



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY
COUNCIL OF TERRITORY CO-OPERATION
SUB-COMMITTEE – ANIMAL WELFARE GOVERNANCE

Public Hearing - Meeting No AWG10 – 31 August 2011

Members:

Ms Lynne Walker, MLA, Member for Nhulunbuy – CHAIR
Mr Gerry Wood, MLA, Member for Nelson
Ms Kezia Purick, MLA, Member for Goyder
Mr John Elferink, MLA, Member for Port Darwin

Witnesses

Dr Brian Heim

INTERVIEW COMMENCES 2:59pm

CHAIR: Alright, I'm going to start this session given that I've got to read through this lengthy statement, once I get on the phone. Do I just dial the number, Alison?

Mr WOOD: She's not here. Dial the number.

Mr ELFERINK: And dial 0 to get a line out.

Dr HEIM: Hello, it's Brian Heim.

CHAIR: Dr Heim, hello, it's Lynne Walker here, Chair of the Animal Welfare Governance Sub-Committee, how are you?

Dr HEIM: Good thanks, Lynne, how're you going?

CHAIR: Good, we're well. Apologies for phoning in later but thanks for accommodating us at this time. We had allocated an hour. Given we've another meeting after this we'll try and keep it to a half hour.

So just to let you know that obviously Members of the Committee are here with me: Member for Goyder, Kezia Purick, Member for Nelson, Gerry Wood, Member for Port Darwin, John Elferink. Member for Arafura, Marion Scrymgour, is unable to be here today. Secretariat obviously recording proceedings and there's a couple of members of the public sitting here with us.

Brian, I am obliged just to read to you a Chair's statement which basically explains to you how our Committee operates and how we work under privileges so if you'll just bear with me I'll just read through it.

Dr HEIM: Okay.

CHAIR: I am pleased to welcome Dr Brian Heim, former Manager, Primary Industries and Community Services Director VET, Katherine Rural College, CDU by tele-conference.

Although the Committee does not require witnesses to give evidence under oath, these hearings are formal proceedings of the Parliament and consequently they warrant the same respect as proceedings of the House itself. I remind witnesses that giving false or misleading evidence is a serious matter and may be regarded as contempt of Parliament.

Whilst this hearing is public, witnesses have the right to request to be heard in private session. If you wish to be heard in-camera please advise the Committee prior to commencing your answer.

Today's proceedings are being electronically recorded. When we hand over to you we'll just get you to state your full name and position before you commence giving your evidence. And as soon as practicable following this hearing we will get a copy of the transcript to you so that you have the opportunity to proof and correct your evidence.

I remind Members, witnesses and members of the public that there are legal protections which apply to witnesses appearing before this Sub-Committee.

Parliamentary privilege is derived from the Legislative Assembly Powers and Privileges Act, Legislative Assembly Standing Order No. 290 reads: “All witnesses examined before the Assembly or any Committee thereof are entitled to the protection of the Assembly in respect of anything that may be said by them in their evidence”.

Further, the Assembly adopted a resolution of continuing effect on 20th of August 1992; that resolution deals with guidelines for witnesses appearing before Committees and that can be found on the Northern Territory government’s Legislative Assembly website.

Paragraph 5 of the resolution reads where appropriate: “Reasonable opportunity shall be given to the witness to raise any matters of concern for the witness relating to the witness’ submission or the evidence the witness is to give before the witness appears at a meeting”.

And paragraph 20 reads: “Where the Committee has any reason to believe that any person has been improperly influenced in respect of evidence which may be given before the Committee or has been subjected to or threatened with any penalty or injury in respect of any evidence given, the Committee shall take all reasonable steps to ascertain the facts of the matter. Where the Committee considers that the facts disclosed that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the Committee, the Committee shall report the facts and its conclusions to the Assembly”.

So, Dr Heim, from there, we’ll move straight into it. If you wish you have the opportunity to go first, make a statement or we can go straight to Committee Members asking you questions. How would you like to start?

Dr HEIM: I don’t have a statement to make.

CHAIR: Alright, so you’re happy then for Members of the Committee to direct questions to you? Who’s going first?

Mr ELFERINK: All yours, Gerry.

Mr WOOD: Okay. Could I just ask up front, the obviously has just given us a secondary report and it mentions in there that: “I bring to the CTC’s attention – that’s our Committee – that under the Animal Welfare Act there are several offences. Section 8, provisions of food, drink and shelter. This is an offence that is committed by the person in charge, that could be a truck driver transporting animal or a house sitter when a family is on holidays. It is a specific offence on clear criteria. Ian Gray was, in my opinion, guilty of that offence”. How do you see that particular statement from the Ombudsman? Do you think Ian Gray was guilty of that offence, according to the Ombudsman?

Dr HEIM: I don’t ... there’s actually a fair bit of grey around that in terms of providing adequate feed and water. I believe that adequate is quite hard to determine when you’ve got a fairly poor wet season followed by an early start to the

dry season. I don't believe that Ian Gray intentionally deprived animals of food and water.

Mr WOOD: So the cattle that died, were you there on the Station when they died?

Dr HEIM: No, I actually worked out of Katherine and at the time I was the director of all vocational training at CDU and spent probably most of my time in Darwin. So no, I wasn't at the Station.

Mr WOOD: Were you an overseer of Mr Gray or did you have any responsibility over him?

Dr HEIM: Well, over the course of time I became responsible for Mr Gray. At the time that the original complaint was made in early September 2009 Mr Gray's supervisor was Ken Suter, because the livestock fell under CDU's facilities and asset services and Mr Suter was his direct supervisor. After the complaint came in, I then became Mr Gray's supervisor.

Mr WOOD: So you were there when the stock inspectors visited the Station?

Dr HEIM: I wasn't actually physically present when they visited, no.

Mr WOOD: So did you recommend that Dr Eccles did not come down on future visits, and did you ask the Department of Resources not to send him down?

Dr HEIM: I did.

Mr WOOD: Was that because you didn't agree with his findings or you didn't agree with his manner?

Dr HEIM: It was more to do with his manner, not his findings.

Mr WOOD: Did you find anything wrong with his findings?

Dr HEIM: I didn't necessarily agree with how he phrased it but I actually don't recall exactly what his findings were, I don't have that to refer to.

Mr WOOD: I can just give you a little bit of a summary of that report. John Elferink's just passed me a copy. The summary was that "the overall condition of the Station stock is very poor and the current management of which is an animal welfare issue". He goes on to say "inadequate amounts of supplementary lick blocks or loose supplement are being provided. There are additional animal welfare issues of failure to adequately dispose of downers. There appears to be a shortage of staff to provide for the care and feeding of the stock. These issues are animal welfare and not to be viewed as carry over from last year as has been stated. There has been a wet season between the problems of last year and the issues that have been seen in the last three reports", and it just goes on to say, "In the interest of the animal welfare of all the animals involved an immediate solution is required". So that was more or less the response to that inspection. Do you think that's a fair summary of the conditions of the cattle at that time?

Dr HEIM: I think there's parts of that that are fair. It's a generalisation about all of the cattle at Mataranka Station, I think that's unfair. There was a select group of

cattle that were in poor condition. I don't necessarily agree that supplement wasn't being provided to those animals, but there's no documentary evidence that I'm aware of to prove that it was. Yeah, and so I disagree with the generalisation of it, but I do agree that there was a group of animals that were in poor condition.

Mr WOOD: And just so I can get this not balance, your background is in veterinary science, is that correct?

Dr HEIM: That's correct.

Mr WOOD: And is that specific to any particular animals?

Dr HEIM: No, veterinary science is a generalist qualification. My experience has been primarily with large animals and cattle. But I'm not a specialist.

Mr WOOD: Okay. So do you think that if there had been sufficient staff, sufficient money, sufficient hay and sufficient supplements that many of the cattle that died would not have died, notwithstanding as we've heard today that there is some loss of cattle through natural mortality in a long dry season?

Dr HEIM: Well, I'll say first that I don't believe, or, I'm sorry, that I believe that the number of deaths have been overstated in terms of deaths related to poor nutrition, however, I guess I would say that I think that given the type of season that was happening and what occurred in terms of the sale falling through, I don't think that there was an inordinate amount of deaths. I certainly agree that there were a lot of very skinny cattle.

Mr WOOD: Right. Do you think if there'd been adequate feed, regardless, you know, of other circumstances but adequate feed and supplements you can maintain cattle weight through the dry ... The CTC visited Mataranka recently and we had a look at the weaners there and I'm not saying I'm an expert either but looked in reasonable condition, they weren't, you know, really skin and bone, they were pretty good. So is it possible with enough financial backing that you can provide enough hay and supplements to keep the stock at least at a stable weight and condition to get them through to a wet season?

Dr HEIM: Yeah, well, certainly the aim is to maintain cattle in a reasonable condition. It is an expectation that their condition will drop off as the dry season progresses, simply because the available forage and even with supplementation the available forage in the Northern Territory is of pretty low quality, and so the whole goal is to try and maintain their condition or to limit the amount of condition that they lose through supplementation. It is possible, you know, if you had enough people and you had enough money you could maintain them in very good condition but under commercial circumstances, that's not a viable goal.

Mr WOOD: So Doctor, you were working at Katherine Rural College at the same time?

Dr HEIM: Yep.

Mr WOOD: Did they have a herd of cattle there as well?

Dr HEIM: Yes, the stud herd is located in Katherine.

Mr WOOD: So the numbers of that herd were nothing like the numbers of cattle on Mataranka?

Dr HEIM: No, that's correct, I think at Katherine at the time, and this is an estimate, there were probably something like maybe 300 to 400 head and that's off the top of my head.

Mr WOOD: So there was no similar problem with Katherine simply because there was enough feed?

Dr HEIM: Well, the group of cattle that were under scrutiny, and I don't know if the CTC is aware of this. The group of cattle that were under scrutiny were a mob that were ... a verbal contract was made to sell them. The circumstances were then changed and Ian Gray took the decision not to sell them, was my understanding of it, and that was the mob of cattle that were in quite poor condition. The remainder of the livestock were in what you would expect at that time of year in that sort of condition.

Mr WOOD: So did you have any management role in the Station, because we've heard that of course there was management issues in relation to staff not particularly getting on well with other staff. Were you sort of an understanding about those problems?

Dr HEIM: Well, I was certainly aware that Ian wasn't getting on with other staff, but as I stated before, in terms of a management role, my management role didn't, in terms of the Station, didn't occur until mid to late September of 2009 after the complaints had started, which is when I then was asked to assist Ian to try and sort issues out. The answer is I was and I wasn't, or I did and I didn't have a management role. It depends on what timeframe you're talking about.

Mr WOOD: When you had a management role, how did you find Mr Gray as a manager?

Dr HEIM: Well, I believe that Ian has good knowledge about cattle but I would say that, and it was an identified weakness in terms of his interpersonal skills. We did work on that while I was there but I'm not sure what sort of management you're talking about, whether you're talking about how he managed people or how he managed the herd of cattle.

Mr WOOD: Well, I suppose both because there's been some discussion as to whether perhaps management was one of the reasons the cattle couldn't get fed, because he couldn't get enough staff to work there, or whether that was an issue simply because the University couldn't provide enough staff full stop.

Dr HEIM: I think it was actually ... I don't think there was a single factor. I think there was multiple ones. Ian did get a few staff that came in but he also found it difficult navigating the University's processes for hiring staff.

Mr WOOD: We understand that. I'm just wondering also in relation to the permits for people to teach at the Station, were you involved in making sure people had permits to teach there?

Dr HEIM: Well, I was involved in working with the Animal Ethics Committee and we, I guess, as a collective group, we did submit the information to the Animal

Ethics Committee that they requested, but in terms of a permit to use it as a site, I don't think that anybody was actually aware that we needed to do that.

Mr WOOD: Just a broader question because I think some of the others will have questions. What do you think of the Ombudsman's report? Do you think it was fair, do you think it was balanced or do you think ... or to the contrary?

Dr HEIM: Well, the report itself, if you want me to answer specifically about the report, the report itself brought forward some valid concerns and some valid recommendations. I think that there are also things that were included in the report that were unnecessary, that did not actually ... they were irrelevant and there's some things in there specifically in regard to me that I think were unfair. If you're also asking me about my opinion of how the investigation was conducted, I can answer that as well.

Mr WOOD: You can give us an answer to that as well, if you would, please.

Dr HEIM: Yeah. It's my belief that the Ombudsman didn't conduct a fair and impartial investigation. Certainly when I was interviewed by the Ombudsman's investigator, my impression was that ... in fact I would have told people after this that I felt she was just there ticking the boxes to say that yes, she had spoken to me. I didn't feel that she had a lot of concern with what I had to say or perhaps didn't understand what I was saying, and I felt that that also came out in the report in that I think some things that were taken out of context and were mischaracterised in the report.

Mr WOOD: I might just ask ... have you got any other questions?

Mr ELFERINK: Yeah ... oh sorry ...

CHAIR: Yep.

Mr ELFERINK: Look, we'll keep this short, Brian. John Elferink speaking, thank you for taking our call today. Look, I just want to cast your mind back to September 2009. There was a complaint investigated by the Department of Resources that actually goes back to 2008. Were you aware that there was a complaint responded to by the Department of Resources in 2008 which required attention at the cattle station?

Mr ELFERINK: Right. What was the essence of that complaint and what was done about it?

Dr HEIM: Gee, I would have to ... it was a similar type of complaint in terms of the condition of the animals at the Station and I, without referring back to some emails and some other notes, I probably can't give you the specifics of it. But it was along the same lines. Different circumstances but quite similar in regards to it was about the management of the Station.

Mr ELFERINK: Yeah, who was the manager at the time?

Dr HEIM: At the time that it was made, oh, I cannot think of the fella's name.

Mr ELFERINK: It wasn't Doug Jenkins, was it?

Dr HEIM: No, it wasn't Doug Jenkins, he actually came in after this individual. It was ...

Mr ELFERINK: Was it Alf? Calvin?

Dr HEIM: Yes, yes.

Mr ELFERINK: Alright, Calvin. So when did Doug Jenkins turn up on the scene?

Dr HEIM: I believe Calvin's contract ended, I think, in maybe the end of September or early October.

Mr ELFERINK: Yep, and then Doug Jenkins came on until Ian Gray took over?

Dr HEIM: That's correct, yeah. Doug came on originally, I think, he was going to be there for three months and then the recruitment process took longer and he ended up staying for probably almost six months, maybe a bit more.

Mr ELFERINK: Alright, so then there's another complaint in September 2009, this is when Eccles arrives. Did you have cause to visit the Station between the period of those two complaints?

Dr HEIM: Yes.

Mr ELFERINK: And when the 2009 complaint came in as well, I presume you would have visited the Station at that point?

Dr HEIM: I didn't visit the Station when the complaint was made, because again I was actually outside of the management process of the Station at that point. So probably the first time I visited the Station would have been in mid to late September following that complaint.

Mr ELFERINK: So, look, on the evidence that I've heard from you so far, would it be fair to say that Ian Gray was not given a clear outline of what his upline looked like?

Dr HEIM: Sorry, a clear outline of what?

Mr ELFERINK: His upline, I mean, look, you were the manager on occasion depending on what the circumstance were. From the Station Manager's perspective, he would have a chain of command that seems to be in a state of flux. Would that be a fair observation?

Dr HEIM: Certainly following the complaint I think that there was a fair amount of flux around who his management was and that was from a variety of circumstances. Prior to that his manager was Ken Suter.

Mr ELFERINK: But, I mean, it's left him in a pretty difficult situation, there he is swinging in the breeze and no direct upline, he's got problems in the sense that he may not be as well supported as he needs to be with Station staff. Who does he complain to?

Dr HEIM: At that point his point of contact would have been Ken Suter.

Mr ELFERINK: Ken Suter, alright, no worries.

Dr HEIM: Yes, but up until I moved into a role to try and assist him.

Mr ELFERINK: Did Ian ever express to you his concerns about the support that he needed on the Station?

Dr HEIM: Prior to the complaint?

Mr ELFERINK: Yes.

Dr HEIM: I don't recall him ... Well, I do remember shortly after he took the role I was actually out ... I was overseas when he started in May of 2009 and when I got back in June I did contact him and he expressed to me that by about day two or three he was quite concerned and thinking about packing it in and leaving but he decided not to. After that I did have contact with him again in June 2009 and in August 2009 when I ran some pregnancy testing training courses there. And yeah, he was concerned about where things were heading at that point.

Mr ELFERINK: Yeah, you can well imagine. Look, just in relation to the preg testing really quickly. What was the condition of the cows that were being tested?

Dr HEIM: At the time, in June, they would have been in sort of reasonable condition for that time of the year. The preg test course that we ran in August, there were some cattle that were in definitely poor body condition in the mob that was brought in that we were going to use. The ones that were in very poor body condition we drafted off and didn't use for pregnancy testing, but we did use some that were in probably in a body condition score of somewhere around one and a half.

Mr ELFERINK: Alright, because that would have drawn some criticism, you'd accept that?

Dr HEIM: I could see how some people, in fact we talked about it at the course, the question was why are we preg testing these, they're skinny and we know they'll be empty. And my response was, "Yes, that's correct but it's worthwhile preg testing empties as well as pregnant ones", and I didn't believe that it was a welfare issue to preg test those animals.

Mr ELFERINK: Alright, no worries. Look, I don't have any more questions on this ...

Mr WOOD: I've got a couple.

Mr ELFERINK: Many of the blanks have already been filled in on other evidence, I don't think there's any point going over it with Dr Heim.

Mr WOOD: I've just got just a couple more there, Dr Heim. Do you know what the condition of the cattle were like in May, considering that it was a, I think from memory, it was an early start to the dry season?

Dr HEIM: Yeah. I don't have any direct knowledge of what condition they were in then.

Mr WOOD: The other thing, just in relation to the Ombudsman's report again, were you given a right of reply and how long did you get to respond to that right of reply from the Ombudsman?

Dr HEIM: I was given a right of reply and I did respond to the Ombudsman. I don't remember the exact timeframe but it was probably, I'm guessing it was probably something like ten days or 15 days, I can't remember exactly.

Mr WOOD: Was anything changed subsequently from you providing your report?

Dr HEIM: Yeah, about the only thing that was changed in regards to what I had commented on was the Ombudsman actually included my comments.

Mr WOOD: Oh right, yep, yep. So that was it?

Dr HEIM: Yeah.

Mr WOOD: Alright, I may just ask one question. In relation to DoR, if you're a vet, how did you work in with the Department of Resources vets? Was there a role there like of working together?

Dr HEIM: Well, when it all started out, and that's why sort of, definitely got offside with John Eccles. Simply from the way that he was pursuing. My goal had always been and always had a good working relationship with the vets and the other staff at Department of Resources. John Eccles had a very different approach, in fact when we met in late September, you know, he was very plain to say I used to be with AQIS and we'd be prosecuting you right now, and I think the words were something about having a foot on your neck, if that was still the case. However, the relationship with Sue Fitzpatrick and with Scotty was a working relationship where we were trying to work through the problems.

Mr WOOD: Okay, thank you Doctor.

CHAIR: Any other questions? Brian, before we close off, are there any other comments or remarks that you'd like to make?

Dr HEIM: No, I appreciate you taking the time to talk with me. I guess I'm disappointed by how the Ombudsman investigation was conducted but I do think that some very valuable things came out of the investigation.

I'm also disappointed with some of the content of the report that I feel was irrelevant and actually potentially quite damaging to individuals where it wasn't necessary but I don't have anything further that I need to say, I'm just ... yeah, happy to answer any further questions that you have at a later date, and I ... on looking into this.

Mr WOOD: Dr Heim, could I just ask one other question? In relation to the University, do you think you got good support from the University in relation to running the Station?

Dr HEIM: I think that the University was doing everything to try and rectify the situation. I got support from Barney Glover, as did Ian, and that support continued

for me and indirectly for Ian up until the point where it became untenable for the Vice Chancellor to continue supporting Ian, and ... yeah, I think that answers your question.

Mr WOOD: Okay, thank you.

CHAIR: Alright, thanks very much, Dr Heim, and as I said at the outset, our Secretariat will send you a copy of the transcript for you to have a look at and to send back to us with any amendments before it goes onto our website.

Dr HEIM: Very good, thank you.

Mr WOOD: Thank you.

CHAIR: Thank you very much, bye-bye.

Mr ELFERINK: Thanks Brian.

Dr HEIM: Bye now.

CHAIR: Right.

Mr WOOD: Done.

INTERVIEW CONCLUDES 3:31pm