



26 March 2009

Ms Isabelle Arnaud
Director
Water Market Section
Department of the Environment,
Water, Heritage & the Arts
GPO Box 787
CANBERRA ACT 2601

Dear Ms Arnaud

Draft Water Amendment Regulations 2009

NFF refers to your letter dated 27 February 2009, seeking comments on the above regulations. NFF notes that the purpose of these regulations was to seek enhanced coverage of the water charge rules – an issue identified by the ACCC in its drafting advice.

NFF notes that the proposed regulations will not seek to deal with the major substantive issue identified by the ACCC. That is, where a water charge is currently not levied by a jurisdiction, the Water Act 2007 does not apply (and subsequently nor do the ACCC rules). Under the Water Act 2007, the ACCC cannot enforce the application of the charge. Furthermore, the NWI requires the application of lower bound pricing for rural water, with a move to upper bound pricing where applicable. The current situation does not attempt to ensure that jurisdictions comply with the NWI.

As an example, South Australian irrigators pay a \$3/ML "Save the Murray" levy. No water charges are levied for water delivery, water infrastructure or water planning and management (although the levy could be said to be part of the latter). Upstate irrigators pay both state based water delivery (including infrastructure) and water planning and management charges. Only NSW fully passes on the relevant charges from Murray-Darling Basin Commission (now the Authority). Victoria only partially passes these costs on. Neither the ACCC rules, nor these amendment regulations will address this issue.

The result is a contravention of competitive neutrality – a fundamental principle that all governments have adopted. The flow on impact is that different irrigators have a competitive advantage in the operation of the water market resulting in perverse outcomes.

NFF strongly supports amendments to the Water Act 2007 or amendments to the regulations (if possible) to correct this anomaly.

Yours sincerely

A handwritten signature in black ink, appearing to read "DK", with a checkmark at the end.

DEBORAH KERR
Manager – Natural Resource Management