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Submission to Murray Darling Basin Ministerial Committee

Review of Operations of The Cap  
Equity Issues

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The High Catchment Committee represents the interests of farmers in North East Victoria.

It was established following several large public meetings in North East Victoria and given the task of ensuring that in the implementation of "The Cap" on the Murray Darling Basin equitable consideration was given to their traditional rights.

It supports the principle of the cap but considers that in its application the rights of all users be given full attention. Traditionally "The Irrigation Lobby" has been able to make its concerns well recognised whereas those in the catchment had no united voice.

This submission relates only to "Equity" issues raised by The Draft Overview Report.

The 1996 report "Setting the Cap" clearly set out the equity guidelines under the heading "Property Rights" to guide the future allocation of rights.

We support these principles.

**In Victoria these "Equity and Consistency Principles" are not being applied.**

The first five principles are not in question but it is in the application of principle six that is our concern. It states "no right to water but would have been able to get one in the past."

In this category are two large groups which are now in conflict.

One the one hand are the farmers in the high catchment who bought land at a valuation which included their rights to access water in watercourses, waterways and rainfall falling on their own land.

On the other hand are farmers in government sponsored irrigation schemes who have undeniable water rights but also had an opportunity to exceed these rights when surplus water was available by means of "sales" allocations.

According to the water authority 50% of these farmers have never used sales water, though, like the catchment farmers they would have been able to access this water in the past if they so choose.

The inequity of the cap application in Victoria is that irrigation farmers, who happen to be customers of GMW, have [under the guise of the cap] already been given new property rights to this water. Currently they have been given 30% of water rights and GMW now propose to increase this gift to 60%. This windfall gain has been given even though the individual farmer may never have used it in the past and has no ability or intention to use it in the future. Catchment farmers have not only been completely excluded from this right but when they now apply to conserve

what has always in the past been their right to "private water" under the 1989 Act, are presently being forced to buy back their entitlement from lower basin farmers who have just been given this new title.

This is the basis of our submission but is expounded below.

Our understanding of the background to this dilemma is as follows.

Quote from the Government appointed "Northern Victoria Water Consultative Committee" (The Baxter Report) p.7.

*"All farmers had an historic expectation to water. Upper catchment farmers had the expectation that they would be able to get a licence to build a winter fill dam on a waterway on their own property. Lower catchment farmers have had the expectation that they would usually be able to get some sales water in most years.*

*Upper catchment farmers have pointed out that all farmers have the right to rain run-off and other water that flows or occurs on their property which is not in a waterway. All farmers may build dams to capture this water before it enters the waterway and build contour drains to direct water into the dam.*

*In many instances in the upper catchments, the best place to construct the dam, from an engineering and cost point of view, is in the natural depression of the waterway. Legally, it has long been the case that dams on waterways and diversion of water from them for irrigation and commercial use, must be licensed."*  
End Quote.

Explanation.

In the past a yearly assessment was made of the situation of the storages, allocations were made for South Australia and various other essential claims, then the "water rights" to irrigation districts were allocated. ["Water rights" are attached to properties in the irrigation districts and must be paid for whether or not they are used in much the same way as an urban property has water rates attached to the property.]

These "water rights" are secure in all years except the most severe droughts and can be sold on either a permanent or annual basis. The current market price is \$850 to \$1000 per mega litre [ML]. One ML equals 1 million litres or approx. the volume of water in an Olympic size pool.

After "water rights" were allocated and provision made to secure the "water rights" for the following year there was usually a surplus which was available for further allocation, an estimation was made of demand for any additional water available and an announcement made of the expected amount to be allocated.

Farmers in irrigation districts could apply for some additional sales if their farming system was adjusted to utilise this extra water and on average some 50% of farmers took up this option. Some farmers knowing that this opportunistic water would be available in most years took the business decision and expanded production to take advantage of this resource which was normally available at the same price as water right which is calculated to reflect the costs of distribution.

Farmers in the catchment areas who had private storages for irrigation have also traditionally drawn on this same pool of water and since they bore the total cost of storage and distribution paid accordingly.

So for many years we have had two groups of farmers with equal rights to the same water.

In the gravity irrigation districts different farmers make different management decisions regarding their water management.

. Group one manage so that their water right meets all their needs.  
. Group two have purchased additional water rights to fully secure their needs.

. Group three knowing that "sales" have been available in most years at the same price per ML as water right have expanded production by being able to access this water even though it has no security. (e.g. in 1999/2000 the Goulburn Valley have 100% water right but no "sales" whereas Murray Valley have 100% water right plus 90% "sales", because of varying rainfalls in the respective catchments.)

Current policy, in the catchment, is to confirm private rights to water but to lessen the traditional right to store water in a waterway. By changing the regulations concerning the definition of a waterway the water authority has made it virtually impossible for the farmer to find a suitable and economic site for a dam. This right has traditionally ranked equally with the right available to some 50% of gravity irrigator who had the potential right to "sales" water but which was never taken up. The policy now is to transfer these traditional catchment rights to irrigation districts.

Traditional water rights which in the past had been attached to the property have been separated from property rights and have been fully tradable on either annual or permanent basis. The current market value for permanent transfer is from \$850 to \$1000 per ML.

Whereas in the past, "sales" water which had no right and was purely opportunistic was allocated as available, it is now proposed that it will be changed to a "second product-a lower security right" and will have attached to it a title which can be fully traded on either a annual or permanent basis. This policy has already been introduced by Government though at present only the first 30% of this can be traded. The water authority is now proposing that this 30% be increased to 60% so that in effect all present and future water which may be available will be committed to their present customers.

Catchment farmers are now told that if they want access to the same pool of water to which they have always had access they must BUY an entitlement to their water (even though it falls as rain on their own farm) from an irrigator who has just been given title to water that he has never needed or used.

By taking away the traditional rights to water in the North East and giving these to "gravity irrigators" who can then sell it back to the catchment farmer the government policy which is claimed to necessary under "the cap" clearly disadvantages this region while giving a windfall gain to another.

With the changing fortunes of farming whereby the traditional industries of sheep and cattle have become unprofitable, the future of the North East necessitates an intensification of the trend to more intensive farming such as horticulture, viticulture etc.. These industries require supplementary irrigation.

In pursuing this policy the water authority is acting logically in its best financial interests but this completely ignores the equity issues. When our committee met the board of Goulburn Murray Water they explained their position. "They are a service organisation committed to the interests of their present customers"

They are financially responsible to Government and are expected to maximise sales of water and produce a satisfactory financial return. If water is

utilised by catchment farmers as their private water, it is not available to the authority for sale. Since they are delegated to determine what is private water and what is not they will make the determination to maximise their return.

To preserve equity in property rights under the cap our committee believe that an allocation should be made to the high catchment areas equal to that being now proposed to be given to those gravity irrigators who have never taken up their potential for sales.

Exactly how this will be done should be negotiated; either as an entitlement to each property as a private right or as an uncommitted pool held by government for future allocation but in the meantime it will continue to be allocated as in the past as untradeable sales.

Apart from distribution equity there is the question of financial equity.

For the cap to operate successfully in the future the question of distribution losses, the savings that can be made in the system and who pays and who benefits must also be considered. We see the background to this as follows.

For practical purposes it is appropriate at present to ignore the on farm losses as these might be considered as private loss.

Because of the environmental damage caused by seepage etc. it has become a community concern to reduce the 1 million ML losses and government expenditure is expected. The recent Snowy River report recommended that the diversion back to the Snowy to restore some flow could be met by savings in the existing distribution system at a cost of \$311 per ML. It is presumed that these first losses would be the cheapest to reclaim. In Sunraysia it is estimated that losses can be saved for \$500 per ML. In the Wimmera Mallee the cost presently being incurred are \$650 per ML. Sinclair Knight Mertz estimate the easiest 31600 ML can be saved at a cost of approx. \$900 per ML.

The Minister has stated that losses are approx. 1 million ML. At a conservative estimate the costs to eliminate these will be from \$500 to \$1000 million. Considerable pressure is being placed on government to finance these losses.

Under the control of Goulburn Murray Water authority is a bulk entitlement confirmed in the Water Act of 3,392 075 megalitres [ML] per year. Current water rights are approx. Murray 638,000ML and Goulburn 987,000ML. Total 1,625,000ML. Because of seasonal uncertainty and to secure future water rights, water surplus to rights varies each year. Assuming 60% reliability for the proposed title to the new less secure water right this equates to approx. 1 million ML- a gift of approx. \$400 million.

The water act has already been amended to authorise the annual sales of 30% of existing water right. The published market prices received by the farmer for temporary transfer of one ML have topped at \$199 for the right to transfer the allocation on top of which the purchaser must still pay the authority approx. \$20 for the actual water. Of course in very wet years there will be little or no demand for extra water but these will be the years when environmental requirements will be met. The question many ask is why does the authority sell water for \$20 when the market value is \$100? Why does the government make a new gift of \$400 million when at the same time it is looking for a similar amount to help those same farmers to improve their irrigation delivery system?

Following the traditional Victorian Government policy of conservative water

allocation and a preference for security of supply, previous Parliamentary Public Works Committees have recommended against increasing water rights. It is difficult to find equitable support for a demand that existing irrigators be given legal title to every litre of potentially available water without consideration of all the above issues. Nevertheless a number of options have been put forward by the High Catchment Committee to meet the demands of those proposing the establishment of a lower security entitlement

Several sections [40, 46, 47 and 229 etc.] of the Water Act define matters to be taken into account when distributing and transferring water rights. These sections indicate parliament's intention of expecting payment on the sale of water by specifying: sale [a] by auction, [b] by tender, [c] by any other manner that the authority thinks fit. Clearly auction and tender must be considered but what of other options?

Sales water should not be gifted to irrigators since sales water was never the property of or owned by irrigators.

Sales water should become a lower security product with a separate water market but this lower security water should remain under the ownership of the crown.

By retaining ownership of sales water with the Crown, future flexibility in use is enhanced.

Proceeds from the sale of lower security water should be dedicated to reducing losses in the distribution system.

Water saved in the distribution system would then be sold on the permanent water market and proceeds should then be dedicated to further improvement within the distribution system.

These arrangements would not reduce long term access by irrigators to the lower security water. It would retain the flexibility within the water market required to serve the changing needs of the irrigation industry. These needs could be met by the water savings achieved by the improvements to the distribution system.

The Government is considering significant commitments to provide water from future savings for such projects as a return of water to the Snowy. It will require large funds to achieve these savings which should logically come from the proceeds from the sales of the right to medium security water.

In summary the High Catchment Committee believes that the present operations of the cap are not equitable; they do not follow the agreed guidelines and the GMW proposals for the future are even more inequitable than those currently operating.

We would appreciate being informed of the response that the MDB proposes to make to this review and requests the opportunity to present our submission in person [hopefully in Albury or Wodonga] so that we can take back to our supporters a fair reply after having heard your reaction to our submission.