

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION AND
FINANCE**

**TRANSCRIPT OF EVIDENCE TAKEN
AT BUSSELTON
ON WEDNESDAY, 28 AUGUST 2002**

SESSION 4

Members

**Hon Barry House (Chairman
Hon Ed Dermer (Deputy Chairman)
Hon Murray Criddle
Hon John Fischer
Hon Dee Margetts
Hon Ken Travers
Hon Sue Ellery**

BRAND, MRS EVELYN**Farmer,
examined:**

The CHAIRMAN: On behalf of the committee we welcome you. I highlight that apart from being a farmer, you are also many other things, including a shire councillor.

You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Mrs Brand: I have.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to and please be aware of the microphones and speak into them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Would you like to make an opening statement to the committee?

Mrs Brand: Thank you, Mr Chairman and members. I want to express my gratitude for having the opportunity to make a representation. I am a strong advocate of open government. My submission to this Standing Committee on Public Administration and Finance requested that I be able to appear before the committee because I was, at the time, of the view that there would be further outcomes in the process and proceeding of Western Power's proposal to construct a 132kV transmission line through our property. It is now 12 months since we were advised of that intent. Procedurally, I draw member's attention to the terms of reference of the committee to which my submission gave regard; that is, 1a, g and c and point 2. I have provided members with additional copies of information provided to landowners by Western Power on the occasion of a workshop held in Capel in April this year. I do not intend to make any statements of a confidential nature.

The CHAIRMAN: This will be a public hearing unless requested otherwise and approved by the committee.

Mrs Brand: Before you are the documents I referred to in my opening statement, which you may wish to refer to or indeed ask questions about. I will refer to them during my statement. I draw the attention of members to 1a and g in the committee's terms of reference. The first is the compulsory acquisition of freehold and leasehold land by state government agencies, publicly funded bodies or by the State Government on behalf of private interests. It is my view that the proposal for a 132kV transmission line fits nicely into that box of reference. Why do I say that? Our family has freehold land and 12 months ago, as recorded in my submission by note of a letter, Western Power wrote to us and expressed its intent to place an

easement over our land to construct the power line. I remind members that is the one and only letter that we have received as individual landowners from Western Power in the past 12 months. There has been no further correspondence. The letter dated 28 August informed us that preliminary investigations would occur to work on the proposed transmission route including a review of land use.

The CHAIRMAN: Has all contact by Western Power since that initial piece of correspondence been made in person without correspondence?

Mrs Brand: Yes, we have had only one letter from Western Power in August. There have been public circulations as a result of workshops, which I included in the submission. As individual landowners, this is the only piece of correspondence, to my knowledge, that our family has received.

Hon KEN TRAVERS: The letter says that Western Power would keep you informed of the project through a field officer. Has that field officer kept you informed of what is happening?

Mrs Brand: There have been visits from field officers but my reference was with regard to written formal correspondence. Although we have requested that things said by that field officer be put in writing, we have never received anything like that.

The letter went on to list that there would be an identification of existing facilities and developments, Aboriginal ethnographic and archaeological surveys, vegetation and dieback surveys and a fauna survey and cadastral survey of the proposed line route. I draw members' attention to the first two points out of that list of six - the review of land use and identification of existing facilities and developments. For farmers, and indeed dairy farmers, a review of land use is a continuously evolving process dealing with how we manage our farms to keep pace with the changing world, the demands of the deregulated industry climate and the challenges of the triple bottom line. For many farmers, and indeed ourselves, it changes from one budgetary year to the next. It is a process of survival. The second point referred to the identification of the existing facilities and developments. We sat down in an informal way with the field officer to outline the existing facilities and developments. In conversing with the field officer it has become apparent that the word "developments" is probably an inappropriate word in the eyes of Western Power compared with what we mean by developments. When farming, developments exist almost on a day-to-day basis. Does "developments" refer to the intent our family has of an option to irrigate our farm, to build a new dairy or a new house for ourselves or employees or to reconstruct roadways and laneways? If you have any understanding of dairy farming, you will know that it is an ongoing process in which developments happen almost on a daily basis. We are a little clouded on what is meant by "developments". Does it mean formal developments, as in legislative provisions of subdivision? Does it mean that we may have an intent to change our boundaries?

Hon ED DERMER: What answer has the field officer offered to those questions?

Mrs Brand: I thank you for asking that question and I will get to that later.

Hon ED DERMER: I hope I have not interrupted your order of presentation.

Mrs Brand: No, I am grateful that you are bringing up the issues as we flow. Over the few weeks that we conversed with the field officer, I came to the conclusion that I had some empathy for this gentleman. He was so restricted under the existing legislation on what he could converse on, which is noted in the six points that I previously listed, that it was almost a contradiction. He apologised to us constantly

for how we or he may have misunderstood Western Power's letter and for his lack of knowledge of his work colleagues and of what the other arms of the process were doing. He almost became a pal out of frustration. I say that with the greatest respect for his position. However, I consider the field officer's job to be most challenging and almost unachievable by intent. Have I answered your question?

Hon ED DERMER: I think so. I imagine the letter suggested that the field officer was to be your liaison or first contact. Therefore, as you asked questions, he suggested that he was not qualified or at liberty to answer them.

Mrs Brand: Yes. Going back to a previous question that you asked about correspondence, we suggested to the field officer that he bring along somebody else who could answer our questions and asked whether we could have some correspondence about that matter. We never received any correspondence but the officer was good enough to bring somebody along, at our persistence, to talk to us on further issues. I was going to address this matter later, but it may be appropriate to follow up on it now so that it will be more meaningful to the committee.

In regard to liaison with the field officer and other members within the agency of Western Power, it became clear to us, as individual farmers and landowners, that when we conversed with them it would be in the interests of all to have a collective meeting; that is, to get more people from Western Power to attend a forum like this in which there could be frank and open exchange and a greater representation from Western Power.

Thanks to the persistence of some of our community mentors and farming bodies, a workshop eventually took place in April this year in Capel. There was not, in my view, an open willingness on the part of Western Power to proceed with this workshop, because the field officer informed me that it was not Western Power's normal practice for consultation - it does not normally hold workshops and collective meetings. However, farming organisations insisted on it, and it was finally achieved. I do not recall whether any member of Parliament was present, but I know they were invited. There was frank and open exchange at that workshop. An independent facilitator was engaged by Western Power to actually run the meeting, but as the meeting progressed it became quite apparent from the comments of the Western Power people that the whole of the proceeding was stifled by existing legislation. It was evident that the expectations we had as landowners for the outcomes of this workshop and further liaison were not achievable. Should you require further documentation on the meeting, it is available from the independent facilitator.

Hon ED DERMER: Mrs Brand, are you able to give us an example of a particular objective that was stifled?

Mrs Brand: Yes. It was envisaged that the workshop would mainly be a discussion of procedures for compensation and, I guess, what we loosely call the right to farm; that is, the rights of landowners. As the questions came off the floor, the Western Power folk explained that, because of the Act, they were not in a position to entertain many of the expectations of the landowners. Western Power requires an easement. We have to remember that an easement is only an interest registered on the title; the easement is not actually registered on the title as being owned by Western Power. The area covered by the easement stays in the ownership of the farmer, so the liability rests with the farmer. However, the privilege of the easement, by way of record on that title, is with Western Power, so there is an imbalance of security. However, that is what the Act says. The Act clearly states that it is unbalanced. In my view, to meet

that triple bottom line that we all talk about, the farmer or landowner does not find himself on a level playing field. In fact, I do not think he has ever had a guernsey. I think he had his football boots ripped off him years ago.

Hon ED DERMER: Mrs Brand, are you able to give us a clear, concrete explanation of the practices currently used on your dairy property that would no longer be available once the powerlines are in place?

Mrs Brand: That has been documented in some of these papers. I will go through them loosely. There may be some omissions. For instance, it is our experience that pivotal irrigation would not be an option. Of course, that is an increasingly recognised practice of post-deregulation dairy farming.

Hon ED DERMER: You need to make allowances for a city boy like me. What is pivotal irrigation?

Mrs Brand: You may have noticed it as you were coming down the coast road. It is very long, moving irrigation over the land.

Hon KEN TRAVERS: Irrigation booms.

Mrs Brand: Yes.

Hon ED DERMER: Okay.

Mrs Brand: Okay, so we have a -

Hon ED DERMER: That explanation is fine for now.

Hon KEN TRAVERS: I can organise for you to visit one on the way back.

Hon ED DERMER: Good.

Mrs Brand: There would be dairy farms that you could visit that got them post-deregulation because, in the survival game, it is one option dairy farmers have found to intensify their industry by growing pasture. They are expanding and enlarging their herds.

Hon ED DERMER: Are you explaining how this, as an option, has been removed?

Mrs Brand: Yes. We could not do that on the land that Western Power wishes to traverse. Pivotal irrigation was one of the options in our business plan, which has been projected over the next 10 years.

Hon ED DERMER: Is this a form of irrigation that you have used in the past?

Mrs Brand: We have not used it, but, post-deregulation, it is a consideration within our farm business plan, which we have submitted to our financiers.

Hon ED DERMER: Are there any current practices that you will have to discontinue?

Mrs Brand: That we could not continue?

Hon ED DERMER: Yes.

Mrs Brand: Twelve months ago, when we got this letter, we had just bought this property. In fact, we had not completed the formalities for purchase of the property, so we had not commenced putting in a lot of the infrastructure that would provide an extension to our existing farm, which is across the road. The red lights went on. As we have pursued more information, the red lights have gone on further; we discovered that we were going to be limited in how we could plan to use this new bit of land and join it to our existing land. An example would be laneways and fences. We bought a

beef property, which, over time - in fact, quite quickly - was to be changed into a dairy farm, which is a quite different farming practice. We quickly discovered that Western Power's officer did not really have an understanding of up-to-date dairy farming management practices; it was beyond his ability. However, I would not expect him to have that knowledge; it would be demanding. In a minute I will tell you how we addressed that. I do not wish to cast aspersions on the gentleman who had the unfortunate task of coming to the farm gate. He shared with me that he had got to a stage where he dreaded doing that. That is the backdrop of the climate and culture in which we are working.

In my view, it is not in anybody's interest to develop a climate of antagonism or to be adversarial in negotiations. I am sure that you would agree that that is not in the interest of good outcomes. We were at risk of developing that climate, which is why our farming organisations, and indeed our shire, encouraged open workshops. Those workshops were well attended, probably by about 40 people - I cannot remember what was documented - and people were given the opportunity to put forward their grievances in a respectable and acceptable manner. I have fairly conclusive ideas about this, but I wonder whether it was a precedent. It is my view that Western Power, as an agency, probably had not done this before. It was a new thing for it. Suddenly landowners were saying, "Hang on a minute! Is this fair to my freehold land? Am I the loser and you the winner on behalf of the public? What about me as a private landowner? What are my rights? Do I have any rights to farm? Who is going to help me? Will this legislation help me?" I was informed by Western Power that it will not; it will help the agency. The thrust of my submission is to respectfully ask this committee to focus and direct its attention to that legislation in a fair and equitable way, because you are the legislators in the process. As a public company, Western Power deserves to have equity, too. The people in this area are actually under-provided with an energy resource. As farmers, we know that the energy resource that is provided to our farm gate is grossly inadequate. That will not be addressed by this new transmission line; it is another agenda that farmers are trying to address through the South West Development Commission, because we are finding that the expansion of our dairy farms is not an option under the present supply from Western Power. That is ironic. For instance, a farmer could not build a rotary dairy or put pivotal irrigation in place without there being considerable amendment to what is currently provided, and that would be at considerable cost.

As farmers, we came to the conclusion - I am still of the same opinion - that a culture exists in Western Power, which has been there for decades, that has not previously been questioned. A reason for that might be that the use of land for agriculture has not been given the status it deserves. Hopefully the new agricultural and land use policy, which has just been documented, will help elevate the status of prime agricultural land, including our dairy farm.

The Western Australian Planning Commission's map indicates that our farm is on prime agricultural land. I do not have to remind members of the committee of the increases in the price of land because of the rate of inflation with which dairy farmers or anybody else who wants to pursue agriculture are faced. Indeed, this land is increasingly addressed by its price per square metre even as we sit here and view the horizon. Our farm is 15 kilometres from this beautiful venue. Those of us who wish to survive in the dairy farming industry are aware that the price of land will not decrease. Therefore, I plead with the committee to help us with statutory processes and legislation that will give us an opportunity to have a sustainable future. Dairy

farms are located on prime agricultural land. Companies are screaming out for us to provide them with milk, so the demand is there. It is in the national interest to have a sustainable dairy farming industry in Western Australia. However, at a horrific cost we are impeded by legislation that gradually and assiduously erodes the amount of land we can use.

We submit the family's budget to the bank annually, which expects to see a business projection over the next couple of years. It also expects us to provide it with information so that it can assess our equity if we wish to borrow more money or have an overdraft, which is a common practice within agricultural industries. If the proposed power line impinges on our land, the bank will take note of that and it will be considered a liability. Will the equity in our land depreciate as a result? Will we be in the unfortunate situation that if we wish to market our land - although I hope we do not have to - it will be worth less than the amount we paid for it because of the impact of the 132 kV transmission line? I am becoming increasingly aware that we will have very limited opportunities for compensation. The restrictive provisions of the legislation spell out that our rights are limited.

Farmers have studied the intent of the Act and have found that Western Power is quite right when it says it will consider only the imposition of what the power line actually does, not what it does to the farm overall. However, the farmers believe that the power line interrupts the whole farm. I gave examples of farmers who might want to build a new dairy or a house. In some instances, their right to do that will be either severely limited or even prohibited. If I took a planning application to the council, I would have to say that I had a 130 kV power transmission line running through my property. I would probably be told that I could not build a new house because the setbacks would have to meet certain regulations. I remind members that the size of the lots in this area tend to be small rather than large. Broadacre farmers would consider a reasonable lot to be 200 or 300 hectares, whereas in this area, it is common to have a 40-hectare lot. Because of the power line and the requirements of setbacks, it would be difficult to get permission even to build a residence. Every landowner in Australia has the right to build a house on a lot.

Hon MURRAY CRIDDLE: What would be a reasonable size for a viable - although that is a terrible word - lot for a dairy farmer?

Mrs Brand: My experience might mean that the answer I can give is limited. Since the deregulation of the dairy market, expansion is the name of the game; indeed, it is encouraged. We bought more land to survive. A dairy farmer would probably need 300 hectares. I ask members to consider that to be a rough estimate.

Hon MURRAY CRIDDLE: I will ask some of your colleagues later.

Mrs Brand: That would be a good idea.

I will refer to what dairy farmers would be prohibited from doing on their land. Members are aware that dairy farmers like to adhere to their quality assurance criteria; that is, the clean, green marketing image. Currently, dairy farmers work in partnership with their manufacturers. We have our eyes on the offshore markets. We are on a winner if we can sell that clean, green, dairy image overseas. In the interests of that image and to meet quality assurance, farmers are becoming increasingly aware of their laneways, which are the structures that bring their herds into the milking parlour. It is essential that farmers have well-elevated laneways and fencing structures that enhance the demands of quality assurance and good farm management.

To oblige Western Power, we have had to review where we would put the laneways on our farm and how the herds could cross the creek. We were able to address that issue. We discussed that matter with the gentleman from Western Power who came to our property to talk to us. If we had been dairy farmers with existing structures, I wonder how we would have managed. It was just fortunate that we were planning to build those structures at that time and therefore were able to cooperate with Western Power. However, I have empathy for the farmer who lives next door, for example, who has already built his structures at immense cost.

I will again refer the committee to the workshop in Capel. I have commented on the culture of Western Power and how it approaches people like me. We are told by Western Power that we must negotiate. However, Western Power's ability to either negotiate or consider change was very fixed because it kept referring back to the Act. I would appreciate the committee's view on that. I understand that agencies should take account of these types of matters and transparently and openly address whatever they discover to be inappropriate and refer it to the administration at a higher level. Indeed, Western Power has done that on matters concerning the environment, for example.

I want Western Power to address the triple bottom line of environmental, social and economic balance. Probably through no fault of its own, it has not been introduced to that concept. However, I ask that its administration address the issues of land use in our neighbourhood as it addressed the environmental impacts; that is, as a priority and through a diligent process. I strongly support land use and the environment, but I look for some balance.

I will address the social issues of the triple bottom line. I will refer members to the broader social gamut of the national competition policy. Through the Trade Practices Act, I understand that the national competition policy was intended to address any inhibitors to competition. How can I compete in the dairy industry if I have a power line running through my farm? Why has our family's farm been chosen? We will not get any compensation and the issue of liability will not be addressed. Neighbouring farmers do not have that impediment. Is that a level playing field? How can the farmers say to the manufacturers that there are no social impediments? How does this type of legislation impact on society? What does the Council of Australian Governments agreement say about it? Does it say that these practices, by way of legislation, are fair? Does it say that it is equitable to agricultural land users or is in the social interest?

For the benefit of society, I strongly believe that dairy farming or any other agricultural industry in this State must be equitable and socially sustainable. We must not be tied down and encumbered by unfair legislation that disadvantages society. Every cent that we can make from farming enterprises is in the national interest. To stifle that would be a social disadvantage. I am a strong proponent of agriculture. Although the national purse receives a decreasing income from agriculture, it should not be blatantly stifled. I plead with members to consider those comments when they address this legislation. I refer to "any other relevant matters" in the committee's terms of reference.

The CHAIRMAN: That is our catch-all phrase.

Mrs Brand: That gives me some licence. In conclusion, I will refer to the federal Government scene. According to recent media releases, as we speak a federal Government subcommittee has been formed to consider the right to farm. I welcome

that committee and hope that it will encompass the issues that I have referred to today, including a level playing field. I would like to think that the beautiful state of Western Australia and the benefactors of the public purse would receive some of those payments from the national competition policy agreement to update outdated legislation. The legislation that gives Western Power privilege on this unlevel playing field is so outdated that it amazes me. I have had quite a bit to do with open and transparent government and level playing fields. Until August of last year when this letter arrived that said some of our land was to be used in the public interest, I had no idea that this legislation was so outdated. In other areas of legislation I have worked with reform of land use planning has been commended. This includes reform for more equitable opportunities. It has surprised me that a public company that now calls itself a corporation can function under this inappropriate legislation. I stand to be corrected on this, but it is also my understanding, as I mentioned in my submission, that Western Power has the privilege of being exempt from the State Records Act. It would sadden me if that were the case, because I thought that after the WA Inc venture government would be all about transparency and opening prohibited doors so that people like me and the farming sector could access in detail what our public companies were doing. I would be very interested if the committee could provide me with accurate information on the exemption for Western Power that I have read about in the media. It is not appropriate and it is not good government if what I have read is the case.

The CHAIRMAN: Thank you very much for that very clear and comprehensive explanation. You mentioned the culture of Western Power, and in particular the workshop at Capel, which I attended briefly, and the fact that Western Power could not engage in some discussions and negotiations and was hamstrung by its statutory obligations and requirements. Did you detect an element of “wouldn’t” as well as “couldn’t”?

Mrs Brand: Historically, when I reflect upon the journey, I can only come to that conclusion, because there was a culture of what I would call divide and conquer. I will share with you an experience that we had as a family when we started to ask the field officer questions with regard to the power line. We expressed our discontent - our angst, if I may call it that - and said, “Hang on a minute”, or that sort of thing. The field officer pointed out to us that everybody else was happy and asked what we were griping about. He said that all our neighbours were happy to get on with it. Of course, being a rather persistent individual who knows her neighbours well, I was surprised that they were simply saying we should go for it. I contacted some of my neighbours and found that the contrary was the fact: my neighbouring landowners had the same concerns that I had. As I said, the initiative came from farmer bodies. We recognised that there was what we perceived to be a divide and conquer attitude, so it was in our interests that we all got together. That resulted in the workshop. One outcome of the workshop was that we should have a community mentor; namely, that Western Power should provide an agricultural consultant to represent farmers in negotiations, particularly with regard to the Valuer General and compensation, because we held a view - not critically but in reality - about the limitations of the field officer and his understanding of agricultural land use. Indeed, that consultant has been appointed. At this moment, as we speak, he is in the middle of his brief.

Another issue I would like to bring to the committee’s attention in answer to the question on culture is that we were provided at the workshop with a document that outlines Western Power’s general aims and procedure. Perhaps I should have given

this information to the committee's technical adviser. The procedure comprises 11 dot points. We have not yet finished with the first dot point.

The CHAIRMAN: Perhaps you can leave that document with the committee so that we can copy it.

Mrs Brand: Yes. The general aims include consistency of approach; fair and reasonable; in accordance with accepted valuation/compensation practice and procedure; in accordance with the Act - an aim that was clung on to very tightly at the workshop; and to negotiate to settlement wherever practicable. We are therefore just commencing the journey.

Hon KEN TRAVERS: The document that you have provided this morning refers to compensation. Your submission indicates that you are not entitled to compensation. Is Western Power offering compensation for the easement?

Mrs Brand: Western Power's position, as the document indicates, is that people can take up the issue of compensation if they wish, but the appropriateness of taking up that compensation is quite prescriptive. We are coming to the conclusion that it may not be in our interests. The compensation is also very minimal.

Hon ED DERMER: What do you expect to lose by taking it up?

Mrs Brand: We feel that if we were to take up the offer of compensation it will be a recognition of the legitimacy of the easement and a signing off, which we are not prepared to do. We would rather leave the agenda open, because we consider that within the existing framework of legislation the provision of compensation is so inadequate that it is not worth pursuing. We would rather leave a chapter open for further negotiation. I have the paper in front of me if you wish to pursue that aspect.

Hon KEN TRAVERS: You said earlier that you had not received anything else in writing. You indicated that you had asked the field officer to put things in writing and he had not done so. Did you at any time submit a formal request to Western Power for that; and, if so, did you ever receive a response?

Mrs Brand: No, we did not. However, collectively those were the sorts of things that came out of the workshop; namely, that there would be more information flow, and that an agricultural consultant would be an intermediary for taking our messages to Western Power. Western Power has since employed an agricultural consultant to talk to us. However, that has not been conclusive. My understanding is that quite a lot of work is yet to be done. What is interesting is that media releases have advised me that Western Power is progressing with the easement; it knows that there is really nothing to negotiate because the Act is so clear. We have had nothing in writing about it, but we know that Western Power representatives have been on our farm in recent months carrying out surveys. Therefore, its intent is to proceed, and the Act provides for that. Where are my football boots and my guernsey?

Hon KEN TRAVERS: That is in the Act, which has been in place for many years.

Mrs Brand: Yes, to my disadvantage

The CHAIRMAN: I think we have covered a fair bit of ground. Thank you very much for your input.

Mrs Brand: Thank you for the opportunity.