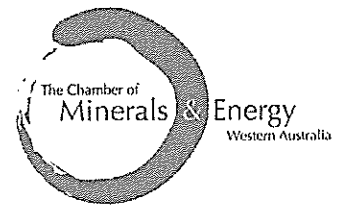




14 December 2007

Hon Bob Kucera MLA
Chair
Economics and Industry Standing Committee of the Legislative Assembly
Parliament House
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PERTH WA 6000

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Dear Mr Kucera,

Inquiry into Water Licensing and Services by the WA Legislative Assembly's Economics and Industry Standing Committee

The Chamber of Minerals and Energy of Western Australia (CME) welcomes the opportunity to provide input into this Inquiry, and thanks the Committee for the additional time to provide our comments.

Water is a critical input to resources projects and its use is managed and monitored to a high standard. As such, water licensing, services and related charges are of critical interest to the CME's member companies.

CME provides the following comments in relation to the terms of reference of the Inquiry.

1. The benefits to, cost to and imposts on irrigators, industry, community and environment of a licensing system for the taking of water from groundwater or stream flow

CME supports the intent of policies aimed at improving the management of water resources to provide greater assurance about resource sustainability, security of access and certainty to meet household, industrial and environmental needs.

The resources sector is a low-impact and well-managed user of water resources. The majority of resources operations are required to locate their own water sources, develop the infrastructure to supply this and manage the environmental impact of use.

All water for uses in resources extraction and processing is metered, and most companies recycle water in their operations. The impact of water use is monitored and reported to the Department of Water.

Although the resources industry is proactive and well-advanced in self-management of the water resources it uses, CME acknowledges that there are a broad range of beneficiaries of water regulation.

As such, CME contends that costs should not be borne solely by industrial consumers. Effective water resource management benefits the community generally, the environment, and future water users as well as current water users. The costs of the management regime should be shared among all beneficiaries and not placed solely on current users. On this basis, it is appropriate for the community to bear a proportion of the costs of providing this service and the long-term sustainable management of the resource.

2. *The full cost incurred by the Department of Water for administration of the current water licence system*

CME is not in a position to comment on the cost of administering the current water licence system.

However in view of the proposed imposition of licence fees by way of the water licence administration fees, CME makes the following general observations regarding the introduction of charges to cover the costs of regulatory services which had previously been funded out of consolidated revenue.

Experience shows that where industry is paying for regulation, there is the potential for 'gold plating' to occur and a lack of transparency in both fee setting and expenditure.

In September 2004 the Auditor General highlighted anomalies and concerns with fee setting by Government with respect to the extent of cost recovery, finding *'insufficient and fragmented policy direction and that this contributes to inappropriate fee setting decisions and limited disclosure of pricing policies'*.

The Productivity Commission has also been critical of fee setting by government agencies, finding in relation to Commonwealth agencies in 2001 that:

- *On the whole cost recovery arrangements lacked the attributes of good policy, with arrangements being ad-hoc, with little transparency and poor accountability and review mechanisms;*
- *Many aspects of surveyed cost recovery arrangements were inconsistent with sound economic principles, created financial incentives incompatible with government policy, reduced competition and innovation and encouraged regulatory creep, gold plating and cost padding by agencies; and*
- *Little information on cost recovery is published directly, or in one place, making it difficult to scrutinize arrangements in a holistic manner.*

In 2004 the Auditor General for WA recommended several actions including -

- *The consolidation and enhancement of various policy and guidance documents to assist agencies, Government and Parliament to make and assess fee setting decisions.*
- *Agencies should have appropriate and transparent mechanisms to cost their goods and services; report on the extent of cost recovery; review costs and provide meaningful disclosure of their pricing policies in their annual reports.*

These concerns were borne out in the policy approach to setting administration fees for water licenses. CME was dismayed that in the *Government Response to A Blueprint for Water Reform in Western Australia* the fee structure for the administration charge was revised upwards from the fees recommended by the Water Reform Implementation Committee in *A Blueprint for Water Reform in Western Australia*, even before the charges had been implemented.

It is incumbent upon the Department of Water to ensure that the fee setting is transparent and according to clear pricing policies, as well as being able to be readily compared with the business plan and/or annual report of the licensing services of the Department.

3. The extent to which the water licence administration fees meet cost recovery requirements the National Water Initiative (NWI) places on the State with respect to services delivered to water users

CME is not in a position to comment on the interpretation of the NWI requirements, however, in terms of services delivered to users by the State Government, CME draws the Committee's attention to the following important considerations.

The resources industry takes a high level of responsibility for the management and monitoring of water resources that it develops and uses.

For this reason, CME strongly disputes any link between allocated volume and current administrative charges or any proposed resource management charge - particularly where there is a high degree of self-management.

The resources industry contributes significantly to the investigation and management of WA's water resources. A regional minerals program study conducted in 2004 estimated that investment in water supply development by the industry is in excess of \$700 million, with annual operating and management costs exceeding \$100 million.

This expenditure extends to the exploration and quantification of the resources the industry needs, as well as the substantial investment in infrastructure required to obtain the water and various investments in sustainable water resource management practices.

As such, in the case of the resources sector's water use and management is already contributed by the industry on a 'user pays' basis.

In those limited cases where mining industry abstraction is from a shared resource, more intensive monitoring and management by mining industry users already subsidises adjacent users in the broader management of the resource.

Given the significant contribution to the investigation and management of Western Australia's water resources, and the fact that most resources operations are located in regional and remote areas, the 'service delivery' to resources operations by the State is relatively limited, and is unrelated to the volume of water allocated to those operations.

4. The penalty or cost that might be applied to Western Australia by the Commonwealth under the NWI, if there was minimal or no cost recovery for services provided to water users by the Department of Water

CME again highlights the extent to which resources sector invests in providing for its own water needs as outlined above. It is estimated that 95 per cent of water used by the sector is self-supplied.

CME also draws the Committee's attention to Clause 34 of the NWI, which provides for special arrangements to be made outside of the agreement to take into account the unique requirements of the resources sector, as follows -

'Clause 34 - National Water Initiative

The Parties agree that there may be special circumstances facing the minerals and petroleum sectors that will need to be addressed by policies and measures beyond the scope of this Agreement. In this context, the Parties note that specific project proposals will be assessed according to environmental, economic and social considerations, and that factors specific to resource development projects, such as isolation, relatively short project duration, water quality issues, and obligations to remediate and offset impacts, may require specific management arrangements outside the scope of this Agreement.'

The inclusion of this clause reflects a recognition of some of the unique factors of resources sector water use, particularly in Western Australia, which are outlined in this submission but also include -

- The poor quality of water used by the sector, with an estimated 60 per cent of water used being of poor quality and/or hypersaline, for which there is no other competitive use;
- The regional and remote location of water used; and
- The relatively short duration for which the water is accessed, due to short life-of-mine.

5. Whether water licences and/or licence administration fees should be required for taking water under arrangements that are currently exempt; for example, residential bores drawing from an unconfined aquifer

Water use by the resources companies is licensed and metered, and as such is subject to licence fees.

6. What recognition needs to be given to the cost incurred by landholders in harvesting water, including dam construction costs

As stated above, the resources industry contributes significantly to the investigation and management of WA's water resources, with investment in water supply development by the industry exceeding \$700 million, with annual operating and management costs exceeding \$100 million.

It is critical that recognition be given to this significant expenditure on identifying, quantifying, developing and sustainably managing these resources which amounts to a clear 'user pays' contribution by the industry.

Further to development and management costs, the industry contributes significantly to knowledge of the State's water resources. Groundwater information submitted to the State Government as part of licence reporting is a valuable information source, particularly for remote areas of the State where the hydrogeology is not well understood.

Furthermore, in contributing over \$1.5 billion in royalties to the State Government annually, the resources industry maintains a valid expectation that the State will continue to fund core regulatory services, such as those associated with managing the water licensing system.

7. The extent to which the NWI provides for a range of different licensing systems.

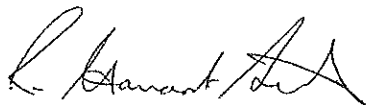
As stated above, the NWI provides scope to take account of special circumstances. CME considers that any licensing system should take into account our submissions under the foregoing terms of reference above, with regard to the special nature of water use by the resources sector.

In summary, there are significant equity considerations in the implementation of any water management charging regime, which need to be addressed in any reforms to the licensing system in this area, as follows:

- The extent to which resource management costs have and are being incurred as a public good - for the benefit of the wider WA community now and into the future.
- The extent to which costs of resource management are efficient and reasonable - because these costs are being incurred in an environment that is free of competitive economic pressures and could be over-inflated.
- Recognition that not all water is the same. Water qualities vary enormously across the State. As water qualities change so do their value and the rate of charge needs to be commensurate with these differences.
- The intensity of the management and planning will similarly vary across the State. Some systems are not stressed and do not face pressures from competing users.
- Recognition that some private sector users are actually contributing to the store of knowledge about a resource. There needs to be credit for this explicit in the charge system.
- Not all forms of "use" are the same. For instance, use by the mining sector in dewatering operations is a far different use from uses that consume water.

CME would be pleased to provide any further information to support this submission. Please contact Cara Babb - (08) 9220 8504 or c.babb@cmewa.com should you wish to discuss further.

Yours sincerely



Reg Howard-Smith
Chief Executive