

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 13 OCTOBER 1999**

SESSION 1 OF 2

Members

**Hon Kim Chance (Chairman)
Hon Cheryl Davenport
Hon Dexter Davies
Hon Helen Hodgson
Hon Barry House
Hon B.M. Scott**

DELANE, MR ROBERT
Executive Director, Agriculture Protection,
Agriculture Western Australia,
Baron-Hay Court,
South Perth, examined:

The CHAIRMAN: I understand, Mr Delane, that you will be the only one giving evidence to the committee and your counsel, Mr Chidgzey, sitting beside you will provide you with advice. There is no problem with that. These hearings are run in a similar manner to Senate inquiries. It is not considered discourteous if you wish to ask your counsel for advice or if he wishes to offer advice for you to ignore me and exchange with counsel whatever information you must exchange. Unless we swear in Mr Chidgzey he is not entitled to give evidence.

On behalf of the committee, I welcome you to today's meeting. A moment ago you signed a document entitled "Information for Witnesses". Did you read and understand it?

Mr DELANE: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. It will become a matter for the public record. If you wish to make a confidential statement during the proceedings you should request that the evidence be taken in closed session. Even if your evidence is given to the committee in closed session the committee may still report your closed evidence to the Legislative Council if it considers it necessary to do so, in which case your closed evidence will then become public.

Mr DELANE: Unless the questions are different from those we expect, we will not seek to close discussions. However, some issues of timing are important. Some of the issues may be sensitive regarding, for example, the Shire of Derby-West Kimberley and the community, so we seek your advice on when the information coming from Hansard may be available; therefore, when we should ensure key stakeholders are at least briefed. I do not know the observer seated in the public gallery, but if this material were to find its way into the Press in the short term we would need to take steps to ensure some stakeholders were informed.

The CHAIRMAN: Where circumstances relating to your answers may give rise to that problem, I suggest you seek to provide the answer to the committee in writing. You are entitled to do that, particularly if it requires some research.

Mr DELANE: You will appreciate as we go through the discussion that the way some of these matters are construed or understood at various levels is an issue in the community. Although we may be able to fully explore them in the right context, it is easy for members of the community to get part of the story. The last thing we need to do is generate an ill-informed storm of debate in the community over what could be seen by some as sensitive issues.

The CHAIRMAN: For your clarification, this committee has not made any decision to have an

inquiry into this matter. We have received correspondence from numerous persons. The purpose of this meeting is to determine from you where the Agriculture Protection Board has gone with respect to dealing with the same issues that I expect have been raised with us. The committee has made no decision about launching an inquiry. This is a fact finding hearing. Are you asking how soon the transcript might be available?

Mr DELANE: There are two issues. We are not concerned about any of the information that we will discuss today. However, if information is available in the public forum and goes through the Council process, which I suspect will take a week or two -

The CHAIRMAN: It will take longer than that.

Mr DELANE: If material comes straight from this hearing today - an observer is present - and it were to appear in the Press tomorrow, irrespective of how it was reported, it would cause some distress to some of the stakeholders who would feel they were in a consultation information loop, and they would be reading it in the paper.

The CHAIRMAN: I do not think you have any concerns about that, although this is a public process. However, persons in the public gallery are not permitted to take notes.

Hon DEXTER DAVIES: This is not yet an inquiry. It is a Public Administration Committee meeting. Are we not deciding whether we will have an inquiry? Is it a public process when it is a meeting?

The CHAIRMAN: That is a very good question.

Ms EFTOS: The transcript will be on the Internet eventually and available to the public.

The CHAIRMAN: How long does that take?

Ms HANNA: About a month.

Ms EFTOS: A draft of the transcript will be sent to you, which you will return to us. It will take a while before it becomes public. It will not be next week, for example.

Mr DELANE: That timetable is fine. I would have concerns if the material were to leave this hearing today and find its way into the Press.

The CHAIRMAN: That will not happen, but there could be circumstances in which the Press may be seated in the gallery. That could cause problems. Then you would need to exercise some caution and advise me if you were getting to the point at which you thought something should not be dealt with today. Obviously I will listen to your advice.

Have APB safety procedures for spraying chemicals altered since the mid 1980s?

Mr DELANE: The Agriculture Protection Board used to be a substantial employer of more than 400 staff. That may have been the number about the period which the allegations were made,

which was principally around 1975-1985. Following review of the Primary Industry portfolio in 1994, all APB staff were transferred to Agriculture Western Australia. Phil Chidgzey, my counsel today, is the only current employee of the APB. You may seek to inquire as to whether Agriculture Western Australia has adopted changed procedures.

The CHAIRMAN: You are the executive director of the agriculture protection program, Agriculture Western Australia. My question should have been phrased in recognition of that terminology. Has Agriculture Western Australia's safety procedures and those followed by its contractors regarding spraying chemicals altered since the mid 1980s? What were the changes made then?

Mr DELANE: That is a broad ranging question. I will confine it to my understanding of spraying of 2,4-D and 2,4,5-T. To the best of our records and recollection from that time forward, the APB and Agriculture Western Australia have always applied the best practice occupational health and safety arrangements for the period. However, the committee will appreciate that changes have been made generally in the industry and the community since then. Face respirators have changed, for example, and we have kept pace with that. Equipment has changed substantially from fairly simple back-pack sprayers to modern electric operated, ute-back sprayers. Four wheel drive vehicles have also changed substantially. A wide range of changes have occurred such as airconditioning in vehicles with ducted, filtered air systems. Generally we have at least kept pace with best practice in those areas.

The CHAIRMAN: I guess that extends also to the nature of chemicals being used.

Mr DELANE: Yes. There has been considerable change in the range of chemicals and some of the techniques used to spray them. The problems we have been addressing with chemical spraying have changed over that period.

The CHAIRMAN: In respect of the issues raised in the public arena, of which we are aware, and no doubt directly to the agency, of which we are not necessarily aware, what level of investigation has been carried out into the allegations?

Mr DELANE: Principally, the breadth of allegations in the public domain covers any that were made directly to the APB or the agency and any subsequent inquiry from organisations such as the Shire of Derby-West Kimberley or other government agencies. From the time the first allegations were made we have sought to examine all available written records. You will appreciate that dealing with allegations dating back as early as 1975 and a wholesale organisational change in that period, it has not been an easy task. We believe we have located all archival material from the Kimberley and our central archives going back to that period, which has all been checked. We have checked *Hansard* for the period and other records that have come to our notice and that we have been able to access. We have also spoken, we believe, to current employees who worked for the APB in related areas at the time. We have spoken to one or two very recent employees; for example, someone who resigned in only April this year who had a deal of experience in that area. We can honestly say we have followed up every lead that we have come across in an endeavour to substantiate or refute any of the allegations.

The CHAIRMAN: I believe that until recently a current employee of the agriculture protection

program was an APB employee at the time and was based in the east Kimberley. I do not have his name with me but I have been provided with his name.

Mr DELANE: Certainly a number of officers have resigned, including the fellow who was regional manager with the APB for part of that period and who was based with us until April.

The CHAIRMAN: In gathering that information, was it compiled into a report for your minister or for any other person?

Mr DELANE: We have not compiled it into a formal report detailing every reference to those matters. That would have been a very large exercise. However, a number of officers have been involved with me and others in going through all the files marking all the material. That is now held together so that it can be used by us or others. Although we have located a number of files, etc with relevant material in them, there is not a great supply of material related to the early part of that period.

The CHAIRMAN: Have decisions been made as a result of the evidence gained through that process?

Mr DELANE: A decision has been made and is being implemented to carry out inspection sampling and analysis in relation to two sites at Derby which relate to this matter. That assessment is for the current safe use of those sites. Clearly it deals with historical chemical use at those sites.

The CHAIRMAN: You may wish to answer this on notice. Does one of those sites include the location No 96, a site of 1 014 square metres on the Derby Highway?

Mr DELANE: I believe that is what is known as the APB depot site, which is the site currently used.

The CHAIRMAN: What is the nature of testing that will be done there?

Mr DELANE: In June, acting on behalf of the Agriculture Protection Board, we engaged the consulting company GHD Pty Ltd to carry out site assessments for the depot site and for the Derby residential site in Marmion Street about which allegations were made of former chemical storage. That company carried out some site assessments for us on 24 and 25 June. It conducted what we call a phase 1 preliminary environmental assessment for those two sites and some analysis. On the basis of those original results we have engaged the company in another phase of assessment. On 14 and 15 September it completed a second visit to Derby to assess those sites.

The CHAIRMAN: Can you tell the committee what the analysis revealed?

Mr DELANE: I do not have specific results in front of me. The company has provided us with a preliminary report which, in consultation with it, enabled us to determine phase 2. It gave us preliminary results of the second phase of the assessment. Some laboratory analyses are continuing through the company here. We are also sending a number of samples to New Zealand

for some slow and very expensive tests.

I remind the committee that the assessment focused very much on whether the APB depot is safe for current use and the Marmion Street site is safe for sale or other means of disposal.

The CHAIRMAN: I understand site location No 96 is also in the hands of the Department of Land Administration for disposal.

Mr DELANE: No, there was some confusion early this year when some processes were initiated to assess that site for disposal. In fact the site is owned by the APB. There has been no consideration of site disposal by the APB and none by agriculture protection operational management. There will be no disposal of that site; it is in current use for a number of reasons.

The company took a number of samples for a number of chemicals that we had reasonable expectation were previously used at those sites. They were analysed for organochlorine insecticides; organo-phosphate chemicals; what is known as the phenoxy acetic chemicals that include 2,4-D and 2,4,5-T; petroleum products, which may have indicated previous chemical contamination, as 2,4,5-T was diluted with dieseline at the time; and some microbiological assessment of the water.

The CHAIRMAN: Did I miss it or was dioxin not an element listed?

Mr DELANE: Dioxin was or could be a contaminant - a byproduct of the manufacture process for 2,4,5-T. All the initial analyses are for 2,4,5-T. The dioxin analysis requires samples to be sent to New Zealand. I think seven samples are on their way to New Zealand now. We are advised that that will take at least five weeks and cost \$1 400 per sample.

The CHAIRMAN: I gather it is one of the elements your inquiry is hunting down.

Mr DELANE: Yes. We are clearly doing that only for samples in which we have detected 2,4,5-T. With reference to the Derby APB depot site, the analyses showed there were no chemicals in the rainwater and the water tank. We examined the concrete from storage and use areas there. The only chemical detected was fenitrothion, or another insecticide used for making wild dog baits, of which we expected to find traces.

The CHAIRMAN: I hope you were not using fenitrothion for that.

Mr DELANE: We need to ensure that the baits are not eaten by the insects so we can give them to the dogs. We detected low levels of 2,4-D, which is in current use on the Fitzroy River for Noogoora burr control, so we expect to find minor traces of that. There were no organochlorine or organo-phosphate pesticide levels. One sample showed a low level of a chemical called picloram, which we know had been used at that site. It is a woody weed chemical. We found some hydrocarbons. We believe that was due to a recent dieseline fuel spill. We found 2,4,5-T at two sample sites, one with a very low trace level, but one sample had quite a high level. Those two sites are of continuing interest to us. They will be part of the dioxin analysis.

Allegations were made that a significant number of full or empty chemicals drums had been

buried on or adjacent to that site. We found no documented evidence of that, although we had some hearsay evidence from a member of the community who believed he was involved. We had a geophysical-geomagnetic survey conducted of the site and its surrounds. The initial survey detected a magnetic anomaly; in other words, an indication that some metallic material had been buried at that site. In the second phase, the company went back and analysed the site again. The report indicated that the site contained a metal star picket and a piece of metal, and that there was no evidence of buried drums. However, a trace of 24D was detected at the site. The magnetic anomaly site was outside the depot site and may or may not have related to the alleged site. There have been no further results of chemical analysis for the depot site.

Perhaps I need to clarify a point. In the initial phase of sampling at the depot site, several samples indicated the presence of 245T. In the second phase of sampling, when we went back to ensure that we had a sufficient distribution of sampling and to be confident that we had adequately tested the site, we detected 245T in two additional samples - one was at a very low level and the other was at a very high level. I think there are four or five samples from that site in which we have detected 245T.

The CHAIRMAN: Since these complaints were brought to the department's attention, have you involved any other government agencies such as the Health Department?

Mr DELANE: We have had contact with the Health Department directly, and we have had an inquiry from the department. I understand the Minister for Health has been asked some questions in Parliament. We have had contact with WorkSafe, which is most interested in the current work safety situation. We have had some contact with the Department of Environmental Protection, which is interested in what we are doing. Clearly it has an interest in any site disposal. We have also had contact with local government - the Shire of Derby/West Kimberley.

The CHAIRMAN: I would appreciate it if you would take a couple of questions on notice.

Mr DELANE: Yes.

The CHAIRMAN: Can you outline the current procedures and practices for addressing health complaints from former employees and members of the public?

Mr DELANE: Will these questions be forwarded to me?

The CHAIRMAN: Yes. The committee is requesting an outline of the generic position in Agriculture WA on procedures for addressing health complaints from former employees and members of the public.

Mr DELANE: The department is not aware of any pending formal health claims from any member of the community or a former staff member.

The CHAIRMAN: The committee would like the department's generic policy.

Mr DELANE: Yes.

The CHAIRMAN: The committee would also appreciate being informed of the further results of the testing.

Mr DELANE: Yes.

The CHAIRMAN: It is possible that information would have to go through the director general and the minister, and that is fine. You must adhere to whatever process you are required to follow. However, the committee encourages you to advise it that those results are finalised and available.

Mr DELANE: We will do that as soon as they are available. We have been advised that the testing in New Zealand will take at least five weeks. The results will need to be considered by the department and the Agriculture Protection Board. We will make the information available to key stakeholders as soon as we are in a position to do so.

The CHAIRMAN: The committee is simply registering its interest as a stakeholder.

[The witness retired]