20th February 2020

To Chief Inspector Of Coal Mines Queensland

RE; Release of DNRME Investigation Report North Goonyella spontaneous combustion, fire and sealing of mine

Dear Peter,

As you will no doubt recall during our phone conversation in early December, I discussed the situation of the Mines Department still not releasing the announced Investigation Report into the North Goonyella fire and sealing of the Mine.

I pointed out to you that because of this, there is no possibility of legal action being taken against The Operator or any of the Individuals holding Statutory Qualifications and appointed to hold these positions, let alone other people with Supervisory positions at the mine.

This was because the time period had well and truly expired.

You disputed my assertion.

If what I set out below is incorrect, can you please indicate what time window to initiate legal proceedings exists and where it exists in the Coal Mining Act?

The Relevant Sections have been cut and pasted below from the Coal Mining Act displayed as the Current Version by the Queensland Government

<https://www.legislation.qld.gov.au/view/pdf/inforce/2019-11-10/act-1999-039>

*257 Limitation on time for starting proceedings*

*A proceeding for an offence against this Act must start within the latest of the following periods to end—*

*(a) 1 year after the commission of the offence;*

*(b) 6 months after the offence comes to the complainant’s knowledge but within 3 years after the commission of the offence;*

*(c) if the offence involves a breach of an obligation causing death and the death is investigated by a coroner under the Coroners Act 2003—2 years after the coroner makes a finding in relation to the death.*

In my reading it is quite clear that the time period for any legal action has expired.

I make the following observations into Section 257

Section a) has expired as it is nearly 18 months since the fire and sealing of North Goonyella

Section b) would require that the Mines Department were unaware of the offence until less than 6 months from today.

This would even rule out any action and investigation prompted by the release of the internal Peabody Report as this occurred on the 27th of March 2019 some 11 months ago.

I further note that in most if not all public announcements Peabody stated words exemplified in the Peabody report on the 27 of March 2019.

*Throughout the incident Peabody's incident management team worked alongside the QMI and industry experts to ensure it utilized the best people and resources. Peabody continues to cooperate fully with the QMI as it undertakes its own independent investigation into the incident.*

Section c) does not apply since unlike Moura No 2 no one was killed.

My final comment would be that 257 b) would necessitate the DNRME only deciding offences occurred less than 6 months ago from today even though the Investigation had already been running for some 12 months before that without identifying any offences.

This would have to have been the case even after considering the findings of the Peabody Report.

I further note this following Section.

My reading of section 258 indicates that the lack of legal action by the Mines Department has even made any action to review the appropriateness of these individuals has likewise expired some 6 months ago

*258 Court may order suspension or cancellation of certificate or notice*

*(1) This section applies if a person convicted of an offence against this Act is the holder of a certificate of competency or site senior executive notice.*

*(2) An industrial magistrate, on application by the complainant during the proceedings for the offence, may suspend or cancel the certificate of competency or site senior executive notice of*

*the person convicted.*

*(3) A person dissatisfied with the industrial magistrate’s decision to suspend or cancel the person’s certificate of competency or site senior executive notice who wants to appeal against the decision, must appeal to the Industrial Court.*

*(4) The industrial magistrate must give notice of the decision to suspend or cancel the person’s certificate of competency or site senior executive notice to—*

*(a) the following persons, to the extent the persons are known to the industrial magistrate—*

*(i) for a decision relating to a certificate of competency—the site senior executive for each coal mine at which the person works;*

*(ii) for a decision relating to a site senior executive notice—the coal mine operator for each coal mine*

*at which the person works; and*

*(b) the board of examiners.*

Peabody itself released its findings on the 27th of March 2019, 11 months ago.

<https://www.peabodyenergy.com/Media-Center/Newsroom>

It would be a matter that should be well within the roles, responsibilities and resources of the Mines Department to align the findings of just the Peabody Report to the relevant appointed Statutory position holders given their Responsibilities under the Act, Regulations and the then North Goonyella Safety and Health Management System.

Also, the Peabody admissions should be aligned with the findings of the Mines Department Investigation at least.

While before your current tenure as the Chief Inspector of Coal Mines, the lack of action by the DNRME has now resulted in the now very real situation that the vast majority of former employees including senior Statutory Tickets Holders have now either been retrenched/resigned to further their careers elsewhere in the Queensland Underground Coal Industry.

The almost complete absence of any information from the DNRME has allowed the reason for the lack of a Public Investigation Report as let a number of questions as to why.

These include

1. All Management requested for formal interview or provide a written statement have stated that they will only do so under Compulsion and with legal Representatives.
2. Mines Inspector with oversight over North Goonyella at the time of the spontaneous combustion, fire and sealing unfortunately left the Mines Department soon after to take up a Senior Statutory at another Mine. The ex-Inspector has also declined to answer any questions unless compelled to do.

North Goonyella is by far the most significant spontaneous combustion event since Moura No 2.

All the current requirements about spontaneous combustion and ventilation and withdrawal of workers, flow directly from Recommendations from the Moura No 2 Mining Warden Inquiry.

The Competencies to obtain Statutory Certificates were totally changed and new ones such as Ventilation Officers created to specifically address the issues with Spontaneous Combustion.

Unless my reading of the time frames for legal proceedings is somehow incorrect; there is no impediment to the DNRME releasing its report.

It is inconceivable that the so far secret Investigation Report of The DNRME into North Goonyella fire and sealing has not been released.

It is a direct insult to

* Eleven workers forever entombed in Moura No 4, their families, friends, work mates and the Moura Community
* North Goonyella Workers subject to the circumstances of the North Goonyella Mine fire, and the resulting closure of the Mine who have lost their employment
* All underground coal mine workers in the State

My final direct question is when will the DNRME Investigation Report be released?

Yours in Safety

Stuart Vaccaneo