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Our Ref: lw 100201 Trading Position Ltr

Water Branch
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

1 February 2010

Dear Sir/Madam

**Public Submission to the Water Trading Rules Draft Advice
by State Water Corporation on 1 February 2010**

Thank you for the opportunity to comment on the ACCC's water trading rules draft advice.

State Water generally agrees with the ACCC's draft advice on the water trading rules, with a number of exceptions.

In earlier submission to the ACCC, State Water raised concerns about its ability to recover usage charges from interstate trades. The draft advice dismisses this issue as relating to the water charge rules, rather than the water trading rules. For State Water, this issue arises only in the presence of interstate trade and consequently, it has been raised in response to the water trade rules instead of the water charge rules.

Bulk water charges are not recovered in South Australia, and in Victoria costs are recovered, via a fixed charge only. As previously advised, when a purchaser does not have an account with State Water, State Water recovers the usage charge from the seller at the point of transaction. These different charging arrangements, and also the varying administrative arrangements across the Basin states, need to be accommodated within any trading regime, i.e. there is nexus between the charging and trading arrangements.

Given that ACCC is responsible for both the charging and trading rules it would be appropriate for the ACCC to address this issue. State Water is aware that the Minister has not yet finalised the water infrastructure charge rules, providing the opportunity for the ACCC to address this issue in whichever set of rules it deems most appropriate.

Alternatively, State Water notes that the ACCC has divided its advice into “Rule advice”, for issues to be included in the Basin Plan, and “Recommendations” for resolving issues for which the Basin rules are not the most appropriate mechanism. State Water believes this approach could be used to address the recovery of usage charges on water traded interstate. The recommendation could be that jurisdictions develop an agreement relating to the payment of charges on water traded interstate.

State Water believes that a strong recommendation from the ACCC could give the necessary impetus to the Basin states to develop an agreement relating to the payment of charges, as foreshadowed in the note under Clause 9 in Schedule D of the Murray Darling Basin Agreement:

“...A State of origin might recover bulk water charges either directly from the holder of the entitlement in the State of destination, or through the relevant water authority in that State, as agreed between the parties.”

The ACCC should be aware that in context of the MDB Agreement, “the parties” refers to the parties to the Agreement, i.e. the jurisdictions.

Comments on Recommendations and Rule Advice

Recommendation (3-P)

The ACCC has recommended that agencies should determine the appropriate signals about the likelihood of carryover water being available. The rules regarding allocations are based on historical precedents which means that carryover will be available every year, assuming inflows at least reach their previous lowest levels. Consequently, it is only during this current drought, due to historically low inflows, that access to carryover has been suspended. The signals suggested by the ACCC are therefore only required for these exceptional circumstances. However, due to their very nature, these events are virtually impossible to predict which may limit the usefulness of the signals themselves.

Recommendation (5-A)

The recommendation that Basin states provide to the MDBA information on the number of trades approved and rejected goes beyond the current COAG service standards, which simply require processing times. However, State Water does not anticipate any difficulties in providing this additional information for allocation assignments.

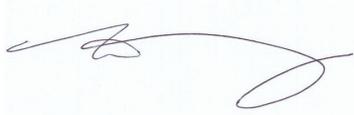
Recommendation (5-E)

State Water supports the ACCC’s suggestion that an inter-jurisdictional working group should be established to consider the potential for streamlining trade approval functions. State Water would be happy to participate in such a group.

Rule Advice (5-G)

This rule would require trading authorities to accept emailed applications. State Water already accepts emailed copies of scanned applications and therefore supports this rule.

Yours sincerely



Marysia Derewlany
A/Chief Executive Officer