

Fortescue ‘withholds \$3.5m royalties’ from Pilbara traditional owners



Wintawari Guruma Aboriginal Corporation is still in negotiation with Fortescue: sisters Pauline and Joselyn Hicks.

By Victoria Laurie
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march 22, 2021

Pilbara traditional owners say \$1.9m in 2019 royalties withheld by Fortescue Metals Group was paid to them two days after the company breached heritage conditions on Fortescue’s Solomon mining hub and before unauthorised damage to the site was made public.

Wintawari Guruma Aboriginal Corporation says the 2019 royalties appeared shortly after the breach in January at a culturally sensitive site at Weelumurra Creek, which a spokesman said had been “desecrated”.

In the wake of public outcry over Rio Tinto’s destruction of Juukan Gorge, Fortescue had been ordered by then indigenous affairs minister Ben Wyatt to ensure at least two indigenous elders would be present when Weelumurra Creek was disturbed to ensure cultural artefacts were salvaged and other areas left unharmed.

His permission to develop the site was conditional on the elders being present. Fortescue later apologised for the breach, saying an “administrative error” by staff had resulted in the company’s mining team going ahead with site clearance work on February 1 without traditional owners present, instead of a later date in February.

Wintawari Guruma says while 2019 royalties have now been paid, 2020 royalties of \$3.5m from Fortescue remain unpaid.

Fortescue chief executive Elizabeth Gaines said payment of the 2019 royalties was made as “an act of good faith ... and the decision to do so was entirely unrelated to the incident at Weelumurra Creek”.

In October last year, Guruma spokeswoman Joselyn Hicks told the Juukan Gorge Senate inquiry that the 2019 royalty money was being withheld from them by Fortescue. “We have asked FMG to reconsider their position and they have advised us that they will only pay the royalties when we sign off on the mining leases,” she said.

In a letter sent earlier that year, Fortescue stated that “very reluctantly Fortescue will not be making payments due to WGAC under Part B of the LAA (land access agreements) until Fortescue is provided with the requested state deeds”.

Wintawari Guruma says it is still in negotiation with Fortescue and has yet to sign mining access agreements.

Ms Gaines said “we remain committed to open and transparent engagement to facilitate all future royalty payments, in accordance with contractual agreement and obligations of both parties”. Clearing work at Weelumurra Creek has been paused while the matter is investigated.

Mr Wyatt has said the investigation was being treated “with utmost priority by the department.”

The Senate inquiry will visit the Weelumurra site when it visits the Pilbara in April.

Wintawari Guruma told the Senate inquiry at least 434 heritage sites had been destroyed through mining activity and a further 285 “are in very close proximity to current mining operations and are inaccessible to traditional owners”.

The native title body announced its own safeguard system this week by launching a “scorecard” to rate the behaviour of Fortescue, Rio Tinto and other miners whose tenements cover 93 per cent of traditional Pilbara lands. The scorecard is believed to be the first by any native title group and is likely to be adopted more widely. It will rate companies using 34 questions about their compliance with heritage, regulatory and environmental laws, and the quality of their relationship with native title holders.

It includes questions such as: “Does the mining company demonstrate a commitment to obtain free, prior and informed consent of directly affected Indigenous peoples before proceeding with development?” And “Does the mining company demonstrate a commitment to enhancing the awareness of the history, traditions and rights of the Eastern Guruma people?”

Wintawari Guruma says the scorecard is a necessary response to poor behaviour by mining companies that fail to comply with agreements or environmental and heritage laws.

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