

The Hon Justice Rachel Pepper
Chair
Scientific Inquiry into Hydraulic Fracturing in the
Northern Territory

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Dear Justice Pepper

RE: HYDRAULIC FRACTURING INQUIRY – INFORMATION REQUEST REGARDING THE REGULATORY FRAMEWORK FOR THE MANAGEMENT OF SPILLS OF CHEMICALS AND WASTEWATER ASSOCIATED WITH HYDRUALIC FRACTURING

I refer to your correspondence of 20 September 2017 setting out your understanding of how the current regulatory framework in the Northern Territory seeks to avoid, or, if a spill occurs, manage, spills of fracking chemicals and wastewater both on and off the permit area. You sought confirmation that your understanding of the role NT WorkSafe plays in the regulation of on-site and off-site spills is correct and that where you have identified an area where the regulatory framework may be strengthened, sought comment on your observations.

First, I can confirm that your understanding of the role that this organisation plays in the regulation of on-site and off-site spills is correct. NT WorkSafe administers legislation covering workplace health and safety and the transport, storage and use of dangerous goods in the Northern Territory. That legislation covers worker safety as well as the use and transportation of hazardous chemicals and dangerous goods that would be used in the petroleum sector.

In your letter you propose the establishment of a single regulator that would have oversight of both environmental and worker safety matters on petroleum permits. I agree that the synergies and overlaps make this proposal a reasonable one. Such arrangements were in place some years ago and could be established again.

This arrangement would have the added benefit of ensuring the few people with the relevant experience that the NT Government can access are working in the one place with the one intent. The arrangement will not create any industry confusion or regulator conflict as this Unit will deal with all on-permit activities, leaving the other NT Government regulatory Units to continue their normal activities elsewhere.

However, I do argue that legislative responsibility should remain with the relevant Authorities to ensure continuity of regulatory approaches. Such arrangements have worked previously where officers were appointed after appropriate training and any enforcement activity was approved by the relevant Authority.

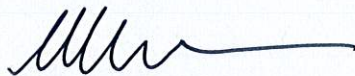
In your letter you also argue that the regulatory framework would be strengthened and clarified if a single regulator had oversight of the transport of fracking chemicals and waste water on the permit (including on roads on the permit) and on public roads. In regard to the transportation of dangerous goods and hazardous chemicals, I must disagree with that argument.

The *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act* is a mirror of model legislation that has been adopted by all jurisdictions. The legislation and its accompanying *Australian Dangerous Goods Code*, as well as the *Work Health and Safety (National Uniform Legislation) Regulations* dealing with hazardous chemicals, are used by every freight and goods transporter in Australia to ensure worker and public safety. The legislation operates in all relevant locations (including private and public roads) and across all jurisdictions with a single regulator in each jurisdiction and gives operators surety in their obligations and the interpretation of said obligations.

If the regulation of the transport of dangerous goods and hazardous chemicals relating to petroleum activity was partitioned from the regulation of the transportation of all other dangerous goods and hazardous chemicals there would be industry confusion and regulatory conflict. Additionally the transportation of such material is a well understood risk with excellent regulatory coverage already in place – something that cannot be said for the highly technical and complex work of on-permit petroleum activity.

I hope this response assists the development of your final recommendations. Please let me know if you need any further information.

Yours sincerely



Stephen Gelding

Work Health Authority

26 September 2017