SUBMISSION TO THE SENATE ENVIRONMENT, COMMUNICATIONS AND ARTS LEGISLATION COMMITTEE
"Water (Crisis Powers and Floodwater Diversion) Bill 2010

By MURRUMBIDGEE IRRIGATION LTD (June 2010)

INTRODUCTION

Murrumbidgee Irrigation Ltd (MI) is an unlisted public company providing water supply, drainage and environmental services to approximately 3,200 landholdings (2,700 licences) in the MIA. The Company employs 170 staff and manages $500 million of infrastructure assets servicing over $2.5 billion in water entitlements.

The Murrumbidgee Irrigation Area (MIA) is one of the most diverse and productive regions in Australia contributing over $5 billion annually to the national economy. The MIA was first established in 1912 following the commissioning of Burrinjuck Dam. Further expansion occurred in the 1970's with the completion of the Snowy Mountains Scheme and construction of Blowering Dam. The region has played a significant role in fostering cultural diversity with over 50 different nationalities now resident in the region. The region also played a significant role during and after WW1 and WW2 in terms of national security and repatriation.

In making this submission, MI continues to recognise its regional and national responsibilities to assist in meeting water reform objectives for water supply services, while maintaining regional production and welfare of shareholders and other stakeholders, as well as improving the environment for future generations.

Some facts on MIA value adding

Chickens - $120 million/year, 450,000 chickens/wk and 950 jobs,
Feedlots - $450 million/year, 75,000 cattle (150,000 through abattoir) and 800 jobs,
Wine grapes – $147 million/year (farmgate), 300,000 mt, 430 growers, #
Wineries – $1,000 million/year, 13 wineries, 300,000 tonnes, 60 containers exported/day, 1,500 jobs.
Citrus - $250 million/year 185,000 tonnes, 1500 jobs including juicing and packing,
Rice - $360 million/year (farmgate), (normal year) #
Sunrice - $800 million /year, high export orientation, 1,100 jobs (normal year),
Walnuts - $35 million/year expected to expand to $400 million in 10 years, #
Vegetables –$79 million/year (farm gate). #
Livestock (non-feedlot) – $350 million/year, 650,000 head #
Crops (excluding rice) - $568 million/year #

Employment data is not available

SUMMARY

MI finds this Bill is extremely 'one-eyed' in its approach, content and the thought processes behind it. It refers to one state (South Australia) as having "paid the heaviest price". MI suggests that this Bill is not about "national and best interest of the Murray-Darling Basin", but represents an example of the very thing that Senator Xenophon says he wants to prevent, that is "selfish, interests of each state and territory coming into play."

MI strongly recommends that the Senate Committee rejects the Bill outright. MI also fully supports the submissions presented by the NSW Irrigators' Council and National Irrigators' Council.

DETAILED COMMENTS
PART 1 Preliminary

Section 3 Objects

The "Objects" should define the goals intended to be achieved by this Bill. A goal is a state of affairs that a plan or actions is intended to achieve. The two Objects listed in this Bill do not define goals or outcomes of the Act other than providing the Murray-Darling Basin Authority with centralised command and control powers.

This Bill from the outset appears to be driven by the desire to centralise power within the bureaucracy and away from democratically planned, negotiated, established, agreed and effective long-standing Commonwealth and State arrangements. This will conflict with a genuine desire for equity, working together as an MDB community and ensuring a balance between the social, economic and environmental requirements of the Basin as a whole.

Sections 4-7 Legal Basis

MI is unable to provide a legal opinion on whether the Constitutional Basis for Act is valid, however we would vigorously question that there is constitutional validity for this Bill.

There is no explanation, evidence or support provided by the author of the Bill as to why the only way to secure sufficient water for use for competing environmental, conservation and irrigation purposes is to implement a single, efficient system for the management of Basin water resources…"

There is very little evidence within Australia that a centralised approach would be any better than the current approach particularly when all the current IP/knowledge lies with the states.

S4(2)(a) of the Bill refers to competing environmental, conservation and irrigation purposes but doesn't mention critical human needs until S21(C) and doesn't refer to Stock and Domestic requirements at all.

PART 2 Declaration of period of extreme crisis

Section 9 Extreme Crisis

The MDB covers an area of over a million square kilometers across four States and one Territory. It is vast and diverse in its landscape, climate, agricultural practices, river systems and communities.

The definition of "extreme crisis" is neither feasible nor representative of the whole MDB. There is also an error in 9(1) where it refers to the subsection (1) or (2). This should be (2) or (3) as they define the "period of extreme crisis".

(3)(a)"commencing when allocations to high security water entitlement holders in any irrigation district…" Firstly in this definition, "any irrigation district" could refer to either one inside or indeed outside the MDB. Secondly the term "high security entitlement" is not consistent in definition or characteristics across the 4 Basin states. High Security in NSW has a different meaning in SA as well as being different to High Reliability in Victoria.

Finally, the definitions of a water crisis are too "local". It seems very parochial to describe 'crisis conditions' in such narrow terms, i.e. a specific location within the Basin. The Basin has been in and out of water crisis due to

drought in many locations over the last decade. The definition provided in the Bill is specific to one location/key indicator environmental site, yet the MDBA advise there are 18 sites.

PART 3 Crisis Powers

Section 15 Objects of Part

MI totally objects to (a) and (b) defined in this section.

To hand over complete power and responsibility to a non-elected career bureaucrat whose responsibilities and accountabilities will vary with the culture of the relevant organisation and Ministry of the day rather than to elected parliamentarians in the event of a national crisis is at odds with Australia's democratic process. Effectively, the Bill elevates a public servant above the parliament.

The MDBA also does not have the physical resources, skills, knowledge or experience to suddenly start managing water resources across four states. The MDBA's experience in water resource management, regulation and river operations has been confined to only 1 of the 23 rivers within the Basin, that being the Murray. This also allows the potential for bias through its familiarity and confidence in working with Murray stakeholders to the cost and detriment of all other Basin stakeholders and communities.

MI suggests that rather than giving the MDBA further powers and responsibilities, that Parliament should consider restructuring the MDBA and limiting its powers and responsibilities consistent with the COAG directive that "roles of water resource management, standard setting and regulatory enforcement and service provision be separated institutionally" (COAG 1994).

MI notes that within the Commonwealth Water Act, that decision making powers "enable the Commonwealth, in conjunction with the Basin States, to manage the Basin water resources in the national interest" have been kept with the Minister and not relegated to a non-elected public servant. Ministerial responsibility should remain with elected Parliamentarians/Ministers in the event of any defined extreme crisis.

20 General powers of Authority

The Bill puts forward giving the "Authority the power to do all things necessary or convenient to be done for or in connection with the performance of its functions under this Act."

'Convenient' is a very broad term to be included in such general authority powers. Definitions of the term include (www.freedictionary.com):
1. suitable for one's purpose or needs; opportune
2. easy to use
3. close by or easily accessible; handy.

There is a great danger in allowing "opportune" or "easy to use" powers to a statutory body that has no experience with such powers in an extensive and complex set of river systems. It is doubtful whether the Authority has the capacity or information to adequately represent the vast array of stakeholders that may be in crisis for one reason or another. There is great potential for the Authority to do "what is opportune or easiest for them" rather than the myriad of basin stakeholders if they are under pressure.

21 Matters to which Authority must have regard

In making a direction or declaration under this Part, the Chief Executive must have regard to…(f) the importance of efficient market processes in determining the most appropriate way to use water and to facilitate structural adjustment;"

This Bill in fact will undermine water markets by a statutory body directing resource use as opposed to the purpose of the water market system that sees water moved to its highest value use in times of short or restricted supply.

(g) Why specify "permanent plantings" as important to the economy and communities? It is inappropriate in a Bill that covers a vast region and many communities to specify one type of agriculture over another as being important to an economy and community and again "localises" the nature/intent of this Bill. This element of the Bill also gives off the suggestion that government should be picking winners when it comes to what people produce – they have no place making such a call and there are plenty examples around the world where such an approach has been disastrous.

Conclusion

As noted earlier, the management of the MDB already suffers from inappropriate delegation of powers and responsibilities to Government agencies (in conflict with COAG recommendations going back as far as 1994). This Bill would worsen that situation rather than improve it, considerably.

[END OF SUBMISSION]