

KALGOORLIE CONSOLIDATED GOLD MINES PTY LTD - POLLUTION HISTORY

4985. Hon Paul Llewellyn to the Parliamentary Secretary representing the Minister for the Environment

I refer to questions on notice numbers 4707, 4708 and 4709 of 3 April 2007, and I ask -

- (1) I refer to (1) of the Minister's answer to question No. 4707, claims the Minister does not support the use of the Department of Environment and Conservation's (DEC) resources to retrieve files that prove pollution by Kalgoorlie Consolidated Gold Mines (KCGM) as being the worst in Australia, yet in (5) of the answer to the same question, the Minister claims that previous history of KCGM was used in determining the appropriate sanction. Can the Minister please explain how much previous history is considered enough to determine a suitable fine when he doesn't support his Department's search for all history?
- (2) If no to (1), why not?
- (3) By not supporting his Department to fully research the pollution history of a company such as KCGM when determining a suitable fine, can the Minister please explain how this does not imply to the public that the company is being given special dispensation with regard to the offences committed?
- (4) If no to (3), why not?
- (5) With reference to question No. 4708, can the Minister please explain from where he derives his confidence in the validity of the DEC's database and states in (7) of his answer, 'Database records indicate that no Pollution Abatement Notices were issued to KCGM in that period' when he is not willing to use the DEC's resources to confirm a briefing, dated 29 May 1989, exists on departmental files and apparently states in part 'The Pollution Abatement Notice was issued as an emergency response to the company's failure to comply with the Environmental Protection Policy, that relates to the protection of residents within the Kalgoorlie/ Boulder area'?
- (6) If no to (5), why not?
- (7) In relation to question No. 4709 with reference to the answer given in (8), and given previous answers by the Minister about the unwillingness to spend resources on research, can the Minister please explain how the public of Western Australia can be confident that the DEC is providing to the State Solicitor's office, the true and accurate record of the history of the offender, with the 'two further briefs of evidence' they are providing?
- (8) If no to (7), why not?
- (9) Can the Minister advise which specific companies are the subject of these 'two further briefs' and whether the offender(s) will be prosecuted under the *Environmental Protection Act 1986*?
- (10) If no to (9), why not?

Hon SALLY TALBOT replied:

- (1) As advised in part (5) of the answer to Question on Notice No 4707, the maximum modified penalty fine was imposed on Kalgoorlie Consolidated Gold Mines. The only facts relating to the previous history permitted to impact on the amount of the fine are dictated by section 99B(2)(b) of the Environmental Protection Act 1986 which states that the amount of the modified penalty is to be the amount that was "if the alleged offender has previously been convicted of an offence of that kind, or has previously paid a modified penalty under this Division in respect of an alleged offence of that kind, 20% of the maximum fine that could be imposed for that offence by a court".

The Department of Environment and Conservation (DEC) was aware that a previous modified penalty notice had been paid by the company and therefore the maximum penalty as dictated by the Act applied. DEC is not permitted to consider every other activity on the site in apportioning the amount of a modified penalty. Only previous convictions and/or payment of modified penalties are permitted under the Act to impact on the amount of the modified penalty fine.

I would also like to draw the Honourable Member's attention to the State of the Environment Report 2007 regarding sulphur dioxide emissions. The key findings state that sulphur dioxide emissions have dramatically improved in Kalgoorlie and Kwinana since the early 1990s and are now meeting national emissions standards.

- (2) Not applicable.
- (3) See the answer to (1). The maximum modified penalty notice was imposed.
- (4) Not applicable.

- (5) As stated in the answer to (1), DEC had the information required to impose the maximum modified penalty on KCGM and additional information, particularly involving 'Pollution Abatement Notices', would not have altered the decision because such notices are not used by the Act to determine the amount of modified penalty fines.
- (6) Not applicable.
- (7) The 'two further briefs of evidence' do not relate to KCGM and as such are not affected by the response to parts (1) to (5) of question on notice 4709.
- (8) Not applicable.
- (9) These matters are currently being considered as potential prosecutions and as such it would be inappropriate to make comment at this time.
- (10) Not applicable.