

**Supplementary
Submission
No 207a**

INQUIRY INTO COAL SEAM GAS

Name: Mr Terry & Mrs Christine Stanton

Date received: 31/10/2011

SUPPLEMENTARY SUBMISSION
FROM
TERRY & CHRISTINE STANTON

Emphasising the importance of adequate
policing and enforcement of mining &
environmental regulations.

The strictest regulations with the harshest
penalties are useless without harsh
enforcement by large numbers of
"police", employed by government &
paid for by the miners.

31.10.2011

GAS MINING IN THE MANNING.

To me it is hard to believe that anyone would think of disturbing the underground geology of the Manning Valley due to its complex nature.

I am a retired Geography teacher and have done field work in every part of the Manning since 1963 and I list just a few examples to illustrate the complexity of the drainage system and feel it would be virtually impossible to map the system with any accuracy.

1. In the early 1970's the Newcastle University commissioned a student to map a soil transect from Wingham to Comboyne [about 40 kms] in four weeks. In that time he only reached Cedar Party, about 8 kms.
2. Wingham has many shallow springs within the town.
 - a. From the Town Hall to under the Uniting Church through to Wingham Court – this can be observed by the state of Farquhar St. in that area.
 - b. My home at 13 Sunset Ave. has distinct springs either side of my house.
 - c. A friend of mine in Summerville St., some years ago had a spear point 8 metres deep which regularly produced clear running water.
 - d. My last house at 24 Bungay Rd. On digging two 2 metre deep holes, about 1 metre across we found one hole completely dry for 6 weeks while the other, about 3 metres away, filled with 2 m of water in 24 hours regularly.
 - e. The roads will indicate the numerous springs all over the town.
3. The Geology of the Manning consists of mudstone, basalt, limestone, sandstone and minor series such as serpentine in a fascinating mix.
4. The Lansdowne Escarpment consists of basalt, sandstone, conglomerates, different kinds of limestone – a mixture of igneous, sedimentary and metamorphic rock types in a close location.
5. The Manning has different types of alluvial soils.
6. The Comboyne Plateau has alkaline Basalt, while the Bulga Plateau has an acidic rock structure.
7. The Manning River is unique in that it has two mouths separated by a resistant feature in Mitchell's Island. Technically it is not a delta, as a delta is formed completely of alluvium. The mouths were separated by past earth movements.

I suggest that any interference to the water table either minor or major, by toxic or non-toxic elements is looking for a disaster that will be tragic forever.

Maybe there are places in the world where the geology is more consistent that mining of the type proposed may only cause minor interruptions. But this is not the case anywhere East of the Dividing Ranges in Australia.

I ask the authorities to stop it all now.

Finally, I thought we were all informed some time ago that the N.W. Shelf of Western Australia could supply all our gas requirements for the next 100 years so !

Regulatory Capture.

From: **Christine Stanton**
Sent: 21 September 2011 01:01:55
To: John Shewan

And this is his response to our reply. You will realise you have to read them from the bottom up. Terry and Chris.

Date: Tue, 20 Sep 2011 10:04:43 +1000
Subject: Re: Your opinion, please
From: |
To: |

Dear Terry and Christine - Please use my comments in any way you wish. I am not concerned about reprisals from the industry. It might suit me just fine to go back to court.! (By the way I need to inform you that my wife and I will be away on a holiday 27th Sept. until 28th Oct.)

Just a short additional comment -

Briar is acting like a leopard, pleading with us all to believe he "has changed his spots".

Both Gillard and Bligh have adopted the phrase "science-based" regulation of mining but that is precisely what was shunned, by Labor, in the last 20 years. "Best practice and continuous improvement" jargon is not science based regulation.

Regards Jim Leggate.

On Tue, Sep 20, 2011 at 9:33 AM, Christine Stanton

wrote:

Dear Jim,
Thanks very much for this wonderful email. You write so professionally, cutting out the emotive and concentrating on the arguments. We note that you are prepared to go in the witness box again if necessary, so we are wondering whether we can send your email on to some of the people we are in touch with about the mining and CSG. We feel it should go to all the MPs in the Federal and NSW and Qld parliaments, as well as the Coal Communities and some of the broadcasters. However, we do not want to do anything which would upset or harm you. Best wishes, and thanks for all your help.
Terry and Christine.

Date: Sat, 17 Sep 2011 15:23:10 +1000
Subject: Re: Your opinion, please
From:
To:

To - Christine and Terry

Yes exactly right,---- I don't think Andrew Briar's tough talk has any credibility. The protests should not be quashed but should be dealt with; by

addressing our concerns **with facts not spin**. Briar is speaking against a background history of REGULATORY CAPTURE. His department is attempting to erase from memory my whole case history. Queensland already has a dreadful mining legacy to hand on to future generations.

What are the runs on the board re enforcement? His enforcement unit is seen as soft because its track record is one of soft regulation. In Qld there is an undeniable record of regulatory capture which I can attest to. I am happy to go back again to court with my sworn evidence. The Qld government has never stood in the way of mining – it promotes all mining. When discussing mining impacts, and the clean up at public cost in 1997, the editor of the Courier Mail referred to the government “cheer leaders”, and to the “obfuscation” surrounding mining regulation.

Tough regulation requires a political will and neither the Labor party nor the Coalition are showing any real political will, to protect landholder rights.

Briar says there is to be tough regulation, and then says he can not monitor every gas well: and will TRUST the industry to provide the rest of the monitoring. Minor low level accidents like burst pipes are not the issue. We need to know how the govt. can possibly shut down a number of wells when production has to be guaranteed. Fines will not stop the problem. Wells that shown signs of becoming a problem have to be shut down, no matter the consequences for the gas company. Unless politicians can demonstrate a capacity to shut down wells after all the infrastructure has been installed, at huge cost, then this industry should not go ahead until there is much more certainty. Mine owners are risk-takers and they won't shut the wells down.

My whole point (made in my Senate Submission sub215_Leggate.pdf which is now on the web) is that **there is no basis for trust** – just the opposite. Briar's predecessors have never been tough on mine owners and have form re not enforcing the rules and regulations; to the extent that agricultural land, aquifers and other water resources have been destroyed in Qld. and not compensated (please see the EEMAG web site re the demise of their particular aquifer, as a direct result of mining). There has been systemic non-compliance, and it is quite reasonable to expect that to continue.

I have challenged the coal industry, and the govt. regulators in Qld and NSW, with the allegation that “ the regulation of the coal industry has failed spectacularly “. The evidence of land destruction, air and water pollution is quite clear. There are no runs on the board for tough regulation, and strong language from Briar has no credibility, and it should be dismissed as the talk of a facilitator not a regulator (ref. my good friend Drew Hutton's recent rebuttal). There are even scandals about accredited air testing authorities, failing their responsibilities; and that does not inspire much confidence.

An absence of trust, and the problem of the gas infrastructure having already been built (making the industry too big to fail, no matter what the damage) are the two biggest issues. There should be a moratorium until trust has been re-established. This is all following a similar pattern to the start of widespread open cut coal mining 30-40 years ago. Promises, promises, promises and none of them delivered.

There is not a **low level of understanding**, as Briar claims, but a growing realisation. in Australia. of the very significant downside to the mining boom

Regards – JIM LEGGATE 17.9.11

On Fri, Sep 16, 2011 at 9:09 PM, Christine Stanton wrote:

Dear Jim

We hope that all is well with you.

We would appreciate your views on the attached audio which is a recording of a broadcast from the ABC of comments made by Andrew Briar. He is the head of the Qld LNG Enforcement Unit. He doesn't seem to have heard of your experience and obviously pretends to believe that mining companies will always do the right thing.

Yours sincerely
Christine and Terry Stanton

theless, their staunch Anglicanism and humanitarian values instilled in the young Jim some sense of social responsibility, even if he did not realise it at the time.

The Leggates saw that Jim received a good education sending him to Cape Town University where he won a scholarship in science and forestry to Oxford University, England.

After graduation and ten years working in the Solomon Islands for the British Colonial Service, Jim Leggate emigrated to Australia in 1969, becoming an Australian citizen soon after. He married Joan, a Queensland, and together they brought up four children.

He began work in the field of environmental science when he was employed to begin rehabilitation of the bauxite mine at Weipa in far north Queensland. The mine was expanding at the rate of 2.5 square kilometres a year and Leggate had to manage a massive tree planting program that would cover the scars left by the mining. He later carried out a similar job in the sand mining areas of New South Wales and then moved into coal mining where he coordinated environmental impact studies and helped in the formulation of mining policy. By the end of this intensity of experiences, through the application of practical measures to help build an ethos of care for the environment which had delivered such wealth, Jim Leggate knew as much as anyone in Australia about the industry and its practices.

He had seen at first hand the terrible scarring and environmental ruin irresponsible mining could inflict. He also believed that with goodwill and commitment, almost all serious impacts of mining could be eliminated within a few short years ... if the correct procedures were followed and if mining was done with proper care.

Over the many years Leggate worked he earned the respect of his peers and the recognition of the mining industry. He gave regular papers on the subject of 'environmental mining'. And in 1982 he became chairman of the Environment Committee of the Queensland Chamber of Mines.

In 1986 Leggate joined the Queensland Department of Resource Industries as an ecologist. Part of his job was to ensure that the mining industry in the great State of Queensland complied with that State's mining laws. When a mining company was granted a lease, it had to agree to certain 'mandatory' environmental conditions

A LAW UNTO THEMSELVES

'Legislation, as enacted by Parliament, should be implemented at least to the letter of the law.'—Senate Select Committee on Unresolved Whistleblower Cases 1995.

JIM LEGGATE is a big supporter of mining. It is an industry which creates wealth. The resources from the earth, discovered, extracted and sold to the world, contribute massively to human wellbeing.

Australia is particularly blessed. It is a vast continent, rich with minerals in seemingly inexhaustible quantities. Leggate knows that Australia needs the mining industry.

Leggate's experience in the industry has also produced a knowledge of the damage which occurs when mining is not carried out correctly or responsibly. He is concerned that such a big industry does not appear to have the proper checks and balances. And Leggate is a man who should know.

Jim Leggate has worked as an environmental scientist in the mining industry for more than twenty years and, from 1983 to 1986, was responsible for protecting the magnificent and fragile Kakadu National Park in the Northern Territory from any ill effects which might be caused by the Ranger uranium mine. This was in the early years of the government of Prime Minister Bob Hawke when Australia's environmental movement was looking for reasons to force the closure of the mine.

Jim Leggate was a forester by training. He was born in Rhodesia (later Zimbabwe) in 1937. His father, Jim senior, was a government doctor working in difficult areas of public health including the country's leper settlements. Jim Leggate and his wife Josephine had settled in Rhodesia in the 1920s and brought up their children in the privileged position then enjoyed by the white colonists. Never-

about how it would carry out its operations and how it would rehabilitate the site, both during the mining and at the end of the operation. These were contractual and legally enforceable.

Under the Mining Act Leggate, a government ecologist, was authorised to enter any mining concerns and investigate their compliance with the environmental obligations stipulated by the lease. But he soon discovered that his powers of enforcement were non-existent. All he could do was to write a report about what he found and pass it on to his superiors in the department for further action.

As he went about his work, Leggate found that the Mining Act was being breached on a regular basis by almost all the companies he inspected. Some of the infringements were minor. Others were major. But of greatest concern was the fact that few companies were accomplishing ongoing rehabilitation of their sites. Unless the Queensland Government stepped in and insisted that they improve their results, Leggate could see big problems down the track. He feared that when mining was completed and a company left a particular site the problem would remain and it would be up to the taxpayer to finance the clean-up. In some cases, where mining had been carried out for twenty or thirty years, the damage would be massive and the costs enormous.

About this time there was a gold rush occurring in Queensland. Leggate was concerned when he saw new gold mines opening up, old ones being re-worked and major environmental problems, being totally ignored. Acidic tailings waste was accumulating rapidly, leading to potentially huge problems, and one gold mine closed down, leaving the clean-up to be carried out by the government—at public expense. Leggate suggested that the Minister, Martin Tenni, use a 'show cause' notice under the Act, to make mine lessees meet their obligations. This legal device meant that the lessee could be asked to show cause why the mine should not be closed or a fine imposed for breaching the mining laws. But the Minister apparently thought this was going too far.

From his agitation about the wholesale flouting of lease obligations to environmental protection Leggate was soon seen as a thorn in the side of Minister Tenni's government, then headed by Sir Johannes Bjelke-Petersen. At one stage Tenni described the

government ecologist as a poor ambassador for the public service. Leggate responded that, for his part, he was only trying to do his job. If he stopped officially reporting the catastrophes that he was witnessing, then he could be seen to be negligent in his statutory duty. But if he continued to do so he was seen as a nuisance by his political masters. At one stage Jim Leggate was sent on a public relations course by the department and was taught how to smile while answering the telephone.

If he had few supporters within his own department, he had even fewer in the government. Mining industry executives told him that he was being 'over-zealous' because the Premier himself was always telling them not to worry about all this nonsense of cleaning up. Their job was to mine as well as they could, pay the government its rail freight and forget about the greensies.

But Leggate persisted with his reports and his internal complaints to the department and as time went by Tenni responded, at last realising that there were definite problems. The Minister called for a Code of Practice for the mining industry. Leggate was asked to work on it. After so much aggravation it looked as if things might improve.

The political climate in Queensland was about to change for the better. The days of Bjelke-Petersenism under the National Party were numbered. The Fitzgerald inquiry into police and political corruption had exposed the Bjelke-Petersen regime and discredited it. The Nationals were swept from office by the people of Queensland and in late 1989 a new government under the leadership of a young Labor Party lawyer, Wayne Goss, came to power. The Fitzgerald inquiry had identified institutional failure in Queensland's public service during the Bjelke-Petersen years and recommended new legislation to protect whistleblowers as a cornerstone of sweeping reforms.

The Goss Government immediately set about implementing Fitzgerald's recommendations, including whistleblower protection legislation. Under the legislation new bodies, the Criminal Justice Commission (CJC) and the Electoral and Administrative Review Commission (EARC), both had the power to investigate whistleblowers' allegations and offer them 'protection' if they were genuine. Other reforms were not implemented so quickly. Queensland

In the creation and transmission of documents during this process, Leggate kept his department informed about his actions and tried to follow proper channels. His agitation to the bureaucracy was making him very unpopular. But it appeared that it was to no avail. Leggate now decided to raise the stakes and take a bigger risk.

The Queensland Minister for Environment was in the process of drafting an Environmental Protection Act and Leggate wrote to him as a private citizen and enclosed copies of all his reports. He sent the same correspondence to the Director General of Mines, Paul Breslin. Leggate was officially reprimanded for having written to the Minister and Breslin told him he had breached his duties. Leggate later heard that the information had been taken to the Goss Cabinet but the ministers collectively took no action. But at the same time the information was leaked to the press. Some journalists chased the story but press coverage soon died. Included in the 'leaked' report were examples to demonstrate the scope of alleged non-compliance practices in the Queensland mining industry.

1. Comalco Ltd's Weipa bauxite mine, Cape York. Alleged breach of Commonwealth Aluminium Pty Ltd Agreement Act (1957). The company for many years has mined more land than it was permitted to mine, under Section 19(d) of the Act, in relation to the amount of rehabilitation it has completed. It appears that, to date, the government has not provided confirmation as to whether the steps being taken to regenerate the mined areas are sufficient to satisfy Section 19.
2. Collinsville Coal Company (MIM). Alleged breach of special conditions of Mining Lease 1009, and alleged breach of Clean Waters Act, Section 23 and Section 31.
There is a lack of progressive rehabilitation using topsoil which breaches Special Condition 2.4, and possibly special conditions 1.3 and 2.3 also. Mining has continued for several years after the lease expiry date, pending its renewal and the tightening of conditions.
3. BHP Ltd's Moura coal mine. Alleged breach of provisions of the Thiess, Peabody, Mitsui Coal Pty Ltd Agreement Act (1962-

1965), Section 31(d) of that Act requires the company to submit annually its proposals for regeneration of mined areas for approval by the Minister. Up to 1990 no such submission appears to have been made. The submissions that have been received since 1990 apparently have not yet been approved. This mine is a huge open cut, at least 25 km in length.

4. Placer Ltd's Kidston Gold Mine. Alleged breach of special conditions attached to Mining Lease 3347. The lessee has mined more land than it was permitted to mine under special condition 16, without having progressed its rehabilitation. This discrepancy has been as high as 800ha. This is the second largest gold mine in Australia and has generated a huge mass of acidic tailings waste.
5. Horn Island Gold Mine, Torres Strait. Alleged breach of special conditions attaching to Mining Lease 5948. The government permitted the lessee to mine in breach of special condition 18 which required acid-forming waste to be buried. Clean-up of this mine which is now defunct is at public cost.

The new Minister for Industry Resources, Tony McGrady, issued a media release claiming that Leggate's report was not an 'official' one and trying to play it all down. Leggate believed that McGrady was muddying the waters by claiming that the new policy would fix up all the problems when Leggate knew the government already was making deals which would weaken it. Leggate was outraged at McGrady's public statements and wrote to him, bluntly pointing out his errors. McGrady initially agreed to meet with him, but then cancelled the meeting.

The battle lines were well and truly drawn now and Leggate was forced to fight on several fronts. In August 1992 he lodged a complaint with the Criminal Justice Commission, claiming that McGrady and Breslin were in breach of public trust. At the same time he was trying to carry out his duties as an environmental officer. But he was severely hampered by the fact that the Queensland Mining Council had apparently written to all its members urging them to ignore Leggate. When he attended a meeting in his official capacity all the industry delegates walked out.

At the end of August he was told by the CJC that there was

no suspicion of official misconduct in the department. He presented them with new information and was interviewed about his complaints. In November 1992 they informed him that because their jurisdiction only extended to potentially criminal matters, his complaint fell outside their office and he should take his case to the Ombudsman. He was back where he had started.

During the latter part of 1992, fed up, tired and frustrated by the way in which the department was isolating him, Jim Leggate decided to take a week's leave. Before he went he was told that there was a vacancy for him in the Forestry Department, but he told them he did not want to consider a transfer at that time. The only department he wanted to transfer to was Environment and Heritage but he had been unsuccessful in arranging such a transfer there. He did not immediately accept the job in Forestry because he felt he could do more good where he was. However, when he returned to work the mining industry no longer trusted him. He was told there was no longer a job for him in Mines.

He could see that the mining industry was being allowed to breach all the rules with no protest from the only body capable of controlling it—the Department of Mines.

In the months that followed Jim Leggate found a term which, to his mind, described the relationship between the Department of Mines and the mining industry it was meant to regulate—'regulatory capture'. It seemed to describe the way in which the very authority that was meant to regulate and control the industry for the public good, was actually facilitating the mismanagement of mining sites.

Jim Leggate had almost reached the end of his options. He took the job in Forestry—he had little choice—and worked there for three years, reluctantly but productively. But he was effectively isolated from the area in which he had the most knowledge and expertise.

He had been to almost every regulatory and accountability body he could think of to draw attention to this problem which was costing the state, on his estimate, more than \$1 million a week. He even appealed to the Commonwealth Attorney-General on the grounds of the validation of mining grants by the Native Title Bill and the environmental performance of mining companies in

Queensland with overseas exports and finance. But the all too familiar reply was that his major concern—the environmental one—was outside federal jurisdiction.

In 1994 the CJC agreed to include mining in its inquiry into the improper disposal of liquid waste in Queensland. Jim Leggate gave evidence under oath but his allegation of suspected misconduct by the Director General of Mines was largely ignored. However the inquiry did find that there were problems within the mining industry and recommended a full inquiry into mining activities. The Minister for Resource Industries, Tony McGrady, admitted that some of the problems that Leggate raised were real. 'Some mines had a pretty abysmal record in environmental management—but things are being done about it', McGrady said. But by 1996 no further inquiry had been carried out. The recommendations of the Criminal Justice Commission have been ignored.

Leggate later told the Senate inquiry into unresolved whistleblower cases that he disagreed with the Minister's statement that things were being done. On the contrary, he believed that the problem was growing on a daily basis and that no one had the courage to take on the mining industry. In spite of all the legislation passed by Parliament it was a law unto itself. Leggate estimated the cost of outstanding rehabilitation in Queensland alone is more than \$1 billion and that many of the problems which have occurred in New Guinea from the mining at Ok Tedi were being repeated in Queensland too.

As a result of Leggate's concern for a cleaner and more responsible mining industry he had lost his job, was locked out of the industry he had devoted almost two decades to and had been let down by colleagues he had respected. None of his former colleagues had been prepared to publicly agree with his prognosis. But over all these disappointments Leggate was most angered that he was not able to carry out the Parliament's wishes, enacted through the Parliament's legislation, to protect the environment from within the government itself—the Department which had the power to identify the problems and do something about them.

Leggate has also been left wondering whether his fate would have been different if there had been no whistleblower protection in Queensland. And how is it, with so many regulatory bodies, there

was not one capable or willing to confront the mining industry and safeguard the public interest?

Jim Leggate's vindication will come. The problems he has sought to expose regrettably have had cumulative, devastating and costly effects.

In 1995 the Senate Select Committee on Unresolved Whistle-blower cases acknowledged Jim Leggate's contribution while seeking to umpire the dispute between Leggate and the Queensland Government over his employment.

The Committee acknowledges the endeavours by the Queensland Government to address the environmental problems caused by mining. Further, the Committee considers that the implementation of this policy did play a major part in the problems experienced by Mr Leggate. It appears that Mr Leggate had difficulty reconciling his personal views with this policy or its rate of implementation. As well, according to the Government, it was Mr Leggate himself who initiated the question of his transferring to another section. Mr Leggate was also offered and accepted a position in the Forestry Division of the Department of Primary Industries, suitable to his experience and qualifications and with no loss of remuneration or conditions. However it appears that these problems arose because Mr Leggate attempted to implement the provisions of mining legislation as enacted by the Queensland Parliament and attempted to bring breaches of legislation to the attention of the relevant authorities. The Committee believes that Mr Leggate was acting only as required to do so as a responsible public sector employee. Legislation, as enacted by Parliament, should be implemented at least to the letter of the law. If problems arise with legislation it is the role of Parliament to amend the legislation; it is not the role of the public sector to implement 'administrative arrangements' to circumvent the letter of the law or to ignore alleged breaches of legislation.

The committee found that most, if not all, of Leggate's frustration and difficulties started when he did not receive any satisfaction with his disclosures of improper practices within his own department.

In order to take his claims further, it was necessary for Mr Leggate to link his personal issues of victimisation to his broader allegations. The issues of improper practices which he raised would seem to be of an almost textbook quality for consideration by an independent body dedicated to public interest disclosures. Once his department refused to take action on his claims, those bodies to which he then appealed were either not suitable or lacked jurisdiction.

One could well ask therefore: what use were those so-called independent bodies? Who was going to bring the Mines Department to account for its failure to enforce its own legislation? The answer should be: the Parliament itself. Let the record show that while the Queensland Government claimed a fundamental change in attitude and commitment to environmental management by the mining industry the industry has not been subjected to prosecution for breaches of the relevant acts of Parliament.

The Senate committee noted Jim Leggate's wide experience in the mining sector and 'considers him to be an honourable and credible witness'.