

**Inquiry into the Re-Emergence of Coal Workers' Pneumoconiosis Amongst Coal
Mine Workers in Queensland
Submission 16th November 2016
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Key Points

- ***Black lung in whatever form is totally preventable.***

Dr Brian Plush, Senate Select Committee on Health, 5th Interim Report Black Lung: "It has buggered my life" April 2016.

- ***The number 1 thing is to mitigate and control the dust before the disease even starts.***

Professor Robert Cohen, Senate Select Committee on Health, 5th Interim Report Black Lung: "It has buggered my life" April 2016.

- ***I said to my wife that if I had found out then that I was going to be like this I would have got out of the mine straight away. It has buggered my life.***

Mr Percy Verrall, former coal miner, diagnosed with Coal Workers' Pneumoconiosis in 2015, Senate Select Committee on Health, 5th Interim Report Black Lung: "It has buggered my life" April 2016.

Executive Summary

There are now 16 cases of confirmed CWP (pneumoconiosis) in Queensland. One of these is an open cut worker that has been employed entirely on the surface of the mine. One is an electrician that has never worked on a production face. The USA has in excess of 1000 new cases of CWP every year and they mine coal with the same equipment as we do, produce the same amount of coal as we do and the Australian Coal Industry Regulatory bodies argue that they have CWP under control.

I challenge this assessment. The CWP cases being identified now are a small indicator of what is to come. This will be an epidemic. The Australian coal mining industry as a whole, will see many more cases of this totally preventable disease in the very near future. Significant change to the regulatory regime and the existing legislation are required immediately to prevent new entrants into the mining industry from possibly contracting this insidious disease. I have been a vocal advocate that black lung has not re-emerged. It has always been here but has been misdiagnosed as emphysema or some other lung complaint.

The current exposure levels have not been scientifically proven to be SAFE for workers. They have no scientific basis. Comprehensive research is required to quantify IF a SAFE level of

exposure to particulate matter exists. Only then can the regulatory regime implement exposure levels that will minimise risk as low as reasonably practicable for CWP.

The 5th Interim Report for the Senate Enquiry into the re-emergence of black lung has made recommendations based on an extensive review of current mining practices for the prevention of CWP. However, this report has seemingly been buried, as none of the recommendations have been implemented, in fact, the report has not been responded to by the Senate themselves.

The delay in implementation of these recommendations is exposing thousands of new industry workers to this disease. Existing employees have already been exposed to the CWP causing particulate matter. Continued exposure to these UNSAFE levels will see rapid onset of CWP occurring as is being witnessed in the US.

The Queensland mining regulators have an obligation and a duty to ensure the safety of all coal mine workers by establishing working environments that are as safe as reasonably practicable. The existing regime fails to do this.

Doug Cameron, in a Senate debate on the 3rd May 2016 relating to the 5th Interim Report said the report found:

- That state and stakeholder submissions revealed a litany of regulator failure and regulatory capture;
- there was industry indifference and incompetence, there was inconsistent risk mitigation;
- there was patchy and sometimes compromised health monitoring throughout Australia and;
- the regulator's evidence to the committee was terrible.

Further, Senator Cameron said that “workers are dying because of poor regulation. Workers are dying from a preventable disease. If the regulator did its work, workers would not be dying in Queensland and elsewhere in this country”.

The report makes 8 recommendations for consideration by the Senate. Of these 8 important recommendations, the most urgent of these needs to be implemented immediately. These are:

Recommendation 1

4.12 The committee recommends that the Commonwealth Government establish a National Coal Dust Monitoring Group comprised of representatives from mining companies, state governments, technical experts and industry stakeholders such as mining unions, and that it urgently undertake an analysis as to the cause of the serious and widespread breaches of dust mitigation measures in the industry. Following the analysis, the National Coal Dust Monitoring Group should develop and implement a work program for effective coal dust mitigation measures aimed at the immediate reduction of coal mine workers' exposure to harmful levels of coal dust.

4.17 The committee recommends that mining companies operating in Queensland, in consultation with the Queensland Government, technical experts and industry stakeholders, urgently employ more effective coal dust mitigation measures to immediately reduce coal mine workers' current exposure to coal dust.

The remaining recommendations will be implemented in due course once the above have been undertaken.

I further suggest the following recommendations:

- Broadening of the 5th Interim Reports coal industry focus area to Include ALL Particulate Matter Producing Industries, eg, Coal Fired Power Stations, Open Cut Mines, Diesel Particulate, Grain Particulate, Pollution, Transport Corridors, Tunnels etc;
- Implementation of a test facility for products and technologies to mitigate particulate matter and;
- Research Funding to Find a Safe Level of Particulate Matter Inhalation.
- Establishment of an occupational lung disease organisation whereby ANY worker who has been exposed to ANY type of particulate matter during his or her working life can register and if they do contract CWP or any other occupational disease, they will be looked after financially.

Senator Cameron and the Senate Select Committee need to be applauded for the report. I am sure Senator Cameron's background has a lot to do with the passion he has expressed as only a person who has worked on the floor or on the face of a mine or an industry where death is ever present can completely understand what the Australian coal mining industry is going through due to black lung.

Continued delay in implementing strategies to remove this insidious disease will only further frustrate and exacerbate the continually growing fear that each worker may contract and die from this totally preventable disease.

It's in Their Eyes

As the son of a miner and the grandson of a miner, born in Broken Hill, I was aware of the dangers of mining from a very early age. My first memories of the dangers of mining were the awareness of the sadness of children at school whose fathers had been killed in a mining accident. Although I was unaware of the circumstances, and in many instances I did not know the father, I was acutely aware of the sadness of the children whose father had been killed, and also the unspoken thankfulness of other children, including me, that it was not my Dad that wasn't coming home.

As I grew older, although accidents resulting in death were minimal, when a death occurred underground, it resonated through the town. The death had a significant effect on the entire community. Those directly involved in the tragic loss of a husband, Dad, Uncle, brother or simply a friend were the most affected. However, tragic accidents resulting in death brought back buried feelings from those in the community that had lost someone they loved in a tragic accident themselves, and effected those that had not lost anyone in a tragic accident as they thanked whatever power they believed in that it was not their husband, Dad, uncle, brother or friend that wasn't coming home.

I used to worry that my dad would not come home. Every morning that he went to work, I would make sure that I kissed and hugged him right up until my early teens when I hated myself for still not doing it. I wanted him to know that I loved him dearly and wanted him to be safe.

I wanted my dad to come home.

I was one of the lucky ones. My dad did come home every afternoon.

When I was 16, a friend's Dad was tragically killed in a mining accident. This was as close as I ever wanted to be to the absolute devastation, sadness and sense of loss that my friend and his family experienced. Something in my friend died that day along with his dad and he was never the same person again.

I was aware of the look in his and his family's eyes of the tragedy. It never left them in all the years I knew them. I was also aware of the look of relief in my eyes and the eyes of all my other friends whose dads came home. We were all sad for our friend and his family, but silently happy that our dads came home.

As an underground miner myself in my late teens to mid-twenties, I gained a deeper perspective of the daily fears of a miner working on the face. Death was ever present and the development of almost intuitive skills increased the chances of going home every day. I have been underground when men have been killed. I have experienced the sinking fear in the stomach knowing that a workmate was dead, mixed with a strange feeling of relief that it wasn't me, and that I would be going home to my family tonight.

I have witnessed going up in the cage after a tragic accident knowing that someone was not coming with us and that someone else would have to take their crib tin and coat back to the surface.

I have witnessed the same look in other men's eyes that silently shows the struggle with the fear of going back underground after a tragic accident, repression of that fear and hope that they will go home to their families tonight.

I am now witnessing this same look of fear and the unknown in men travelling underground on mine sites when I am performing dust analysis. The difference in this look is that it relates to an unknown tragedy that may or may not befall them. This unknown tragedy is black lung.

The chance of having accidents that result in death are slim in the current safety conscious mining environments, however, every person is now concerned they have black lung because of the confirmation of the disease in 15 of their co-workers in Queensland.

It is my opinion that the disease has never left. It has simply been overlooked or misdiagnosed as emphysema or some other occupational lung disease created by some other inhaled particulate matter in some other place.

Recommendations

In April 2010, the Upper Big Branch mine in the USA exploded killing 29 men. Of the 29 men killed, 24 autopsies were performed. Of these 24 autopsies, 17 had advanced black lung. This is 71% of the men, with ages ranging from 25 to 61 (J Davitt McAteer, 2011).

This sent shivers through the US mining industry that stands by a CWP prevalence rate of 3.2% for the US and a rate of 7.6% for West Virginia. Is this representative of the industry as a whole? Do 70% of all underground coal miners have black lung? How was this amount of black lung missed? Are the current exposure levels for respirable dust safe?

These are questions that should have been answered in 2010 and weren't and, more importantly, they, and other important questions, need to be answered urgently in the Australian Coal Mining Industry!

The 5th Interim report into Black Lung has made recommendations that need to be implemented urgently. There is nothing that can be done for those existing workers that have been diagnosed with black lung, nor those that are working in the mines that may or may not have black lung.

However, new entrants to the mining industry need to be protected and feel safe in the knowledge that everything possible is being done to provide them with a safe environment for them to commence their working life in and not subject them to an insidious, totally preventable disease that may kill them if contracted.

The 5th Interim Report found that “the evidence provided to the Committee from medical professionals, academics and the mining industry that CWP is a totally preventable disease begs the question, how is it that this totally preventable disease has reemerged in Australia now? What has been happening for the period that CWP has been latent in the affected miners? The evidence provided in answers to the Committee’s questions and in stakeholder submissions reveals a litany of regulator failure and regulatory capture, industry indifference and incompetence, inconsistent risk mitigation and patchy and sometimes compromised health monitoring throughout Australia. The sum of all these failing parts has left Australian coal workers vulnerable to CWP and therefore vulnerable to early death. Failure to address these failures will inevitably lead to more cases of CWP in this country.” (Executive summary, Senate Select Committee on Health, 2016)

Doug Cameron, in a Senate debate on the 3rd May 2016 relating to the 5th Interim Report, stated: “The answers provided to the questions by the committee showed that state and stakeholder submissions revealed a litany of regulator failure and regulatory capture, industry indifference and incompetence, inconsistent risk mitigation and patchy and sometimes compromised health monitoring throughout Australia.

I thought the regulator's evidence to the committee was terrible. I thought the regulator had basically been captured by the industry. The regulator really needs to lift its game. The Queensland government have started doing good work on this but they need to target this regulator to make sure the regulator does the right thing by coalmine workers in that industry. Workers are dying because of regulatory capture. Workers are dying because of poor regulation. Workers are dying from a preventable disease. If the regulator did its work, workers would not be dying in Queensland and elsewhere in this country.

This disease is totally preventable. This disease should not be in this country now. There are ways it can be resolved and the first point to start is the regulator in Queensland, who has failed mine workers in this country. The regulator needs to be completely revamped to ensure that workers can achieve a long life and a healthy life after working in the mining industry. I seek leave to continue my remarks later.” (Doug Cameron, Senate debates, Tuesday, 3 May 2016).

Continued delay ensures more workers will get CWP as they are in the same environment that has created the disease, with little to no changes made to lower the risk.

The re-emergence of black lung will have a far greater impact than simply on those that contract the disease. Black lung will affect all people in and around mining areas and families and friends not involved directly in mining, as they are all part of the wider mining community. The effects of this totally preventable disease will have far greater emotional and financial impacts for current and future generations than currently understood if significant changes are not immediately implemented.

The 5th Interim Report recommendations need to be implemented immediately, with particular importance placed on the establishment of the following recommendations:

4.12 The committee recommends that the Commonwealth Government establish a National Coal Dust Monitoring Group comprised of representatives from mining companies, state governments, technical experts and industry stakeholders such as mining unions, and that it urgently undertake an analysis as to the cause of the serious and widespread breaches of dust mitigation measures in the industry. Following the analysis, the National Coal Dust Monitoring Group should develop and implement a work program for effective coal dust mitigation measures aimed at the immediate reduction of coal mine workers' exposure to harmful levels of coal dust and;

4.17 The committee recommends that mining companies operating in Queensland, in consultation with the Queensland Government, technical experts and industry stakeholders, urgently employ more effective coal dust mitigation measures to immediately reduce coal mine workers' current exposure to coal dust.

The remaining recommendations will be implemented in a timely fashion after the implementation of the abovementioned recommendations. These recommendations are:

Recommendation 1

4.13 The committee recommends that Safe Work Australia reviews current coal dust exposure levels and the current Australian and international academic and industry literature on the safest possible workable threshold for exposure to coal dust, with a view to developing a best practice national maximum exposure level. Safe Work Australia should report its findings to the National Coal Dust Monitoring Group, including whether the exposure level should be measured as a dust load of milligrams per tonne of coal cut, as distinct from time weighted averages for exposure.

4.14 The committee recommends that all Australian States and Territories adopt the national standard for coal dust exposure. The standard would then be subject to regular review by the National Coal Dust Monitoring Group, with the review being based on dust reading and disease data provided by the mine regulators in Australian jurisdictions.

4.15 The committee also recommends that in the short-term, coal mining companies adopt the lowest Australian level (2.5 mg/m³) for coal dust exposure until a national standard has been agreed upon and implemented with a more rigorous, independent testing regime instigated as soon as practical in Queensland.

4.16 The committee recommends that until the national standard has been developed and adopted, state governments advise mining companies that coal workers should be withdrawn from areas subject to unsafe dust levels without penalty. In addition, the Queensland government and the Department of Natural Resources and Mines should instigate a process of formal warnings followed by naming in a public register for non-compliant companies, along with additional sanctions for non-compliance.

Coal dust monitoring in Queensland

Recommendation 2

4.31 In light of emerging problems identified in the mining industry the committee is concerned that safety standards in all jurisdictions may not be providing a safe working environment for mine workers. The committee therefore recommends that the state governments identify best practice dust monitoring devices or similar best practice technology to be used in all Australian coal mines. The Queensland government should review the protections provided under the Coal Services New South Wales model and identify which aspects should be applied to any new legislative regime in Queensland.

4.32 The committee also recommends that the state governments require that dust monitoring be undertaken in a consistent and methodical way, which monitors dust levels in all relevant parts of the mine during both maintenance and production times.

4.33 The committee also recommends that state governments increase public transparency and accountability around dust monitoring. Dust monitoring data should be made publicly available as a means of increasing accountability and restoring coal mine workers' confidence in the regulatory system.

Database of coal dust suppression techniques

Recommendation 3

4.34 The committee recommends that the proposed National Coal Dust Monitoring Group in consultation with mining companies, state governments, technical experts and industry stakeholders, and with the support of Safe Work Australia, create and manage a database of best practice dust suppression techniques and management of dust sampling data. This would enable coal mining companies to continuously improve their safe work practices and provide increased protection for coal miners.

4.35 The committee recommends that the establishment of the database, and its day to day running costs, be funded by the state government and the coal mining industry.

4.36 The committee recommends legislation requiring mining companies' input on, and compliance with the database must be instigated at both federal and state government levels.

4.37 The committee recommends that the National Coal Dust Monitoring Group, and state based bodies, also facilitate cross-jurisdiction information sharing about coal dust mitigation measures.

Best practice dust control forum

Recommendation 4

4.40 The committee recommends that, in addition to the National Coal Dust Monitoring Group, the Queensland Government, in consultation with mining companies, technical experts, unions, and industry stakeholders, form a standing dust committee or similar forum, in the near to medium term, to achieve best practice dust control in Queensland coal mines and to address the concerns raised about the current mitigation and monitoring issues.

Fund for former coal mine workers

Recommendation 5

4.54 The committee recommends that the mining industry, through its representative bodies, must create an industry-wide fund to provide compensation for coal mine workers who contract CWP. The fund's aims should include identification of, and communications with former mine workers who may require CWP screening and compensation for travel, medical, and other costs associated with undergoing CWP screening and diagnosis. Workers' access to compensation from this fund should not be time-limited in any way.

4.55 The committee also recommends that state governments provide a means for former and current miners to seek assistance which is independent of their employers and Nominated Medical Advisors such as a hotline or helpdesk, to be funded by the industry and independently administered by an organisation such as the Lung Foundation Australia.

Queensland Government's review of regulations

Recommendation 6

4.68 The committee recommends that the Queensland Government gives the highest priority to its review of coal dust regulations as part of its fivepoint action plan. To achieve this the committee recommends that the Queensland Government take note of the concerns expressed by the committee in relation to the mine Directives, particularly the enforcement of these Directives and the need for the information contained within the Directives and rates of compliance to be able to be audited and reported on. Directives issued by government departments should use standardised language and have a rigorous process for auditing, compliance, and data collection.

Regulatory capture

Recommendation 7

4.72 The committee recommends that the Queensland Government direct relevant officials to undertake independent, high level, training on avoiding regulatory capture.

4.73 The committee recommends that in developing this training the Queensland Government have regard to the Better Practice Guides developed by the Australian National Audit Office in relation to regulatory capture.

Nominated Medical Advisors

Recommendation 8

4.78 The committee recommends that in the short term the Queensland Government mitigate the risk of regulatory capture of the Nominated Medical Advisors by making the role an independent statutory position, selected through a rigorous process conducted by Queensland Health in consultation with the Department of Natural Resources and Mines and specialist's groups such as the Thoracic Society and the Lung Foundation.

I also recommend the following inclusions:

1. Broadening of the 5th Interim Reports coal industry focus area to Include ALL Particulate Matter Producing Industries, eg, Coal Fired Power Stations, Open Cut Mines, Diesel Particulate, Grain Particulate, Pollution, Transport Corridors, Tunnels, communities and towns around open cut mining activities, etc;
2. Creation and funding for an efficiency testing facility for products and technologies to mitigate particulate matter and certify the level of particulate matter that is reduced by the products tested and;
3. Research funding to find a safe level of particulate matter inhalation before the onset of interstitial fibrosis.
4. Establishment of a National register that is Federally funded for all workers who may be exposed to respirable sized particles during their working life, to ensure they are financially looked after should they contract lung disease during their working life, after they have left an industry or retired.

Black lung will not go away.

References

Doug Cameron, Senate debates, Tuesday, 3 May 2016

J. Davitt McAteer and Associates, "Upper Big Branch—The April 5, 2010, Explosion: A Failure of Basic Coal Mine Safety Practices," Report to the Governor, the Governor's Independent Investigation Panel, May 2011 (<http://online.ewsj.com/public/resources/documents/wvamine0519.pdf>).

Senate Select Committee on Health, 5th Interim Report Black Lung: "It has buggered my life" April 2016.