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18<sup>th</sup> August 2009

Dr Edward Tyne  
Director Mineral Resources  
Primary Industries and Resources SA  
GPO Box 1671  
ADELAIDE SA 5001

Dear Dr Tyne

On behalf of the South Australian Farmers Federation (SAFF), I am providing some comments on the proposed amendments to the *Mining Act* (see attached).

In addition, SAFF has some general comments on the *Mining Act* which need to be addressed, though not necessarily with the amendments.

As you are aware I have made comments that the *Mining Act* needs to be completely rewritten. Currently the *Mining Act* provides a legal framework to enable private companies to explore for, discover and develop the State's mineral assets with minerals being the property of the Crown. From SAFF's point of view the Act needs to be re-written to protect agricultural production. The Act was written in 1971. The world of 2009 is a very different place. The issues of today and tomorrow including climate change, CPRS, soil sequestration, and protection of prime agricultural land must become points of discussion in addressing a rewrite of the whole Act. Mining exploration leases should not have the capacity to fundamentally erode the ability of prime agricultural land to address food security.

The current exemptions are very limited and certainly do not stop miners' rights and mining operations. Under the *Mining Act*, mining activities can not be carried out in some areas including in a yard or garden, on cultivated land and in winegrape growing areas. This does not address land used for livestock grazing or intensive livestock.

Previously a Code of Conduct for landowners and mineral and energy explorers in South Australia was agreed to by SACOME and SAFF. This is a useful framework for access to rural land, but only in relation to the current Act.

Unfortunately there are more and more instances where both the Act and the Code of Conduct are failing. Common complaints from landowners include:

- worse thing is the exploration as contractors get paid by the number of holes they drill. While the holes are usually filled in afterwards it is hard for the landowner to keep checking;

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- after the initial 21 days notice there is no need for further notice and there is no stopping them; and
- at the moment can not stop access even though this may interfere with current farming activities.

Obviously the current Act could be improved by making it compulsory to hold a conference to discuss right of entry, and farming aspects important to the farmer such as location of livestock, access to feed and water, cropping areas, and access where there are crops. These compulsory conferences need to be minuted and signed by both parties.

The current system with regards to compensation for property owners is not adequate. And there is inequity in the ability to negotiate in that it often involves an individual property owner versus a national or multi-national company backed up by expensive legal representation.

The Wardens Court appears to be inadequate in being able to properly access the levels of compensation. Primary producers who are very productive are not adequately compensated as compensation appears to be awarded on averages of crop and livestock production. It also does not take into consideration the future productive capacity given advances in research and development and issues such as climate change and the need to protect highly productive areas from a food production sense. Current value of land should also be compensated for. It would be more appropriate for the Environmental Development Court to deal with farmers.

There are also concerns about how water resources for mining are dealt with. There is a need to ensure that existing users' rights are not impacted on for either water quantity or quality. Water allocations for mining should be consistent with any current water allocation plans for an area. However, if existing water users' rights are impacted on, then compensation should be payable.

Land and water resources are equally, if not more, important to the State's long term economic security than mineral resources. As the Government tries to balance these competing resources, it is essential that no corners are cut in approving mining operations. Prior to issuing exploration licenses, the Government should be undertaking and completing comprehensive assessments of the land and water systems involved, the potential risks to these resources and the costs and benefits of allowing mining in the region. It would be the worst kind of short-term thinking to allow mining operations to permanently damage precious groundwater systems or to reduce the productive capacity of South Australia's best agricultural lands.

To further complicate the issues, the State Government has released a draft 30-year Plan for Greater Adelaide. This proposes to protect 375,000 hectares of significant primary production within the Greater Adelaide region. This Plan appears to create inconsistencies with both the *Mining Act* and other areas of the State where agricultural land will not be given the same level of protection.

A total mining and exploration exclusion zone around the prime agricultural land highlighted within the State Governments 30 Year Plan for Greater Adelaide would ensure that this land was preserved for agriculture.

The State Government (particularly though PIRSA) is providing significant support (both financially and morally) to assist agriculture and farmers during the current drought conditions. Unfortunately in what is an almost a counteraction to this drought assistance, an increasing number of farmers are now finding themselves vulnerable to the prospects of their properties being explored for mining, and then even mined. This is increasing the stress and anxiety that farmers are already facing.

The SAFF believes it is imperative that genuine discussions be initiated between the agricultural sector, the mining sector, government and the community to establish the future direction for mining and agriculture so that the two primary sectors can work comfortably alongside each other rather than in opposition and competition to one another.

As the Act currently stands farmers right to farm is seriously eroded.

The triple bottom line principles must be applied to every mining / exploration situation.

I urge you to encourage government through Minister Holloway to support a genuine discussion / consultation as outlined.

I look forward to being able to hold discussions with all levels of State Government on how best to move this issue forward so that both agriculture and mining are not disadvantaged.

Yours sincerely



**Carol Vincent**  
**CHIEF EXECUTIVE**

Attach (1)

**PROPOSED AMENDMENTS TO THE *MINING ACT 1971***  
Mining (Miscellaneous) Amendment Bill 2009  
Background Papers

### **3.1 DEFINITION OF ENVIRONMENT**

The South Australian Farmers Federation is supportive of a regulatory approach that balances assessment of economic, social and physical environmental impacts. Whilst the Federation supports a broader definition of the word 'environment', there must be some consistency with terminology used by other Government departments, such as Department for Environment and Heritage and Department of Water, Land and Biodiversity Conservation. Terminology differences may lead to confusion by industry and landholders. A better word to use might be 'assets', i.e. there are natural assets (soil, water, air and living organisms) and man made assets (buildings, structures and other forms of infrastructure and cultural artefacts). The productive capacity of the land would fit under natural assets.

#### **3.11 MINING REGULATIONS 1998**

##### **ITEM 15 – Issue: Environment Protection and Rehabilitation Programs (EPRPs) (Part 10A of the Bill)**

The provisions are difficult to follow, however any Environment Protection and Rehabilitation Program should be required to be provided to the landholder as well as being made accessible to the public. If the landholder is able to use the land once the mining project is complete, the mining company must be held liable to rehabilitate the land to as near as to the original condition of the land as possible. The mining company must monitor and assess the environmental condition of the site until it is returned to the pre-mining state.

### **3.2 SPECIAL DECLARED AREAS**

Can Section 9A be used to exempt land from mining for agricultural purposes? The concerns from the mining industry would appear to imply this, and if so this would be welcomed by the Federation. With the imposing population increases in the State and respective spread of development into the outer regions of metropolitan Adelaide and some regional towns, it is vital that good quality land and soils are retained for agricultural purposes.

### **3.7 RIGHTS CONFERRED BY LEASE**

The Federation supports the Amendment that the Minister must consult the landholder before the Minister grants an authorisation of the land to be mined. It is vital for the landholder to be aware from the start of the planning process that they may be approached by a mining company to use their land. This gives the landholder extra time to decide on how to manage this impending change on their property.