

Note to Editors: Background Briefing Paper

Backgrounder: PASCO's activities in the Southern Highlands

Serious breaches of Coal Exploration License AUTH 349 by Hume Coal Pty Ltd

Hume requires additional approval from the Department of Resources and Energy (the Department) to drill exploration bore holes. Hume has been given approval by the Department to undertake 2 drilling programs in accordance with:

(i) The Review of Environmental Factors (REF) submitted in March 2011 for 120 holes to be drilled on a 1km x 1km grid of which they have drilled 57 or 48 holes [REF 2011]; and

(ii) The REF submitted in July 2012 for 90 holes to be drilled on a 500m x 500m grid of which Hume has drilled 77 holes as of 18 February 2014[REF 2012] and we believe that under existing drilling commitments has, or will imminently have, drilled its quota of 90 holes under this REF.

Major Breach of a condition of the license by failure to comply with environmental conditions

Due to concerns about Hume drilling according to their license conditions, in February 2013, we submitted a GIPA application for the GPS co- ordinates of all holes drilled since 2011. In February 2014, the Department provided a table of GPS co-ordinates of all the holes Hume had drilled over the license area from 2011 until March 2013.

We have had the Table of GPS hole co-ordinates professionally mapped by surveying company LandTeam in Bowral. An electronic copy of that map is attached. You will see that in relation to compliance with:

2011 REF: Of the 57 REF 2011 holes drilled, less than 10 holes appear to be within 100 metres of the required co-ordinates. And less than 20 holes are within 250 metres of the required coordinates. Many holes are 350 to 400 metres or more away from the required co- ordinates.

2012 REF: It appears that only 6 REF 2012 holes, of the 30 drilled to March 2013, are at a distance of 500m or more from another

REF 2012 hole, as generally required under REF 2012. In fact, approximately half of the REF 2012 holes are within 350m or less of another REF 2012 hole. Of these, 4 holes are drilled at 40 metre intervals,

- Five REF 2012 holes are within 200 metres or less of a REF 2011 hole, some are almost on top of each other.

Even allowing some flexibility, particularly for holes in Belanglo State Forest, the lack of adherence to the REFs is quite extraordinary. There is little evidence of an attempt to drill in approved locations or at the intensity approved.

GIPA Application for further Information refused

Many more holes have been drilled since March 2013. SHCAG has submitted a further GIPA application in order to map the holes drilled since March 2013.

The Department has just advised us that this application has been denied.

Based on observations of drill rig locations in the district, SHCAG believes that the data will continue to show that Hume is clearly not complying with the Departmental approvals, which are conditions of its licence.

We note that the continuing fundamental breaches of the License conditions are a basis on which the Minister can terminate the license under Section 125(b1) of the Mining Act.

Environmental Impacts of intense drilling uncertain

The random nature of the holes already drilled creates a level of uncertainty as to the cumulative environmental impact of the exploration activities already undertaken. Essentially this means the Department has no way of knowing or controlling the environmental impact of the drilling, which has already occurred, across the licence area.

SHCAG believes that Hume has continued to drill at holes much closer than 500 metres.

In the three and a half years since Hume has held the exploration license they have drilled over 130 holes yet they have provided

almost no information on the results of their drilling, particularly relating to groundwater, to the community or the Water Advisory Group they have set up. Hume would have enough information now to make an assessment of the impact of mining activities on the most sensitive environmental issue

they face, the groundwater and they should do so. Hume's Phase 3 drilling program must require the submission of an

EIS

It would appear to SHCAG that the resultant environmental impact is now undetermined and possibly significant given the intensity of some of the areas of drilling and the sensitivity of the underlying hydrogeology.

Hume is now preparing a Phase 3 drilling program, with intensities of drilling 3 to 5 times greater than already submitted.

The intensity that Hume is proposing to drill is not normally associated with exploration prior to a Mining Lease being granted.

Given the uncertainty of the damage already done to the aquifer, the significant impact on agricultural land and its productivity, we submit that the Department should recommend that an Environmental Impact Statement [EIS] be prepared pursuant to s112 of the EP&A Act before any consideration of Hume's new Phase 3 drilling program be undertaken.

Hume coal seeking access to drill when it has no environmental approval

Hume has sought access to undertake its Phase 3 drilling program, without having submitted an application for approval to undertake that program with the Department. Under Hume's licence, it cannot commence drilling activities until the Department has given approval.

This has caused landholders to incur tens of thousands of dollars in legal costs and very high anxiety, defending their properties from activities Hume has no lawful authority to undertake. These costs are not, but should be recoverable, particularly if Hume does not get approval.

There are at least 8 individual circumstances in the Southern

Highlands where exploratory drilling has been proposed in intensities in excess of the REF 2011 and REF 2012 approvals. There are currently 4 arbitrations where Hume is seeking to drill up to 3 to 5 times the intensity of holes that Hume has approval to drill at average hole separations of 150 to 200 metres or less.

In some cases Hume has changed the number of requested holes in the middle of the arbitration proceedings in conflict with their s142 notices. A

number of other landowners have received s142 notices from Hume proposing very high drilling intensities for which Hume has no approval. This is on highly improved properties with protection under Section 31 of the Mining Act.

Landholders have strongly objected to the intensity of holes but in some cases, arbitrators have continued on the basis that approval may be received. Two arbitrators have postponed arbitration due to the uncertainty regarding approvals and/or the complexity of the issues involved.

Absence of jurisdictional fact

We have been advised that before an arbitrator can determine an access arrangement allowing drilling, certain jurisdictional facts must be established. Those facts must include that the explorer has approval to allow drilling on the landowner's property. Where the evidence establishes that Hume has no authority to drill a further hole within the license area we submit that an arbitrator has no jurisdictional power to determine an access arrangement allowing access to drill.

If a prospector has no approval to undertake an activity, that prospector should not be able to seek to undertake that activity in its s142 notice to the landholder. The Department could stop this abuse being imposed on a landholder, by not allowing the appointment of a panel arbitrator to arbitrate access in relation to activities the prospector has no lawful authority to undertake.

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