

**Submission
No 95**

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

Name: Mrs Sarah Ciesiolka

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Dear Sir

Thank you for the opportunity to make a submission into the NSW inquiry into the performance of the Environment Protection Authority (EPA).

My name is Sarah Ciesiolka. My family farms and resides between Wee Waa and Narrabri in North West NSW, less than 6km downstream from Santos' Proposed Stage 1 Narrabri Gas Project. Due to my close proximity to this proposed gasfield, I have for some time been following the debate into the performance of the NSW EPA. The inquiry, which is today the subject of my submission, was set up, in part, because the EPA is no longer trusted by communities in NSW. I look to this inquiry to address specific concerns in vulnerable and polluted communities and to create an EPA capable of putting the environment and healthy communities ahead of polluters and big business, including coal and coal seam gas companies. Proposals and approvals for major new and expanded polluting developments, including Santos' Proposed Stage 1 Narrabri Gas Project, should be put on hold until the inquiry has concluded, and any recommendations arising from it are implemented.

Santos and their predecessor, Eastern Star Gas, of which Santos was a large shareholder, have a well-documented history of failures in our region over many years, with more than 20 known incidents of spills, leakages and environmental incidents. For example, in July 2012, the EPA issued Santos with two fines for the discharge into a local waterway of polluted waste water from CSG activities at Bibblewindi. In January 2014, Santos were found guilty of 4 environmental offences under the Petroleum (Onshore) Act 1991 and fined \$52,000. In February 2014, Santos were fined for contaminating two groundwater aquifers, the first proven case of its type in Australia. The EPA press release revealed a "spill" which included "salts and other elements", but failed to mention that those other elements included a suite of heavy metals, including arsenic, lead, barium, boron, aluminum and nickel all in unsafe concentrations. Uranium, at 20 times safe drinking water levels, was also found to be part of this dangerous cocktail. Rather than acting with any proper legal force, Santos, a repeat offender, was fined just \$1500. Santos' claims that these are simply "processing issues", only further serves to demonstrate their complete and utter disregard for the serious nature of these environmental breaches. These experiences, the lack of transparency, and failure to report to the local community until well after the event, means that the community cannot trust either the EPA, or the government to protect our environment, our water supplies, our farmland and our health. How can these failures and their potential consequences be ignored?

The failure of the regulatory process designed to protect the environment alarms me greatly as a local person who stands to be directly impacted by Santos' operations in the Pilliga. I am aware of documents obtained by The Wilderness Society that suggest that -

- The EPA ignored its own internal advice to go public on the leaking coal seam gas ponds in the Pilliga so they could be seen to be active and on the front foot. Instead, they followed Office of Coal Seam Gas (OCSG) advice stating it didn't want to single Santos out, and therefore instead decided to keep the NSW public in the dark.
- The EPA did not pass on critical information and documents regarding the contamination to the NSW Department of Health, instead asking Santos for permission to share the information, which was not granted.
- The EPA allowed Santos to run the investigation into their leaking ponds. To use a colloquialism, this is like "putting the fox in charge of the hen house". Had the EPA have taken the lead and got the documents, they would have seen that Santos had already had confirmed in independent reports that their ponds were leaking into the surrounding soil. Instead of taking the reins, the EPA ran a vague 'investigation' in relation to a 'suspected leak', losing months before knowing contamination and leaks had occurred.
- The EPA chose not to talk to surrounding landholders around the groundwater contamination zone, even though for months they knew that uranium contamination had taken place, and did not know if locals were drinking that water.
- The EPA sat on a detailed 'holding statement' about the contamination event for months, which was watered down and then never released, all on the advice of the Office of Coal Seam Gas (OCSG). OCSG work closely with Santos, even though it regulates aspects of CSG (petroleum titles) alongside the EPA.
- The EPA wrote a vague media statement about the pollution incident and \$1500 fine after the investigation was closed, and uploaded the media release to their website, only actually emailing the news to one media outlet, a newspaper in Narrabri that receives money from Santos, who chose not to publish the pollution incident or fine.

In order to be truly effective, the EPA should operate as a fearless and independent environmental watchdog that puts the interests of the community and the natural environment above all else. This is absolutely paramount if the community is to have faith in due process. In order to be effective and meet its objectives the EPA must also be sufficiently resourced. Without adequate resourcing, the EPA has been unable to enforce

compliance with conditions of licence or approval, defend regulatory policies and actions through law when required, or prosecute offenders. The EPA should also strive to adopt, and enforce, world's best practice in order to meet its objectives.

The EPA's expert advice should be sought, and followed, with respect to development applications that would result in the deterioration of environmental conditions.

The EPA's independence in issuing and setting conditions on pollution licences should be reinstated for all classes of development, including the earmarked state significant development that is Santos' Narrabri Gas Project, together with state significant infrastructure projects.

Licence conditions must be -

- clear, effective and enforceable,
- developed in consultation with the best experts and independently of those being regulated;
- based on the best available science and explicit performance measures, be regularly audited,
- effectively policed, and adjusted as necessary to improve environmental outcomes.

The EPA should adopt explicit performance measures for licence conditions, regularly monitor achievement of performance measures and modify licence conditions as needed. The EPA should also adopt measurable targets to manage environmental pressures (for example pollution, loss of habitat), routinely reporting on the performance of its programs in terms of these targets.

In order to improve transparency and accountability, the EPA should:

- Prepare explicit and professional reports on each non-compliance investigation and make them publicly available online.
- Work with local communities to ensure best practice transparency, and access to 'relevant and meaningful' information, in line with state goals and pollution law objectives.
- Engage stakeholders including community and environment groups, using a clear and consistent set of principles and protocols; regularly evaluate its community

engagement. Reinstating community and environment involvement in EPA boards at both state and regional levels would be a first step.

- Expand its public register to provide for publication of all relevant details of the licensing process.
- This includes:
 - licence variation applications
 - any public submissions received in relation to licensing decisions
 - reasons for all licensing decisions
- Welcome scrutiny by making its internal processes accessible and transparent

In order to re-engage with the community, the roles of community and local council representatives on the EPA Board need to be reinstated. The EPA needs to ensure that the quality and effectiveness of community engagement, including community consultation committees, is monitored and reported on. The EPA also needs to ensure that such community consultative committees seek out the aims, needs and preferences of the community and the environment, and can effectively contribute to policy and decisions on pollution control.

As the primary environmental regulator in NSW, the EPA must put the interests of the community and the natural environment first and foremost, and be truly independent of government and big business. The litany of failures in our region to date and the inconsequential penalties applied only serve to reinforce that the community can have no confidence that our vital natural assets will be protected for future generations.

Yours sincerely

Sarah Ciesiolka