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15th September 2013

Mr Sebastian Roberts
General Manager - Water Branch
ACCC
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statewaterreview@accg.gov.au.

Dear Sir

I am writing in response to NSW State Water Pricing Application that seeks an increase in water charges for regulated water supplies for the determination period, post 1st July 2014.

This letter specifically refers to two issues:

- 1. the parameters of full cost recovery for which State Water seeks to recoup costs**
- 2. State Water's ability to charge for a water product where the customer is denied an ability to use their water entitlement**

I currently hold water licenses for surface water extractions on both the Bullatale and Towrong Creek in the Southern Riverina region of NSW.

Point 1:

In relation to State Water Application to increase their fees I do not support the principle of full cost recovery on a Government service where irrigator customers have very little opportunity to determine what is included in the parameters of full cost recovery.

As a small business owner operating a diverse agricultural operation, the economic inputs into our business have substantially increased over the years. The cost of inputs is not matched with a commensurate rise in agricultural commodities, ensuring that many small businesses are facing tightening profit margins or are progressively losing equity.

Added to these existing cost pressures, Government departments are now seeking full cost recovery for the provision of their services. In relation to water supplies, I find that many of the costs increases may actually relate to Government policy. This can mean that my business may be charged for political decision as opposed to cost recovery of the basic service.

Our region was also selected as part of the NSW Pilot metering project. This has meant all our pumps which had accurately functioning meters had to be replaced with new meters under the pilot scheme. I now find that I am to be charged a service fee on brand new meters, a meters I didn't want nor required. It appears that State Water is to charge a fee in advance 'just in case' the meters malfunction.

In relation to this new charge, it must be noted that I had no ability to ensure that the roll out of the metering project was done in a cost effective manner, nor did I have a choice of meters nor an ability to have the accuracy of the new meters independently assessed.

On this basis I do not support State Water imposing a metering charge on a brand new meter which I understand was part of a Federally funded grant as part of a new National Metering system. It appears that not all areas have been subject to the requirement to have these new meters installed and because our region was part of the first pilot area, our business is now to incur additional costs for new meters, despite our existing meters functioning and having no technical concerns.

I also strongly object to State Water imposing charges for the introduction of policy areas that have arisen because of the Water Act 2007 and the Murray Darling Basin Plan. Our community has strongly objected to the Water Act and the Basin Plan on the grounds that the political decisions did not fully appreciate the cyclical nature of drought and that in the post drought period, the Murray River system and its environment and made remarkable recovery.

My business will also have direct third party impacts arising from the Federal Government policy on the basin plan and there has been no financial compensation in relation to this.

The Basin Plan has set water recovery targets of 2750GL and most of the new environmental flows proposed will directly affect the Murray River. The release of environmental flows at the volumes and height the MDBA propose will have major third party impacts on our business. Governments have not addressed this with financial compensation, this is despite local landholders providing consistent messages to Governments about these risks and concerns.

We have made strong representations to the Murray Darling Basin Authority that the proposed environmental flows will cut our property into sections on a regular basis, losing access to my private property and facing elevated flooding risks from the volumes of environmental water they intend to release in late winter and spring.

I raise this particular aspect of the Basin Plan to ensure that the ACCC understands that not only do I strongly reject State Water charging me for the implementation of policies relating to the Water Act, but also that the Basin Plan itself is to cause our business financial hardship.

Point 2:

I strongly reject any moves by State Water to increase fees when for nearly 10 years I have been charged for a water license on the Towrong Creek, but have been denied the ability to use or access my water entitlement.

I am the sole person that has a water license on the Towong Creek and have held my license since 1971. The creek is part of the mid Murray River downstream of Yarrawonga and is located just upstream of the Barmah Choke (Cadell Tilt region).

The Towrong Creek flows out of the Murray River and flows are connected to the Bullatale, Alimony, Toupna, Middle, Towrong and Cornalla Creeks. Flows are regulated by the Bullatale pipes, PinchGut, House and Mary Ada regulators.

My water license originally was an area based license but was converted to volumetric entitlements for 466ML at the same time as other licenses on the nearby Bullatale Creek were amended.

In 2002 when commencing irrigation activities, I was unable to utilise my water license as NSW State Forests had constructed earthen block banks across the creek (Towrong) blocking the movement of water in the system. I believe that the banks were constructed to enable forestry activities to occur that otherwise would have impacted by flows down the Towrong.

I raised concerns with the NSW Department of Land & Water Conservation Deniliquin office but received no assistance in regard to my concerns. I was advised by the NSW Department of Land and Water Conservation (DLWC) that NSW State Forest would be continuing forestry operations and indications from DLWC were at the time there was little I could do about my concerns.

At the time I also approached NSW State Forests and they indicated that the block banks were to remain in place.

On this basis, no longer able to access my water entitlements, in March 2002 I applied to DLWC to transfer this license to the Bullatale Creek. Both creeks systems operated from the same water source, the Murray River and flows were controlled from Murray River regulators.

My application was refused as DLWC determined that the Towrong license was on an unregulated creek whereas the Bullatale was deemed a regulated creek.

At the time of my application to transfer my license to the Bullatale Creek, DLWC departmental records show that the Bullatale, was not formally noted as a regulated creek, despite all license holders on the Bullatale being advised previously they were on a regulated system. It appears that a clerical error had occurred in relation to the Bullatale Creek and the paperwork confirming it was a regulated creek system had not been correctly completed.

I have been trying since 2002 to get this situation rectified with the local DLWC office (current titles - NSW State Water and NSW Office of Water) to no avail, noting that at the time of my original transfer, both creeks were regarded as unregulated. The original mistake on the Bullatale was corrected approximately two years ago, and it is now recorded as a regulated system in line with what all license holders have been previously advised.

However, at the time of my original application both creeks were recorded by DLWC as being unregulated and therefore my original application should not have been rejected.

I also raised the issue again at the time Minister Penny Wong was the water minister in the Federal Government and sought the removal of the block banks in the Towong. This was around the period when the Millewa Forest (where Towrong Creek originates its flows from the Murray River) was converted from NSW State Forest control to NSW National Parks and Wildlife and the Millewa forest was recognised as a National Park.

At that period I again was denied the ability to access my water and it was put to me that Minister Wong preference was to send water flows to sections of the forest to address the needs of the native fish species, the Pygmy Perch. This meant that not only could I access my water entitlements for my business use, but that thousands of Pygmy Perch in the Towrong Creek below the block banks also perished due to lack of water.

In 2006 I received an email from the relevant water officer in the DLWC suggesting that I could tender my water for sale, which I did. I subsequently received advice that the sale of unregulated water to the Commonwealth Water Holder could not be included in the tender.

In 2008, I tender the water for sale again and likewise my offer was disregarded for the same reasons.

In addition I have tried to transfer my license to the Bullatale and have been refused which appears to have arisen due to this department historical clerical error.

On two occasions I have tried to sell my water to the Commonwealth but have been denied this opportunity as the license on the Towrong is still being regarded as unregulated.

In 2013 I received a water bill from NSW State Water for \$3,052.30 for my license on the Towrong Creek. This new account represents a substantial increase in the State Government charges for my license, yet it is a charge on water I cannot access, I cannot transfer and am unable to sell in a market in which the Federal Government is seeking to purchase water for the environment.

As you can see there is a history of events where clerical errors or internal department decisions have left me disadvantaged over the longer term.

After many lengthy representations and discussions with the relevant NSW Departments handling water licenses and more recently a letter to NSW Office of Water, I am still in a position where I am being charged for a water license to which I am denied the ability access my water property rights.

In regards to my Towrong Creek license, our business has tried every opportunity to either progress the issue of selling the entitlement or transferring the water to my Bullatale Creek license but I have repeatedly come up against barriers.

I am writing to appeal to you to address my concerns and put on record that I strongly reject any moves by State Water to impose a pricing increase on water. To have increased water charges proposed, when I have been denied access to my entitlements since 2002 puts me in extremely difficult circumstances.

I have spent many years trying to obtain a resolution to this issue with no result as it appears that the relevant departments are reluctant to address the original clerical mistake.

Yours sincerely

Stuart Dudley
Director
Kalamunda Pastoral Company

