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STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS
AND TRANSPORT

Reference: Management of the Murray-Darling Basin system

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**SENATE STANDING COMMITTEE ON
RURAL AND REGIONAL AFFAIRS AND TRANSPORT**

Friday, 13 March 2009

Members: Senator Sterle (*Chair*), Senator Milne (*Deputy Chair*), Senators Farrell, Heffernan, Hutchins, McGauran, Nash and O'Brien

Substitute members: Senator Siewert to replace Senator Milne

Participating members: Senators Abetz, Adams, Arbib, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Ellison, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Humphries, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McLucas, Marshall, Mason, Minchin, Moore, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Farrell, Fisher, Hutchins, Nash, O'Brien, Siewert, Sterle and Williams

Terms of reference for the inquiry:

To inquire into and report on:

1. Water management in the Coorong and Lower Lakes for inquiry and report by 30 September 2008, with particular reference to:
 - a. the volume of water which could be provided into the Murray-Darling system to replenish the Lower Lakes and Coorong;
 - b. options for sourcing and delivering this water, including:
 - i. possible incentive and compensation schemes for current water holders who participate in a once-off voluntary contribution of water to this national emergency,
 - ii. alternative options for the acquisition of sufficient water,
 - iii. likely transmission losses and the most efficient and effective strategies to manage the delivery of this water,
 - iv. Commonwealth powers to obtain and deliver water and possible legislative or regulative impediments, and
 - v. assessment of the potential contribution of bringing forward irrigation infrastructure spending under the Council of Australian Governments agreement to deliver water to save the Coorong and Lower Lakes;
 - c. the impact of any water buybacks on rural and regional communities and Adelaide including compensation and structural adjustment; and
 - d. any other related matters.
2. The implications for the long-term sustainable management of the Murray Darling Basin system for inquiry and report by 4 December 2008, with particular reference to:
 - a. the adequacy of current whole-of-basin governance arrangements under the Intergovernmental Agreement;
 - b. the adequacy of current arrangements in relation to the implementation of the Basin Plan and water sharing arrangements;
 - c. long-term prospects for the management of Ramsar wetlands including the supply of adequate environmental flows;
 - d. the risks to the basin posed by unregulated water interception activities and water theft;
 - e. the ability of the Commonwealth to bind state and territory governments to meet their obligations under the National Water Initiative;
 - f. the adequacy of existing state and territory water and natural resource management legislation and enforcement arrangements; and
 - g. the impacts of climate change on the likely future availability of water.

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Committee met at 8.04 am

CHAIR (Senator Sterle)—Good morning. I declare open this public hearing of the Senate Standing Committee on Rural and Regional Affairs and Transport. The committee is hearing evidence on the committee's inquiry into the long-term sustainable management of the Murray-Darling Basin system. I welcome you here today. This is a public hearing and a *Hansard* transcript of the proceedings is being made.

Before the committee starts taking evidence, I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

I would ask witnesses to remain behind for a few minutes at the conclusion of their evidence in case the Hansard staff need to clarify any terms or references. I remind everyone in the hearing room to please ensure that their mobile phones are either turned off or switched to silent. Finally, on behalf of the committee, I would like to thank all those who have submissions and sent representatives here today for their cooperation in this inquiry.

[8.06 am]

KERR, Mrs Deborah, Natural Resource Manager, National Farmers Federation

CHAIR—I welcome Mrs Deborah Kerr of the National Farmers Federation. The National Farmers Federation has lodged submission No. 13 with the committee. Do you wish to make any amendments or alterations to that submission?

Mrs Kerr—No.

CHAIR—Before we go to questions, Mrs Kerr, I invite you to make a brief opening statement.

Mrs Kerr—Thank you, I will do so. It is significant to note that there has been a lot of reform in the water area since about 1993-94. For the Murray-Darling Basin, significantly, the National Water Initiative, signed in 2004, set in place new arrangements for water management across the basin, including in areas like water trade, water charging and providing for environmental flows.

More recently, in 2007, the federal government passed the Water Act and, in December, the amendments to the Water Act. These put in place new arrangements for the basin. Unfortunately, with the drought and the immediate water scarcity, some of those implementations which will take some time may not be quick enough to resolve some of the environmental problems that are occurring, not just in the Lower Lakes but right across the basin. I think I might leave it there, Chair. I look forward to having a discussion with the committee.

CHAIR—Thank you, Mrs Kerr. We will go to questions.

Senator FARRELL—Thank you, Mrs Kerr, for coming along. Obviously, you are aware of the circumstances of the drought and the difficulties all the way along the Murray. I wondered whether you could give us any information that you have on some of the pressures that irrigation farmers are currently facing and any particular examples of some of those problems.

Mrs Kerr—Sure. Farmers right across the Murray Valley, from the Hume Dam right through to the Lower Lakes, are all suffering in lots of different ways. They have all been on very reduced water allocations since about 2003-04. As a result of that, farm production has plummeted. The water they receive depends on the type of entitlement that they have. The flow-on effects literally have been reduced production, reduced farm income and, I believe, now a lot of pressure from financiers to sort out accounts that may be in arrears.

I understand that horticulture farmers have been significantly affected because of permanent plantings and the cost of replacing those plantings. Dairy farmers have chosen to try and adapt by using fodder and wheat, for example—grains—when the prices for those were quite low, instead of using water for pasture production. Farmers like rice growers, who are annual croppers, have been required to literally mothball their operations. There is extreme pressure on farmers right across the basin, but perhaps more so in the Southern Basin, where there really has not been any relief from the lack of inflows over the last eight years.

Senator FARRELL—You are aware that one of the debates that is going on is trying to reduce the amount of land given to irrigation and increase water purchases, particularly for environmental flows. How does your organisation view that debate?

Mrs Kerr—We have supported the \$3.1 billion acquisition program on the basis that it was from willing sellers. To do otherwise would be to put pressures on farmers. Some farmers might be able to cope with the compulsory acquisition; other farm businesses might not. So you will have unintended consequences as a result of compulsory acquisition.

In terms of that support, we have also said that we support a run-out or an implementation of the infrastructure, both delivery system and farm, in conjunction with the acquisition. We have said that we do not support acquisition alone or an acceleration of acquisition without, likewise, the implementation of that other program. Of the \$5.8 billion of that infrastructure package, there is approximately, in my guesstimate, \$800 million left unallocated. So the money is literally running out quite quickly.

In terms of infrastructure, the state priority projects that formed part of the Murray-Darling reform IGA last year were to include both infrastructure and on-farm, but at the moment we have not seen delivery of those projects at all on the ground. There are a series of modernisation plans being implemented or being drafted by infrastructure operators across the basin. I understand there is a meeting late in April that will look at progressing those plans. There is provision in them as well for on-farm.

The National Farmers Federation represents farmers, and our concern is that farmers are not going to be accessing funds to assist in implementing best management practice on-farm, to be able to be more efficient on-farm, to produce more food with less water right across the basin, and there is some concern from our organisation that in our acquisition phase, which has increased—there will be some delivery system upgrades that will happen over time and they are a longer term implementation thing—on-farm is certainly lagging behind. Our organisation issued a media release last week about that.

We have concerns about the rollout of the program, particularly on-farm. Governments are not very supportive of investing in what are seen to be private assets, but this is not private investment. There is a return on water to the environment as part of that investment, and there are significant social and economic flow-on benefits to rural communities. For example, if I implement an on-farm project, I might buy my pipes from my local supplier. I might also buy my pumps from my local suppliers. I will employ my local lasering contractor to move the dirt around on the property, whether it to be for lasered channel pads, on-farm storage or for the layout of the paddock itself. During the drought, it is our belief that with mothballed infrastructure it is a perfect opportunity to implement on-farm works. It is also beneficial for a rural community devastated by drought to have that economic activity occur.

Senator FARRELL—I want to be clear on what you are saying there. Obviously the government is putting what I think you would agree is an unprecedented investment in the basin. You would agree with that?

Mrs Kerr—Yes. It is a significant investment.

Senator FARRELL—But obviously there is a limit to how much you can ultimately spend. You are suggesting that some of that money now go to individual farms to improve their irrigation arrangements?

Mrs Kerr—It was our understanding that that was always going to form part of the package. There is provision in the state priority projects and, I believe, provision in the modernisation plans to do that. It is the rollout that we are concerned about. You have an acceleration of the acquisition package, but infrastructure is lagging way behind, and it does take more time to implement than an acquisition program.

Senator FARRELL—You are suggesting a speed-up in that process?

Mrs Kerr—Yes, absolutely.

Senator FARRELL—Right. I understand that.

Senator WILLIAMS—With the speed-up of the infrastructure of the improvements and efficiencies, do you think that has been implemented too slowly? The point I am making is: do you think that the minister has concentrated more on buying back water than on introducing the efficiencies in the system?

Mrs Kerr—There has been certainly an acceleration, particularly with what has been termed the Xenophon package: you will have acquisition over a short period of time. By nature, it is a very easy program to implement and it does not take as much time as infrastructure. With infrastructure you have to put in place plans and you have that all drafted; so, just by the nature of an infrastructure program, it takes a longer period of time to implement. What we are suggesting is that at the moment it is too slow. We are concerned about the impact on rural communities of a withdrawal of water from production, so there is going to be a shift in the social and economic activities of rural communities, and we are seeing quite a lag in the infrastructure program.

We are being told that the federal government has provided significant money to the state priority projects. When we talk to the states or our members in the states, they say they are hearing nothing, so there seems to be some sort of delay in implementing those projects. The modernisation plans themselves are taking some time to develop and be implemented. So there is quite a lag and what we are suggesting is that further work needs to be done to ensure that those infrastructure programs are accelerated.

Senator NASH—Just to clarify: the federal government is saying, ‘We’ve given that money to the states. We’re doing; we’re doing; we’re doing,’ yet the money is then not going from the states out to the actual projects?

Mrs Kerr—It is not currently on the ground. My job over the next month is to find out exactly where that is up to.

Senator HUTCHINS—Is that in all states?

Mrs Kerr—My understanding is yes. For example, in Victoria Food Bowl 1 is not part of the state priority projects. It is currently being implemented. My understanding is that Food Bowl 2, which is the federal government's state priority project in Victoria, cannot be implemented until Food Bowl 1 is under way.

Senator NASH—When you get that information, would you mind supplying it to the committee as soon as you can, because I think this is a really important area. You might have more success in getting that information than we might.

Mrs Kerr—Sure.

Senator WILLIAMS—Mrs Kerr, as a senator for New South Wales, I have concerns that the Xenophon quick buyback package, if we could call it that, is unfair because of the legislation and the caps in Victoria. Do you understand what I am saying?

Mrs Kerr—Yes, absolutely.

Senator WILLIAMS—Do you share the same concern?

Mrs Kerr—The concern from the NFF's point of view—and we represent irrigators across all the states—

Senator WILLIAMS—All over, yes.

Mrs Kerr—is that all of the jurisdictions have signed on to competitive neutrality which was enshrined in the 1993-94 water reforms. It has always been part of the water reform process. Competitive neutrality literally means that one jurisdiction should not have an advantage over another jurisdiction or its irrigators in whatever way. At the moment, we have all jurisdictions flouting it. You have South Australia, whose irrigators do not pay for water, so when they are operating in a marketplace they are literally not paying for the delivery and the water management that other states charge their irrigators. They pay a \$3 per megalitre levy at the Murray. They pay within their trust for the water that they apply. You have states that are providing money to their irrigators to allay the costs of water charges; Victoria is an example of that. You also have the South Australian government in the market, purchasing water for basically its permanent planting irrigators to underpin survival water planting. It is providing an unfair advantage, compared to other irrigators. It is not just one area. Premier Rann quite literally has laid this at the feet of Victoria, being the four per cent cap, but what we are saying is that all jurisdictions are flouting that competitive neutrality principle, not just one.

Senator FISHER—Can I ask a further question there, Senator, consistent with that?

CHAIR—Of course you can.

Senator FISHER—Thank you. Ms Kerr, is that simply a matter of states trying to restrict the amount of water that is taken from their farmers and also restrict the amount of water that is taken out of their states, or is it a result of some other desire?

Mrs Kerr—All states have been operating parochially. That is why we have new arrangements. You have states that are acting in the best interests of their irrigators, not the other states' irrigators. They are supporting their own state and their own irrigators, and the social and economic fabric of their communities.

Senator FISHER—Therefore, it is the first reason that I put forward, which is stopping water being taken away from farmers or irrigators. Is it mainly in that respect that you are talking about restrictions on trade or is it broader? Is it for reasons more broad than simply, but very importantly, protecting farmers and agriculture and states jealously guarding what they have? Is there some other factor?

Mrs Kerr—Absolutely. All jurisdictions throughout Australia signed on to the National Water Initiative in 2004. The four per cent trade cap is enshrined in that agreement, so all states have accepted it and all states have applied it. It is the manner in which it is applied. We have suggested that COAG has a role to play in developing the rules by which those types of caps are applied in each jurisdiction so that they are consistent, and the rules of competitive neutrality can come into play.

Senator FISHER—As an interstater, do you think Premier Rann is coming to the High Court with clean hands when he is protesting about Victoria's four per cent cap?

Mrs Kerr—Premier Rann has a four per cent cap. I believe they are introducing—or I have heard that they are introducing—legislation to remove that. We will see whether that eventuates.

Senator FISHER—In South Australia?

Mrs Kerr—Yes, in South Australia. I believe some of their trusts have a 12 per cent cap rather than a four per cent cap, so again they are applying the four per cent in a different manner.

Senator FISHER—Can I ask one further question about Premier Rann's High Court challenge? Using a national perspective, do you think it will achieve anything?

Mrs Kerr—I believe it is going to pit states against states, irrigators against irrigators—

Senator FISHER—It already has.

Mrs Kerr—Yes—and communities against communities. I do not think it is a positive way to go forward. Premier Rann is taking steps that he believes are in the best interests of his state and the environment down there. We are saying that there are issues right across the basin and, with environmental degradation through the drought, there are acid soils throughout the basin, there are blackwater events, with fish kills along the Murray River and its tributaries. Everybody is hurting across the basin; the environment is hurting across the basin; irrigators are hurting across the basin. Unfortunately, we are in the worst drought in 100 years.

CHAIR—On that, if I can note, with the first part of this inquiry to deal with the Lower Lakes and the Coorong, I would not say that we are all happy lovers together all the way up the basin over that decision either.

Senator FISHER—No. Can I ask one further question about that issue?

CHAIR—To clarify, Senator Fisher, I think there are enough wars going on up and down that river system. One more. We are running short of time and Senator Williams has the call.

Senator FISHER—In terms of Premier Rann's High Court challenge, even if it were successful down the track, do you think it would achieve any good?

Mrs Kerr—From an interjurisdictional point of view, it will do more harm than good, and I think there is a role for COAG, once again, to try and resolve this in a better way.

Senator FISHER—Thank you.

CHAIR—Senator Williams, you did have the call.

Senator WILLIAMS—Yes. Mrs Kerr, you talked earlier on about the buyback and willing sellers.

Mrs Kerr—Yes.

Senator WILLIAMS—Wouldn't it also be a case of desperate sellers, considering what has happened to Australia in the drought since early 2002?

Mrs Kerr—Desperate sellers. Absolutely. We call them 'distressed sellers'. We have farmers who have been asked to put their financial affairs in order with their financiers, and the easiest way to do that, rather than selling the family land and the family home and having to leave that, is to sell their most profitable asset, which is their water. In many cases, it forms 80 per cent of the farm assets. So it is an easy way for them to realise their financial issues and to resolve them.

Senator WILLIAMS—Thank you.

Senator O'BRIEN—On page 5 of your submission you make reference to funding of on-farm infrastructure.

Mrs Kerr—Yes.

Senator O'BRIEN—You talk about all governments' reluctance to fund on-farm infrastructure projects. How should a government select which projects should be funded, if those are to be funded?

Mrs Kerr—I think it has to still look at best value for money, but I think governments look quite narrowly at it being a private investment and do not look more widely. In terms of the benefits, it is certainly a benefit to the farmer. He is going to be using less water and will be more efficient. But the environment gets the water that is saved, or a portion of the water that is saved, and you have the social and economic flow-on effects that that has to the community. So in terms of the assessment of which projects are more beneficial, it has to look at the viability and efficiency of the farm business, the value for money, and also those wider benefits that

accrue to the community as a result of that investment. I do not think that they are currently considered.

Senator O'BRIEN—Should it be as blunt as, 'Well, there's this money here, but instead of buying water, it is conditional on that money being invested in a particular water efficiency measure on your farm, which you trade off by guaranteeing to give a certain amount of allocation back to the environment'?

Mrs Kerr—For a long period now the principle has been that those who invest in the savings get to keep those savings in proportion to the investment. So if the federal government, for example, funds 50 per cent of the investment on a farm, they are entitled to get 50 per cent of the savings. Certainly we are not saying that that investment should not be without a return of water to the environment.

Senator O'BRIEN—So the tension is, when you talk about value for money, whether it is cheaper to buy the water or go through that process.

Mrs Kerr—It has been our experience that on-farm savings are small volumes of water, quite disparate. There are 155,000 farms in Australia and not many irrigation farms, obviously. Certainly it is an issue for governments. What we have been able to demonstrate—and I think the most notable example is the Ricegrowers Association Living Murray on-farm project—is that industry organisations can be used to bulk up projects into an amount so the government is only dealing with one volume rather than 200 parcels of 10 or 200 megalitres, or whatever it might be.

Senator O'BRIEN—Some of these things are prospective about how much water will be saved. Who should bear the risk about the saving?

Mrs Kerr—In the project that I just mentioned, it was the farmer that bore the risk.

Senator O'BRIEN—I have one last question. On page 6 of your submission you suggest that Australia is considered by the rest of world to be leading the way in water management but nationally are seen to be poor managers. Is that anecdotal or are there some publications or articles that you can refer us to where we might take some comfort?

Mrs Kerr—It is probably more anecdotal—comments that I hear from people. Certainly Australia is renowned for the tall poppy syndrome, and I think we are harder on ourselves than we ought to be and we do not appreciate the good things that we actually do. I do not have any hard data, but I could probably take it on notice and have a search.

Senator O'BRIEN—Take it on notice, yes. Thanks.

Senator HUTCHINS—Thank you, Mrs Kerr, for coming along yet again to an inquiry into the Murray. This is all the Murray-Darling rather than the little bit down the end. I want to continue on from Senator O'Brien's reflection on that comment about governments' reluctance to fund on-farm infrastructure projects. We had a group here the other day representing a large group of farmers in the Namoi area, where they have been proactive. They have funded their own infrastructure projects, and they look down the river where there does not appear to be any

initiative or imagination by farmers to do anything like that. Why should a government be involved if you have people who see farming as a business and see that they have to act efficiently and economically to run that business? Why should a Commonwealth or a state government be involved? Why should these farmers actually be in business if they are not conducting themselves like a business?

Mrs Kerr—That has occurred, where farmers have retained the water and have invested in productivity, and it will continue to occur. Drought and—

Senator HUTCHINS—But they do not need the Commonwealth or state governments to do that. They see that this is the best way for them to make money, so they are going to do it and invest in this technology.

Mrs Kerr—Absolutely. But when there is pressure from governments and the Australian community to return water to the environment, this is one way that farmers can play their part, having governments come in and assist and invest in-farm to do those works; otherwise they will wait until post drought when they are in a financial situation where they can do it and they will invest, and continue to invest, in-farm. Our top farmers have done that. They have realised the savings themselves and put that back into productivity. It has not gone to the environment. What we are saying with on-farm is that with governments investing—it is a co-investment literally—some of that water will end up in the environmental bucket, and it is our belief that there are significant amounts of water, albeit small volumes, that can be found on-farm.

Senator HUTCHINS—Would you say that there are particular areas along the Murray-Darling system that require more money being spent on infrastructure projects than others?

Mrs Kerr—On-farm?

Senator HUTCHINS—Yes.

Mrs Kerr—Absolutely. If you are familiar with on-farm works and what they look like on the ground, you only have to get into an aeroplane and fly across some of these areas to see what can be done.

Senator HUTCHINS—So it is not any particular state; it is parts of different states, is it?

Mrs Kerr—It is parts of different states. Getting in a plane and flying from Narrandera to Griffith, for example, you will go over some really well-developed layouts that are very efficient, that have recycling systems on-farm, on-farm storage dams, and then you will come across a farm with very poor layouts—old contour layouts that are windy and inefficient in terms of not just water but labour and use of inputs like fertiliser and seed. They will have double sowing over very small, narrow areas. So there are areas across all states.

Senator HUTCHINS—Why should that farm still be in business then? Why is it our job to help them be in business? Why should they not just get gobbled up by someone who can act efficiently, imaginatively and economically? The manufacturing industry has been doing that for nearly three decades now.

Mrs Kerr—And that is happening. Structural adjustment is continually happening, and you will find perhaps through this drought that it will happen again. I know my neighbours in the Coleambally area, which is where we are located, are buying the farm dry next door and they are using their water—the same volume of water—over an additional farm. They are upgrading that farm to be more efficient and to be able to use that water—

Senator HUTCHINS—We have had evidence of the efficiencies that have been occurring, but generally by private investment and imagination by farmers rather than—

Mrs Kerr—Yes.

Senator HUTCHINS—You mentioned the South Australian example. I have one final question. You said that communities are starting to be against each other in this whole system. I cannot see how that is not going to occur, particularly if you look at the results of the Commonwealth acquiring Toorale Station and the inevitable consequence of the loss of jobs in Bourke. From the NFF's point of view, how do you pick winners and losers?

Mrs Kerr—You do not, but we think there are smarter ways of doing business than the Toorale purchase. I will use that as an example. It is a 93,000-hectare property with 14,000 megalitres of permanent entitlement that is traded. The rest of it is stock and domestic water that is not tradeable. It had significant sheep and cattle enterprises on the farm, with only 2,000 hectares of irrigation, so a very small area of irrigation on the property.

It is our belief that we could have been smarter in that acquisition. We could have left 2,000 megalitres on the farm for a high-value horticultural enterprise. We could have used the Environmental Stewardship Program under Caring for Country to enhance the management of the high-value ecological assets on that property. They would have been actively managed. We could have maintained the agricultural production enterprise that is on the property rather than transferring that to a national reserve system.

CHAIR—You have yanked the chain on my left anyway, Mrs Kerr, but I am listening to your answer.

Mrs Kerr—We are all for looking at smarter ways of doing business and looking a little bit outside the square to see how we might use all of the government's programs to not only maintain and improve agricultural production but also to enhance the environmental assets. We are quite concerned about, for example, the national reserve systems being seen as a poor neighbour, with weed and pest control, fire management, fencing management and all those sorts of things. We are very keen and we are having discussions with Parks Australia and a number of other government agencies about how we can do business better.

Senator HUTCHINS—All I would say there is that the communities are against each other, as you would well be aware. I am a New South Wales senator and most of the people up that way think that the purchase was done to send it down to South Australia for what they regard as pretty unimaginative and inefficient farmers.

Mrs Kerr—That label can be applied anywhere. We have inefficient farmers in New South Wales, in Victoria, in South Australia, but in those states there are also some excellent and well-managed farm businesses.

Senator HUTCHINS—All members, too, no doubt.

Mrs Kerr—Yes, absolutely!

CHAIR—I think that is a very fair answer. Thank you, Mrs Kerr.

Senator NASH—Mrs Kerr, I have some concerns that, around all of the government's decisions and policy making around water, there is a lack of consideration being given to future food security. I would like your organisation's thoughts about that, particularly in light of and using the first \$50 million buyback as an example. I think there are about 23,000 megs actually on the register and there is only a bit over 2,000 megs allocation in that. But there has been absolutely no work done on the potential impact of moving that water—potentially; when it rains—from agricultural production to the environment. Does the NFF have a view on all of this going ahead without any real work being done on the potential impact of that water being removed?

Mrs Kerr—Yes, absolutely. We are concerned about food security. In a lot of our public presentations, our staff and our CEO and our president talk about food security and the pressure on Australia, because it is an exporter of food, and a lot of the countries that we export to are developing and least developed countries. The comment is often made that we ought to import our food from those countries, but they are under a lot of stress and to do that would be putting the people in those countries under further duress, so we need to ensure that our agricultural production is maintained to support those countries as well as Australia.

Certainly the impact of removing water from agriculture production to environment is important to us, but at the moment, if you look at the NWI agreement, the acquisition package and the investment package are meant to deal with overallocation. What we are not seeing is an integrated basin plan that deals with where the overallocation is, the new sustainable diversion limit and how we target acquisitions and investment in those areas to address the overallocation or the overuse problem—and it is our belief overuse is the issue, not overallocation. How do we deal with that in each system? What are the environmental assets in those systems? A group of scientists can help make the decision, but it should be the communities in those areas that determine what environmental assets they want to protect, what to enhance, what water is needed, what engineering solutions are there that will reduce the amount of water that is needed for environmental assets, so that the communities in those areas have input into that decision making.

It feels a little bit ad hoc. I know the government's acquisition program to date has been on a no-regrets basis whilst the basin plan is being developed but, with the increase, we are going to see the basin plan developed, along with an acceleration of buybacks, so it is all going to occur together.

Senator NASH—It is interesting that you raise that, because we had a witness a couple of days ago saying much the same thing: that it is at the moment rather ad hoc. I think they used the

phrase, 'It should be done on a regional basis.' You are using 'community'. But this idea of doing it sensibly region by region or community by community would seem to make a lot more sense. I have some other questions, Chair, but I am conscious of time and I think they have been pretty much covered. I will ask just one last question, and I know it will only be anecdotal, but do you have any sense of the buyback so far? We were referring to distressed sellers earlier. Do you have any sense of what proportion of that water bought back so far would be from distressed sellers?

Mrs Kerr—I think most of it will have been from distressed sellers. There will be a few people who are retiring and looking to realise their asset. There are some cases that I have been told about of farmers who are really quite affected by the reform process and have decided to opt out of irrigation altogether because of the continuing and ongoing reforms. They are not having the security underpinning their farm business so they have decided to opt out of irrigation. But primarily the sellers will be people who are distressed.

Senator NASH—So the committee needs to be very careful when hearing the phrase 'willing sellers'. It is not necessarily as simple as willing sellers. There is a lot of distress in there as well.

Mrs Kerr—Absolutely.

CHAIR—Mrs Kerr, thank you very much for your assistance to the committee.

Mrs Kerr—That is my pleasure.

[8.41 am]

HARWOOD, Ms Mary, First Assistant Secretary, Water Efficiency Division, Department of Environment, Water, Heritage and the Arts

ROBINSON, Mr Ian, First Assistant Secretary, Water Governance Division, Department of Environment, Water, Heritage and the Arts

SLATYER, Mr Anthony James, First Assistant Secretary, Water Reform Division, Department of Environment, Water, Heritage and the Arts

CHAIR—I now welcome officers from the Department of Environment, Water, Heritage and the Arts. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim.

We were a little bit slow to start with because of some electronic technicalities, so I will see if we can make up the time, but I will invite you to make a brief opening statement. If we can gain a bit of time there, Mr Slatyer, I would appreciate that.

Mr Slatyer—Chairman, we have submitted two written submissions to the inquiry. If it is helpful to the committee, I can give a brief update on what is occurring at the Coorong and Lower Lakes, but we are conscious that this hearing is probably focused on the second part of your terms of reference, so we are in your hands.

CHAIR—I will quickly scan my colleagues. Members of the committee, do you want a brief update on the Coorong and Lower Lakes?

Senator NASH—Could I suggest, Chair, if Mr Slatyer is going to do it briefly, they might like to give us a quick run-down now and then provide us a more detailed written report on where things are up to.

Mr Slatyer—Yes, we would be happy to provide an update on the evidence we gave earlier. Rainfall across the Southern Basin remains well below average, with inflows now tracking down towards the record lows that we experienced in 2006-07. We are currently estimating that there will be around 350 gigalitres flowing into the Lower Lakes, which is the part of the normal South Australian dilution flow that we have reported earlier to the committee that would normally flow to the Lower Lakes. We are estimating that will flow in the current year.

The current situation at the Lower Lakes is that large-scale acidification remains the most pressing short-term ecological issue, with the most immediate risk understood to be in Lake

Albert, and in the Finnis River, Currency Creek and Goolwa Channel areas. The level of Lake Alexandrina continues to fall and is currently around minus 0.9 metres AHD, which is roughly sort of below sea level. Lake Albert water levels have dropped marginally below the projected critical acidification threshold of minus 0.5 as pumping from Lake Alexandrina into Lake Albert becomes increasingly difficult due to lower water levels and wind surging moving water away from the pumps.

Currency Creek is now dry, the Finnis River reduced to a shallow trickle, and Goolwa Channel has reached its modelled critical certification threshold, although the water body, according to information we have, is not yet acidified. South Australia has indicated that the latest estimates for acidification thresholds of the Goolwa Channel main water body is now around November 2009, which is some months later than their earlier estimates.

In terms of management responses, in November 2008—that is, since we gave our last evidence—the Murray-Darling Basin Ministerial Council approved an adaptive management strategy to prevent acidification of the Lower Lakes. The strategy includes emergency pumping of water into Lake Albert and enhanced monitoring of alkalinity and water levels within the Lower Lakes. In October 2008, Australia provided the Ramsar secretariat with an update about the condition of the Coorong and Lower Lakes, Lake Alexandrina and Lake Albert's Ramsar site. Since then, South Australia has commenced a \$10 million Commonwealth funded feasibility study into the long-term management options for this Ramsar listed site. The first consultation draft on this feasibility study is expected in April 2009, with a more extensive draft expected in June-July 2009. The Australian government is also going to provide \$10 million for bioremediation and revegetation projects around the Lower Lakes as part of its economic stimulus package.

CHAIR—Mr Slatyer, I am sorry, I have just been approached by a couple of members of the committee.

Mr Slatyer—That is enough of an update?

CHAIR—If everyone was not depressed before the start of the hearing, they certainly are now. Could you table that, because we really are tight for time.

Mr Slatyer—I will table it. I was editing it as I was sitting there to make it completely up to date, and we will table a completely up-to-date version soon afterwards.

CHAIR—If you could. There are questions to be asked. The next time you come, you are going to make us happy.

Senator FARRELL—Mr Slatyer, one of the suggestions, particularly in relation to Lake Albert—because of the supersaline position that it was in—was that they were going to pump the supersaline water out to sea and pump sea water back into Lake Albert. Has anything happened on that?

Mr Slatyer—I think you are probably confusing that with the South Coorong Lagoon. The proposal was to pump hypersaline water out of the South Coorong Lagoon, over the barrier

dunes into the sea. Lake Albert is further away, and the situation is more difficult in terms of that kind of pumping.

Senator FARRELL—Is anything happening in the South Coorong Lagoon?

Mr Slatyer—We are aware that that proposal is under consideration in South Australia.

Senator FARRELL—Nothing has actually happened in that regard?

Mr Slatyer—The department has not been directly involved in development, although we are being consulted by South Australia as they work through the issues.

CHAIR—Sorry, Mr Slatyer. I think we might just home back in on the Murray-Darling Basin inquiry, if we can. Senator Siewert is dying to ask some questions.

Senator SIEWERT—In terms of where we are up to with purchases, I am interested in knowing—and I will not say ‘extra money’ because it was not; it was money that was brought forward in the package that Senator Xenophon negotiated—what preparation work is going on in terms of accelerating that expenditure.

Ms Harwood—We are pursuing a large number of purchases at the moment, and we have a continuing stream of sell offers coming into the department. In terms of our capacity to handle those, we are looking at additional recruitment so that we can handle the full flow of applications, and that is going well. Essentially, we have a very active program of purchase under way.

Senator SIEWERT—Can I take you back. You said ‘recruitment’ in terms of getting additional staff to help with the process.

Ms Harwood—Yes. We have been given some extra people on the purchase teams to help with the workload.

Senator SIEWERT—In terms of sellers approaching the department, you are not

having to go out and approach people. Is that what is happening?

Ms Harwood—No. It is a process where people wishing to sell water put in an application to us to sell and we have a steady volume of offers to sell coming into us. So we are not going out and seeking them; they are coming to us.

Senator SIEWERT—When you say you are not going out and seeking anyone, you are not advertising or anything like that?

Ms Harwood—At the start of each tender, there is a public advertisement that provides basic information, and there is information obviously up on our website and so on. But, no, it is people approaching us in response to that.

Senator SIEWERT—How is the issue of the four per cent cap in Victoria restricting your ability to purchase water?

Ms Harwood—That does affect our capacity to conclude sales. If people are seeking to sell water from an area where the four per cent cap has been reached, what we can do is enter into a contract with them with a deferred sale so that the sale folds through until the following financial year. But, yes, it is affecting a large volume of offers for sale.

Senator SIEWERT—How many? What is the volume of the offers?

Ms Harwood—I would not want to give a precise figure, because we have sales at every stage in the process. In many cases, it is where we have had an offer in and we have written an acceptance letter back, but we need to get right through all the stages of the due diligence and contract process before we know that that sale is a definite sale going through.

Senator SIEWERT—The number of sales and the volume of sales that are being held up by the cap is obviously of great interest to this committee—and, in fact, the broader community—although you are basically pre-purchasing into the next year, is how I understand what you have said.

Ms Harwood—Yes. Essentially, the sale is deferred. The transfer can go through on the register when a new space opens up.

Senator SIEWERT—Yes. But that is then—

Ms Harwood—In the following financial year.

Senator SIEWERT—Is it possible for you to take on notice to give us a list of the number of purchases that are being held up and the volumes that are being held up?

Ms Harwood—Yes.

Senator SIEWERT—In terms of the people that are coming to you, applying to sell, when you are looking at where you are purchasing that water from, are you looking at issues around infrastructure at the same time? I will context this for you. We have had evidence from ACF—I think it was Tuesday—about the TRAMS project, which I find a very attractive approach because you are integrating the approach. You will have heard me bang on about it before. Is that happening anywhere else? Is there a more comprehensive approach being taken anywhere else? How do you integrate it with infrastructure expenditure?

Ms Harwood—I will give you a couple of answers to that. Firstly, yes, there are other proposals where groups of irrigators are considering moving out of irrigation together and selling their water to us as a group, and we have a program for that and guidelines for people to follow. If they do that together, we have made it clear in those guidelines that we are prepared to help with the costs of decommissioning infrastructure to convert that area from irrigation. There are various stages. The TRAMS is one, where there is an area that has been identified as potentially being able to move out of irrigation.

More broadly, in the priority projects and the private irrigator infrastructure operator projects there is clear scope for doing integrated proposals—that is, for either a state or for an irrigation corporation to bring forward a proposal about an area and proposing an integrated approach which could include some shutdown and some refurbishment of areas that are more likely to be viable in the future. In fact, the process that we have been funding up to date, in a number of irrigation areas through the irrigation modernisation planning, is about just that: it is a deep and wide look at the irrigation district in question to see what is the best future for that district; where will it get its best return on investment, if it is going to upgrade irrigation infrastructure, and are there areas that would be better suited to coming out of irrigation.

The water purchase program operates independently for the individual sales, but there is also this stream of activity where groups of irrigators can approach us for a group sale and as well, through the infrastructure expenditure, that can include integrated proposals from the relevant areas.

Senator SIEWERT—I have one last question. I take it from that that people can be proactive in approaching the department but you are not being proactive in terms of the way you are integrating the buyback and infrastructure.

Ms Harwood—We are well aware of the interconnection, and across the suite of programs we are doing we are looking to see that we have the most sensible sort of interaction and integration of those. But it really is structured in a way where it is up to the communities, the irrigators and the irrigation corporations to identify what they would like to do and how they would like to do it, and then we work with them. For the big state projects and others, there is a due diligence assessment to assess it both physically and in terms of the potential water saving aspects and so on. If your question is whether we are going out and saying, ‘Why don’t you sell?’ we are not doing that.

Senator SIEWERT—No, I took that from your first answer. It is more when people are coming in to you and saying, ‘We want to sell,’ or offering to sell water and then looking at that in terms of your decision making in terms of an integrated approach. That is where I am coming from.

Ms Harwood—As I said, there are groups of irrigators who are working on proposals together, and we are happy to have a conversation with them. It is generally a three-way conversation because, if it involves the irrigation corporation as well, one of the questions that comes up is the share of conveyance savings.

Senator SIEWERT—I understood what you were saying in terms of them coming to you, but I am flipping it round the other way to ask, ‘Okay, does the department do the reverse?’

Ms Harwood—I am sorry, I do not quite understand what you are asking.

Senator SIEWERT—Where I am coming from is: if the community, irrigators and farmers are proactive, you accommodate that.

Ms Harwood—Yes.

Senator SIEWERT—But if someone comes to you and says, ‘Right, we want to sell here,’ the process of the integration of, say, ‘Is that purchase there going to strand assets there? Is this an opportunity to work with a broader group of farmers to get an integrated, coordinated approach?’ so you do not approach them in the first instance—and you have answered that one—but once someone comes to you, do you then use that as an opportunity to go, ‘Okay, well, we might be able to achieve an even better outcome here by working with this group of landholders working with the irrigation districts, so we are not stranding assets, and actually investing some of the infrastructure money so we get better bang for our buck in the long term’?

Ms Harwood—On an individual irrigator scale, the simple answer is no, because we have an open tender process and we are assessing the offers to sell water on their merits, with the key criteria being: is there an environmental asset that can benefit from this water? Can the water get there? And does the proposition represent value for money relative to the market price for water in that area of that reliability? That is a process that is applied to a suite of offers in an area and comparing them and selecting the ones to purchase. We do not then extend back out from that, because it is operating as a tender under full tender rules, I would say, in terms of the way the buyback works.

Senator SIEWERT—Okay.

CHAIR—On that, Senator Siewert, could I ask that we flick through to Senator Nash, because we have about 15 minutes left.

Senator NASH—Thank you. During the last estimates in terms of the buyback process, I understood the minister had undertaken to ensure that there was greater transparency in the subsequent buyback programs after the first one, because I think there was a recognition that it could have been better. What has happened to improve the transparency of the process in the subsequent buyback rounds?

Ms Harwood—Firstly, in terms of physical documentation, we have a more detailed suite of program guidelines for both the Northern and the Southern Basin tenders that detail all of the aspects that a person interested in it or a person wishing to sell might want to know—how we choose the water, what the basis of the criteria for it is, all the processes you have to go through—so it is a full description of how the water purchase program works for both the Northern and the Southern Basin tenders. That information is also up on our website.

We are continuing with our consultations in various places in the basin as opportunities arise. For instance, if there is a regional meeting on for Border Rivers Food and Fibre and they would like us to come and talk about the program, we do. So we take the opportunities for good connection with the relevant communities, at times that work for them, or we will go and do an update. We have just done some in Toowoomba and Dubbo on the detail and progress with the purchase program.

In terms of the transparency of the sale process, as soon as we have a critical mass of sales in an area where individual sellers cannot be identified and the processes have gone through to conclusion of the trade, we will start loading up that information on the web so people can see the profile of the purchases that we have made. We will soon be there for these rounds. It is just

that there are a lot of purchase offers at early stages in the process not yet through to having been settled through the water registers.

We have taken on board the need for there to be very clear, full program information. We have also had some very detailed discussion sessions around the finer detail of how you choose which water you want: the issues around reliability, the watering needs of the environment and how to better match the purchases—that is, looking to see that the water we are buying is water that will meet the actual physical and temporal characteristics of the environmental requirement.

On our website we are using an independent consultant to prepare a regularly updated summary that gives the average market price by type of water entitlement, by reliability, in the different areas of the basin, so that if someone is thinking about selling water, they can look at that and see what the average price was for water of that characteristic that traded in the last three months. So there is a lot of very clear price information.

Senator NASH—That was not occurring earlier, was it?

Ms Harwood—No. We did that in response to the review, and that information gets updated.

Senator NASH—Obviously you write back to unsuccessful tenderers and say, ‘You haven’t been successful.’ How much detail do they get about why they were not successful?

Ms Harwood—They will generally get a summary of the reason for their offer not being followed through so that they will understand it.

Senator NASH—In the interests of time, would you mind taking on notice to supply the committee with the types of criteria that you would use in a letter to say, ‘You have not been successful for X, Y, Z reasons’—the types of things that quite simply mean a tender is not successful in the view of the department.

Ms Harwood—To respond to that here, they would be matters relating to those three basic criteria: is there an environmental asset that needs watering? Can the water get there? Does the water offer represent value for money?

Senator NASH—What I am getting at is: is there more detail than just, ‘No, it didn’t meet these criteria,’ or not? I am happy for you to take that on notice.

Ms Harwood—Okay.

Senator NASH—In relation to the report that you have commissioned ABARE to do into the potential impacts on communities of the buyback program, when is that due to be completed?

Ms Harwood—I think the final report will be completed in the middle of the year.

Senator NASH—Because it was early 2009 in your submission. So that has slipped back?

Ms Harwood—I will take that on notice and check it.

Senator NASH—If you could, that would be great. I think the sooner that can be done the better. There has been a lack of analysis so far. Where is the Stakeholder Consultative Committee at and what is happening with it?

Ms Harwood—The Stakeholder Consultative Committee that was formed in relation to the review of the first round of water purchases has met several times and is chaired by Mr Robinson.

In terms of the establishment of ongoing reference panels, there have been various actions on that and we are at the moment working on, essentially, a longer term body that will cover a broader remit.

Senator NASH—That stakeholder committee, though, only applied to the first buyback? Is that correct or not correct?

Ms Harwood—That is what it was established for.

Senator NASH—In the submission it says that the committee was to provide it with input on water purchasing rounds, so I thought it was going to be like a standing committee, to continue to assist the department. Is that not the case?

Mr Robinson—The original committee has essentially been reformatted or reorganised to continue—not entirely with the same members, but there has been no announcement about that—and perhaps with a bit of a wider brief, as Ms Harwood said.

Senator NASH—But there will be a similar arrangement to assist the department in doing that?

Mr Robinson—Yes.

Senator NASH—Is it possible for the committee to have a report from the input of that first committee on the buyback?

Mr Robinson—On our website there is both a report of the committee about the first round of the buyback and a report of a consultant independent review of the first round, and the committee had a lot of input into and engagement with that process.

Senator NASH—That would be useful but, further to that, could you provide the committee with the details of when and how you met and the type of input that you were asked to give—not just the end report but the actual process of the engagement between the department and the stakeholder committee.

Mr Robinson—We can take that on notice.

Senator NASH—That would be great.

CHAIR—Senator Nash, do not rush, because it is important to get our questions to the department. If we do fall over the 9.15 time limit, I am not going to have kittens.

Senator NASH—Thanks, Chair.

CHAIR—Senator Fisher has questions as well.

Senator SIEWERT—Oh, no, now you have given her licence!

CHAIR—Don't worry, I will rein her in if I have to.

Senator NASH—I will use it wisely and not abuse the privilege. Thank you, Chair. You also say that you are going to be reviewing the impacts of the water buyback regularly as it proceeds. What does that mean?

Ms Harwood—We have the ABARE work which will be reporting soon—I think midyear—but we are coming back to you on that.

Senator NASH—I understand this was separate to the ABARE, though, in the indication in your submission that you, the department, would be reviewing things on an ongoing basis, and I am just trying to understand what that means.

Ms Harwood—In terms of the water purchase program and the other programs, I guess it is an ongoing process of seeing—

Senator NASH—That is what I want to know: what is the process, when you say you are reviewing regularly as the purchase program proceeds?

Ms Harwood—The first phase of that review is manifest in the work that ABARE is doing for us and we will take it from there. That would be the simple answer.

Senator NASH—In your submission it is very clearly a separate idea, if you like, so I just wonder why the department would include that in the submission. You have already talked about ABARE and then you go on to say:

The department will be reviewing impacts regularly as the purchase program proceeds.

Mr Robinson—There was a review of the first round. The department essentially has the second round of the purchase program happening at present and, as it concludes, the intention is to review impacts et cetera in consultation with the new stakeholder committee.

Senator NASH—So what is the process of reviewing? I understand you have got the ABARE one happening and that is fine, but when the department says, 'We're reviewing it,' what is the department's process for doing that?

Mr Robinson—Yet to be determined for the second round, but we agree that it will need to be done.

Senator NASH—When is that due to conclude?

Ms Harwood—As Ian said, the first round review involved an independent consultant, the Stakeholder Consultative Committee, some additional work by others, including ABARE, and pulling that together into a report. At the moment, we are in the middle of the second round.

Senator NASH—That was my question.

Ms Harwood—So we will look at some process of that sort at the end of this round and reviews often take the form of bringing in an independent viewpoint—a consultant or whatever—to prepare a review and a report on the program.

Senator NASH—When is that second round due to conclude?

Ms Harwood—Currently, the tenders are due to finish on 30 June.

Senator NASH—What process does the department have in place or what consideration has been given to the reviews turning up adverse findings? If there has been a negative impact on those communities, what process has the department then got in place to address that?

Ms Harwood—It is a rather hypothetical question.

Senator NASH—But it is a fairly sensible one, isn't it? I know it is hypothetical, but if you are going to review the purchases—which is quite right and proper—you do a review to find out what the impact has actually been. A potential impact could be a negative one, and to think that that is hypothetical and you have not even thought that that might actually occur would be quite extraordinary, surely?

Ms Harwood—It would be a matter for the government to work out how it wished to respond to the findings of the review, be they positive or negative.

Senator NASH—When is the groundwater atlas, which the minister announced recently, due to be done?

Ms Harwood—I am afraid that is not my special subject.

Mr Slatyer—We would have to take that on notice. I think that is commissioned by the National Water Commission. We will consult them and get back to you.

Senator NASH—If you could just let us know when it is due to be completed, that would be great. Thank you, Chair.

CHAIR—Can I just share with the committee that Senator O'Brien said to me he wished he had a dollar every time he heard you ask that, Senator Nash, but then when the response was taken on notice he said, 'I really wish I had a dollar every time I heard the department say that'! Senator Fisher.

Senator FISHER—Thank you. You have talked about deferred sales, Ms Harwood. Are there any deferred sales in terms of the Commonwealth itself?

Ms Harwood—I am not sure what you mean, sorry.

Senator FISHER—Put another way: has the Commonwealth itself had to defer, or whatever language you might use? Has the Commonwealth itself been prevented from buying water in Victoria?

Ms Harwood—The deferred sales I was referring to were sales where Victorian irrigators are offering to sell water to the Commonwealth, and whose offers we have accepted, but the conclusion of that trade will need to be deferred until the four per cent—

Senator FISHER—Thank you. So that was all in respect of—

Ms Harwood—Offers to us.

Senator FISHER—Commonwealth sales?

Ms Harwood—Yes.

Senator FISHER—You gave part of this answer to Senator Nash, but to what extent today can a third party discern from your website information about water trades?

Ms Harwood—There is a lot of information up on the web about the outcomes of the first tender, telling people where we bought water, how much and what for and what reliability et cetera. Also on the web we put up a schedule that is prepared by an independent consultant of average prices by catchment and water type, so people can see what water is trading for. There is a lot of other information available more generally but, in terms of information from us, that would be the basic information. As I said before, as more of our current trades go through to settlement and we can consolidate the outcomes in a way wherein the privacy of individual sellers is respected, we will start loading up information on the web about the current round's outcomes: where we have bought water, how much et cetera.

Senator FISHER—Yes, I heard that earlier. That can take me to another question: when will you be in a position to do this? When will it happen?

Ms Harwood—I cannot give a precise date on that because it depends when a suite of contracts has completed and the transfer has occurred. Buying water is a lengthy process and there are a large number of trades that are heading towards the end of that process, but I would not like to give a precise date when we will have enough information to be loading it up in a way that respects the privacy of individual sellers.

Senator FISHER—Asking that question another way: when do you think I will be able to respond to emails that I am getting from South Australian constituents about their frustration at being unable to discern from any publicly available place who is buying water, from where the Commonwealth is buying the water, how much they are buying and how much they are paying? Senator Siewert has asked you a question about numbers and volumes of deferred sales but, in respect of sales actually happening, when will I be able to say to South Australians who are emailing me about their frustration, 'Oh, the department has solved this, and this is where you go to look'? When will I be able to say that?

Ms Harwood—As I said, I do not think I can give you a precise date for that in terms of when we will have concluded enough sales in a particular area to be able to load up a first tranche of sale information. They can always view the registers in the relevant states—make public information about the sales that have occurred—but that would be around the same time as we would be able to do it, in that, until the transfer has occurred through the state register, it is not available through there either.

Senator FISHER—At the moment what is the time lag?

Ms Harwood—It is not so much a time lag; it is the sequence of steps we go through. We receive an offer and we assess it. The time line for normal offers for sale is that we aim to be back to them within two weeks as to whether we will accept the offer or not, and then the process goes through its due diligence process steps, checking that the entitlements are as they are offered and that there are no encumbrances et cetera. For individual sales, it depends entirely on whether any snags are in that process, if there are delays on the part of the seller, if there is extra information required during due diligence or whatever. So the process goes through a sequence of predictable steps but it takes, all up, some months to get to the point of the sale having proceeded through to the entitlement being transferred to the Commonwealth.

Senator FISHER—At the moment, the moment the entitlement is transferred to the Commonwealth, what is the time lag between that transferring and that information being made public?

Ms Harwood—As I said, our intention is to put information up on the web about the sales that we have concluded, but not until we have a certain number of sales in an area, so that we protect the privacy of the individual seller. Although there are people who would like to know what sale has taken place and for how much at exactly the point when we make a transaction, there are sellers who do not wish their individual sale information to be up for all to see. They would rather see an aggregated presentation. But we will be doing that as soon as we can.

Senator FISHER—At the moment do you have an average time lag?

Ms Harwood—I will come back to you in terms of what the average time between offer through to settlement is.

Senator FISHER—Thank you. In large, you have talked about the delays that naturally occur through a selling process. If I were to accept those natural delays and say, ‘However, I don’t see the justification for a delay between the transaction actually happening and that information being publicly available,’ it is that length of time that I would suggest there is an opportunity to compress, which would result in more information being made publicly available. So I would like to know the time lag between the transaction being completed and the information about that transaction being made public on your website, and if you wish to average it, so be it.

Ms Harwood—That would vary with every individual sale, depending on where they are in the tier. If five sales or 10 sales went through all at once for an area, and that could be comfortably aggregated as information on the web, it would be a quick time. If there is a single sale in an area, it might take quite a while.

Senator FISHER—What is a quick time and what is quite a while?

Ms Harwood—I will take it on notice.

Senator FISHER—Thank you. My final question, which the department can take on notice and probably is not dissimilar from what I have asked before, is: how does the information that is publicly available in respect of Commonwealth purchases differ from the information required to be made publicly available in respect of transfers between private individuals?

Ms Harwood—I will take the detail of that on notice. Essentially, we would be providing more analysis of the water purchases overall in terms of analysing that information by catchment and reliability type and so on, so presenting a sort of aggregate picture of the purchases overall. The individual transaction information ends up being available through the state registers, but that takes some time.

Senator FISHER—I would like some more detail on that, but that is like saying, ‘We provide such great information. We delay it until it’s great,’ so actually third parties cannot get any information at all in a time that is useful. That is the concern that I am trying to see a way through.

CHAIR—To the officials from the department, thank you very much for your time.

[9.22 am]

YOUNG, Professor Mike, Executive Director, Environment Institute, University of Adelaide

CHAIR—I welcome Professor Mike Young. Would you like to make a brief opening statement before we go to questions?

Prof. Young—Yes, I would, Mr Chairman. I would like to focus on your terms of reference and supply you with three documents. The first is a document I wrote recently on problems associated with shepherding water in unregulated streams. The second is some very important challenges around connecting ground and surface water and changes that would need to be made to legislation to make that possible. The third is a paper on ways to manage interception, which are complex but are very important to get right as we go forward, and they are in your terms of reference.

Previously I tabled a report on future proofing the basin which contained 21 recommended reforms. Six of those remain unaddressed. What I want to do in an opening statement very quickly is draw your attention particularly to one of these, which is a recommendation that we run a process to consider downsizing the river. The reality is that we might have shifted to a drier regime. In 1974 something happened in Western Australia, and the mean water supply since then has never, ever returned to the old average. Every year for the last 34 years, inflows into the Perth water supply system have been less than the average. If this is what is happening in the River Murray system, then frankly the river is too big. Almost all of the inflows are being used up in evaporative losses.

We have a national problem. If we are coping with a river that has about half as much water—so we go from a full glass river to a river which is only ever half a glass—then the very unfortunate part is that most of that water is used in running the river, and almost none is available. We have got through in the last few years by running our dams down, by letting groundwater decline and flow into the river, by closing off wetlands and by running down lakes. I think we do need to face the reality that there is a high probability that the river system is now operating permanently with much less water and I would recommend to you that the committee consider the case for running an independent audit where we look at which lakes, which billabongs and which environmental assets we would leave to fate and no longer put water in. It is an exercise from top to bottom.

Similarly, we look at every weir, every lock, every structure to see which ones you might leave open until we get more water. Somehow we have to find a way to manage the system more effectively. In parallel with that, we need urgently to put in place mechanisms which enable us to be much cleverer in river management; to look seriously at changing river heights by quite large amounts. We have become accustomed to running the river at one height. We could raise and lower it much more than we do. Similarly with salinity: we could let salinity go up in winter when not many people are using it, and down in summer when there is a lot more use.

We could empower our environmental managers to manage, to put in structures that enable them to dry out wetlands for long periods of time, and perhaps forever; to really look very carefully at the system we built 50 years ago and contemplate a search for ways to invest not only in what we have been doing so far—which is investing in irrigation infrastructure—but to invest in the river infrastructure itself and contemplate changing it. I can leave the rest to questions, Mr Chairman.

CHAIR—Thank you, Professor Young.

Senator SIEWERT—Could I explore the issue that you have just raised before we go back to shepherding water and talking about that. I understand you to be saying that you get a group in to do an independent audit. Who would you suggest to do that? Are you talking about a group with scientists or would you involve community?

Prof. Young—I think it has to involve all. It has to be done very carefully. It is a very difficult issue. If you start at the top, Lake Mokoan has been closed off in Victoria; very successfully, Murrumbidgee Irrigation has closed off or split up Barrenbox Swamp into a number of cells so that they can put water into one bit, and when that is full they put it into the next bit. We could do the same things with the Menindee Lakes. There are a lot of other lakes that could be managed in that way. Similarly, there are a lot of billabongs and backwaters. South Australia, on a temporary basis, has closed off I think 33 of those wetlands and put barriers and structures across. I think we need to run a process in a very careful discussion that involves hydrological engineers, involves community, involves economists and everybody to look at a much smaller river so that we can manage it. We have run our reserves down. If this adverse situation that we find ourselves in is going to be part of the future, and the science says to plan for it, then we cannot have a river which loses all its water in evaporation. It is something we made in the fifties, sixties and seventies, and since then we have had a very wet regime, and only just recently we have gone back to the dry era of the first half of last century, and the science is saying we should expect that to be an adverse shift.

When you go and talk to Western Australian water managers, they will tell you that they made the mistake for about 15 years of praying for rain. Finally, they realised they had to manage differently and make some very difficult and permanent decisions.

Senator SIEWERT—Is what you are saying basically taking a triage approach?

Prof. Young—I do not think ‘trriage’ is quite the right word. It is about very sophisticated decision making. To laypeople it is triage. It is working out where you put the water. The biggest mistake we could make would be to spread the very limited and small amount of environmental water we have over everything, like vegemite. Nothing would live. We would actually kill all of our environmental assets trying to save them all.

Senator SIEWERT—So this becomes part of a basin plan, essentially.

Prof. Young—It can be part of a basin plan, but I think this is an exercise which is so difficult for everybody that it needs to be run as a separate exercise, where you get into the detail while the people working on the plan can work on the plan to cope with whatever is available.

Senator SIEWERT—Simultaneously.

Prof. Young—It can be done in parallel. It is a very important part. I have got a diagram here. What it does is makes much more water available to users, reduces the amount of water needed for the river itself and, most importantly, facilitates—if it is done cleverly—smart environmental management. So environmental managers, instead of spending all their time begging for water, are given an environmental entitlement in a local regional area. If there is a rain, for example, they can decide the next day, as an irrigator would, to irrigate an important wetland. They have discretion. They do not have to go back to the minister to get permission to do what is obvious: to follow up after rain and to extend and give an area that was going to die the chance to live. It is just being smart. It is being clever. It is more than triage: it is a package of very sophisticated issues that have to be resolved.

Senator SIEWERT—Yes, I understand the point, but you would be in some instances saying, ‘Well, that area has gone. It’s not worth investing any more in.’

Prof. Young—‘It’s not worth investing any more in unless we get massive amounts of water.’ If we are coping in a dry regime that remains dry, then when push comes to shove, we put what we have into that area and we ignore that area. That could also involve running the river at a level which makes navigation impossible for significant reaches of it. We have already got parts of the river at the moment running at that. We might decide to inform people that that area will not be navigable when dams are less than a certain height. Those are the sorts of issues which are very important, but the reality is that we have built something which we cannot sustain.

Senator SIEWERT—I want to ask you about your comment on shepherding.

Prof. Young—Yes.

Senator SIEWERT—Can you explain that a little bit more?

Prof. Young—In unregulated systems, the licences that are used in the River Murray—actually, more in the Darling system—are a function of flows either past a point or past the point of offtake. What happens if you acquire water in that area is that you would leave water in the river. When you leave water in the river, then everybody’s entitlement downstream goes up. It is the same volume, but the opportunity is greater because their licence is a function of flow rate in the river, so there is a very important discussion going on about how you would go about buying water in one area and shepherding it through to another area.

Senator SIEWERT—Is my understanding correct: unless we do that, we are going to lose at least part of the value of the water that we buy?

Prof. Young—Sure. Almost all of the benefits remain as local benefits, and very quickly they are harvested downstream. In the document that I have tabled, there is a discussion about what would happen if, for example, South Australia chose to buy some water in Queensland and tried—

Senator SIEWERT—Getting it down.

Prof. Young—to shepherd it all the way down. You could shepherd it from the Condamine through to the border, because the rules say that harvesting opportunities are a function of the flow rate at St George, which is above all the licences. But as soon as it goes over the border, all of the irrigators in New South Wales would then be entitled to pump more water because the flow rate is higher.

When you go down as far as the Menindee Lakes, water that gets into the lakes becomes New South Wales's water as part of the agreement, until the lakes get to 640 gigalitres. So it would be very hard for South Australia in fact to get water through, if it wanted to, if not impossible.

Senator SIEWERT—In other words, if we are going to make the most of purchasing water, the buyback, it is absolutely essential that we get these rules fixed.

Prof. Young—And that requires changes to the Commonwealth Water Act.

Senator SIEWERT—And also states—

Prof. Young—Yes, and the sharing arrangements that are in place. This is a very difficult issue, but it is part of the realities of dealing with a drying regime.

Senator SIEWERT—That was a supplementary.

CHAIR—Yes.

Senator SIEWERT—I need to clarify that with—

CHAIR—Keep going, Senator Siewert.

Senator SIEWERT—It looks like a lot of purchases are now being forced into the next water-buy year because of the Victorian cap. Have you had a look at that issue?

Prof. Young—Yes, I have. There are actually two caps, not one. There is a four per cent cap and a 10 per cent cap. If you go to Victorian websites and their water register, you can see which areas are closed because of the four per cent cap and which areas are closed because of the 10 per cent cap.

Senator SIEWERT—That might be quicker than me getting it from the department. I asked them on notice a little while ago and still have not seen it.

Prof. Young—I can supply you with a web address. It is there and publicly available. It is continuously updated. People who aspire to purchase water tend now to avoid going into those areas. If you talk to any broker, they will advise you to look at the website. They will give you the web address and advise you where to think about buying water. So the market is walking away from the areas that are fully subscribed and, as a result of that, prices are lower inside those areas than they are outside.

Senator SIEWERT—Thank you.

Senator O'BRIEN—I have a couple of quick questions. Professor, is your hypothesis about the future for the river and the means of managing it a widely held view or is it a view that you have come to which you are asking us to consider as a new approach to managing the river?

Prof. Young—Bits of it are being discussed publicly. I think I am the only person who has gone as far as to say that this needs to be done thoroughly and carefully. If you look at what is happening in the Lower Lakes, it is being done but it is being done on a temporary basis. If you look at the debate surrounding Menindee and supplying water for Broken Hill, it is in a messy—if I can describe it as this—public discussion.

When you look at the strategies that are being developed state by state to cope with the reality of much less environmental water, states are developing their own strategies quietly about which areas they are and are not going to water. So it is happening, because managers understand the reality of what they are dealing with and they know what the prospects are. So, yes, it is an important issue. My role, and my brief, is to tell people about where the frontiers are, and that is what I try and do. I am sure the committee is aware of that.

Senator O'BRIEN—Is that a Wentworth Group view or your view?

Prof. Young—The Wentworth Group I think, in their evidence to you earlier this week, suggested that this is a very important issue. I have taken it further and said that I think it needs a review. I said that last February and I stick to those words. I said if it remained dry—if it was still dry in August of last year—then that was the time to start the process. I am distressed that we are still making temporary decisions rather than permanent decisions.

Senator O'BRIEN—Essentially, what you are saying is that, for the river to continue to have environmental and industrial users, the compromise will have to be both from the environment and from the industrial uses.

Prof. Young—Yes. We have been investing a lot in irrigation efficiency but we have not been investing in river efficiency. I think it is incumbent upon Australia as a nation to invest in river efficiency, to become very efficient river managers, to question everything we do in river management and look at every infrastructure we have, and to ask the question again: whether or not the design that we developed—largely way back in the 1920s and 1930s when people were putting in locations for weirs—is the right one for this century.

Senator O'BRIEN—Thanks.

CHAIR—I have been advised there is one question from each senator.

Senator WILLIAMS—Professor Young, looking at what you said about the river flows in New South Wales allowing irrigators to pump when those flows are up, wouldn't that make a mockery of the minister's purchase of water from Toorale Station in an effort to get it to South Australia? Wouldn't it be highly unlikely that the water saved from the purchase of Toorale Station would ever get down to South Australia under the current arrangements?

Prof. Young—Under the current arrangements, with some caveats. But I think I read a statement from the minister that, as a result of the purchase of Toorale Station and the last rains

we had, something like 20 gigalitres or 30 gigalitres of water will now flow locally through that river. That will not get past Menindee Lakes because it will go in there and become New South Wales's water.

Senator WILLIAMS—Yes.

Prof. Young—But it does add to the height and produces massive local benefits. So you get massive local environmental benefits, and it is interesting there that, having purchased Toorale, the minister has announced that there is to be an infrastructure review. What I am suggesting is that we need an infrastructure review from top to bottom, particularly to understand that, in the complex systems we have, we might close off some parts of the system so that we can use water for greater benefit for the environment and for users.

Senator NASH—With the bringing forward of the water buyback amendment under the economic stimulus package, given the way the four per cent is applied in Victoria, do you have a view on what impact that will have on New South Wales?

Prof. Young—I do.

Senator NASH—Would you like to share it with us?

Prof. Young—Firstly, I think it is very important that we understand that the 10-year plan was developed on the assumption that it would rain. We are now in the reality that we are in a much longer drought than the people who put that 10-year plan together envisaged, and hence there is a need to go a lot faster. To do that, we need an accelerated allocation of budget and a resolution of trading problems. We also need to bring forward infrastructure money. I have always said that. I would be recommending, if I could—I still am recommending—that infrastructure money, as well as buyback money, be brought forward.

The next step in the sequence of events is to resolve the barrier on trade problem. There are ways around that, and they do not all involve going to the High Court. While Victoria tries to not contribute its fair share to this problem, there will be a greater impact on irrigators in New South Wales and South Australia. That is the reality, and it is an important issue to get around. There are contractual arrangements to get around it. You go to brokers. They know how to get around the Victorian cap. The Commonwealth is choosing at this stage not to work through brokers and is running its own processes. There are, in fact, five different ways to buy water. At the moment we are only using one of them.

Senator NASH—Chair, I want to put a question on notice if I can.

ACTING CHAIR—Yes.

Senator NASH—Could you provide to the committee what you mean by 'a greater impact on New South Wales'.

Prof. Young—Yes.

Senator NASH—That would be great, thanks.

Senator FISHER—Professor Young, you said there are five ways to trade water and we are only using one of them. Can you provide on notice a description of the other four—

Prof. Young—Yes, can do.

Senator FISHER—and identify which of those would enable circumvention of the four per cent cap, if it is not self-evident.

Prof. Young—Yes.

Senator FISHER—Thank you. My further question is in respect of the audit of the river from beginning to end. Inclusive in what you are suggesting is that the government does not have a plan for that at the moment, or certainly is not doing that at the moment. Is it your view that it needs to be done because the government does not seem to be doing it?

Prof. Young—The government might be doing it behind the scenes, but I think it is very important that the community is engaged in such a process—

Senator FISHER—Indeed.

Prof. Young—and is aware, first of all, of the issue. I think there is a false hope in the system at the moment that we can go on depleting the resource further and further, when the reality is that we are running up against a brick wall—we are running up against an environmental brick wall and a use brick wall.

Senator FISHER—Do you think state and federal governments can make decisions about the river without having done their own audit?

Prof. Young—I think there has to be a very thorough analysis. It is time consuming.

Senator FISHER—But they are already making decisions, aren't they, and acting on them?

Prof. Young—Yes.

ACTING CHAIR—That is three questions.

Senator FISHER—Okay, thank you.

Senator FARRELL—Thank you, Professor Young, for coming along once again. We have heard of lots of the problems with the river, and you have spoken about many of them, but one that has come to the fore more recently is the issue of bushfires. Can you tell us how that might impact the Murray and what issues we need to be concerned about in that regard?

Prof. Young—As a result particularly of the adverse impact of fires in Canberra we are quite aware of the sequence of what happens. The first impact is a serious water quality problem that emerges as ash runs into water supplies, then there is a short-term increase in run-off, and then there is a very long term decrease in run-off as vegetation returns back and grows. It is the same as planting trees. It has a long-term impact. So, unfortunately for the river and for river water

users, the impact of the fires is extremely adverse. What I have not seen is a calculation of how much it impacts. I am sure those calculations are being done by the Murray-Darling Basin Authority at the moment.

ACTING CHAIR—Thanks very much, Professor. If there are other questions, I hope you are receptive to receiving them on notice in written form and getting back to the committee.

Prof. Young—I am more than happy to do that, and I need to formally pass over these documents.

ACTING CHAIR—I appreciate that. If there is no objection, the committee accepts them as tabled documents and as exhibits to this inquiry.

Proceedings suspended from 9.47 am to 10.02 am

[10.02 am]

BEACH, Ms Ruth, Solicitor, Australian Network of Environmental Defender's Offices

Evidence was taken via teleconference—

CHAIR—Welcome, Ms Beach. Do you wish to make a brief opening statement before we go to questions?

Ms Beach—I would like to, thank you, Mr Chairman. I would hope that everyone has read the ANEDO report but, in case they have not, I will go through it very briefly. One of the major issues facing the Murray-Darling Basin is that of overallocation and I am sure you have heard about that ad nauseam. Peter Cosier of the Wentworth Group of Concerned Scientists said on *Four Corners* last year, if my memory serves me correctly, that the Murray-Darling Basin is currently about 50 per cent overallocated in terms of basin water allocations, and that overallocation has meant that the environment has suffered.

The limited release of water to the environment affects wetlands throughout the basin. I am not sure how much you know about wetlands, but wetlands undertake an important role in any river system and, obviously, in the Murray-Darling Basin. They filter the water that passes through them and then that water goes into the river or comes back out of the river. As a result, they maintain the health of the river. Essentially, they breathe life into the river: bird life; fauna; flora—the whole gamut. Economically they have an advantage as well for river systems. Wetlands are valuable in that, in particular, estuarine wetlands—that is, those which are connected to the sea—support juvenile fish, including species that are used for commercial harvesting, and on inland flood plains—the wetlands that are there—those pastures are more productive, as a general rule, than those in adjacent areas.

The legislative scheme which covers the Murray-Darling Basin fails to require that environmental flows flow out on a mandatory basis and so those wetlands remain starved of water on an ongoing basis when there is a drought such as the one we are having at the moment. The basin plan that is set out in the Water Act is not intended to come into operation until 2011 and by then it will be too late for the Lower Lakes and the Coorong—that is, Lake Alexandrina, Lake Albert and the Coorong, which are situated in South Australia at the very end of the basin where the basin reaches the sea or the Murray River reaches the sea. But in any event the basin plan does not require water to be released to the environment. It does not require the water. It says that it is optional, essentially. I cannot remember the exact words at this point.

It leaves the environment high and dry, if you will pardon the pun. The Coorong, Lake Alexandrina and Lake Albert in particular are situated, as I said, in South Australia, and you may know that South Australia is the driest state in Australia, which is the driest continent in the world. That means, obviously, that less rain falls here in South Australia. We do not have, on a regular basis, those floods such as have been seen in Innisfail, late last year in the Murrumbidgee, which replenish the supply of water. If there is less rain, there is less water. As a result of the Murray-Darling Basin Agreement, South Australia is limited to 1,800 gigalitres per year of water and, as I said earlier, there is nothing guaranteed for the environment.

The four per cent cap on trade, which you may have heard about—it was reported in the press recently and it has come about as a result of the intergovernmental agreement, being the National Water Initiative, that was entered into in the time of the last federal government—means that 96 per cent of water cannot be traded, so it is not even possible for environmentalists in South Australia, or indeed anywhere in Australia, to purchase water to get out of this current situation that we are in. The cap itself is, arguably, in my opinion, in breach of section 92 of the Constitution, which says that there should be no restraint on interstate trade, and so it is unconstitutional.

At the same time, if we were to head towards a water market, that of course would need to be regulated, otherwise we could well end up with a situation equivalent to the global economic crisis, which I understand was largely caused by lack of regulation. They thought that they could do it themselves and we have ended up with this mess. Regulation would be needed to ensure that critical human needs and environmental flows are guaranteed.

There are tough decisions that face the Senate at this point in time and they need to be made. One is that they need to decide, in my submission, to accelerate the basin plan. It needs to decide to make environmental watering plans that are set out in the Water Act mandatory, to require that there be environmental flows. It needs to ensure that the water allocations from the Murray-Darling Basin are reduced and that that water is directed to environmental flows. It needs to lift the cap on trades, at the same time regulating the water market, to ensure human needs and environmental needs are protected. It needs to ensure that water is not siphoned off illegally.

CHAIR—Thank you, Ms Beach.

Senator O'BRIEN—Thanks for that, Ms Beach. I have an understanding roughly of what your brief is. I do not think you would have heard the evidence this morning from Professor Mike Young, who is with the Wentworth Group but made an independent submission today. Essentially, he said to us that, given the state of the river and the future challenges that the river faces, the only way for survival, effectively, is a full audit of the assets and capacities of the river and ultimately a sharing of the burden of reduction in allocation between commercial and environmental uses, and that some environmental uses, some wetlands et cetera, might need to be closed off, effectively, and allowed to 'wither'—is perhaps the best way of putting it—in the interests of maintaining others and balancing flows out for human, industrial and environmental uses. What do you say about that?

Ms Beach—Thank you, Senator O'Brien. Yes, it is with regret that I am not able to hear the other submissions and I appreciate the comments that Mike Young has made. At the end of the day, it may be that some sort of compromise is reached, but if the environment is cut off to too great an extent it is at the peril of those using the basin. As I said, the wetlands are part of the life of the river system and without them to filter the water, to ensure that the health of the river is maintained, we will cause ourselves difficulties in the long run.

Senator O'BRIEN—One presumes that the impact of taking out particular wetlands would be part of an assessment. I do not think he was talking about taking all the wetlands out.

Ms Beach—I presume it would be part of an assessment, and it would need to be carefully assessed. Obviously, from my standpoint as part of the Australian Network of Environmental

Defender's Offices, we would urge the government to maintain the health of the wetlands and to reduce some of the flows that are going out commercially. It is my understanding—and this is information that I have picked up in the time that I have been on the matter in the last couple of years—that the previous government allowed further allocations or more and more allocations to be made commercially out of the system and, in my submission, inappropriately. I think that needs to be reassessed because it just cannot withstand that pressure, and it is becoming clear in wetlands that are dying—for example, the Lower Lakes and the Coorong.

Senator O'BRIEN—It is pretty clear that there are restrictions on allocation by state in terms of effectively capping allocations in particular seasons, given lack of water, and there is also a Commonwealth buyback, so it could be argued that there is already government action in that area. If there is an environmental compromise, do you think the organisations that you represent would accept that as a principle?

Ms Beach—I did not say this at the outset: there would be some questions that I would need to take on notice because I am representing a large body, and that would be one of them. It would be my own personal opinion that that would need to be considered very carefully, because once you start cutting off the corners, if it is anything like other systems—for example, the monetary system we have just seen—things can deteriorate rapidly, if they are allowed to. Any program along those lines would need to be treated with the utmost caution. I would need to go back to the organisations and report back to you on that, if you wish.

Senator O'BRIEN—I would appreciate that, given the nature of your evidence and the submission that you have made, balanced against a submission that we have received which is talking about somewhat of a new approach. It would be important to have your view as to the validity of that approach, and *Hansard* will be on the website in the next week—I am not going to say 'a few days' because there is pressure on Hansard with parliament sitting, but it might be quicker than a week. How long would it take for you to give us an assessment of how your organisations would feel and respond to it?

Ms Beach—That sort of timing would probably be satisfactory—one to two weeks, something like that. My feeling would be that ANEDO would press for environmental flows being mandatory and would not necessarily set out a position at this point until there was more clarity in terms of what sort of compromise would be proposed.

Senator O'BRIEN—It sounds very much as if you would want to hedge your bets.

Ms Beach—I would not put it that way. I would say that ANEDO needs to defend the environment, because nobody else does and nobody has for 100 years or more. The water has been cut up in Australia since Federation, so the environment has suffered in that time.

Senator O'BRIEN—Thank you for those answers. I look forward to a response on notice.

CHAIR—Ms Beach, just on that last statement, we have had a number of inquiries going on in this committee for the past year, but I have to tell you that we have been inundated by defenders of the environment. I can assure you that you are not the only group that has put some passionate views to us about the state of the environment.

Ms Beach—That is marvellous.

Senator FISHER—Ms Beach, you have said that most likely your organisation would say, in response to Senator O'Brien's important questioning, that environmental flows would need to be compulsory. Our federal government says there is not enough water. Does your organisation think there is enough water?

Ms Beach—That is where I think the audit would come in. It is really not a question that I can properly respond to. I simply do not have that sort of information. The federal government has got that information; I do not have it.

Senator FISHER—All right. If we were to accept what the federal government is saying—which is, 'There's not enough water for the river. There's not enough water for users at the moment'—if there were not to be enough water, how can you fix or work on fixing that issue without certain users—be they the river and/or farmers, irrigators, communities—suffering some pain?

Ms Beach—That is the sticky question. I guess that is why we are all sitting around the table today.

Senator FISHER—You would acknowledge that the pain has to be worn somewhere, would you?

Ms Beach—I think the pain has to absolutely be worn, and that is what Peter Cosier indicated: 50 per cent of the allocations need to be cut to maintain the health of the river.

Senator FISHER—I guess you are saying that the pain has to be worn somewhere but it cannot be worn by the environment, full stop.

Ms Beach—If the pain is worn by the environment, it has got the potential then to harm the environment, and that then harms the commercial interests—the farmers, the irrigators. It is a vicious circle, and the whole picture needs to be taken into consideration. It has not been taken into consideration for the last 100 years; the whole picture has not been taken into consideration.

Senator FISHER—Thank you.

Senator WILLIAMS—Ms Beach, I am a senator for New South Wales. Would you say that the intervention of—if I can put it this way—mankind in the Murray-Darling Basin over the last 70 or 80 years has caused enormous damage to the basin?

Ms Beach—It would appear that that is what has happened.

Senator WILLIAMS—In your view, do you think that the whole river system should be put back to nature? What I mean by that is: pull the wall down in South Australia and let the salt water come in; pull the locks down in South Australia; do away with our dams. If we put it back to nature, surely at the moment we would have a dry riverbed.

Ms Beach—I have read some storybooks of my ancestors, the Germans, going across to Walla Walla on the river and at times the river dried up in certain places, but not in all places. If we put it back to nature, that would be part of the big picture that needs to be taken into consideration. If we had it back to nature—and I am not an expert—I do not think that the Murray River, the mouth, would have closed for the first time in 1984, for the first time in its entire history. I do not think that it would now need to be dredged. I do not think we would be in this situation. It is a matter of trying to rectify what we have done to ensure that we have got something to pass on in the future and that we do not end up with dry lakes and dry rivers that we cannot use at all economically.

Senator WILLIAMS—Hopefully, that will not happen and the rains will return. But we have not got a firm prediction of that. To look at the situation in New South Wales, I know in areas there such as the Namoi Valley—we heard from irrigators earlier this week—the irrigators have sacrificed 60 per cent of their groundwater, 30 per cent of their river water, but have worked on efficiencies. Isn't it also vital for these local economies to grow food and feed our nation?

Ms Beach—Absolutely. We need to be fed, but again I am a learner and I am from ANEDO. These are probably political questions. I am indicating that in my view there has been overallocation and it needs to be cut back. I should correct something that I said earlier. I think I said that Peter Cosier indicated that allocations needed to be cut by 50 per cent. I do not think that is the case: I think he said the river is 50 per cent overallocated. I do not know that he said it needed to be cut by that much. I just wanted to correct that.

Senator WILLIAMS—Yes. I have got no argument with you that there have been too many water licences issued over the decades, especially probably in the seventies and eighties during the wet times. But, regardless of the number of water licences, it still comes back to the allocation for those licences. You cannot allocate water when the dams are empty upstream, so that surely comes back to not the number of water licences but the allocation. That has been reduced enormously since the drought started in January 2002.

Ms Beach—To reduce the allocations, you are saying?

Senator WILLIAMS—Yes. The allocations have been dramatically reduced, because even though someone might have a water licence for, say, 500 megalitres, they might be allocated 25 megalitres because there is no water in the dam.

Ms Beach—Allocations are being reduced here as well.

Senator WILLIAMS—Absolutely, yes.

Ms Beach—But there was flooding in the Murrumbidgee earlier. There is water available. It is a matter of locating it. Do we kill the environment because of this drought? These are the sticky questions, aren't they?

Senator WILLIAMS—They are questions. My concern is that we will kill these local economies as well because of this drought. As the world population grows by 80 million people a year, they have to be fed. That is one of my concerns. If we just put the environment wholly and solely first, we destroy those local economies and then, when the rains and the floods come

later on, we do not have the local economies there, we have a lot of water going out to the sea and we have a hell of a reduction in the quantity of food. That is also, surely, a big concern for you.

Ms Beach—It is a balancing act. It may be that—I cannot think of the correct terminology—these areas have been propped up unsustainably. If that is the case, then it is part of the laws of nature: unsustainable people, unsustainable areas drop off. I am talking about Darwin. Again, this is something that needs to be investigated, and I am not sufficiently expert to speak to that. I have given the submission and I do not know that I need to come back. If I look in terms of the question on notice, if I return you to our submission, it is that environmental flows be made mandatory. I believe that is what ANEDO's response would be to the earlier question.

Senator WILLIAMS—Thank you.

Senator SIEWERT—It seems as though we are talking about a pristine system where we could start making decisions about affecting a pristine environment. The fact is that the environment is not pristine. I would certainly argue that we have had devastating consequences on the environment in the whole of the Murray-Darling Basin; therefore, we need to bear that in mind when we are making decisions. Is that where you are coming from?

Ms Beach—That the environment is not pristine?

Senator SIEWERT—Yes. The fact is that we have compromised and compromised. It is not quite the triage approach that Mike Young is suggesting, although there are parts to it, because he is suggesting there will be parts of the environment that we will choose not to water any more. We have lost 90 per cent of our wetlands already, so the environment has already paid a substantial price.

Ms Beach—The environment has already paid a substantial price, that is right. We are not dealing with a pristine system, absolutely not. We are dealing with one that has been mucked up for 100 years, if not more.

Senator SIEWERT—Yes. The other point that Mike Young was raising in his oral evidence—and he has raised it again in the documents that he has tabled, and he has submitted it in the past—was about shepherding water. He was making the point that, if water is released upstream, flow levels rise and therefore the requirements for other licence holders kick in and they can start taking water from that environmental flow. What he is essentially saying is that we need to be amending legislation so that we can get water downstream. Have you looked into that?

Ms Beach—I have not looked at it in detail, but it is part of the difficulty. This whole area of the way in which water is released is a can of worms. It is a huge legislative and practical nightmare, I think. I started looking into it. My understanding is that, if there is a purchase downstream, water is released upstream and then some is released downstream, or something like that. But the system needs perhaps to be nationalised—and I am speaking off the cuff here—because we currently have water legislation, in terms of the Murray-Darling Basin, in four different states which do not necessarily cooperate. It needs to be brought together. I think the Water Act is an attempt at that, but again, as I indicated, it does not provide for mandatory

environmental flows. It provides for a basin plan—that is, a plan to have a plan. We do not have it yet.

Senator SIEWERT—Thank you.

CHAIR—Ms Beach, the committee would like to thank you for your assistance.

Ms Beach—Thank you, Senator Sterle. I am wondering if the response that I have given is satisfactory for Senator O'Brien in terms of the compromise.

Senator O'BRIEN—I think you said you were not going to respond after agreeing to look at the evidence and giving us a view. That is what you said, isn't it?

Ms Beach—I have returned to the submission and formed an opinion on what ANEDO's view would be, and that is that there be mandatory environmental flows.

Senator O'BRIEN—I put to you that there is some evidence which suggests that things are changing to the point where we need to look at another form of solution. I know Senator Siewert was putting a proposition to you that because so much had been lost you did not need to concede any more, but the evidence that we had was saying, 'Now things are bad enough for us to say, rather than lose it all, we've got to make concessions in every area.' I do not want to verbal Senator Siewert. It is up to your organisation whether it chooses to respond. I would appreciate it if you do, but it is a matter for you.

Ms Beach—No worries. We will look at putting a response in via your secretary -that I have been dealing with up until now.

Senator SIEWERT—Ms Beach, firstly I was not actually suggesting that the environment should not make any more concessions. The point there is that the environment has already been significantly compromised. I think we need to bear that in mind when we are making the decisions. I do not think Professor Young was arguing that there should not be mandatory environmental flows. I think what he was saying was that we need to be more strategic about how we allocate water and allow that freedom.

It would be interesting to see what you thought of Professor Young's evidence in light of what you are talking about in terms of mandatory environmental flows, because I do not think it is one or the other. You could still have mandatory environmental flows; it is just that you would direct them to certain places. That is the approach that I understood Professor Young was taking. I would be very interested in your opinion of Professor Young's hypothesis, because I do not think they are mutually exclusive.

Ms Beach—Thank you, Senator Siewert. Perhaps it would be best then if I obtained a copy of the transcript and then provided a response, which then might take 14 to 21 days or something, if the transcript is not available for seven days.

Senator SIEWERT—We have time.

CHAIR—That is fine.

Ms Beach—I do not know if the Coorong has time.

CHAIR—Ms Beach, we will send that to you.

Senator SIEWERT—We do not have to report now on this section until June, so we have plenty of time.

Ms Beach—As I said, I do not think the Coorong has lots of time, or the Lower Lakes.

Senator SIEWERT—No, but if we are waiting for the laws to change before we fix the Coorong, we are never going to fix the Coorong. We have to do other things to fix the Coorong before we change the law.

Ms Beach—I am so glad to hear that realistic approach. Thank you.

CHAIR—Ms Beach, Ms Palmer from the secretariat has clearly indicated to me that she will send you a copy of the transcript.

Ms Beach—Thank you, Senator Sterle.

CHAIR—Thank you, Ms Beach.

[10.32 am]

SMILES, Ms Beverley, Executive Committee, Inland Rivers Network

CHAIR—I welcome Ms Beverley Smiles from the Inland Rivers Network.

Ms Smiles—Thank you very much for this opportunity, especially for another person to represent the environment, because we believe that the Murray-Darling Basin is deeply distressed and that there has been an intrinsic failure to protect the environmental values of the basin for a long period of overallocation and overextraction of water.

New South Wales has been the greatest perpetrator of this problem. However, if Queensland were to begin going down the same track, the ecological integrity of the Murray-Darling Basin would completely collapse. Although there have been valiant attempts to improve water management, there has not been the political will to wind back the overallocation to a level that would restore the environmental health that underpins the viability of the basin, so there is no room for extraction to expand in any way.

The water sharing plans developed in New South Wales go little way to solving the problems of overallocation in the basin. I have included some additional recommendations to the submission that we put in at the end of last year. They come from the report that we had developed on the biodiversity values of the Darling River system. I have also suggested how some of the current institutional arrangements in New South Wales could allow some drought relief for stressed water-dependent ecosystems. These rivers and wetland areas have suffered prolonged drought because of overextraction of water in the high- and medium-rainfall years, so their resilience had already been compromised before this current prolonged drought hit.

There is a need for an immediate drought relief strategy for ailing ecosystems. This strategy must be developed if there is any hope for the Murray-Darling Basin maintaining the resilience needed to survive climate change impacts. Besides the concept of buying back water for environmental purposes, which has now been adopted by the government, we are suggesting that an irrigation industry restructure package is also needed for those areas with little viability in times of no or low allocation.

I would like to draw your attention to an article that appeared in the *Sydney Morning Herald* at the beginning of this week. I do have copies, but possibly not enough for every senator. Why I am interested in this article is because it shows a family of people in the rice industry standing in a large, dry, unlined, open irrigation channel. To be able to start delivering water to their operations, the dryness of the soil of this channel alone means that there is going to be an immense amount of transmission loss in the amount of water that is going to be required for their allocation purposes, just because of the way this system is set up. The flood irrigation industry in the Murray-Darling Basin has been the major cause of its demise and a major restructure would be the best social and environmental outcome in these times of increasing dryness because of climate change.

I would also like to table two additional documents about the type of work that the Inland Rivers Network does. We held a conference on the concept of freshwater protected areas. There are currently no legislative instruments to allow these to happen. This is also available off our website. There are also some brochures that we developed—and I think I do have enough copies of these—on the environmental values of the Darling River system itself. We believe there has been a significant amount of work and emphasis on the Murray River but there is still a need for more knowledge about the Darling River and the fact that it is a system of great extremes. Thank you very much.

CHAIR—Thank you, Ms Smiles. Is the Inland Rivers Network supportive of the directions taken by the government in reforming the Murray-Darling Basin?

Ms Smiles—Yes. We have been involved as an organisation in the reforms but we do believe that there is still a long way to go because, as I said, we are dealing with ecosystems that had been suffering major stress a long time before we got into this current prolonged drought situation.

CHAIR—Can you tell the committee what you know about the range of environment assets and values that need more water across the basin?

Ms Smiles—We developed a paper on the Ramsar wetlands, which I think was provided with our original submission, and there was a set of recommendations as to what we thought needed to happen. Besides the Ramsar wetlands, which the government has international obligations to protect, there are a lot of other significant wetland and riverine floodplain areas in the basin that need to be identified and their requirements understood. To answer a question to the previous presenter—we both missed Mike Young's presentation this morning—about the concept of making that compromise of deciding not to deliver water to particular assets, that is already happening in an ad hoc way. It is not a decision that has been made; it is just not happening.

Having that fundamental assessment of what the requirements are, and the needs of our environmental assets, is an important knowledge set that we should have had a long time ago and have not—and, once we have understanding, to then be able to make a decision about what we are prepared as a community to lose and what we think we need to keep. That is a process that has not happened to date. So far we are losing things ad hoc, with no-one having any understanding of or input into that loss. It concerns me that we are at the stage now where a scientist is presenting, saying, 'Things are so bad now that we are actually at the stage that we have to make that set of decisions.'

CHAIR—Thank you, Ms Smiles.

Senator SIEWERT—You made the comment about needing the science. We have had the sustainable yields survey work done for all of the catchments in the basin, which is the work the CSIRO has done, but we have not had a similar body of work, that I am aware of, done in terms of the environmental values. If we were to undertake a proposal such as Professor Young suggests, wouldn't you need that sort of work to be done first?

Ms Smiles—That is exactly right. That is why we have done the work we did with developing a very basic report on the values of the Darling system. We have people in our network that live

in the various catchments in New South Wales that have that on-ground knowledge. A lot of those people have been in the farming community for generations and they are grieving to see the loss of the floodplain and riverine values in their particular areas, often on their properties, and really do believe that it is as a result of the way the water allocations have happened in the past but also as a result of the amount of water that is currently needed to have a flood irrigation industry propped up, basically.

I know there has been some work done on looking at the water use efficiencies and piping the water, lining the channels, all those types of things, and in some parts of the catchment that has happened. I worked in northern Victoria in the late 1970s, early 1980s, and it was open channels but they were lined. In that particular area where I was working, around Merbein and Coomealla, they have now been totally closed and that has all been piped.

Where I am now based, near Mudgee, the grape industry there at their own expense have set up complex and sophisticated irrigation systems that are computerised. They know exactly the amount of water that each grape vine needs and that is all that that grape vine gets. There is a lot of technology that is available. Restructure packages should also look at assistance for industries to go into those new technologies so that they do not need the amount of water just to wet up these enormous open irrigation channels. Then that water that is saved goes back to the environment. That is a reasonable outcome.

Senator SIEWERT—Have you had a look at the purchases of water that the government has made already?

Ms Smiles—I am very closely involved in what is happening in the Macquarie Valley and the Macquarie Marshes, which is why I also included that map of the irrigation schemes in the Macquarie, to give you an indication of the scale of the industry there.

I am aware of the purchases that have happened, particularly for the Gwydir and Macquarie wetlands. I think this is a very good start, but the reality is that the volume of water that these important areas have been denied over a long period of time in the wet years is the problem that we are now facing. They are dried out, and we actually seem to have lost the rainfall, which again was something that CSIRO had predicted, especially for the Macquarie—a loss between 20 and 30 per cent rainfall and runoff. We seem to have already gone past that.

Currently there is possibly between six and 10 per cent of the Macquarie Marshes that are in a state that, with resilience, will have a future if we can get some water to them. But with the way the water sharing plan works in that catchment, that is not likely until such time as there are significantly more inflows into the dam, which is why I have suggested in that immediate drought relief strategy that we have some opportunities in New South Wales. If we were lucky enough to get some decent rainfall and the empty storages in the catchment do not collect that entire volume of rainfall before the water is then allocated out each way, there is some thinking that there be some level of immediate translucent flow, that there can be immediate supplementary allocations called out of the tributary inflows, and that there be some thinking around how that is managed in the conditions that we are currently facing.

Senator SIEWERT—Professor Young brought up an issue which has come up previously, although I do not think I have heard people call it ‘shepherding’ before. I do not know if you were here when he was here.

Ms Smiles—No, I missed that.

Senator SIEWERT—He was suggesting that we need to deal with the issue of getting water down the river once it has been released from environmental flows, because its release increases the flow rate and then triggers the conditions in which people can take water.

Ms Smiles—Yes, and that is the complexity that we have, and it is understood that each catchment that feeds into the basin has its own set of different conditions—the way that tributaries work and the way that main storages work. The rules that have gone down for every catchment are just so complicated, and that is the basic problem. The outcome of all of that is that the environmental flows from one part of the catchment are not necessarily protected in the next part of the catchment, and a perfect example again is the water sharing plan done for the Macquarie Valley. The environmental flows that come from the Windamere Dam go down the Cudgegong River through Mudgee. Once they hit Burrendong Dam, they are no longer environmental flows. They get divided up amongst everybody again.

So there is a whole range of different planning out there that means that the environmental flows really are not protected and they need to be protected the entire way down the system. I think if that had been the case, we would not see the Lower Lakes and the Coorong in the poor state of affairs that we are now seeing them in.

Senator SIEWERT—So you would agree that there should be uniform legislation around those issues.

Ms Smiles—I think so, yes.

Senator SIEWERT—Thank you.

CHAIR—I might go out on a limb here, Ms Smiles. With the greatest respect to my colleagues on this committee—and we are a well-functioning committee, but a couple of hayseeds up the end might pounce on me, but I say that with tongue in cheek.

Senator NASH—Hey!

CHAIR—I have woken everyone up. We have some very efficient farmers up the other end of the table, in a previous life. An issue that was raised earlier—I think it was through the submission of the National Farmers Federation—was inefficient farming practices. Let me put on the record that I am all for efficient farming and Australia needs as much farming and as many farmers as we can get and keep them sustainable. Make no mistake about that. But does your group have any figures or any idea, if there is unsustainable farming out there, as to the extent of it?

Ms Smiles—For me personally, my main knowledge is Lachlan-Macquarie and things associated with the Gwydir wetlands. Again, that is why I use the Macquarie as an example.

Some of those big schemes that are taking water in these big, open, unlined channels 100 kilometres off the river are really only viable at a 20 per cent allocation. Those people have been suffering for quite a number of years now, because the allocation has been nowhere near 20 per cent for a number of years. I do not think it is too difficult to collect that information, especially on the main river systems, with the main storages and with the main irrigation schemes.

CHAIR—Can you give me an example of some of these schemes you have mentioned.

Ms Smiles—I did provide a map.

CHAIR—The Darling Basin map?

Ms Smiles—No. Again, I just used the Macquarie as an example.

CHAIR—I hadn't got that far! Yes.

Ms Smiles—So you have major off-river irrigation schemes in a number of the catchments in New South Wales, which is why I included this graphic photo from the paper, to show you what it is the water is being delivered through. That is where the major changes need to happen.

CHAIR—We have found during this inquiry that it depends on what part of the river you are on.

Ms Smiles—Even from the deliverer's viewpoint—from State Water, who are the people that turn the tap on and off and are the people that have to deliver the allocations—it is very difficult for them to get the water right out to the end of some of these systems when you have a very low allocation. I think there is room for major improvement, which is why we are putting up the case that an industry restructure package is the fairest way to go about it, so that these people can make some decisions about much more efficient water base enterprises. They are not growing anything with water at the moment. They must be doing something else. As this case study is showing, both members of the family are getting off-farm income. Not everybody in every area has that opportunity. Everyone is definitely into dryland farming at the moment.

If we are talking about doing a study of our environmental assets, I think we also need a study of the communities that are really very marginal in the rainfall that is being predicted for climate change in the basin.

CHAIR—There is not a lot of that being predicted either, is there? I know Senator Nash would love to come to the defence and have a crack at me.

Senator NASH—Not at all, Chair. I am above that. Thanks, Ms Smiles, and thanks for submitting this to the committee. As a resident in the Lachlan region, I am interested in what you are saying. Apropos the article you have given us, I have a view that it is absolutely appalling and immoral for the state government in New South Wales to charge for water that is not delivered to farmers. Do you have a view on that?

Ms Smiles—A lot of people are appalled that the taxpayer has paid for the infrastructure that is there to capture the water that is then used for the enterprises downstream and for personal,

private and quite large business profit. There is a bit of an issue divide between what water goes to your basic rights and your town water supply, and the volume of water in those storages that basically goes to industry. Industry gets the biggest amount of water when it is there. When the water is not there, what are the dams for? I think where some of these pricing increases to the industry have come from is the taxpayer saying, 'Why are we paying for the management of this large infrastructure that has actually caused the demise of our downstream environment?'

Senator NASH—And I can appreciate all that, but do you have a view on whether or not irrigators should be charged for water that they don't get?

Ms Smiles—The problem then is: who is paying for the upkeep of the infrastructure and State Water's staffing? I know they have just had a major restructure and have cut the staffing right back. To some local people's horror, we are losing our dam managers because of this restructure, and a lot of that has been from the irrigation industry saying, 'Look, we just can't cope with any more pricing increases. To keep State Water going, you're going to have to look at saving somewhere else,' so the savings have been from their staffing levels. But the issue is that those structures are still there and they have to be paid for in some way. If the water industry is not paying for water that is not there because they have not got anything to make an income from at the time, that is really possibly part of this whole industry restructure that we are proposing needs to be done. If an irrigation enterprise is really going out backwards, and the cost of paying for storage for water that is not there is the final straw for their enterprise, then the whole enterprise needs to be looked at closely.

Senator NASH—It leads to the bigger question of the use of taxpayers' dollars in general, doesn't it? I know there are a lot of people in regional Australia that are completely fed up that their taxpayer dollar ends up in the cities.

Ms Smiles—That is right, yes.

Senator NASH—You have probably touched on this before, but in your submission you talk about disproportionate allocation of funding from the infrastructure works compared to buyback. What do you think is an appropriate allocation or a proportionate allocation, and why?

Ms Smiles—The proportion is probably a bit tricky off the top of my head.

Senator NASH—I only ask that, Ms Smiles, because you have indicated that you think it is disproportionate, so you could just explain why you think it is disproportionate if you like.

Ms Smiles—The original dollar figure going to the spending on infrastructure was, at the time of writing this submission, much larger than what had been allocated to just buying back water, and we believe that buying back water is the quickest way to come up with a good environmental outcome, whereas the whole issue of infrastructure costing and then savings from the infrastructure, and then those savings were going to be divided up between industry and the environment—

Senator NASH—Yes, this is a really interesting point. Is it the quickest way? The buyback is not going to deliver any water until it rains and, while I accept the principle that, if you go and buy back some entitlement, that can happen over a period of a few months and the infrastructure

might take longer, in essence the infrastructure can apply to existing water allocation, so it is quite possible that the infrastructure programs might end up delivering water more quickly than the buyback if it does not rain, because at this stage it is predominantly only in title. There is not very much allocation to that at all.

Ms Smiles—Our basic problem with either way is that we are talking about such little water now. One of the issues with the infrastructure spending was that there was a division over which way the savings from the infrastructure spending were going to be divided—some back to the industry, some back to the environment. Why I am suggesting that we need as much examination as possible of the viability of the industry is that in some places—again, back to the Macquarie—piping the water out to the end of some of these schemes will cost far more than the per megalitre value of what is going to be produced from that water if it is piped. The whole structure of the investment into the industry and what is going to come out the other end in the way of water savings really needs to be looked at more carefully.

Senator WILLIAMS—Just a point of view on your picture here: the minister has had \$5.3 billion around that to improve infrastructure and efficiencies in it. I think over \$3 billion has been given to the states and we are hearing here today that we are yet to see that money distributed. In your opinion should that channel be lined or bulldozed in?

Ms Smiles—We need to look at what size of the industry that channel is servicing, how much water it is going to take to fill it, what the cost is of lining it. Is all of that investment going to have a long-term benefit to both the industry and the environment? We need to have a closer look.

Senator WILLIAMS—Fair enough. And when we are talking about the taxpayers paying for that infrastructure, surely many of those taxpayers would have enjoyed a lot of the food produced in those areas as well.

Ms Smiles—I like to eat rice and I am sure a lot of other people in the country do, too, and I like to wear cotton, but the amount of water that has been used in flood irrigation is the biggest problem that we are facing.

Senator WILLIAMS—A lot of these dams you are talking about—that infrastructure that has been put up: Burrendong, Keepit, Chaffey—are gazetted for flood mitigation to keep those river flows going. Are you aware of that?

Ms Smiles—Yes, certainly.

Senator WILLIAMS—So flood infrastructure to keep the water going down the river in dry times.

Ms Smiles—Which is what started the basic problem with the environment. Those dams that were built after the big fifties floods then captured most of the lower medium-sized floods. It was only the really big floods then that had to be released for the safety of the structure, and the environment has since lost the variability of the flows out of those large structures.

Senator WILLIAMS—Yes, and, of course, State Water does not run the irrigation schemes in New South Wales. State Water runs the rivers only. Are you aware of that?

Ms Smiles—But has to supply the water to the schemes. Yes.

Senator WILLIAMS—This whole argument about the Murray-Darling Basin comes back wholly and solely to how it is managed, and in that management, yes, we look after the environment and we have to produce our food. I think 46 per cent of certain foods are produced in the Murray-Darling Basin. We have to look after those local economies. Surely growing more food for less water is one of the goals, which allows more for environmental flows. Isn't it vital that this efficiency in the infrastructure be rolled out ASAP? I believe the situation is that the state governments now have a huge amount of money and little is being done.

Ms Smiles—And I think those questions need to be asked.

Senator WILLIAMS—Exactly. Would your group perhaps assist in saying to the state governments, 'Where are the efficiencies being rolled out to make it a whole better irrigation system and a whole better environmental system'?

Ms Smiles—I would agree with that. In a meeting with Senator Wong just recently, we were talking about what is happening with floodplain management in the state, and again she mentioned that at least \$15 million out of that package went to the state government to deal with floodplain management. We are certainly going to be asking questions as to what the state government is doing with the funding they have been given.

Senator WILLIAMS—Exactly. I do not want to sound cynical, but in New South Wales it would be questioning where the money is going.

Ms Smiles—I will not go into the politics of our state government.

Senator WILLIAMS—Don't get me started!

Ms Smiles—I probably will agree with you, Senator.

CHAIR—We will not be cynical, because then I will be cynical about the mismanagement for the last 12 or 14 years.

Senator WILLIAMS—We are talking New South Wales.

CHAIR—Anyway, on that we are not being cynical. Thank goodness that the Commonwealth is putting all this money into it.

Senator FISHER—Ms Smiles, thank you for your time. You referred in your earlier evidence to, effectively, Professor Mike Young's evidence that we need to decide what we are going to lose and what we are going to keep, and have a river audit upon which to base those decisions, but you have also said that we are currently making ad hoc decisions about those things.

Ms Smiles—They are not actually decisions. It has just happened in an ad hoc way, without decisions.

Senator FISHER—Presumably there must be a decision to take that ad hoc action.

Ms Smiles—I am talking about the ad hoc outcomes. There are decisions made around allocations and water rules and environmental flows, but what is ad hoc at the moment is the outcome of those current planning decisions. What is not happening is that there has been a decision by the community with some sort of process behind it, where everyone has said, ‘Well, okay, we understand that we need to give these communities some assistance to keep growing the food they are growing and, with the decreased rainfall, with climate change et cetera, we are going to have to, as a community, decide that the Cumbung Swamp at the end of the Lachlan will die.’

That has not been a process that the community has been involved in.

Senator FISHER—You have indicated that your organisation has been involved with the federal government. You have talked about a recent meeting with Minister Wong. Have you raised these issues with Minister Wong?

Ms Smiles—Not in the context that we are speaking of. I suppose it was a bit of a surprise for me, and I am sure for the previous witness, to hear that that was what a scientist presented to you this morning: that that is actually the sad state of affairs that we are at, having to make those hard-nosed decisions. My response to that was that these things seem to be happening without any decisions anyway, and it would be good to have it in a genuine process where the community can be involved in making some decisions, rather than just the ongoing incremental loss of environmental assets that has been going on to date.

Senator FISHER—Indeed. Thank you.

CHAIR—Ms Smiles, thank you very much for your assistance to the committee.

[11.04 am]

FREEMAN, Mr Robert, Chief Executive, Murray-Darling Basin Authority

McLEOD, Dr Tony, General Manager, Water Planning, Murray-Darling Basin Authority

CHAIR—I welcome Mr Rob Freeman and Dr Tony McLeod from the Murray-Darling Basin Authority. Thank you very much for coming before us today. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted.

Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim. Before we go to questions, do either of you wish to make a brief opening statement?

Mr Freeman—No, I had not prepared a statement. I am here available for questions.

CHAIR—That is fine. Thank you very much Mr Freeman.

Senator SIEWERT—Last time you were here, we were in estimates. I think it was there where you had the graph showing inflow into the river for this January, and it looked as though in February it was going to be lower. Where are we up to at the moment?

Mr Freeman—February is trending down below historic minimums, so the 2006-07 year was our worst ever year on record and, whilst this year will not be below 2006-07, certainly for February it is now trending below the line. You always have to put that in context—that the late summer, autumn months are very low water-fall months anyway, so even if you are twice the average or half of average it is a small amount of water.

Senator NASH—You are talking about the February rainfall and you are saying that 2006-07 was the worst; this is trending down to below it but it is not there.

Mr Freeman—Yes.

Senator NASH—When do you do the calculations? Isn't it March now?

Mr Freeman—Yes. 2006-07 is the worst year on record. This current water year—2008-09—was not as bad as 2006-07 but certainly—

Senator NASH—Sorry, you are talking about the year, not the month?

Mr Freeman—For the month of February—and you do get this recession issue—rain that falls in February continues to go into systems based on groundwater. So you get this recession issue. The end of February figures are still emerging.

Senator NASH—Emerging. Great. Thanks.

Mr Freeman—What I am saying is that February looks like being the worst ever February as far as inflows into the Murray-Darling Basin go. That is not the worst ever February as far as rainfall goes; we have lost this correlation between inflows and rainfall because the landscape is so dry. However, you have got to put that into context: it is a very low water yield month. Not much rain falls in February, nor March or April. There is a high correlation between a wet autumn, wet April-May, and a wet winter. That is the issue that we will be watching. If we get a good break—and, as farmers often say, ‘If it rains on Anzac Day, it will be a good year’—there is a high correlation between a good autumn and a good following water year; in fact, about a 70 per cent correlation.

Senator SIEWERT—What level are storages at the moment?

Mr Freeman—I do not have the figures in front of me. I could take that on notice. We are just publishing the end-of-week report, so a new figure will be out today, but I just do not have it on me at the moment.

Senator SIEWERT—I appreciate you do not have the figure off the top of your head, but where are we generally in terms of storages?

Mr Freeman—Storages will be slightly below this time last year. However, again, you have to watch. There will be private carryover water in there, so you cannot really compare those as an available resource. Clearly, jurisdictions have been saving water for critical human needs for the 2009-10 water year, so that water will be in storages. But a coarse figure will show that the storages are slightly below what they were this time last year.

Senator SIEWERT—It was not you, it was the commission that I asked this question of, because when we first started this year it had not been established. You will be aware that the Wentworth Group have put up a proposal, as have many other groups supporting it, that there be an interim plan produced while the basin plan is being developed. They reiterated that again when they were here on Tuesday—that they think an interim plan should be developed to be in place prior to the basin plan. The commission at the time—it was the commission that we put it to—said, no, they do not think we should waste our time on doing an interim plan; we should get on and do the basin plan. What is your response to an interim plan? Do you think there is a need for an interim plan that would help to coordinate better what is going on, prior to the basin plan being put in place? They make the point particularly that Victoria is not coming online until 2019 and a lot of the New South Wales catchments are not coming online until 2014. What is your position on an interim plan?

Mr Freeman—It is very difficult to see how an interim plan could have any real effect, given those commencement dates, which have been agreed as part of the negotiation around the legislation. Unless those dates were to change, an interim plan would simply be introduced but still have the same commencement date as far as state water resource plans go; as you said, 2014

for South Australia, Queensland and New South Wales—for most of those plans; there are some exceptions—and 2019 for Victoria. An interim plan would not affect state water resource plans, so it is pretty difficult to see the benefit.

Senator SIEWERT—What is the point of having a basin plan that comes into effect, in reality, in 2019, given the pretty dire scenario that you have outlined and that every single witness has outlined? What are we going to do between now and 2019?

Mr Freeman—There are a couple of responses to that one. The issue is that the basin plan will have coverage over more than half of the basin in 2014. I agree with you that it does not have complete coverage until Victoria is included, but more than half the water resources for the Murray-Darling Basin will be covered, with those plans in Queensland, New South Wales and South Australia being compliant in 2014. Historically, water resource planning in states, on average, takes about five years, although the planning time is variable, because these water resource plans can be both broad in scope and sophistication, or relatively minor for some of these very small groundwater resources, for instance. Water resource planning is very much a bottom-up-driven process. It is about: given an amount of water that is defined, how can we best use that? That has been a community-driven process. By introducing a basin plan in 2011, those states will have to condense that water resource planning into three years, and some of them significantly less than that.

Senator SIEWERT—With all due respect, if they started now, they would not have to—

Mr Freeman—Yes, but their water resource plan has to be consistent with the basin plan, so I guess they could refresh their water resource planning but, until we produce a basin plan, they would not be aware of what is the difference between the historical cap and the sustainable diversion limits that the authority will strike. The sustainable diversion limit is a variable number, dependent on climate and a whole lot of other issues, so there is quite a difference between the regime in which water resource planning has occurred and trying to comply with a new basin plan. At this stage, they can see the elements of that in the act, but how the authority is going to actually produce that is still being developed. We have effectively had resources since about 15 December.

Senator SIEWERT—The point there is that we have got the sustainable yield data now. I know we do not have the other ecological data, and I will come back to that, but could they not start? That is the proposition from the Wentworth Group: get started now instead of waiting until 2011. You can at least get started because you have some indication; at least you have the sustainable yield data.

Mr Freeman—There is a big difference between sustainable yields which the CSIRO produce through their modelling and a sustainable diversion limit. They are quite different numbers. It is fair to say that you could start revisiting a plan in the context of the climate change scenarios that CSIRO have highlighted through their planning. That is correct. But how much of that water will be available for consumptive use is undetermined until we get the sustainable diversion limits. So I think you can see that the total water resource is reducing in certain scenarios. But a bigger issue is: how much of that will now be made available for consumptive purposes within the sustainable diversion limit?

Senator SIEWERT—Which brings me to the issue of ecological data and the fact that we have done the sustainable yield work and it is a very important and good piece of work, but we do not have the same level of rigour and data around ecological requirements. I understand that some of that is starting to be done, but can you tell us who is doing it, where it is being done, and is it being done at the same scale? The sustainable yield data was done because the Prime Minister at the time said, ‘Right, we’re doing this.’ They gave the resources, they went out, they found the necessary hydrologists and really made a sustained effort, and I understand nothing like this work has been done anywhere else.

Mr Freeman—That is correct.

Senator SIEWERT—Are we doing that with ecological data?

Mr Freeman—We need to define the ecological, environmental and social assets of the basin. We have commenced work in each of those three areas. It is fair to say that the economic is probably the most developed, given the work that ABARE and ABS have historically done, and we have commissioned extra work which will occur this financial year, so we are well advanced on the economic. I think it is fair to say that the economic is relatively well developed, and at a consistent scale, although we are supplementing some extra work in that area as well.

The social is the one that we will have to work on more in the future, but it is not the one that is going to hold up the sustainable diversion limit. As you have identified, the environmental one is not only the most difficult and the most complex, it is the least developed. We are having bilateral discussions with all jurisdictions. Jurisdictions have got environmental datasets. It is fair to say that jurisdictions have tended to focus on slightly different things: some are very concerned about water quality, whilst others might be concerned about birds or invertebrates or other issues.

We need to bring that to a common scale so that we can assess what are the key environmental assets. If one is measuring pH and salinity and another is measuring the populations of invertebrates, how can you compare those things? We are commissioning extra work, but the first basin plan will generally bring together the best available science, together with populating the gaps as best we can do in the time frame to mid next year. With the proposed basin plan due in mid-2010, it is going to be the science that we can achieve in that time frame. It is probably fair to say, even at this early date, that the least developed dataset is going to be the environmental because it is such a large dataset. Perhaps Dr McLeod, who has been having some of those bilateral discussions with jurisdictions, can fill us in a little bit more.

Senator SIEWERT—That would be appreciated.

Dr McLeod—In terms of the environmental datasets required to write the basin plan, there are two issues worth raising. One is that to fulfil the provisions of the act we have to identify key ecological assets, key ecological outcomes et cetera, so there is a need to understand the full gamut of ecological features of the Murray-Darling Basin and then to prioritise those as ones that will be addressed, in terms of their watering requirements, through the basin plan. That in itself is a large piece of work and that is where most of our work has been done to date.

Separate but related to that, for each of those sites that are identified as key sites or processes we have to work out the environmental watering requirements. That is more difficult work in terms of the act. It talks of making sure that the sustainable diversion limit is set at a level such that those ecological sites or whatever are not compromised. That becomes an incredibly difficult piece of work. We are working in both of those areas to try to get that work together.

Senator SIEWERT—Is there agreement around this? How far have you progressed with the states in identifying the key environmental assets?

Dr McLeod—We have had initial discussions about all the requirements of the basin plan. We have not yet worked up a formal list with the states in that regard, but we have started those discussions.

Senator SIEWERT—Once you have worked up a list with the states, will you then consult with community organisations, be they farming or environmental organisations? Is there a process where you consult with those organisations to ensure that everyone agrees with the list?

Mr Freeman—Yes, there is a process. Even before we get to that formal process, we are looking at what issues papers we will produce in the near future. It is emerging that one of those is likely to be around what defines ‘key’, because there are issues of scale and connectivity, and I believe there will be some difficult discussions around that because there will be environmental assets out there that people feel very precious about in a local context but that, at the basin scale, will not be that significant.

Senator SIEWERT—That is where it crosses over into social as well, isn’t it?

Mr Freeman—That is right. So, rather than have that discussion at the detailed level initially, it might be better to have that discussion at the higher level: what constitutes ‘key’ in a basin-wide context? An issues paper is likely to be around that definitional issue, so there will be discussion and consultation around that. Of course, once we get to the proposed basin plan, then there is a comprehensive, detailed process for consultation.

Senator SIEWERT—I appreciate that there would be, but during that process of the overall plan will you be able to go down and look at, ‘Well, we think actually that’s not key’? I mean, it is probably not the right scale to be then discussing what is a key asset. That should have been resolved with consultation before it gets to the plan, shouldn’t it?

Mr Freeman—It is important to have the discussion around what is important to the basin, hence the idea of the issues paper. It is really important to have that discussion, which is probably less local. We can have a good discussion around that. I think, though, that that discussion will only be rich in a local context until they know, ‘Is my wetland in or out?’ To some extent that will be determined by state water resource plans, so we will be identifying things that are important at the basin scale, through the basin plan. We will also be defining those things that states must incorporate into their state water resource plan to be compliant and that will bring that key issue down another level.

It is going to be a tiered discussion. It will be about concepts initially. It will then be about what is key at the basin scale and we will also create the framework to have that discussion again

at the water resource planning scale, because that is the plan that local people are really impacted by. So it is going to be a cascading discussion, but I think it is really important to have the conceptual one first.

Senator SIEWERT—Professor Young raised the issue about shepherding water. I do not care what you call it, but the point is that environmental flows that are released upstream are not actually all delivered to the asset that you are trying to water, because they can be taken et cetera. How do you propose to deal with that? It seems to me that you need legislative change in each of the states, in particular New South Wales. Is that something you have dealt with yet? Are you looking at it?

Mr Freeman—No, it is fair to say we have not formed an opinion on it. Clearly it is an issue that will have to be confronted in the basin plan, because the basin plan is about basin scale issues—how do you move water from one jurisdiction through to another jurisdiction to achieve something that is in the national interest?

Senator SIEWERT—So will part of the plan be looking at the various legislative regimes that operate? There is also an issue in New South Wales around what is legal and illegal taking of water. I have come across the situation where the particular taking of water—the diversions—was not authorised, but it was not illegal either, so it makes it very difficult to do anything about it, and the fact is that water is being taken out of the system; that has been raised with both this committee a number of times and with me in other forums. Are you going to be doing that legislative review so that you do have consistent legislation that operates across the state and overcomes these numerous barriers? And you are lucky Senator Heffernan is not here, otherwise we would be having a discussion about a certain river in northern New South Wales and south-east Queensland. Are you going to be doing that sort of review? It seems to me it is essential for delivering the plan.

Mr Freeman—I am not sure I quite understood the question.

Senator SIEWERT—The question is: in the preparation of the plan are you going to be incorporating a review of the legislative barriers to delivering whole-of-basin outcomes?

Mr Freeman—I had not really considered whether we would do a review of legislative barriers, but we probably would. I think the more important thing will be defining in the basin plan the requirements of water resource plans in order to be compliant with the basin plan. That would determine that you must allow this water, as we are talking about, to move through in a way that is unencumbered. So, rather than being a legislative review, it will be a requirement of the basin plan that, to be a compliant water resource plan, it must make provision for this to occur. It is probably wise to do a legislative review to see whether that is real or not, but I think we all know that it is impractical at the moment anyway. You cannot get that water through the system, generally, unless you have some collaboration between jurisdictions. I guess that is the way you would achieve it at the moment. But the way we are approaching it is determining what you will have to have in your water resource plan in order to be compliant. If a jurisdiction does not produce a compliant water resource plan, that then allows us to produce one that does, to have effect until they bring in a compliant one.

Senator SIEWERT—I have a couple of concerns. One is that you are then leaving it up to each of the resource plans rather than taking a bigger picture, holistic approach. The other is that the basin plan, as we know, does not come into effect in New South Wales until 2014. We are not buying enough water in Victoria for it to come into effect at the moment because of the cap. But anyway, there are five years in which we are having to deal with this jurisdictional issue. What do we do in those five years?

Mr Freeman—I do not think the authority has a capacity to deal with that in that intervening period until the basin plan has bite through the state water resource plans. To come back to part of your question, it is a word I used in this room once before: this issue of ‘subsidiarity’. You can write a basin plan at a very high philosophical level, which would have little impact on existing water resource plans but still be compliant with the act. You can write a basin plan which has a high level of detail and, essentially, states could almost be in a position where they simply administer a regime that is compliant with the basin plan. There is sufficient difference across the basin—the Northern Basin and the Southern Basin, for instance: one is highly regulated, one is not; one is in a more natural state—that we need to have a basin plan that is struck at a level somewhere between those two extremes.

The idea is not that the water resource plans would be the only instrument. The basin plan will have real effect on water resource planning. Whether we define it in a high level of detail or whether we define it at a principle level which allows for these local variations is one of the things we have to consider at the authority, and we have started to have that discussion with jurisdictions, because I think it is fair to say that jurisdictions probably have different expectations as to the level of the basin plan as well. I do not think it is going to be just left to water resource planning. I cannot answer your question, ‘What do you do in the interim?’ because the basin plan does not have an impact on the majority of the resource until 2014.

Senator NASH—Mr Freeman, where are we up to with appointing the members of the authority?

Mr Freeman—That is really not an issue the authority is handling. It is between the minister and the department.

Senator NASH—I should have asked the department, shouldn’t I? Do we have any yet?

Mr Freeman—I am not involved in the selection process.

Senator NASH—So you have no idea.

Mr Freeman—I know the process very well but I am not involved in it.

Senator NASH—Okay. I will have one more crack: have you got any yet?

Mr Freeman—No. At the moment I am the authority.

Senator NASH—You are the authority. Okay.

ACTING CHAIR (Senator Siewert)—That makes it easy!

Senator NASH—I will put those questions to the department at some point, I am sure. Thank you for the direction. Until that point where we do actually have some members, and in your role as CEO, what is the check and balance on you?

Mr Freeman—As far as the authority making decisions, there is an agreement with jurisdictions that I will not change the existing regime except through consulting them. The legislation changed some of the decision making. Formerly it was made by the commission; it is now made by the authority. To the extent that I am changing previous arrangements—and that has happened—I will only do it after consultation with them. That does not mean I am looking for their concurrence but I think it is fair to say that, to date, there have been no decisions that have been taken without the full support of all jurisdictions. There may have been one.

Senator NASH—I know this is a bit hypothetical, but I think it is of interest at the moment until we get some members, which I understand is outside your bailiwick: what would happen if you did not have concurrence from the jurisdictions on a decision you wanted to take?

Mr Freeman—If the decision is important to take at this point in time, I would just have to take the decision. One of those is looming. There are other decisions that are not important in a time sense and they await the appointment of the other authority members. That is where it is. If it is a time-bound decision that is very important to make at this moment, the power has been vested in me until we get a quorum, and I would just have to take it.

Senator NASH—So at the moment you are pretty much completely autonomous. Whatever decision you want to take, you can—with no real scrutiny? I understand that eventually we will have members. I am just talking about this interim period.

Mr Freeman—Within the confines of the act, that is right, the power of the authority is vested in me.

Senator NASH—That is a big responsibility, Mr Freeman.

Mr Freeman—It is something that needs to be exercised very cautiously. As I have often said, there is enormous ability in the Water Act for there to be a tension between the states and the authority, so I need to exercise that power with an eye on the future and the future relationships and how that will all work.

Senator NASH—In the interim period, if someone were to have a concern with a decision that you had made, given that the members are not there yet, what would be their course of action to raise that concern?

Mr Freeman—If it were a decision of the authority in the basin planning role, I guess they could write to me or to the minister. I am subject to the minister.

Senator NASH—So they could write to you and complain about your decision? I am only being hypothetical. I am just trying to understand the process.

Mr Freeman—They could write to me. Certainly I am not perfect and, to the extent I get something wrong, I can revisit it.

Senator NASH—I understand that, but do you see what I am getting at? I just think it is quite a curious interim situation where, to all intents and purposes, you are judge, jury and executioner at the moment, in that there is no kind of check and balance process around the decisions that you are taking and, as you quite rightly say, have to take in the interim. I find it a very curious situation that somebody would write to you to complain about you because of the current circumstances.

Mr Freeman—I am not sure I find it curious. If someone is to write to me and say, ‘Look, I note that you’ve taken this decision, but it concerns me because of this’—whatever the impact of that decision is—I would be open-minded to that. I do not think we should see that decisions cannot be revisited. I would be very open-minded in the interim. There may be information that I was not privy to which would cause me to revisit that decision.

Senator NASH—At the end of that, if you did not agree with somebody that perhaps had a concern, the buck stops with you, doesn’t it? They really have nowhere else to go until we have got the broader members in place for a more appropriate process of check and balance.

Mr Freeman—Yes. One of the things I am doing is keeping a register of where I will make decisions so that that can be put in front of the authority. Where I have exercised the power of the authority, that will be put to the new authority when they come into place, to see whether they might want to vary those decisions or whatever. I just keep a register of where I have exercised that power.

Senator NASH—Will that register be a private document or will that be something that you would be prepared to provide to the committee?

Mr Freeman—I have not thought it through. I cannot think of any power that I would not be able to share.

Senator NASH—It would actually be quite useful if at that point when you do that, you could provide it to the committee, because I am sure we will look back over it and say, ‘Yes, that was all perfectly appropriate.’

Mr Freeman—Yes.

Senator NASH—Thanks.

Senator FISHER—Mr Freeman and Dr McLeod, thank you. I want to ask some questions around critical human water needs, which may not surprise you. As I am doing so, I might table a response to an order given by Senator Wong in the Senate, and it was tabled yesterday. I hope you gentlemen are across it already. I presume that Minister Wong’s office will have let you know that she has provided the response and put you squarely in the frame, Mr Freeman, or in the watering hole. I will come to that.

In terms of section 86A of the now Water Act and the critical human water needs provisions, I presume you are familiar with evidence given to previous iterations of this committee that the definition that is now there resulted out of extensive discussions and negotiations with

stakeholders, including the states, and therefore should be left as is to give us what is now section 86A. Are you familiar with that evidence?

Mr Freeman—I am not familiar with the former evidence, but I am broadly familiar with what you are saying.

Senator FISHER—Then let me ask this question: how did we arrive at the provisions which are now section 86A of the Water Act?

Mr Freeman—I was not involved in drafting of the legislation, so I really cannot answer that.

Senator FISHER—Dr McLeod?

Dr McLeod—It was probably along the lines that you outlined. It was part of the provisions of the act that were initially drafted in 2007 and subject to the intergovernmental agreement that was signed in July 2008 and then given effect through the act and the amendments that went through the parliament late last year.

Senator FISHER—Yes, but with no amendment to section 86A. There was no amendment successfully moved in respect of section 86A.

Dr McLeod—No. That is correct, I believe. I do not recall an amendment to this part of the act.

Senator FISHER—For how long have jurisdictions been making decisions about critical human water needs? For how long have they been allocating water for critical human needs?

Mr Freeman—I think it is fair to say that the first discussion around critical human needs commenced at the summit that the Prime Minister called on Melbourne Cup Day 2006, where it was clear that in the following water year you could enter the water year with a quite distorted outcome, where one jurisdiction would have not only its drinking water covered but also water available for irrigators' licences, and at least one of the other two jurisdictions would not have water for drinking purposes. The first time that 'critical human needs' was probably spoken as a phrase would have been November 2006.

Senator FISHER—So certainly as long ago as November 2006.

Mr Freeman—Yes.

Senator FISHER—What is the impact on the basin, in your view—you have just touched on it—of critical human needs water being allocated? Does it stay in the system for others to enjoy, for example?

Mr Freeman—The critical human needs total volume is very small in the basin context. It is slightly in excess of 300 gigalitres, I think.

Senator FISHER—Understood.

Mr Freeman—So the impact of reserving critical human needs, giving it primacy, in a basin context is relatively small.

Senator FISHER—However, allocatees—those on the receiving end of critical human needs water—get primacy, you have essentially just said.

Mr Freeman—Yes.

Senator FISHER—That is right. Critical human needs water gets first dibs, is another way to put it.

Mr Freeman—That is correct.

Senator FISHER—So it has a reasonably significant impact in that way in a time when there is not enough water for everybody. That is why I want to pursue the issue, because the community is entitled to know how you get to the front of the water queue. You have said that since at least 2006 there has been in use the term ‘critical human needs’ in relation to water, and you have agreed, as I hear you, that what is now section 86A of the Water Act reflects that definition, to the extent there was one.

Dr McLeod—Can I come in? It reflects the definition that was settled in the IGA in July last year, which drew upon the then previous 18 months work, to which Mr Freeman referred.

Senator FISHER—Effectively, jurisdictions have been using what is now section 86A as a basis for allocating critical human needs water for several years, since as long ago as 2006. Correct?

Dr McLeod—The exact words were finally settled, as they appear in the act, in July last year.

Senator FISHER—In the IGA.

Dr McLeod—The IGA. We did draw on other—

Senator FISHER—Let’s go then with July 2008. Since at least July 2008 the words that we have in front of us as part of section 86A were operating, in effect?

Dr McLeod—By July last year, ministers of all governments in the basin had agreed to these words, yes.

Senator FISHER—Thank you. Mr Freeman, in earlier evidence, I think in answer to Senator Siewert, you indicated that jurisdictions now were making decisions about their allocations of critical human needs water for 2009-10.

Dr McLeod—That is correct.

Senator FISHER—So jurisdictions have been doing it since at least July last year, possibly earlier, based on section 86A. They are doing it now for the future, based on section 86A. You will see that Minister Wong has indicated that it is your job to further describe the term ‘critical

human water needs' and, if you consider necessary, any criteria—I am reading from her answer now:

... for determining whether the term is appropriately applied in the context of implementing the basin plan.

I am reading from her response tabled in the Senate yesterday. So that the community can understand a practical definition of the term, so that the community can understand a practical definition of 'core human consumption requirements', 'non-human consumption requirements', and see clear and equitable criteria that your authority will apply in determining who gets what, when, where and why for critical human needs, so that that happens, do you consider that it is necessary to further describe the term? Minister Wong has said it is 'a responsibility of the authority to further describe the term'. Do you agree that it is necessary to further describe the term?

Mr Freeman—This probably comes back to Senator Nash's question. It is one of those issues that I would leave to a broader authority. So it is fair to say the authority does not have a position on that at this stage.

Senator FISHER—Thank you. I would argue the minister is saying it is your responsibility to further describe it. In that context, you may not be familiar with evidence provided to previous iterations of this committee again about the shortcomings and inconsistencies and inequities and lack of transparency in relation to how the term has been applied in the past—certainly back until 2007, if not back to 2006. So the evidence to previous iterations of this committee has effectively been that the definition and the criteria that we now have before us in section 86A is inconsistent, lacks transparency and is inequitable in its application. I think Minister Wong is saying it needs further description and it is your job to do it. Do you want to reflect on all that?

Mr Freeman—What I am saying is that, to the extent that it does need clarification and enhancement, that is the role of the authority. I agree with that. To the extent that the authority may do that, that has not been determined yet. Based on what you are saying to me, it is required to be done. All I am saying is that there has been no decision that that will be done or what time frame within which it will be done.

Senator FISHER—Minister Wong's earlier bit of the answer, in her bottom paragraph that you have there before you, says that the act provides for your authority:

... to undertake work to further describe the term 'critical human water needs' for inclusion in the basin plan due by 2011.

You have already said that you have jurisdictions applying a definition as best they can. The minister has reiterated that the act gives you a deadline of 2011 in this respect. We have heard, in answers to questions from Senator Nash, that at the moment 'you're the guy', with a bit of help. When will you make a decision to do this work and when will you be in a position to start doing it?

Dr McLeod—I would like to make some comments. In terms of the time line 'due by 2011', the way you phrased the question suggested that that was in the act. That is not in the act.

Senator FISHER—I am sorry, I am going on the minister's answer. So it is not quite correct? I just read what was in the minister's answer, Dr McLeod.

Dr McLeod—I am sorry, I am not trying to be clever. The act does provide the thing, as the minister has stated. The fact that it is due by 2011 is part of the IGA settlement; it is not in the act.

Senator FISHER—I understand what you are saying, thank you.

Dr McLeod—For the work that has commenced already, there are provisions in the act—part 2A, section 86A being part of that. There are also provisions in the new Murray-Darling Basin Agreement, which is attached to the act as schedule 1. There is a schedule for the type of sharing that goes on in what is known as tier 2 water sharing, and that is a schedule that has to be developed by the authority and agreed by the new ministerial council for the Murray-Darling Basin. Work to progress that has commenced, as has work to give consideration to the various provisions of section 86A and related areas of the act in terms of what will go into the basin plan.

Senator FISHER—If work has commenced, what discussions have been had with stakeholders about what they might be able to expect in this respect and by when?

Dr McLeod—I do not believe work has got to the stage of discussion with stakeholders. We are doing an extensive planning exercise associated with all the provisions of the basin plan, to ensure we will all come together in time to display a proposed basin plan by mid-2010 and then for the plan itself to be ready for the minister to adopt in early 2011, as per the settlement. So we are not at the stage of discussions with stakeholders.

Senator FISHER—Thank you. How much more time do I have, Chair?

ACTING CHAIR—You have at least another five minutes. So keep going.

Senator FISHER—Thank you. Mr Freeman, earlier on, in an answer to one of my colleagues, you referred to drinking water in the context of critical human needs. Is that how you have defined 'critical human needs water'?

Mr Freeman—'Critical human needs' is clearly broader than drinking water, but the situation we were facing in 2006 had the potential for people not to even have sufficient drinking water.

Senator FISHER—Okay. How much water is it, in your understanding?

Mr Freeman—How much?

Senator FISHER—Drinking water for humans, is it, for example?

Mr Freeman—No. What I was saying is that in 2006 there was the potential for a situation where there was not enough water for people to have drinking water.

Senator FISHER—I understand that is what you were saying.

Mr Freeman—That is right. ‘Critical human needs’ is clearly broader than drinking water.

Senator FISHER—How much broader, in practical terms?

Mr Freeman—I could probably say that, on average, about 20 per cent of the water used by a household gets used in the kitchen. I am not sure how much of that actually gets drunk and how much of that is used in the dishwasher. But a relatively small percentage of critical human needs is drinking water.

Senator FISHER—So you are conceding, are you, that of the water allocated for critical human needs purposes, a relatively small percentage is for human drinking water?

Mr Freeman—That is correct. There will be basic human health and hygiene issues in there—clearly we need toilet systems to operate. So, yes, a relatively small percentage of critical human needs would actually be water that people consume by drinking it.

Senator FISHER—Pets? It may be small, but nonetheless—

Mr Freeman—I am not sure whether pets are in or out of critical human needs.

Senator FISHER—How would you police that, given that, for example, our cities’ and towns’ backyard water meters do not differentiate? Indeed, we water our gardens as well. How would you know? How do jurisdictions know?

Mr Freeman—I think it is fair to say that the water consumed by pets would be so insignificant that it—

Senator FISHER—Backyards, gardens, Mr Freeman? Let’s go to their inclusion in metered water. Is that part of critical human needs?

Mr Freeman—I understand that critical human needs at the moment is on restricted water use in gardens.

Senator FISHER—However, it allows watering of gardens? You are agreeing with that?

Mr Freeman—I think it allows some bucketing et cetera. That is correct.

Senator FISHER—You are agreeing that critical human needs water is able to be used to water gardens, are you?

Mr Freeman—Some restricted use in gardens. It is not unbridled use in gardens.

Senator FISHER—I understand you are new to the role, but I am trying to ensure that you are aware of the difficulties that jurisdictions are having in applying this definition in a fair and transparent way, given that, once applied, critical human needs water users get to the front of the water queue. When there is not enough water, when we have a scientist that tells us we have to pick winners and losers—what we keep and what we lose—I think the community deserves to

see not only how you get to keep and how you get to lose but how you get to the front of those who get to keep.

Are you familiar with evidence given in previous iterations of this committee that water was allocated for critical human water needs to a piggery in New South Wales? This was evidence provided by the National Farmers Federation, and they did include in their answer that it was considered that, if the piggery closed, many local townspeople would lose their jobs. Water was allocated to a commercial piggery for critical human needs. Are you familiar with that evidence?

Mr Freeman—I am not familiar with that evidence.

Senator FISHER—Would that scenario fit with your expectation of what would be critical human water?

Mr Freeman—I think it would be important to have in a definition of ‘critical human needs’ that we did not incur unnecessary economic hardship on those communities. That may take you down the piggery route but that would not mean—

Senator FISHER—Are you suggesting there do need to be some criteria, Mr Freeman?

Mr Freeman—Based on what you have told me, there may be a strong argument for the authority to develop more comprehensive criteria.

Senator FISHER—Thank you. I hope that we have started to convince you so that you might be able to progress some work in this respect. I understand you are suggesting that, in the overall scheme of things, not a lot of water is allocated for critical human needs. However, you would be aware that the definition includes conveyancing water, so water needed to convey critical human needs water to wherever it goes. That is all defined as critical human needs water in your act.

Dr McLeod—They are separate definitions. Conveyance water is the water required to get critical human needs water there. The definition this discussion is focused on is that of the critical human needs water.

Senator FISHER—So to the extent that you are saying it is not a lot of water, are you talking only about the actual critical human needs water allocation as opposed to water allocated to convey it?

Mr Freeman—Yes, I am.

Senator FISHER—Because it is quite possible that water allocated to convey critical human needs water could be significant in itself and needs retention as part of the critical human needs water stockpile.

Mr Freeman—Conveyance water does not differentiate what it is conveying. That water is required whether we are conveying consumptive water or environmental water, so the conveyance water should not be seen as an element of critical human needs. It is water that the system requires in order to be able to deliver water—

Senator FISHER—Yet the act, in a part relevant to section 86A, defines critical human needs water as including conveyance water for the purposes of conveying critical human needs water. That is my understanding of it. You may tell me I am wrong. I am happy to hear it. Actually, I am not happy to! As part of the necessary equation, I am trying to drill down into your statement about the overall water, though.

Dr McLeod—Section 86A(2) defines ‘critical human needs’. Subsection (4) defines ‘conveyance water’.

Senator FISHER—And it says?

Dr McLeod—It says:

(4) *Conveyance water* is water in the River Murray System required to deliver water to meet critical human water needs as far downstream as Wellington in South Australia.

Senator FISHER—Thank you. It is interesting that we stop at Wellington, South Australia, but I will not go there today, given they are having a pipeline built at taxpayers’ expense because we do not convey critical human needs water south of Wellington to the Lower Lakes and Coorong. We treat them as a different type or community. I am not quite sure why. When I say ‘we’ I am talking about the federal and state governments.

Senator FARRELL—More than your government ever did, let me tell you that.

ACTING CHAIR—No, Senator Farrell.

Senator FISHER—So in respect of the reservation of water for Adelaide’s critical human needs in the Menindee Lakes, for example, are you aware of the current allocation and amount of water stored in the Menindee Lakes for that purpose?

Mr Freeman—I do not believe that there would be any water stored in the Menindee Lakes for Adelaide’s critical human needs. Menindee Lakes are currently in New South Wales’s control and therefore not part of the shared system. So, to the extent that South Australia’s critical human needs water is stored, it would be stored in Lake Victoria—the Hume and Dartmouth dams.

Senator FISHER—We might leave that for the moment and I might be able to provide you with some information.

ACTING CHAIR—Isn’t the point there that once it gets above 640 gigalitres it becomes available to the rest of the system?

Mr Freeman—That is correct. It becomes a shared resource once Menindee Lakes reach 640. At the moment they are slightly above 300.

Senator FISHER—To take it further, in that scenario, were that to arise—and I would suggest to you it has in the past—and water is then allocated for Adelaide critical human needs purposes, it sits there in the lakes, doesn’t it?

Mr Freeman—Can I just correct something I said. It is slightly above 200 gigalitres, not 300. Let's assume Menindee Lakes is now part of the authority infrastructure, so it is triggered; it is no longer in New South Wales's control.

Senator FISHER—So we are into sharing.

Mr Freeman—That is right. When we are sharing, there would not be a differentiation as to where Adelaide's critical human needs water came from, whether it came from Menindee or from Dartmouth or Hume. The authority tries to run the system to keep as much water as it can in Dartmouth, where evaporation is minimal, and it would always try to manage the system to guarantee supply to Adelaide but keep most of the water out of those hot environments.

ACTING CHAIR—Thank you very much. Thank you, Hansard. Thank you, committee people. We are adjourned.

Committee adjourned at 11.59 am