



Murray Irrigation Limited

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TRIM Ref: E3556

Monday 30 November 2009

Mr Sebastian Roberts
General Manager Water Branch
ACCC
GPO Box 5203
MELBOURNE VIC 3001

Email: water@acc.gov.au

Dear Sebastian

Subject: Proposed amendments to the Water Market Rules 2009

I wish to comment on the submissions received by the ACCC in response to the proposed amendments to the Water Market Rules 2009.

Murray Irrigation, as requested by the ACCC advised its member customers on Tuesday 20 October 2009 of the ACCC's request for submissions. This advice was included in Murray Irrigation's weekly newsheet "Talking Water" which is distributed to nearly 1,200 member customers via facsimile or email. It is of note that the ACCC only received three submissions (all of which appear to have been submitted after the deadline) from our member customers about the proposed amendments.

Murray Irrigation also recently held its Annual General Meeting, at which changes to the Company's Constitution involving Murray Irrigation Water Entitlements were supported by a 86.1% majority.

Murray Irrigation argues: 1) the limited response to the proposed amendments; and 2) the support of the Company's constitutional changes; demonstrates the Company has the support of the clear majority of its members for its approach to adaption to and compliance with the Water Market and Water Charge (Termination Fee) Rules 2009.

Murray Irrigation makes the following specific comments on the submissions the ACCC has received from its Water Entitlement Holders on the proposed amendments.

J. Morton (9/11/2009)

- Mr Morton indicates that water was “historically owned by irrigators.” Murray Irrigation argues the Water Entitlements owned by members are a contractual right, Murray Irrigation owns the Water Access Licences. It is incorrect to assert that the conveyance water was “owned” by customers.
- Mr Morton’s assertion that that Murray Irrigation’s decision was excessive and unnecessary is not substantiated. Murray Irrigation argues its decision to reduce the number of Water Entitlements avoided unfair and unworkable impacts on the Company and has a robust basis. The decision places Murray Irrigation Water Entitlement Holders in exactly the same position as the Water Entitlement Holders of the other NSW Irrigation Corporation customers. Furthermore if a Water Entitlement Holder chooses to transform they will be in exactly the same position as there were in terms of the volume of Water Entitlements owned as they were prior to privatisation.
- Mr. Morton’s is incorrect to assert that Murray Irrigation is not “comfortable with the decision.” Murray Irrigation’s decisions in relation to both adaption to and compliance with the Water Market Rules and Water Charge (Termination Fee) Rules 2009 have been made after careful consideration and in the best interests of the Company and all of its members and in the opinion of the Directors are consistent with their legal responsibilities.
- The ACCC’s guide for implementation of the Water Market Rules and water delivery contracts (pg.35) provide for the irrigator’s share of the fixed network loss to be handed over to the operator upon termination of their delivery right. Similarly, where a customer transforms but retains their delivery rights, their share of the fixed network losses is retained by the irrigator (pg.34). Murray Irrigation does not consider Mr. Morton’s comments to be consistent with the ACCC’s guide.

Mr Crowhurst (5 November 2009)

- Mr Crowhurst does not support the bar to claims but provides no evidence to support his position.

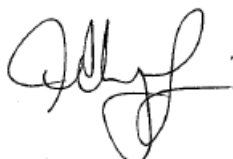
The unidentified response (no date)

- This submission is an example of why Murray Irrigation should have the protection which is being sought by the amendment.

I trust the ACCC is able to support the proposed amendments to provide the protection being sought by Murray Irrigation, so that the Company’s financial and human resources are not at risk of being consumed by a legal challenge as a result of the Company both adapting to and complying with the Rules.

If you have any questions about the information in this letter please do not hesitate to contact me via Alison Bult, Executive Assistant on T. 03 5898 3332.

Yours sincerely,



Anthony Couroupis
General Manager