Mr Edward O’Donohue MLC
Chairperson,
Scrutiny of Acts and Regulations Committee,
Parliament of Victoria,
Spring Street, Melbourne Vic 3002.

Dear Mr O’Donohue,

I wish to make the following submission to your Inquiry and Review of the Charter of Human Rights and Responsibilities Act 2006.

I wish to make formal submissions on:

Question 3;
Question 4;
Questions 5 [c], [e];
Question 7.

Formal Responses:

Question 3: Not only should there be regular auditing of public authorities, but there should be substantive penalties for those bureaucrats found to be in breach of the Act.

Question 4. There is a need for a specific provision under the Act for remedies to be sought by a nominal complainant acting on behalf of a group of, or for all Victorians.

Question 5 [c] In reference to Section 38 - Conduct of Public Authorities.

There are two aspects to my response to this section:

1. Denial of Human Rights to the major part of Victoria’s population;

   DSE is currently acting to deny the Human Rights of a major part of Victoria’s population by not providing:

   (i) access to safe mercury and arsenic free drinking water;

   (ii) safe use of DSE and PV’s nominated camping areas in historical gold mining areas or areas down stream from historical gold mining areas;

   (iii) notification to a population that is totally ignorant of the fact that consumption of freshwater fish and crustaceans caught in these recreational areas can be hazardous to health because these fish and crustaceans can contain mercury and arsenic which exceed Australian and International maximum permitted concentrations;

   (iv) the cleanup of the environment such that recreational activities can take place
in an environment free from risk of toxic chemicals (mercury and arsenic). This situation, whilst known and understood by DSE, EPA, DPI and DOH for the last 40 years has continued unchecked.

DSE has clearly set out to usurp the lead agency role of VicEPA who has legislative responsibility for making sure that the particular communities are not at risk, and DSE then uses the Victorian Government Solicitors Office (VGSO) to try to enforce their unlawful position.

DSE clearly have no regard for the human rights of children who have been born affected by exposure to mercury and or arsenic following prenatal exposure to environmental sources of mercury and or arsenic. "Prenatal exposure to mercury and methylmercury causes cerebral palsy and, in less severe cases, psychomotor retardation".


2. Denial of our (Hg Recoveries Directors) Human Rights by DSE applying the same laws totally differently depending on whether it is for itself, or for major business, logging companies or for our company. The different requirements set down by DSE to our company are completely polarized from those set down for itself and for other major business and logging projects.

The removal of mercury from the environment is seen by both the International Community and the Australian Federal Government as one of the critical priorities for public health.

In the case of our project, this is the first time, ever, mining industry investors have provided money to mitigate a mining industry historical legacy issue in a particular water catchment that has been subject to extensive gold mining activity. For DSE to attempt to apply at least $1.2 billion of unlawful permitting requirements on a $100 million dollar internationally sanctioned environmental clean-up project demonstrates the utter contempt DSE has for the Victorian populations’ human rights, by attempting to quash this project in this manner.

As the person who is leading the team trying to rectify this situation for the Victorian community, I am under continual harassment from both DSE and VGSO over their unlawful permitting claims. This culminated recently by being aggressively interviewed on the side of a remote bush roadway by three DSE staff under formal caution with threats of criminal penalties and a possible jail sentence for removing blackberries from a Government road. This action could only be seen as an intimidating attempt to prevent me progressing my Federal and VicEPA approved mercury recovery project.

You do not need to have even a year 12 education to understand that the current Victorian Charter of Human Rights is a well intentioned but meaningless document.

Question 5 [e] As mentioned in my response to item [C] above the community does not have access to remedies for the infringement of their rights and safety because the Department involved will not tell them of the risks that they face in their environment in the first place.

Question 7. All Bureaucrats found to be in breach of the Charter should be subject to criminal penalties and loss of accumulated benefits including rights to superannuation. This requirement should also be applicable to Secretaries of Departments and Ministerial advisers.

I look forward to you committee addressing these issues.

Yours Sincerely

Andrew Helfs
Managing Director