

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON CLYDE RIVER WATER MET IN THE MEETING ROOM, CENTRAL HIGHLANDS COUNCIL CHAMBERS, BOTHWELL, ON TUESDAY 10 AUGUST 2004.

Mr STUART EDWARD ARCHER, CONCERNED IRRIGATORS GROUP, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Welcome, Stuart. We have your written submission and you now have the opportunity to put any additional points or reinforce anything you have said. The committee may then ask you some questions.

Mr ARCHER - This submission is submitted on behalf of an informal irrigators group and represents at least 15 of the irrigators on the river. The submission as a whole covers six years of events leading up to the Water Management Act 1999 and all the processes that have happened from then until now. The submission describes the processes followed after the Water Management Act 1999 and evidence is submitted on the reasons why that in the end there was a motion of no confidence in the Clyde Water Trust. There was a call for a judicial inquiry. The submission also provides evidence on government responses to those problems. The document is supported by 130 indexed attachments. There is very little of the submission that you would call hearsay or emotive. There is a further box file of documents that was beyond my resources to index, but they are available for the committee at any time to call upon in the coming days or weeks.

The submission details the preferred allocation structure which is supported by 18 irrigators on this river system. If there are 21 irrigators, there are 18 irrigators who have supported a five-point structure, which is outlined in the executive summary of our submission. At the back of the submission there is a five-point list of recommendations that we feel are desirable outcomes of this select committee process. The submission also contains 36 questions that we would hope at some point could be answered by the select committee. These are questions that cover areas that have not been addressed by the Clyde Water Trust, the Department of Primary Industries or the Rivers and Water Supply Commission.

The submission in its individual chapters addresses the water allocation issues and then all other major issues - technical, legal and administrative - are covered in the individual chapters of the submission. Mr Chairman, to save reading the summary again, I would hand it over to you if you have any questions.

CHAIR - Thank you. I will now open it up to members for questions to Mr Archer.

Mr FLETCHER - I would like to move aside from something that is not necessarily central to your submission, and that is the future of water supply in this irrigation area, and what, if any, you consider to be reasonable price-setting mechanisms to determine a price at which water might be supplied.

Mr ARCHER - The structure we have had here for 150 years, Mr Fletcher, is that there has been a minimal overhead cost in the infrastructure on the Clyde River. The original infrastructure was built by volunteer subscriptions in the 1800s, so we have had no infrastructure to maintain. We have had no ongoing overhead. The only costs we have had historically have been secretarial assistance, an occasional bit of auditing, a little bit of public liability insurance and things of that nature, so that is why historically the cost mechanism that you describe has worked so efficiently. I am sure I am speaking on behalf of our group that we want the trust to be reconstituted; it is one of our recommendations at the back of our submission. We want the trust to be reconstituted so that we can continue with a low overhead cost system where the people who are using water would pay, I would say, 80 per cent of the overhead costs to run the river, and those who are not using water actively would probably contribute something like 20 per cent.

Mr FLETCHER - Are you suggesting to me that the price-setting mechanism should be determined by cost recovery rather than determining a value for water in the area that might represent a value to the community rather than a value to the irrigators?

Mr ARCHER - No, I believe we would definitely be supporting just a cost recovery. Any other way of pricing the water, to me, would be like having a royalty on water. I would say that what would happen there, if we were suddenly paying an excessive above-cost-recovery price for water, all that does is transfer wealth from this area to somewhere else, wherever the money is going to.

Mr FLETCHER - There have been indications nationally that we will never get judicial use of irrigation water until a true price of water is established and there is a charge for that water. You do not subscribe to that theory?

Mr ARCHER - No, I do not. I thought the national program was cost recovery, COAG requirements and competition policy, simply that full cost recovery is attained. It is not my understanding that there is anything above that. To give you an example, I know there is some misunderstanding whether this river is an irrigation scheme or a river. This irrigation administrative area is a river delivery authority. It is not an irrigation scheme compared with, say, the Shepparton or Gambier or Echuca in Victoria where there is the Goulburn River or the Murray River.

The water in those rivers is still free to this day, even though there is a lot of speculation on the mainland over how much water costs. The water in those rivers is free. People only pay when that water is delivered through a canal that goes 100 kilometres to the west or east of Shepparton, and there is a cost of maintaining that canal. In the past apparently in Victoria sometimes the full cost of maintaining that canal has not been passed on to users, but it is from now on, I understand. This river here is a river delivery system; there are no overhead costs to maintain.

Mr FLETCHER - Can I ask you, then, what you pay per megalitre for the water you use for irrigation in recent years?

Mr ARCHER - Here?

Mr FLETCHER - Yes.

Mr ARCHER - Five years ago it was \$2.50 a megalitre; that would have been the cost in the river. Then two things probably coincided: one was the trust trying to raise some money for this Hamilton pump scheme, and also the drought, which meant that people are actually using less megalitres, so there was an increase in the price to \$12. I think it is important for the community to understand that the price of that water in the river is not the price of the water delivered to the farm at the point of application. That varies for each farm because some farms have land that is adjacent to the river and it is flat, no elevation, but some of us are pumping water 600 feet above the river. In that case the cost of the water applied to the paddock is \$100 to \$150 a megalitre. So any unexplained or unsupported reason for a cost increase would mean some of those irrigation schemes could become unviable. It's marginal enough at \$100 a megalitres; your crop has to be successful before that is economical. You certainly would not do that to irrigate pasture.

Mr FLETCHER - You have addressed the matter of sleepers and dozers in your submission. Do you accept that there ought to be a charge applied to those who have water rights but do not use them or use them only occasionally, that there ought to be an annual charge?

Mr ARCHER - Yes, I do. I think there should be a nominal charge. I think a nominal charge is appropriate. I do not think it has been suggested by the Rivers and Water Supply Commission that people should pay 80 per cent of a licence whether they have used it or not. All that does is encourage people to use water and waste it. It means that the water will not be left in the lake and will not be available for an environmental flow and the water may not be available for someone else to use.

In the past, a sleeper right meant that someone else could use that water - the water is left in the lake - or you have a situation where the demand is not such that the environmental flow is restricted. So for someone who is not using the water it does not have any detrimental effect on someone else; it is a benefit to everything.

But, to answer the question fully, if that sleeper right is paying a small fee then he is paying his share of, say, the secretarial assistance that the trust might need or he is paying a share of the insurance charges or a share of the auditing cost, a share of those general administrative costs. I do not see any benefit in making someone use the water because they will either pump the water and waste it or else they will gravity irrigate and waste it.

Mr FLETCHER - All right. You have introduced the concept of judicial use and waste; what are the management inputs that determine that an irrigator will use the water judiciously, that he or they will not waste it?

Mr ARCHER - Well, no-one in their right mind would pay to pump water and not try to use it for a profit, but historically in this area there has been a lot of flood irrigation. For the last ten years most of the irrigation has been flood irrigation. Flood irrigation gets, I think, an undeserved bad name for so-called wasting water.

In effect what happens is that the water gets pumped out of the river onto pasture land - that has been the traditional thing - and then quite a bit of that water will end up back in the river. It is not necessarily a bad thing I would say, although it is politically incorrect at the moment to suggest that this is reasonable. People see water running off and they

think that is an unsustainable practice. It is not so bad, I don't think, but it is an argument we might not be able to win.

Mr FLETCHER - What management regimes or tools should be used to make sure that farmers, irrigators, judiciously use the water and do not waste the water. I guess I am trying to put to you that at the end of the day the most significant management tool is price. If the irrigators have to pay for the water, that will guarantee that they will not waste it.

Mr ARCHER - I will just give an example of my own situation, because I think you will understand it. If the water in the river is \$5 a megalitre or \$20 a megalitre, my cost for pumping that water can be as much as \$100. In other words, the hydro-electric or diesel bill for me for pumping the water is \$70 000, so it is all profit driven. You cannot afford to pump that water without using it to try to obtain a profitable outcome at the finish. Whether you price the water at \$5 or \$30 a megalitre in the river, you still have to pump the water. You still have the extra \$70, \$80 or \$100 a megalitre on top of that.

Mr FLETCHER - You are here representing 17 other irrigators, as I understand it. Is that a reasonable scenario for all of those 18 concerned irrigators?

Mr ARCHER - No, it is not. That would be the more extreme one. Some people have low-cost systems where the water gets gravity-fed out of the river to a canal and it is what we call flood irrigated. They just gravity-tip the water out of the canal and it runs across the paddock and irrigates the grass. But there has been a big swing in recent years to spray irrigation, so the amount of water getting used in that way I would say is declining in a vertical graph. Most people are spray-irrigating their water supply now. That is just a generalisation. Some people have farms close to the river where that total cost of pumping the water, for their power and maintenance on their equipment, if they are using strictly off-peak rates, would be \$30 to \$35 a megalitre. Those pumping elevation would be up to \$100. Some people double pump: they pump up to one level and then they pump up a bit more.

Mr FLETCHER - Could I ask you to comment on the fact that your proposal provides that in good years with ample water the demand could be met. In drought years or years of low supply of water your system is under stress the same as any other system would be under stress. Could you restate how you would manage that or how do you suggest that be managed?

Mr ARCHER - I am glad you have brought that up, Mr Fletcher, because that brings me back to our five-point structure that all our irrigators want, which is on page 3 of the document. That is that when there is a drought, as you suggest, and there is a restriction on the volume of water available, our proposal is that there is a priority system in place on the river to use as a restriction management regime, which is modern jargon for rationing water. The crucial aspect of all the issues on the river is the priority policy that was established by the Clyde Water Trust in 1976. That is one of the most important things in our submission. We say that if the bulk allocation of water was to fall under 8 000 megalitres, then the only licences that should have their full allocation would be the priority people who have the priority water supply. For nearly every irrigator on the river to some extent part of their allocation is pre-1976, so that is their water. On top of that there would be sales water from private storages. There would always be some

sleepers in the system and their water would be available, so that way there is no one disadvantaged. Everyone has exactly the same amount of water they would have had in 1975, and of course if there is a further restriction under 8 000 megalitres then there is a straight-line graph and everyone gets cut back the same percentage. I think 4 400 megalitres was one of the worst years we have had in living memory. The long-term sustainable yield, we understand, is something like 7.5 to 9 that will be used where there are 12 000 megalitres available subject to carp management plans or something. That looks like what the sustainable long-term yield is.

Mr WILKINSON - The sustainable long-term yield depends upon what the farmer decides is the appropriate amount of water to put on his property, doesn't it?

Mr ARCHER - I was talking about the sustainable yield out of the lake.

Mr WILKINSON - Yes, but in relation to your property, you might differ with your property. Say, if I owned your property and know nothing about it, I might decide I need more water on your property than you believe you need. How do you cope with that? In other words, how can you police that the water that you are getting is an appropriate amount of water for your needs?

Mr ARCHER - If you are in the farmer's shoes and, just for argument's sake, you have a situation where you think you can make money by irrigating 200 acres of poppies and 100 acres of pasture, we use the benchmark figure of 1.5 megalitres to an acre or 3.38 megalitres to a hectare. You can intensively irrigate pasture with that much water. If they are using more than that, the ground literally won't soak it up. Most of the crops might tend to use a bit less, but it depends on how much rain you get during the season and whether it is potatoes or poppies. A crop like potatoes - and I am the only one who grows them there - are pretty thirsty for water in a dry summer. If we get a few weeks of cool weather and a few showers it makes all the difference.

Mr WILKINSON - It seems to me, reading the history of it, that the scheme was set up so that all the farmers on the river could irrigate their properties to an extent where they obtain water to their needs. In other words, that was the commencement of it, to allow farmers to properly irrigate their properties. There are 21 irrigators now - and tell me if I am wrong - and, as a result of what has happened in recent times, are you saying that the farmers downstream should be able to take water from this scheme or should they be able to get it from Meadowbank? Is it a viable proposition for farmers downstream to take their water from Meadowbank as opposed to the Clyde?

Mr ARCHER - Leaving the Hamilton scheme out for a moment, anyone with a priority water right doesn't need the Hamilton scheme. We say that has nothing to do with it. Anyone who has a priority water right will not need that Hamilton scheme unless he really wants to expand and get water above his priority allocation. In my opinion, the Hamilton scheme can only benefit people who wanted water over their allocation no matter what category of water right they had, whether it was a pre-1976 one or a post-1976 one or they are just a casual new entrant perhaps.

As far as the practicalities of the Hamilton scheme is concerned, there is a chapter in this document that briefly describes that. Some of us think it is so bad that it is a white elephant and we lobbied against it when it was first put there. It has gone way over

budget. There is only one significant sized farm on the river - only one of the 21 - that can have the water supply replaced by that pump scheme. That fellow uses about 600 megalitres of water so it is a marginal improvement in availability. Governments run around and the trust is trying to say, 'You save the environmental flow, too'. Well, what that does is make the environmental flow a calamity because their intention is to stop the river running. A few kilometres from Bothwell the river virtually comes to a stop.

CHAIR - Just following on from that, Stuart, you wouldn't then agree with a proposition - and there has been a suggestion from Mr Mackey, I think it was, in the submission from trust - that the irrigation district be split - the southern part from the Meadowbank storage and the northern part from the Crescent and Sorell area - and that might solve some problems? Is that a possible, workable solution?

Mr ARCHER - If it was split administratively, I cannot see any benefit in that.

What they are trying to suggest is, 'We'll split the district, we will use this pump scheme at Hamilton, it takes one significant irrigator off the lake supply and a few smaller ones'. Then they say, 'We'll split the district so that people at the lower end of the river can't trade water, can't ever sell water upstream to Bothwell'. That is their idea of saying, 'Oh well, you're on the pump scheme at Hamilton, you're locked into that and you can never trade your water to someone else'. I cannot see any benefit. The only benefit you could say is that there is perhaps 1 000 megalitres more water in the system but at what cost and why should someone who had a priority water right be having to pay for it? We are strongly against that.

Mrs SMITH - If I might continue that. On some of the information that you have given us, Mr Archer, there is a chart that shows the flow ex Crescent at 14 500 megalitres and the flow ex Hamilton at 6 000 megalitres. You have made the comment, 'There's only 1 000 megalitres there'. Could you clarify what you mean by that?

Mr ARCHER - The figures that you are quoting there, that is in part of my submission that links the events leading up to the Water Management Act 1999 because it first got drafted to say that all the water allocation on this will be the average of the last three years' usage. The figures that you are reading there are one example, one year, of those three, the three years leading up to 1999.

What those figures show - and I have extrapolated those figures from the river flow recording charts that the Department of Primary Industries, Water and Environment have, one at Crescent and one at Hamilton and in fact the Hydro have one at Bothwell - is that there was not enough water available for those people to have put in such a big claim. When you link those figures that are not credible to the fact that perhaps the same people drafted the legislation, then there are questions to be answered there - why those water returns for those three years show 8 500 megalitres when there was only physically available 6 000 in the river.

Mrs SMITH - But this says, 'Flow ex Crescent, 14 500, and flow ex Hamilton, 6 000'.

Mr ARCHER - Yes.

Mrs SMITH - So that is the flows, not the claims in this particular chart here.

Mr ARCHER - That is right, the claims are in the next paragraph down.

Mrs SMITH - So you are saying that you have 8.5 as the difference, 2.4 for evaporation, water available, 6 100?

Mr ARCHER - That is right and the people, between them, claimed 8 500.

Mrs SMITH - That's correct. If we can go back to some information provided; a water licence was granted by the minister in 2001 for 10 000 megalitres out of Crescent and Sorell, is that correct in your interpretation?

Mr ARCHER - Granted to whom?

Mrs SMITH - To the trust.

Mr ARCHER - It is probably right.

Mrs SMITH - Would you support some information we have been given that of the 10 000 supported, there would be 7 500 left for irrigators when you took a surety for the town of Bothwell for a water supply et cetera, so there would be 7 500?

Mr ARCHER - There has been an accepted evaporation and transpiration and a seepage loss of 2 500.

Mrs SMITH - So you accept there is 7 500 megalitres from lakes Crescent and Sorell into the irrigation system?

Mr ARCHER - Yes. I think the government people and the trust people are saying, 'Well the Hamilton pump scheme will save that evaporation loss between Bothwell and Hamilton but the trouble is even to push one megalitre a day of water from Bothwell to Hamilton, you still have evaporative loss.'

Mrs SMITH - If the irrigators in the Hamilton area were taken off the Clyde water scheme into a new Meadowbank scheme, do you believe the 7 500 megalitres would be sufficient for the northern end of what is now at the moment the Clyde Water Trust Scheme?

Mr ARCHER - Well, what it means is that there is more surety for all of them. We call that process moving the graph sideways, everyone's graphs into a higher surety area. So we are saying there would be about 1 000 megalitres extra water available to the Bothwell end. So people will still have their priority water, they would still have their lower priority water, but their surety would increase, but we say only by about 1 000. So it has spent \$600 000 to save that little bit of water.

Mrs SMITH - If I might now look at the Meadowbank scheme, I believe there was \$500 000 spent on a scheme at Meadowbank to bring water into the Hamilton area.

Mr ARCHER - That's right.

Mrs SMITH - Has that scheme been fully operational? Has it been successful, and if not, why not?

Mr ARCHER - There are a few questions there. It is not finished, there is still money to be spent there.

Mrs SMITH - Can you give us an indication, in your opinion, of how much you believe would need to be spent?

Mr ARCHER - Our group is asking for a moratorium on all expenditure - just leave it alone - because we have enough water in the lakes to do for a couple of years at least. So we want a moratorium there while we consider all these things because we don't believe the trust had the authority to spend more than their reserves in the first place. Of course, that is if the trust was constitutional at the time that they agreed to spend the money. It seems as though there are problems. The pumps were actually put in the river, not the lake, which was just an incompetent engineering decision, we say. They pump swift water into a canal and the canal runs towards Hamilton. I do not know if you have seen it -

Mrs SMITH - Yes, we have.

Mr ARCHER - The landowner there is concerned about erosion problems and he wants a fence put up or public liability because the pumps don't start automatically. Some child playing there could get drowned, and this sort of thing. Apart from that I do not think it needs a lot of expenditure. This erosion of the canal could be an ongoing problem. It could be that every year something has to be done - earth moving, or erosion control or weed control. There is erosion of one of the weirs and the weirs might be get damaged in a flood. So the chances are it is ongoing liability.

We want to just clarify what the financial situation of our trust is because we don't know; there are a lot of documents that we have never seen. And we think \$500 000 has been spent there but we think it's probably a bit more than that.

Mr FLETCHER - This is with Meadowbank you're talking about.

Mr ARCHER - Yes. It can only save a fairly small amount of water in any event.

Mrs SMITH - It's not finished, you have made that quite clear. There are two properties that have the capacity to utilise at the moment, is that correct?

Mr ARCHER - No, there are more than that. There's one significant irrigator, Mr Jones, and there's a small irrigator, Richard Downie, and George Sonners, both at the moment with small demand. That might change, but at the moment they've got small demand. Then at the top end of the town there is Rob Parsons, who uses that supply for his mint paddocks. So if you tally all those up it's only 850 to 900 megalitres.

Mrs SMITH - And the future potential, in your opinion, of that area down there for further expansion into, say, irrigation capacity of properties?

Mr ARCHER - I'd have to say it is limited by the terrain. It is steep country all around surrounding Hamilton, and the potential to expand from that scheme is pretty small.

Mr WILKINSON - Did I hear you correctly when you were saying why do you have to pay for water if you've got a priority right for it?

Mr ARCHER - That's it.

Mr WILKINSON - We are talking about this Meadowbank scheme at the moment -

Mr ARCHER - You still pay for water even if you've got a priority right, Mr Wilkinson.

Mr WILKINSON - I realise that, but what I'm looking at is endeavouring to give people downstream the capabilities of getting their water from Meadowbank as opposed to getting it by priority right from the Clyde scheme. As I understand it, you pay more for the water that you get from Meadowbank than you do from the Clyde scheme. Is that right?

Mr ARCHER - No. The Clyde scheme is only actually used for about one month. It has only ever been used in March 2003.

Mr WILKINSON - For these bottom four irrigators.

Mr ARCHER - Yes, it only ever got commissioned and used in March 2003. That is the only time it has ever been used.

Mr WILKINSON - So in the history of the Clyde scheme, for these four irrigators that you have spoken about, it has only ever been used once.

Mr ARCHER - It was only just put there in recent years and is still not finished, but it has only ever been used for one month. That is all. As I say, can people at the bottom end of the river be supplied with water from this pump scheme? Well, two of us lobbied strenuously that they could take all Hamilton off the lake supply, not with that pump scheme but with one of our design, but that was rejected by the trust. They were hell bent on this low-level scheme where you had a pump in the lake and then a canal around the bank and then another pump under the Hamilton Bridge up the top end of the town. We could not convince them that their plan wasn't a sensible idea. They were still hell bent on it. If they were really determined to spend all the reserves of the trust, the \$300 000 that we had in reserve, they could have taken all Hamilton off if they had wanted to, but they wanted to do this low-level scheme. It is folly to turn the clock back and start again now. It is difficult to see how you could make it work now. It has already been put there. But certainly we wanted to have a moratorium on any further expenditure while we made the most of a bad job, if you like.

Mrs SMITH - Are you suggesting a moratorium on expenditure and also allocation of any further water?

Mr ARCHER - We have never suggested that there is room for any further allocation of water from anywhere. You could arguably allocate more water out of Hamilton to someone who was a new entrant if you wanted to, but there actually is not a demand

there at the moment. In fact it is pretty obvious that the four irrigators there only use very moderate amounts of water. One dairy farmer is using it to capacity, but the others are just irrigating opportunity crops, whereas traditionally one of them was a big flood irrigator. However, the economies of flood irrigating for sheep have diminished over time, so there are a few schemes that are not irrigating intensively like that. They are not using the volume of water that they did 20 years ago.

Mr WILKINSON - Do you believe there is enough water in the system to sustain each one of the 21 irrigators?

Mr ARCHER - The quick answer to that is yes, but the more lengthy answer is that with the priority system there we have the mechanism all the time to protect those who were irrigating in 1975. The people who have developed schemes since 1975 were told, and it is recorded in the minutes and in the correspondence of the trust, that they put in those schemes at their own risk. They knew then that they had lower surety of water right, even though that probably wasn't a term they used at the time. We used the term 'priority'. They had lower priority when the water would not be available. The document gives comprehensive evidence that there was some rationing of water in the 1960s, and some further approvals from the late 1960s to 1975. In 1976 the trust said, 'Well, that's it. To give people this approval we have to stipulate that they know they have lower priority'.

Mr WILKINSON - In other words, enter at own risk. That is what you are saying.

Mr ARCHER - That is right.

Mr WILKINSON - Enter at own risk. In other words, spend money at your own risk.

Mr ARCHER - That is it, and be aware that there will be years where the water is not available. Of those late developments, some of them built big dams so they have their own private storage, and then others just had a fortunate run of years where the lake was never at a critical point. There always was enough water until the 1999-2001 drought, when we did finally run out of water. That is when it is highlighted and this priority policy has been raised. Of course that is when the political manoeuvring started, with some people trying to say that what was in the minutes 30 years ago does not count for anything - that's all finished. Some people argue that with the passage of time that is all over and done with, but on our side we say that the trust at that time in good faith made those motion for priority to protect the users at that time, so it should be upheld. We keep pointing to our five-point structure as the priority that should be upheld, the trust minutes should be upheld, the rights of the sleepers are upheld. The 1.5 megalitres an acre is a reasonable benchmark. It is the benchmark that the government engineers used at Cressy and Longford and it happens to fit well with us, too.

Mr WILKINSON - With the sleepers and dozers in relation to them if they don't want to use the water, they can obviously trade that water and then it is a matter of demand and supply, I suppose, and a matter of whether people wish to purchase it and think that it is going to be of benefit to them. Should there be any set-up at all to make sure that that water is traded at a reasonable rate, as opposed to what rate the sleeper and dozer think it should be traded at? Let the market decide?

Mr ARCHER - I think let the market decide. The chances are that if the water charge for the year is, say, \$12 a megalitre, the sleepers in the system will let someone else use their water more than likely to cover that service charge. I cannot see that with all the private storages that have been built and potentially can be built that the market value - that is, the tradable value - will really increase by a lot because the annual cost of the private storages is \$20-odd a megalitre. I think that will put a ceiling on what water will be traded at. In the past there have been sleepers on the river who have not used their water and someone else has been able to use it and I reckon that ought to continue. It will just mean that the user probably pays the service charge. I don't think anything extreme is going to happen here.

Mrs SMITH - Can I perhaps expand on the sleepers, dozers and users. The people at the moment who are using traditionally yearly irrigation capacity, you have those users. You have then, if my interpretation is correct, the classification of dozers. They may be people who have a licence for water who only see a need to utilise it when they predict it is going to be dry year and perhaps there would be farmers who want to put an extra crop in and irrigate it to ensure they can finish. Then you have sleepers. Is my presumption correct that sleepers are just people who have predicted into the future, 'I may need water so I will put up my hand and claim some water now to utilise down the track'?

Mr ARCHER - No. A sleeper is someone who may well have built the weir at Lake Crescent in the 1840s - and there is one farm in this district that represents this case - but at the moment is a sleeper, not having used much water in the last 20 years. They are the pioneers who took the horses and carts up to the lake and with picks and shovels built the first control gates. So they are a sleeper; that person still has a water right. A dozer is someone who uses half of his water every second year, say; he does not use his full entitlement. There are other categories of sleeper - people who might have irrigated, for instance, quite regularly up until two years ago and then perhaps the person has had an illness, a retirement or, say, his son has gone away to college and when he comes back they will start the irrigation up again. Maybe the infrastructure has fallen into disrepair. I know one farmer who had a weir washed out in the 1960 flood and that was a trigger for them to stop irrigating; they did not rebuild the weir.

CHAIR - How many actual dozers are there on the scheme? Can you quantify that?

Mr ARCHER - There are a lot of farms that have a portion of their water rights as a dozer. I can't quantify that, but the amount of water in the sleeper category is only about 800. So it is not a big percentage of the river. Some of them have a sleeper right in a priority category and some a sleeper right in a lower surety category, too. It is not an overwhelming proportion.

Mr WILKINSON - Your fair argument with them would be that they built the infrastructure therefore even though they have not drawn on the system, they should be able to, if required at some later stage?

Mr ARCHER - You have raised a question on that, that particular example of someone who did that work predating of the keeping the Clyde Water Trust minutes, but there are other people who had a statutory right, which is one of our arguments, that once you were given the permission under the rules of the Clyde Water Trust, just because you had not used the water you should have it abrogated. In fact it is one of the problems of the

consultants' report that was sent to the trust. At first they said, 'Once you have a statutory right on the mainland you have a statutory right; you can't have it removed', and they don't either in Victoria. If you have a statutory water right, it is a water right with 100 per cent security. Very rarely do they get less than 100 per cent of their water right, even in the worst of the droughts.

There is a consultant who did this report on sleepers for us. He actually said that in Western Australian the sleepers have their water right abrogated; if you don't use your water right, you can have your water right taken off you. On investigation that was proved to be false, that was wrong; he actually edited a quote out of a West Australian paper. That discredited that consultant to my satisfaction and we suggested that the trust should ask for their money back.

Mr FLETCHER - This price-setting mechanism interests me significantly. You have stated that initially five years ago you were paying \$2.50 per megalitre for the water and during that time the Clyde Water Trust set aside \$300 000 in reserves from that trading operation, which seems to be very prudent management and well established. You then went on to say that in the last five years the megalitre rate has increased to \$12 or \$12.50 a megalitre, as I understand it.

Mr ARCHER - That's right. The last year it may have been even more than that.

Mr FLETCHER - Therefore there is a component there or I am assuming there is a component there that is not cost recovery but is reflecting the market price of water in the catchment area?

Mr ARCHER - No, none of that is reflecting market price. The Clyde Water Trust has always tried to raise just enough money to run itself - nothing to do with market value.

Mr FLETCHER - So why was the extra \$10 a megalitre being introduced over the last five years?

Mr ARCHER - Well, that is probably a good question to ask the trust. I am not on the trust; I am not a trustee but I think it is reasonable to say that firstly there is the usage of water fill in that time because of the drought conditions and secondly they are trying to put some further money aside for these consultancies and legal advice on the allocations process. They have spent \$70 000 or \$80 000 on legal advice and consultancies and they needed to raise money to cover those costs as well as spend the \$300 000 they had in the bank on the Hamilton pump scheme, so they actually overspent. We have not even covered the legal advice as yet, which is a shame because that is crucial as to why we had the motion of no confidence in the trust. We have not seen this legal advice.

Mr FLETCHER - Setting aside the emotional law, the political outfall that may arise from this scenario and considering the impact on operations, what would be the impacts of increasing the cost per megalitre to \$30 a megalitre?

Mr ARCHER - I know that is the figure regarding which we are saying, 'Where's the justification for it?'. Whatever the cost of water is, it would have to be justified. That is the first thing because we do not accept the debts of the trust, we have not seen the legal advice so we are not accepting that they were genuine or in good faith.

We do not necessarily accept the expenditure on the Hamilton pump scheme either. They had the \$300 000 in investment funds. They are allowed to spend that apparently but they have no right to borrow money without the irrigators agreeing to it; they need to have a poll of irrigators to agree to it before they incur any further liability. Then there's the question of whether the Clyde Water Trust was a valid entity at the time and did they approve this expenditure when there were quorums at the meetings. I don't think they were. My solicitor tells me that the trust was out of date in Christmas 2001. It became invalid; it wasn't a valid entity. They had no right to spend any money. They hadn't had elections. The Government urged them to have elections and they still didn't have elections.

Mr FLETCHER - What is the difference between the south-east irrigation area and the Clyde River area, where the irrigators in that area can pay \$50, \$60 or perhaps \$90 a megalitre for water, and it's impossible to pay more than \$12.50 per megalitre in the Clyde River irrigation area?

Mr ARCHER - A good question. Those people down there lobbied for the south-east irrigation scheme, stage one and stage two. My research into it suggests that the cost of water there is reflecting accumulated incompetence by the commission. The only way those farms survived is that they either had off-farm money or they were allowed to subdivide it and sell it to a doctor who put in a vineyard, or sell it to someone for an apricot orchard. Outside investors would come into the district, as you know, but it wouldn't have happened without the miracle of subdivision. It wouldn't have been possible. That is what has kept that afloat: without the miracle of subdivision from the Clarence Council, a lot of the original farms there would have gone broke.

Mrs SMITH - And the miracle of water? Where would you put that in the equation of the vineyards and the fruit farms, and so on?

Mr ARCHER - It has certainly given them the opportunity. A small intensive area has worked, but it will not work here because we are a frost area. There is no-one putting in grapes and cherries in at Bothwell. I can't understand how the commission gets away with it down there. They must be placid farmers, or something, because \$1.6 million of government money gets put into that scheme, so all the capital costs are covered by the Government.

Apparently they are raising just enough money to pay for depreciation on the Craighourne dam and the pumps, which is depreciated over 20 years for the pumps, probably, and the dam is 100 years. I can't see how the cost of water there could be more than \$50, yet it's \$180 on the pump scheme from Richmond to Cambridge, and no capital cost. It is extremely inefficient. I know on my own farm that maintenance on my pumps is \$1.50 a megalitre, and that's over 10 years. So where the money goes down there is a separate matter.

Mrs SMITH - Just two questions. Firstly, if the Auditor-General actually looks at the affairs of the Clyde Water Trust, financially and so on, and comes forward with a report, do you think the concerned irrigators that you are representing would be accepting and comfortable with that final report?

Mr ARCHER - No, we do not have faith in the Auditor-General to do such a report. The Auditor-General will add up the figures, which he already has done, but the Auditor-General has no power or insight into whether expenditure was either lawful or in good faith. He's out of his depth there; it's not his job. We've tried this. It's been put to us; the Auditor-General says the figures add up, but that's not the point. The point is whether it was done lawfully or not, or in layman's terms was it done in good faith or with something else in mind. So the expenditure on the legal advice might add up. There might be \$70 000 of legal advice on the books that has been invoiced and has been paid. We're saying that that expenditure is not in good faith and we're not accepting it until we've seen the briefs that were sent to these solicitors, because the solicitors appear to have been told there are no minutes of the Clyde Water Trust. That's one of the three things.

In this file here, just to give you an example, there is about half the Clyde Water Trust minutes. It seems to us that the solicitors have been told there are no minutes of the Clyde River Trust and someone else is answerable for that expenditure because they tried to allocate \$10 million worth of water on false information given to the solicitor who had been asked to adjudicate on it.

Mrs SMITH - One final one, Mr Archer. Amongst the documents you provided, document C7 is a legal contract, Dobson Mitchell and Allport, Michael O'Farrell. It is an agreement from 1996. Is this a standard copy of agreements between the trust and farmers when they apply? What is the rationale for this in the paperwork?

Mr ARCHER - That one is in the paperwork. That is one the trust did for me, but it was never finished. I didn't accept that document because one of the conditions says that the trust can tell you that you can stop taking water whenever it feels like it, so it wasn't worth the paper it was written on.

Mrs SMITH - So you did not support this because of clause 5(1), which talks about reason of termination?

Mr ARCHER - That's right. That is included in the document because of the reference in there to priority. The trust's own solicitor refers to priority in his own document in recent years, so that was one of the supporting documents.

Mrs SMITH - In your information would any of the irrigators in the Clyde Water Trust process actually sign such a document as this?

Mr ARCHER - No, I don't think any at all. All the approvals in the trust system are all recorded in the minutes or correspondence. There is a big portion of correspondence that went missing from 1996 at that time - correspondence recording approvals in the 1960s and 1970s. They are not in archives; the trust does not have them; where are they? There should be folders full of correspondence and they have gone missing. They were there in 1996.

CHAIR - I will give you the opportunity to make any final points, Mr Archer.

Mr ARCHER - If I am summarising, I suppose the main thing is that we would like the committee to focus on the five-point structure that we are suggesting is appropriate for

the allocation of water on the river - that is on page 3 of the executive summary. If you turn to the final page - page 28 of our submission - we have our recommendations there, which are fairly broad but are specifically important in that the five-point structure is protected. Number 4 of those recommendations is that we are asking the committee to recommend legislation protecting the existing rights as outlined in the five-point structure. That is probably the most important thing for us. Number 1 is: conclude that the allocations process that was carried out in accordance with the act was appropriate - we have not had time to talk about that - to investigate the impropriety and lack of transparency that led to the motion of no confidence in the trust; investigate the financial consequences of the questionable processes, and apportion responsibility for same; and to recommend legislation protecting the five-point structure. The last one is to recommend that the trust be reconstituted by elections at the nearest opportunity. It is strongly our desire to have the trust back in our control, not as a government entity.

CHAIR - Thank you very much for your evidence.

THE WITNESS WITHDREW.