RURAL AND REGIONAL SERVICES AND DEVELOPMENT COMMITTEE

Inquiry into cause of fatality and injury on Victorian farms

Leongatha – 7 April 2004

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Witnesses
Mr J. Merritt, executive director (sworn);
Mr D. Kebbell, principal field officer (sworn);
Mr P. Maskrey, field officer (sworn), Victorian WorkCover Authority.
The CHAIR — Welcome. Under the powers conferred on this committee by the Constitution Act and the Parliamentary Committees Act, this committee is empowered to take all evidence at these hearings on oath or affirmation. I wish to advise all witnesses that all evidence taken down at this hearing, under the provisions of the Constitution Act, is granted immunity from judicial review. I also wish to advise that any comments made by witnesses outside the committee’s hearing are not protected by parliamentary privilege. For the purpose of the transcript, please state your full name and address. If you represent an organisation, please state the name of the organisation and the position you hold within that organisation.

Mr MERRITT — My name is John Merritt, and my address is 14 Muir Street, Hawthorn. I am the executive director of WorkSafe Victoria. I am joined today by two of our inspectors, who have been doing farm-related inspection work.

Mr KEBBELL — My name is David Andrew Kebbell. I live at 2 Hollyoak Haven, Chirnside Park. I am a principal field officer with WorkSafe Victoria.

Mr MASKREY — My name is Phillip John Maskrey of 461 Warragul-Toms Creek Road, Newry. I am attending this forum as a field officer of WorkSafe Victoria, appointed under the Occupational Health and Safety Act 1985 and the Equipment Public Safety Act 1994.

Mr MERRITT — As most of you might recall, I have appeared previously before the committee and made submissions. There has been a request to us that a couple of the inspectors who do farm-related work come and be available for questions. I will ask Phil to make a few opening remarks to give a bit of background to his work, if that is what the committee wishes. We will keep that fairly brief because I think there are questions and perspectives that the committee is interested in.

Mr MASKREY — I have been employed by WorkSafe Victoria since August 2000 and have worked in the manufacturing and agriculture program since February 2001. Approximately 80 per cent of my work has been involved in agriculture. I have worked in a full-time capacity in occupational health and safety for in excess of 23 years, and I hold tertiary qualifications in that profession. Basically my agriculture experience is dairy farming for four years, full time for three and a half years; part-time shearer for 15 years; past active member and office-bearer of the Victorian Young Farmers movement, and later a club adviser for three years. I have owned and operated a hobby farm for in excess of 22 years. Currently I operate a 22-hectare hobby farm at Newry. I have maintained a continual keen interest in agriculture and in the rural sector.

Types of activities: whilst working on the agriculture sector of manufacturing and agriculture program we have focused on the following types of activities. There are basically three. Firstly, planned focus work involves intervention on farms following an intervention framework that is allied to a project, including such projects as the tractor rollover protection project and the hazardous substances in agriculture project. They are the two key ones we have worked on from our office. The second type of activity is the provision of information, which involves such forums as field days, meetings and similar forums. The majority of these attendances have been at neutral locations. When I say ‘neutral locations’ I do not mean on the farm. In other words, farmers feel much more relaxed when you are talking to them at these venues. Thirdly, there is response work. This involves attendances at farm incidents, complaints and unplanned visits. An unplanned visit is where an inspector drives along the road and finds something which appears to be a more serious situation — for example, you could be driving along and already going to a project job and you might see a tractor without a roll frame fitted. We would then go and intervene. We sometimes call them cold calls.

During the interventions, known as focus work and response work, the compliance enforcement policy was used — in other words, make the farmer aware of the fact that such and such is wrong, and then we use our intervention framework to bring about compliance. The sorts of safety hazards that we would find and have been finding continually during our planned focus and project are as follows: tractors not fitted with rollover protective structures, which we commonly call ROPS; power take-off guards missing from tractors; plant and machine guarding missing, incomplete or damaged; falls from height issues; poor and inadequate systems of work associated with the handling of livestock; inadequate control and storage of farm chemicals; unsafe use and reticulation of electricity around farms; manual handling issues; and the unsafe use of all-terrain vehicles.

We see the following impediments to improving farm safety, and we have three here that I would like to concentrate on and explain in a little bit more detail. First of all, there is the culture. There is the continual use of
outdated and at times hazardous systems of work; a reluctance to change due to working for long periods in an isolated environment; the attitude of, ‘I have always done it this way and I have never had an accident, so why should I change?’; and the economic climate, meaning that lower commodity prices together with continual spiralling manufacturing costs that are possibly linked to a high Australian dollar, have certainly not helped farmers, and often come out in discussions when we have an intervention. Lastly there is the environmental climate. We all know that in southern Australia we are either in drought or there is a severe lack of rainfall, with less growth leading to lower production, and that means less money to spend. When we intervene this is another thing that comes up very loud and clear.

The following are the suggested opportunities for improvement. A lot of these have come about from continual discussion with other people. As WorkSafe inspectors we talk amongst ourselves. We talk with stakeholders. We talk with farmers, and these are the sorts of things that we have suggested would be of help. We need to continue to work as field inspectors, using the compliance enforcement policy — in other words, go as we are. We believe we are doing the right thing and would like to see it continue.

We need to continue to utilise the tractor rollover protection system program as an intervention tool on farms. Included in this intervention should be a thorough inspection of all hazards associated with tractors, such as power take-off guards. I would like to just stop on that point a little bit. All of us inspectors can cite examples of where we have gone, for example, on a tractor roll-over protection project, and that is usually the tip of the iceberg because when you go to the end of the tractor in about 80 per cent of the cases the power take-off guards are missing. We all know what happens when people get caught up in unguarded power take-offs. Then you go to the exhaust, which is in a poor condition and usually noisy, so there is a noise hazard associated with the use of the tractor. There are seats that are literally sitting on the tractor rather than being bolted down. That is to cite just a couple of examples.

We need to use the visit to perform general audits of farms, concentrating on immediate risk problems and during a sequential audit, with the higher risks to be attended to first and working through.

We need to improve publications, ensuring these are clear, concise and user friendly. When I say publications, I am talking about WorkSafe publications. A number of comments have been made to us that the publications are too heavy, too complicated. People say, ‘We are trying to make money, we’re trying to farm. Some of the terminology used is too heavy’. Let us make it more user friendly and also provide good workable solutions.

We need to have a continual presence at field days, liaising with farmers in a non-threatening manner. A number of inspectors from the Traralgon region have just been to the Lardner field days. We put in four fairly heavy days there and fielded many, many questions, but at the end of the day, this is where farmers like to come along — and not only farmers but other people as well. As I mentioned earlier, they like to be able to discuss these matters in a non-threatening, neutral environment.

We need to promote and encourage the use of the farm safety action and farm discussion groups. In the Traralgon region we are represented on four such groups. We attend every one of those meetings, and they are definitely a great forum. We have had some really good success stories as a result of attendance not at not the meetings but certainly the forums that result from those groups. Wellington Farm Safety Action Group is just one of those groups that we are presented on, and we work closely with that group.

We need to also attempt to change the culture by giving credit where credit is due. People do not like being bashed over the head all the time. When they do it right, they need to hear about it and they also need to be encouraged to do it right. I have a philosophy: I like to treat people as I would like being treated myself. At the end of the day we have to bring about compliance, but there is a nice and a not so nice way of doing it. I certainly preferred the nice way and most people like it that way. At the same time, as I said before, when people do it right we need to be able to give them some sort of a reward. It does not necessarily have to be something they can put in their hand, just some sort of acknowledgement that they have done it right. I think we all believe that is a great idea.

The other thing is greater input and involvement with the manufacturers of farm equipment. I can cite two or three examples here. We need to have better involvement with the importers, manufacturers and dealers of this equipment. Certainly in our intervention from the Traralgon office I can think of three immediate ones where there have been some fairly serious problems associated with guarding of equipment. Recently I went to a situation — in fact this one is still being investigated; and this particular piece of equipment is a dreadful piece of equipment — where a big section of spinner came down and crushed a bloke. The particular engineering of it was not good. I
have involved our engineers. It is no good hitting the farmer. Let us go back to the manufacturer of this equipment because it is out there, it is all over Australia, and we need to stop it there.

Another instance was in the vegetable-growing area of Bairnsdale, where I intervened when I found a tiller which had come out of a particular manufacturing plant. The whole power take-off train was completely unguarded — straight out of the factory. Obviously the farmer was not very impressed, because he was given notices to bring about compliance. I went to the next step in a parallel; I had an inspector go straight to the dealer that came into Melbourne. That particular bit of plant was coming in in droves into the vegetable-growing area and somehow it has got through our standards, which is of great concern to us. That is the sort of thing. I guess the last one — and this is one we all cop as inspectors almost all the time — is poor design of power take-off covers.

Mr MERRITT — We might pause there with those perspectives.

The CHAIR — Thank you very much. That was wonderful. Is there anything further that you would like to add?

Mr MERRITT — No, unless you want some background on myself. I concur with just about everything.

Mr KEBBELL — I am an inspector with WorkSafe at our Dandenong office, which covers part of West Gippsland, the Bass Coast shire and the Mornington Peninsula. I have been an inspector for the past five years, and I have had an involvement in agriculture since January 2001, during which time I have attended well in excess of 100 farms, again as part of our ROPS program, hazardous substances program and our food projects as well, but also dealing with complaints, incidents, unplanned visits to farms and also following farmers requests at field days and such like, just to go along and provide advice but actually conducting an inspection at the same time. Other than that, basically Phil has explained our role, our reason for attendance and what we actually do when we arrive on site, so those areas I think have been basically covered.

Mr WALSH — Phil, are you a field officer or an inspector?

Mr MASKREY — A field officer, appointed as an inspector.

Mr WALSH — It is just that you called yourself both through your presentation. It is an issue that has come up about the messages we give.

Mr MASKREY — I would certainly concur with David’s comments there. When we issue a field report there is a section on the field report where we record the information that we hand out to be able to, if you like, generically fix the problem. For example, if it sits within the plant regulations we usually hand out a code of practice for plant and say, ‘Here is a means of being able to fix the problem. We suggest that you check a certain Australian standard or a certain regulation to bring about compliance’.

Mr CRUTCHFIELD — You referred, on the same theme, to ‘intervention framework’, which to me means absolutely nothing. If I have a tractor that does not have a ROPS and you see me, what do you do?

Mr MASKREY — If we go along and find a tractor without a roll frame, given that it has been law since 1 July 1995 that all tractors unless they sit within the four exemption categories must be fitted with a roll frame,
irrespective of whether they are on farm or in private use — if it is on a farm, where it is a workplace, it goes under the Occupational Health and Safety Act, and if it is in a non-workplace it goes under the Equipment (Public Safety) Act. That is the first point. The second point is: where we find a tractor without a roll frame? The first thing that is asked is, ‘Why has it not got a roll frame?’ Then we indicate that you are in contravention of either a regulation or the act, and that you will need to take steps to provide rollover protection for that tractor.

Mr CRUTCHFIELD — I understand all that, but what is the end result? Is it a fine?

Mr MASKREY — No. The intervention framework would be the issuing of an improvement notice, which means you are in contravention of the regulation and that you have an agreed period of time in which to comply. In most instances that is, ‘Put a roll frame on the tractor’.

Mr KEBBELL — The only situations where that may differ is if you actually saw that tractor being used in an immediate-risk scenario, in which case you may then prohibit the tractor being used or that particular activity being undertaken. Alternatively in talking to the farmer you may find that that tractor is only used in areas where there is exemption from the regulations.

Mr CRUTCHFIELD — Can you give me another example? We have been presented in other areas with instances where inspectors have been a little overzealous in their role. There is certainly a perception from some in the industry that the big stick is your entire role. Can you give us a couple of other examples of where that is the last resort? That is what I personally believe, and I think other members of the committee would as well — that is, that penalising a farmer is a last resort and that you have to go down a track of education and non-threatening encouragement or using other people to conduct audits. For argument’s sake there is a rural shire that does some auditing itself, rather than WorkSafe, and advises some of the farmers.

Mr KEBBELL — I certainly do not like the adviser title. That is not how I see my role; I am an inspector.

Mr CRUTCHFIELD — You do not give advice?

Mr KEBBELL — At the same time I will promote farm safety, I will give advice on how to comply, and I will explain my actions. I would explain the legislation and explain to the farmer why I believe he is putting himself at risk and explain incidents that I have attended which are relevant to that particular scenario. I would also educate as far as possible about means of compliance.

Mr CRUTCHFIELD — But you do not offer advice?

Mr KEBBELL — It is part of the role of inspector, but we also have the enforcement role to play.

Mr MASKREY — Given that it has been a regulation since 1 July — it is now part of the plant regulation — it is a requirement that if you are working with a tractor and living in the state of Victoria that you fit rollover protection to it.

Mr CRUTCHFIELD — I am not just talking about rollover protection.

Mr MASKREY — Yes, okay. I thought that was the original question.

Mr CRUTCHFIELD — That was the original; I have moved on to other examples.

Mr MASKREY — Okay.

Dr NAPTHINE — You talked about the need for greater involvement with farm machinery dealers, importers and makers. John, has WorkCover in the last five years written to Stan’s association, importers or makers specifying any concerns WorkSafe has with any equipment, and seeking that that importation be stopped, or manufacture be altered?

Mr MERRITT — I cannot answer off the top of my head, but I cannot recall any specific approach that we have made to manufacturers about specific equipment.

Dr NAPTHINE — Yet you have your officers advising you, presumably through the chain of command, that there are instances of equipment being sold or manufactured here in Victoria that is inherently unsafe.
Mr MERRITT — I am aware of matters that are under investigation because of that, through the investigative process, and Phil has made reference to one of them. So we have done that process to see whether there is a breach of the act in regard to a piece of equipment.

Dr NAPTHINE — So WorkSafe does not see it as a preventive role when your field officers are identifying equipment that is, in their expert opinion, unsafe? Do you not see it as your role as WorkSafe to write to the standards association, the importer or the maker and say, ‘We have identified this concern with your equipment. Please fix it or else do not import to Australia or do not manufacture it any more’?

Mr MERRITT — More broadly we can and should do that. We are going through a review of our strategies and where that effort goes. We have recently become part of a national strategy around health and safety, of which there are five priority areas. The specific issue of design is one of those five priority areas. We recognise that we have not done enough of that upstream work. As you have rightly pointed out, I do not think we have done anywhere near enough to shoot that responsibility back into design.

Dr NAPTHINE — I have another question, which is probably more obscure before I go to a final question. We have had lots of concerns raised with us all over the state. People are saying that on certain television shows and media there are often portrayals of unsafe behaviour associated with farm or rural activity. Does WorkSafe see it as its responsibility in a preventive way, when it sees those instances brought to its attention, that it in a formal capacity writes to the producers of those shows asking them to desist from that sort of presentation of the reinforcement of a gung-ho culture in farming?

Mr MERRITT — I certainly would not feel limited in doing that. There was a specific instance that I can recall, but it was not a farm issue. It was one of those handyman-type programs, and representations were made about it. On the opposite side there has been some effort by some of those programs to cooperate with us and to try and get that right and to play a leadership role, but I would not feel limited in doing that.

Dr NAPTHINE — Finally, we had evidence yesterday that WorkSafe was invited to send a field officer who they had a great deal of respect for and who they thought was an excellent officer to a forum at Tubbut. They were having some frustration, even though New South Wales was sending a field officer. Can you guarantee, John, that a field officer from WorkSafe will be sent to that very important farmers’ forum?

Mr MERRITT — Yes, I can. Thanks for making that representation!

Mr WALSH — Will they actually have an allowance to be able to stay overnight?

Mr MERRITT — It is a good forum to support.

Dr NAPTHINE — Jill will be pleased.

Mr MERRITT — She will be pleased! Mission accomplished!

The CHAIR — Phil, you spoke about your philosophy on how to treat people. We heard evidence yesterday from the Wellington farm safety group. Basically they were saying that your approach and style is working very well in the area. This committee is about preventing injuries. Obviously if you can communicate with farmers, talk to them and get the message across in their own terms, that is what is going to work. Have you any further suggestions in regard to approaching farmers, talking to them and working with them so that we can really make some more ground right across the whole of the state?

Mr MASKREY — Thank you, Chair. I do appreciate this invitation. As I stated before, I believe you have to treat people the way you like being treated yourself. I have an affinity with farms. As I said before, I have a hobby farm and operate a little sheep property. I think one of the key points here is that you must be able to listen, and to listen carefully. You have to be able to sort out the wheat from the chaff. It is no good rocking up to a farm and saying, ‘You have a tractor without a roll frame; let us go and deal with it’. You have to be able to listen to the fact that it has not rained for six weeks, that there is a dam almost empty or that sheep and wool prices are not good. In other words, you have to be able to talk their talk and listen to what they are saying, and in a roundabout way come down — well, not ‘come down’ — but certainly be able to listen to what they are saying and be able to talk and slowly work your way through it.
I have had a couple of unpleasant interventions, where people have been a little bit reactive when they saw WorkSafe. After a period of time they have slowly come round. I pride myself on the fact that I have a reasonable approach. I believe I am a people’s person; I like talking to people, and I certainly like mixing with people. Also I do like my work and I like the farming community. Basically that is the message: be natural; be yourself. Do not talk down to people; talk with people. Work through with a logical approach to try and bring about a workable solution.

Mr WALSH — John, how far away are you from appointing a replacement to Eric Young’s position?

Mr MERRITT — We have come down to a short list of a couple of candidates and we had some discussions with some of the key stakeholders yesterday to get a sense of that. I still think we are a couple of weeks away from appointing, so we will have to have some interim measure to keep that going.

Mr WALSH — It has been put to me by quite a few people that it has left a significant hole in their operation, particularly with the falling-from-heights regulations coming into effect. One of the manufacturers I have spoken to has no guidelines as to what they are supposed to do. They actually supply field bins without ladders at all now because they have no rules as to what they should put on, which I think is going to put farmers at greater risk, because they will lean a ladder against it and they will end up falling off even more so. So there is an imperative to get that moving as fast as possible.

Mr MERRITT — We will take that on board. I think we do acknowledge that with Eric’s untimely death it has left a real gap in the process. It was not just the role; he obviously had a lot of skills that were really valued out there. It has been difficult for us in that period.

Mr CRUTCHFIELD — Just on the statistics here about the ROPS compliance, right across the state, it has been acknowledged as a very successful campaign. You mentioned farm chemical compliance and that is the next campaign, if you like.

Mr MASKREY — Current.

Mr CRUTCHFIELD — Current, yes, that is what I meant. Have you got any ideas from the grassroots level of the next campaign? If you do not mention ATVs, what are your views on ATVs and what should be done about them, or if they are in fact an issue?

Mr KEBBELL — It is certainly an issue; the injury statistics will back that up. So far as our current role is concerned in relation to ATVs, it is promotion of the wearing of personal protection equipment — boots, helmets, such like — asking the question as to the age of the individuals who are using those machines, the training that they have been provided with, the speeds at which they go on the property and any assessments that have been undertaken on the property in relation to hazardous areas, such as dams, potholes, that sort of thing. So far as our role at the moment is concerned, they are the main areas we focus on.

Mr CRUTCHFIELD — What would you like your role to be in the future concerning the ATVs, whether it is ccs, age, whatever?

Mr KEBBELL — The age thing is difficult. The size of the individual plays an important role in the actual steadying of the machine, as well as the training. The younger you are the more likely somebody is to actually take off and do things that they are not actually supposed to be doing, away from the sight of the father or the supervisor. As an inspector I would love to see an age limit, but the farming community is different from most industries. They would say they have to learn on the property. Where we go with that is not my call. I do not know.

Mr MASKREY — We certainly share the sentiments about ATVs. We are also well and truly of the opinion that putting ROPS on ATVs is not necessarily going to fix the problem. Let us get into real-world stuff here. We have thousands of ATVs out there, literally thousands. We cannot get all the tractors with ROPS. How on earth are we going to get ATVs with ROPS? We definitely need better education of people using them. The reality is that most of the incidents that are occurring are with ATVs being used in the incorrect manner — that is, chasing cows, riding them in steep country, carrying large spray tanks on the back without baffles, carrying passengers, and then when something does go wrong people are continually not wearing helmets. I would suggest about 5 per cent of the interventions that I see have people wearing helmets; the other 95 per cent are not wearing helmets.
Mr KEBBELL — There are certainly engineering issues associated with the fitting of ROPS to ATVs as well. I am no expert, but I would imagine the ATV would become less stable, there is not necessarily a convenient anchor point and, at the end of the day, if it goes over and you are strapped in the ATV does not offer the same sort of protection as a tractor does when it goes over.

Mr MASKREY — On the ATVs, the common cry that we get is, ‘No good putting a seatbelt on, mate, and it’s no good putting on a ROPS because we haven’t got time to get in and out of the seatbelt’. We have the same problem on tractors and I can just see this being amplified on ATVs. The other problem with ATVs is that they are subject to very low pressure gradients in the tyres — 1 psi difference in pressure means a huge difference in the stability of the machine. One bald tyre and one good tyre on the front will mean a huge difference in the stability of the machine. So it comes back to education, proper use, using the vehicle for which it was originally intended. If they are going to chase cows, they should be using a two-wheeled motorbike.

The CHAIR — Do you see your role in regard to regulation or legislation as being in regard to regular maintenance of ATVs — so those kinds of things, bald tyres, wearing of helmets and that sort of thing — or do you see that as just not your role?

Mr MASKREY — Given the fact that on every ATV that we look at there are three distinct rules stated, both in the owner’s manual and also on the left-hand side as you get onto them — ‘children under 16 should not operate this machine’; ‘head protection should be used at all times in operating this machine’; ‘passengers should never be carried’ — and all three of those our breached so regularly, it comes back again to education. Whether we can penetrate the farms to be able to do that is another thing. However, we would see that as part of the big picture farm audit, where we go onto the farm and we ask straight out, ‘Where’s that helmet for the ATV?’, ‘Why are you carrying that spray paint in such steep country?’ and say, ‘Remember, Charlie, the machine is not designed to carry a 90-litre spray tank; why don’t you put on a low-centre-of-gravity spray tank?’ — which are available. If they need to do steep country work, they need to have the applicable machines. A lot of people just do not realise how heavy those things are. All of us I think as inspectors can cite examples of being told when we have spoken to people, ‘Oh, yeah, I rolled my ATV last week. Gee, I’m sore’. It is just ongoing. The ones who have gotten away with it that we hear about are probably only a tip of the iceberg of the ones we do not hear about and, sadly, then we get the ones who do not make it.

The CHAIR — Thanks very much for your time today, including coming all the way down. You will get a copy of the transcript and you can correct matters of fact or grammar but not matters of substance.

Witnesses withdrew.