

Our reference [REDACTED]

Phone [REDACTED]

Email [REDACTED]

Your reference [REDACTED]

9 December 2021

Baker & McKenzie

By email: [REDACTED]; [REDACTED]

350 Australia - Empire Energy Group Ltd

We act for 350 Australia. Our client was responsible for the publication of the Email and Video described in your letter of 2 December 2021.

Our client rejects your clients' assertions and will not be acceding to its requests, for the reasons stated in this letter. We have adopted your defined terms for convenience.

Statements 1 and 2

These statements are substantially true. The objective facts are not in dispute, and are set out in the Complaint, Consent Agreement and Final Order published by the United States Environmental Protection Agency on its website: <https://www.epa.gov/sites/default/files/2020-10/documents/empire-energy-cafo.pdf>

The relevant facts are that the US EPA alleged that your client's US subsidiary was responsible for two substantial oil spills at a Kansas facility, in March and May 2019, and issued a complaint in respect of the company's failures. The complaint was resolved on a no admissions basis, by the company paying a civil penalty of \$37,000.

While there is a technical legal distinction between the circumstance of a company being "fined" by the EPA and it agreeing to pay a civil penalty to avoid being prosecuted, there is no difference in substance between the two. The pertinent fact is that the company was alleged to have committed serious environmental offences and paid a financial penalty in respect of those allegations.

Statements 3, 4 and 5

Each of these statements is true.

With respect to statement 3, a number of traditional owners made written submissions and gave verbal testimony to the Senate Committee inquiry into oil and gas exploration and production in the Beetaloo Basin. Submission 7 from Ms Rikki Dank states:

The proposal will have a devastating impact upon our Country. Additionally, it will certainly impact our family's capacity to continue to perform our traditional cultural practices on our land

ands has the potential to destroy sacred sites. We would never have agreed for Empire to undertake exploration on our Country, let alone drill and frack on it.

With respect to statement 4, in 2021 a number of Traditional Owners wrote an open letter to the Commonwealth Parliament, decrying the proposal to conduct operations in the Beetaloo Basin. The full text of the letter is available here: <https://www.getup.org.au/campaigns/first-nations-justice-campaigns/sign-the-open-letter-to-end-fracking-in-the-beetaloo/unite-with-traditional-owners-against-fracking>

With respect to statement 5, Ms Joni Wilson gave evidence to the Senate Committee inquiry and her full statement was included in the Committee's interim report: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/BeetalooBasin/Interim_Report/section?id=committees%2freportsen%2f024744%2f77655

Her statement included the following:

We have not been given any information on this fracking thing. We have not given anybody permission for fracking.

Your letter, at paragraphs 8 to 10, set out the legal framework for consultation under the relevant legislation and asserts your clients' opinion that they have fully complied with its legal obligations and that, consequently, "they have the full, informed and prior consent of the Traditional Owners".

Your clients are entitled to their opinion with respect to the question of whether consultation has been adequate and the Traditional Owners have consented to their operations, and they are entitled to publicly say so.

Our client is equally entitled to publish the publicly expressed opinions of the people who made submissions, gave evidence and wrote letters as outlined above.

Your clients' operations are controversial, politically and environmentally. Your clients may not like the fact that not everyone is happy with what they are doing, but they have no right to try to silence dissent against their operations, nor to whitewash the fact that the strident and widespread expression of that dissent is a historical fact.

Statements 6, 7 and 8

Each of these statements is a statement of our client's opinion. It has no obligation to justify its opinion to your clients. It is based on the devastating climate impacts projected to arise from the Beetaloo Basin development. Our client holds the opinion that your clients' conduct is reckless. Your clients are entitled to disagree.

Requests and reservation of rights

Because our client disagrees with your clients' complaints, it will not be acceding to their requests.

Your letter does not assert any legal basis for your clients' complaints, and we are not aware of any such basis. Nevertheless, your letter reserves your clients' rights. If your clients do have some legal

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rights which they intend invoking, they should disclose what they are. Your letter does not put our client on proper notice of any legal threat.

Transparency

Our client is committed to transparency. Accordingly, it will be publishing your letter and our response on its website, as well as any subsequent correspondence in relation to this matter.

Yours sincerely

