

Minority Report by Liberal, National, Greens and Independent Senators

Introduction

1.1 All non-Government Senators participating in this inquiry, representing the Liberal and National Parties, the Australian Greens and Senator Nick Xenophon, share a strong consensus that:

- the *Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008* (hereafter 'the bill') should pass;
- water from the extremely stressed Murray-Darling Basin should not be taken or used for new purposes outside the Basin;
- uncertainties surrounding the claimed water savings upon which operation of the Sugarloaf Pipeline is based should be the subject of an independent audit; and
- construction of the Sugarloaf Pipeline should be abandoned.

1.2 Non-Government Senators welcome the recognition in the majority report of the "scarcity of water resources in the Murray-Darling Basin"¹ but are perplexed as to how Government Senators have recommended against the passage of the bill given the severity of the crisis facing the Basin and the weight of evidence received by the committee supporting the aims of the bill.

The Bill

1.3 Non-Government Senators believe this bill draws a critical line in the sand on the use of water from the Murray-Darling Basin. That line recognises past practice and usage, but is drawn at 3 July 2008 – the date all Basin States agreed to the Intergovernmental Agreement (IGA) on Murray-Darling Basin Reform – and seeks to stop water being extracted from the Basin for purposes outside the Basin that did not exist prior to the signing of the IGA. The terms of the bill are outlined in the majority report.

1.4 As identified in the majority report and made explicit in the second reading speech, the bill is very clearly prompted by the decision of the Victorian Government to construct a 70 kilometre pipeline, known as the Sugarloaf Pipeline or North-South

¹ Majority Report, paragraph 2.3.

Pipeline, from the Goulburn River (near Yea) to the Sugarloaf Reservoir (near Yarra Glen) to augment the urban water supply for Melbourne.

1.5 Piping water from the rivers of the Basin to other towns or cities for the purposes of urban water supply is not new. Adelaide has been drawing on the River Murray for water since the Mannum-Adelaide pipeline was completed in 1954. However, given the depth of mismanagement and over-allocation of the Basin's finite resources, coupled with the severity of the current drought and concerning future inflow prognoses, non-Government Senators are at one in believing urban centres – including Adelaide – should be reducing their reliance on the resources of the basin, not increasing it, or, as is the case with Melbourne, establishing a totally new reliance on the Basin.

1.6 Non-Government Senators note that this is not the first occasion this issue has been debated or explored by the Senate, with previous inquiries hearing compelling evidence against moving water away from the Basin for new purposes:

You have the Murray-Darling Basin, which is on its knees, and there is a suggestion that they will move 75 gigs of water annually from the Goulburn district to Melbourne when Melbourne pumps about 400 gigs of water out to sea every year as wastewater. It is ridiculous. The Basin is on its knees. Why would anyone propose moving water from a Basin which is on its knees, away from communities and the environment which are stuffed, and send it to Melbourne, which can look after itself?²

1.7 This inquiry heard that there are alternatives, especially for the provision of urban water, that should be pursued first:

The Murray-Darling Basin is already significantly over-allocated. Rather than extract and divert more water from an already stressed system to augment Melbourne's water supply, measures need to be taken to conserve, recycle and explore further water saving practices.³

1.8 Non-Government Senators note arguments posed by the South Australian Government that, at some stage in the future, there may be a requirement to facilitate the use of water outside the Basin for new purposes⁴. However, we have faith in the legislative process to address those needs at that time, assuming the system has been returned to a sustainable footing by then. In the meantime, we firmly believe the focus should be on achieving sustainability, not creating new centres of reliance. We do not see this as an argument warranting defeat of the bill.

² Dr Arlene Buchan, Australian Conservation Foundation, Rural and Regional Affairs and Transport Committee Hansard (Inquiry into Water Amendment Bill 2008), 13 November 2008, p. 12.

³ Professor Diane Bell, *Submission 19*, p. 1.

⁴ Hon Karlene Maywald MP, Minister for the River Murray, Government of South Australia, *Submission 32*, p. 1.

Recommendation 1

1.9 Non-Government Senators recommend that the bill be passed and that water from the Murray-Darling Basin not be taken for application to new purposes outside of the Basin.

Sugarloaf Pipeline

1.10 As noted in the majority report, the vast bulk of submissions to this inquiry and evidence taken in hearings relates specifically to the construction and operation of the Sugarloaf Pipeline. Non-Government Senators note that they have previously highlighted the range of alternatives available to Melbourne and recommended against construction of the Sugarloaf Pipeline⁵, but will again explore some of the issues raised by this specific proposal, in addition to the general concerns about new burdens on the system addressed by the bill.

Strength of opposition

1.11 Although mindful that the loudest voice is not always the right voice, non-Government Senators believe it is important to highlight the overwhelming weight of evidence presented against the construction of this pipeline, primarily from those living in and around the affected communities in Victoria. Their submissions highlight as eloquently as anything else the passionate concerns held about the implications for this pipeline on both the environment and the economic sustainability of their local communities, as well as their desperate pleas for governments to hear their voices:

I urge the committee to recommend that the bill is passed and receive assent as soon as possible ... I further urge that federal agencies bring immediate pressure on the Victorian Government to cease all work on its North-South Pipeline and any similar projects, both to protect the rivers consistent with the intent of this bill and the current Water Act 2007, as well as prevent further harm to the public purse.⁶

What John Brumby's government is doing with the continued implementation of the north south pipeline and other aspects of their water policy is in every sense immoral, anti democratic and does not make basic common sense.⁷

... the North-South Pipeline by diverting water out of the Murray river catchment, is completely inconsistent with and does not comply with the environmental objectives of the Intergovernmental Agreement on the Murray-Darling Basin reform.⁸

⁵ Senate Standing Committee on Rural and Regional Affairs and Transport, *Water Management in the Coorong and Lower Lakes*, October 2008 and *Water Amendment Bill 2008*, November 2008.

⁶ Dr David T. Bath, *submission 2*, p. 3.

⁷ Ms Lyn Barnes, *submission 3*, p. 1.

⁸ Acheron Valley Watch Inc., *submission 5*, pp 5-6.

Piping 75 GL of water each year for a city (that) previously has not relied on it as a source of water is an act of vandalism on the production of food from northern Victoria and the Sunraysia area.⁹

It beggars belief that we cannot seem to make politicians understand that removing 75 GL per year from the Goulburn River is an absolute disaster in the making.¹⁰

The whole deal is unacceptable and as a concerned Australian I implore you to intervene and stop the regional vandalism of the Murray/Goulburn catchment.¹¹

To construct a pipeline to run many hundreds of kilometres so that water may be transported to urban areas is irresponsible and short sighted in the extreme.¹²

The (pipeline) is a flawed project and must be stopped, it is not too late, the future of our rivers can not be piped to Melbourne when there are alternatives.¹³

I cannot understand why in this age that the decision to build this pipeline was made. There are many alternatives of harvesting water with out taking valuable water from a water reserve used for primary production.¹⁴

This is "real" water which is urgently needed in the inland rivers. Melbourne has other options, the inland rivers do not.¹⁵

The Brumby government's proposal to remove 75GL (minimum) via a 1750mm (over 6 foot), 70 kilometer pipeline cutting a 30 meter swathe of devastation through private property and State Forest and wetlands from the worst river (according to the CSIRO report) into another Basin, when the proposal was done without robust long term commitment to recycling and harvesting storm water is shameful and borders on environmental terrorism.¹⁶

There is virtually no community, or independent scientific opinion which favours piping water to Melbourne from the Goulburn River at Yea via the North-South (Sugarloaf) pipeline.¹⁷

With the projected level of savings unachievable and water diverted from the basin clearly a drain on potential environmental flows, the Sugar-Loaf interconnector (North-South Pipeline) should not be built - the loss to the environment and food security is too great.¹⁸

⁹ Ms Mary J. Chandler, *submission 6*, p. 4.

¹⁰ Mrs Jan Beer, *submission 7*, p. 1.

¹¹ Dr Malcolm Calder, *submission 8*, p. 1.

¹² Mr Martin Southwood, *submission 9*, p. 1.

¹³ Mr Tom Reynolds, *submission 10*, p. 1.

¹⁴ Mr Thomas Goode, *submission 11*, p. 1.

¹⁵ Mr John V. Whyte, *submission 12*, p. 1.

¹⁶ Ms Maria I.E. Riedl, *submission 13*, p. 2.

¹⁷ Mr Edwin V C Adamson, *submission 14*, p. 5.

¹⁸ Mr Peter Murray, *submission 15*, p. 5.

We do not agree with building any infrastructure, for whatever reasons that could at some time in the future be used to remove water (from) the Goulburn and Murray Rivers.¹⁹

Clearly there could not be a worse time to be investing in infrastructure with an expected operational lifetime of 100 years that is designed to extract 75 billion litres of water out of this already distressed system every year for human use outside the catchment.²⁰

We believe that taking more water from the Goulburn River could have continued significant impact on the Ecological Character of the declared Coorong, Lake Alexandrina and Lake Albert Wetlands.²¹

Any benefits of water savings measures need to stay within the basin and this needs to be guaranteed for all time.²²

This pipeline must be stopped immediately... the construction of the Sugarloaf interconnector pipeline must be halted before further irreparable damage is done to the environment and before the economic and social values of these river systems and their national values are lost forever.²³

Why would we be comfortable and happy with water being taken away from the environment and taken down to a population of over four million people in Melbourne when Melbourne has other alternatives? They have other alternatives.²⁴

1.12 Their concerns are understandable and further justified by the findings in April 2008 of the Victorian Auditor-General about the Victorian Government's water infrastructure plans, which included criticisms of:

- the basis for water savings estimates;
- the rigour of the cost estimates; and
- the consultation process with local communities²⁵.

1.13 The failure of the Victorian Government to make a submission to this inquiry and their refusal to have any officers appear at hearings of it has done nothing to allay the genuine concerns of the many parties with an interest in the construction of this pipeline nor allowed the committee to adequately assess many of the allegations and criticisms made.

¹⁹ Warby Range Landcare & Rabbit Control Group, *submission 17*, p. 2.

²⁰ Healesville Environment Watch Inc., *submission 20*, p. 3.

²¹ Meningie Narrung Lakes Irrigators Association, *submission 25*, p. 2.

²² Name Withheld, Mildura, *submission 34*, p. 1.

²³ Dr Malcolm Calder, *Proof Committee Hansard*, 14 April 2009, p. 42.

²⁴ Mr Ken Pattison, Plug the Pipe, *Proof Committee Hansard*, 14 April 2009, p. 19.

²⁵ Victorian Auditor-General, *Planning for Water Infrastructure in Victoria*, April 2008

Accuracy of water savings estimates

1.14 Central to the justification for the construction of the Sugarloaf Pipeline, as outlined in the majority report, are the claims of the Victorian Government that 225 gigalitres of water will on average be saved annually as a result of the upgrades to water infrastructure flowing from stage one of the Northern Victorian Irrigation Renewal Project (NVIRP). The Victorian Government claims that Melbourne's entitlement, to be transported via the Sugarloaf Pipeline, will be capped at one third of the savings or 75 gigalitres per annum.

1.15 However, claims have been made that these savings estimates are inflated; that they have been extrapolated from data in previous trials of the total channel control systems (a major part of the planned NVIRP infrastructure upgrade) that was adjusted upwards:

they agreed by consensus that 4,000 megalitres of water should be added to the inflow of this channel ... They inflated the figures and they then had to readjust all the other figures through the system. But that gave them sufficient water to get the balance in that system. That became real. Those reports went in. That then became Shepparton total channel control. Shepparton total channel control says this is merely a bigger version of what is happening in the Goulburn system. They adopted those figures as being real and they accepted that these savings could be made. Then followed the food bowl modernisation.²⁶

1.16 Further questions exist about how much of the claimed savings are composed of water that currently leaks into groundwater or even leaks back into the river system and is thereby already returned to the environment:

... taking into account the groundwater and surface water interconnection is really important ... we had the situation where these two systems were looked at independently. Hence, figures were added up and allocation was then based on an overstated total amount of water.²⁷

1.17 Once again, the failure of the Victorian Government to cooperate with this inquiry has made it impossible to get to the bottom of these issues. However, non-Government Senators believe enough doubt has been created about the veracity of the savings claims made by the Victorian Government to justify a full and independent audit by an expert agency such as the Commonwealth Scientific and Industrial Research Organisation (CSIRO) into the potential water savings generated by both Stage 1 and Stage 2 of NVIRP.

Recommendation 2

1.18 That an independent audit by an expert agency such as the CSIRO be undertaken into the water savings claimed by the Victorian Government to justify the construction and operation of the Sugarloaf Pipeline.

²⁶ Mr Ken Pattison, Plug the Pipe, *Proof Committee Hansard*, 14 April 2009, p. 19.

²⁷ Dr Rita Seethaler, Chairperson, Acheron Valley Watch Inc., *Proof Committee Hansard*, 14 April 2009, p. 39.

Sharing of savings from infrastructure upgrades

1.19 Inefficiencies in irrigation, water storage and water transportation infrastructure throughout the Basin have been identified as the sources of major losses by numerous state and federal governments, as well as relevant authorities and numerous commentators. Released on 25 January 2007, the National Plan for Water Security sought to address these losses through the provision of \$6 billion towards infrastructure upgrades.

1.20 Balancing the need to encourage participation by individual irrigators, along with the desire to both support the survival of local irrigation communities and increase environmental flows, the plan sought:

... the sharing of water savings on a 50:50 basis between irrigators and the Commonwealth Government leading to greater water security and increased environmental flows.²⁸

1.21 Notwithstanding the fact that the first stage of its infrastructure upgrades was entirely state government funded, non-Government Senators believe the Victorian Government was guilty of continuing the culture of misallocating water resources – a culture that has caused so many of the problems in the Basin – when on 17 June 2007, five months after the release of the national plan, it determined that savings will be 'shared equally with irrigators, the environment and Melbourne'.²⁹

1.22 Despite the doubts that hang over the savings estimations of the Victorian Government, non-Government Senators hope for the sake of the Basin that they ultimately prove to be correct or, even better, an underestimation. However, even if they are correct, we believe the 75 gegalitres (or 75 billion litres) annually would be better shared with the environment and local irrigation communities than piped to a distant urban centre.

Effectiveness of EPBC Act approval conditions

1.23 The majority report places much weight on the assurances of the Victorian Government and conditions imposed by the Commonwealth Government through its approval of the construction of the Sugarloaf Pipeline under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to guarantee that water sent to Melbourne will come from savings and will be no more than one third of those savings, claiming that:

²⁸ National Plan for Water Security, The Hon John Howard MP, Prime Minister, 25 January 2007.

²⁹ Victorian Government, *Our Water Our Future: The next stage of the government's water plan*, http://www.ourwater.vic.gov.au/_data/assets/pdf_file/0015/366/The-Next-Stage-of-the-Governments-Water-Plan-2007.pdf, p. 4, (accessed 3 March 2009).

The Victorian and Commonwealth governments have both taken steps to guarantee that any water extracted by the pipeline will come from savings generated by the NVIRP, and that only one third of savings will be allowed to go to Melbourne.³⁰

1.24 This statement by the majority is wrong. Evidence provided to the committee by the Department of the Environment, Water Heritage and the Arts (DEWHA) makes it clear that not only is there no requirement in their conditions for no more than one third of savings to be extracted for Melbourne, but that effectively no verification of any of Victoria's claims has been undertaken by the Commonwealth:

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.³¹

1.25 Non-Government Senators are very concerned that despite claims to the contrary, there is nothing in the Commonwealth conditions attached to this project to prevent 100 per cent of the savings going to Melbourne if no more than 75 gegalitres is ultimately saved in any one year.

1.26 Other conditions imposed on the project under the EPBC Act provide the Commonwealth with extensive powers to investigate the veracity of savings claims made by the Victorian Government. They provide for the first annual report on compliance with the conditions, including that savings be taken from EPBC Act-compliant water savings, to be provided by August this year, which must include independent audits of savings and extractions and may be further audited by DEWHA³².

1.27 Non-Government Senators were concerned to learn that no agreement between Victoria and the Commonwealth has yet been reached on who will undertake the independent audit and that no initial benchmarking of data has been planned or undertaken³³. These revelations strengthen the call in this report for an independent audit of all aspects of this project that utilises the full powers of the Commonwealth under the EPBC Act.

Use of environmental water in 2010/11

1.28 Additional concerns highlighted to the inquiry centred on the extraction of water via the Sugarloaf Pipeline for Melbourne prior to the achievement of any

³⁰ Majority Report, paragraph 1.36.

³¹ Ms Catherine Skippington, Assistant Secretary, DEWHA, *Proof Committee Hansard*, 15 April 2009, p. 7.

³² DEWHA, *Approval Decision: Sugarloaf Pipeline Project, Goulburn River to Sugarloaf Reservoir, Victoria (EPBC/3960)*, conditions attached to the approval, 12 September 2008, <http://www.environment.gov.au/epbc/notices/assessments/2008/3960/decision.pdf>, viewed 7 May 2009.

³³ Ms Catherine Skippington, Assistant Secretary, DEWHA, *Proof Committee Hansard*, 15 April 2009, pp 8-9.

savings under the NVIRP. Various submitters contended that the Victorian Government plans to use water that should be allocated to meet other environmental commitments during 2010/11 to meet its demands for Melbourne:

The implications of this action will be, if the plans go ahead as proposed, in 2010, 75 gegalitres of water will go to Melbourne, regardless of the savings that are actually achieved. In fact the government intends to deliver that 75 gegalitres by borrowing from commitments that have been made to the Living Murray program, from savings resulting from earlier projects under Central Goulburn projects 1, 2, 3 and 4 and, as I understand it, from the Lake Mokoan decommissioning ... The other borrowing the government is doing is from environmental reserves.³⁴

1.29 Non-Government Senators note that the bill would require water secured under environmental programs such as the Living Murray Initiative to be allocated to those programs as soon as it becomes available rather than being 'borrowed' for other purposes by State Governments:

The Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008 in essence will protect 94.6 GL of environmental water (Living Murray Initiative and Water for Rivers Programs) from non-environmental use. Currently the Victorian Governments intends to use this water as 'start-up' water for the North South Pipeline.³⁵

Conclusion

1.30 Very little evidence was presented to this inquiry to support the construction of the Sugarloaf Pipeline or to establish why this bill should not pass. Non-Government Senators feel the evidence that was presented weighed heavily against the construction of the pipeline and in favour of passage of the bill to stop new extractions for new purposes outside of the already overstretched Murray-Darling Basin.

1.31 Numerous clear alternatives exist to provide water security for Melbourne and these should be pursued by both the Victorian and Commonwealth Governments. The water savings projects proposed under NVIRP should not be abandoned, but clarity as to their savings potential should be sought and any such savings should be shared exclusively between local irrigation communities, to maximise food supply and economic opportunities, and environmental flows, to maximise river health.

³⁴ Dr Bill Sykes MP, *Victorian Parliament Hansard*, 28 October 2008, cited by Mr Peter Murray, *submission 15*, p. 2.

³⁵ Plug the Pipe, *submission 30*, p. 3.

Recommendation 3

1.32 Construction of the Sugarloaf Pipeline should cease forthwith and be abandoned in favour of alternative water security strategies for Melbourne and the return of all water savings under NVIRP to irrigators or the environment.

**Senator Simon Birmingham
Senator for South Australia**

**Senator the Hon Ron Boswell
Senator for Queensland**

**Senator Mary Jo Fisher
Senator for South Australia**

**Senator Scott Ludlam
Senator for Western Australia**

**Senator Fiona Nash
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**Senator Rachel Siewert
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**Senator the Hon Judith Troeth
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