mirarr as a group who could not be easily ignored. This is not a status that has naturally flowed to the Mirarr, despite their standing as recognized traditional Aboriginal owners of the land in question. They were not meant to be presenting directly to international heritage arbiters in Paris; nor were they meant to be part of mining negotiations. Such negotiations are ordinarily delegated to a third party – the Northern Land Council. As the statutory representative body with respect to Aboriginal land owned under the *Land Rights Act*, the NLC has the legal right to enter into formal agreements regarding the Ranger Uranium Mine.¹³ As a consequence, it is the NLC, and not the Mirarr members of the GAC, which has the right to be directly consulted by government agencies about approvals and standards at the mine. To parse out just one example of the administrative implications, the ‘working arrangements’ between the Northern Territory and the Commonwealth, taken together with the Authority granted pursuant to s41 of the *Atomic Energy Act* with respect to Ranger Uranium mine, require consultation with the NLC and the Office of the Supervising Scientist prior to granting any approvals or setting of standards relating to environmental aspects of operations. They also require the agreement of the NLC and the Office of the Supervising Scientist confirming that the aims and objectives of rehabilitation have been met. GAC is not automatically enlisted in either process. Another point to consider: the difficulty of following these delegated lines itself indicates a technique of dilution; or as Simpson would tell us, they reveal a state architecture of procedural elimination (Simpson 2014, 2016).

By asserting their legitimacy through back-room paperfare in the Jabiluka campaign and its aftermath, the Mirarr won the moral right to insert themselves directly into the NLC’s information loop and expand into related decision-making forums which determine how their country is managed in response to mining, and how it will be protected in the short and long term, *after* the miners leave. They have had to ‘elbow their space at the table’, for while others may have official delegations, the costs of leaving environmental stewardship to such others in favour of being consulted before, during and after the fact, have been too high.

Having intervened, the Mirarr and their GAC staff discovered that environmental management at ‘the most regulated mine in the world’ (Parliament of the Commonwealth of Australia 1997:35) was clearly deficient. Take, as another example, the parallel regimes of regulation affecting the imminent rehabilitation of Ranger mine. As we have noted, these were facilitated in large part by a private set of working arrangements between the Commonwealth and NT governments with no clear mechanisms to enforce compliance with their terms. Many of the provisions in the authority to mine granted under the *Atomic Energy Act* are replicated in the authorisation granted under section 36 of the NT’s *Mining Management Act*. The Ranger ‘Environmental Requirements’ annexed to the authority contain requirements for the closure and rehabilitation of Ranger, as does the authorisation granted under the NT *Mining Management Act*. This created an ambiguous ‘split’ regulatory system. When, for example, ERA finally produced a rehabilitation plan for approval in 2018, it was initially unclear who held ultimate authority for assessing, approving and enforcing that plan, with the long list of regulatory advisory bodies adding to the convolution. Simultaneously, everyone and no one is responsible.¹⁴

PRISING OPEN THE BLACK BOX

Michel Callon and Bruno Latour use the term ‘black box’ to describe the repository of types of knowledge and relations which are not to be questioned, which ‘contains that which no

longer needs to be reconsidered, those things whose contents have become a matter of indifference' (Latour and Callon 1981:285). In the case of Ranger, the intense political and bureaucratic scrutiny that characterized the authorisation of mining operations retreated almost immediately once that authorisation had been secured, at which point all issues were black-boxed into the techno-scientific domain of mining engineering, delegated regulatory functions and dense reports, shrouded in textual banalization.

Once the Commonwealth had settled for itself how Ranger, Kakadu, and Land Rights would be conducted, and once the controversies were apparently resolved by allocating differential property interests (each with different regulatory responsibilities attached to them), the internal complexity of the system immediately became opaque. This opacity is created partly by the assumption that the arrangements are indeed 'settled' but also because of the temporalities of public access. Public environmental assessment processes typically focus on the authorisation of mining at the beginning of projects. Post-authorisation, legally endorsed secrecy shrouds many of the key mechanisms whereby a company like ERA commits both to environmental protection, monitoring, and rehabilitation, and reporting against these commitments. ERA's reporting obligations are largely internal to the regulatory machine. For example, the Ranger authorisation granted under the NT's *Mining Management Act* insists the operator must comply with a current Mining Management Plan that is prepared by ERA. The ERA Plan details *inter alia* the mining activities, environmental management system, plus plans for and costing of mine closure. Yet this key document, which purportedly addresses the mine's environmental issues and the public's concerns, cannot be accessed by the public. Further, while 2011 amendments to the *Mining Management Act* (s37(3)(e) and (f)) give the Northern Territory Government the power to require *public* reporting of environmental compliance, including through an 'Environmental Mining Report', this power is discretionary. Reporting obligations generally flow to the NT Department of Industry and Resources, the Office of the Supervising Scientist or the Minesite Technical Committee, not the public. And the Mirarr are 'public' in relation to these transactions. The Mirarr, with other publics, are expected to accept the reassurances of expertise and internal systems of review, not to interrogate them.

But prising open the black box through insistent counter-administration has ushered forth new challenges. The GAC must be 'more state than the state' to force regulators to do what they say. So, what do these high stakes battle zones look like, and how do they work? They are misleadingly familiar. Within the GAC's offices alone, the board of directors convene in fortnightly meetings, typically for 3 to 4 hours, poring over full agendas: organizational administration, employment issues, financial investments and divestments by GAC's community benefit trust, pressing local social conflict, socio-economic and community development initiatives, regulatory compliance with environmental and mining requirements, Kakadu National Park Board of Management issues, tourism strategies for the post-mining future of Jabiru, Kundjeihmi language programs, community safety plans, relationship meetings with ERA, cultural heritage management, so on and so forth. The Board's fortnightly meetings are a hub from which a thousand spokes of other administrative actions of utmost urgency and importance, banality and repetition, radiate. Because these often deploy the web of strategic alliances Mirarr people have formed between themselves and other staff, organizations, academics, and experts, relationship management also prevails. Here another overfamiliar medium enters: phone calls, emails, skype, and face-to-face interactions mediating time and distance.

The Board is also the forum for official consultation with Mirarr traditional owners on the part of various project proponents, from government and corporate actors to academics and other local *Bininj* people.¹⁵ This wave of mandatory responsibilities falls on certain shoulders: Aboriginal authority on the board mirrors the legal recognition afforded by the

Land Rights Act, however, circumscribed that recognition may be. As Elizabeth Povinelli, Eve Vincent, and others have elaborated, the category of ‘traditional owner’ is itself an indicator of the tactics of administrative coercion and the possibilities for their refusal (Povinelli 2002; Vincent 2017). Australian law requires a performance of authentic Indigeneity to succeed in native title and land claims, and to be at the bargaining table to negotiate mining and other agreements once rights are won (Neale and Vincent 2017). This performance hinges on legal abstractions (such as the definition of ‘traditional Aboriginal owners’ in the *Land Rights Act*) that ‘fail to correspond fully with any particular social subject or group’ (Povinelli 2002:55).

Beyond land rights and native title, there is a proliferation of legal designations with which Indigenous people must comply to demonstrate their authenticity for various purposes under Australian law: in 1986 John McCorquodale analysed 700 pieces of Australian legislation and found 67 different definitions of Aboriginal people (McCorquodale 1986). While these definitions can be deployed politically by those who fit within the legal criteria, Mirarr traditional owners cannot delegate their responsibilities: the cast of characters seeking Indigenous input or consent (including academics) always want to speak to the senior traditional owners, no matter how depleting such constant availability might be (Levitus 2015). Given the relentless complexity of issues confronting *Bininj*, the social and health stresses of everyday life, the bureaucratic nature of the board can even be something of a relief to this group of 12 Mirarr traditional owners who guide their organizational operations. It is also an unavoidable labour. Other, arguably more immediate embodied needs are displaced: personal health comes as an afterthought, needing to fit in with the endless regime of meetings. This is one of the prices of recognition for the Mirarr in the 40 years after the mine was authorized. Yet while these costs deserve greater attention, our focus in the remainder of this essay is how the Mirarr entertain a constant and at times disheartening awareness of what goes on at the mine site, including just how precariously protected the environment can be, and how arbitrarily decision-makers determine the intergenerational legacy of the mine’s operation.

ADMINISTERING REHABILITATION

In the time ERA has been operating Ranger, there have been over 200 different environmental incidents (Commonwealth of Australia 2003). The most recent known significant event was in late 2013, when a 1,450 m³ leaching tank ruptured, spilling a slurry containing ground uranium ore, water and sulphuric acid into the processing area. The hundreds of leaks, spills, failures, and contaminations at the site are officially categorized into severity, assessed in terms of their impact and measures to be undertaken. Startlingly, given the number of environmental incidents and seemingly comprehensive layers of regulation, in the 40-year history of the mine, the objective parsing of regulatory breaches and environmental damage has only once resulted in successful prosecution, when 28 workers fell ill in March 2003 after drinking or showering in water containing 400 times the legal limit of uranium.¹⁶ The Mirarr and other local *Bininj* do not possess the distancing extrapolation and abstraction luxuries of the regulators: theirs is the immediacy of living in and with damaged country, as both kin to, and dependents on, a responsive, and for Mirarr, a sentient environment (Garde 2013:24–5). Having forced their way into negotiations and revealed the living nightmare of what the black box includes and precludes, advisers to Mirarr must join board members in being hyper-vigilant about the environmental management challenges at Ranger to be able to clearly report and advise on options for addressing issues at the site and downstream.

The arduous necessity of holding of government agencies and the mining company to account is reaching a new crescendo as the mine’s end date looms. Under the *Atomic*

Energy Act authority ERA must cease mining by 2021 and rehabilitate the Ranger site by 2026, so that the land may become a seamless part of Kakadu National Park. It is important to note that there are no global precedents for rehabilitation of a uranium mine in the tropics (Rum Jungle and Nabarlek in the NT are both still toxic wastelands); much less so in the catchment of World Heritage-listed wetlands, where mine water management is the most problematic challenge. We should also add issues of regulatory capture, clear conflicts of interest (including those arising from the Northern Territory's Department of Primary Industry and Resources role as both a regulator and a promoter of the mining industry), the gradual diminution of funding for official scrutineers and the reduction of agency staff's 'on-ground' presence in Kakadu to the state's sacrificial tactics. Over time the Environmental Research Institute of the Supervising Scientist (ERISS), the research arm of the Office of the Supervising Scientist, has had its funding decreased and its responsibilities broadened to more diffuse objectives. Further, ERISS once stationed its scientists at Jabiru for active on-site environmental monitoring. Now they are based in Darwin, with a restricted field budget.

The post-mining future of the Commonwealth-established mining town of Jabiru represents another example of the Mirarr having to drag commitments from a disinclined bureaucracy. After years of multi-lateral negotiations between the Northern Territory, Commonwealth, NLC, and Mirarr regarding native title and other tenure issues in the town (outstanding legal issues were finally resolved by the Federal Court in *Margarula v Northern Territory of Australia* [2016] FCA 1018), the Mirarr are faced with the possibility of losing essential services (including electricity), as Jabiru is slated in the foundational legal agreements governing the town to be bulldozed at the cessation of mining. Mirarr and GAC have also had to spearhead the design of a master plan for Jabiru, expending their finite human resources and time hurtling along the Arnhem Highway to Darwin and flying back and forth to Canberra trying to convince politicians and bureaucrats to both comprehend and appropriately fund this vision. Demanding standards – be these for the environmental containment and infrastructure maintenance activities of a mining operation, or for rehabilitation post-mining – and enlisting coalitions to support Indigenous-led development visions can be done; but proportionally-speaking, comes at greater cost to the small groups doing the demanding. In some senses, it is extortionate. It costs an Aboriginal organization proportionally more for the cost of enlisting or hiring expert advice, more for the telephony and information communications, more for the office buildings, the air-conditioning and vehicle fleet, more for insurances, more for all the incidentals, than, proportionally, it does a mining company, or a government agency.

When the government vacates the role of watch dog and widens the field of 'acceptable disregard' (Bessire and Bond 2014:441), the exhausting responsibility of eternal watchfulness and paper warfare falls to local shoulders. Mirarr vigilance and paperfare marks an inextricability: exiting the battle is to cede any rights to refuse ongoing settler extractions. Progressing any of the issues instanced above requires not just Mirarr board meetings, but endless phone calls, emails, draft documents and multi-lateral multi-hour negotiation meetings with a rotating cast of Northern Territory, Commonwealth and NLC bureaucrats in Darwin or Canberra. No matter how arcane, obfuscated in bureaucratese, or technically obscure, each 900-page report must be reviewed, hundreds of iterations of highly technical correspondence fossicked through and omissions, the disregarded or avoided detail, must also be noted. The proliferation of non-Indigenous advisers, so easily lamented in critiques about who occupies what salaried job (Batty 2005), comprises two GAC staff able to devote some of their time, and a reliance on a small, tight network of academic, scientific, and legal experts located elsewhere, called upon for specialist advice. Indigenous people call on the migratory communities of non-Indigenous Australia to help them recontour state-legitimized

exploitations, without this being any kind of easy resolution. And compared to other regions without a similar financially independent and robust organizational core, the Mirarr have a rare counter-voice.

SLOW ADMINISTRATIVE VIOLENCE

Nixon uses the term ‘slow violence’ to explain the hidden tolls meted out on the poor in the Global South in contemporary environmental justice struggles. Connecting local people and struggles to a web of global actors and relationships, slow violence ‘occurs gradually and out of sight, a violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all’ (Nixon 2011:2). The law has a central role in structuring this violence, ‘in the provision of complex principles, institutions and mechanisms by which we judge as rational the systemic underestimation and discounting of human and environmental costs’ (Scott 2012:488). Nixon’s framing resonates in the Kakadu region, where survivance has meant exhausting administrative efforts to access the hidden techno-legal world enshrined within a bureaucratic-corporate labyrinth, followed by constant behind-the-scenes engagement with what has been prised open; with, that is, the various iterations of environmental impact assessment documents, mining management plans, rehabilitation documents, agreement drafts, and the raft of committees, institutions and government agencies who purport to have a stake in them.

There is a latency to the fatigue of such invisible resistance efforts.¹⁷ Like the effects of long-term exposure to radiation, it is a slow form of depletion that lacks the immediacy of bruises from an arrest and holds no drama of abrupt injury (*cf.* Cram 2016:524). Instead, assaults shift from the immediately apparent ‘to a constellation of deferred effects...arising from imperfectly discernible hazards’ (Parr 2006:821). The Mirarr leader Toby Gangale was subjected to extraordinary stress in the lead up to the Commonwealth’s green-lighting of Ranger.¹⁸ As he observed the deepening impact wrought by the Ranger Uranium Mine on his country, he again endured relentless pressure to consent to further mining at Jabiluka in 1982 (O’Brien 2003). By 1984, a social impact study commissioned by the Commonwealth found that the Aboriginal community was a ‘society in crisis’; a crisis which ‘was manifest in disunity, neurosis, sense of struggle, drinking, hostility, and inundation by new laws, agencies and agendas’ (Nugent 2002:23). Toby’s eldest child, Yvonne, leader of the Jabiluka stand and a key GAC figure, assumed the burden of balancing infinite and intricate *Balanda* and *Bininj* demands from her father as ‘senior traditional owner’.

Digitisation and 24/7 communications have dramatically increased the speed and scope of bureaucratic entanglements. Officers representing the policy world turn over faster than familiar intercultural relationships can be coaxed. In many cases, it is Aboriginal organizational record keeping which provides administrative continuity, given the hollowing out of long-term expertise through outsourcing and repeated structural metamorphoses within the public sector (Froud et al. 2017).

Resistant or otherwise, this is also to be part of ongoing settler occupation, negotiating with corporations like ERA to extract something other than ore from a toxic mining legacy. Bodies get stressed, even bodies that get paid professional wages to enter these frays, worn down by wild goose chases searching for logic in hallucinatory-scapes of faux-rationality, mediated by the duplicitous manipulations of paperwork. But without such brinksmanship, the alternative is to be shredded, abandoned, discarded or incorporated. It is all simultaneously more colossal, mundane, and unavoidable, than our desire for Indigenous people to represent an otherwise to the state tends to admit (*cf.* Lea 2018; Scott 2009; Viveiros de Castro 1998).

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NOTES

1. The Australian Government and mining company ERA consistently refuted claims by the Mirarr that the mine would threaten their sacred site complex (including during the Mirarr-initiated high level mission by the UNESCO World Heritage Committee to decide whether to inscribe Kakadu National Park on the List of World Heritage in Danger), claiming that the site was instead a small discrete soakage that was neither in nor linked to the World Heritage Property: that is, Kakadu National Park (O'Brien 2014).
2. In August 2000 Rio Tinto acquired a 68% stake in ERA after purchasing its parent company, North Broken Hill Limited, almost exclusively for its extensive iron ore holdings in Western Australia.
3. The Gundjeihmi Aboriginal Corporation was incorporated in 1995 under the *Aboriginal Councils and Associations Act (CTH) 1976* (it now falls under the jurisdiction of the *Corporations (Aboriginal and Torres Strait Islander) Act (CTH) 2006*). Eligibility for membership to the corporation is confined to Mirarr traditional owners only.
4. Justin O'Brien has been employed by GAC since 2000 (as Chief Executive Officer since 2008) and has had a central role in Mirarr/mine/park/government interactions for 18 years. Tess Lea, an anthropologist, and Kirsty Howey, a former lawyer with the Northern Land Council (NLC) and now PhD candidate conducting ethnographic research on NLC activities, additionally conducted fieldwork within and background archival research into the social, legal and political history and potential future of the Kakadu region between September 2016 and June 2017 in collaboration with O'Brien and GAC. This fieldwork included two visits by Lea to the Kakadu region, and numerous video interviews conducted by Lea and Howey with Mirarr and Murumburr people, GAC employees, and academics with longstanding research relationships with GAC. Some of this material is now embedded in an online learning module to inform participants working in a service learning hub in the Kakadu region (established pursuant to an agreement negotiated between GAC and the University of Sydney). Kirsty Howey has undertaken additional archival research at the Northern Land Council about the negotiation of the Ranger agreement in 1977 and 1978 as part of her PhD study.
5. Pursuant to a 1991 Deed of Transfer ERA negotiated with the Northern Land Council at the time it purchased the Jabiluka interest from the deposit's previous owner, Pancontinental, ERA needed to obtain the consent of traditional owners before it could mill Jabiluka ore at the milling facility at the nearby Ranger uranium mine, also on Mirarr country. This was ERA's preferred option and the subject of its 1997 environmental impact statement (there had also been an earlier environmental impact statement completed in 1979 by Pancontinental for an open cut mine at Jabiluka). A further public environment report (a less rigorous form of environmental impact statement) proposing an alternative that uranium be milled at Jabiluka was submitted by ERA in 1998.
6. *Jabiluka: The Undermining of Process - Inquiry into the Jabiluka Uranium Mine Project*, Senate Environment, Communications, Information Technology and the Arts References Committee (Commonwealth of Australia 1999); *Regulating the Ranger, Jabiluka, Beverley and Honeymoon Uranium Mine*, Report of the Senate Environment, Communications, Information Technology and the Arts References Committee (Commonwealth of Australia 2003).
7. These cases were *Margarula v Minister for Resources and Energy* (1998) 157 ALR 160, *Margarula v Hon Eric Poole, Minister for Resource Development and Energy Resources* [1998] NTSC 87 (Unreported, 16 October 1998), and *Margarula v Minister for Environment* [1999] 92 FCR.
8. Rum Jungle uranium exports were contracted to the Combined Development Agency, a UK-USA authority established to purchase uranium for those countries' nuclear arsenals.
9. A term legally defined in s 4 of the *Land Rights Act* that largely reflected the preponderance of contemporaneous classical anthropological opinion about the way traditional Indigenous relationships to land were configured in northern Australia.
10. Previously the *Mine Management Act 1990* (NT) and the *Uranium Mining (Environmental Control) Act 1979* (NT).
11. Jabiru is the town established within Kakadu National Park in 1981 to service uranium mines in the region.
12. The Eurocentric bureaucratic mode of the Kakadu National Park's administration and the consequential alienation of local Aboriginal groups is discussed elsewhere (see, for example, Haynes 2009; Lawrence 2000; Weaver 1991). The park is managed in accordance with the *Environment Protection and Biodiversity Conservation Act (CTH) 1999* and its regulations.
13. The NLC is legally required, at certain junctures, to consult with the traditional Aboriginal owners and other Aboriginal groups and communities affected by a proposed action, and to obtain the consent to that action by the traditional Aboriginal owners (s23(3) of the *Land Rights Act*). For example, agreements such as the 'Jabiluka Long Term Care and Maintenance Agreement' required traditional Aboriginal owner consent. Not all actions taken by the NLC mandate such consent (see *Alderson* [1983] 20 NTR 1), but in practice the NLC does now consult with and obtain the consent of the Mirarr traditional Aboriginal owners in relation to its interactions involving Ranger, Jabiru and Jabiluka.
14. This was ultimately resolved *via* amendments to the NT authorisation guided by the strenuous efforts of GAC's legal adviser.

15. The term *Balanda* refers to non-Indigenous people, while *Bininj* refers to Aboriginal clans in the Kakadu / East Alligator region.
16. In 2005, ERA pleaded guilty to breaching the *Mining Management Act* in the Darwin Magistrates Court for a series of potable water contamination incidents in Jabiru in 2003 and 2004 and was fined \$150,000.
17. One article describing the work of Indigenous local government appositely includes in its title 'death from a thousand grants' (Michel and Taylor 2012).
18. The NLC would subsequently challenge the authorisation of the Ranger agreement in the Federal Court, on the basis that it was signed because of duress, undue influence and unconscionable conduct by the Commonwealth. The proceedings were eventually discontinued.

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