

**Submission
No 187**

**INQUIRY INTO PERFORMANCE OF THE NSW
ENVIRONMENT PROTECTION AUTHORITY**

Name: Mr Joe Sparks

Date received: 25/08/2014

The Director
General Purpose Standing Committee No. 5
Parliament House
Macquarie St
Sydney NSW 2000

Joe Sparks

**RE: SUBMISSION TO INQUIRY INTO THE PERFORMANCE OF THE ENVIRONMENT
PROTECTION AUTHORITY.**

Dear Sir/Madam.

Please find enclosed copy of my letter to MLC Luke Foley and supporting documents on matters relevant to this enquiry this being the Environment protection authority Crown forestry units ongoing tardy, lethargic and compromised oversight of license compliance of forestry operations with public lands of NSW. Please treat both this letter and the letter to Mr Foley and supporting documents as part of my submission to this enquiry.

I have the following to add to the complaints listed in the letter to Mr. Foley regarding the EPA's enforcement and regulation of the Threatened species license.

- I have not received a satisfactory response from the GIS unit regarding my preliminary allegations presented to them regarding data manipulation/mismanagement by Forestry Corporation (see document 4a) and as I have continued to uncover individual instances of apparent threatened species record manipulation/mismanagement in my forestry region to date, I continue to be seriously concerned about the lack of oversight regarding forestry's Corporation's management of threatened species records.
- In relation to an Issue outlined in complaint 3, I have continued to pursue Forestry Corporation's wrongful Interpretation of condition 6.13 (Hastings River Mouse) including applications in the field (see attached document 4b) and as a result have received advice from the Environment defenders office that Forestry's Corporations interpretation is in breach of the Threatened Species License (see 4c).

I thank you for the chance to make this submission. Please contact me for further information.

Yours Sincerely

Joe Sparks

21/08/2014

Joe Sparks
Gibraltar range resident's action group

The Hon. Luke Foley, MLC
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr. Foley

Congratulations on ensuring the setting up of the upper house inquiry into the performance of the EPA. I write to fully inform you about matters of relevant to the inquiry.

RE: Environment Protection Authority's regulation of the Integrated Forestry Operation Approval.

Firstly I'd like to state that my personnel view has never been to see an end native forest logging, more just see that harvesting abides existing law limiting timber operations impacts on the natural environment. Wood is a beautiful, sustainable, natural material with low embodied energy that we should be using, but not squandering and from the outset of the Regional Forest Agreements 's there were high hopes for the future of an sustainable timber. However it's now become obvious that, the government appointed regulator the Environment Protection Authority (EPA) has failed in its task of enforcing compliance to such a point, that Forestry Corporation are currently self regulating , With the added benefit of being seen by the public, share holders and timber buyers as being "*independently externally regulated*". This self regulation by an industry that has control of such a large swath of nsw forested lands with little or no independent oversight of the negative impacts lies at the crux of the issue I'm concerned about.

Perhaps part of the blame lies with "environmentalist's" inability to ensure independent oversight was part of the integrated system from the start but regardless of blame, the reality is that the opportunity the RFA's represented (long term sustainable timber industry) has now been squandered for short term gain.

I present you with 3 examples and suggest that they could be raised as part of the NSW upper house enquiry in the EPA.

1.2011, Weddingbells State Forest upper north east forestry region, compartment 553. 5km west of Woolgoolga

My allegations of breaches of law by this operation were extensive (see attached documents 1.a "*bells are ringing*") the most serious one being that this operation was scheduled operation under the Protection of the Environment Operations Act (POEO) meaning under that act that it would require Environment Protection Licence (EPL). I assumed that given the seriousness of my allegation (financial benefit for Forestry Corporation by avoiding a license) this matter would be thoroughly and independently investigated, When the EPACFU investigation was finalized they found little wrong with the operation (see document 1.b "*EPA 11712*") , from

documents obtained under G.I.P.A I discovered that the information relied on by the EPACFU (see 1.c "*GIPA231# doc1*") for the determination of whether this was a scheduled operation or not, was sourced from Forestry Corporation and that the EPACFU investigators had made no attempt to independently validate this as information. Later I was informed by NSW Environmental Defenders Office that the information relied on (by both departments) contained significant errors of fact (1.d "*130820 Advice to Sparks Wedding Bells SF Final*") that would have impacted this operations "unscheduled" status especially when considering the outcomes of my stump counts for that compartment (see 1.e *Wedding bells stump counts and basal area measurements*)

2.2012. Styx river state forest lower north east region compartment 502. 75km east of Armidale

While conducting a documentary review of lower north east operations I found that seven Rufus Scrub Bird records had been completely ignored by this forestry operation. I contacted the EPA regarding what I considered to be a serious breach of the Threatened Species Licence (TSL), (see 2.a "*Styx 502 complaint*") Their investigation taking over a year to complete did not halt harvesting and while finding that forestry corporations had illegally deleted these records, in their wisdom they ultimately decided to accept Forestry's Corporation excuse for the deletion of these records (2.b "*StyxRiverSF_Sparks*"), which was that the habitat of this animal was not present within the compartment. (Despite Forestry Corporation admitting that there was habitat present). The EPA's finding completely ignored or over looked the evidence that these records were deleted before (28/03/2011) the forestry personnel did the habitat assessments for this animal (22/07/2011) as the PRE-LOGGING AND PRE-ROADING FLORA & FAUNA SURVEY REPORT has no reference to the scrub bird records or any rationalization for deletions or the applying of condition 7 as would have been expected if these's deletion were indeed above board this document is attachment (2.c *StyxRiver502_ecol_report*)

My subsequent investigations in to database management has revealed that the EPA has allowed Forestry to regularly breach the TSL conditions regarding the time line of transfer of threatened species sighting records and given them what amounts to unfettered access to the NPWS atlas data base with apparently no way of crosschecking checking on any changes forestry have made to records .

3.2013 Marengo/Eillis state forest compartments 27 and 50. 20km North West of Dorrigo

In late march 2013, I became interested in auditing these compartments as forestry had used the newly changed Hastings river mouse TSL condition (which had been introduced as result of the IFOA review) which in my opinion is being applied contrary to the wording of the TSL condition, and in breach of the Federal recovery plan for species. I did an audit which revealed other serious breaches of the TSL and EPL licenses (see 3.a "*Allegations of breaches of law by Forestry corporation native timber harvesting operation in compartments 26*"). I contacted other concerned locals and I briefly stopped work at this operation so as to inform forestry

personnel and contractors that they were acting illegally. I was arrested and charged with obstruction and interfering with a forestry operation. On that day I was informed that the EPA had recently completed an audit on this operation and they had found that it complied with regulations, I then contacted the EPA and asked for a copy of the audit finding's what I found shocked me (see 3.b and c "*epa audit ellis 50*" and "*epa audit of 26.27 marengo*") The EPA audit personnel had overlooked a significant and obvious documentary breach (not illustrating a threatened species buffer zone on the harvest plan map as required by the TSL) and they had decided to focus on a full sediment fence (minor breach) which was right next to a road creek crossing that was in serious breach of the EPL (later confirmed by a DPI department of soils conservation services report see 3d "*SCS Inspection - Basin Road Marengo SF R1*") on top of that they had apparently deliberately miss reported the impact of a fire on a Hastings river mouse exclusion by a factor of 10. (See document 3.e "*Allegations of environmental protection authority officers corrupt conduct.*")

I took the actions leading to my arrest on that day because there is no way for a third party to lodge court proceedings to legally halt harvesting while potential harm to the environment is assessed (as the forestry act specifically excludes this) and in light of the EPA's lethargic and inadequate response to the Styx matter, I believed I had no other alternative "legal" action left.

During the subsequent court proceedings as an answer to one of my defenses the Forestry Corporations barrister revealed that there is no legislative requirement for forestry operation to abide by the law [REDACTED]

I find it hard to ignore the possible ramification's these individual findings have on the 'big picture' by that I mean the sustainable management of natural values of the surviving forest ecosystems in NSW. It stands to reason that if the regulators/government is overlooking or ignoring individual breaches of law on the scale I have uncovered there is little hope that they are seriously considering the long term landscape scale effects of the current harvesting regime.

Under the current legal cover of the IFOA and forestry act, Forestry Corporation have increased the intensity frequency and thoroughness of harvests in the north east region to the point that they are now regularly overstepping the supposed legal restrictions embodied within the IFOA.

It's my pressing concern that the combination of these elements is leading to a undermining of a forests natural resiliencé to recover from catastrophic natural events, which are occurring at an ever increasing frequency under climate change. This potential crippling of a forests natural resilience is, I believe a tipping point, tipping the forest into a negative cycle's from which it is unable to recover to a natural state and this leaves the door wide open for pests/disease or wildfire to irreparably damage these ecosystems forever examples of this could be bell bird miner die back, Myrtle rust and Phytophthora fungus to name but a few of these effects that are taking hold in changed forest ecology with numerous others that a yet to properly identified let alone studied.

The way forward is obvious, an independent regulatory authority with funding sourced directly from licensing fees or fines, This agency or authority should be able to turn over

collected evidence of serious offences to the Department of public prosecutions or similar legal persecution body for pursuit in the courts. This would be most importantly in addition to ensuring third party rights to pursue court injunctions/or civil action for breach of license or legislation are re-installed and that there is a legislative requirement for NSW forestry operations to abide by the law.

I thank you for your interest and pursuit of these matters.

Yours sincerely

Joe Sparks

cc. David Shoebridge MLC