CORRECTED TRANSCRIPT

RURAL AND REGIONAL SERVICES AND DEVELOPMENT COMMITTEE

Inquiry into cause of fatality and injury on Victorian farms

Melbourne–21 January 2004

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Witness

Mr N. J. Murray, Director of Operations, Victorian Association of Forest Industries (affirmed).
The CHAIR — Welcome to the committee’s inquiry. Under the powers conferred by the Constitution Act and Parliamentary Committees Act this committee is empowered to take all evidence at these hearings on oath or affirmation.

I advise all present at these hearings that all evidence taken by this committee, including submissions, is, under the provisions of the Constitution Act, granted immunity from judicial review. I also wish to advise that any comments made by yourself as a witness outside the committee’s hearing are not protected by parliamentary privilege.

The committee is an all-party parliamentary committee, and is hearing evidence today on the inquiry into causes of fatality and injury on Victorian farms, which also extends into primary industries — fisheries and the timber industry. Welcome and thank you for giving us your time today and for your written submission.

Could you please begin by giving the committee your full name and address?

Mr MURRAY — My name is Nicholas John Murray, and I live at 165 Knees Rd, Park Orchards, Victoria.

The CHAIR — Are you attending today in a private capacity or representing your organisation?

Mr MURRAY — I am representing the Victorian Association of Forest Industries. I am the director of operations, with responsibility for occupational health and safety issues.

The CHAIR — Thank you very much. Your evidence will be taken down and become public evidence in due course. Could you now make a statement or comments for about 10 minutes, then the committee will ask you questions?

Mr MURRAY — Sure. Rather than reiterate material that is in the paper I have tabled, my view would be that that provides a reasonably comprehensive summary. I would just like to add a few key points.

In the first instance our association is principally representative of sawmillers involved in the Victorian native timber industry. We do not have involvement in the softwood industry. Our principle activity is the conversion of logs into sawn timber, and the conversion of residual wood into woodchips for export.

The paper I have put to you specifically relates to the harvesting sector of the industry and the forest growing and management sector but does not relate to the sawmilling and processing sector. My interpretation of the terms of reference was that the harvesting and forest growing and management sectors were those sectors that fell into the primary industry category.

Our view is that sawmilling and processing have fallen under the manufacturing industry. So all the documentation I have provided to you pertains to those two sectors, but we are happy to provide information in respect of other sectors if that is desired.

Our involvement in the harvesting sector and the forestry and growing management sector is limited to our members in most instances being party to harvesting syndicates or harvesting companies, and through those companies or syndicates they engage contractors to perform the actual harvest and transport functions.

There are some sawmillers directly involved in managing harvesting contracts, and that has possibly increased a little as a consequence of recent allocation of tenders for salvage of fire-damaged resources, which brings with it a particular set of issues that hopefully we can cover.

The industry has been significantly criticised for having a high instance of workplace fatalities and injuries. Whilst all workplace fatalities and injuries are unacceptable — and we are doing everything we can to avoid them — from our perspective we have been maligned or misrepresented in some of those statistics, and certainly the document I have provided to you, on pages 3 and 4, in respect of deaths, does highlight some issues there.

For example, the submission by the Victorian State Coroners Office to this inquiry cites that there were four deaths in the harvesting sectors of the industry in the period 1999 to 2000. Of those four deaths, one was a 64-year-old farmer removing a tree on his property, and as far as we are concerned he was working in agriculture.

Another was a 72–year-old seed collector struck by a falling limb, and as far as we are concerned that is not a harvesting sector issue; it is someone working in services to the forestry sector.
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One was a 52-year-old labourer assisting in cleaning up a softwood harvesting site, and again that has nothing to do with the hardwood sector of the industry; and the final one was a six-year-old child riding in the back of a utility with nine other people, who was struck by a falling limb, and again I would hope that that was not part of the workforce in our industry — I am certain it was not.

The point I am trying to make is that there needs to be a better definition and more in-depth research and assignment or classification of deaths in the industry so that we can clearly focus on cause and effect, and then have interventions which focus specifically on causes.

Again, I am not trying to state that things are squeaky clean — there was an injury as recent as 19 December, where someone was struck by a falling limb, so we are conscious of the inherent dangers and are doing a substantial amount to reduce those.

In respect of deaths and injuries, I refer you to the bottom of page 5, the second dot point, where it states that in terms of the total volume of wood products sourced from native forests, between 1997 and 2002 there was a 20 per cent increase.

In the corresponding period there were four reported work-related deaths — three in logging and one in forestry and services to forestry, according to the Victorian Workcover Authority. In the preceding four years of 1993 to 1997 there were nine reported work-related deaths for the combined sectors.

I am suggesting to you that per thousand cubic metres of wood harvested, the death rate has substantially declined in that five years from 1997 to 2002. We have gone from nine deaths down to four, but we have also increased the volume by 20 per cent. So to my mind, if you use that particular measure, there has been a substantial improvement.

But I recognise that during that period there has been a substantial reduction in the number of people employed; so we have an increase in volume, a reduction in the number of people employed and a reduction in the number of workplace deaths by volume of wood produced.

However, you could then argue — and I have not done a statistical analysis in terms of deaths per number of people employed — that one of the really difficult things we do have is to ascertain the number of people employed, and I note that the coroner’s contribution to this exercise is based on Australian Bureau of Statistics data. In the document I have provided there is a criticism of the accuracy of the ABS data in relation to our industry. It is not a criticism written by us, but by the forest and forest products employment skills company, which is the national industry training advisory body.

The fundamental weakness of ABS data is that the classifications within the census are such that when people fill out the census, it provides them with a number of options, and log truck drivers are a classic example. They put themselves in as log truck drivers or road transport operators. Do people working in the forest industry put themselves in as agricultural employees or labourers? My experience as previous executive director of the forest and forest products employment skills company for nine years was that the ABS data is extremely unreliable and underestimates the number of people in the industry. It may also be — and this is not authoritative — that there is some underreporting by employers who have extremely high Workcover premiums as a consequence of the incidents of accidents and illness and disease in the industry. They are then perhaps not accurately reporting their work force numbers. That is possibly compromised because their work force quite often consists of contractors or subcontractors, so there are some real weaknesses in terms of statistical analyses based on ABS, and even some of the other measures that need to be addressed.

I refer to the letter that you people provided to me. In terms of current programs within the industry, I refer you to pages 10, 11 and 12, which shows the initiative we are taking. These have come about as a consequence of a number of factors, which are listed at the top of page 10. It is a recognition by the industry that there is scope for performance improvement.

Secondly, there has been significant pressure on employers within the industry by the Victorian Forest Harvesting Cartage Council, which organisation is representative of contractors and the Construction, Forestry, Mining and Energy Union — the organisation representative of employees — for employers to lift their game. Some of those issues are clearly in respect of occupational health and safety, and interest in it. I would suggest that there may also be an industrial element in that pressure as well. Worksafe has taken a fairly keen interest in the industry as a consequence of an assessment by Worksafe that the industry is underperforming in respect of occupational health and safety, based on the statistics they have generated, and we are working with Worksafe to address that. There
was a tree felling safety group, again initiated by the Victorian State Coroner’s Office, and that group made a number of recommendations, and you will note that a number of those recommendations are in the process of being addressed. There was also a draft report on the examination of log harvesting and haulage arrangements in the Victorian hardwood sector. That was commissioned by the Department of Natural Resources and Environment at the time, and a number of those recommendations are in the process of being addressed.

I then refer you to the tables on the two following pages, and you will note there that we have chopped off the first letter of each of the first lines in those categories in the printing of the document, but there are a number of initiatives that were involved, and Worksafe has established a forest industry stakeholder forum. Employers are actively participating in that, and that forum is looking at initiatives that can address occupational health and safety improvement across all sectors of the industry, including the harvesting and forest growing and management sectors.

Through Worksafe again, there is the development of a fatigue management model. Fatigue was identified as a contributing factor to injuries, and a model has been developed and trialled late last year and is in the process of being implemented. Again at the initiative of Worksafe the industry is involved in the establishment of supply chain and responsibility of working groups, looking at specific issues and developing strategies to address them. Specific examples are the development of generic hazard identification and risk assessment checklists for use by people in the contracting sector. Through Worksafe the safety development fund funded the CFMEU and the Victorian Forest Harvesting and Cartage Council to initiate the development of that fatigue management model and to facilitate the establishment of three regional safety committees. Two of those three committees have been established. A further three will be established; in effect one for each of the five forest management areas that are actively involved in forest harvesting. They will be ongoing committees jointly supported by industry.

Our association has also established a working group of each of the five harvesting syndicates, again to try and focus on employer responsibilities on OHS issues with a particular recent interest in fire salvage and the attendant additional risks associated with fire salvage. Within that process we have put in place a safety management system auditing exercise — all of the contractors involved with the Tambo logging company — and we are proposing to extend that across the state. In addition there are specific company initiatives such as the initiative by GCH Harvesting, which is located in the Central Highlands, where through restructuring of the industry to achieve production efficiency it has sought to put in place 24-hour operations — for example cartage operations — but within that it is proposing to establish 24-hour monitoring of those operations, including satellite tracking for trucks to ensure that drivers are not driving excessive hours and that they are not speeding. Because some of those trucks are loading and the guy is working on his own, there is a man-down system where if the person is horizontal for more than a prescribed time, it automatically communicates that to the 24-hour monitoring centre which can take remedial action.

Those are some of the initiatives that have recently been introduced or are in the process of being introduced. Part of that system is dependent upon some funding and the funding application is with the Department of Innovation, Industry and Regional Development. Again as a consequence of an accident pre-Christmas we are seeking to remove as many people as possible from working without the protection of a canopy, so getting people off the ground and into machines. There is a real challenge in doing that because there is a shortage of harvesting machines in Victoria. Again we need to recognise that not all forests are suitable for mechanical harvesting, but there is certainly a shortage of harvesting machines in Victoria.

There is a shortage of contracting capacity in Victoria despite the fact that we have just exited a whole suite of contractors and are in the process of continuing to do that. A number of harvesting machines have been exited. We are seeking to get those machines into the hands of people who have remained in the industry. However, we need some assistance from government to provide some incentive to do that — for example, the licences associated with harvesting fire salvage tenders are for a maximum of six months. Nobody is going to make a capital investment for a six-month amortisation period; it is just not going to happen. So we really need to look at ways by which we can extend those contracts and again that is in the documentation that I have provided you with in the recommendations towards the back of the document. Certainly those are the sorts of initiatives that we need to take to address some of the issues that are contributing to deaths and injuries. That is a very quick synopsis and there are more details in the document.

Dr NAPTHINE — Nick, you just raised the issue of relatively short six-month tenders for salvage operations. In your document you said that there is a two-year window for these salvage operations. If the six-month tenders were two-year tenders, perhaps even that would not be long enough for capital investment?
Mr MURRAY — No, it might not be, but if we then combined that with thinnings operations we could lengthen the window of opportunity. The two years for the salvage is related to the quality and deterioration of the wood.

Mr McQUILTEN — And the type of wood, because mountain ash is one of the problems, isn’t it?

Mr MURRAY — No, the species is beautiful; the time frame is too short. So in terms of the quality of the wood, the suitability for wood fibre, there is difficulty in getting the bark off it as a consequence of it drying out, but the longer that goes the more difficult it becomes and that puts pressure on operators, including some attendant occupational health and safety risks, but we are working on that. But the time factor is significant.

The other significant and related issue is that all licences in the industry expire variously between June this year and June 2009, with 50 per cent of the licences expiring between now and 2007 — it is in the document. One of the issues — and you will all be aware of it from the blockade around Parliament House last year — is that contractors want reasonable tenure, and we support that concept. One of the difficulties is that you cannot provide tenure if you have not got it, otherwise the contracts that our members or the syndicates write with contractors are not really worth much because we can only write contracts for the same duration that we have the capacity to fulfil our end of the bargain. So we think that is a real issue that needs to be addressed, and if government wants to make that a condition of tenure, requiring us to provide tenure to the contracting force, then I am of the view that we would accommodate that and in fact we are attempting to accommodate that through the GCH model where we have between three and five-year contracts. So we are certainly working on that, but it is an attendant issue.

Dr NAPTHINE — What is the industry level of Workcover premiums in the harvesting component of the timber industry?

Mr MURRAY — I am not an expert by any means on Workcover premiums, but I refer you to the draft report entitled Examination of Log Harvesting and Haulage Arrangements in the Victorian Hardwood Sector. That will provide that level of detail, or I can take it as a question on notice. Certainly they are very high and one of the concerns I have about incorrect posting of injuries and deaths in the industry is that that is possibly inappropriately driving up those premiums. I raised that issue with the Workcover authority, and it basically said that that was another section of the VWA and once posted they cannot be changed. I find that quite extraordinary, but clearly if deaths are incorrectly posted or classified then we are going to be the victims of an inappropriate industry rate based on claims history.

The other point I would make is that with the emergence of people who are not operating through syndicates or through large companies such as Midway, there is the potential that they are only in it for the short haul for fire salvage and I am sure they are looking to minimise costs. We really have no contact with them, nor does the Victorian Forest Harvesting and Cartage Council or the CFMEU, and so while we are taking a whole range of initiatives to improve occupational health and safety, potentially those people fall through the cracks because they are not privy to the information and initiatives that we are generating. That is a concern because again our Workcover premiums will be linked to their performance. I am not saying that they will necessarily be poor performers, but I am of the view that the absence of information in respect of some of the initiatives that we are taking to try and raise the bar, potentially they will not be able to achieve that level of performance.

Mr CRUTCHFIELD — I think you said that 81 per cent of operators are under your operation, so the ones you are talking about are part of the 19 per cent that are not? Can they be compelled in some way in terms of having to come under the industry body if they get a licence?

Mr MURRAY — We would like that to be the case, but it is almost compulsory unionism!

Dr NAPTHINE — I am sure you do not support compulsory unionism, Nick!

Mr MURRAY — No, we do not. We would like that to be the case. The CFMEU suggested that we did a deal once — it would encourage people to become members of ours if we encouraged our employers to become members of theirs.

Mr CRUTCHFIELD — But that 19 per cent is what you were referring to as a concern?

Mr MURRAY — Partly, but there is an additional group above and beyond that and that is on licence volume — or S licences if you like — which is part of the sustainable yield. But above the sustainable yield there are the tender licences that have been issued. Some of those licences have been issued to people who have not
previously been in the industry — for example, of all of the sawmills that have been exited, only one has actually closed, and so, like shellfish, we have new creatures occupying the shells that are operating out of those buildings. Some of those players have not been in the industry before and some of them are directly engaging contractors to harvest resource for them and they certainly do not fall under the jurisdiction of any of the organisations.

**Dr NAPTHINE** — Can you explain to me, given that hardwood logs are nearly all on public land, what conditions are set by the government in terms of occupational health and safety for access to that public land? Do they have very strict occupational health and safety requirements that any successful tenderer must abide by?

**Mr MURRAY** — No, they do not. There is a code of practice for safety in forest operations which effectively governs the basis on which work is to be performed. There is a forest operator licensing system, managed and administered by the Department of Sustainability and Environment, which requires people performing work for commercial return in public native forest to be trained, qualified and licensed for the work they perform. There are some weaknesses associated with that. The system was primarily designed for environmental compliance rather than occupational health and safety compliance. So if you knock over a tree fern or you enter a protected buffer or whatever, then there is a punitive structure and you can lose points and be suspended from operation and ultimately lose your licence. If you knock over a tree fern there is a punitive structure under the FOL system; if you knock over your workmate there is no punitive structure under the FOL system. So on that basis one could say that tree ferns have greater sanctity than human life — some of our opponents might argue that that is important.

But there is a fundamental weakness in the forest operator licensing system because there is no inspectorate from an occupational health and safety perspective other than through Worksafe, and that is invariably after not before the event. One of the recommendations that has been included is that there needs to be a review of the forest operator licensing system and that maybe there is some greater accountability for syndicate managers, logging team leaders and for individual operators. Worksafe has taken the view that the Department of Sustainability and Environment, sawmill licences as licence holders and syndicates ought to be taking much more action to manage occupational health and safety. We recognise that, but DSE is quite remote from work on the ground and as the forest owner-manager it is going to be fairly difficult for it to manage itself and to address that particular issue.

I think the advent of Vicforest is also going to make the issue a little more complex because the commercial activities in forests are now going to be under the jurisdiction of Vicforest and that is potentially going to exacerbate where duties lie. In terms of government regulatory arrangements, there are few other than the forest operator licence.

**Dr NAPTHINE** — For example, with the salvage harvesting tenders, when the government, via its departments, is assessing which tender is successful, is occupational health and safety one of the key selection criteria?

**Mr MURRAY** — To my understanding and from reading the tender documentation it is not. On reflection it probably should be. It would have made my life much easier over Christmas because after the accident on 19 December the Tambo logging company syndicate was issued with a prohibition notice, as was the specific contractor working on that coupe where that operation was under way. As a consequence of that prohibition notice being issued Tambo logging company, though consultation with us, withdrew all manual falling contractors from harvesting operations and those people did not work until just after new year, and in the meantime we went through a process where we did an audit of all of their safety management systems and a field audit and inspection of the stumps. So we looked at the types of stumps and they way they had been harvesting trees to satisfy ourselves that they were able to work safely. That caused significant frustration to those contractors and their basically being stood down. Some people challenged our right to do that and some sawmills were not happy either because they were not receiving logs in what is the prime harvesting season. Had their been a condition of tender that required people to provide evidence that they had a safety management system in place that met prescribed criteria and that the people they employed were qualified to this level and a range of other things, it would have been a far easier process, but hindsight is a wonderful gift.

**Dr NAPTHINE** — One of the roles of our committee is to learn from those sorts of things in order to look to the future, and whether future tenders should have occupational health and safety as part of the key selection criteria.

**Mr MURRAY** — In my view they should.
Mr CRUTCHFIELD — They do in a lot of other areas. I do not see that this industry should be any different.

Mr MURRAY — Again I am advocating that some of the recommendations that we came up with through the Tambo logging company ought to become the benchmark for all manual harvesting operations, whether it be green or salvage, because some of the same conditions exist.

The CHAIR — Are there any other specific recommendations you could make to the committee with regard to occupational health and safety in the industry that would make a difference and would not impact on the industry too much?

Mr MURRAY — On pages 13 to 17 there are a series of recommendations — I think five in total. They are recommendations that we submit for the committee to consider. They are submitted on the basis that my association is very conscious of the impact that these sorts of recommendations may have on our membership, but at the end of the day we are committed to improving the health, safety and welfare of people working in the industry. Some of these recommendations will go a long way to contributing to that area.

Dr NAPTHINE — In terms of training in occupational health and safety in your industry, is your association satisfied with the quality and availability of training for people at various levels within your industry?

Mr MURRAY — No, we are not and I can speak with some authority about training. After the timber industry strategy in 1986 I was the assistant director of East Gippsland TAFE and was involved in setting up the harvesting and training capacity in East Gippsland. I was subsequently the manager of the national Forest Industries Training Council and the Victorian Forest Industries Training Board, so I have a fair background in training prior to going to the association.

I was involved in setting up and developing national competency standards which became the forerunner for the industry training packages across all sectors of the industry throughout Australia. One of the big weaknesses our industry has is that it is underserviced by the training system. In effect for harvesting training there are really three providers in Victoria, and only two of those providers have any equipment. What we do not want is a raft of training providers who are poorly equipped. The concept of two training providers — that is, the National Industrial Skills Training Centre at Wodonga TAFE and Forestech at Gippsland TAFE, is certainly sufficient because it is a relatively small industry and equipment is a high capital cost. One of the weaknesses of training in the industry is that public funding for training for harvesting is given out at the same rate as training for information technology where you can park 15 people behind a bank of computers. Clearly a bank of computers costs a lot less to run than a harvesting machine which has a capital cost of about half a million bucks, and an individual operator needs to spend about 40 hours on that harvesting machine before they can become basically proficient. There is a real weakness in that system. It could be argued that industry ought to fund that sort of gear. There is a shortage of harvesting machines for production and an even greater shortage of harvesting machines for education and training.

I would argue that our industry ought to be serviced to the same extent by the education and training system as the construction industry, the hairdressing industry, the hospitality industry or whatever, but it is not. The largest proportion of training through the publicly funded training system for our industry for many years was for people who are involved in what I think was the associate diploma in applied science, which was basically for training people at Frankston and a whole range of other places to give our industry grief, but it was forest industry training. So training is inadequate. The training provided by those providers is excellent, but it only takes people to a basic level of proficiency. They then go into the workplace with no further support, and that is where the weakness lies. We have put in place, with the assistance of the Department of Sustainability and Environment, a concept for coaching people who work for themselves. We are not talking about trainees but about people who are experienced. We have put in a coaching concept so that we can go around and have people try to monitor and coach skills improvement because we recognise that there is a need to continuously improve skills. But entry level training is inadequate, even though the providers are good.

Mr CRUTCHFIELD — In percentage terms or dollar terms of your association’s budget, how much is allocated to training?

Mr MURRAY — It is very, very low on the basis that we are not directly involved in the harvesting system. It starts to get reasonably remote from us, but I certainly take your point. The concept that could be considered is some sort of levy or royalty, for example, but what we need to recognise is that any level of resources ought to go across all resources, not just the publicly owned resource, otherwise the publicly owned resource will
be subsidising the training for the whole of the state, including softwood plantations. It would need to be some sort of universal structure.

The CHAIR — Is there a separate body that represents the harvesting syndicates or the people who own the licences?

Mr MURRAY — Licences are owned by sawmillers, by our members. There is no collective body of the syndicates at the moment. There are only five syndicates, and there is one, Midway, which is the major residual wood company. It manages its own harvesting crews in some cases as well as working through syndicates, but we are in the process of formalising a structure of those five syndicates and Midway to be the employer representative organisation of the harvesting sector. As a consequence of our recognition that there is a range of issues that ultimately impact upon the landed cost of wood to our members, whether it be from an occupational health and safety perspective or a whole range of other perspectives, whether it be the structure of fire salvage tenders and all sorts of things, there is an organisation which is representative of individual contractors, and that is the Victorian Foresting Harvesting and Cartage Council. Gary Blackwood is the new executive officer of that organisation. With Gary’s ascension to that role we have a very constructive relationship with that organisation. We have been working closely with them since he has taken over.

Dr NAPTHINE — Who represents the softwood industry and the emergent blue gum industry.

Mr MURRAY — I would suggest that the representative body of the emergent blue gum industry would be Collins Street accountants.

Dr NAPTHINE — Tax evasionists!

Mr MURRAY — I do not know whether they are involved in the investment industry or the timber industry, Denis! With regard to the softwood industry, the Plantation Timber Association of Australia is the representative body.

The CHAIR — Thank you very much for your time, Nick, and for putting together your submission beforehand. You will receive a copy of the transcript of your evidence in about a fortnight. You may correct any obvious errors of fact or grammar, but not any matters of substance. Thank you very much.

Mr MURRAY — If there is any further information on specific issues, we would be very happy to provide it.

Witness withdrew.