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# State's NuCoal Resources expropriation hurts small investors

JULIAN MALNIC THE AUSTRALIAN OCTOBER 30, 2015 12:00AM



NuCoal Resources investors Michelle and Darrell Lantry with son Oscar. The expropriation left them 'devastated'. Source: Supplied

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**If the Bible wasn't clear enough about stealing, the Magna Carta was. Property ownership is a human right and it is time for NSW to pay NuCoal Resources for the state's actions stealing its Doyles Creek coal project at Jerrys Plains in the central Hunter Valley in January last year.**

Lost in the folds of political cloak-and-daggery and the smudging of its good name, NuCoal had nothing to do with the Obeid-associated Mount Penny coal project of Cascade Coal which lies 100km away and has no corporate or financial connection.

Many lives were badly hurt in the ensuing destruction of NuCoal, whose shares now trade in the fractions of a cent, its flagship asset lost.

As US shareholders who hold 30 per cent in NuCoal roll out the artillery for a claim under the US-Australia free trade agreement, attention to the plight of the 3400 shareholders — including Newcastle's Lantry family — is building.

The Lantrys were avidly pro-NuCoal with its "best new coal deposit in the Hunter" and they bought more shares as risk milestones were passed and the project firmed.

First the Lantrys invested in a legal prospectus approved for public investment under the stringent rules of the Australian Securities Exchange and Australian Securities & Investments Commission.

Risks were detailed — all except one: the risk that the NSW government would not only seize the asset and then, in an unprecedented move, legislate against compensation for this theft.

The smashed share price just about destroyed the Lantrys, who were “devastated”. Darrell, wife Michelle and two-year-old Oscar are all shareholders. Oscar’s nest egg of 20,000 shares might once have seen him lay down a deposit on a house as a young man, but today it is worth 80c.

The family has lost “a few hundred thousand” and given that all parties, including the confiscator-in-chief, former premier Barry O’Farrell, have declared that NuCoal was innocent, are calling for NuCoal to be compensated.

Explains Darrell Lantry: “I am an average guy who works my whole life, works two jobs and so forth, so had a go at the share market over the years and have been semi-successful.”

What deed could be so bad to deserve a major asset strip? Gun-running? Terrorism? No, NuCoal and its 3400 shareholders became political cannon-fodder in O’Farrell’s pursuit of the other coal company, Cascade Coal, and that was in pursuit of his Labor arch-enemy, Edward Obeid.

Michelle Lantry, who also works full-time, recalls: “When Barry O’Farrell first suggested the lease could be taken from NuCoal, I remember Darrell saying ‘that can’t happen, that’s never happened ... they can’t just come and do that, that would never, never happen’.”

It is nasty injustice indeed that the victims of goings on in Macquarie Street have had to wear a \$360 million penalty for what was done against them.

The Lantrys’ silent vigil casts investment in Australia and NSW in a particularly poor light. It adds to a growing attitude in government that “miner bashing” is OK.

It is damaging to our reputation for rule of law and sovereign risk, and again makes industry pay the cost of political free-for-all. Investors’ faith has been punished by the very thing in which they had faith — the state of NSW. Several of the state’s mining ministers have been charged with corruption.

Government bungling played a role too. The Clayton Utz report that set the NuCoal witch-hunt off in parliament is hand-noted “Tabled by Mr Hartcher and ordered to be printed ... 11/11/11”. Item one in its chronology is the historic discovery of a 62 million tonne resource of coal, citing this from a “Ministerial Briefing 22 February 2007”, adding that this resource “is classified as a Major Stand-Alone Area Under the Guidelines” — that is highly valuable.

ICAC would later decree that the granting to Doyles Creek Mining (DCM), later owned by NuCoal, of its exploration licence EL7270 was an act of ministerial corruption. But oops, there was a departmental error. The 62 million tonne resource was on the other side of the river, and at the time NuCoal’s area had only four drillholes in it and no resource.

It was only after NuCoal had spent \$40m that the rich resource was discovered.

Despite this blunder, ICAC’s then Commissioner, David Ipp, was still perversely able to find Doyles Creek Mining misled the minister — while implausibly emphasising that not succeeding does not make it any less of an offence.

The departmental error had in fact misled parliament and ICAC.

The complexity of events has masked stories like the Lantrys. So have both sides of NSW parliament who wish, childishly, that all this would go away. Arguing whether corruption is worse than the expropriation of private property — as Mike Baird has recently stated — overlooks the collective sin that is the abuse of power.

Labor has done it chiefly with corruption, and the O'Farrell-Baird Liberal government has done it with asset expropriation that has left the world aghast.

Worst still, the Libs have done it in the name of justice and saving us from corruption.

“There is no greater sovereign risk than corruption,” says Baird — except perhaps a government that steals from the people and says that it was done to protect them from a former government that was corrupt. It doesn't even make sense.

Julian Malnic is chairman of the Sydney Mining Club and is researching a book for NuCoal Resources about the 2014 expropriation of its Doyles Creek coal project.