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SENATE SELECT COMMITTEE on the MURRAY DARLING BASIN PLAN

Submission

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The Australian Government Solicitor's advice to the then Minister for the Environment on the role of social and economic factors in the Basin Plan, prepared by the Chief General Counsel Robert Orr QC and Helen Neville Senior General Counsel on the 25th October 2010 states that the general purposes of the Water Act 2007 and the Basin Plan were:

- "-to give effect to relevant international agreements,
- -to provide for the establishment of environmentally sustainable limits on the quantities of water that may be taken from Basin Resources
- -to provide for the use of the Basin water resources in a way that optimises **economic, social and environmental outcomes** (their emphasis),
- -improved **water security** for all uses, (their emphasis) and
- -subject to the environmentally sustainable limits, to maximise the **net economic returns** (their emphasis) to the Australian community. "[1]

The intention was to create a Basin Plan that served the nation's need to sustain the environment, in particular addressing any problems of over allocation of water that had come about over generations as State Governments issued new licences for rivers, streams and ground water extractions to help develop some of the world's most efficient food and fibre based industries. As irrigated agriculture developed, historically allocated "sleeper" licences were activated and hence some over allocation.

The Plan was to ensure the MD Basin economy and its communities housing the millions of people living in the Basin was also sustainable. It recognised the interdependence between the environment, the economy and community. The plan was expected to employ science based strategies, carefully tested and measurable, to ensure real, improved and sustainable outcomes for the Basin's unique set of environmental values, including many internationally recognised Ramsar listed sites and its iconic flora and fauna.

Unfortunately, the Basin Plan administration now regularly substitutes "environmental flow" volumes as a crude, unscientific alternative to specifying measurable environmental outcomes at specific eco-system locations. So instead of aiming to, say, trigger a successful series of particular bird or fish breeding events, or biodiversity protection in the Barmah Forest, a surrogate for successful environmental outcomes has simply been made the measure of the volume of water released into the forest at that time. If a measured volume has gone down a stream or over a bank, then it counts as a successful environmental outcome, no matter what the actual impact on the riparian environment or the channel itself.

Over the bank flows, the higher and more frequent the better, are now considered environmentally desirable, where-ever or whenever they occur, whether it is into native box forest, prime farmland, or a wetland. The carefully timed and targeted flows into eco-system sites that take into account seasonal conditions and the natural wet-dry regime have become the exception, not the rule.

[1] AGS: The Role of Social and Economic Factors in the Basin Plan. 25 Oct 2010.

This substitution of the original science based intent of the Basin Plan has led to degradation of many parts of the environment as it is subjected to unnatural flow regimes or surges of water at the wrong times of the year, at the wrong temperature and for the wrong duration. There is a growing list of well documented black water events (eg. in the Barmah forest), native fish kills (eg.in the Wakool region), gouging of banks, sand bars and undermining of riparian vegetation, (eg. in the Goulburn River) and generally increased turbidity that promotes feral rather than native fish, fauna and flora survival.

Unfortunately, this “environmental volume” for release has often been arrived at as a political compromise between States, with nary an environmental scientist in sight. Perhaps the worst example of this with potentially devastating environmental, economic and community impacts was the two minutes to midnight bargaining in October 2012 when the S.A. Premier challenged the Murray Darling Basin proposals and the Federal Government’s authority to coordinate the plan, unless that State was allocated additional water above the agreed Sustainable Diversion Limit of 2750 GL .

The Constraints Strategy Impacts

Scientists and the Basin Plan had always acknowledged the natural “constraints” in the system, for example the Barmah Choke, which helped create the Barmah-Millewa Ramsar listed wetlands. These natural constraints do not allow unnaturally high flows out of the storages to be forced down streams without man-made flooding (euphemistically now called over-the-bank flows). While increased over-land flows in the north of the Basin are usually drought breaking and highly desirable (but unregulated), artificial flooding in the regulated system of the mid Basin has the potential to degrade the environment, with serious economic and community impacts. For example, regular artificial flooding will recharge the naturally occurring saline aquifers, in the Murray and Goulburn Valleys,(overturning the work of State Government salinity management plans) man-made and non-natural flooding will stimulate weed growth and feral fish populations; mosquito borne diseases for humans and livestock will increase; production will be lost from some of the most fertile riparian regions in the Murray Darling Basin; there will be inundation of tourist infrastructure, town sewerage systems, and urban assets in cities like Shepparton and Wagga Wagga.

Despite all of these well understood and documented consequences, the political fix for S.A. was the passing of the Water Amendment (Water for the Environment Special Account) Act in February 2013 where an extra 450 GL was legislated to be “recovered” over and above the agreed Sustainable Diversion Limit (SDL) and this 450GL was to be released at such times and volumes so as to force a permanent free flowing channel through the natural sand dunes at the mouth of the Murray. The man-made flooding problems due to the constraints of the mid Basin systems hundreds of kilometres upstream were acknowledged. To administer and manage this artificial flow at the Murray mouth $1.77billion was legislated with some $200 million of that for “ameliorating” the impacts, for example, putting covenants and easements on private properties to be flooded, raising railway lines, roads, bridges and levies.

This 450 GL solution to the political impasse in late 2012 was given an environmental “mantle” including as mentioned keeping the mouth of the Murray flowing 95% of years, including every year, without the need of dredging, the raising of some lower lake levels, the reduction of their salinity and the discharge of two million tonnes of salt per year from the MDB as a long term average.[2] (In fact the Murray salt interception works upstream are not currently operating at optimal rates due to budget constraints, and the salinity in the lower lakes is largely from saline run-off generated in S.A)

It is regularly acknowledged that the legislated outcomes nominated for S.A. could best be achieved with environmental works and measures and other engineering solutions applied to the ageing lower Murray system infrastructure and drains. The recent amendment to the federal Water Act did not refer to the achievement of the environmental outcomes specified in the Water Amendment Act 2013, rather it simply focussed on how to better “recover” the additional 450GL.

Significantly, the MDBA Constraints Management annual progress report 2013-14 also makes no mention of the extent to which the mid and upper River system additional flooding will achieve the salinity reductions or water levels now legislated to be achieved in the Lower Lakes and at the mouth of the Murray. The expected inundation of S.A. recreational river shacks, toilet blocks and BBQs on the Murray River are identified, but no environmental outcomes are referred to. (p.26-27)

The MDBA Constraints Annual Report does refer to the significant impacts of removing natural and man-made “constraints” that would impede the flow of the additional 450GL of water down the system. However the scale of these impacts are acknowledged as only partially understood, or unknown, given the unregulated minor tributaries which have a major impact on flood heights and duration downstream are mostly not gauged or monitored.

In the MDB’s Chair foreword he writes about the just completed Constraints Strategy pre-feasibility stage:

“In some areas, the work program involves developing proposals to mitigate potential effects of higher flows, such as building bridges, improving access roads and acquiring easements. In other areas, it may mean doing survey work and improving our understanding of where the water goes when it flows out of the main channel” p.v

The MDB storages eg the Hume, Burrinjuck, Blowering, Talbingo, Tantangra and Eildon Dams may be utilised to release the extra spills of 450 GL. All have been built to service or stimulate development in the Basin’s most arable and high production valleys, floodplains, towns and cities. The MDBA inadequate efforts to cost the impacts of this political fix on regional economies and environments are acknowledged in their Annual Report not to be detailed or robust:

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[2] Water Amendment (Water for the Environment Special Account) Act 2013 No.3 2013 Part 2AA

"*If the Constraints Management Strategy were to progress to the feasibility phase, further work could be undertaken, including on a property-by-property level, to develop more detailed and robust cost estimates*" p.14.

Property-to-property consultations and detailed costed impact assessments along thousands of kilometres of rivers and across thousands of hectares would engage thousands of individuals, but it must be done if natural justice and fair compensation is to prevail. The task has not been attempted, even though essential if the Strategy is to be progressed and implemented.

The MDB piecemeal community feedback to date is reported in the Annual Report as having listed the following impacts. Note they are not precisely located or costed:

- Prolonged Water logging (leading to soil salinity, weed invasion, increased feral animal (eg pigs) and mosquito breeding with associated disease increases.
- Stock being bogged, having to be kept out of riparian zones previously grazed, crop damage.
- Impact on fences, access roads, bridges, levies, shed infrastructure.
- Impact on tourist amenities, caravan parks, camping.

The Murray Valley Private Diverters together with the Edward Wakool Constraints Management Strategy Advisory Group (the Groups) have raised a series of concerns about the Constraints Management Strategy they have identified within the River Murray – Yarrawonga Weir to Wakool Junction Reach Report.

The Groups consider that the Murray Darling Basin Authority has failed to effectively address community consultation on "meaningful terms" with varying flow regimes (at Tocumwal) and varying assumptions concerning levels of community acceptability, and mitigation costs. They also echo concerns (particularly by the Edward Wakool Constraints Advisory Group) that the figure of $200 million for impact amelioration will be grossly inadequate.

The Groups raised concern that the Constraints Management Strategy Annual Report and Annual Progress Report (2014) to the Federal and Basin State Ministers gives contradictory information; see the Yarrawonga to Wakool Junction Reach Report and other specific information provided to the Murray Darling Basin Authority during community consultation.

Additionally, the Constraints Management Strategy Annual Progress Report (2014) reports expected flows of between 40,000 and 77,000 ML per day for the Murray River (Yarrawonga Weir) and minor flows (in the Yarrawonga Weir to Wakool Junction) in the vicinity of 20,000 to 50,000 ML per day. The Group advises that community consultation has identified these rates as unrealistic and unsafe, citing elevated risks of extensive local and regional flooding.

Many hold concerns about the goals of "the reconnection" of the floodplain with rivers, wetlands and creeks. There has been little differentiation of privately owned land and floodplain areas with forest zones. Reports do not acknowledge the existing connections between the floodplains, rivers and creek system, as demonstrated during natural flood events and high flow events.

The Constraints Strategy (with its additional 450GLs for flooding over 35,000 hectares) does have some friends, however. For example, the Victorian State Government Catchment Management Authorities envisage a handy share of the $1.77bill for their budgets to manage the new flood events. However the Goulburn-Broken CMA does not have the equipment installed to gauge or monitor many upper tributaries of the Goulburn and so the impact of rain events occurring on top of a deliberate release for flooding cannot be predicted, a point readily acknowledged at its minimalist community consultations on behalf of the MDBA. These 6 week exercises were supposed to identify the socio-economic and environmental impacts of the extra 450GL strategy on the major tributary to the Murray, home of the fruit and dairy industries.

In perhaps the understatement of the century, the Water Act 2007 Independent Review Panel commented on page 40:

"*It is clear from submissions that some stakeholders do not yet have confidence that the recovery of the additional 450GLs of water will have neutral or improved social and economic outcomes*."

The Constraints Strategy was a political fix for a political stalemate in one part of the Basin. It now has $1.77Billion allocated to create regular man-made medium to high level flooding on the mid Murray and its tributaries in six years out of ten. An estimated 35,000 hectares (Part 2AA, section 86AA (f)) is to be flooded, causing economic, community and environmental damage, without any certainty of improved lower system environmental outcomes. It is now in its second year of funding and creating enormous uncertainty and distress for Basin communities and local governments. Many are now cautious about investment or development in riparian zones, particularly on the Goulburn and Murrumbidgee and their experience to date with the MDB Authority or their agents has given them no expectation of fair and transparent processes of consultation or impact evaluation based on science in the future.

Recommendation

In order to avoid the adverse economic, community and environmental consequences of the Constraints Strategy, any further implementation should immediately be put on hold while the $1.77billion is utilised instead to identify and build the engineering alternatives that can generate the lower Murray outcomes listed in the legislation. (Although keeping a permanent channel through the sand dunes at the mouth of the Murray may not stand up to any scientific scrutiny.)

The Temporary Water Market Crisis

Part 6 of the Commonwealth Water Act 2007 establishes the roles and powers of the Commonwealth Environmental Water Holder (CEWH) for the use, management (including carry-over for future years) and trade of water recovered for the environment. The Water Act specifies that Environmental water is to be released from storages for the purpose of optimising environmental benefits, and any monies received from trading is to be used for buying more water for the CEWH (section 106).

The Act also requires that commercial trade of its water by the CEWH must take into account social and economic outcomes and must be financially fair, transparent and equitable.

At the 31 Aug 2015 the CEWH's holdings totalled more than 2,372.074 GLs of water access, the biggest entitlement in Australia and valued at over $2billion, with a long term annual yield of 1,645.565 GLs. (By way of comparison Sydney Harbour holds some 500 GLs). In the six years since 2009, CEWH has delivered some 3,500 GLs of water to the environment, or about half of the water available from its annual yield. In 2014-15 the CEWH carried over (meaning held back in storages) some 450 GL of water. The proportion of water that the CEWH is able to carry over, can be up to 100% of its entitlement in Victoria, although less in NSW, reflecting different rules applying to the different entitlements it purchased.

Socio-Economic Losses of Water Buy-back

The vast majority of CEWH's entitlement was taken from food and fibre production water across the MDB. In particular it was once high security water supporting the food bowl of northern Victoria and the country's most valuable and productive dairy and fruit manufacturing with more than 23 food factories supporting over seventy towns and three cities. This water was purchased from Victorian and NSW irrigators in the teeth of the worst drought on record. As debt levels soared, the lenders saw an opportunity to have this debt reduced by requiring the irrigator to sell water via the tenders promoted by CEWH. State unbundling rules made this possible.

The estimations of the daily loss of productivity across the MDB due to the transfer of irrigation water to the CEWH using ABS estimations of the Gross Value of Irrigated Agriculture in the MDB (which was $6.7billion in 2011-2012) shows a daily reduction of between $5million to $7million per day, every day, going forward. Ironically, for the next several years the Federal government is investing $2.5million a day in irrigation infrastructure. It is little wonder then that productivity growth is stalling in these the most valuable and employment generating agricultural sectors in Australia. Growth and returns are below international trends in similarly developed countries. Youth unemployment in the southern part of the basin is over 25%, suicide rates, drug and alcohol abuse and mental health issues are escalating, small communities are being depopulated and are becoming dysfunctional, the farm population is ageing and farm succession is a critical problem in the most valuable sectors.

When some 50% of Victorian irrigators were forced to sell all or most of their water entitlements to retire debt during the Millennium drought (over 90% of the payments went back to the banks) they and their neighbours in NSW were forced to turn to the temporary water market to provide the input essential for their production.

In 2000 the Goulburn Murray Water Authority irrigators had entitlements to 1650 GL of water. The aggressive CEWH water buy-back activity instigated by the Labor Government saw this pool reduced to 1000 GL, with another 204GL still to be "recovered" in exchange for the Federal investment in the GMW irrigation system's "reconfiguration" or NVIRP2.

The Corruption of the Temporary Trading Market

Victorian State Government removal of a cap on non-primary producers trading water in 2009 meant that well informed State owned entities and the South Australian Government now buy, sell and speculate energetically in the market to ensure maximum return for their shareholders. For example, the Melbourne Water Authority in most years trades the 75GL of GM Water allocated to it by the Vic State government for the North-South Pipeline. (the pipe was closed years ago).

In Victoria, temporary water traded at $25 per ML three years ago, $70 per ML in 2013, $130 in 2014 and it is now at over $220 per ML. Depending on the volumes required, few primary producers can pay these prices and remain viable. Unfortunately these are often the younger operators still building their enterprise.

More than 60% of farms in the GM system, the biggest irrigation footprint in the Basin, are now 100% dependent on the temporary water market. This is adding to the productivity losses and the concerns from food manufacturers that their suppliers cannot meet the growing demand for export and domestic product.

Recommendation

The annual temporary trading of the unutilised environmental flow entitlement of CEWH would ease volume shortfalls on the temporary water market and dampen prices. To date CEWH has traded twice, once in 2014 in the Gwydir Valley area of Northern NSW when 10 GL were offered for $3.217mill to 16 cotton growers and in the second trade, to seven enterprises in the Peel Valley when 340ML were sold for $32,580.

The Report of the Independent Review of the Water Act 2007 (Nov 2014) found that the CEWH sales occurred in the Gwydir when:

"local *floodplains required a drying phase following consecutive wet years. At a time of extremely low rainfall and hotter than average temperatures, it also provided cotton growers with the opportunity to decide whether to water to finish their crops or to improve yield and quality." (p.76)*

Thus the Independent Panel clearly acknowledged the multiple benefit outcomes of this trade.

Unfortunately, the current regulations require CEWH to spend any trading revenue on further buybacks of water from irrigators, compounding the productivity losses from the Basin and as the water pool shrinks, increasing the non-producer speculator returns in the market.

In line with the Independent Panel's Recommendations, the regulations need to be changed. Revenue from any water trading by CEWH should be invested in environmental works and measures, and for paying its share of the administration, storage and delivery costs of the Holder.[3] This was an estimated to be $18million in 2014-2015.

CEWH Signals Intention to Trade Now and Buy-back Later

CEWH has recently noted on a departmental website:

"In the southern Basin carryover from 2014-2015 along with current and forecast allocations in 2015-16 may provide the opportunity to sell 20GL of regulated allocations held in the Goulburn river catchment without a material impact on the achievement of environmental watering objectives. This would provide an opportunity to set aside the proceeds for a later purchase of allocations that will result in a net improvement in environmental outcomes in other areas of the Murray-Darling Basin"[4]

Given the trading framework and operating rules of the CEWH require that its trading activities:

- Support enhanced environmental outcomes;
- have regard to social and economic outcomes;
- consider impacts on the market, including any third party impacts;
- are undertaken in a manner which meets legislative requirements;
- are financially responsible, fair, equitable, transparent and accountable;
- the CEWH and CEWOffice staff act with integrity and high ethical standards,

[3] Independent Panel Review, Commonwealth Water Act. p77 recommendation 15

[4] https://www.environment.gov.au/water/cewo/portfolio-mtg#update

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Hastening to buy back further water from irrigators is contrary to its operating rules, in particular those which relate to fairness, equity, ethics, and avoiding adverse social and economic outcomes.

Irrigators are most anxious that CEWH trades the entitlement it cannot use, but it should not be engaged in further buy backs before the legislation is changed in line with the independent panel's recommendations, and in line with the now legislated cap of 1500 GL on further water buy back.

A win-win or multiple benefit outcomes from CEWH activity should not be an isolated or accidental case. Rather, this principle was enshrined within the MDB Plan as a central and regular consideration for the CEWH when it assesses the timing, place and volumes of its environmental releases or trading. Clearly this has not been happening and must now be adopted as an operating norm.

The recent retention of the CEWH in the Federal Environment Ministry, isolating it from the Water Portfolio placed in the Agriculture Ministry is therefore a retrograde step, making the multiple use function and triple bottom line more difficult to achieve.

The MDB Plan Environmental Watering Plan which is to guide the CEWH states that environmental water must be undertaken having regard to, among other factors:

(a) Social and economic outcomes

(b) co-ordinating environmental watering with flows regulated for consumptive use; and persons materially affected by the management of environmental water

(c) the views of local communities. [5]

Achieving multiple benefits has already been acknowledged as possible by the CEWH Mr David Papps and the tax payer should expect nothing less than maximising the value of their investment through the benefit to the environment, the economy and the basin community in both the operation of the MDB Plan and of the CEWH in particular.

It is important to now put into place a trading regime for the CEWH that recognises that the organisation has need for additional capital for constructing works and measures that would benefit environmental assets.

Creating a Fair, Transparent temporary Water Market that functions in the National Interest.

As already discussed, the MDB temporary water market is corrupted by speculators with no access to (or interest) in irrigable land or primary production, despite the irrigation infrastructure carrying this water being tax payer funded for that and other consumptive

[5] Report of the Independent Review of the Water Act 2007. p26.

purposes. The market is not transparent, it operates across borders where the characteristics of water access, carry over and security differ, but these are not appropriately accounted for. For example, trading water out of the Murrumbidgee system has been halted this season given the 100GL volume traded-out trigger has been tripped. Traders now focus on Victorian water entitlements where a no-more trade trigger has not been put into play. This is extremely difficult for Victorian primary producers with minimum allocation who are facing a very dry spring but have little chance to compete with speculators for water to keep crops alive or to maintain herds.

Recommendation

It is also essential that we establish a publically accessible and transparent register covering all product and transactions in the market, which easily identifies water entitlement ownership, (including the CEWH and international buyers) the water's characteristics as well as trading activity and prices. Opportunities for insider trading, collusion or a concentration of ownership is not in the interests of Australia's food security, or returns on its $2.5m per day federal investment in MDB irrigation systems and water storages. Stranded assets are now a serious efficiency constraint in Victorian and NSW irrigation systems in the Basin. Establishing caps on further removal of water out of some systems should be investigated in the light of loss of public investment value, falling efficiencies and increased costs to remaining irrigators.

Marsden Jacob Associates were engaged by the CEWH to provide information on trends and patterns in water trading zones, to forecast water market prices and factors effecting price movements. Given CEWH is also a trader, it is understandable that the Independent Panel reviewing the Water Act recognised the potential for CEWH to be accused of insider trading advantage without adequate safeguards or systems to protect the Commonwealth or the irrigator community.

The ACCC should keep a close watching brief on this emerging and critically important Temporary Water market. In identifying probity issues the Independent Review Panel recommended an industry led scheme of regulation for water market intermediaries (Rec 9) and a "detailed analysis of the potential benefits of reassigning the Basin Plan trading rules function from the Murray-Darling Basin Authority to the ACCC"(Rec 8). I strongly support this advice.

The Water Act's Independent Panel recommended a review of the Water Charge (Infrastructure) Rules, the Water Charge (Termination Fees) Rules and the Water Charge (Planning and Management Information) Rules. This review is now being undertaken by the Australian Competition and Consumer Commission in consultation with the industry and Basin State governments. The ACCC has taken evidence about the negative impacts of speculator driven prices on primary production, water market prices quoted not taking volume into account, the failure to mandate standards of integrity or record keeping for water traders and the failure of the market to serve in the best interest of food and fibre producers driven to depend on it as a consequence of government non-strategic water buy-back policies.

Changing CEWH Carry-Over Rules to Grow the Market Volumes

Recommendation

Removing the CEWH's right to carry over all or part of its entitlement held in storage would also encourage it to temporarily trade water not required for immediate environmental use. This water would be available in following seasons. This water would help grow the market volumes available, dampening speculation that drives prices beyond primary production use. Genuine primary producers however should be able to continue to carry over some water to sure up the viability of their enterprises.

Market Speculators and Primary Producers Pay the Same

Recommendation

Requiring all participants in the market to pay all costs associated with the trade, ie not only the storage, but also the delivery and any other charges forwarded to irrigators would also remove the current subsidisation of water trading by primary producers as they pay to have the water delivered, while non-primary producer speculators do not. The difference is substantial.

All Water from MDB On-Farm Water Use Efficiency Projects Goes back on the Market

On average more than 50% of water identified as savings by primary producers obtaining federally funded on farm water use efficiency grants is added to the CEWHoldings. This means States like Victoria, where 59% of these savings are passed to the CEWH, continue to contribute above what was originally agreed as its share of end of valley High Security irrigator water entitlements. Each time a so called "saved" ML is passed to CEWH the temporary water market shrinks (and CEWH does not use all of its water annually). Given the price of the water in the Temporary market many irrigators no longer have an appetite for these grants, once considered essential to buy more water efficient technologies, such as travelling irrigators.

Recommendation

Future water buy backs are now capped by the Commonwealth in acknowledgement of the lost productivity. Investing in Environmental Works and Measures rather than buy-backs are now understood to have a far more effective triple bottom line impact on the environment, communities and the economy. All past and future savings from the Commonwealth on farm water use efficiency projects should now be passed to the CEWH which would then be obliged to place this water in an orderly fashion onto the temporary water market.

The Crisis created by NVIRP1 and NVIRP2 in Goulburn Murray Irrigation District

In 2007 the Victorian Government took a decision to build the North South Pipeline to divert water to Melbourne from the food producers in the drought stricken Goulburn Valley. This triggered a series of events that today are manifested in the loss of over half of the irrigated infrastructure in the Goulburn Murray Irrigation District, (GMID) (which still has a footprint bigger than Tasmania) and has exacerbated the price pressures in the Temporary Water Market.

The State's $1billion plan for water for Melbourne required 225 GL of "savings" to be "recovered" from the GMID with a third (75GL) to go to the Melbourne Water Authority and 75 GL to pass to "the environment". Originally irrigators were also to receive 75 GL in return for raised water fees and charges. This transfer was never realised, while rates and charges continued to climb.

To implement the scheme the Victorian government established their Northern Victorian Irrigation Renewal Project (NVIRP) with its head office in Shepparton. The key mechanism for "recovering" the water was converting water wheels to meters, plastic lining some channels and shutting down irrigation on the supply channels (renamed spurs) with remaining irrigation effort to be focused on the "backbone" which made up less than half of the system. This was referred to as "reconfiguration" and "reducing the footprint."

Alarm about the activities of NVIRP led to a Victorian Ombudsman's Inquiry presented to the Victorian Parliament on the 23rd November 2011. It found such inappropriate, unconscionable and poor commercial behaviour that NVIRP1 was immediately abolished and most of its 100 staff were re-seconded back into the Goulburn Murray Water Authority (GMW).

A few weeks before the tabling of this damning report, the new Victorian Government, on the 18th of October, 2011 obtained a federal commitment of $1.216 billion with $953 million to be committed to NVIRP2[6]. This was expected to generate a further 204GL of water savings, some half of which (100GL) was to go to CEWH, the rest to irrigators. The men with the pens were the Victorian Minister for Water, Agriculture and Food Security (Minister Peter Walsh) and the Commonwealth Minister for the Water and Environment (Minister Tony Burke).

GMW a fully owned State Government Authority with 800 employees and a monopoly on water delivery now had Federal Government MDB funds to complete stage 2 of the NVIRP.

The Business Case for this second phase of a major tax-payer funded infrastructure project has never been released and an FOI request by me to the State Government for access to it has been refused on the basis that it is "Ministerial in confidence". I am now trying to obtain this business case via a FOI request directed to the Federal Minister for the Environment. The deal identifying the NVIRP2 water commitments to CEWH were never communicated or widely discussed with the stakeholder communities despite claims to the contrary by Minister Walsh in a letter to the Federal Minister Tony Burke, quoted below.

[6] NVIRP2 is now also referred to as GMWCP2 (CP refers to Connections Project)

Quotes from this letter from the then Minister for Water, Hon Peter Walsh to then Minister for Sustainability, Environment and Water Hon Tony Burke explain some of this desire for "confidentiality"[7]. The Victorian Minister writes:

"I am writing to seek your support for the revised project to modernise irrigation in Goulburn-Murray Irrigation District of Northern Victoria.

As you are aware, the proposed package differs from the project supported by the Federal Government, in a letter to the previous Victorian government in November 2010. This was a project of $1.059 billion for up to 200GL of Long Term Cap Equivalent (LTCE) water savings with the Commonwealth funding $953million for a total of 100 GL LTCE.

The revised agreement relies on Commonwealth Investment totalling $1.216billion for:

- *$953million towards Stage 2 of the NVIRP, which will deliver a total of 204 GL LTCE.*
- *Victoria is proposing that, as part of a water package, the Commonwealth will receive the total 204 GL LTCE of the water savings, as opposed to fifty percent.*
- *$219million of additional funding towards the Strategic Water Purchase of the 102GL LTCE share of water savings, previously intended to be shared amongst Goulburn-Murray Irrigation District irrigators. This strategic purchase will be valued based on historical market values and an agreed market premium, recognising the benefits of a large single water sale; and*
- *$44million for a stand-alone project to support on-farm irrigation modernisation integrated with the roll-out of NVIRP to deliver (*another*) 10GL LTCE.*

In summary, the request was for an additional $219million plus $44million from the Commonwealth, which would buy all of the proposed water "savings", with the irrigators no longer to receive the originally agreed 50% of water or over 100GL for their ongoing primary production.

You have to wonder why the State Minister was willing to sacrifice the future efficiency and productivity of the irrigation system, which despite the drought was generating employment and the biggest export earnings out of the port of Geelong, via manufactured milk product.

The answer lies presumably in the additional funds requested, but also in the paragraph from Minister Walsh's letter which states:

"In finalising the details of this project I seek your support for funding arrangements that provide Victoria with cash flow that adequately meets the needs of the project, rather than relying on the Victorian State Budget to provide a cash flow for this project. "

Presumably in response to some anxiety expressed by the Commonwealth, Minister Walsh then writes:

[7] Letter from Minister for Water, Peter Walsh MLA to The Hon Tony Burke MP, Minister for Sustainability, Environment, Water, Population and Communities.DX21069, RefMBR015272,

"You have asked for assurance that Victorian Irrigators support the revised project. My discussion with irrigation leaders indicates in-principle support, based on the information that has been available in the public arena.

Minister Walsh then states:

"*Broad discussions have also been held with the recently established Victorian Basin Plan Advisory Group*," and "*the broad elements of the package have been widely communicated through existing irrigator networks and the media"* and he states that *"I have received positive feedback from this publicity".*

My checking with members of the Basin Advisory Group found they were informed after, not before the decision.

To this day, irrigators are not aware of the NVIRP2 project content or the revised terms for which the extra funding of $263million and cash flow from the Commonwealth, doubled the stage two take of irrigation water from the GMID from 100 GL to 204 GL to be passed to the Commonwealth Environmental Water Holder. This 204 GL was in addition to the 225GL taken out of the system via NVIRP1.

The State-Commonwealth Business Case for NVIRP2, a taxpayer funded infrastructure investment, has been with-held from the public. No socio-economic or environmental impact assessment of the proposals was undertaken prior to the funding of NVIRP1 or NVIRP2 or the revised version of NVIRP2. Consultation with stakeholders has been non-existent or woefully inadequate.

As apparently required by the NVIRP2 business plan, a mid term review of the progress of the revised NVIRP2 has recently been concluded by consultants GHD. No community consultation was undertaken for this review to assess the irrigator's, community or other stakeholder's response or experience of the NVIRP2 project.

In response to my official complaints about the flawed process, GMW finally asked some of their Water Services Committee Chairs (who are bound by confidentiality agreements) to give confidential feedback to the consultants. In order to check the conclusions of this review (not available to the public) Federal Departmental officials are now seeking input from some GMW irrigators.

This colluded, inadequate and non-transparent joint mid-term review process is typical of the day to day mismanagement of the NVIRP2 project. When presented with a GMW project proposal for the "modernisation" of their property irrigators are usually required to keep negotiations and project details confidential, in particular they are not to inform their neighbours of offers made or reconfigurations discussed. Given the property project invariably impacts on the amenity of their neighbours on a spur, this has caused significant community distress, misunderstandings and delay.

Irrigators and food manufacturers dependent in the GMID are deeply concerned about the continuing loss of water security now threatening productivity, in particular the diminution of the economies of scale required to maintain the food manufacturing sector.

Hundreds of irrigators have been left for four to eight years without any clear advice about the future of their property's irrigation supply, especially when their farms are located on a spur (previously a preferred position in the system). Too many irrigators have found their "modernised" pipes or risers do not function efficiently and water access has become difficult or impossible. The need to lay pipes across one person's property to service another is commonplace, but approval or agreement is frequently not forthcoming when liability issues cannot be resolved between the two parties, and so the project stalls.

There is a new dependence on diesel and electricity to move water previously efficiently shifted by gravity. This has pushed up costs for the producers, and created a more energy intensive industry; the meters that replaced the aluminium wheels deliver similar levels of measurement accuracy but require over $500,000 to buy battery replacements every two years. Where NVIRP2 originally estimated an average of 52mg was saved per KM of channel closed and irrigators were paid some $3500 per mg saved through channel closure, this figure has now been revised down to 15mg per KM saved, a 75% reduction in "compensation" paid to the dried off irrigator.

Some irrigators and the Loddon Shire have been informed that given funds are running out, parts of their system will not be integrated into the rest. They will have a less efficient "hybrid" but pay the same price for service and water as the rest of the GMID. The shortfall of funds to "complete" NVIRP2 however inadequately, is estimated to be between $300million and $330million. Irrigators who refuse to agree to a problematic project contract within 60 days are told that after a further unsatisfactory 60 days of negotiation, they should expect to lose their water access. With changes to the Victorian Water Act 1989, (Section 123) it is no longer possible to successfully challenge an Authority decision or actions in the courts.

Implementation of NVIRP 2 has been non-strategic, poorly executed, and except for a lucky few early beneficiaries, has caused great stress and financial loss. I have more than 50 active irrigator cases in my electorate office ranging from those who have been bankrupted by the process, to others where a solution cannot be negotiated, no matter how urgent, to cases where a better outcome may be in the process of negotiation after years of significant intervention.

Such was the need, that Goulburn Murray Hume AgCare services have committed a special team of "Connections" counsellors to support individuals and families who have become victims of NVIRP2. The distress caused in seeing sometimes generations of work establishing a viable farm enterprise destroyed is causing marital breakdown, depression and mental health challenges that do require special support.

These inept but relentless efforts to remove water from previously viable and efficient dairy, beef and cropping properties is driven by the requirement that a total of 429 GL, almost the equivalent of the volume of Sydney Harbour, is to be removed for all time from the productive capacity of primary producers in the Goulburn, Loddon and Murray Valleys of Victoria. Tragically, although half of this volume has already gone, the irrigation is less efficient than it was, it is a collection of stranded assets, with irrigated properties interspersed with dried off farms that blow dust in summer and become a permanent weed and feral haven. Despite relinquishing all or most of their water entitlement, the GMID Delivery Shares on most of these properties demand payment of thousands of dollars annually. Despite such fees for no service GMW has been categorised by the Victorian Auditor General as having "unsustainable debt, which overshadow the results in the remaining water entity in that sector," [8]

GMW had operated as a water trader: "Watermove". It agreed to discontinue the operations of this company on 10 August 2012. GMW resolved to take full responsibility for the repayment of all outstanding Watermove debts as reported on p.11 of the Victorian Auditor General's report. As at 30 June 2013, GMW's interest cover was found by the Auditor General to still be insufficient to meet its interest payments [9].

Given the temporary water market is no friend to the primary producer, populated as it is by non-producer speculators often with deep government connections or outright ownership, it is not surprising to see the financial and emotional distress now typical of the mid-Southern MDB food bowl farmers. The food manufacturers depending on these suppliers have now formed a consortia to draw the attention of the State and Federal Governments to the destruction of Basin water security, access and affordability, all in direct contravention of the principles of the MDB Plan.

A Royal Commission is now urgently needed to investigate the mismanagement of over $2billion in State and Federal tax payer generated funds for the two projects, NVIRP1 and NVIRP 2. While some individuals have profited they have not delivered benefits to the communities, the economy or the environment. In fact they have significantly damaged the social and economic foundations of some 25% of Victoria. The process of project development, the lack of transparency, the failure to assess or monitor impacts, its poor value for money, lack of consultation with stakeholders, funds mismanagement and the significant long term consequences for employment, need to be thoroughly investigated so lessons can be learned. A National Audit Office review has been sought in the interim, but not scheduled. The ACCC has been asked to investigate but feels it does not have a mandate.

<u>Recommendation</u>

Given the evidence that the State owned Goulburn Murray Water is incapable of proper management of the NVIRP2 project and its funds it should be urgently replaced with an expert private sector party with international and or domestic experience in water infrastructure engineering and management. At the same time as this enterprise is contracted to remedy and complete the project, leaving it an efficient, productive, cost effective and connected system, the future governance of the Goulburn Murray Irrigation District must be

[8] Victorian Auditor General's report into Water Entities, 2010-2011 Audits section 3.2.3 p. 34.
[9] Victorian Auditor General's report into Water Entities 2012-2013, 5.3.3 Interest cover.

reconsidered, removing the State from its management. There are interstate examples of successful irrigator owned cooperatives in NSW and WA which would perform far better in delivering a productive, cost effective system while balancing the needs of the economy, the community and the environment. These changes are urgent.

In Summary

The Murray Darling Basin Authority has failed to produce a balanced, triple bottom line outcome where the interdependencies between the environment, the economy and communities are well understood and strengthened.

The Plan impacts have taken a heavy toll on water dependent producers and their communities across the Basin, from as far north as Queensland and down to South Australia. Water users are in despair as they fear they are now permanently droughted, their viability threatened through water security loss. This happened without prior assessment of the impacts of the volumes taken. The great Millennium Drought buy-backs or the quieter claw backs since are celebrated as the cheapest way to fill the Commonwealth Environmental Water Holder's bucket. The size of the volumes taken and released are celebrated as surrogates for success, but not the measurable impacts on the flora and fauna, the gouged channels or slumped vegetation.

A law to "recover" another 450GL water is celebrated as a triumph for one part of the Basin, but it comes at a cost of regularly flooding and degrading 35,000 hectares, towns and cities upstream, when engineering solutions were there all the time.

Sustainable primary producers are the landscape managers in Australia. Their survival depends on their efforts to protect the water, soils and biodiversity. By impacting their viability and so their capacity to steward and protect the land and waters we hasten the desertification and impoverishment of the Basin and its ability to produce fine food and fibre for the nation. And I do not need to remind the Committee of the human costs of stressed communities.

This Inquiry comes at a critical time in the Plan's implementation. We have to hope it is not too late to amend and adjust and to put science back in the driver's seat.

In the case of my own electorate of Murray, named after the great iconic River, the changes must come quickly, or the Food Bowl of Northern Victoria will not be able to continue to feed fine Australian food to future generations.

Hon Dr Sharman Stone

Federal Member for Murray

29th September 2015