

Extract from Hansard for Inquiry for Queensland Government Administration related to Commonwealth Government Affairs - Certain aspects of Queensland Government Administration related to Commonwealth Government Affairs - 19/02/2015

Accessed via

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Certain\\_Aspects\\_of\\_Queensland\\_and\\_Government\\_Administration/Certain\\_Aspects\\_Qld\\_Admin](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Certain_Aspects_of_Queensland_and_Government_Administration/Certain_Aspects_Qld_Admin) on 29/01/18

## **Relating to testimony provided to the International Permanent People's Tribunal into the Human Rights Impact of Unconventional Gas by Mrs V. Laffy.**

**CHAIR:** Mrs Laffy, over to you.

**Mrs Laffy :** We are fourth generation farmers, so my husband's family has been farming west of Dalby since the early 1900s. We are very concerned about the power imbalance that exists when we are forced into negotiations with CSG companies and the government, because the government has written the legislation that forces us to have to negotiate. In our negotiations between 2009 and 2013 we have had to negotiate with two different CSG companies, and the negotiations essentially involve us agreeing to what they put in front of us or they threaten to take us to Land Court. In my view that is not negotiating. They constantly intimidate us—it is monetary intimidation because the cost of going to court would be in the hundreds of thousands of dollars. We are also supposed to accept reimbursement for the use of our land, and our time is a part of that. At the time that we were negotiating with these companies we had two businesses, we had six children and we had the farm. Any negotiations we did with the companies meant that when I was supposed to be asleep I would be reading EISs or trying to educate myself about this whole new business.

As to the impact on business operations, we have an organic farm and it took us three years to achieve that certification. If we have any contamination, if someone spills diesel on the land, then we lose our certification. It is really important to us that we maintain the integrity of our farm. However, the company expected us to educate them about that, so they wanted us to stipulate the requirements that we would have for them to operate on our farm. They wanted us to voluntarily do the research for them so that they could operate their business on our business. I think that is completely unacceptable. It is now our only income. Our business is a holistic, multifaceted business. We produce meat and lamb and hopefully honey and all different sorts of food on our property and we would like the public to be able to access it and come and see what we do. We want to involve our children in that business as well. The thought of having multiple wells and utes and people driving all over the property does not mesh with our business. They do not go together. But we are not given the opportunity as educated business people to say, 'I'm sorry, but your business does not go with my business so this is not going to work.' They will just continuously say, 'You need to negotiate with us or we will take you to Land Court.' There is always this threat of legal fees. Government will say to us that reasonable legal costs will need to be paid to us by the company but the company says to us that unless we sign a CCA, they will not pay any of our legal costs. We could have tens of thousands of dollars of legal fees sitting there—we have been talking with them since 2009—that we could be liable for. We are continually fed information from government and from the companies but when it comes down to the pointy end of the stick the reality is that we have to bear the burden and the expense of just having a talk with these companies. We worked out that we would really have to employ people 24-hours a day, seven days a week to monitor their access to our property, just to make sure that they had their weed declarations done and that they were not spilling chemicals. Given the wages paid to people in that industry, we factored in about \$150,000 a year just to employ someone to ensure that their business did not wreck ours. They do not factor this into any of their negotiations. I think we were offered a \$3,500 a year and that was to cover our

Extract from Hansard for Inquiry for Queensland Government Administration related to Commonwealth Government Affairs - Certain aspects of Queensland Government Administration related to Commonwealth Government Affairs - 19/02/2015

time and the use of all our land. I thought that was laughable. They use chemicals in fracking, but because of commercial-in-confidence we do not know what chemicals they are bringing onto the property. That is an unacceptable risk that we should not have to bear in our business. We know that fracking chemicals are dangerous and they destroy the water table as well as the land. Because they do no baseline study on our land or on our air, we would not be able to tell if they had contaminated our land or if something had always been there. That would be another burden that we would have to bear.

There is a large impact on our personal amenity. We have six children ranging in age from two to 15 years. One of our children has Downs syndrome, so it is important for us that he has a safe place to live. Part of what living with him involves is he may access the farm at any time. He can get up at 5.30 in the morning and ride his motor bike up to the back of the farm and back, which is awesome, but it is not awesome if there are people all over the farm. Those people have not necessarily had background checks done, so you would not really know the capacity of their involvement with children and what that would mean for my children. So I would have to restrict their access to our farm while that business was on our business.

You are also forced into a business arrangement that spans decades. You have no recourse to review the agreement, so you are stuck with a business agreement that you cannot change unless you take them to court. Everything is just hundreds of thousands of dollars.

We know that the companies and their employees are not authorised to be on our land, as a result of high-level legal advice that we have received. We will also advise that any attempt to enter our land at any time will be resisted in the appropriate courts. These costs are estimated at about half a million dollars, and it is our view that this is an unreasonable expectation for a small family businesses like ours to have to bear in order to protect our livelihood, our families and our land.

**CHAIR:** Thank you very much. Senator Waters?

**Senator WATERS:** Thank you, Mrs Laffy, for sharing that personal story in a very moving way. I think no-one who heard that could fail to sit up and listen and be absolutely desolate at the abandonment of responsibility that our government has done to all of you. I do not actually have any questions for you, because everything you said reinforces my view that this is a dangerous industry that we should not be letting loose on our land or our communities or our climate or our environment. The litany of legal issues that you have all identified and the fact that you basically have got no rights to stop this industry breaks my heart, and I will continue in the federal parliament to try to fix that and give you some rights. I would like some company from the other parties on that and hopefully, after hearing your stories, that is part of garnering that support. I do not have any questions other than to thank you for sharing what is a really hard emotional journey that you have been forced to endure and to thank you for doing that today for us. We will keep working to try and help you, but it is a long road and there are some very powerful people involved.

**Senator LUDWIG:** Thank you for being here, Mrs Laffy. It is not easy, and I can certainly appreciate the position that you are in. I wanted to explore some of the issues you raise, because I think they go a long way to forming some views of mine. On the power imbalance, particularly—could I tease that out a fraction? Effectively, there is no third party, no ombudsman, no-one you can go to, because it is a contractual relationship that they are seeking to have with you. Did you want to comment on that?

**Mrs Laffy :** As part of the negotiating process you can go to mediation. The mediator is from the DNR, which is another government department. They are restricted by what they are required to do. What they are really required to do is negotiate an agreement. We do not want an agreement. Do you know what I mean? Every step along the way is heading towards, 'You need to make an agreement.'

**Senator LUDWIG:** There is the issue around coming onto the land. Do they have access to your land at the moment?

**Mrs Laffy :** No, they do not. Because we refuse it they just come and pressure us. They say, 'If you don't sign this now, we'll give you a forced entry notice.' They have done that to us previously. But because we are organic they cannot do that unless they have a signed CCA, which is a signed agreement with us. If we were not organic they would be able to give us the entry notice and enter the property.

**Senator LUDWIG:** Yes, I understand.

**Mrs Laffy :** So we have been protected. They would have been on, but for that.

**Senator LUDWIG:** The other matter that you raised obliquely and which, of course, is a very valid one, is that where there are agreements in place and they have access to the land, if there are families with young children living on the property then there is no requirement for a blue card for the people who come onto the properties and access the wells, or for any interaction that may then arise. Kids are curious; they are going to ride their bikes down there to see what is going on.

**Mrs Laffy :** Yes, that is exactly right. Our neighbour has a number of wells on his property, so we have been able to observe what has happened there. What we see is 24-hour access by trucks and utes. So not only is there a personal child safety issue, sexually, there is also machinery and car accidents—my kids ride motor bikes. It just shuts down your space in your backyard, really, if you want to ensure that your children are safe.

**Senator LUDWIG:** And you also indicated about the chemicals that come onto the land—it is not your land, obviously, but what you have observed or what you have heard from neighbouring farmers—that they do not have to declare what is in the back of the truck, like on a material safety data sheet, when they come onto a property.

**Mrs Laffy :** I could probably make that a requirement in my agreement, but the fracking chemicals that they use are commercial-in-confidence. They just shut all the information down. I do not know what is in those chemicals because that is private to the company.

**Senator LUDWIG:** So they maintain commercial-in-confidence in relation to the chemicals?

**Mrs Laffy :** That is right. I would not know what chemicals they are bringing on. They come in in tankers.

**Senator LUDWIG:** With the negotiation that you referred to earlier: do you accrue a legal cost whilst they negotiate with you?

**Mrs Laffy :** Yes.

**Senator LUDWIG:** Could you just tease that out a little more for me?

**Mrs Laffy :** It has been over a number of years. It has been over five years, and each time it is very urgent that an agreement is signed. The company will say, 'We need to have this agreement signed. You need to meet with us next week.'

Because we have always been told that the company is required to pay reasonable legal fees and because the legislation is a bit ambiguous, we have gone to get that advice because I think that is an intelligent thing to do. We do not know that business. So, yes, we accrue a legal fee. And then I will say to my solicitor, 'I'm not doing any more until the company pays whatever is owed.' And the company will just say, 'We don't pay legal fees until the CCA is signed,'—until the agreement is signed. So it just hangs over your head then.

**Senator LUDWIG:** So effectively, your submission is that there is a gap in the legislative framework that then does not ensure there is an ongoing payment of legal fees whilst this is being negotiated?

**Mrs Laffy :** That is correct.

**Senator LUDWIG:** Which then means that ultimately it can be held as a bargaining point by the company to persuade you to conclude a CCA if it has taken some time? The legal fees accrue?

**Mrs Laffy :** That is exactly right.

**Senator LUDWIG:** And that goes back to the earlier statement you made about the power imbalance. They are seeking to make an agreement whereas, in your instance, you do not want to make an agreement. So it cannot end, in that sense, whilst they keep coming and knocking on your door.

**Mrs Laffy :** That is right. That is exactly right. It is very difficult to negotiate with someone who feels that they have the right to do whatever they like on your property. And they have the power in the legislation behind them—they keep telling us that they have the power.

**Senator LUDWIG:** Have you been in contact with the NFF, or some of the ag industry bodies, for support? Or do they act as a go-between for you and the particular company? Which side do they fall on? Someone like AgForce.

**Mrs Laffy :** My personal observation is that they fall on the side of government. They just really seem to toe the line as far as what the government is putting out, or reinforcing it. The government has reinforced in media statements that CSG companies have to pay legal fees. AgForce will support that view, and they have done in the past, but it is not the reality on the ground for us.

**Senator LUDWIG:** That is right. What I was just trying to bring out in your submission was that effectively, although they do pay legal fees, it is not how it is used and how it actually works in practice.

**Mrs Laffy :** That is correct.

**Senator LUDWIG:** That has been helpful. Thank you.

**CHAIR:** Mrs Laffy, your—

**Senator LUDWIG:** Sorry, there is one more matter. The other matter you raised—I wrote them down just so that I could go through them—was that, at the conclusion of a CCA, it does not have a renegotiation or a period where it comes up. In general leasing arrangements, they usually have a five-year lease, or five and five, or 10 and 10, but they do have a point where they either expire or have to be renegotiated, or they have clauses which permit variations depending on change in circumstances or other things people put in them. The standard CCAs that you have seen or been offered do not include any of that.

**Mrs Laffy :** No, they are just open ended. It is for the life of the project—the life of the well. I think people have negotiated time frames in their agreements. The difficulty with them is that, if you are a lessee and you have a building, you can evict the tenant, but if I have—

**Senator LUDWIG:** Sometimes it is a little hard.

**Mrs Laffy :** But if I have a CSG company I cannot just go and shut their wells off and say, 'Sorry, guys; you're not pumping any gas out of here until we sort this agreement out.' What they do is just go to court then. I have heard of cases where the terms of the CCA have been broken and the landholder has taken the company to court—so there is another \$200,000 to get the company to do what they said they were going to do in their agreement.

**Senator LUDWIG:** On assisting the landholders, then, is there a collection or a body that understands many of these variations to the CCAs or understands the CCAs, to be able to at least ensure that you have informed knowledge? In other words, when you negotiate—when a company turns up and presents you with a CCA—you have then indicated a range of things that people have done to ameliorate the impact of the CCA on their property by amendments. But I take it the company turning up with the CCA in the first instance is not going to tell you about all of those, and it is up to the individual to fathom them out or hear them on the grapevine. There is no other body, like AgForce or anyone else, that says, 'Here's a range of amendments to the CCA that you might want to consider,' or, 'Here's a template that you might want to consider,' from your perspective—in other words, from the perspective of an organic farm, or from a farm, depending on the circumstances.

**Mrs Laffy :** No. The only other body is their solicitors.

**Senator LUDWIG:** And they are not going to have the sort of broad knowledge about all the other CCAs.

**Mrs Laffy :** They are the ones negotiating a lot of CCAs.

**Senator LUDWIG:** So they will know all the other amendments, yes.

**Mrs Laffy :** But again you need—

**Senator LUDWIG:** Who are they representing? That is the question I guess you ask.

**Mrs Laffy :** They have the knowledge of all the CCAs.

**Senator LUDWIG:** Yes, but then the question is: whose interests are they representing?

**CHAIR:** Whilst you were making your statement, obviously this whole situation was becoming very emotional or has been for a while. How is that affecting your children and things like that? Have they been affected by this emotionally?

**Mrs Laffy :** They have not, really. They obviously hear us talk about it, and the high-stress times are when companies are trying to negotiate again, but what they do is come and hit us for a month or two and then they go, so we could have 10 months of nothing and then two months of intense conversation, and I have to put a lot of time into reading documents and things like that. So, yes, there is a family impact, of course, and a marriage impact. We obviously have to talk about how far we go, because there is a financial burden as well. So it can be emotionally very stressful.

**CHAIR:** You mentioned that, if you did have these CSG-mining people on your property, it would probably cost a lot more if you wanted to keep your property organic. It would cost a lot more money to make sure that they did not bring on weeds through their trucks and things. Can you just give me a bit of an idea of what that would entail, what you would have to do and maybe a cost figure.

**Mrs Laffy :** I worked out that two people working 24 hours a day, seven days a week—so two shifts—

**CHAIR:** They can come on and off whenever they like?

**Mrs Laffy :** Yes, that is what they want to do. They do not really even want a gate to have to go through.

**CHAIR:** They do not say, 'We'll be on from nine to five.' They could come on at two in the morning if they felt they needed to?

**Mrs Laffy :** Yes. That is what they do. Part of their standard agreement is, 'We will drill for 24 hours a day, seven days a week until the job is done,' essentially, and it can be the same when they are putting in their pipelines and their roads. You have men in utes all over the property at any time of day or night.

**CHAIR:** You are obviously very passionate about organic. It would be very difficult to stay organic if you had to allow CSG mining on your property. Do you think that is a fair comment?

**Mrs Laffy :** Yes, it would be absolutely difficult. You cannot trust what they agree to do, so you would have to monitor it yourself 24 hours a day, seven days a week.