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31 March 2014

Mr Kim Taylor  
General Manager  
Office of the Environmental Protection Authority

Attention: Mark Rust [mark.rust@epa.wa.gov.au](mailto:mark.rust@epa.wa.gov.au)  
Your ref: 2014-0000741347

Dear Mr Taylor

### **ENQUIRY REGARDING STATEMENT 791 BIOMASS POWER PLANT MANJIMUP**

Your reply of 28 March 2014 to my email of 14 March 2014 re expiration of the Authorisation for the Ministerial approval for the 40 MW biomass power plant at Diamond Mill is unacceptable and outrageous.

The EPA are saying Western Australia Biomass Pty Ltd (A) “..have continued to progress the development and implementation of its proposal..” and (B) that even after Authorisation for the project was ‘lapsed and void’ on 13 March 2014 they can validly apply to have the project conditions varied, by way of a letter to the EPA on 24 March 2014.

This is the worst performance I have seen from the EPA in forty years.

In regard to (A), Statement 791 is unequivocal with a simple test for compliance being written evidence that the proposal has “..*substantially commenced on or before the expiration..*” of Authorisation per:

*“3 Time Limit of Authorisation*

*3-1 The authorisation to implement the proposal provided for in this statement shall lapse and be void within five years after the date of this statement if the proposal to which this statement relates is not substantially commenced.*

*3-2 The proponent shall provide the CEO of the Department of Environment and Conservation with written evidence which demonstrates that the proposal has substantially commenced on or before the expiration of five years from the date of this statement.”*

Statement 791 makes no reference to “progress”, it says “*substantially commenced*”, which by any reasonable interpretation demands material evidence of site works and construction for a project of this type.

When did Western Australia Biomass Pty Ltd provide written evidence to the equivalent of the CEO of the Department of Environment and Conservation that the proposal had “*substantially commenced*”? Given the demonstrable public interest expressed in regard to this controversial project, I request a copy of the written evidence provided by Western Australia Biomass Pty Ltd.

In regard to (B), some EPA and Ministerial Statements have an extension clause under 3. Time Limit of Authorisation”, for example: Statement 703 and Report 1454

<http://edit.epa.wa.gov.au/EPADocLib/Rep%201454%20Kemerton%20s46%20191112.pdf>  
and

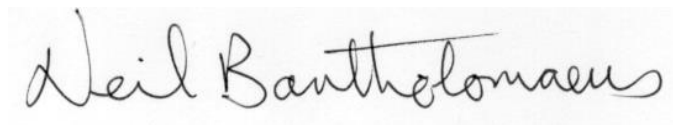
*“3.2 The proponent shall make application for any extension of approval for the substantial commencement of the proposal beyond five years from the date of this statement to the Minister for Environment, prior to the expiration of the five year period referred to in condition.”*

The Statement 791 for the biomass power plant has no such clause at 3 on page 2. And in the example above re Statement 703, an application was required to be made prior to the expiration of the five year period. Western Australia Biomass Pty Ltd has made an application after the expiration of their five year period of authorisation, on 24 March 2014.

Given the demonstrable public interest expressed in regard to this controversial project, and the EPA's outrageous interpretation of 'Time Limit of Authorisation' in Statement 791, I request a copy of the letter received by the EPA on 24 March 2014 from Western Australia Biomass Pty Ltd.

Has the Minister for Environment requested the EPA inquire into amending the conditions for the project subject of Statement 791, pursuant to section 46(1) of the *Environment Protection Act* 1986? If the Minister has made a request, please provide me with a copy of that request pursuant to section 46(2) and public record of requests under section 39.

Yours sincerely

A handwritten signature in black ink that reads "Neil Bartholomaeus". The signature is written in a cursive style with a long horizontal stroke at the end.

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