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Water Act 1989

BULK ENTITLEMENT (GOULBURN SYSTEM-SNOWY ENVIRONMENTAL RESERVE) ORDER 2004

I, John Thwaites, Minister for Water, as Minister administering the **Water Act 1989**, make the following Order:

1. CITATION

This Order may be cited as the Bulk Entitlement (Goulburn System-Snowy Environmental Reserve) Order 2004.

2. EMPOWERING PROVISIONS

This Order is made under section 42 of the **Water Act 1989**.

3. COMMENCEMENT

This Order comes into operation on the day it is published in the Government Gazette.

4. PURPOSE

The purpose of this Order is to grant a bulk entitlement, to be called an environmental entitlement, to the Minister for Environment that will be used to provide water for irrigation purposes from the River Murray so that water can be retained in other parts of the River Murray system to provide increased environmental flows to the Snowy River.

5. DEFINITIONS

In this Order –

“**Act**” means the **Water Act 1989**;

“**announced allocation**” means the allocation determined by the Authority from time to time in respect of a type of supply in accordance with the security of supply and restriction policies applicable to that type of supply;

“**Authority**” means the holder of the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Order 1995;

“**Deed**” means the “Snowy Water Inquiry Outcomes Implementation Deed, June 2002”;

“**Entitlement Holder**” is the person granted this bulk entitlement as provided for in clause 6 of this Order;

“**environmental entitlement**” means the bulk entitlement granted by this Order as described in clause 6;

“**flow monitoring points**” means the measuring points specified in Schedule 1;

“**Goulburn-Broken-Loddon Cap**” means the water that would have been diverted from the Goulburn, Broken and Loddon River basins under the 1993/1994 levels of development;

“**Goulburn Snowy Inter-Valley Account**” means the account established in accordance with clause 10 of this Order;

“**Goulburn Inter-Valley Accounts**” means any account recording allocations of Goulburn System water that will be transferred to other systems as a result of inter-valley trade of water entitlements or other water entitlement transfers;

“**Goulburn System**” means the Goulburn, Broken, Campaspe and Loddon Rivers and the water supply systems supplied by those rivers;

“**Goulburn sub-system**” means any water supply system supplied by the Goulburn River;

SPECIAL

“**Minister**” means the Minister administering the **Water Act 1989**;

“**Minister for Environment**” means the Minister administering the **Conservation, Forests and Lands Act 1987**;

“**MDBC**” means the Murray-Darling Basin Commission or that Commission’s assignee or delegate exercising any relevant function;

“**Murray-Darling Basin Agreement**” means the Agreement contained in the Schedules to the **Murray Darling Basin Act 1993**;

“**Operating Arrangements**” means the arrangements referred to in clause 9 of this Order:

“**River Murray Resource Manager**” means the person appointed by the Minister under section 43A of the Act to undertake tasks as described in the Bulk Entitlement (River Murray-Goulburn-Murray Water) Conversion Order 1999;

“**Snowy-Murray Development**” has the same meaning as in clause 1.1(55)(b) of the Deed;

“**Storage Operator**” means the person appointed under section 43A of the Act to carry out any obligations imposed by this Order;

“**water entitlement**” means a water right, licence to take and use water, or bulk entitlement under the Act together with any transferable allocation of sales water made to the holder of such a water right or licence;

“**water savings**” means the volume of water gained through one or more initiatives to:

- (a) reduce transmission losses, evaporation losses or system inefficiencies; or
- (b) identify and recover unused or under-utilised water entitlements; or
- (c) improve water supply and/or environmental management practices;

in the Goulburn System.

6. BULK ENTITLEMENT

- 6.1 The Minister for Environment is granted a bulk entitlement, to be called an environmental entitlement, to the annual volumes of water as specified in Schedule 1 and allocated annually as provided for in this Order in accordance with the security of supply and restriction policies applicable to the type of supply described in Schedule 1.
- 6.2 The annual volumes specified in Schedule 1 are the volumes of water as measured at the flow monitoring points set out in that Schedule.
- 6.3 The environmental entitlement referred to in clause 6.1 is to be used towards meeting the environmental obligations set out in the Deed.

7. ANNUAL ALLOCATION

- 7.1 The Entitlement Holder is entitled to an annual allocation of water in respect of each 12 month period commencing 1 July.
- 7.2 The annual allocation shall be of such volume as determined by the Authority from time to time in accordance with Schedule 2.
- 7.3 The Entitlement Holder must advise the Storage Operator and the Minister of the annual allocation determined under this clause and of any changes to the annual allocation.

8. SUPPLY OF WATER

- 8.1 Unless otherwise agreed by MDBC, the Storage Operator must ensure the volume of water available under the environmental entitlement as recorded in the Goulburn Snowy Inter-Valley Account is provided each year in accordance with the Operating Arrangements.
- 8.2 The amount of water supplied under clause 8.1 must be calculated as the amount of water flowing past the flow monitoring points specified in excess of the flow that would have occurred had this supply not been ordered.

9. OPERATING ARRANGEMENTS

- 9.1 The Entitlement Holder must seek agreement annually with MDBC, the Authority and the River Murray Resource Manager on the Operating Arrangements for the supply of water under this environmental entitlement which specify:
- (a) the timing of supply within each year of the water available under the environmental entitlement;
 - (b) for any environmental entitlement for which transmission losses apply in Schedule 1, the volume of transmission loss associated with the supply; and
 - (c) any other matters required to enable the water to be supplied under the environmental entitlement.
- 9.2. In the event that the Entitlement Holder cannot reach agreement on the Operating Arrangements in any year, the Minister may direct the Entitlement Holder on the Operating Arrangements which will apply in that year. Any such direction must be consistent with the Deed and Murray-Darling Basin Agreement.

10. GOULBURN SNOWY INTER-VALLEY ACCOUNT

The Storage Operator must create and maintain a Goulburn Snowy Inter-Valley Account which records:

- (a) the volume carried over from the previous year;
- (b) the volumes and sources of water allocated under clause 7 of this Order;
- (c) the volume of water supplied and the agreed volume of Goulburn River transmission loss associated with the supply;
- (d) the volume spilled from the account; and
- (e) the volume of water available under the environmental entitlement at any time including the water carried over from the previous year.

11. WATER ACCOUNTING AND CARRYOVER ARRANGEMENTS

- 11.1 During the year the volume of water recorded as available in the Goulburn Snowy Inter-Valley Account must be reduced by:
- (a) the amount of water supplied under clause 8.1;
 - (b) the volume of transmission loss agreed under the Operating Arrangements;
 - (c) if Hume and Dartmouth storages spill or pre-release to provide for flood mitigation, the volume of carryover recorded in the Goulburn Snowy Inter-Valley Account at the time of the spill or pre-release.
- 11.2 At 30 June each year any volume of unused environmental entitlement as recorded in the Goulburn Snowy Inter-Valley Account must be carried over into the following year as follows:
- (a) the volume carried over when added to the volumes carried over in other Goulburn Inter-Valley Accounts must not exceed the volume of Victorian airspace in Hume and Dartmouth storages;
 - (b) if Hume and Dartmouth storages have spilled or pre-released to provide for flood mitigation since the end of May the volume carried over will be set to zero;
 - (c) the water carried over will be the first water supplied in the following year.
- 11.3 For purposes of Schedules F and G of the Murray-Darling Basin Agreement the Goulburn-Broken-Loddon Cap will be reduced by:
- (a) the amount of water supplied under clause 8.1; and
 - (b) the volume of transmission loss agreed under clause 9.1(b).

12. METERING PROGRAM

The Entitlement Holder must consult with the Authority to ensure that provision has been made in the Authority's metering program to measure all water used under this Order.

13. REPORTING REQUIREMENTS

13.1 The Minister may require the Entitlement Holder to report on all or any of the following matters:

- (a) the date and daily flow at the flow monitoring points specified in Schedule 1;
- (b) the volume of supply, including any Goulburn River loss component and the dates the supply occurred;
- (c) the volume of water as shown in the Goulburn Snowy Inter-Valley Account;
- (d) any alteration to the Schedules arising from new transfers or adjustments to existing entitlements;
- (e) the volume allocated to the Snowy-Murray Development (River Murray) Environmental Entitlement as provided for in the Deed.

13.2 By 31 January each year Storage Operator must advise:

- (a) the Water Administration Ministerial Corporation constituted under section 371 of the **Water Management Act 2000** (NSW) as the authority administering the Snowy Water Licence granted under Part 5 of the **Snowy Hydro Corporatisation Act 1997** (NSW); and
- (b) the Minister;

of the annual allocation to the Snowy-Murray Development calculated as follows:

- (i) the allocated volume recorded in the Goulburn Snowy Inter-Valley Account as available from the 1 February of the previous year to the 31 January in the current year; minus
- (ii) the total transmission loss subtracted from available water from the environmental entitlement as recorded in the Goulburn Snowy Inter-Valley Account under this clause from 1 February of the previous year to 31 January in the current year.

14. FINANCIAL OBLIGATIONS

The Entitlement Holder must meet any financial obligations associated with the supply of the environmental entitlement as specified in Schedule 3.

15. ADJUSTMENT OF SCHEDULES

15.1 The Minister may, from time to time, amend:

- (a) Schedule 1 to:
 - (i) increase the environmental entitlement upon the receipt of an application by the Entitlement Holder following advice from the Authority that additional water savings are available for increased environmental flows;
 - (ii) reflect any alterations to the volume and reliability of the environmental entitlement;

provided any such changes meet the environmental obligations set out in the Deed; and

- (b) Schedule 3 to detail the requirements of any financial obligations of any component of the environmental entitlement in or added to Schedule 1.

16. DISPUTE RESOLUTION

16.1 If any difference or dispute arises between the Entitlement Holder, the Minister, and with their consent, the Authority, the Storage Operator, the River Murray Resource Manager, the MDBC, or any of them (the "parties") concerning the interpretation or application of this

Order, which is not resolved within 14 days of it arising, any party may give written notice to the others requiring the matter to be determined by an independent expert, if it is not otherwise resolved, within 14 days of that notice.

16.2 The independent expert will be either –

- (a) a person agreed on by the parties to the difference or dispute; or
- (b) if those parties cannot agree, a person nominated by the President of the Institute of Arbitrators, Australia.

16.3 The independent expert must reach a conclusion on the matter within 30 days of it being referred, but has power to extend the period for reaching a conclusion on the matter by a further 30 days.

16.4 The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.

16.5 In any difference or dispute to which the Minister is a party -

- (a) the independent expert must express the conclusion as a recommendation; and
- (b) the Minister must consider any recommendation made under paragraph (a) before deciding to give a direction under section 307 or to take any other action under the Act in relation to the difference or dispute.

16.6 In any difference or dispute to which the Minister is not a party, any conclusion by an independent expert is final and binding on the parties.

16.7 The apportionment of the costs of and incidental to every reference, including the costs of the independent expert, are at the discretion of the independent expert.

Dated 26 June 2004

JOHN THWAITES MP
Minister for Water

SCHEDULE 1
ENVIRONMENTAL ENTITLEMENT

Goulburn sub-system

Item No	Source of water saving	Annual Volume (ML)	Type of Supply	Transmission loss	flow monitoring points
1	Normanville Waterworks District	3600	Water right supplied from the Goulburn River	No	Goulburn River at McCoy Bridge; Stream Gauging Station Index No.405232

SCHEDULE 2
ANNUAL ALLOCATION

The annual allocation in any year is calculated using the following formula:

$$V = \sum_{i=1}^n Ei * Ai$$

Where

V = the volume allocated (ML),

i = item number in Schedule 1,

Ei = annual volume relevant to item i in Schedule 1,

Ai = the announced allocation applying to item i at the current time expressed as a decimal fraction.

SCHEDULE 3
FINANCIAL OBLIGATIONS

Item No	Source of water saving	Detail of Financial Obligation
1.	Normanville Waterworks District	No obligation

Water Act 1989**BULK ENTITLEMENT (EILDON-GOULBURN WEIR) CONVERSION
AMENDMENT ORDER 2004**

I, John Thwaites, as Minister administering the **Water Act 1989**, make the following Order -

1. Citation

This Order is called the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Amendment Order 2004.

2. Purpose

The purpose of this Order is to amend Schedule 2 of the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Order 2001 to include the Minister administering the **Conservation, Forests and Lands Act 1987** as a bulk entitlement holder.

3. Authorising provisions

This Order is made in accordance with clause 8.2 of the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Order 2001.

4. Commencement

This Order comes into operation on the day it is published in the Government Gazette.

5. Amendment of Schedule 2

At the end of the table in Schedule 2 of the Bulk Entitlement (Eildon-Goulburn Weir) Conversion Order 2001 insert -

Minister administering the Conservation, Forests and Lands Act 1987	Bulk Entitlement (Goulburn System – Snowy Environmental Reserve) Order 2004
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Dated 26 June 2004

JOHN THWAITES MP
Minister for Water

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