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Senator the Hon Trish Crossin
Committee Chairman
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100

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Dear Senator Crossin,

Please accept this letter on behalf of myself and Omega Orchards as a submission into the Senate Standing Committee on legal and constitutional Affairs inquiry into the provisions of the Water Act 2007. (the Act)

When the Basin Plan - Issues Paper was released in November 2010 it was expressed loudly by many sectors of the community that the proposed Basin Plan placed too much emphasis on utopian environmental outcomes and used the Act to disregard the social and economical priorities of management. The Act's direction to create Sustainable Diversion Limits has been interpreted by the draft Basin Plan, to allow environmental flows and Critical Human Needs be quarantined from any water sharing arrangements. They are granted priority of allocation, un-checked, before any consumptive use by humans can be entertained. There are several errors in judgment in this philosophy that the Act supports to varying degrees. But it is the literal and unbending opinion of the Rob Freeman led Murray Darling Basin Authority who chose to take the Act to its most literal interpretation and ignore the Basins need for holistic and unencumbered management.

The Plan also failed to detail how it would go about setting things right and is still relying on the philosophy that if you just return flow all the rest will just work itself out. The Plan needs to set out actions towards putting past wrongs right. Instead the Authority passes that responsibility to State Governments through their Water Resource Plans. A definitive Basin Plan that that does this will by default 'optimise' the use of the Basins waters with honesty, transparency and integrity. If dispute comes after the fact, then let it, and let the basins community and water managers have the debate. Honesty in motive is not a bad thing and will provide a pathway for the waters to move to the most efficient use in an integral way. Free from suspicion.

As an irrigator who has survived to date the past 10 years of unprecedented low inflows and evolving water policies, it was a relief for the initiative of the Water Act to be presented and allow the Murray Darling Basins waters to be managed in a holistic manner. The need for a Murray Darling Basin Plan to enable this, was accepted and hope was placed on the process to assess the merits of management in the system and balance them against environmental objectives. But as experiences unfolded it became increasingly difficult to know where our business stood and at times management intentions were incredibly alarming as the details of the Act came to light. When questions were raised with Ministers and government departments lies, half-truths and

steered interpretations of all the relevant policy documents were forthcoming. If something was beneficial or just for the irrigator then another policy document was used to justify the reasoning why the local communities and water licence holders must miss out. Meanwhile regional communities were shrinking, suicides and mental health issues were increasing, and Businesses were going broke. This was because of a lack of water but because of the buck passing and the dominating imposition of water reform with moving goalposts.

The Federal Water Act 2007 is interwoven with the Intergovernmental Agreement on a National Water Initiative, , the National Action Plan for Salinity and Water Quality and the National Water Quality Management Strategy, the Murray Darling Basin Agreement I, II and now III, (1905 to present) and catchment level Water Resource Plans. Plus other COAG, UN and Ramsar agreements that I'm sure I will be made aware of as they are used to devalue and reprioritize licensed irrigation water rights. This convoluted policy interaction only serves to increase the confusion.

The excessive issuance of water access entitlements and an over-commitment to, full volume entitlements is the root cause of water scarcity for licensed users in the Murray Darling Basin. The 'ripping –up' and removal of over committed full volume entitlements must occur if over allocation is to be addressed. Robbing Peter to pay Paul does not address over allocation. The 'ripping-up' of federal and state governments acquired water access entitlements will ensure the security of water access to the remaining users and the environment would benefit from security and a minimum running flow from all the Basins tributaries that is off the books and free from human intervention.

Water Access Entitlements and their corresponding full volume allocations were purchased in good faith on the assumption that the purchased license would be given reliability and a known level of security within policy frameworks. This root issue is not addressed by the Water Act 2007 and therefore is unable to provide for balanced social and economic equity. To recognise the integrity of the purchased water volumes and then open and honestly address solution, to the real level of water recovery required. To continuously make excuses justified by flawed policy will see regional Australia die a slow death. No more smoke and mirrors, let's address real and admitted problems with honest real solutions that support water license holders, Indigenous People, communities and the environment.

The Water Act 2007 took the hard ship of drought and the goodwill of communities to empathise with the environment, and used it as reasoning to alter the nature, security and prioritization of historic and culturally significant water access entitlements.

Caps have been set in volumetric terms. Yet under the National Water Initiative water access entitlements have been expressed as shares to a consumptive pool the management of which is determined at a state and not a federal level . This creates the uneven playing field scenario that we are currently experiencing and leaves the doors open to put us straight back in to the inconveniences of an overallocated system. It also makes it unclear how the 'purchase the gap' is to affect consumptive pools and thus the reliability and security of the remaining consumptive water users. The Water Act needs to be amended to recognise the integrity of full volume water access entitlements. The shares based management of the National Water Initiative only serves to muddy the waters and bring into question the now relevant issue of water allocation security. To understand why we need to review all the current agreements in the historical context in which they were set. To not recognise this makes a mockery of what the Water Act was sold as wanting to achieve. The commitment by the federal government to 'purchase the gap' volumes for the environment is not enacted and therefore is another commitment that risks getting lost in history. Words mean nothing in this reform process

as you can't trust the information given or the motives of those who are supposed to be governing in our interests.

Irrigation businesses have based their investments (billions of dollars across the catchment), on the application and purchase of water licenses which came with prioritised security by the governments that issued them. Under the dominance of the Water Act 2007 and its interwoven (and heavily influenced) association with the National Water Initiative, the Intergovernmental Agreement on Water Reform, and the Murray Darling Basin Agreement, the South Australian Murray Irrigators high security water product has lost worth and reliability. Its security and rights have been eroded almost beyond recognition. The Water Act 2007 does nothing to address overallocation, (as it should) to truly address the current and long standing problem. Actions need to be directed and work towards real solutions and not just clever accounting fake solutions. The social and economic ramifications around here seem inconsequential to policy makers and governments to date. Infact it seems like they are aiming for maximum social turmoil and economic demise.

So where does this leave the licensed water holder? The answer to that is not to be found in the Water Act 2007. The Federal Water Act covers Urban Water and Environmental Water (providing for the creation of yet more Water Access Entitlements) through increased volumes to Critical Human Needs and the Environment. (which has all been shaved off of irrigation entitlements through shares in a capped pool). In recent years to recharge the system from the drought, stored CHN for projected years has come at the expense of irrigation businesses and rural communities. This reprioritization of management objectives was forcibly funded by the irrigator in South Australia (many to their demise) during the nations worst drought.

Part 2A of the Act covers the subject of critical Human Needs. As an Australian citizen and not just an irrigator I would like to ask what is the limiting factor on Critical Human Needs? Will it be at 1994 system Cap levels, 2003 drought population (which nearly ran out of water), or 2050 predicted population growth levels? Or is it indefinite? The intention needs to be stated and debated. The Act mentions no such limits and gives metropolitan and industrial use unchecked precedence for priority waters. Consumptive limits for the basins cities/ metropolitan centers need to be based on low inflow scenarios from the murray to reduce its reliance on the Murray Darling Basin and provide incentives for alternate water supplies and technologies to be found. There is no incentive under the Act or any of the related policy documents to manage further population growth in a sustainable way? Cities and towns should be encouraged to generate their own water supplies to sustain their population growth through technologies such as de-salinisation, storm water reuse, gray water re-use, efficient water use practices and other future technologies.

I was told in 2008 that Critical Human Needs was as its name implies, 'critical' and that stock and domestic was accounted separately. This has not proven to be the case and now all domestic and industrial use is given security precedence. This is expressed in Section 86A but it is 86A(2)(b) which states that CHN prioritization can occur for:

'...those non-human consumption requirements that a failure to meet would cause prohibitively high social, economic or national security costs.'

This allows for uncertainty and changing management priorities by State governments, that will become an issue of prioritization again during the next period of low inflows. The Desalinisation plant at Port Stanvac. (on an old oil refinery site), was supposed to remove Adelaide 'reliance' on the Murray but instead pipelines are extended to Ceduna, regional towns are rezoned Metropolitan, and before you know it further volumes are

diverted from the Murray-Darling Basin in the guise of Critical Human Needs. Just months later a 1.8 billion dollar oil exploration project was announced off the coast of Ceduna. Is this to support 'skills shortage' towns in the name of industrial development? And once developed, would it be a '...prohibitively high social, economic or national security cost should Murray waters need to be restricted again? A mockery of climate change and water reform initiatives yet sets a precedent for the future of water use in South Australia.

The Water Act 2007 goes to great lengths to appoint the Basin Community Committee and the Basin Officials Committee as the only needed avenue for consultation and advice. This creates a bottleneck of information to and from the community. The people on these committees are untouchable and don't adequately reflect the voice of the Basin Community. To take advice limited to one group stifles information flow and innovation to and from those who are most directly affected by policy decisions. The bottlenecking of information also allows for the potential to steer policy through real or perceived committee stacking. Communities have experienced this and have lost faith and trust in governments and bureaucratic systems to best manage resources in the communities interest.

The environment under the Water Act 2007 has been hijacked and used as a Trojan horse to pry management and ownership rights from existing entitlement holders. Talk has already started about the ability for the commonwealth environmental waterholder to sell its 'desperate seller' acquired water back into the market. Whilst irrigators recognise the need for the Commonwealth Environmental Water holder to reassign its flows once resilience and health has been restored to the Basins environmental systems, now is not that time. Nor will it be for many years, regardless of any forthcoming flows. Variability is what the environment wants. Water purchases are still being made in the name of the environment and if they are still needed then current entitlements volumes should stay with the environment.

Whilst no-one denies that the 'exceptional circumstances' management from 2003ish onwards (different, depending on which basin state you were in), was necessary given the record low inflows of the first decade drought. It has been the moving of the goal posts that has been a constant frustration to irrigators and trust in the reasoning for what was happening has been shattered. Concessions were made for the sensible management of drought but now in a flood year we see the true repercussions as access to full entitlements is still not forthcoming. (67% ???)

The Shared Water Resources as expressed in the Act doesn't go far enough to include all of the Basins tributaries as you think would be the case under sound ecological, social and economical management. The Darling river has historically provided South Australia with periodic and erratic flows that are significant for the ecological and human management of the Murray-Darling Basin lower stem. To deny this in the Water Act is unecological and again makes a mockery of the Basin Plans intentions. To best explain the need to South Australia for flows from the Darling portion of the Murray-Darling Basin, I would like to quote a narrative excerpt from a book about the Murray Valley written in 1948.

'The severest drought on record in the Murray district occurred in 1944. The Hume reservoir was practically dry, though fortunately for South Australia the Darling came down in good volume and there was abundant water in the lower Murray.' (J Macdonald Holmes, Ph. D. The Murray Valley, A Geographical Reconnaissance of the Murray Valley and a New Design for its Regional Organization. (1948), Angus and Robertson, Sydney & London.)

Thank you for the opportunity to have input into this enquiry and wish the committee and the current parliament all the best towards implementing policy that rights past wrongs and sets the scene for true ecologically sustainable development that respects the integrity of the basins people and water resources.

Yours sincerely

Caren Martin