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OUR REFERENCE: MEO:6245:S

YOUR REFERENCE

18th February, 1991

The Secretary
Toxic Action Network
C/- Tasmanian Conservation Trust Inc
102 Bathurst Street
HOBART TAS 7000

PAID
20 FEB 1991

Dear Sir,

DARREL TAYLOR AND LYALL HOUSE - ALLEGATIONS RE AERIAL SPRAYING

We act for Messrs Taylor and House.

Mr House owns a farming property adjacent to the Forest Primary School in North West Tasmania.

On 18th December 1990 Mr House engaged Mr Taylor, a helisprayer, to conduct aerial spraying operations on his farm. Those operations were undertaken in light easterly winds and included spraying in a paddock the nearest boundary of which is 502 metres from the school building. *School oval where children play + were previously caught in drift 316mtrs.*

On 19th December 1990 the following report ("the report") was published by the Australian Broadcasting Corporation:

"There has been another reported aerial spraying incident at the Forest Primary School in the North West. Caroline Burnett of the Toxic Action Network, says she saw a helicopter spraying chemicals within half a kilometre of the school yesterday morning in windy conditions. Mrs Burnett said its the second time this year that the school has been exposed to chemical spray. She says that self regulation is not working and aerial spraying must be stopped.

"[Mrs Burnett's voice: "this is an acknowledged human carcinogen that's being sprayed from the planes. I think its about time the government addressed the health issues involved with these types of sprays. They are just not suitable for aerial application."]"

We consider that the report was published under the auspices of the Toxic Action Network. We further consider that it involves grave allegations against Messrs House and Taylor, who have been clearly identified as the subjects of the report by the residence of Forest and its surrounding areas.

We suggest that the following aspects of the report are materially incorrect.

1. That the helicopter was spraying in windy conditions. ✓

This allegation is simply not true. It is demonstrable that the wind conditions were light and were blowing in a line through the point of spraying in a general easterly direction away from the Forest Primary School.

Further, the allegation contains imputations that the helicopter ought not to have been spraying in such conditions and that the conditions were sufficient to have an adverse effect on the Forest School.

2. That the helicopter was within half a kilometre of the Forest Primary School.

This allegation is also incorrect. On a conservative estimate the helicopter would not possibly have been within 500 metres of the School buildings.

actually 316 mtrs to school boundary oval where children play.

3. That it is the second time this year [1990] that the school has been exposed to chemical spray.

Second time 1 kilometre was breached

The clear imputation of this allegation is that the school and its inhabitants were adversely affected by chemical sprays. There is no evidence that this allegation is correct, in fact the evidence is to the contrary, as we shall shortly point out.

4. The general tenor of the report, including a reference to the spray as "an acknowledged human carcinogen" suggests that our clients were wilfully:

- (a) Exposing the Forest School to carcinogenic sprays;
- (b) Causing danger to the children and teachers at the school;
- (c) Carrying out spraying operations in unsafe conditions.

None of the allegations to which we have referred nor the imputations which flow from them are correct and, in our view they seriously reflect upon the good reputations and names of our clients.

You will be aware that the Minister for Primary Industry has issued a statement acknowledging that there were no detectable levels of dithane fungicide involved, nor any evidence of spray drift onto the school. That statement was made after an exhaustive scientific investigation of the allegations which have wrongfully made against our clients.

In the circumstances, the Toxic Action Network, which clearly authorised the report has seriously defamed our clients and we are instructed to demand in writing from the Network the following:

- (a) An apology for the publication of the report;
- (b) An unconditional withdrawal of all allegations and imputations in the report which in any way reflect upon our clients' good names and reputations
- (c) An undertaking that neither the Network, nor any of its members on its behalf will publish a similar report at any time in the future.

If we do not hear from you within seven days we will return to our clients for instructions to proceed.

Yours faithfully,
DOBSON MITCHELL & ALLPORT

Per:

MICHAEL O'FARRELL

PAID
(20 FEB 1991)

Legal action mooted over spraying claim

THE TASMANIAN Agricultural Productivity Group is seeking legal advice on whether or not the Toxic Action Network has a case to answer over claiming that the Forest school was exposed to chemical sprays twice last year.

The executive director of the TAPG, Dr Mike Walker, said the decision was taken after a Government inquiry revealed that, whilst the chemical spray had been detected in the paddock being treated, it was not detected in the school grounds.

Dr Walker said that after the second incident, in spite of police witnesses noting that the wind was blowing away from the school, and the fact that the helicopter had never been closer than 500 m to the

school, the Toxic Action Network had persisted in claiming to the media that the school had been exposed to spray. He said that on this and the previous occasion the media reporting had precipitated exhaustive Government investigations.

"We have had no Ministerial statement regarding the first investigation," Dr Walker said. "However, it is very pleasing that the Minister for Primary Industry has seen fit to put the record straight regarding the second."

Dr Walker said that a conservative estimate of the cost of the chemical analysis was around \$1000 with at least that amount spent on manpower to investigate the alleged incidents.

"We want to eliminate any possibility whatsoever of chemical sprays drifting on to school grounds from aerial operations. This is why we moved very quickly to fine the aerial applicator and the farmer for operating during school hours within 1 km of the school.

"This is an industry-developed guideline and only industry can enforce it, as the Minister acknowledged. However, we cannot ignore false reports which cast doubt in people's minds on this issue and we will be pursuing the matter.

"Placing undue emphasis on any incident wastes resources and tries people's patience. The Government would be well advised to ask for refundable deposits from complainants before mounting further investigations."

FORECAST — NW: Rain periods. Isolated thunder. West: Rain developing.

Wednesday February 6th 1991



Tasmanian Agricultural Productivity Group Ltd.

(Incorporated in Tasmania)

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10 JAN 1991

PRESS STATEMENT

"The Tasmanian Agricultural Productivity Group has acted on the latest allegations concerning aerial spraying near Forest School on Wednesday morning, December 19, 1990

Regarding chemical overspray, the Group concluded that given the location of the paddock concerned (N of the school) and that the wind speed and direction (light and from the E) had been corroborated by police, it was virtually impossible for drift to have occurred. The Group considered that the chemical tests being made by the Department of the Environment would confirm this.

However, regarding the voluntary spraying exclusion zone around schools during working hours, the Group noted that the TFGA had drawn up a voluntary code for safe aerial application of agricultural chemicals in September 1989 and that both the farmer concerned and the aerial applicator were aware of the guideline that
...during school hours i.e. 30 minutes before the school day commences and 30 minutes after the school day ceases, no aerial spraying is to be carried out within 1 km of any school.

The spraying occurred after the start of school and the paddock concerned was 502 metres from the school. The Group therefore ~~had no option but~~ to conclude that there had been a clear breach of the guideline.

The Group took the view that the principle of industry self-regulation, as demonstrated by observing such voluntary guidelines, had to be firmly established. It has therefore imposed fines of \$1000 on both the farmer and the aerial applicator for breaching the specific guideline. It has also foreshadowed that any further clear breaches by either party could incur restraint on future agricultural contracts.

Dr M.G. Walker
Executive Director

29 December 1990