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# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ENVIRONMENT,  
COMMUNICATIONS AND THE ARTS

**Reference: Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008**

WEDNESDAY, 15 APRIL 2009

CANBERRA

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**SENATE STANDING COMMITTEE ON  
ENVIRONMENT, COMMUNICATIONS AND THE ARTS**

**Wednesday, 15 April 2009**

**Members:** Senator McEwen (*Chair*), Senator Birmingham (*Deputy Chair*), Senators Boswell, Ludlam, Lundy, Pratt, Troeth and Wortley

**Substitute members:** Senator Siewert for Senator Ludlum

**Participating members:** Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ian Macdonald, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Sterle, Troeth, Trood and Xenophon

**Senators in attendance:** Senators Birmingham, McEwen, Siewert and Wortley

**Terms of reference for the inquiry:**

To inquire into and report on:

Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008

**WITNESSES**

**SKIPPINGTON, Ms Catherine, Assistant Secretary, Environment Assessment Branch,  
Approvals and Wildlife Division, Department of the Environment, Water, Heritage and the Arts ..... 2**



**Committee met at 4.02 pm**

**CHAIR (Senator McEwen)**—I declare open this public hearing of the Senate Standing Committee on Environment, Communications and the Arts in relation to its inquiry into the Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008. These are public proceedings, but the committee may also agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. 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 given to a committee, and such action may be treated by the Senate as contempt. It is also contempt to give false or misleading evidence to the committee.

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.

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 that 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. 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.

[4.04 pm]

**SKIPPINGTON, Ms Catherine, Assistant Secretary, Environment Assessment Branch, Approvals and Wildlife Division, Department of the Environment, Water, Heritage and the Arts**

**CHAIR**—Welcome, Ms Skippington. Thank you for appearing before us today. Did you wish to make a brief opening statement before we go to questions?

**Ms Skippington**—No, thank you.

**CHAIR**—Then we will go to questions.

**Senator BIRMINGHAM**—Ms Skippington, thank you for coming along today. It seems very lonely having you at the table with nobody else around, compared to estimates and so on. I will jump straight to the conditions attached to the approval decision on the Sugarloaf Pipeline project, if I can, and specifically to condition 11. It begins ‘To protect EPBC listed fish species’. Is it not within the powers of the minister to have considered the overall basin health or the overall basin biodiversity in considering the building of the pipeline or the extraction of water? Did it have to come down to something like individual fish species?

**Ms Skippington**—Under the EPBC Act, we have to consider the project that is proposed. In this case, it is the building of a pipeline. So this project is not about the extraction of water; but, nonetheless, it is connected. This pipeline project is part of Victoria’s water infrastructure program. When the referral comes in, we look at what the impact of the pipeline will be. It also needs to have a significant impact on matters of national environmental significance under the legislation for it to be considered a project that is a controlled action and that would require further assessment. In this case, the consideration of the referral that was before us looked at the potential significant impacts on matters of NES, and it was determined that it was only threatened species and communities that would be the requirement for this action to be further considered. So, in a roundabout way of answering your question, the only other way that we would have been able to consider that would have been if the wetlands of international importance were a controlling provision for this action, and it was not determined to be so.

**Senator BIRMINGHAM**—Those wetlands were not determined to be so because you saw the construction as being the point of application, not the extraction?

**Ms Skippington**—Could you say that again.

**Senator BIRMINGHAM**—The construction was the application. The application was related to the construction of the pipeline, not to the extraction of water. Had it been related to the extraction of water then there would have been a chance that the impact on Ramsar listed wetlands within the Murray-Darling Basin could have been triggered. Would that be a fair assessment?

**Ms Skippington**—Certainly at the referral stage it is related to the extraction of water, but within a regulated part of the river. It is Lake Eildon to the Goulburn Weir or parts of it that are regulated sections. The extraction of water from there, in a regulated system, was not determined at the time of the referral to have impacts downstream, given the level of significance that would be required. When we move to the time when there is an assessment in place and to making a decision on whether the project should be recommended to be approved or not, we would consider whether there is indirect or consequential impacts of an action. That is standard for any action that goes on. If you build—

**Senator SIEWERT**—When you talk about approval, you actually mean the extraction.

**Ms Skippington**—No. I am talking about the two parts of the EPBC process that we go through—one being the referral when we decide whether it is a controlled action or not. Once it is a controlled action, it needs an assessment to see whether the decision-maker is going to approve the project with conditions or not. So it is that approval process that I am referring to.

**Senator SIEWERT**—Okay.

**Ms Skippington**—When a project is being considered in that context, there may be indirect consequences of that project. A pipeline is going to take water, and so part of the assessment process is: what impacts will that extraction of water be? The information before us was not in relation to the extraction of that water, and that is why the conditions for the water to go down the pipeline needs to demonstrate that it is savings and that it be pre-audited and done. We have the audit condition in there. It also says that the water that needs to be saved needs to be from EPBC compliant projects. So, in that sense, we were saying that we could look at any implications on the wetlands when the request came to extract water from that system.

**Senator BIRMINGHAM**—Just so that we are totally clear: the assessment as to whether it was a controlled action—

**Ms Skippington**—The referral was for that.

**Senator BIRMINGHAM**—The referral and the decision that it was a controlled action related to the specifics of constructing a pipeline.

**Ms Skippington**—Construction and operation, yes.

**Senator BIRMINGHAM**—Then in the assessment stage of considering whether to approve it you took into account the operational factors of that. Further, you would expect that in the auditing stage, which will come down the track, the impacts on wetlands or otherwise could be a factor in those auditing stages.

**Ms Skippington**—I would not agree with how you are interpreting my words there in relation to operation or construction. I am not sure about the referral definition of it, but the pipeline part is construction and operation of the pipeline. The fact that a pipeline is operating involving extraction of the water would lead to conditions for the approval stage of it. There was something else you said there about the referral. The other point about the referral stage of it is that the controlled action decision was based on—and I have just forgotten the technical terms—

the NES matter, which is threatened species and communities. So it was not migratory species and it was not wetlands.

**Senator SIEWERT**—Can you clarify something. When you said one condition was that water came from an EPBC Act compliant project, did you mean the food bowl project and that that was EPBC Act compliant?

**Ms Skippington**—I am referring to the food bowl project, but it has not been referred to the EPBC Act.

**Senator SIEWERT**—I just want to be clear about whether my interpretation of what you just said is correct. What you are saying is that they need to prove that, wherever the saved water is coming from, that has to be compliant with the EPBC Act?

**Ms Skippington**—Yes, but they do not have to prove it. Under the legislation, a proponent must be satisfied that their project is not going to have impacts on matters of NES. There are two ways of doing that. One is to make their own assessment that it is not going to be and does not need to be referred. The other is to refer the project.

**Senator SIEWERT**—But my understanding is that there are penalties if a proponent does not refer something. If they decide it is compliant, there are penalties that apply if in fact it proves not to be compliant.

**Ms Skippington**—That is right.

**Senator SIEWERT**—I just wanted to clarify that. Thank you.

**Senator BIRMINGHAM**—Condition 11(a) sets the condition that extraction not be more than 75 gigalitres in any one year. On what basis was that figure come to?

**Ms Skippington**—That figure is based on the Victorian government's proposal that the water savings that would be used to source the water for this pipeline would come from stage 1 of food bowl, which is now named the Northern Victoria Irrigation Renewal Project. Their position is that, out of the 225 gigalitres that would be saved in stage 1, one-third, one-third and one-third would be allocated to Melbourne Water, to irrigators and to the environment. On that basis, a third would go to Melbourne if they achieved the 225 gigalitres in savings. That is where the 75 gigalitres figure—saying it would be no more than 75—came from.

**Senator BIRMINGHAM**—Why is that figure essential to the protection of the trout cod, the Murray cod and the Macquarie perch?

**Ms Skippington**—The context of 11—when we are looking at (a), (b), (c), (d), (e) and most of the other subelements of 11 together—is looking at what the water quality will be like at the extraction source and whether the levels of water will decline or increase too rapidly and making sure the water environment is kept stable and safe for those species.

**Senator BIRMINGHAM**—Right, and in that context I understand the Victorian government's plans for, or promises of, a third, a third, a third sharing on the water savings.

However, these are the EPBC conditions. Why was it that 75 gigalitres in any one year, 360 millilitres per day as a maximum, be sourced from savings? In that context, why was that the magical set of criteria to protect those species?

**Ms Skippington**—To make sure that the water levels were staying relatively stable or manageable in that area. This project was also assessed under an accredited process with Victoria, so some of the conditions have come out of the assessment report from Victoria. In making his decision, the minister needs to be aware of those conditions. Some of these have also come out of that process. That is what the intent of these is about—what that water body looks like.

**Senator BIRMINGHAM**—What evidence was provided to justify that set of criteria and those figures as necessary for the protection of the water body and therefore of those species?

**Ms Skippington**—I will just explain something for a minute. These conditions limit how much water is going to go through there. Also, there are conditions that say that it needs to be savings, and it needs to be savings that are not coming from somewhere else, so it is putting some constraints on our expectations of where this water will be coming from as well. That is clearly not answering you—sorry.

**Senator BIRMINGHAM**—No, it is not. The question was: on what evidence did you base A through E as the key criteria to maintain water quality and the protection of those species?

**Ms Skippington**—I do not think I can answer that specifically off the top of my head. There would have been a range of information sources available to officers as they prepared the information for the minister, including the information provided through the assessment process that Victoria had done, and their panel findings, and the EIS PR that was done by the proponent.

**Senator BIRMINGHAM**—Perhaps you could take on notice that particular question and come back to us detailing the sources of evidence and the background that demonstrate that 75 gigalitres is the maximum that could reasonably be taken without impacting on water quality.

**Ms Skippington**—I was not suggesting that would be the maximum, Senator. I was just suggesting that there is a series of conditions to 11 which suggests there are constraints around what is to be used. I might have jumped in there a bit early for you. We have said it is a cap, and in that sense it is a maximum, but there has been no analysis that says 75 gigalitres is a magic number that has an ecological significance. That figure is determined on the basis of what a third of the savings would be, so it is capping at that level.

**Senator BIRMINGHAM**—I assume there is some evidence that says that it is a magical number in terms of ecological sustainability in that it is ecologically sustainable—that it may not be the maximum but there is evidence that says it is sustainable.

**Ms Skippington**—That is part of a condition that contributes to the conditions of a project that mean that the impacts of this project are acceptable.

**Senator BIRMINGHAM**—And part of those conditions and that understanding is in fact that a third of these water savings are going into environmental flows. Is that correct?

**Ms Skippington**—A third of the savings are planned to go into environmental flows, yes.

**Senator BIRMINGHAM**—Right, and did that understanding form part of the minister's consideration of the proposal?

**Ms Skippington**—To an extent, but it was not part of the approval process. To the extent that it is known, but the consideration of environmental flows or environmental impacts of the water extraction on the river system itself is part of what the assessment process would be on the savings through the food bowl project.

**Senator BIRMINGHAM**—Sorry, could you just repeat the last bit.

**Ms Skippington**—There are considerations of what impact the extraction of this water—the savings; the 225 gigalitres from the system—might have on the river system, which would be considered as part of the assessment of the savings project, being the food bowl. These two projects have been separated in that sense. The Sugarloaf Pipeline is a pipeline infrastructure project. It has been assessed on those implications but with awareness of the fact that the context of the savings comes from a different project, and that is why it has been conditional, saying that this project needs to ensure that it is EPBC compliant. For that to be EPBC compliant, the extraction of 75 gigalitres as demonstrated savings of 225 gigalitres from the food bowl needs to show that those savings from not putting that water down the system are not going to have significant environmental impacts on the wetlands, migratory species or any other matter.

**Senator BIRMINGHAM**—So the objectives of achieving 225 gigalitres in savings and returning one-third of that, 75 gigalitres, to environmental flows were not taken into account in this assessment process.

**Ms Skippington**—This assessment process relates to constructing a pipeline, so these conditions relate to the pipeline, acknowledging that Victoria planned for the water for the pipeline to be coming from a separate process.

**Senator BIRMINGHAM**—But they also relate to the operation of the pipeline, because you have put the cap of 75 gigalitres in there.

**Ms Skippington**—I appreciate that. They are separate projects but are related. I do not want to speak for the decision maker but, yes, those of us who are working on it are aware of the context of the commitments and undertakings that Victoria have made about the savings. On the basis that Victoria are planning to put the 75 gigalitres down this pipeline and that 75 gigalitres come as a determination of being one-third of what those savings are, the conditions that we have put on Sugarloaf acknowledge that source of water and put some conditions on there to constrain the use of Sugarloaf within the constraints of the food bowl savings. But it has not been an assessment of the food bowl, which is why there are some conditions here saying that it needs to be EPBC compliant. There are undertakings and understandings about what Victoria are planning to do, but there is only so much we can do in these conditions for this infrastructure for this pipeline.

**Senator BIRMINGHAM**—What level of savings is required for 75 gigalitres to be extracted in accordance with clause 11 of the conditions?

**Ms Skippington**—Condition 11 has nothing to do, in the sense of dictating a level of savings.

**Senator BIRMINGHAM**—Under clause 11, the 75 gigalitres must come from savings.

**Ms Skippington**—Certainly under one of the clauses—

**Senator BIRMINGHAM**—I think it is part (d).

**Ms Skippington**—it says it needs to come from savings, yes.

**Senator BIRMINGHAM**—It must be sourced from savings—

**Ms Skippington**—Yes, that are—

**Senator BIRMINGHAM**—and presumably those savings are not allocated to the Living Murray initiative or the Water for Rivers.

**Ms Skippington**—That is right.

**Senator BIRMINGHAM**—So the water extracted from the pipeline must be sourced from savings?

**Ms Skippington**—That is right.

**Senator BIRMINGHAM**—What level of savings would be required to extract 75 gigalitres?

**Ms Skippington**—I am not quite sure I understand that question.

**Senator SIEWERT**—In other words, at the moment they are saying 225 gigalitres is split into thirds but there is no condition that says it has to be one-third of the savings?

**Ms Skippington**—No. That is why I am trying not to be obtuse about this. That is Victoria's plan to find savings to put down this pipeline, but we have not checked their demonstration, they have not proven it and they have not put anything to us to say that that is 225. There is nothing in here that says it is one-third, as well. These conditions are saying you are proposing do that—these conditions are expecting that and are constraining it—but the food bowl project is where you need to demonstrate those savings and that they do not have environmental impacts that trigger a requirement under EPBC that would not get approved. While Victoria are proposing that 225 is the answer to your question, that 225 gigalitres would bring in one-third of savings—75, 75, 75—they have to demonstrate that 225 and they have to demonstrate that that 225 is actually available to be divided. As you would be aware, there are a number of people who are concerned about the food bowl savings and the impact downstream, and there are some concerns. Senator Wong's letter to Minister Garrett when he consulted on his decision, as he is required to do, also flagged that she would be looking for demonstrations that any water in the systems that might be returned to the environment through the savings program is being considered in the calculations.

**Senator BIRMINGHAM**—I noted that there was a response to invitation for comment from Minister Wong in the documents considered. Is it possible for that to be tabled?

**Ms Skippington**—I can certainly check.

**Senator BIRMINGHAM**—I will go back to try to clarify this point before I move on to something else. In these guidelines, under part 14 you require in August each year a compliance report which may be audited by the department under guideline 16. If Melbourne Water has extracted 75 gigalitres in one year at a rate of not more than 360 megalitres per day and they demonstrate savings of 75 gigalitres not allocated to the Living Murray initiative or Water for Rivers, would that be in compliance with clause 11?

**Ms Skippington**—I believe so because these conditions are not aimed at the level of savings for the food bowl. It is somewhere else where it is EPBC compliant.

**Senator BIRMINGHAM**—Yes, this is assuming the savings were also EPBC Act compliant or from projects that were compliant, which is part of 11 in any event. Can you explain 11(c) to me please?

**Ms Skippington**—Probably. Condition 11(c) means that—and I do not want to get too much into the water act here—the savings are already achieved before Melbourne can use them. So, instead of water going from Lake Eildon downstream because an irrigator has ordered it, it is being ordered because it is a demonstrated saving and Melbourne can say, ‘We will take our 25 gigalitres next month.’ They have to preorder that to be released from Lake Eildon and then it will go down the pipeline.

**ACTING CHAIR (Senator Birmingham)**—That is how their entitlement is somehow explained or constructed under the Victorian Water Act?

**Ms Skippington**—That is right.

**ACTING CHAIR**—Are any of the food bowl modernisation projects from stage 1 subject to EPBC Act assessment?

**Ms Skippington**—We have not received a referral at this stage. There are some minor activities that they are doing, which would not trigger us in any case. Stage 1 has not been referred.

**ACTING CHAIR**—If I can go to conditions 14 and 16 and their relationship. Under condition 14 it is fairly clear that you would expect the relevant Victorian government department, Melbourne Water or whomever the actual applicant per se is to provide an annual compliance report. That is the meaning of condition 14, and that would include what we discussed to be the demonstration of at least 75 gigalitres of savings if they have extracted 75 gigalitres of water. What plans does the department have, if any, to audit those annual compliance reports?

**Ms Skippington**—In the first instance we would be looking to agree with whom Victoria employs as their auditor to make sure that we are happy that that is an appropriate audit to have

for this process and that we would be meeting our requirements. As well, any project once it commences is subject to our own audit program within the department. So if the auditors we have choose to inspect or check compliance with projects then they might do something as well.

**ACTING CHAIR**—Have you sought any benchmark information under which you might be able to subsequently audit savings?

**Ms Skippington**—We have not sought them to my knowledge at this stage. Whether that is available or not in the information we have got, I am not quite sure.

**ACTING CHAIR**—Have you undertaken any benchmarking studies or work of your own as a department or commissioned anything else?

**Ms Skippington**—We have not undertaken any of our own but I would not commit to how much we have already had that we have accepted from Victoria as well that has come through on the process.

**ACTING CHAIR**—So if Victoria submits a compliance report and the Commonwealth has concerns at a later date about the validity of that compliance report and decides to undertake an audit, how do we audit the savings that have been achieved if we do not ourselves have some clear benchmark data to work with?

**Ms Skippington**—I would expect that information would come clear in the audit that we would get in August this year. If they are doing an audit in August 2009 that would need to be benchmarked data. Since they are not extracting savings for a couple of years yet that should give us some time-relevant data.

**ACTING CHAIR**—So is the audit being undertaken for the Victorian government—

**Ms Skippington**—To meet condition 14.

**ACTING CHAIR**—to meet condition 14 required in August of this year?

**Ms Skippington**—That is right, because it says ‘August each year’.

**ACTING CHAIR**—So even though no water has been extracted—because, of course, the pipeline currently does not get to an end point—

**Ms Skippington**—That is right.

**ACTING CHAIR**—you nonetheless expect their compliance report to contain not just an assessment of the construction compliance—of course, they will be partly through the construction phase but they will not be at the extraction phase—but also a level of benchmark data related to the savings that they intend to make to support their case for subsequent extraction.

**Ms Skippington**—I think that is something that we would need to talk about. Condition 14 says that an audit is required every year and from August. There are components of that

condition that are necessary now because they relate to non-water extraction areas. We have written to the proponent saying we would like to find out who their auditor is so that we can go into discussions about that. I think that is an appropriate starting point with the auditor for expectations of how they are going to do their audit over the next few years. Clearly, they cannot audit the savings because there are not any, but we could be talking about what the benchmark studies are. I would be surprised if the Victorian government does not have that data.

**ACTING CHAIR**—When did the department write to Victoria?

**Ms Skippington**—Earlier this year. I do not have the date. It is time for us to chase that up.

**ACTING CHAIR**—Right. There has not been a response forthcoming?

**Ms Skippington**—We have not had a response, no. We will be chasing that up.

**Senator SIEWERT**—We met with the project team yesterday and they told us about the process they are undertaking for the audit.

**Ms Skippington**—Is this the food bowl project or Sugarloaf?

**Senator SIEWERT**—It would be the food bowl team for the Northern Victoria Irrigation Renewal Project. They said they are setting up a process for the audit and then they will be engaging independent auditors. I presume from your comment then that they have not discussed with you their process for audit yet?

**Ms Skippington**—No.

**Senator SIEWERT**—I cannot pursue that line of questioning if they have not undergone that process yet. My understanding from your previous answers is that the audit to the Commonwealth does not have to demonstrate 225 gigalitres of savings because the condition purely says 75 gigalitres maximum. So really from the Commonwealth's perspective they have to prove only 75 gigalitres worth of savings. They do not even have to prove that they are saving another 75 gigalitres to go back into the river. They do not have to prove at all a third, a third, a third; they just have to prove that there is 75 gigalitres worth of savings that can go down the pipeline.

**Ms Skippington**—To meet requirements of the Sugarloaf pipeline project, yes. A third, a third, a third is a policy commitment from Victoria, so there is no comment on that. For the food bowl project to be EPBC compliant it might be reasonable to assume that it would need to have some environmental flows at a minimum.

**ACTING CHAIR**—The food bowl project is a lot of little projects—it is putting in a new regulator here and lining a channel over there. Would you expect those projects, which are largely about either retiring irrigation infrastructure or upgrading irrigation infrastructure, to actually be controlled actions? I do not want to pre-empt that—

**Ms Skippington**—No. That is fine.

**ACTING CHAIR**—But, on the descriptions of what they are, I would be almost surprised if they were.

**Ms Skippington**—We would not be expecting each project to be nominated as, ‘Trench here,’ or, ‘Pipeline here.’ It is a program of savings and it is planned that a couple of hundred gigalitres will be used, so the whole project should to be identified.

**ACTING CHAIR**—Yes, but you have not had any application under that project yet.

**Ms Skippington**—No. But to meet the requirements of these conditions they need to be EPBC compliant. As I said before, they might choose to do that by going down the path of saying, ‘We are.’

**ACTING CHAIR**—If none of them are controlled actions, then consideration of environmental flows as a result of them is inconsequential.

**Ms Skippington**—While it is a series of little projects, there is a component of the act that asks, ‘Is this action part of a bigger action?’ And they are parts of the bigger action cumulatively, suggesting that there is a volume of water to be saved from the system. We would be saying there is a bigger project there.

**ACTING CHAIR**—They have the choice still. Even as the cumulative, big project, it is still their choice as to whether they lob an application on your desk and say, ‘You guys tell us whether or not this is a controlled action,’ or whether they charge on ahead and say: ‘As far as we were concerned, it was never a controlled action. We gave it a moment’s thought, and thought, “No, it’s not,” and on we went.’

**Ms Skippington**—But, as Senator Siewert said before, there are compliance implications of that if the minister believes there are EPBC implications of that action.

**ACTING CHAIR**—Have you encouraged NVIRP—which I would think would be the relevant body, given they are handling the \$1 billion and how and where it is spent—to lodge an application?

**Ms Skippington**—I am not sure if we have encouraged, but we had expectations in our discussions with Victoria through the Sugarloaf pipeline that they intended to do so.

**Senator SIEWERT**—When do they have to do that? The project has started.

**Ms Skippington**—It depends on what components of it have started. They are certainly aware of us doing some—and I cannot recall the technical term—minor works. In the old terminology of the food bowl project, it was part A and part B of stage A, which is now different in the NVIRP. Stage A of the first part of the food bowl was just minor works that we were not concerned about.

**Senator SIEWERT**—So part B of stage 1—

**Ms Skippington**—I think that is the right terminology. That is the 225 projected savings.

**Senator SIEWERT**—So you are waiting for part B to start.

**Ms Skippington**—Yes.

**Senator SIEWERT**—Do you know the time line for when part B will start?

**Ms Skippington**—We did have expectations of a referral earlier this year.

**Senator SIEWERT**—Victoria have not given you an indication of when they will be referring part B?

**Ms Skippington**—No.

**Senator SIEWERT**—What is the definition of part B for when major works start? How do you know from the project when they cross into part B?

**Ms Skippington**—I am not quite sure, so I am not able to answer that question.

**Senator SIEWERT**—Could you take it on notice, perhaps? Could you clarify with the committee when what you would see as part B of the project will commence?

**Ms Skippington**—Certainly. But I would expect there has been a lot of promotion of the whole program that has dictated that this is stage 1 of the NVIRP and that this is stage 2, so in the promotion of the program there would be identification of which projects are which.

**Senator SIEWERT**—I understand the difference between projects 1 and 2—well, I do sort of. I must admit that yesterday what was considered stage 2 was not crystal clear. That is the \$1 billion the Commonwealth is investing in stage 2. What we are talking about is part 2 or part B of stage 1.

**Ms Skippington**—The 225?

**Senator SIEWERT**—Yes, the 225. I am not clear—and I do not think, quite frankly, any of us are clear—about when you go from minor works to major works. It was not clear to me from the briefing that we got from the project team yesterday when they crossed over that line into part B. The other thing, from my understanding of what the team said, is that this is voluntary for the farmer participants. They may well come to you and say, ‘We can make these savings,’ but the point is that they can only make those savings if the farmers participate. How do you incorporate that into your assessment? They can potentially make 225 gegalitres of savings (a) if they can prove that and (b) only, for example, if everyone participates.

**Ms Skippington**—Sorry—what was the last point?

**Senator SIEWERT**—It is only, for example, if everybody participates. How do you work that? Have you looked at that in the scenarios when you have assessed it?

**Ms Skippington**—No. This will be a complicated assessment. But I would expect we would keep it about the big picture, at the savings levels, assuming they are going to save what they

think they are going to save through the program they are implementing and look at it in the global sense of what 225—or whatever they think it is going to be at that stage—means on the system. I know you know the difference between these projects, but I think that we should be able to identify when there is a difference between the preworks and the major projects, from the list of projects they are talking about—notwithstanding your identification of how complicated it will be when it is being done by individual property owners. But it is within a program of the Victorian government.

**Senator SIEWERT**—Thank you. If you do get a referral, I presume from your answers earlier that you will not necessarily be bound by the same NES issues that the department assessed for the pipeline because you are actually assessing two different projects. The pipeline is assessing the route and its operations.

**Ms Skippington**—Yes.

**Senator SIEWERT**—If I interpret correctly what you are saying, you will be able to then look at the impact of the food bowl project on the river system as it relates to NES. As it relates to triggers, you will be able to look at it in terms of Ramsar wetlands, migratory species, threatened—

**Ms Skippington**—If it is determined to be a controlled action.

**Senator SIEWERT**—Yes.

**Ms Skippington**—There is no limit.

**Senator SIEWERT**—Yes.

**Ms Skippington**—There is no connection between the constraints.

**Senator SIEWERT**—Okay. I just wanted to confirm that. Senator Birmingham asked the question I wanted to ask about the letter from Senator Wong. Yesterday Dr Calder raised an issue. His point was this. Where the pipeline is taking water out of the river is further upstream from where the savings will go back into the river. He said the water for the pipeline will come out of the river further upstream and the efficiency savings will be returned to the river down here. He said there is additional water coming from the river further upstream. There is a patch in between that he said will in fact be further degraded because there will be more water coming out at point A than originally came out. Do you see what he is saying?

**Ms Skippington**—No.

**Senator SIEWERT**—He is saying that originally you were taking water out of the food bowl. You were taking a certain amount of water out, where the irrigation water comes out, but what you would be doing is moving further upstream your extraction of water. Essentially what he is saying is that you are moving extraction of water upstream from where it used to come out under the food bowl project.

**Senator BIRMINGHAM**—So the extraction point of the pipeline is upstream of where the extraction point of irrigators currently is.

**Ms Skippington**—I do not see where the difference—

**Senator SIEWERT**—If I understand his argument correctly, there is a section of river that was not previously subject to extraction that will be subject to it.

**Ms Skippington**—Without being a defender of the savings project, I do not see how things could be extracted if the savings have been identified and need to be pre-ordered to go down to Melbourne. There are 225 gigalitres not going past the Goulburn Weir because irrigators will not be calling on it—those are the savings that have been found. Melbourne has to pre-order the 75 gigalitres, so that will never get past the Goulburn Weir. If we follow Victoria's policy statement, then 75 gigalitres will go down for the environment and 75 gigalitres will go down for the irrigators. So 150 gigalitres will go down the Goulburn Weir, and 75 gigalitres are not in those savings. I do not see where there is a patch that is not happening. From the Goulburn Weir down there would be 75 gigalitres less going down the system, and that has been identified as savings. So some of that would have been going into evaporation, and some of it would have been going into the ground.

**Senator SIEWERT**—I want to come to that as well. As far as we could ascertain from the evidence yesterday, there is not a good understanding of how water is leaking into the groundwater system. In the audit that will be undertaken, will you be requiring the project to demonstrate how that leakage is interacting hydrologically with the groundwater?

**Ms Skippington**—Not in the audit. That would be my expectation of an assessment of the food bowl savings.

**Senator SIEWERT**—So you are not saying that it is part of the audit requirement? What I am looking at is overall savings from the water that is contributed to the environment.

**Ms Skippington**—In determining that the 225 gigalitres is EPBC compliant, either the Victorian government has to prove or the EPBC process has to prove that those savings from the hydrological system means that there will be no impacts on wetlands or hydrological flows that are significant impacts for those wetlands, migratory birds or whatever to allow those savings to come out. If that is demonstrated, it is an EPBC compliant matter and then, according to Victorian policy, they will determine what level of savings that is and split that a third, a third, a third, and then some of that water will go down the pipeline. If it meets the conditions of 11, which is says 'less than 75' et cetera, then the audit would check that those savings have come from an approved EPBC process and that they have been pre-ordered and at a set rate.

**Senator SIEWERT**—We are not going to know the full answer to the issue around true savings until both the assessment of the food bowl project and the audit are done. We need both, don't we?

**Ms Skippington**—No. I think you just need the assessment of the food bowl project, because the audit of the pipeline conditions is telling you what is going down. Are you talking about the audit?

**Senator SIEWERT**—I am talking about the audit of the savings. There is the audit of the conditions and there is also the audit of the savings.

**Ms Skippington**—The audit of the savings is about showing that the savings that are predicted have been achieved and that they have been stashed away and saved for next year. That is a separate process from saying that the savings are not going to have an impact on hydrological flows. They are two different things.

**Senator SIEWERT**—The other issue that came up yesterday was that of the minister's statements on not using the water allocated for the Living Murray project. The point made yesterday was that at the moment that water is listed by the department as unallocated water. What was raised with the committee and what the committee was concerned about was that, while the minister says that water is not part of the deal, he said 'allocated'. They are worried about the fact that it is actually sitting there at the moment; no water has been put back into the river yet. Water has been saved for the Living Murray and Water for Rivers projects but it is sitting there as unallocated water, and the minister said 'already allocated'. Was that the precise wording?

**Ms Skippington**—'Not allocated'.

**Senator SIEWERT**—The community is saying that, because that is counted as unallocated water, in fact that water is not going to be available. In other words, they are worried about a sleight of hand. I may now be entering policy areas, but what is your understanding of what the minister said and intended?

**Ms Skippington**—It is probably best that I take that on notice. The immediate concern at the time, I think, was for the savings that are going to be used for the pipeline in the first two years of the program, which were coming from other savings. There were some questions about whether they were allocated to one of these two programs and there was some confusion about that. But we checked with our water people and they approved and agreed that the water that has been identified in these savings programs has not been allocated to any other program and that it is available for these savings for that purpose.

**Senator SIEWERT**—Could you clarify that, because I want a clear understanding of whether what the community is saying is a genuine concern or whether there has just been a misunderstanding of the status of the water that is supposed to be returned through existing and completed projects.

**Ms Skippington**—So there is water in the Living Murray that is unallocated, according to these people's concerns—

**Senator SIEWERT**—Yes.

**Ms Skippington**—and they are concerned that the wording 'not allocated' means that something could happen to unallocated Living Murray water?

**Senator SIEWERT**—Yes. I think there was a fairly common understanding yesterday that the water that has already been saved under those projects is listed as unallocated. It would be useful if you could clarify the status of that.

**Senator BIRMINGHAM**—While you are clarifying that—and these are probably questions for other parts of the department—could you take on notice to clarify whether the Victorian government has met its targets under the Living Murray initiative and/or Waters for Rivers. Obviously, if it is Living Murray water that has not yet been allocated then it does not necessarily mean that those savings, just because they have not been registered as Living Murray water, were not saved for the purposes of Living Murray water.

NVIRP did tell us yesterday that they have designed the audit process and that it has gone to peer review but that the independent auditor is yet to be selected. Has there been any consultation with the Commonwealth either about the design of the audit process or the selection of those who have undertaken the peer review or anything of the sort?

**Ms Skippington**—This is the audit for Food Bowl?

**Senator BIRMINGHAM**—It is the audit for the calculation of water savings.

**Ms Skippington**—Not to my knowledge, but that is not necessarily the same auditor that we are looking for.

**Senator SIEWERT**—I think there is some confusion between all of us. The way the department was talking yesterday, we were clearly talking about the savings process for the audit. They said—because I wrote the essence of it down—they had to do it anyway to report to the department. I think that they are actually talking about one and the same thing. I think they think they are meeting your audit by doing this. That was certainly the clear implication yesterday.

**Ms Skippington**—They might think that and that might be the Victorian government's point of view, but if you are talking about the food bowl our audit conditions relate to the Sugarloaf pipeline proponent.

**Senator SIEWERT**—They were saying that this was part of their requirements to meet your conditions.

**Ms Skippington**—So maybe the pipeline people have spoken to the food bowl people and said, 'Give us some evidence.' There is no point the food bowl people giving us information in relation to a condition that applies to the Sugarloaf pipeline.

**Senator SIEWERT**—It may be that they are meeting just part of the conditions.

**Ms Skippington**—Yes.

**Senator BIRMINGHAM**—Condition 14 says 'independent audited reports of water savings achieved and the amount allocated for extraction'. The Sugarloaf pipeline, of course, is not actually achieving any savings—

**Ms Skippington**—No.

**Senator BIRMINGHAM**—So they—

**Ms Skippington**—They should be feeding into that. The audit that is required under condition 14 is quite broad, but yes, they need to be able to demonstrate that they have savings and that those savings have been feeding into the pipeline from the water source sense. I am sure it is just a misunderstanding. The audit the food bowl would be going on I expect would be quite complicated in looking at not just infrastructure but hydrological systems to be able to determine that those savings have come out.

**Senator BIRMINGHAM**—As you said before, it might be about time to follow up with the Victorian government because, if there is confusion and they are close to selecting their independent auditor, I would hate to see Victorian taxpayers' money wasted if that does not meet your criteria and they have to do it all again through a different body.

**Ms Skippington**—I was not implying that. I think they are for separate purposes. This will be good information they are gathering.

**Senator BIRMINGHAM**—To sound like Senator Heffernan for a second—

**Senator SIEWERT**—Heaven forbid!

**Senator BIRMINGHAM**—I will not actually do a Senator Heffernan impersonation though—will the savings you expect be net savings or gross savings?

**Ms Skippington**—When Senator Heffernan asked me that I had no idea what he meant then either.

**Senator BIRMINGHAM**—The argument would be that some water that is lost in the irrigation process—some of it is lost to groundwater, some of it may seep back into the river system and some of it may seep back into the irrigation channels and be used further along the channel or the like—goes back into the system. They will be able to demonstrate that it has been saved in that less has been used by irrigators but will it be net of what may have leaked back into the system under wasted water previously?

**Ms Skippington**—What I would expect, to be able to demonstrate savings, is for Victoria to give an understanding of how that water has worked. Some of it will be just wasted water and some of it, even if it is just through overirrigation or too much water down a channel, is returning to the environment into the underground flows and that will be an input to wetlands. They would need to show that if that water is no longer available that it is not having impacts on the wetlands or downstream systems. To the extent we would expect it to be an assessment of the total water system, as much as that can be done—

**Senator BIRMINGHAM**—So, as far as it can be measured, noting that there will be limitations on that, you would expect it to be—and I do not want to put the words in your mouth—that notion of the net impact, not just: 'We have reduced the irrigators' allocation by this much; therefore—

**Ms Skippington**—That is right.

**Senator BIRMINGHAM**—Thank you.

**CHAIR**—Thank you very much, Ms Skippington, for appearing before us today and for your informative presentation. We appreciate it. Thank you also to Hansard, broadcasting and the secretariat for your assistance.

**Committee adjourned at 5.04 pm**