

KALGOORLIE CONSOLIDATED GOLD MINES (KCGM) —
VEGETATION CLEARING AND BORES CONSTRUCTION

3214. Hon Robin Chapple to the Minister for Mines and Petroleum

With reference to photographs taken on 21 January 2010, of clearing of vegetation and construction of bores undertaken with exploration equipment available for viewing at, www.mp.wa.gov.au/rchapple/Kaltails, a document dated 3 December 2009 titled, 'KCGM Mining Proposal and Works Approval Application', questions on notice No. 2005 answered on 23 March 2010, No. 2589 answered on 30 June 2010, No. 5970 answered 27 February 2008, a media statement dated November 13 2007 titled 'Minister tells mining companies to clean up their act', and a media statement dated 13 July 2010 titled 'Environmental enforcement and compliance penalties reviewed', and I ask —

- (1) Will the Department of Mines and Petroleum (DMP) initiate forfeiture action on General Purpose Leases 26/165 and G 26/166 for failing to abide by tenement conditions?
- (2) If no to (2), why not?
- (3) Given that the Minister has stated that 'exploration and clearing activities' were carried out in September 2009 without the necessary prior approvals, will the DMP initiate forfeiture action on Prospecting Licences P26/2373 and P26/2790?
- (4) If no to (3), why not?
- (5) Can the Minister describe what specific type of machinery and equipment was used in September 2009 by KCGM contractors/employees to carry out 'exploration and clearing activities'?
- (6) If no to (5), why not?
- (7) Can the Minister state the duration over how many days and hours approximately that 'exploration and clearing' activities took place on G26/165, G26/166, P26/2790, P26/2373 and areas of land which did not have granted mining tenure?
- (8) If no to (7), why not?
- (9) Does the DMP regard the breaches of tenement conditions by KCGM on G26/165 and G26/166 as being extremely serious given that KCGM in a very similar manner were previously fined \$57 500 in 1995 for a breach of tenement conditions in failing to obtain the prior written permission of the DMP for clearing and construction activities on the Fimiston 2 tailings dam?
- (10) If no to (9), why not?
- (11) Does the DMP regard the breaches of tenement conditions by KCGM on P26/2790 and P26/2373 as being extremely serious?
- (12) If yes to (11) —
 - (a) to what extent; and
 - (b) why?
- (13) If no to (11), why not?
- (14) Given that the Minister has stated in part for question on notice No. 2589 of 30 June 2010 that 'none of the other mining tenements mentioned were granted until early October 2009', does the DMP regard exploration and clearing activities being undertaken by KCGM employees/contractors on unallocated crown land without any form of granted mining tenure as being extremely serious?
- (15) If no to (14), why not?
- (16) If yes to (14) —
 - (a) why; and
 - (b) what action if any, does the DMP intend to take on this matter?

Hon NORMAN MOORE replied:

- (1) No.
- (2) An investigation undertaken by the Department of Mines and Petroleum has identified that the tenements G26/165 and G26/166 have been transferred to new owners since the breaches occurred. Any

forfeiture action initiated now would penalise the new lease holders, not those legally responsible for the breaches. The investigation by the Department has highlighted a deficiency in the enforcement powers within the Mining Act 1978, where the enforcement measure of penalising the tenement holder (initiating forfeiture action) is compromised by tenement holders transferring tenements prior to the Department completing its investigation. This deficiency has only been identified through the more rigorous compliance and investigation procedures implemented by the Department in 2010. In this case there is no evidence that the tenement holders intentionally transferred the tenements in order to evade enforcement action. The Department has already commenced preparing a submission to Government on legislative changes that may be required to the Mining Act 1978 to address this matter.

- (3) No
- (4) P26/2373 has been transferred to new tenement holders and therefore forfeiture action is not appropriate. Regarding P26/2790, the activity conducted on this tenement comprised one bore hole (and associated drill pad and access track) with a total disturbance area of 0.1 ha. The Department's advice to me is that in accordance with the Department's Enforcement and Prosecution Policy, forfeiture action is not an appropriate response to this breach. A warning letter has been sent to the tenement holders.
- (5) The Department has advised me that the machinery used to carry out the exploration and clearing activities were a John Deere front end loader/backhoe, a truck mounted RC rig (air rotary) KD150 on MAN 6x6 truck and a support vehicle (Isuzu NPS300 4x4 light truck).
- (6) Not applicable
- (7) The Department has advised me that the exploration activities occurred over approximately 14 days.
- (8) Not applicable
- (9) The Department considers all matters of non-compliance with the tenement conditions as serious.
- (10) Not applicable
- (11) The Department considers all matters of non-compliance with the tenement conditions as serious.
- (12)
 - (a) The Department considers all matters of non-compliance with the tenement conditions as serious.
 - (b) Failing to comply with tenement conditions may present serious environmental risks.
- (13) Not applicable
- (14) The Department regards unauthorised exploration and clearing activities as a serious matter.
- (15) Not applicable
- (16)
 - (a) Unauthorised exploration and clearing activities may constitute a breach of the Mining Act 1978 and or Native Vegetation Clearing Regulations 2004 and may present serious environment risk.
 - (b) This matter is being investigated by the Department and its investigations report is being considered jointly with the Department of Environment and Conservation.