



15th October 2013

Hon Robyn McSweeney MLC
Chair
Standing Committee on Legislation
GPO Box A11
Perth WA 6837

Dear Ms McSweeney

INQUIRY INTO PETROLEUM AND GEOTHERMAL ENERGY LEGISLATION AMENDMENT BILL 2013

The Pastoralists and Graziers Association of WA notes that there has been a history of synergy between minerals and energy exploration and farming dating back to the latter years of the 19th century and through to the mid 1950s. However, recent history has shown that as the value of energy resources increases, tension has risen with the agricultural sector over land access and use.

The current *Petroleum and Geothermal Energy Resources Act 1967* (the Act) treats:

“(b) Crown grant, transfer of Crown land in fee simple, and lease under any Act relating to Crown land issued on or after the coming into operation of this Act shall contain, or if not containing those reservations, be deemed to contain, a reservation of all petroleum, geothermal energy resources and geothermal energy on or below the surface of the land comprised therein, and also a reservation of the right of access, subject to and in accordance with the provisions hereinafter”.

In this way the Act is similar to the *Mining Act 1978* which excludes pastoral leases from the meaning of private land, effectively treating these leases as crown land for the purposes of defining land open for mining.

It therefore places land holders in a subordinate position to those who hold the various types of permits, reservations, leases or licenses required to exploit petroleum and geothermal energy.

It has been the PGA's experience and that of its members, that when two different industries attempt to use the same land for different purposes, conflict between users can arise.

In the case of the Act, the government elevates its concession of permits, drilling reservations, leases or licenses above the rights of the land title owner.

The PGA has no expert knowledge of geo-sequestration of green house gases but notes that although promising, this technology is many years away from commercial application. However, logically, geo-sequestration of greenhouse gases is most likely to require capture of greenhouse gases at a point source of large green house gas emissions, such as a coal powered power station. Geo-sequestration would also imply suitable subterranean

reservoirs to contain captured green house gases. If these two requirements are not co-located this suggests lengthy pipe line systems.

Consequently the value of modifications to the Act to allow for the geo-sequestration of green house gases will be influenced by the environment allowed by the Act in its current form.

Some of the anecdotal problems reported by agricultural land holders can be:

- ✓ Poor oversight of water use that can be vital for livestock production systems.
- ✓ Haul roads located without any thought as to their effect on the underlying land use. They typically split farm lands into a number of 'islands' that make it difficult for the land holder to make best use of the entire extent of their land holding. Sometimes the best land can be isolated. When mining finishes, existing tracks are often left significantly damaged and their directions altered. Their utility to land holders is often significantly reduced.
- ✓ There is anecdotal evidence from land holders that exploration activities cause environmental damage as well. "Grid" lines and exploration access routes made by bulldozers encourage further illicit use and can be the cause of erosion. Mud pits and used drillers mud is often left behind without clean up.
- ✓ The PGA notes that land holders are sometimes wrong-footed in their dealings with petroleum and gas companies, as they take up contracting work offered by those companies. Consequently, they are reluctant to risk this relationship by objecting to problematic activities.
- ✓ When remediation works are carried out, long term maintenance is often left to the land holder although they were not responsible for the initial exploitation activities or its rehabilitation. For example, as part of rehabilitation, areas can be fenced and signposted, but this infrastructure is expected to be maintained by the land holder, when it may not coincide with farm management systems.

In summary, the exploitation of petroleum and gas resources can lead to use and mismanagement of existing assets such as roads, tracks and watering points, environmental damage caused by the formation of additional roads and tracks without any consideration for drainage and location, use of heavy machinery without regard to its impact and effects on the surrounding environment and the establishment of camps without regard to its impact and effects on the surrounding environment.

Rather than more and prescriptive industry regulation, the PGA suggests that these difficulties can be overcome by designing a code of conduct at the representative body level that acts in the interests of both land holders and petroleum and gas companies. Land holders who consent to abide by this code of conduct should be paid a signing fee to encourage participation, with existing state government regulation being the fall back position.

The code of conduct would therefore act as a contract between two willing parties rather than a voluntary regulatory framework. Whilst any code would list commonplace matters requiring agreement such as notice, access, gates and fences and roads and tracks, it should also allow for direct negotiation between the land holder and petroleum and gas companies over matters of individual interest.

Further to this, petroleum and gas companies should pay a fee to the land holder for on-going access to the land, and to further recompense the land holder for any annual losses of the value of production for as long as the agricultural land can not be used for its intended purpose.

Petroleum and gas companies should commit under such a code to remediate exploration and exploitation sites to such a standard that would allow the land to be put back into its usual agricultural production at the completion of these activities.

This would be in addition to any compensation paid for resumption of land or for the right to occupy land.

Yours faithfully



Rob Gillam
PGA President

Anthea/MyDocs/Submissions/PetroleumandGeothermalEnrgyLegislation/15.10.2013