

GREENLAW

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Photos courtesy of the fabulous Bill Doyle

Environmental Defenders Office (SA) Inc.

SPECIAL WATER EDITION APRIL 2008 GREENLAW # 26

HAVE YOUR SAY ON WATER ISSUES:

State Parliamentary Committee on SA Water

This Committee is looking at possible law and policy reform in relation to SA Water. Written submissions are due by the 18 April 2008. The Committee's Terms of Reference can be found at:

<http://www.parliament.sa.gov.au/Committees/Select/LC/51/SAWater/SAWater.htm>

Wellington Weir proposal

A decision on this by the State Government may occur in the next few months but in the meantime the proposal is being assessed under federal environmental laws. An environmental impact statement is imminent. The public comment period will only be two weeks so if you are interested in putting in a submission you should regularly check the following website:

<http://www.environment.gov.au/epbc/notices/index.html>

South Australian Sustainable Water Alliance

This is a network of individuals and organisations (including the EDO) which is working for a water policy with the following aims:

1. prioritises self-sufficiency, reduction in consumption, and optimises the reuse and

- recycling of stormwater and wastewater;
2. recognises the damage done to South Australian environments by current and past policies;
3. promotes a culture of appreciation of the preciousness of South Australia's water resources, and of living sustainably within the limits of that resource.

For further information contact Peter Laffan at impe@internode.on.net

Historic Deal on Water ?

On the 26 March Victoria agreed to sign on to the Murray-Darling Basin water plan, following a Federal Government announcement that the state will receive an extra \$1 billion in funding.

The former Howard government's \$10 billion plan to save the river system had been stalled for more than a year, with Victoria refusing to sign up. The states have now agreed to establish a new national body to govern the system.

However, the new system will only become operational once current state plans have expired. For some states this is a long way off. For example: Victoria's plan does not expire until 2019. Furthermore, a national plan may still be disputed and if so there will be a process of arbitration. These protracted time frames may be too long to properly assist the ailing Murray Darling River system.

The recent EDO seminar on the law and water scarcity “ Saving the Last Drop” was well received. Thank you to all who participated or helped behind the scenes. Most presentations are available on the EDO website. Set out below are summaries of some of the presentations.

A community perspective on desalination & other water supply projects– Pat Harbison (Friends of Gulf St Vincent) & Peter Owen (Wilderness Soc.)

Both speakers argued for reduced reliance on the River Murray and for an immediate emphasis on reuse schemes, demand reduction initiatives and an aquifer recharge proposal was suggested for the Cheltenham racecourse. Proposals such as the Wellington Weir and the expansion of the Mt Bold reservoir maintain our dependency on the River Murray and desalination has the potential to be costly in terms of energy use and impacts on the environment.

The Federal Water Act – What does it mean for SA? Paul Leadbeter (Lawyer Norman Waterhouse)

The Federal Water Act, which delivers the ‘National Plan for Water Security’, became operational on 3 March 2008. The key elements of the Act include the establishment of the Murray-Darling Basin Authority and Basin Plan, a role for the ACCC in water trading and pricing as well as the operation of the Bureau of Meteorology’s functions regarding water information and standards. Importantly, a basin cap will mean the Federal Government will set a new cap on water extractions from rivers and aquifers in the Basin.

The Basin Plan is a strategic plan for integrated and sustainable management of water resources in the Murray-Darling Basin which gives consideration to international agreements, impacts on biodiversity, as well as a need for wise use of water resources. The First Basin Plan will be a legislative instrument prepared in consultation with Basin States and communities within two years. It will include elements such as identification of risks to Basin water resources, details of risk management strategies, management

objectives and outcomes. While at first glance the Plan is optimistic, it cannot regulate land use or planning in relation to land, the management of natural resources (except water) or control of pollution.

Paul concluded that a federal Basin Authority and Basin Plan will benefit South Australia, as national management of the Murray-Darling Basin is essential for the survival of the system.

Legal Issues Associated with Aquifer Storage and Recovery—Suzanne Dickey (Lawyer, Finlaysons)

The benefits of Aquifer Storage and Recovery (ASR) Schemes are that they maximise water availability as evaporation loss is negligible compared with storage within a dam or pond; they decrease the size of the surface footprint from that of above-ground storage; they purify water underground through natural processes; and they reduce the risk of contamination from pollutants on the surface and blue-green algae.

Suzanne outlined four main legal issues associated with aquifer storage and recovery as being: the right of access to the source water, the right of access to the aquifer, the right to extract the stored water and environmental compliance.

The right of access to the source water depends on whether it is treated water taken from a watercourse or stormwater. The right to access an aquifer requires a well permit unless you have either environmental authorisation or a development approval. The right to extract the stored water depends on whether the well is within a prescribed wells area or outside a prescribed wells area. A water licence is required if it is within a prescribed wells area.

Suzanne highlighted that there are currently no legislative or regulatory mechanisms in place to protect stored water from being taken by other parties. She suggested that further developments in this area may improve the legal rights of operators of aquifer and storage recovery schemes, in turn increasing use of ASR in integrated water management in South Australia.



Paul Leadbeter, from Norman Waterhouse, speaks at Saving the Last Drop

Water Reuse : A practical application by a local council– Colin Pitman (Salisbury Council)

Colin discussed the storm water reuse project run by the Salisbury Council. This is a world first aquifer project. Over the last 25 years storm water from local streets has been collected and allowed to sink into the underground aquifer. The water is filtered through local wetlands before making its way into the aquifer. The stored water is later pumped out to irrigate local facilities such as ovals and nurseries.

Testing has shown that the water is suitable for drinking but work is continuing to remove any operational problems and to ensure it is a sustainable alternative water supply option. It is hoped that in the future the State Government will approve the technique so that water from the project can be used in the mains water supply.

Alternative Water Supplies for Adelaide– Is desalination the answer? John Williams (SA Water)

95% of South Australia's population is dependent on the River Murray. This reliance is being strongly tested. Due to the severe drought water inflows into the MDB have been very low and in June 2007 storages were close to empty– an unprecedented situation.

John argued that desalination is part of the answer to Adelaide's water supply crisis. In addition to desalination John spoke about the proposed expansion of storages in the Adelaide Hills, in particular Mt Bold Reservoir and further measures to reduce usage and increase water recycling in the community.

Major Projects Assessment and Water Management in South Australia - David Cole (University of South Australia)

David argued that there is great potential for conflict between economic development and environmental quality of major projects. To resolve these conflicts the concept of ecologically sustainable development, implemented through environmental impact assessment must be considered. EIA provides issue identification, independently-produced data, opportunity for community participation and a measure of transparency and government accountability.

As examples, David examined the proposed Wellington Weir and the Penola Pulp Mill. In relation to the weir he looked at the significant effects on communities and farmers in the lower lakes, as well as the potential for upstream flooding of the weir and hydrological and ecological impacts on the lower lakes and the Coorong

In conclusion, David noted that where major projects are concerned, the State Government tends to operate within a 'development v environment' framework. He highlighted the need for EIA processes to be applied in the case of major project proposals, including those consuming or affecting water resources and that the EIA process under the Development Act as it currently stands lacks government accountability.

The National Guidelines for Water Recycling-Dr David Cunliffe (SA Department of Health)

Due to the extended drought, the use of recycled water must be expanded to manage water supply. However, there must be a balance between quantity, safety and sustainability. The new national guidelines for water recycling outline how the treatment of waste water can be combined with on-site safety controls to provide water that is fit for purpose. A key aim is to ensure that recycled water is safe before use. The guidelines also outline the important risks and a framework for the responsible use and management of recycled water.

The guidelines outline the need for appropriate preventive measures to control the major risks involved with the use of recycled water. Monitoring must also be used to ensure these preventive measures work and that failures are detected before supply.

The risks of recycled water involve the combination of hazard concentrations and human exposure. Two ways to achieve safety are to reduce pathogen concentrations and reduce human exposure by controlling the use of recycled water. The need to reduce pathogens becomes higher depending upon the use of the recycled water (e.g. drinking). Reverse osmosis removes more pathogens than other techniques. Exposure can be reduced by the use of safe practices such as sub-surface irrigation.

In conclusion, Dr Cunliffe emphasised that the use of recycled water has to be sustainable and environmental risks need to be identified and managed. The new guidelines provide the basis for using alternative water sources safely and sustainably.

The Law and Water Reuse Schemes-Ruth Beach (EDO Solicitor)

Whilst South Australia leads the nation in waste water reuse and rainwater use, Ruth argued that further reform is needed as only 30-50% of the South Australian population has a rainwater tank and only 20% of South Australia's waste water is reused.

Sewer Mining

With an appropriate licensing regime (proposed in a private members bill before parliament), there is potential for private enterprise and local councils to tap into the sewer network on a local level and mine and treat the product for use in parks, gardens and in industry. This is appropriate given that industry and councils do not usually require the highest quality of water and given that there is limited regulation of industry's water use even in this time of severe drought.

Grey water

The state government does not endorse the permanent reuse of grey water unless Department of Health and SA Water approvals are obtained. Ruth recommended support for a bill currently before parliament that the Sewerage Act be amended to enable the permanent discharge of grey water into the garden from a washing machine. There are installations on the market to enable such functions including for example an adapted wheelie bin and a grey water diverter. There are also simple reuse strategies such as the 4 minute or 2 minute shower adopted in Queensland recently and which enables individuals to self regulate.

Rainwater

The roof space of Adelaide's buildings is a huge source of largely untapped water. Currently only large new houses and extensions are tapped leaving out commercial buildings. There is also limitation on the ability to plumb rainwater tanks to the mains, due to concern at contamination which can be overcome by a back-flow prevention device. A bill currently before parliament makes this proposal.

Thursday night Advisory Service

Clients make appointments with our volunteer lawyers who are on a roster to give advice on environmental and planning issues. There are usually times for two appointments starting at 6pm. Clients can ring 8410 3833 to book a time to see a lawyer.

Water Wars: Bolivia vs. Bechtel by Kathy Whitta

In a world where water supply has become big business we've all heard references to the possibility of water wars. But the fact is these wars are already happening, and they usually revolve around the privatisation of a resource that many see as a public asset.

In the year 2000 in the Bolivian city of Cochabamba unrest began to spread as water bills were opened. After Bolivia received an IMF loan contingent on the privatisation of industry the water utility in Cochabamba was taken over by San Francisco based company Bechtel. Bechtel had guaranteed that water rates would rise by no more than 35%, but astounded Cochabambinos were facing rate rises of between 60-200%. Plans were also afoot to charge local peasant people to draw water from public wells. Bolivia has always had a robust civil society and it wasn't long before road blockades were set up and Cochabamba ground to a standstill. The President sent in the riot police, a 17 year old boy was shot dead and hundreds were wounded. But the protestors would not back down and faced with the prospect of further police brutality the company fled. The government turned control of the water utility over to La Coordinadora, the grassroots coalition that led the protests.

But the story doesn't end here. In November 2001 Bechtel applied to the World Bank's International Centre for Settlement of Investment Disputes (ICSID) seeking \$25 million in damages from the Bolivian government for loss of potential profits. Bolivia is one of the poorest countries in South America; most of the population are subsistence farmers and small trades people. After four years of protest from all around the world Bechtel finally agreed to abandon the ICSID case in 2006. When a vital resource such as water is subject to the cut throat tactics of some private sector operators, and combined with government brutality, an explosive situation can develop. In Australia it is unlikely that we will be gunned down on the streets of our cities over water management however it is still a crucial issue and we can certainly benefit from scrutiny of failed water supply systems abroad.

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Contact Us

Kathy Whitta, Administrator

Melissa Ballantyne, Principal Solicitor

Ruth Beach, Solicitor

GPO Box 170
Adelaide SA
Australia 5001

Ph: +61 (08) 8410 3833
Fax: +61 (08) 8410 3855
Email: edosa@edo.org.au

SA Country Free Call
1800337566

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