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The Secretariat
Senate Rural and Regional Affairs and Transport Committee
Room SG.62, Parliament House
CANBERRA ACT 2600

By Email: rrat.sen@aph.gov.au

Dear Inquiry Members

**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT COMMITTEE: INQUIRY
INTO RURAL WATER USE**

I am authorised by the Board of the Kimberley Land Council to make this submission to the Inquiry Into Regional Water Use.

The Kimberley Land Council (KLC) represents Indigenous Traditional Owners from across the Kimberley region of Western Australia. Native Title has been recognised over almost 25% of the Kimberley, and there are major further claims either before the Federal Court or registered with the National Native Title Tribunal.

Water resource usage is a significant issue for Kimberley Traditional Owners, who comprise more than 50% of the permanent Kimberley population. Indigenous people have a strong role to play in determining the appropriate use of water resources in the region.

Unfortunately, the KLC operates with very limited resources, and is unable develop the extensive submission that this inquiry should receive from Indigenous people. This in itself is an issue that the inquiry may wish to consider.

The KLC would, however, like to briefly outline some issues relevant to the inquiry.

As mentioned, Indigenous people make up a majority of the permanent Kimberley population. However, our interests are generally overlooked. Our rights and interests in setting the agenda for discussions, making decisions, and sharing in the economic benefits of “rural water use” are no exception.

The Inquiry will be interested in proposals for optimising water resource usage for sustainable agriculture. The crisis in water quality and availability in the south-east of the continent has helped focus attention on this issue, and highlights that the water resources of the Kimberley region are valuable commodities.

We expect the inquiry will receive submissions relating to economic concerns from agricultural enterprises and farming communities about water allocation, and from conservation groups about environmental considerations relating to environmental water flows and downstream effects on water quality arising from irrigated agriculture. Lake Argyle and the Ord River Irrigation Area (ORIA) project are obvious examples relating to these matters in the Kimberley.

We believe that the inquiry should also consider the impact that such projects have had, or will have, on Aboriginal people in the region.

The creation of Lake Argyle inundated large areas of Aboriginal land, extinguished native title, destroyed sites, displaced and dislocated traditional owners, and in so doing commenced a process of disenfranchisement and alienation that persists today.

With the development of the ORIA, these injustices were compounded through further alienation of land, extinguishment of native title and destruction of the traditional hunting and fishing and other cultural activities, for the purposes and benefits of mainly non-Indigenous people.

The Lake provided the water resource enabling the development of the ORIA Stage 1. Large areas of traditional country were turned into agricultural land, access to the river was prevented or greatly restricted, and the river was permanently degraded through radical changes to the seasonal flows and the down stream impacts of agriculture.

The expansion of the Kununurra township, including a high proportion of non-Aboriginal people, and the concurrent economic development of the area, has had a severe social impact on the Aboriginal people in the region, and left them marginalised and dispossessed.

Aboriginal people were not consulted or involved in any of these developments. They have borne the brunt of all of the negative impacts, but have not been included in any of the social and economic benefits that may have been derived.

Traditional Owners have long asserted that there can be no meaningful negotiations in relation to ORIA Stage 2 until the impacts of ORIA Stage 1 have been addressed. The WA Government has made commitments to Traditional Owners that they will do this.

The State has agreed to enter into meaningful (“global”) negotiations with the Traditional Owners to resolve a broad range of land tenure issues in the region, along with social, cultural, economic and environmental issues that are of particular importance to the Traditional Owners. Addressing the impact of ORIA 1, and the future of ORIA 2, are major components of these negotiations.

The Inquiry may wish to consider the need for lessons to be learned to from the entire Ord River project, and for those lessons to be applied to any further water resource usage issues in the Kimberley region.

A common element in these negotiations is future water management policies. Water has been the important factor underpinning the past injustices and current alienation suffered by traditional owners. Water, and the land on which agricultural development occurs, are also the highly valuable “economic” commodities driving current and future agricultural development in the region.

Aboriginal people have been largely excluded from any of the economic or social benefits associated with such developments. This must not continue. Indigenous people need to benefit from such irrigation projects, just as the wider community benefits.

Without substantial and thoughtful change to the current arrangements, this will continue to be the case into the future. It is now time to consider giving Aboriginal people a stake in the management and development of the region. As water and land are central to that management and development strategy, this will require embracing Aboriginal people as stakeholders in the management and economic benefits of water and land use. The principle of making Aboriginal people genuine partners in any future development and management of these commodities is one that we would like the Inquiry to consider and endorse.

The mechanisms by which this may occur can, in part, be seen in the WA State’s “global” negotiations mentioned above. The Commonwealth also must have a role in this process. This role should go beyond the terms of its jurisdictional scope, and beyond this Inquiry’s Terms of Reference, to consider water resource usage as part of a Government response to addressing Indigenous disadvantage.

The release last year of the Federal Government’s report on the Review of Government Service Provision, “*Overcoming Indigenous Disadvantage: key indicators 2003*”, is a timely reminder of the level of disadvantage across Aboriginal communities. On all indicators, the Kimberley fares badly, largely because of the impacts of “rural water use” developments such as the Ord project.

The Overcoming Indigenous Disadvantage Report gives the Federal Government, through COAG, a responsibility to ensure that these negative impacts and factors of disadvantage are addressed. Specifically, *economic participation and development* is identified by the report as one of the seven areas for “strategic action”.

The report says:

“The extent to which people participate in economic life is closely related to their living standards and broader wellbeing. It also influences how they interact at the family and community levels.”

“Ownership and control of land can provide both economic and cultural benefits to Indigenous people.”

“The extent to which a parcel of Indigenous-owned land yields economic benefits will depend (among other things) on geographic factors such as climate, soil type and location, the strength of landowners’ property rights, and the aspirations of Indigenous landowners themselves.”

To this we would add that ownership and control of land also extends to equal participation and discussion of water resource usage on that land.

The proposition that Aboriginal people become stakeholders and partners in the land and water resources in the Kimberley is consistent with the Report’s economic participation and development strategic actions and indicators. Traditional Owners consider it essential that such a proposition be enshrined in partnerships with Governments and any present or future proponents of development in the region. The KLC encourages the Inquiry to consider and endorse this proposal.

The Kimberley is becoming subject to ever increasing economic, resource usage, and environmental pressures. Water is central to all these pressures. It is also central to the cultural and social structures of Indigenous people in the Kimberley.

The opportunity exists in the Kimberley for Indigenous people to be active and equal participants in discussing and deciding on water resource usage issues in this region.

The Kimberley Land Council submits to this Inquiry that proper processes need to be implemented to ensure this occurs.

In considering this submission, I trust the Inquiry has become better informed about water resource usage issues in the region, and that it can see merit in taking the opportunity to influence water use policy in a direction that embraces, not alienates, Aboriginal people.

Yours faithfully



WAYNE BERGMANN
Executive Director