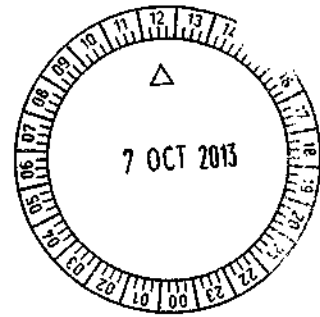




Shane Love MLA
Member for Moore



Email to: env@parliament.wa.gov.au

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment & Public Affairs
Parliament House
Perth WA 6000

3 October 2013

Dear Mr O'Brien

Inquiry – Implications for WA of Hydraulic Fracturing for Unconventional Gas

Please find attached my submission relating to the above inquiry.

I wish to represent concerned constituents in the Electorate of Moore and appear before the committee to further explain the points made in my submission. In addition, I would like a copy of the report once it has been tabled.

Thank you for the opportunity to make a submission.

Yours sincerely

Shane Love MLA
Member for Moore

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Standing Committee on Environment & Public Affairs

Inquiry into the Implications for WA of Hydraulic Fracturing for Unconventional Gas

Submission – Shane Love MLA, Member for Moore

In making a submission to the committee, I first wish to acknowledge the potential for shale and tight gas to contribute to the state's future energy security. The potential economic benefits of the onshore gas industry extend beyond the needs of householders, with economic spinoffs for WA's manufacturing, mineral processing and transport industries.

I represent constituents in the Electorate of Moore and have particular concerns regarding the shale and tight gas resources in the northern Perth basin – the Mid West region. Development of this gas industry should not progress without regard for the environment, existing land users, the community and the workforce. In order for the unconventional gas industry to co-exist with existing land users, the goal of petroleum companies must be to develop this industry while minimizing their surface footprint, or more specifically, their impact on the environment and adjacent communities.

Community impact

Residents have chosen to live in the Mid West because of the lack of obtrusive industry, its aesthetic appeal and rich environmental values such as floral biodiversity. Gas exploration, positive assessment and a move to the gas production phase, has the potential to blight the landscape and transform it from that of rural and nature-based, to industrial and subsequently devalue adjacent land. The rate of change would be logarithmic as operations are scaled up quickly. Concerns around impacts on water resources, public safety, air pollution, land contamination, waste management, noise and vibration, chemical use and well integrity are among the issues raised by community members, some of whom are also the existing land users.

Landholder rights

For many Western Australian farming businesses, the prospect of negotiating a Land Access Agreement with a well-resourced petroleum company would be a daunting task with the need to involve a costly legal team. The state governments in NSW and Queensland have in recent years put a series of measures in place to ensure that negotiations between landholders and resources companies are less costly, less time consuming and more evenly balanced, with better outcomes achieved by all parties involved.

In a bid to protect landholders' rights, the NSW government has appointed a Land and Water Commissioner to oversee the development of a standardized land access arrangement between petroleum companies and farmers. The Commissioner ensures exploration and production activities are conducted in a manner that will minimize impact on agriculture, the environment and the landholder's lifestyle. Where the stakeholders fail to reach agreement within 28 days, the landholder can appoint an arbitrator. Should either party be unhappy with the arbitrator's decision, the matter can be referred to the NSW Land and Environment Court for review.

Where stakeholders fail to reach an agreement in Queensland, there is a system of alternative dispute resolution involving third-party neutral mediators that endeavour to achieve practical outcomes whilst preserving business relationships

Similarly to NSW, the Queensland government has in place a Land Access Code, tips for landholders negotiating agreements and sample standard agreements. Land access laws set out to ensure that Queensland landholders are fairly compensated for activities on their land and that resource companies minimize the impact on existing land and business operations. The code is sufficiently detailed in that it covers for instance, the obligation by resource companies to prevent the spread of declared pests on private land.

Where the WA farmer and petroleum company are unable to reach agreement regarding compensation, the matter is referred to the Magistrates Court after a three month period. In my view, cases where no amicable agreement can be reached, should instead be referred to a body

such as the State Administrative Tribunal (SAT) in preference to the Magistrates Court since SAT has experience in planning law, land valuations and related dispute resolution.

In the absence of a checklist for farmers sitting down to the negotiation table, there is the possibility that Western Australian landholders will be disadvantaged financially. With the agreement there must be adequate provision for insurance and indemnity issues. It is reasonable to expect that the fees of legal personnel and consultants during the negotiation phase will be paid by the petroleum company.

Compensation should cover damage to the land surface or land improvements, as well as giving consideration for diminution in the value of the land and consequential losses. In my view the current range of impacts for which compensation may be given is too restrictive in WA and must be widened.

In Queensland, reasonable accounting, legal and valuation costs incurred by the landholder when negotiating an agreement form part of the compensation package.

Importantly, the inclusion of licensing and environmental conditions within the Queensland land access contract, enables the landowner to deny the operator access to the land where a condition of the contract is breached, without having to go through a regulatory body.

Protection of the environment

The Mid West of Western Australia is extremely rich botanically - indeed it is a biodiversity hotspot. Mount Lesueur National Park near Jurien Bay - 26,000ha in area –boasts 900 species of plants, many unique, which equates to 10 percent of WA's known flora. Any accidents associated with fracking in the Mid West threaten these unique floral communities. Given the environmental value of the Mid West region, will referrals to the *Environment Protection and Biodiversity Conservation Act 1999* be necessary before granting license approval to petroleum companies?

Water quality is of utmost importance to landholders and the community as a whole. Community concerns around fracking are largely associated with

water supply and quality. The region has many important water sources such as the Yarragadee and other shallower sources of fresh water. There can be no compromising well design and construction, given wells may be in production for 20 years.

There is a desperate need to establish base line data associated with water to enable the ongoing monitoring of exploration and production sites. The gathering of adequate and independent data associated with water quality and water sources needs to commence before exploration and continue throughout the life of the well and for an appropriate period upon decommissioning and abandonment.

The following questions need further scrutiny:

- Does the fracking process result in water contamination issues in shallow or deeper aquifers?
- If there is a contamination issue, could the pollution be contained or quantified?
- Can the fluids recovered at the surface be recycled or safely stored in evaporation ponds before appropriate disposal?

The NSW Code of Practice for Coal Seam Gas – Fracture stimulation activities, stipulates at 7.2(a) that the Fracking Stimulation Management Plan (FSMP) must identify the location, extent, pre-existing water quality and use of water sources which will be potentially impacted by the fracking activity. In addition, sources of fracking injection water must be identified, together with the estimated quality and volume of this water.

There is a need for a legacy fund to continue the monitoring process following the decommissioning of wells and for an appropriate timeframe into the future.

Stricter regulatory control

I believe there is a need for independence in the assessment of petroleum exploration and production licenses. It is not appropriate that the Department of Mines & Petroleum - the Ministry charged with securing the state's energy security - should assess exploration and production license applications submitted by petroleum companies and conduct environmental compliance audits.

The Environmental Protection Authority offer the level of independence required in carrying out audits and inspections and the ongoing monitoring during the production phase, through to abandonment. The EPA should ensure that the Environmental Management Plan is executed with adequate follow up once a well is decommissioned.

Given the production life of wells may be 20 years or more and given the broad scale of operations which may result in the development of hundreds if not thousands of wells and fracking procedures in the production phase, there will be a probability of accidents and industry failure. Independence at the monitoring phase will be crucial in averting a disaster before it potentially occurs.

To better understand the risks involved, modelling should be developed to analyse the potential effect and treatment of a catastrophic well failure either in its production life or in the future abandonment phase. These wells if developed at all, must not be a dreadful legacy to leave for our following generations.