

Q: How will the Brown Mountain judgement change things in Department of Sustainability and Environment?

12/08/2010



Mr BARBER (Northern Metropolitan) -- My question is for the Minister for Environment and Climate Change. It relates to the judgement in the courts yesterday in the matter of Environment East Gippsland and VicForests. The judgement related to a number of pieces of legislation that the minister would be familiar with -- the Sustainable Forests (Timber) Act, which was created by this government, the Flora and Fauna Guarantee Act, which was created by a former government, which the minister was intimately involved in. What the judgement indicates is that the intent of those pieces of legislation applies to VicForests in the same way as it does to every other citizen in Victoria, where relevant.

The environment movement in fact had to do the minister's job for him by taking this matter to court, and therefore I ask: will the minister honour the findings in that judgement, or will he simply, as has happened in past instances, make changes to that legislation and its related regulatory framework in order to exempt VicForests or get VicForests out of its responsibilities?

Mr JENNINGS (Minister for Environment and Climate Change) -- I am sure Mr Barber has mixed views about how he hopes I answer this question.

Mr Barber -- Answer it fulsomely.

Mr JENNINGS -- I am going to answer it fulsomely -- have no doubt about that -- but I would be very interested to know what Mr Barber, in his heart of hearts, thinks about the existing legislative framework and the existing constructs of the law that he believes led the judge in this matter to reach a conclusion and provide some directions from the court in accordance with those laws. I believe he would be happy with those laws. I believe that he has actually confirmed in the way in which he has couched his question that he recognises the validity and strength of those laws and that his invitation is for me to actually confirm the existence of those laws and the maintenance of those laws. I think it is incumbent upon me to actually say it is my intention to uphold them and maintain them. That is my obligation.

But it is very interesting that this morning Mr Barber's leader in the federal jurisdiction, Senator Brown, has been out cutting his lunch, because I heard Senator Brown on ABC radio this morning referring to this matter, calling for legislative change in this area. I am not going to fall into the trap that Senator Brown has fallen into by stating that in fact we need to have some

legislative amendments to create a different set of circumstances, because probably his home-based team here in Victoria recognises the strength and validity of the Victorian laws that have led to the cumulative prescriptions and the direction from the court for us to take actions to protect environmental values into the future.

Mr Barber interjected.

Mr JENNINGS -- Maybe you and your federal counterpart, perhaps offline, might work in tandem to get a united voice in relation to this matter, because there are a lot of people in the environment movement who actually would be, yes, very pleased that Victorian law has been enforced and interpreted by the court and that some actions have been recommended.

One of the outcomes of the court's determination was that the moratorium on four coupes in the Brown Mountain area along Brown Mountain Creek will have an ongoing injunction subject to the satisfaction of a number of prescriptions and further surveying work leading to the conclusion that logging may be appropriate in that vicinity.

Specifically, as I understand it, there is a requirement to establish in that part of the forest a special management zone for the long-footed potoroo, there is a requirement to establish a special protection zone for greater gliders and yellow-bellied gliders and there is a requirement to have ongoing survey work relating to the wellbeing and maintenance of habitat for the giant burrowing frog, the large brown tree frog and the spot-tailed quoll. They are the species that have been subject to the direction of the court.

The way in which those prescriptions could be determined and the way in which that survey work could or should be undertaken will be subject to further consideration by the relevant agencies and parties and subject to further direction by the court. **It is my intention, for the aspects that are my responsibility, to comply with the direction of the court and to present that material to the court.**

Some of that material is not my domain, as Mr Barber would understand, in terms of the operations of VicForests, which is not an agency that I have ministerial responsibility for. It will need to acquit its part of the responsibility for the further consideration of the court before logging could take place in the future, if at all.

Supplementary question

Mr BARBER (Northern Metropolitan) -- Just on the minister's last statement, the minister is more than just a traffic cop who is there checking that people are obeying the law. He plays an integral role in this whole process, including in the release of areas for logging through the TRP (timber release plan) and allocation order process.

Can the minister tell me -- and I am sure many members of this chamber will be interested in his assessment in this area -- what is the likely impact of this judgement and these new sorts of requirements and the findings of how these particular activities must be run in light of the high principles of this legislation? **What is the likely impact of that for the minister's department in the**

period between now and next summer's logging season more generally across the state of Victoria?

Mr JENNINGS (Minister for Environment and Climate Change) -- Mr Barber has confidence that I have been able to analyse the implications of that decision and to fast-track what it might mean into the future. I have a pretty reasonable feel for those matters, but I am going to get further advice on them. This decision relates to four coupes. There are 53 coupes currently where a moratorium has been put in place in East Gippsland pending further survey and consideration works.

We understand the importance of having confidence about the availability of timber through the wood utilisation plan and the timber release plan and of having confidence that the appropriate prescriptions are in place to protect environmental values. Both flora and fauna species and habitat need to be protected now and into the future.

In relation to the coupes that have been questioned here, interestingly enough, in terms of the gestation period of the administrative process that has lead ultimately to logging, the wood utilisation plan and the TRPs in question relating to Brown Mountain coupes were actually done before I was the minister responsible for them.

Mr Barber -- Going forward?

Mr JENNINGS -- Going forward, I am very keen, in accordance with the direction of the court to demonstrate not only under Victorian law but in terms of our capability that we have a high degree of confidence about the availability of material that is being used to provide for prescriptions and protections in the future. The court has set a very high benchmark in relation to the satisfaction of those matters into the future.

Find out more about the Brown Mountain logging coupe win in the Supreme Court 11 August 2010 here <http://mps.vic.greens.org.au/node/2121>