Submission to the Senate Standing Committee on Environment, Communications and the Arts

Water (Crisis Powers and Floodwater Diversion) Bill 2010

I write on behalf of members of the Australian Water Network, an informal group of water campaigners spread from Melbourne, the Goulburn Valley in Victoria; along the Murray River in NSW and Victoria, the ACT, North-west NSW (Gwydir and Namoi Valleys), Queensland (Darling Downs) and Surat and Bowen Basins; and a number of members from the lower Murray, in South Australia. As such our membership is involved with water issues to do with the Murray Darling Basin, even many who live outside the natural boundaries of the MDB, because of inter-basin water transfers.

In particular I would like to acknowledge the fine work of Professor Diane Bell, of the River, Lakes and Coorong Action Group Inc (RLCAG), and Mr John Caldecott, of the Water Action Coalition, both of whom have made Submissions to this inquiry.

My Submission starts from the premise that in the year 2010, the crisis in the Murray Darling Basin has got worse, not better, since the floods which occurred in Queensland in January and March this year. What has happened this year, under the noses of the Murray Darling Basin Authority amounts to a massive privatisation of water, in an uncontrolled, and disorganised manner. And this has largely occurred in Queensland, but to a lesser extent in north-western NSW. I refer, of course, to the Darling River component of the Murray Darling Basin.

Why else is it that with a two-peak flood of the proportions that we have seen this year, little or any of it is going to make it to the mouth of the Murray?

My concern with this Bill is that, while totally well-intentioned, it would place greater powers in the hands of one Office-holder (or the MDBA bureaucracy, if you prefer me to not become personal) which has demonstrably failed to allow water to find its natural way along what is, was and ought to be again, a natural waterway - namely the Murray Darling River system.

We need something more transparent, more powerful, than is proposed in this Bill.

- Fresh Water Futures

  Rivers die from the bottom up and the River Murray is at Code Catastrophic. There is water that could be brought down through the system to flush the accumulated salts and nutrients. This would require stepping back from the established sharing rules and understanding that the recent floodwaters are the opportunity to reset the system. The health of the system as a whole would need to be given priority over all other interests. In the long term, flushing the system is to the advantage of all who rely on the ecosystem, human and non□human. (Professor Bell - P 6)

- Along with the Water Action Coalition, the Australian Water Network supports the good intentions of the Bill. But we commend the draft Terms of Reference for a National State of Emergency in the Murray-Darling Basin commissioned by a member organisation, Fair Water Use (Australia) for consideration as it is recognised that only the executive of government will be able to solve the problems by working together with state and federal governments, and using the full powers available to the executive of those governments. Also recommended for consideration are draft Terms of Reference for a comprehensive National Public Inquiry with the powers of a Royal Commission also commissioned by Fair Water Use (Australia).

  We concur with the WAC Submission that: “A sustainable water future without compromising our environment is the only acceptable outcome”. (Water Action Coalition Submission P. 5)

While I sympathise with the view expressed in the Water Action Coalition Submission (P 4) that "the Water (Crisis Powers & Floodwater Diversion) Bill tabled by Senator Sarah Hanson-Young and Senator Nick Xenophon is an urgent call for help on behalf of all South Australians."

The reality is that the solutions canvassed need to address the entire Murray Darling Basin. In particular, Queensland, which I have already mentioned, which received floods of monumental proportions, which have been effectively trapped, diverted or otherwise (dare I suggest it) not allowed to flow along the natural course of the MDB.

Elsewhere in the MDB, the Victorian Government has introduced a huge diversion of MDB water (an extra-basin transfer of MDB water, from the Goulburn River other river systems in southern Victoria to provide waters to Bendigo, Ballarat and now, most recently Melbourne, via the "North-South Pipeline".

One of our members has written:

- "I am concerned that the draft Bill might be weighted in favour of urban areas because of the term “critical human needs”. There must be a limit places on ALL diversions allowed to be taken forever out of the MDB. eg Melbourne, Ballarat and Bendigo. These are new extractions. How they are allowed at a time when we have the Commonwealth trying to buy back and grab back 30% of all water must surely be of grave concern. ....(it) seems to me that we still have the issue of what “critical human needs” is.
- Does this mean that a cities need takes precedence over the environment? Shouldn’t there be a long-term adjustment that takes into account the “worst case” scenario not just deal with the shortages of water (both Surface and underground) in a knee jerk manner. This type of take-over as suggested does not in my humble opinion deal with the over-allocation, the diversions to cities, irrigators etc etc . It just re-distributes water to whom-so-ever the MDBA in charge decides. What is the oversight?
- We in Victoria have the issues of the water minister changing rules right left and centre, giving himself powers so he can do what he likes with water by requalifying it and there does not appear to be ANY oversight ensuring that neither the environment or those that live along these rivers are able to access water BEFORE the so-called “critical human needs” of cities that are NOT in the MDB and have other options such as storm water harvesting and recycling and other such environmentally sustainable measures. The NWI states that this MUST be done and that rain dependent sources must not be the only ones to be dependent upon. Considering places such as Melbourne, Geelong, Ballarat, Bendigo have JUST attached themselves to the rivers in the MDB while Adelaide is being told to unattach itself seems to me to be inconsistent with the NWI and even the MDBA and the Water Act etc.
- The MDBA at the moment seems to be at a loss on how to deal with over-allocation, and seem to be at a loss in deciding who is actually responsible for this state of affairs. Their decisions will I am certain be one that lets the State and Commonwealth governments of the hook and lumber the entire “risk” with irrigators. I have spoken with some of them and while they are concerned about irrigators and what will happen to them, their job is to ensure that the cheapest options are the

ones decided upon. They have three options when deciding on who bears the risk: 1. Irrigators 2. Commonwealth and States, Commonwealth, irrigators and States. This depends entirely on whether they consider the over-allocation a result of a drought or bad over-allocation in the first place or climate change. It is fairly obvious that they are leaning towards climate change and if this is the case irrigators are left without compensation.

With regard to the "North-South Pipeline", the "Plug the Pipe" group made a Submission to the Inquiry into the Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008. Their submission said (in part):

- The Victorian Government has justified the removal of 75 GL of water from the Murray Darling Basin by claiming that it can save water that is currently 'wasted' or 'lost' from the system to provide a benefit to the Urban populations of Melbourne, irrigated agriculture and the environment. This in fact is an oxymoron in respect to the MDB environment as it is not possible to 'provide more water to the environment by extracting water from it'.
- The consequences of not achieving all of the Victorian Governments water savings targets will see prior water savings projects (living Murray and Waters for Rivers) be raided or at risk in the name of critical human need once the urban pipeline infrastructure is built.
- **The Victorian Government is claiming they can save 519.6 GL water from the foodbowl districts when only ~300 GL of water is currently being lost. This claim is like the emperor's new clothes and is entirely fictional.** (Extract from a Submission by the anti-North South Pipeline Group, **Plug the Pipe** to the Inquiry into the Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008)

Amidst much political controversy in Victoria, the North-South Pipeline was approved by both Victorian and Federal Environment Ministers. Yet the MDBA was powerless to intervene, while 75 Gl of water has knowingly been removed from the MDB system.

What appears to be a failure on their part is no doubt due to a lack of legislative power, rather than any personal "failing". But still, it demonstrates one limitation to the powers of the MDBA, which either needs to be addressed (and it is not currently addressed in this Bill) or else the Bill requires amendment.

As Professor Bell has asked:

- In what ways is the Water Act 2007 incapable of dealing with the current crisis?
- Does the Murray Darling Basin Authority (MDBA) not already have the power to manage the crisis?

- Given that the objects of the Water Act 2007 include s. 3 (d)(ii) to protect, restore and provide for the ecological values and ecosystem services of the Murray Darling Basin (taking into account, in particular, the impact that the taking of water has on the watercourses, lakes, wetlands, ground water and water dependent ecosystems that are part of the Basin water resources and on associated biodiversity), why is it necessary to propose further legislation?
- If the MDBA has been put in place to give force to the Water Act, why is it not acting in accordance with the objects?
- Is it that in the balancing of economic interests against environmental values, the health of the whole system is not accorded sufficient weight? How are so called 'environmental assets' given a value? By whom? To what ends?

With regard to the issue of Groundwater, mentioned in the Bill, I wish to point out that there is currently an enormous threat to the Great Artesian Basin, which in part overlaps with the Murray Darling Basin. See attached Map of MDB and GAB. This threat must not be ignored by the Committee.

This new threat comes from the massive expansion of drilling for Coal Seam Gas in north-western NSW (Namoi and Gwydir catchments), and in the Surat Basin and through to the Bowen Basin, all of which areas are feeder sources for the Great Artesian Basin. If that gas extraction is allowed to proceed without management by appropriately empowered water authorities, then this most important economic resource (for water) will be spoilt by contamination with the industrial chemicals used by the Gas extraction process ("hydraulic fracking").

The US Environmental Protection Agency announced that an investigation into fracking, a practice which many fear is contaminating ground water supplies. Fracking uses a high-pressure blast of chemical compounds, sand, and water to fracture rock and access natural gas. The agency noted "concerns that hydraulic fracturing may impact ground water and surface water quality in ways that threaten human health and the environment." This follows a 2004 study from the EPA during the Bush administration that concluded there is no risk of contamination of drinking water from fracturing, despite the fact that compounds have been found to contain toxic chemicals like benzene, toluene, ethylbenzene, and xylene. In 2005, the industry successfully lobbied to have fracking fluids exempted from the Safe Drinking Water Act—meaning companies don't have to report exactly what they're blasting into the ground.

Diesel fuel, which contains a number of carcinogens, was supposed to be off-limits even under the loosened rules. But a House investigation last month revealed that natural gas extraction companies like Halliburton have, in recent years, illegally injected hundreds of thousands of gallons of diesel into the ground. A recent report from the Environmental Working Group found that a

single fracking site can contain enough benzene and other toxic chemicals to contaminate the amount of water New York state uses in a day. Despite this, the natural gas industry maintains that their fracking fluids are perfectly safe, and that their composition represents proprietary information that they shouldn't have to disclose.

I refer the Committee to the attached paper by Dr Roxana Witter MD

"Potential Exposure-Related Human Health Effects of Oil and Gas Development: A Literature Review (2003-2008)"
Sourced from
http://www.ccag.org.au/images/stories/pdfs/literature%20review%20witter%20et%20al%202008.pdf

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In conclusion, I support the intention of Senators Xenophon and Hanson-Young in proposing this Bill, but I feel we need far more power to be brought to bear on the management of the Murray Darling Basin, and recommend that the Committee consider the draft Terms of Reference for a comprehensive National Public Inquiry with the powers of a Royal Commission as proposed to the Committee by John Caldecott of the Water Action Coalition.

Denis Wilson
Co-convenor of the Australian Water Network.

Attachment: "Potential Exposure-Related Human Health Effects of Oil and Gas Development: A Literature Review (2003-2008)" Dr R. Witter MD