

IN THE CORONER'S COURT OF THE ACT

INQUEST AND INQUIRY INTO THE 2003
ACT BUSHFIRES

Addendum to the submissions on behalf of Odile Arman

1. Preliminary

1.1.1. The purpose of this addendum is firstly to seek leave to put a further submission in writing, and then to put the submission upon the assumption that leave will be granted. The reason is that counsel for Ms Arman discovered late on Friday 30 June 2006, quite by accident, during a process that might euphemistically be referred to as "tidying up", a relevant document. The document lends further contemporaneous support to the submission made for Ms Arman with respect to the issue of the motivation for the decision to cease working the Bendora fire ground on 8.1.03.

1.1.2. Upon the basis that the Court would need to see the submission to determine the leave question, the submission appears below. As to decision-making, the easiest course is for counsel for Ms Arman to assume leave has been granted absent an indication to the contrary.

2. The Context of the Submission

2.1.1. It will be recalled that Counsel Assisting, whilst acknowledging as a part-motivation the concern for safety, sought to elevate into the primary position in Ms Arman's motivation an expectation that crews would not be tasked overnight. To the contrary, Ms Arman's submission was that her primary motivation, her active motivation, was the concern for safety.

2.1.2. If, as asserted by Ms Arman, she was motivated by concern for the safety of the crews, the real tension between the needs of safety on remote firegrounds, and the desirability of aggressive early attack is exposed, and cannot be 'dodged' on the basis that the real motivation was otherwise. Ms Arman asserts that it is no business of this inquiry/inquest to label the decision as either right or wrong, such a question being beyond jurisdiction and impossible to answer in any event. Rather, this inquest/inquiry might consider a recommendation that those in authority give attention to the issue and develop, if it be possible, guidelines for Incident Controllers for the future.

3 The submission

3.1.1. The document that "came to light", (literally true), was that entitled "Field Notes Brindabella – Canberra Fires January 2003", the author being Jeff Cutting, the photographer. His entry for the Bendora fire on the 8th reads as follows:

*Drove south along Two Sticks Road from Mt Coree to
Piccadilly Circus thence along Mt Franklin Road to*

Bushrangers Hill, down Moonlight Hollow Rd to Warks Rd thence south to Wombat Rd to join up with ACTRFS taskforce at the base of the Bendora fire at approximately GR:641783. The eastern (bottom) flank of the fire was approximately 60m uphill from Wombat Road at about 2100 hr. Climbed 15 – 20 metres into forest in the dark and took photos of fire. ACTESB PARKS:1 was IC – all fire crews were being pulled off this fire for the night due to a falling timber hazard – I was the last person to leave. Except for small shrubs and fallen branches, I found Moonlight Hollow Road well made and passable for my sedan car, however it was fairly narrow and without passing and turn-a-round points for a distance of 4km. The fire was located close to the Bushrangers Creek catchment that was subject to experimental burning in 1980 by CSIRO for a water catchment studies. Found ACT Forests tanker mending a blown rear tyre on Warks Road.

- 3.1.2. Counsel has not located these field notes in the electronic brief, though technical incompetence cannot be excluded.
- 3.1.3. The relevance of the document is obvious. These are contemporaneous field notes. The most likely source of the information that the "fire crews were being pulled off this fire for the night due to a falling timber hazard" is Ms Arman, although it wouldn't matter much who told Mr Cutting. It is a contemporaneous recording by an independent person of the reason for the decision, unaffected by the vagaries of memory and the inevitable post 18/1/03 soul searching.

3.1.4. The submission was made on behalf of Ms Arman that the contemporaneous actions and utterances are the best guide to determining the reason for the decision, and the Cutting notes demonstrate that to be the case.

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4.7.06

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