

# **Rethinking the Benefit of the Doubt**

**A submission to the Senate Inquiry into the Impact of Mining  
in the Murray Darling Basin**

**Submitted by The Baker Family, Dalby, Queensland.  
September 2009**

***"When it comes to coal, we have over 600 years of known reserves."***

*Martin Ferguson, Minister for Resources and Energy 26<sup>th</sup> February 2008*

***Our water has to be ... controlled at the national level, with a value  
attached to it that equates to its importance."***

*Major-General Michael Jeffrey, September 12, 2009*

***Climate change and variability over millennia mean that historical  
records cannot be relied on for predicting future conditions, so it will  
be necessary to draw on climate modelling scenarios, to understand  
possible impacts on the Basin's water, and to develop adaptive water  
planning arrangements accordingly.***

*Murray Darling Basin Authority - Basin Plan Concept Statement, 2008*

***In order to protect the environment, the precautionary approach  
shall be widely applied by States according to their capabilities.  
Where there are threats of serious or irreversible damage, lack of full  
scientific certainty shall not be used as a reason for postponing cost-  
effective measures to prevent environmental degradation.***

*The Rio Declaration, June 1992, Principle 15. The Preventative or Precautionary Principle*

Our family have dryland farmed on the Darling Downs for over 50 years. In this time we have seen fine seasons, drought, flood and fire. We have been through the oil shock of the seventies, commodity price crashes combined with escalating costs of production, and runaway interest on loans.

We have been compelled to sell off productive parts of the property to service debt. In this, we are typical, a microcosm of the good and bad which is a part of living and working on the land in Australia.

We have adapted to changing circumstances. Where better ways and means of farming have emerged, we have incorporated that into our farming practices.

Where once country was continuously cultivated, it is now left with cover to preserve precious moisture and reduce the effects of erosion. Native timber and bush has regrown, where once it was government policy to ringbark,

poison and clear the country, or you were deemed to “not be doing anything with it”.

Farmers and graziers have learned and continue to learn about the properties they can only ever be custodians of. No farmer wants to leave their property in a more degraded state than they found it.

***Mining is the single greatest threat to our property and the creek which passes through it. Nothing compares in our 52 year history of farming on the Darling Downs.***

As we have been a microcosm of farming challenges over the years, we are now at the coal face, and we use the term advisedly, of the tremendous pressure mineral exploration and mine development has brought to bear on the Darling Downs as well as other highly productive farming regions.

For more than 25 years our property had been periodically entered and test drilled by mineral explorers seeking riches below rather than within the soil.

Consider this for a moment. Twenty years of people turning up on your doorstep with a piece of paper in their hand, and pretty much unfettered access to drilling on your property. There is no obligation to share the results. You are not informed. There is no interest in, and little respect for the country only what is hidden beneath the surface.

Farmers and graziers are simply an inconvenience that is addressed by some paperwork and certainly not allowed to get in the way of business. While there have been some government steps towards recognizing that landowners may have some ‘rights’ in relation to such activity, there would not be a farmer in the country that has any illusions about where the power lies in this unequal arrangement.

We are reminded every time we have dealing with mining companies. We are reminded 24 hours a day, seven days a week by the open cut coal operation that, having already engulfed our neighbours, is steadily moving towards our boundary fence.

### **The Condamine Catchment**

Our property, is 30 kms west of Dalby, Queensland. It is intersected from north to the south by Wilkie Creek, a tributary of the Condamine River, and part of the Condamine Catchment. On our property alone, two mapped tributaries can deliver thousands of megalitres of overland flow during a flood event to the Wilkie Creek and Condamine Catchment. It is part of the headwaters of the Murray Darling river system.

For the past 15 years, an open cut coal mine, currently run by Peabody Wilkie Creek has moved south along the western side of the creek. We have had more drilling rigs in our property this year, sizing up the mineralisation

prospects and the demands for further and more intensive core hole testing is ongoing. Representatives of the mine have anecdotally informed us that they intend to move closer to the creek and farm homes with their pit.

Now, obviously Peabody have complied with state government environmental requirements relating to such purposes. We do not, and have never stated that they are acting illegally. However we are completely dismayed that such a move toward Wilkie Creek, could be seen as a sensible, let alone best practice outcome.

### **The Ensham Mine Flooding**

The flooding in January, 2008 of the Ensham open cut mine, 40 kms east of Emerald, Queensland was a wake up call to the potential for failure and the peril of relying on levee banks to protect open cut mines on flood plains. The levee failure at Ensham, not an isolated incident, perhaps just the most recent and spectacular, resulted in contaminated water simply being pumped out, and into the nearby Nogoia River system, feeding into the Fitzroy River.

The EPA in Queensland approved the pumping of floodwater out of the pit as the lesser of evils, because leaving the water in the pit was increasing the water toxicity. It is clear that in the case of Ensham mine the damage has been done.

A “Transitional Environmental Program” is in place, but this Orwellian term refers to nothing more than the ongoing monitoring of failure. There is no fall back position, no Plan B. The EPA, being responsible for the Environmental Impact Study that gave approval to this and other mining projects ensures that government becomes complicit in their failure. ***The Peabody Wilkie Creek open cut mine expansion, and in fact any mine that relies on levee banks to protect the pit from periodic flood events must be considered suspect.***

It has been reported by the EPA that the storm surge that overcame Ensham was a 1 in 500 year event. Our understanding is that EIS weather modeling is based on 1 in 100 year data. Surely this raises more questions than answers. Are we to assume then that the next 498 years should be fine?

The Murray Darling Basin Authority make the point in their 2008 Basin plan concept statement;  
*“Climate change and variability over millennia mean that historical records cannot be relied on for predicting future conditions, so it will be necessary to draw on climate modelling scenarios, to understand possible impacts on the Basin’s water, and to develop adaptive water planning arrangements accordingly.”*

### ***Is the 1 in 100 year weather model past it’s use by date?***

All weather modeling is statistical guesswork, which over time is amended to take into account new data. It is not a predictor of the future. It is only a

"best guess". It is the best predictive tool we have available to us. But it fails. We don't believe that it is "anti-development" to call it into question.

There is a global discussion about the concept of "global warming" and the unforeseen consequences for human habitation on the planet. Our submission does not seek to debate this. The debate is well and truly out there. But it does speak to the old adage, "An ounce of prevention is worth a pound of cure". The 'precautionary principle' really is quite simple. When in doubt, give the environment and human health the benefit of the doubt. If harm can be avoided, it should be.

### ***Protection of the Murray Darling River System***

The Murray Darling Basin Authority (MDBA) is undertaking a whole of catchment study, mapping of use and ultimately delivering a plan for future water management in 2011. Our understanding is that all planning legislation will come under Federal control, the states having agreed to cede authority. It is a gargantuan and incredibly important task.

Ultimately THE MDBA, in partnership with the states will have jurisdiction over the activities along the catchment, in effect owning the problems, and more hopefully, the solutions. This enquiry and the MDBA study represent an historic opportunity to recalibrate risk to the entire Murray Darling system.

### ***Mining near waterways poses unacceptable risks***

Mining in flood plain areas and aquifer regions along the catchment must surely rate a red flag! At the very least the assumptions underpinning the current environmental approvals must be re-endorsed by the MDBA. A process of reevaluation of the science and reviewing these findings against the current orthodoxy must be undertaken. Until it can be demonstrated it is safe there should a halt on this activity.

### ***The Price of Certainty***

Mining along a creek or within an aquifer region is a gamble on the future health of the waterways and agriculturally productive areas.

We fully expect Peabody Wilkie Creek will eventually demand to mine a portion of our property. We use the word, demand, advisedly, because any thing else would denote an element of choice on our part. The price of certainty for the mining company requires a complete lack of certainty for the landowner.

Any mining lease will have areas of greater or lesser environmental risk. We submit the modest proposal that where a lease is granted to extract minerals that ***the areas of least hazard to waterways and productive cropping country be mined first.***

In the case of Peabody Wilkie Creek, this premise has been turned on its head. They are mining along the western boundary of the creek. They have

turned cultivations into holes in the ground. They intend to mine both sides of the creek. This must increase the risk of contamination.

Their current mining tenement lease totaling 1128 hectares has vast scope to extend west and away from the waterways and cropping country. Yet they work where there is most potential for harm. It makes no sense, but requires a failure like Ensham to see the folly for what it is. The company is working along the creek because they can and it is for only short-term gains.

### ***Progressive Rehabilitation of Former Cultivation - Fact or Fantasy***

The notion that former cultivated country can be rehabilitated back to its former productive cropping use remains untested in our area. The introduction of progressive rehabilitation is being explored by government and mining interests as a means of releasing portions of the lease back to former use while the mine is still active. There are questions relating to this becoming a reality. These in a nutshell are:

1. The future legal responsibility for land after the mine has been given the approval by the EPA or some similar body. Future unforeseen environmental degradation is a not uncommon outcome of mining. This may take many years to become apparent. Who is responsible for the cleanup?
2. Proving the Science. There are no results in our area. We are not aware of any long or even short term results on Australian soils, but would happily be proved wrong on this. Yet local landowners are expected to take on trust that this theoretical healing of massively disturbed soil strata is a mere formality.

For farmers, nothing beats results. We need to see that rehabilitation can be demonstrated over the long term. I think that most farmers and graziers might accept that it could be brought to a stage that might promote some grass and eucalypts. It is a very different exercise to recreate a fertile cultivation.

If progressive rehabilitation is to be used as a 'Trojan Horse' to access highly productive cropping country, it must be proved in the soil type of the country that is being sought by the mine. Nothing but long term independently verified yield results could provide any comfort to a landholder.

Soil is our livelihood, not an inconvenience, not overburden. Not to be traded off on vague assurances. It is the bottom line. We protect it, or we go broke. We are minimum tillage farmers. We grow crops without extracting water from the creek or damming overland flow. The banks of the creeks have no stock upon them. It is in excellent condition and is a flora and fauna haven. We do everything in our power to protect our property and environment from harm.

## **Conclusion**

Our family is very grateful to have the opportunity to put forward our concerns to the Senate. We would like to acknowledge the efforts of other concerned individuals and groups in achieving the establishment of this enquiry.

It is an overwhelmingly isolating experience to be in the headlights of proposed mining activity. It feels like a juggernaut bearing down upon you. Mining companies know all too well how to divide and conquer to reach a seemingly preordained outcome. Without government intervention, it will be business as usual and that is no longer viable in the long term. We are not anti-mining. We recognise the benefits it has brought to this country and our local community. But water and land provide life, not just export dollars and royalties. It is imperative we strike a balance that is ultimately sustainable into the future.

A legislated buffer zone is needed to protect our waterways, floodplain and aquifer regions. We are one of the most arid continents on earth. Science is grappling with the unknown in terms of climate change. It is prudent to show caution in mineral development. Environmental damage from mining will be regretted at leisure, a legacy of failure for future generations of Australians.

We strongly believe it must be legislated that mining companies exploit the least sensitive portions of their lease first, gradually moving toward the most sensitive areas and the designated buffer zone. This does not stop their progress, merely recognises the differing environmental values within their leases and protects valuable water catchments and habitats. This information would be established, case by case, as part of an environment impact study. It is just common sense.

Progressive rehabilitation, on the face of it, positive, must be tested and proved over time in Australia's soils before any quality agricultural land is mined. Prime cultivation is not created overnight and covers only a small fraction of our continent. It is a national asset. To destroy it for short term profit is a folly in a country that prides itself on its national agricultural independence.

Minister Ferguson stated last year that there are over 600 years of known coal energy reserves. Just coal. Not natural gas, coal seam gas, oil, hydro-electric, solar, wind and emerging technologies. Just coal. But we do know we won't be adding any new river systems to our national reserves.

**Water is life. The Murray Darling is in crisis. The communities that depend on it year after year must be given the benefit of the doubt.**

The Baker Family