



Pastoralists' Association

of West Darling Inc.

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Rural and Regional Affairs and Transport References Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

PAWD response to the Inquiry into the integrity of the water market in the Murray-Darling Basin

The Pastoralists' Association of West Darling (PAWD) appreciates the opportunity to respond to the issues raised in the Inquiry's Terms of Reference. PAWD represents the interests of pastoralists in the far west of NSW, including those residing on the banks of the Darling River between Bourke and Wentworth. Pastoralists depend on the river to supply water for stock and domestic use, and water in the channel also acts as a boundary fence between neighbouring stations. Some pastoralists augment their livestock enterprises with small, high value irrigated permanent plantings. A number of PAWD members are serviced by the Menindee – Broken Hill pipeline. It is with this background in mind that PAWD makes the following submission.

ABC TV's Four Corners program broadcast alarming allegations of mismanagement and illegal extraction from the Barwon-Darling in July, followed by ABC TV Lateline's investigation of similar activities on the Macintyre River in August. Subsequently, there has been no less than six separate inquiries called to investigate the issues identified by the Four Corners investigation, and a damning Interim Report into NSW water management and compliance (the Matthews Report) was released in September. Further compounding this situation is the revelation that the Murray Darling Basin Authority had knowledge of illegal extraction from the Barwon River nearly 12 months before the Four Corners investigation was broadcast, but failed to take any positive action.

The investigations of water use and misuse in the upper reaches of the Darling Basin by ABC TV have raised a number of issues of great concern, including but not limited to:

- Failure of regulators to investigate and prosecute cases of water theft
- Winding back of compliance activity by Water NSW
- Actions of senior departmental staff in colluding with irrigators
- Construction of water diversion infrastructure without approval
- Diversion of low flows into private storage
- Irrigators accessing environmental water
- Retrospective approval of potentially illegal structures and activities
- Unmetered floodplain harvesting

ADELAIDE ROAD, BROKEN HILL, NEW SOUTH WALES 2880
POSTAL ADDRESS: P O BOX 279, BROKEN HILL NEW SOUTH WALES 2880
TELEPHONE: (08) 80873322 FACSIMILE: (08) 80882051
Email pawd01@bigpond.net.au
Website: pawd.org.au

The credibility of the NSW public service as an effective regulatory and compliance organisation has been trashed by the Interim Report into NSW water management and compliance. All interactions between stakeholders and regulators must be transparent and placed on the public record. Allegations of illegal activities by irrigators remain unresolved and further investigation is required. There is a community expectation that the investigations are thorough and effective, and result in appropriate action and penalties that serve as an effective deterrent to those who seek advantage by participating in illegal activities. Accordingly, the appropriate way forward is to hold a judicial inquiry that has the power to compel witnesses to appear and give evidence under oath. Furthermore, protection must be given whistleblowers. Failure to take prompt and decisive action will have ongoing ramifications for all stakeholders.

Rural communities, and the general public, have a rightful expectation that our scarce water resources are shared equitably between all users and the environment, and that \$13 billion of taxpayer funds invested in the Murray Darling Basin Plan is spent wisely. It seems abundantly clear that the actions of some water users on the Barwon-Darling are illegal and should not go unpunished. Serious breaches of the law should attract penalties that include loss of licence, return of extracted water to the river and removal of infrastructure. The conduct of regulators and legislators must be transparent and be seen not to advantage or disadvantage any particular stakeholder. Compliance staff should be adequately resourced and supported, and cross-agency (Police, Fisheries, Local Land Services, National Parks and Wildlife Service) co-operation and intelligence sharing should be considered. Irrigators should not be allowed to divert low or environmental flows into storage, and water harvested from floodplains should be accounted for as part of an entitlement. Under no circumstances may regulatory bodies be allowed to retrospectively approve structures or activities that do not conform to the relevant regulations. In the event that illegal structures are detected, those responsible for its construction must be directed to remove it at their own cost.

Notwithstanding the impact of alleged illegal extraction by upstream water users, it is excessive water extraction, amplified by changes to the Barwon-Darling Water Sharing Plan to the benefit of irrigators that has had a devastating impact on the reliability of the Darling River below Bourke. There have been negative outcomes for the environment, pastoralists, small scale irrigation enterprises, river townships, indigenous communities and the security of Broken Hill's water supply. This mismanagement induced unreliability of flows into the Menindee Lakes has prompted Webster Limited to abandon irrigated farming at Lake Tandou and been the catalyst for the construction of a pipeline from the Murray River to Broken Hill with \$500m of public money. A significant sum of public money was also spent on the development of a borefield at Menindee to secure an emergency supply of water for Broken Hill if required. The future of this particular asset is unclear.

A review of available data (attached) demonstrates the rate of water extraction from the Barwon-Darling river system for the twelve year period from 1997 to 2009, expressed as a percentage of annual flow volumes recorded at Wilcannia. The average annual extraction for this period is 41% (range 5% - 143%). However, there are several important points to note:

- The results are skewed by three years of data when river flows were significantly above the long term average, and extraction was 10% or less.
- The results are much higher than the 6% average annual extractions quoted by the Deputy Prime Minister and State Member for Barwon.
- The dataset covers a spread of years before changes in the Barwon-Darling Water Sharing Plan were adopted in October 2012, which increased irrigator access to low flows in the system.

Regardless, the most important issue that long term average datasets do not reflect is the critical importance of low and medium flows in the river system. It is these flow events that sustain the river and all those that depend on it. In a land of droughts and flooding rains it is most important that the river is managed to the benefit of all stakeholders at times when inflows are low or non-existent.

The 2012 Barwon-Darling Water Sharing Plan has failed to meet its own objectives in terms of equitable resource sharing between all stakeholders. PAWD is aware of an apparent breakdown in due process, whereby a number of operating rules were introduced without prior disclosure or consultation, resulting in a significant windfall for irrigators to the disadvantage of all other stakeholders and the environment. The operating rules of particular concern are:

- The removal of pump size limits
- Approval to extract 300% of an entitlement per annum
- Failure to implement daily extraction limits

PAWD recommends that prompt action is taken to reverse the provisions in the Water Sharing Plan that relate to the operating rules outlined above. Low and medium flows must be allowed to pass through the system, accordingly pump size limits and daily extraction limits must apply until river heights reach appropriate trigger heights. Under no circumstances should an irrigator be allowed to pump and store more than their annual entitlement in any one year in such a high evaporation environment.

Many of the problems being experienced by Darling River water users downstream of Bourke, including Broken Hill, may well disappear if upstream extraction was constrained by the parameters of what is fair, reasonable and legal. It appears that at least some of the allegations of illegal extraction and corruption in the management of water in the Murray-Darling Basin can be proven. The investigation and public disclosure of reported breaches of the Barwon-Darling Water Sharing Plan by the relevant authorities has been woefully inadequate. Consequently, the community's respect for water regulators and the irrigation sector has been seriously damaged. Nothing short of a comprehensive enquiry will serve to restore the community's trust and confidence that the Murray-Darling Basin is being used and managed in the best interests of all stakeholders and the environment.

Thank you for the opportunity to make this submission. PAWD is prepared to engage in further consultation if required, and has a number of recommendations concerning water storage and management on the Darling River between Bourke and Wentworth that should be considered as a matter of priority.

Yours faithfully,

Lachlan Gall.
President, PAWD.

Comparison between irrigation extraction rates and flow rates in the Barwon-Darling River system.

	Yearly GL	Flows GL		Extraction/Flow
<i>1997/98</i>	198	139	<i>1997/98</i>	143%
<i>1998/99</i>	233	5,014	<i>1998/99</i>	5%
<i>1999/2000</i>	175	1,712	<i>1999/2000</i>	10%
<i>2000/01</i>	246	2,890	<i>2000/01</i>	9%
<i>2001/02</i>	76	168	<i>2001/02</i>	45%
<i>2002/03</i>	20	89	<i>2002/03</i>	23%
<i>2003/04</i>	268	609	<i>2003/04</i>	44%
<i>2004/05</i>	157	353	<i>2004/05</i>	44%
<i>2005/06</i>	157	217	<i>2005/06</i>	72%
<i>2006/07</i>	1	4	<i>2006/07</i>	24%
<i>2007/08</i>	206	899	<i>2007/08</i>	23%
<i>2008/09</i>	149	277	<i>2008/09</i>	54%
<i>12 Yr Average</i>	157	1,031	<i>12 Yr Average</i>	15%

The average annual extraction can be calculated two ways:

The method used above arrives at a result of 15% by comparing average annual extraction and average annual flows past Wilcannia. However, the result is skewed towards a low average figure by the high flow years. This is an average volume result.

An alternative result that reduces the impact of high flow years can be obtained by totalling the last column and dividing by 12, for an average annual extraction of 41.34%. This is an average year result.