From: [redacted]
To: Water Inquiry
Subject: FW: CONFIDENTIAL: Complaint/submission on ACCC enquiry into water trading [SEC=UNCLASSIFIED]
Date: Tuesday, 5 November 2019 9:55:53 AM

[redacted]
Sent: Monday, 9 September 2019 9:31 PM
To: ACCC Water <water@accc.gov.au>
[redacted]
Subject: CONFIDENTIAL: Complaint/submission on ACCC enquiry into water trading

[redacted]
I currently pay more than $30,000 in water 'rates' ie fixed charges associated with infrastructure access fees before a single megalitre of water is used on my 1000acre Farm. I am from [redacted]. I purchased my first holding of [redacted]. I own a large [redacted] groundwater entitlement, but have been unable to afford channnel water entitlements and as I have focused on building land to farm I only own about 10ML of entitlement, hence when water allocation prices were once reasonable I would typically purchase 300ML+ water allocation on temporary market and it would all work fine. I haven't done this for three years now due to the exorbitant cost of temp water allocation and we are finding it very challenging.

I recently attended a three day consultation with Goulburn Murray water in Echuca into their pricing charges for the next four years.

This was the first such event I have attended, normally not getting involved with the water authorities but keen to make a difference now seeing how bad things have gotten in northern Victoria for most family farmers in the area, including ourselves.

I was surprised to see how many participants, like I, find it completely unfair that the cost of the irrigation infrastructure- channels, gates, R&M and overheads associated with the delivery of water in the system, are the burden of existing landowners in the system under Infrastructure Access charges, while non-landowners (non water users) pay next to nothing in Entitlement Storage Fees to own and maintain their water entitlements. Each day of the Echuca consultation I asked the GMW organisers to debate and discuss this point (to applause and support by fellow attendees). Each day it was deferred, until eventually one of the GM Water reps in trying to appease the audience claimed it was futile to discuss as they could not increase the burden on non water users (corporate owners of entitlements unbundled from any land) to pay for infrastructure access charges because technically pure entitlement owners could only be charged costs associated with holding their entitlements, ie costs of maintain the major upstream dam/s only, which are relatively small compared to costs of maintaining all the downstream channels and equipment etc along the way to the farms in the system.

I argued this is simply the way the authority is viewing the water entitlement being a megalitre sitting in a dam upstream (eg Hume or Eildon) versus viewing the entitlement instead as a megalitre of water delivered just a foot or two from the farm door, and that it was reasonable to consider the entitlement as a few feet from the Farm door as that's the point that the water has any economic value.

They said it was a very neat principle but they had checked with accc previously and were told it would be illegal for them to change the mix of fees like this. When I pushed them offline out of session (one morning tea break) they then said it wasn't the accc who'd told them it wasn't possible, but advice received by a QC. When I pushed again during a lunch break to ask if I could see this aforementioned advice they said it was not a QC but internal legal advice they had received, but that they hadn't actually seen it themselves but had just heard that someone somewhere in the authority had looked at this and they were told it was not possible.

I'm not sure they have any such legal advice. If they had surely it would be available.

If you are conducting an inquiry into this you should look at the infrastructure access charges. It is unsustainable and at the core of why the system is broken. There are so many farms out there now who have sold off their water rights and are left with big annual infrastructure access (fixed) charges to pay before they (buy temporary and) use even one megalitre of water.

GM water admitted they have hundreds of farmers who have defaulted on their Infrastructure Access charges this last season and they admitted there is even a number of small landowners who even haven't paid their infrastructure access charges in many years... and that the only way the authority can recover these fees is if the land is ever sold (at time of settlement). This is clearly a reflection of the unsustainability of the system and the way it has been deregulated leaving huge burden on the farmer landowners while the corporates get the easy gig of buying up the entitlements and not paying to maintain the system.

As I said, if you adopt the principle that water in the system of itself has no economic value until it's delivered to the doorstep of the Farm, then this forms the basis for accepting that it is fair and reasonable that the costs of infrastructure across the entire system are borne by entitlement holders as against land owners. I don't think it should shift to 100%, it just needs to be rebalanced.

I suggested they collect some basic statistics on number of entitlement owners versus ratio of Entitlement Holding to Delivery share (ie a simple histogram) as this would give them an idea of who would be impacted in what way if they changed the mix of charges between entitlement storage fees and infrastructure access fees.

A farm that has not bought or sold water above historical ratios (ie untouched since before deregulation/unbundling) would as I understand it have a ratio of about 100:1 as it was explained to me this was the original basis of handing out delivery shares many years ago- ie 1 delivery share for 100ML of water. Some friends of ours- a profitable and successful dairy farming family are a good example of this, they have kept their heads down all this time never bought or sold permanent water and still have about 1000ML entitlement and about 9-10 delivery shares. These sorts of farmers (100:1) should come out of any rebalance exercise cost neutral. There should still be a fair few of them.

But you will find many farms now, the vast majority of farms, with significantly less than ratio of 100:1. These are farms who have much less entitlement now but still the heavy burden of delivery share charges (infrastructure access fees). You will probably also find a small number of farmers (who are also heavily in the water trading game) with ratios higher than 100. A 'non water user' would show up as an entity with a ratio significantly higher than 100:1 (technically infinity if they owned no land in the system, but) if they had a very large entitlement and just a small land holding somewhere to avoid classification as 'non user' they would show as eg 500:1 or 1000:1.

Once you have this distribution you will be able to model the impact of an adjustment of cost allocation away from what is currently infrastructure access fees to what is entitlement storage fee. Just a $10/ML increase in entitlement storage fee would be enough to reduce the average annual infrastructure access bill by many thousands of dollars a year for most family farms. For a corporate water entitlement owner this is pennys when the asset they own is worth $5000+ (Just 20bps fee in fact!). But for the family Farm it will bring much relief and will be very well received towards a fairer system.

You need to do this analysis and consider this change quickly otherwise you are going to have so many more failed farms on your hands.

My second concern, the other important thing worth noting, is the federal government has collected billions in capital gains tax from sale of permanent water entitlements (which have risen significantly in value since they were first traded) since deregulation/unbundling. The public should know how much has been collected (or would have been collected if it had not been offset by non primary production losses). It should be compared to how much the feds have tipped back into the system. The govt have benefited I believe the order of several billion dollars, they have turned a couple billion back into the system as I understand it, but net-net are we square? It should be recommended in the future that any capital gains tax paid with respect to gains/losses from water entitlement sale proceeds should be ringfenced for subsidy/contributions back into the system from which the entitlement trading took place. One way to ensure this would be to waive the CGT on permanent water sales (which can currently be offset by other losses, particularly for non water users just random corporate losses) and replace it with a charge of identical magnitude but call it specifically an irrigation capital gain charge/duty/tax and ensure that it can only be offset by designated primary production losses by a primary production entity. The taxes collected would then need to be tracked, collected and handed back to the relevant authority to reinvest in the system.

These are just my thoughts but I think they would result in a fairer more sustainable system and help deliver on the purpose of the authorities established under the state Water Act/s to serve the communities and agricultural users in the systems.

Last point it is ludicrous that authorities have approved establishment of new irrigation areas (eg new nut developments) in areas previously not irrigateable land. Any new irrigation developments should be assessed for incremental infrastructure access costs and ensure they must pay for

(i) the costs of developing and maintaining the new infrastructure (which I understand they would already be charged for), AND

(ii) the costs to extinguish equivalent delivery shares from the existing network.

I don’t believe (ii) is part of the equation. It’s resulting in a network that is becoming more and more diluted of water with the same (more!) amount of infrastructure being added and required to be maintained. This same issue of dilution has arisen as a result of the environmental water purchases, and again environmental water holders have paid nothing towards extinguishing (or providing a perpetuity fund to support) existing delivery shares that have less water available to extract value from.

This is at the heart of what’s killing the system for farmers. I hope this all makes sense.

I can be contacted for further information or if you would like to interview me to discuss further.