

BATTLING A MINING GOLIATH ON TWO CONTINENTS

Environmental activists have made some important strides in confronting the Australian mining company Lynas.

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Lynas bills itself as the only significant producer of separated rare earth oxides outside of China. It mines these minerals at Mt. Weld in Western Australia. From there, it sends the material to a secondary processing facility in Malaysia where it separates and processes the ore. According to its own promotional materials, Lynas is “designed from the ground up as an environmentally responsible producer.”

Lee Tan disagrees. She’s originally from Kuantan, the Malaysian port where Lynas’s processing facility is located. She not only takes issue with the way Lynas describes itself. She has devoted a decade of activism to exposing the activities of the Australian company and trying to stop more radioactive waste from accumulating in her hometown. “We’ve been campaigning since 2011,” she explains. “It’s been a long road and we’ve tried every single tactic within reach. ‘Stop Lynas’ was Malaysia’s biggest environmental campaign from 2011 to 2014-15.”

The campaign was initially successful. At its height, over 1.2 million signatures were collected urging the Malaysian government to shut down the plant. This effort delayed Lynas from getting its operating license and forced the government to re-examine some of Lynas’s blueprints. Lynas was worth \$3.5 billion at the time, and its \$800 million facility in Kuantan was slated for completion in 2011.

“Western countries don’t want it. Why should we in Malaysia?” Norizan Mokhtar, who lived a few miles from the proposed site, told Reuters in 2012.

The delays were expensive for the company, which had orders covering the first decade of production. Holding a near monopoly of rare earth element production and supplies, China further narrowed to these critical minerals by reducing exports in 2010. Japan, which was keen to secure non-Chinese rare earth supplies, financed the Lynas project. With the help of the Malaysian government, Lynas managed to get around public resistance by promising that all of its waste would be removed from the country. By 2013, it had started the processing facility in Kuantan.

One of the challenges for campaigners was that they didn’t learn about the facility until it was already 60 percent completed. “By the time it hit *The New York Times*, it got a lot harder to stop,” Tan explains. She also blames the country’s corrupt regime for smoothing the way for Lynas. Indeed, the currently jailed ex-prime minister Najib Razak was at the time embroiled in a multi-billion international corruption scandal.

Lynas spent a lot of money on changing hearts and minds. “Lynas was fairly effective in buying into the thinking of the poorly informed local community and politicians,” Tan continues. “It invested in a lot of PR exercises. It gave out goods and money. It paid higher wages. It made scientifically untrue claims such as that the facility would have ‘zero harm.’ If we had not obtained reviews and opinions from well-qualified independent international experts, more people could have been easily persuaded.”

Still, the campaign against Lynas continues. It has simply shifted to different targets, such as dealing with the radioactive waste produced at the facility in Kuantan and mobilizing to stop the construction of a permanent waste storage facility on site. The initial mobilization, too, holds important lessons for activists working on rare earth elements elsewhere in the world.

Mounting Protests

In 1993, Nicholas Curtis left his secure job in Australian banking and moved to China, where he worked for the next six years at the China National Nonferrous Metals Industry Corporation. It was the first of several China-related gambles that the future head of Lynas would make. In China, Curtis made the connections necessary to buy the country’s second largest gold mine in Tibet, Sino Gold, and get it listed on the Australian stock exchange. That was Curtis’ first controversial mining project.

In China, Curtis learned about the value of rare earth elements. “I knew that these were really important materials, that China had 5000 PhDs specializing in rare earths and that Deng Xiaoping had said in 1993, ‘Saudi Arabia has oil, China has rare earths,’” he told *Financial Review*.

What he needed, Curtis realized, was a non-Chinese source of rare earth elements (REE). That’s when he found Mt. Weld, one of the highest-grade deposits of REE in the world. In 2002, he bought the site from another mining company. It took nearly a decade to begin extraction of the minerals.

“They should be processing the minerals there too,” explains Tan. “But they knew that it would take time to set up the plant for production there because the environmental standards in Australia are higher and it would be very expensive. So, they picked Malaysia to do the secondary processing.”

Kuantan is a port city of more than half a million people. It’s home to one of Malaysia’s first Special Economic Zones (SEZ) as well as the Gebeng Industrial Park, a cluster of petrochemical plants where Lynas located its processing facility. Near this park are a number of seaside resorts as well as communities of farmers and fisherfolk.

In 2011, Tan learned that Lynas was establishing its facility in her hometown in Malaysia. At the time, she was living in Australia where she’d been working since graduating from university. She’d learned about the health impacts from long-term exposure to low-dose radioactive materials from her work in cancer research at the Peter MacCallum Cancer Centre in Melbourne.

“The diaspora in the United States read in *The New York Times* that this huge REE plant, the first outside China, was being constructed in Kuantan,” she remembers. “The article was sent around the diaspora circles. I was really shocked to read about it. I’m very much aware of Malaysia’s shortcomings in terms of environmental regulations and corruption. As it happened, I was moving back to Kuantan to help care for my elderly mother at the time. I got connected to the Save Malaysia Stop Lynas resident group.”

The group had a limited understanding of in-depth technical issues. “So, I offered to fill in the gap,” she continues. “I also used my contacts in the Malaysian and Australian environmental movement, with nuclear-free campaign activists, and with those involved with the International Campaign to Abolish Nuclear Weapons. Through this network, we got relevant experts involved reviewing Lynas’s blueprints, its environmental impact assessments, providing submissions and court affidavits, and so on.”

The most recent link was with AidWatch, an Australian NGO that monitors trade and development, which took on the campaign to stop Lynas. By and large, however, Malaysians drove the campaign.

“From the beginning,” Tan remembers, “people who’d worked in marketing branded the campaign very successfully. There was a powerful logo that appeared on merchandise like badges, stickers, umbrellas, caps, and t-shirts. The messages were simple and clear such as ‘No Radioactive Waste’ and ‘Stop Lynas.’ Social media platforms were used. Every state in Malaysia started a Stop Lynas support group. Malaysians live in a very small country, and they were worried that Lynas’s massive waste problem would eventually affect them as well.”

The campaign also launched legal challenges. “But this was difficult,” she points out. “Especially in a developing country like Malaysia where environmental law exists but the judicial system is compromised and believed to be closely linked to the government. When it comes to environmental cases, the judges’ knowledge is limited. They also go by the old system of cause and effect. Unless you present dead bodies or very sick people, judgements often favor polluters. The precautionary principle is not taken seriously in Malaysian courts.”

And then there were the protests. “I was involved in many direct actions,” Tan recalls. “There were peaceful protests in public parks nearly every week. Protestors carried the Malaysian flag, arguing that if you love your country then you should oppose this particular project. We got huge public support. Around 2013, another mass direct action group called the Green Assembly took up the Lynas issue. Some went on hunger strikes, others shaved their hair in protest of Lynas. Pro-environment candidates in Kuantan were voted into parliament and the state assembly in the election. In any other country, this strong opposition would have stopped the project or, at the very least, forced tighter regulatory requirements on the company.”

The protests and campaigning activities attracted the attention of many journalists—both local and international. “I lost count of how many journalists I took on a tour of the site,” she says. “Local artists, comedians, and musicians also started to get involved as well. They composed lyrics and made short films about the whole Lynas fiasco, which created popular media on the issue.”

The Malaysian government brought in the International Atomic Energy Agency (IAEA) to provide reassurances about the radioactivity associated with the processing of the rare earth elements. “The Malaysian government said things were safe even though the IAEA made 11 recommendations and then, in a follow-up visit, made eight additional suggestions,” Tan says. “One expert told me that the IAEA’s reports basically highlighted serious deficiencies that Lynas and the Malaysian government have yet to address. But the government and Lynas spun the findings by cherry-picking the IAEA’s more diplomatic phrasing to claim that the IAEA had given the all clear—with the support from pro-industry media.”

In the end, Stop Lynas didn’t stop Lynas. Still, the protests made a difference. “If we hadn’t protested,” Tan says, “Lynas would have gotten away without even a waste management plan. The original proposal was to turn the radioactive waste into building materials and for road construction, literally spreading the hazards everywhere! Because of the publicity of our campaign, they couldn’t do that. We achieved as much as we could.”

From Direct Actions to Legal Actions

The core opposition against Lynas in Malaysia did not give up. Activists have shifted to monitoring the activities of the plant as well as Lynas’s corporate activity. “We monitor Lynas’s official documents, their stock, their annual reports,” Tan says. “For a few years, we attended the annual general meeting in Sydney where we handed out information, asked questions, and attracted some Australian media. But this was all run on a shoestring budget. If you have resources, shareholder education is quite important, particularly in this case, where Lynas promoted itself as a green company that is mining minerals critical for energy transition and for the green economy.”

The major focus of the monitoring activity is now on the waste of the processing facility. The activists arranged for the testing of the waste water. “As we expected,” Tan explains, “the quality of water was pretty bad. But in the Malaysian judiciary system, this independently tested data was not admissible, so we couldn’t charge Lynas for polluting the environment although, under the law, contaminating water with radioactive materials carries a death penalty as its maximum penalty! We don’t have evidence that the Department of the Environment or the Atomic Energy Licensing Board had been bribed, but they were supporting Lynas by not releasing monitoring data despite the IAEA’s recommendation to be transparent. We tried countless times to access that data.”

The activists had a temporary breakthrough in 2018 when some data were revealed in a 2018 government review report. “That’s when there was a change of government and a popularly elected coalition came into office,” Tan continues. “The new government did a review, which showed that monitoring data from Lynas’s own groundwater testing stations had been very seriously contaminated with toxic and carcinogenic heavy metals. They didn’t test for radioactive materials, but if the water were as contaminated by heavy metals then it’s fairly certain that there’d be thorium or uranium and their decay products as well.”

Current Organizing

With the demand for rare earth elements rising, Lynas is investing half a billion dollars into expanding its operations worldwide. It has inked two agreements with the Pentagon. It has obtained approval for a new intermediate processing facility at Kalgoorlie in Western Australia that will theoretically strip out radioactive content before shipping the remainder to Malaysia for further processing.

At Kalgoorlie, thanks to the work of local residents and AidWatch, more stringent radioactive waste management and disposal standards were mandated: radioactive waste must be removed within 24 months from the plant to be returned to the Mt. Weld mine site under a radioactive waste management plan. This is in stark contrast to Lynas's practices in Kuantan where the same type of waste has been dumped onto temporary storage dams that overflow to contaminate the nearby environment every monsoon.

Lynas is also establishing a permanent waste dump near the Kuantan plant. In 2019, the Malaysian government renewed its license with a proviso that Lynas identify a long-term solution to its radioactive waste because the Western Australian government refused to accept the radioactive waste. At the end of 2021, the government approved the company's proposal for such a storage facility. But critics like parliamentarian Fuziah Salleh, who represents Kuantan, have pointed out that the facility is inappropriately sited in a peat swamp. Former environment minister Yeo Bee Yin has called the waste facility "a national monument of shame." Malaysian activists have filed a case in Kuantan challenging the approval process.

"We're arguing that Lynas and the Department of Environment have violated planning law by not going through a proper planning process, and that the site and design presented were not scientifically robust for a permanent radioactive waste facility," Tan explains. "We're objecting to the EIA approval of the permanent facility on a range of grounds. We have strong affidavits from several international experts providing scientific assessments, including a critique of Lynas's and the Malaysian government's lowering of the classification of the radioactive waste, against established international standards."

Activists have periodically engaged with local inhabitants. "I have spoken to people near the river where the wastewater is discharged who say that fish die especially after a rainstorm," Tan reports. "Children are playing in the estuary at low tide at the mouth of the river, and there is a local seafood market selling local catches. The mangrove is famous for its mud crabs and shellfish. Tropical monsoon periodically floods low-lying peat swamp, and the groundwater table is very low even in the driest period, which raises the question of why anyone would site a radioactive waste facility there."

She speculates that health impacts such as cancer might not be known for some time since low-level radiation doses need to accumulate over a long time to show adverse health effects, like the case of Minamata disease, where mercury in toxic wastewater poisoned the seafood that the residents of this Japanese coastal town were eating and led to terrifying neurological symptoms decades later.

“Some rare earth elements have recently been linked in scientific studies to low IQ in children and impaired male fertility or reproduction among other impacts on children,” she points out. “Different types of REE have different impacts on human health and ecology, but there’s not a huge amount of data available as yet since research in this area is still limited.”

Money also remains a major barrier to organizing opposition to Lynas. “We have a good bunch of experts, but campaigning and advocacy work don’t come cheap,” she continues. “Our experts only charge nominal sums for their professional efforts. We cannot afford to do much more. Many of us work on the campaign for no money because we care about Malaysia. Sadly, the immediate local community, women particularly, has been silenced by the conservative, male-dominated local politics. We want to see a truly just and clean economic transition from dirty fossil-fuels.”

The campaign has had its wins. “If we hadn’t done anything, Lynas’s radioactive waste could be spread out all over Malaysia by now, and Lynas would have become the hottest stock out there,” Tan concludes. “Now, it’s just scraping by from generous Japanese loans, Pentagon contracts, and Australian government handouts. Nick Curtis was hoping to make billions when he started out, and he is still hoping that geopolitical forces will get him there one day.”

*John Feffer is the director of Foreign Policy In Focus. This article is part of the new [Global Just Transition project](https://fpif.org/global-just-transition/) (https://fpif.org/global-just-transition/).