

**QUESTIONS TAKEN ON NOTICE DURING
BUDGET ESTIMATES SUPPLEMENTARY HEARING
15 February 2005**

QUESTION 1, PAGE 1 - Minister

GAY TO BUFFIER

We have budget estimate hearings today and we invited the Minister, but the Minister is not here.

ANSWER

The Minister for Mineral Resources was committed to a previously arranged appointment.

QUESTION 2, PAGE 3 - Voluntary Redundancies

GAY TO BUFFIER

Would you break it down or take it on notice how many out of each area of forestry, mining-

ANSWER

As at 25 February 2005, the breakdown by former agency of staff who had accepted voluntary redundancy in the Department of Primary Industries was:

Agriculture	184
Mineral Resources	86
Fisheries	24
State Forests	<u>60</u>
Total	<u>354</u>

QUESTION 3, PAGE 3 - Voluntary Redundancies

HARWIN TO BUFFIER

Are you able to advise on how much the redundancies will cost?

ANSWER

As at 25 February 2005, the breakdown by former agency of the cost of voluntary redundancies was:

	\$m
Agriculture	10.876
Mineral Resources	6.347
Fisheries	1.061
State Forests	<u>2.950</u>
Total	<u>21.234</u>

QUESTION 4, PAGE 4 - Voluntary Redundancies
GAY TO GLEESON

Do you have any idea what the figures will be?
The redundancies that treasury will have to pick up?

ANSWER

By 30 June 2005, the estimated number of staff accepting an offer of voluntary redundancy is 400. Based on the YTD average cost per staff, the estimated cost of the voluntary redundancies will be about \$24 million.

QUESTION 5, PAGE 5 - Coal Compensation Board
HARWIN TO BOWMAN

I note that this year's audit report of the Coal Compensation Board found that the \$75 million in compensation from the Nardell case had now blown out to \$118 million. Have I got my sums right and is the figure accurate?

ANSWER

The liability of the Coal Compensation Board increased during 2003/04 year from the original liability of \$67M to \$190M as of 1 July 2004. Three main factors contributed to this increase. They were:-

1. The Court of Appeal decision on the Nardell Colliery test case on the meaning of "just and equitable" compensation in the Reacquisition Scheme which increased the cost of compensation during the year by approximately \$30M.
2. The introduction of an ad valorem royalty scheme for coal which increased the Board's liability by an estimated \$75M, and
3. An adverse decision in the Court of Appeal case involving the Bowman Family Coal Partnership which increased the cost of compensation by \$16M.

The balance of the increase reflected upward revisions in the production plans of coal mines as a result of the buoyant coal industry in the second half of 2003/4.

QUESTION 6, PAGE 6 - Coal Compensation Board
GAY TO COUTTS

How much extra? (*does Treasury benefit in comparison to compensation paid*)

ANSWER

To date the Board has paid some \$668 million in compensation for a benefit to date of over \$2 billion in additional royalties. The net past and future benefit to the State from the acquisition of private coal is estimated at \$10 billion. This figure is heavily dependent on the price of coal into the future and could be considerably in excess of \$10 billion.

**QUESTION 7, PAGE 6 - Coal Compensation Board
GAY TO BUFFIER**

Mr Buffier, you have accepted to take those questions on notice? (*refers to questions 5 and 6*)

ANSWER

See answers to questions 5 and 6.

**QUESTION 8, PAGE 6 - Mine Safety Review
GAY TO BUFFIER**

We know that a former Labor Premier of New South Wales has been appointed to head an inquiry into mine safety. Who appointed him to this position? When was he appointed to this position? Why was he appointed to this position? What qualifications does he have to head an inquiry into mine safety, which is an important inquiry?

ANSWER

1. The Minister for Mineral Resources.
2. 28 September 2004.
3. Mr Wran was considered the most suitable person.
4. Mr Wran is eminently qualified to head such an important Review. He is a former Premier of New South Wales, a Queens Council, and a highly respected Australian with a distinguished career in both public office and the private sector. His wealth of experience and knowledge in dealing with various complex and difficult matters is highly regarded.

**QUESTION 9, PAGE 8 - Coal Compensation Board
HARWIN TO BOWMAN**

How many plaintiffs in total were involved, and has the number of plaintiff's now entitled to compensation changed at all?

Is it possible to have exact figures provided on notice?

ANSWER

The Nardell Colliery Pty Ltd litigation was conducted as a test case for Restitution refusal applications and Reacquisition applications brought under the *Coal Acquisition (Re-acquisition) Arrangements Order 1997*. There are 125 such applicants whose compensation will be determined in accordance with the principles set out in the test case. There has been no increase in the number of people entitled to compensation.

QUESTION 10, PAGE 8 - Mine Safety**GAY TO COUTTS**

How many safety inspections were undertaken by your department in the past 12 months?

ANSWER

The Department's safety officers conducted 938 mine site assessments during the year 2003/04, with just over 33% of these being unannounced. They included safety reviews, audits, inspections and a detailed electrical safety campaign.

QUESTION 10A, PAGE 8 - Mine Safety**GAY TO COUTTS**

How many mine safety officers do we have in the Department?

ANSWER

As recently reported to the Mine Safety Review the Department employs 31 inspectors and 18 mine safety officers, a total of 49 field based safety officers.

QUESTION 11, PAGE 8 - Mine Safety**GAY TO COUTTS**

How many mines have an accredited mine safety officer allocated to them?

ANSWER

Generally inspectors and mine safety officers are not allocated to individual mines. Rather, they operate on a regional basis and each officer would cover a number of mines in the region. An exception is the coal mining industry where inspectors of coal mines can be appointed as the district inspector for individual mines.

QUESTION 12, PAGE 9 - Director General**TSANG TO BUFFIER**

Perhaps the committee will benefit from taking my question on notice so that we can see the liability and the benefits. A question was asked about the government being too easy on you, Mr Buffier, for not having a signed performance agreement. Would you say that it is clever of the Government or the Minister not to have that agreement because it is not in your benefit? If you do not have a performance agreement you are unable to claim a bonus, or, indeed, any additional payments on which you agree. However, the Minister can, at any time, give you unreasonable reasons and ask you to leave the job. Therefore, it is very clever and cunning of the Minister not to have that agreement. Can you clarify that?

ANSWER

Whilst a performance agreement has not been signed, there has been a clear understanding between the Minister for Primary Industries and the Director General about the clear elements to be included in a performance agreement since the Director General's appointment on 1 July 2004.

**QUESTIONS 13 and 14, PAGE 10 - Longwall Mining
RHIANNON TO BUFFIER**

Did the department make a submission to the National Parks and Wildlife Service Scientific Committee on its proposed listing of longwall coalmining as a key threatening process under the Threatened Species Act?

Are not any of the four representatives able to answer that question? I would have thought that you would have been aware of whether or not you had made a submission?

ANSWER

The Department of Primary Industries made a submission regarding the NSW Scientific Committee Preliminary Determination on '*Alteration of habitat following subsidence due to longwall mining*' as a proposed key threatening process under the *Threatened Species Conservation Act 1995*.

**QUESTION 14A, PAGE 10 - Longwall Mining
RHIANNON TO BUFFIER**

If the proposed listing of longwall coal mining as a key threatening process is successful, how will the Department respond? What action will you take to evaluate current longwall coal mining operations that gained approval prior to the listing?

ANSWER

Should the '*Alteration of habitat following subsidence due to longwall mining*' proposal be listed by the NSW Scientific Committee as a key threatening process, I am advised that the Department of Environment and Conservation will prepare a threat abatement plan under the *Threatened Species Conservation Act*.

The threat abatement plan will identify any actions that the Department of Primary Industries is required to take.

QUESTION 15, PAGE 11 - Longwall Mining
RHIANNON TO COUTTS

I understand that a 20-year lease extension has been granted for mines north of Lithgow. As you would be aware, this is why longwall coalmining has been nominated as a key threatening process under the Threatened Species Act. I am referring now to a question on notice that I asked the Minister last year. I asked why the lease extension was granted to mining companies that have been described in the key threatening process nomination as behaving unethically, in particular, Springvale colliery, prior to the Scientific Committee making a determination on this nomination. The Minister said he that could not comment on this because neither he nor the department were provided with information outlined in the nomination. Was there a communication breakdown in the department? What is the current process? I appreciated the Minister's answer but I was surprised that he was not aware of this.

ANSWER

The New South Wales Scientific Committee sought comment from the Department of Primary Industries when the nomination was received but did not provide any details from the nomination. A copy of the nomination or the details concerning the nomination was requested from the Scientific Committee, however this request was denied.

There has been no communication breakdown within the Department of Primary Industries concerning this matter. Renewals and extensions to leases have been addressed in the usual manner which includes the referencing of other government agencies such as the Department of Environment and Conservation.

The granting of leases for the Springvale Colliery occurred subsequent to development consent being issued by the then Minister for Planning following a Commission of Inquiry.

QUESTION 16, PAGES 11 AND 12 - Cataract River
RHIANNON TO COUTTS

I want to clarify the question that you are to take on notice. I refer next to the Cataract River task force report. Were the recommendations that were made in that report ever implemented? One of the recommendations was for the minimum interim release of two megalitres a day from Broughton Pass weir.

Another was for an additional interim flow of 10 megalitres a day for three consecutive days in every 12-week period.

ANSWER

This is outside the portfolio responsibilities of the Minister for Mineral Resources and should be addressed to the Minister for Natural Resources and the Minister for the Environment.

QUESTION 17, PAGE 12 - Cataract River
RHIANNON TO COUTTS

The third was a total of 10 percent of rainfall which converted to run-off of the total catchment be released periodically to coincide with rainfall events in the catchment.

ANSWER

This is outside the portfolio responsibilities of the Minister for Mineral Resources and should be addressed to the Minister for Natural Resources and the Minister for the Environment.

QUESTION 18, PAGE 12 - Cataract River
RHIANNON TO COUTTS

Are you aware that in October last year there was reportedly an environmental flow averaging 1.7 megalitres a day, which is 750,000 litres per day less than the task force recommendation?

ANSWER

I am advised that this was the environmental flow determined by the Department of Infrastructure Planning and Natural Resources.

QUESTION 19, PAGE 12 - Cataract River
RHIANNON TO COUTTS

How do you account for the fact that the Cataract River task force report recommendations are not currently fully implemented?

ANSWER

The recommendations within the Cataract River Task Force Report identified specific actions for the various organisations involved with the report. All the recommendations relating to the Department of Primary Industries (then referenced as the Department of Mineral Resources) have been implemented.

You will have to raise any concerns you have regarding other recommendations with the Minister for Natural Resources and the Minister for the Environment.

QUESTION 20, PAGE 12 - Cataract River
RHIANNON TO COUTTS

Will the environmental flows of the Cataract River ever be increased to meet the task force recommendations?

ANSWER

This is outside the portfolio responsibilities of the Minister for Mineral Resources and should be addressed to the Minister for Natural Resources and the Minister for the Environment.

**QUESTION 21, PAGE 12 - Cataract River
RHIANNON TO COUTTS**

What can you tell us about the Cataract River task force report? How has the department responded to the Cataract River task force report?

ANSWER

See answer provided to Question 19.

**QUESTION 22, PAGE 12 - Cataract River
RHIANNON TO COUTTS**

When the Environment Protection Authority undertakes that work does it inform your department that it has found such problems?

ANSWER

I am advised that the Freedom of Information request referred to was for the Environment Protection Authority, not the Department of Primary Industries.

If there was an issue relating solely to the environment protection licence then the Environment Protection Authority may not advise my Department. If the matter was within the jurisdiction of both departments, they would work together to resolve the matter.

**QUESTION 23, PAGE 14 - Camberwell, Glennies Creek Open-Cuts
CHAIR TO COUTTS**

I am looking at another mine in the Hunter. What action has your department taken or what action will your department take to alleviate the considerable problems facing residents of the small communities of Camberwell and Glennies Creek from the nearby open cut coalmines – problems of noise, dust, vibrations from blasting, and so on, as recently described in the Newcastle Herald?

ANSWER

The Department of Infrastructure, Planning and Natural Resources requires full environmental assessments (EIS) for all coal mine developments. Considerations include noise, dust and vibrations. In addition, the Department of Environment and Conservation regulates these impacts.

The Department of Primary Industries environmental and safety inspectors respond to community inquiries and complaints and undertake investigations of mine incidents. Compliance with mining lease conditions can be, and has been, enforced.

**QUESTION 24, PAGE 14 - Anvil Hill
CHAIR TO COUTTS**

Is it the fact that there is going to be a commission of inquiry? Does this have some bearing on the fact that Centennial Coal is not attending the local community meetings to present the interested parties, or hold its own open community meetings on its proposals for the Anvil Hill open cut coalmine project, despite agreements that broad-ranging consultation would take place? Is your department supporting this approach to community consultations? Are you able to comment on the adequacy or otherwise of community consultation in this respect?

ANSWER

The response provided by Mr Coutts to matters raised in this question is correct with respect to the Anvil Hill Community Consultation Committee and various open days.

The former Minister for Mineral Resources established the Anvil Hill Community Consultative Committee to facilitate the exchange of information between the company and the community during the exploration and assessment phase of this project. Once the project has moved to the development approval process stage, it will be a matter for the Minister for Infrastructure and Planning and his department to determine the nature and level of ongoing community consultation.

The question of whether “there is going to be a commission of inquiry” is a matter for the Minister for Infrastructure and Planning to determine after the company seeks development approval for the project under the *Environmental Planning and Assessment Act 1979*.

**QUESTION 25, PAGE 15 - Anvil Hill
CHAIR TO COUTTS**

Perhaps you can give an undertaking to raise this matter with the Minister and provide some further information of his intention on this matter back to the Committee?

ANSWER

The Minister for Mineral Resources has established community consultative committees for various exploration projects, including Anvil Hill, under an independent chairperson.

The Hon Milton Morris presently chairs the Anvil Hill Community Consultative Committee, which was established in early 2000 to facilitate the exchange of information between the company and the community during the exploration and assessment phase of this project.

Once the project has moved to the development approval process stage, it will be a matter for the Minister for Infrastructure and Planning to determine the nature and level of ongoing community consultation.

QUESTION 26, PAGE 15 - Community Consultation
RHIANNON TO COUTTS

To continue with the issue of community consultation, could you provide the committee with any examples where a mine project has been changed because of community consultation?

ANSWER

Please refer to the answers to question 24 and 25 to gain an appreciation of the difference between community consultation during the exploration stage of a project and the approved development stage of the mining project.

The regular community consultation process during the exploration stage of a project would help a company in modifying its advanced exploration activities and mine proposal developments. Most major project proposals would be influenced to some extent in their design by such exchange of information with community members.

An example would be Centennial Coal's Mandalong project. The width of longwall panels at Mandalong were reduced by half to limit surface impacts following concerns expressed by the community through the community consultation process.

QUESTION 27, PAGE 16 - Bickham
CHAIR TO COUTTS

Regarding the Bickham coal project near Blandford, the Minister has already approved the mining near Blandford by digging a 25,000 tonnes coal sample under an exploration licence. This is effectively a mini-mine which allows for the exportation of coal to potential customers to see whether it meets their needs with associated risks of spontaneous combustion. I understand the mining company now wants to increase the tonnage of sampling. Has the Minister approved this application?

ANSWER

The Minister has approved a proposal which was unanimously supported by the Community Consultative Committee to remove coal remnants from the stockpile pad to facilitate site rehabilitation.

QUESTION 28, PAGE 16 - Coal Compensation Board
HARWIN TO BOWMAN

In relation to the Nardell court case, what was the total legal cost for the case? How has that been funded?

ANSWER

The total legal cost for the Nardell Court Case was \$413,000. Of this total amount, \$124,000 of the costs came out of the Board's existing budget for legal costs. The balance of \$289,000 was the result of supplementation by Treasury.

QUESTION 29, PAGE 16 - Coal Compensation Board**HARWIN TO BOWMAN**

Finally on this general area, are there any other cases currently being fought by the Coal Compensation Board that may impact on the board's budget? If so, what are the potential impacts?

ANSWER

There are two current cases for which the Board will incur legal costs.

- In the Bowman Family Coal Partnership case there is an existing liability for about \$40,000 party-party costs in respect of an order of the Court of Appeal for the Board to pay the costs of the Bowman Family Coal Partnership.
- Muswellbrook Council has appealed to the Coal Compensation Review Tribunal. It is estimated that legal fees in 2004/05 will be less than \$15,000 in respect of this case.

It is anticipated that the fees associated with both of these will be met by the board's legal budget for 2004/05 of \$336,000.

The Board's compensation liability could be affected by three litigation or pending litigation cases. They are:-

- Muswellbrook Council rate loss claims in the Compensation Scheme which could increase the Board's liability by around \$2M.
- White Bros. claim for loss of front end payments related to the supply of coal to Macquarie Generation in Mt Arthur North in the Reacquisition Scheme which with flow ons, has the potential to increase the liability by a further \$50M.
- The Franks Estate appeal in the Compensation Scheme which has the potential to increase the Board's liability by a further \$40M.

QUESTION 30, PAGE 18 - Royalty**GAY TO BUFFIER**

Could you, when you get that information, come back with a figure on the \$400 million.

ANSWER

The response provided by Mr Coutts is correct that the actual royalty figures will not be available until the end of the financial year. However, the Department estimates that coal royalties to be collected for 2004/05 is about \$320 million.

**QUESTION 31, PAGE 19 - Hunter Mining
GAY TO COUTTS**

Have you received any proposals from mining companies to mine under the streams in the Hunter Valley? If so, how many proposals have been received and have any been approved?

ANSWER

The Hunter coalfield currently has 7 underground coal mines operating under pre-existing development approvals.

There are 3 coal project areas currently under exploration which may have coal resources suitable for underground mining but these have not advanced to mining proposals.

All underground coal mines operate beneath ephemeral streams of some description. However there are currently no mines nor proposals to mine beneath high order streams (such as the Hunter River and Wollombi Brook and their fresh water alluvial aquifers) by other than first working heading development. First working heading development does not have a significant risk of subsidence.

**QUESTION 32, PAGE 19 - Cowal
RHIANNON TO COUTTS**

Does Barrick Gold have a management plan in place for the transport, storage and use of cyanide at the Lake Cowal goldmine?

ANSWER

The transport of Cyanide to the Cowal Gold mine is covered in the "Hazardous Waste & Chemical Management Plan" dated October 2003 as approved by the Department of Infrastructure, Planning and Natural Resources.

A "Cyanide Management Plan" for the mine site is currently being developed in consultation with the Department of Environment and Conservation (Environment Protection Authority). The Plan is a requirement of the development consent and, as such, must be developed to the satisfaction of the Director-General of the Department of Infrastructure Planning and Natural Resources.

**QUESTION 33, PAGE 19 - Cowal
RHIANNON TO COUTTS**

Is that plan publicly available or will it be publicly available?

ANSWER

This is a matter for the Minister for Infrastructure and Planning.

QUESTION 34, PAGE 19 - Longwall Mining
RHIANNON TO BUFFIER

What arrangements does the department have with Sydney Water or the Sydney Catchment Authority regarding the allocation of water to environmental flow to mitigate environmental damage caused by longwall coalmining?

ANSWER

There is no arrangement between the Department of Primary Industries and Sydney Water or the Sydney Catchment Authority regarding the allocation of water. If there were to be an allocation of water for environmental flows to mitigate mining related impacts it would be a matter for direct discussion and negotiation between the mining company, Sydney Water and/or the Sydney Catchment Authority.