

Gwydir Valley Irrigators Association Inc

Response to the IPART Issues Paper

On

**State Water's
Operating Licence**

12 November 2004

Gwydir Valley Irrigators Association Inc (GVIA):

The GVIA represents in excess of 170 irrigators in the Gwydir Valley of NSW, centred on the town of Moree.

The organisation is voluntary, funded by a cents/ megalitre levy on regulated and groundwater irrigation entitlement. In 2003/04 the levy was paid on in excess of 93% of the entitlement.

The Association is managed by a committee of 11 irrigators and employs a full-time executive officer and a part-time administrative assistant.

All members of the GVIA are customers of State Water, and a number of GVIA members sit on State Water's Gwydir Customer Service Committee.

The GVIA welcomes the opportunity to provide input into the development of State Water's operating licence, through the NSW Independent Pricing and Regulatory Tribunal process.

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General Comments

The GVIA has welcomed the NSW Government's decision to separate its bulk water delivery arm (State Water) from its water resources regulatory arm (Department of Infrastructure, Planning and Natural Resources).

The GVIA believes this separation, and the resulting commercial focus of State Water should allow it to concentrate on its core function "to capture and store water and to release water",

It is the position of the GVIA that the Operating Licence should provide State Water with the right environment to allow it to focus on its core function, while remaining at "arms length" from the regulator.

Any impact that the regulator may have on the operation of State Water must be transparent and fully accountable.

The GVIA is appreciative of the process IPART has put in place to develop this operating licence, including consultation with stakeholder groups. However, it is disappointed that the only public hearing has been scheduled in Sydney, for December 10, which will lead to groups such as the GVIA having to expend considerable resources in terms of time and money if they decide to participate.

The GVIA requests that IPART schedule at least one hearing in the North of the State. Moree is central to the three major Northern irrigation valleys – Macintyre, Gwydir and Namoi.

The GVIA strongly opposes any notion that DIPNR should be able to impose any fee on the Initial or indeed subsequent operating licences. The separation of State Water from DIPNR is a recognition of the fact that this is a better way to do the business of delivering bulk water, and should be not viewed as an opportunity to boost government revenue.

The GVIA is concerned that IPART does not appear to have made any provision for stakeholders to review IPART'S draft operating licence. The GVIA respectfully requests IPART to allow stakeholders a three-week period to review and comment on a draft operating licence prior to IPART making its final licence determination.

While the GVIA cannot envisage at this stage any other operator wishing to compete with State Water, the operating licence should not be written in a way which would preclude another operator seeking an operating licence.

Specific Comments Linked to Issue Paper Chapters

Objectives, Functions and Areas of Operation

The Tribunal has requested comments on the following:

Whether the delegated functions outline in the issues paper include all the appropriate functions that need to be delegated to State Water for it to effectively perform its role

Whether any of these functions should be exclusively conferred on State Water or confined in any way

Whether the operating licence should address how the exercise of these functions is to be co-ordinated between State Water and DIPNR

The GVIA supports the core functions as outlined in the issue paper. However, while the GVIA recognises State Water's function of releasing environmental water, it must be recognised that those releases must be subject to the same delivery charges incurred by other State Water customers, regardless as to whether access to the environmental water is by an access licence or whether it is just an allocation in the dam (Such as the Gwydir Environmental Contingency Allowance).

The GVIA supports State Water being delegated the power to allow it to suspend licences in cases of fraudulent extractions, failure to pay etc, but does not support it having the power to impose penalties or suspend licences for breaches of other non-operational licence conditions that are more properly administered by (the regulator) DIPNR.

The operating licence must clearly identify the roles of both State Water and DIPNR, and stakeholders must be given the opportunity to comment on the detailed protocols being developed by DIPNR and State Water.

Because it is unlikely that the operating licence will correctly address all issues, the licence needs to allow for regular review and amendment of functions and roles, with IPART managing this process and providing for stakeholder consultation. This may consist of an annual review, but should allow for some other mechanism to deal with any "teething" matters in a timely manner.

The GVIA supports State Water having the opportunity to provide DIPNR with services such as the meter reading of groundwater and unregulated river extractions on a commercial contract basis. However, stakeholders must be given the opportunity to comment on, and influence, the degree of service provided, and the associated costs.

GVIA notes that in State Water's submission to IPART it argues that it must have the power to be accountable for the Surface Water Flow Monitoring Network. While the GVIA understands the importance of the network to State Water's operation, and would support it controlling it, the GVIA points out this network is accessed by a whole range of users and has many more gauging stations than what State Water requires for its operation. Therefore, irrigators should only be required to cover the costs associated with running the gauges required by State Water for efficient operation, and State Water should be able to offset some of its costs through charges to other users.

The GVIA believes that State Water is best place to do monthly Water Resource Assessments, determine and announce the Available Water Determinations, and manage the process of determining and announcing access to supplementary water in accordance with the Gwydir Regulated River Water Sharing Plan.

Water Supply Functions – Fish River Water Supply Scheme

The GVIA notes that State Water will take on the responsibility for operating the Fish River water supply scheme from 1 January 2005. The GVIA believes the decision to take on this role should have been made by State Water's Board, not the Minister.

However, as the GVIA has no knowledge on operation of the Fish River Supply, it offers no further comments other than the business must not be cross-subsidized in any way by State Water's Bulk Water Delivery business.

Regulatory Framework

It is important that the only regulations imposed on State Water are those that can be directly justified as being legitimately connected to its core business of capturing, storing and delivering bulk water.

Any attempt by Government to impose a wider agenda through the regulation of State Water would be unacceptable.

The GVIA understands State Water's preferred position is to only have DIPNR as the auditor of Water Delivery Operations, representing the interests of other regulatory bodies such as the Department of Environment and Conservation and the Department of Primary Industry, while this is a major step towards avoiding expensive duplication, IPART might consider the option of recommending a completely independent auditor, such as the Natural Resource Commission, so as to avoid the situation of the regulator also being the auditor.

The GVIA fully supports the continuation of IPART's role in auditing and review State Waters performance regarding Dam Safety, Asset Management, Customer Service and Water Charges.

Performance Indicators

While clearly defined and measurable performance indicators play a very important role in the success of any business, the operating licence must avoid the trap of setting out a long list of performance indicators that will be resource hungry in terms of collection and reporting.

The GVIA believes from an irrigators' point of view the key areas of performance are:

Accuracy of delivery (in terms of volume)
Timeliness of delivery
Performance against the environmental/supplementary water rules in the plan
Turn-around of temporary transfer applications
Billing accuracy
General customer satisfactions
The timeliness of AWD and supplementary water determinations and announcements

Customer Service Committees need the following to be measured:

Total water deliveries
Asset management performance (What is the rate of asset downtime impacting on operations?)
Expense and income
Aged debtor analysis
Handling of enquiries/complaints – eg how long does it take CSC to deal with customer enquiries? What is the rate of complaint resolution?

Most of these performance indicators should be able to be compiled statistically, with minimal extra expense.

Environmental Obligations

The GVIA supports the notion that State Water must carry-out its business in an environmentally sound manner. However, it rejects any notion that State Water should be burdened with any higher obligations than any other business operating in a similar environment.

To that end any Environmental Management Plan must be a public document and subject to input from stakeholders, in particular the Customer Service Committees.

The GVIA does not want to see State Water burdened with excessive water quality monitoring obligations. For example, the GVIA sees little point in requesting State Water to monitor “cold water pollution”, if the particular site is not fitted with multi-level off-takes.

Similarly, given State Water has little control over the quality of the water it collects, and it can do little to influence the quality of the water it releases, it should not have to bear the cost of extensive quality monitoring. This should be a role for, and an expense of either DIPNR or the CMAs (As these bodies have the power to influence water quality). Monitoring may be a role that State Water could undertake on a contract basis. This may present savings as State Water has staff based at the dams.

Asset Management

The GVIA recognises State Water’s expertise in asset management. It supports the operating licence obliging State Water to continue with its regular 30-year Total Asset Management Plan reviews.

One concern of irrigators is State Water may have a tendency to over-engineer structures and programs. While long life and high degrees of serviceability are critical, the GVIA would like the operating licence to specify suitable performance indicators that the level of asset management is in line with world best practice, and not subject to expensive over engineering.

The GVIA notes that on page 20 of State Water’s submission, State Water requests to be able to retain any financial benefits gained from efficiency gains.

While the GVIA generally supports the principle that whoever pays for efficiency gains, should retain the benefits, it has some concerns here. The process would have to assure irrigators:

- That the efficiency gains are the result of additional capital expenditure, and could not of been achieved by utilizing existing resources more efficiently.
- That there is no double accounting: ie irrigators pay for the structural improvements either through direct water charges, or as part of the government’s return-on-assets charge, and State Water gain revenue from the sale or lease of the saved water.

The GVIA would like the opportunity to be consulted directly before any specific clauses regarding the benefits flowing from water efficiency savings are included in the operating licence.

Memorandums of Understanding (MOU's)

The GVIA supports State Water's position that MOU's between government Departments and State Water should be of mutual benefit, and should not be used to dictate conditions or requirements onto State Water.

Customer Service Obligations

The GVIA supports the development of a Customer Service Charter, which outlines the rights, and responsibilities of both State Water and it's customers.

GVIA has reviewed a draft Customer Service Charter which was prepared jointly by the Lachlan, Macquarie and Murrumbidgee Customer Service committees in consultation with State Water. While this document goes a long way towards achieving the aim, GVIA would not be in favour of this document forming part of the operating licence in its current form.

The operational licence should recognise the need for a charter to be developed prior to the commencement of the licence, and its development should be by agreement between State Water and its customers, through the eight Customer Service committees

The GVIA does not believe State Water should be obliged to consult with DIPNR prior to taking action against a customer as long as the action is the result of the customer failing to comply with a clearly identified operational requirement.

The operational licence needs to clearly define what are operational matters (State Water) and what are regulatory matters (DIPNR).

Customer Service Committees (CSC) and the Community Consultative Committee

The GVIA strongly supports the continuation of the Customer Service Committee structure, with the emphasis on the word customer.

Given that Catchment Management Authorities now have the ability to hold water access licences, the GVIA feels it is appropriate that they are represented on the CSC's.

The CMA representative will also have the advantage of bringing not just a customer's view to the table, but also a "whole-of-community" view. The GVIA does not support State Water's position of potentially inviting other non-customer stakeholders onto these committees.

The GVIA believes it would be appropriate for the "Terms-of-Reference" for the Customer Service Committees to be reviewed, and in particular for CSC to be given greater decision making power regarding the implementation and funding of non-core State Water functions within the valley.

For example, if the CSC wished to increase after hour staffing levels to allow for more - timely turn around of water assignment application, and was prepared to recommend customers pay for this additional level of service, then the recommendation should not have to be referred to head office for a final decision.

Given CMA's will be able to provide a 'whole-of-community' input into the CSC, the GVIA does not recognise any worthwhile role for a State-wide Community Consultative Committee.

The GVIA suggests if a State-wide view is required on a particular matter a meeting of the CSC's Chairs could be called, or if appropriate the matter could be referred to the Natural Resources Commission.

If the operating licence does include a Community Consultative Committee it needs to be recognised that this is an additional requirement of government, without commercial justification, and it should be fully paid for by a transparent Community Service Obligation Payment by government.

The GVIA believes it is appropriate that State Water establish local reference committees when undertaking major projects such as dam upgrades.

Auditing the Operating Licence

The GVIA supports a targeted, risk management approach to IPART's audits of State Water's operational licence. However, it agrees a comprehensive initial audit would probably be required, and following the results of that audit, a risk management approach needs to be adopted in consultation with stakeholders for subsequent audits.

Conclusion

The Gwydir Valley Irrigators Association would like to thank the Independent Pricing and Regulatory Tribunal for the opportunity to respond to its issue paper on the Review of the Operating Licence for State Water Corporation.

Should IPART wish further information on any of the issues raised in this submission please feel free contact the GVIA at the contact details provided on page 2.