

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 HENRY EDGELL WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Welcome, Mr Edgell. We have your written submission. Would you care to expand on it?

Mr EDGELL - I would like to expand on a few of the points I made in the submission. In the history of water allocation and use, I made the point that the attitude of the Clyde Trust over many years was to endeavour to supply the continuity of water that people requested. I think we are all of us prone to fall into errors of terminology. The trust never issued a licence. There is evidence in the minutes that it thought about it; they wanted to do it and then they never addressed the issue. They were always operating under a fairly uncertain legal status, if you like, of the trust issuing permission to people to do this and that at various times. So when we talk about 'sleepers' - and we have used that as a shorthand terminology for a category of people we have put into various boxes - it is very easy then for us to translate the rights of sleepers in other jurisdictions - if somebody a water right on the South Esk or something - and say, 'Oh well, those commissional sleeper rights translate into full entitlement, so why shouldn't the ones on the Clyde?'. I really feel that the status of the legal permissions, if you like, of the trust need to be taken into account when it is all being assessed.

I advocate a process of a fair and equitable outcome for all concerned and the concerned irrigators group, to my mind, as far as I know their submission, has an ambit claim. It doesn't purport to be balanced; it seeks to find the points that suits its case. I would assume they have done it very well and assiduously, but I really feel the committee should look at arguments from the other end of the spectrum. That being said, I am not advocating the outcome should be at the other end of the argument either. My family and I would like to see a compromise.

I do say at the end of section 1 that alternatively it could be a no-priority system, with the post and pre-1976 water put in at different amounts. That was the recommendation of Marsden Jacob. I think for practical purposes that is not an alternative that should be pursued, given other people's attitudes - and that is fine with me.

In the next section I talk about production from irrigated land is at least double that of a dry State. I was actually meaning to talk about animal production, pastures, et cetera and the irrigation of crops. It is necessary to have irrigation for them. They probably would not occur without the irrigation.

Going down to section 3, I mentioned the surety of supply, in the current licence, of 10 000 megalitres which is issued to the trust at present. When the water management planning process works itself through, the rules we put in place modify that 10 000

megalitre licence and it will be dependent upon the levels of the lakes. There is a computer model which predicts the outcome of lake levels at the end of the irrigation season, putting in place a standard amount of evaporation, if you like. There will be more megalitres available from the model and that will be the allocation that will be available for people to take up.

The water management process also requires environmental flows. They consist of minimum flows. I am talking now of tributary flow from the Clyde River. That is another source of water that the Clyde Water Trust has at its disposal. That will be given a licence to take water not just from the lakes, which relates to 10 000 megalitres, but also from the tributaries that come into the river down its course. That ephemeral water can be used by the trust to supply people's allocations. It can be used before the irrigation season starts for people to irrigate with if they wish and that has been the practice up to now.

Mr WILKINSON - Can I ask where that ephemeral water comes from?

Mr EDGELL - Any creek and tributary coming into the catchment below Lake Crescent. Lake Crescent and Sorell are large lakes but they have a smaller catchment area and then there is quite a big catchment off the Clyde Valley itself. Bark Hut Creek et cetera come in and in a year like this they are flowing strongly. They are a source of water for the lower reaches. It does not come out of the lake and that has always been used by irrigators as well.

Mr WILKINSON - So that is over and above the 10 000?

Mr EDGELL - Yes. It is low-security water because you do not know whether it is going to be there. In the middle of a dry summer it is not there so we are relying more then on the high security from the lakes.

Also, as part of the water management plan, the two lakes, Sorell and Crescent, will have a regime of lake levels. One of the rules proposed is that if water at the end of an irrigation season gets down to a critical point then there will be a penalty imposed in bringing it up again next year. This is the sort of thing that will mean a penalty and it could very well have a severe impact on the supplier the year after.

For all of those reasons it will be necessary for the trust to conserve as much water as possible in the lake. Also, as part of the water management plan process, the Hydro has an interest in the water management plan. They are saying of the water in the catchment that if it is not allocated it is theirs. It is ambivalent if it's actually in the Clyde, but ones on these tributaries mentioned earlier that are caught directly - for instance, the Hallett's dam - could be subject to rules of filling which would mean that they couldn't fill them, for instance, unless the flow at Hamilton is at a certain minimum level. That could constrain the usefulness of that. So that's an area where I believe the Hydro's influence could well impact unfairly on this district.

With regards the notice of no confidence, I don't regard that as being justified because, to my knowledge, the trustees did act in good faith and they did their best. They were caught by circumstances of not being able to properly raise rates because the irrigation licences were not issued. That caused the financial problems the trust found itself to be

in. I would be very disappointed if irrigators repudiated the vested trust. The trust is now in administration and I don't believe it can take any action of itself at the moment. That in itself is a problem because it is the appropriate body to act on irrigators' behalf when dealing with issues like the Hydro. It leaves us a bit exposed to those things.

Mr WILKINSON - Can I ask how should the trust be made up? You may have heard some comments from one end of the river and by people from the other end of the river, the government's delegate, and maybe somebody else. I just wonder what your opinion in relation to the make up of the trust would be.

Mr EDGELL - It should be open to nomination. I don't believe trustees should have to be irrigators; it would be advantageous if some weren't. I would just let the normal elective process take its course.

Mr WILKINSON - And who would vote for the people in the trust?

Mr EDGELL - The people who hold irrigation rights, or perhaps trusts or companies that hold those rights. So the people acting for those trusts or companies should vote.

Mr WILKINSON - And, say, one right, one value.

Mr EDGELL - I would like to see one irrigation right, one vote, but most cooperatives operate by one licence holder, one vote. I'm not sure what the legislation says about that.

Mr WILKINSON - Right. And you believe that the trust is still the appropriate body to allocate the water - or a trust?

Mr EDGELL - You mean after this is all settled?

Mr WILKINSON - Yes.

Mr EDGELL - To run the river, yes, because what happens is that the water management plan puts a straitjacket on freedom of action. The operating rules are very precise and there's not much room to move, but it will be responsible for raising rates and quantifying the charges.

Mr WILKINSON - And there should be an election, should there, for personnel on the trust, or do you believe that once they're elected they stay elected for a six-year period, two-year or three-year period?

Mr EDGELL - I think there should be an election perhaps for a three-year period.

Mr WILKINSON - And all at the one time, or should that be a system where some members stay on and some go off? Maybe half on after three years and half off after three years.

Mr EDGELL - We are a very small group of people, and it's a small thing, so anything that makes it efficient is good. All in, all out would be the kind of thing after three years.

Mr WILKINSON - A lot of the documentation has said that there's been a problem with people that are on the trust, obviously, and the lack of transparency. Were you on the trust?

Mr EDGELL - No.

Mr WILKINSON - What do you say to that?

Mr EDGELL - I think the trust's communication with irrigators was not always brilliant, and there was a problem of timeliness of getting things done. I think the trust had problems within its secretariat. Also, it was constrained by not being able to go anywhere.

Mr WILKINSON - My view is that most people on all these boards endeavour to do the best they can with the facilities they have; some do a better job than others, as in any walk of life. But in relation to the trust, are you able to say what the debts of the trust are? Do you know?

Mr EDGELL - Not precisely, no.

Mr WILKINSON - What do you say to a view that there should be knowledge of what the debts are and, whatever those debts are, should the Government dip into its pocket now and pay those debts in order to allow the new trust to start afresh?

Mr EDGELL - No. I don't believe the Government has any obligation to fund the debts of the trust. They should be paid by irrigators. Perhaps a loan would be necessary to tide the trust over for a period until they can raise the money for the rates.

Mr WILKINSON - Reading through the documents, if I might, some of the irrigators might argue that they had no real say in where the money was spent, they weren't advised where the money was spent, they didn't have any say as to how it should be spent, therefore why should they have to pay.

Mr EDGELL - I don't think that stands up under examination. There were several irrigator meetings to which the trust referred major decisions and they were accepted, particularly the expenditure on the Meadowbank scheme - which is the major item. That was passed by a large majority and the budget for that was within the resources of the trust at the time and cost overruns are very unfortunate but they happen.

Mr WILKINSON - How do you believe that this whole process should be sorted out? What do you believe would be the most appropriate outcome?

Mr EDGELL - I think, given the circumstances, I would like to see your committee being comfortable with the way the Rivers and Water Supply Commission might do it if the legislation goes through. I think the knowledge of the Rivers and Water Supply Commission and DPIWE should be put on the table as well to sort this out. I would like to see those amendments passed that were held up. With the benefit of your report, the Rivers and Water Supply Commission can get on with the job of recommending to the minister what the rights should be.

CHAIR - As I understand you are a member of the Clyde catchment water management group.

Mr EDGELL - Yes.

CHAIR - You referred in your submission to the environmental flow regime and you say that it will have a significant impact on the ability to build storages and thus on the future sureties of supply. Can you give any indication of how significant you think that is going to be? I take it it is still in a draft form and no quantum have yet been allocated for environmental flow?

Mr EDGELL - There are a lot of quantum but not agreed ones. Usually it is a matter of something being put on the table and we pull it to pieces and it may get modified or may not. I guess from the irrigators' point of view there is about 20 000 megalitres in the lakes that the new rules will not give us access to. The lakes are driven by evaporation and there is a huge quantity of water up there - about 200 000 megalitres - if the lakes are full, but we know and expect that about 90 centimetres of evaporation will occur over the summer so whatever is left may be available for irrigation. So what is taken out for irrigation doesn't have a huge influence on lake levels but nevertheless cumulatively it would. The lakes, for instance, have not spilled since 1997 but our usage since then would be impacting on lake levels now.

The 10 000 megalitre licence out of the lakes has an impact. There is also an impact of minimum flow requirements and the ability to take these ephemeral stream flows, which has been part of the scene. That is very much harder to quantify but these stream flows are used for filling private storages in the winter, and sometimes in the summer if there is a flood - which we do get in the middle of summer sometimes - there is surplus water going down the river and people replenish their storages. So we need access to them. I can't be more precise in saying there could major economic effects of it; it is very hard.

CHAIR - A proposition was put earlier that there maybe a solution or a potential solution was to split the irrigation district, so those people who had land-holdings down near Meadowbank would irrigate and have entitlements from there and then you would have a split from say the northern irrigators; is that any sort of a sensible proposition or not?

Mr EDGELL - Absolutely. The whole concept of the Meadowbank scheme was to have a source of supply for irrigators at the bottom end, which gave people virtually 100 per cent security; that is a huge benefit to them.

It is logical, then, that it is no good trading those rights up the river because the source then has to come from the lakes. I think the criticism of the pump scheme is unfounded. It will be a huge benefit to those people down the river. There is a lot of capacity for expansion and it should be put into operation for this season.

CHAIR - I think you mentioned you were a member of committee B.

Mr EDGELL - Yes.

CHAIR - Since then, the consultants Marsden Jacob have been involved, and also the facilitator. Do you think that was a reasonable open process, those events that transpired since committee B?

Mr EDGELL - No.

CHAIR - That they were transparent in regard to the other irrigators, that everybody had their fair say?

Mr EDGELL - Well, Marsden Jacob were engaged almost at the start of the process, yes, and then we went back to them to help get resolution when we were getting stuck. I think people had a good opportunity to give Marsden Jacob their opinion.

CHAIR - I understand there were a small independent group who were determined and who met then with the facilitator - I think it was Andrew Beattie, was it? That occurred after that process, after Marsden Jacob?

Mr EDGELL - Yes. Andrew Beattie came in as facilitator late in the day when there was a fair bit of negotiation between Peter McShane, one of the trustees, and Andrew Beattie. He then presented committee C's report which eventually went to the minister.

CHAIR - At the end of the day there was a fair bit of discrepancy between allocations from committee B and committee C, was there?

Mr EDGELL - Significant but not -

CHAIR - Okay. Any further questions?

Mr FLETCHER - Mr Edgell, you are a member of committee B and do you support that report and those recommendations unreservedly?

Mr EDGELL - I am afraid I had a minority view. When it came to its final report I thought it was too generous to the sleepers. I advocated that sleepers should not be eliminated but go down a category - half their sleeper right to go down a category was what I suggested to committee B. I was not too far away from what committee B were reporting but I was not quite with them.

Mr FLETCHER - Could I take you through a number of scenarios that have been recommended to us by the concerned irrigators group and ask for your acceptance or rejection of their propositions? Firstly, that all acres of water be converted to megalitres at the established benchmark of 1.5 megalitres an acre based on the committee B recommendations. Do you accept or reject that proposition?

Mr EDGELL - I accept it but could I add a rider that there is a ceiling of 10 000 megalitres in the licence. It is all very well to have a huge water right but if the river is not going to supply it everybody is cut back proportionally.

Mr FLETCHER - Okay, I accept that. The recommendation of this concerned group was that the minutes of the Clyde Water Trust be accepted as a true and accurate record of the trust business. Do you believe that to be acceptable and reasonable?

Mr EDGELL - Well, the minutes are the minutes, yes, I accept them, but that is not necessarily the only record of business. There would be correspondence.

Mr FLETCHER - But surely you would have to accept that the minutes take precedence over correspondence. The formal decision-making process as recorded of a group or of a committee is the official record of that committee.

Mr EDGELL - Sure.

Mr WILKINSON - The correspondence would be accepted into the minutes anyway, would it not?

Mr FLETCHER - The next is the matter you have referred to previously, and that is that the rights of sleepers and dozers - that is, irrigators who have not used their full entitlement for a period - to full entitlement in their categories be upheld. I think you have responded to that with your committee B statement saying you were supportive of recognising the rights of sleepers or dozers but probably to 50 per cent of their initial allocation. Do I represent you fairly?

Mr EDGELL - The amount would be a little bit better than that. If we are going to have a two-tier system, if a sleeper had 100 megalitres, found to be by committee B, 50 megalitres would stay in high category and 50 would go to low.

Mr FLETCHER - I see. Okay. The next point was that the hierarchy of water rights be structured on the basis of the 1976 policy, so the group are making the point that post-1976 there was a condition attached to the granting of permission to take water. Do you accept that that is so?

Mr EDGELL - No. Many permissions were given without reference to the 1976 policy. There was a mish-mash of evidence, if you like, and that makes the whole thing rather murky. In fact the 1976 decision pertained to an application I made and I got a letter from the secretary of the trust - it is in there somewhere - which I accepted on its face value, but it was never explained to me or put into action what it meant.

Mr FLETCHER - So if you are a case study, you applied for water in 1976. You received a letter which said you are granted the right to take water subject to the water being available.

Mr EDGELL - It was more than that. It was subject to previous licence-holders having priority.

Mr FLETCHER - Okay. So, having received that letter, you must accept that there are two levels, there is a priority system in place.

Mr EDGELL - Yes, I accept that, to a degree, but how you interpret it is another point.

Mr FLETCHER - Could you explain for the benefit of the committee your doubt there?

Mr EDGELL - Well, as my submission says, I can see that the people who were using water at 1976, that could be a priority, and making allowance for some sleepers, but to bring it up to 8 000 megalitres is unfair on the people who have invested in water since then.

Mr FLETCHER - Okay. The other question I had to raise was a point raised by the concerned irrigators. I think you have already addressed that, but their point was that the priority policy implemented on 21 July 1976 be upheld, so are you saying categorically that, no, that should not be upheld but, yes, it should be upheld subject to certain conditions?

Mr EDGELL - I have accepted it as a significant piece of evidence, and it should be upheld to a degree.

Mr WILKINSON - To what degree? An obvious question, I think.

Mr EDGELL - Whereas the concerned irrigators suggest 8 000 megalitres goes to high priority, I have suggested 3 000.

Mr WILKINSON - Can I ask how you came to that figure?

Mr EDGELL - It was a bit rubbery, but probably irrigators were using a bit less than 2 000 megalitres back then, those early irrigators -

Mr WILKINSON - This is pre-1976?

Mr EDGELL - Yes - and probably you could recognise by whatever method another 1 000 megalitres of sleeper rights, but I must admit I have not done chapter and verse on it.

Mr WILKINSON - Am I right in saying that you came to the 3 000 megalitres by looking at what the pre-1976 irrigators used and gave them a bit on top?

Mr EDGELL - Plus sleepers.

Mr WILKINSON - If you had to go down a table and say, 'This is the first thing that should be looked at, this is the second thing that should be looked at' in coming to what you believe an equitable conclusion would be, would I be right or wrong in saying that the pre-1976 users and sleepers should be the initial starting point and should be at the top of the ladder as far as allocating rights is concerned?

Mr EDGELL - No, I think it needs to be all looked at as a piece and sorted out in priority after that. Obviously it is a significant thing.

Mr WILKINSON - Is there anything more significant?

Mr EDGELL - If you are starting from B committee's report of that spreadsheet, the pre-1976 priority is probably the first thing you look at after that is established.

Mr WILKINSON - And then where do you go?

Mr EDGELL - It is a matter of all those various boxes being put into some bigger boxes. I think you go next to high priority and then to low priority. It is as simple as that.

Mr WILKINSON - Were you aware - I think Paul might have mentioned it - of the incidence where the people who, let us say, invested in water after 1976 were given a warning by the trust that it might be dangerous as a result of the allocation of water at some later stage?

Mr EDGELL - Except in a few instances, not in relation to the priority issue, in relation to the total supply. The trust was often concerned about total supply and they mentioned 'investment is at your own risk' and used phrases like that, I understand.

Mr WILKINSON - In relation to the Meadowbank scheme there has been some comment that in order to get it up to a situation where it is able to properly supply people downstream, there would be a significant sum of money involved. What do you say to that comment?

Mr EDGELL - I don't believe it is a significant sum. There is fencing and a bit of erosion in the channel and I think that could be fixed fairly simply. The dam needs a bit of work on it but that is only earthworks. I think perhaps a few thousand dollars would do it.

Mr WILKINSON - They are talking about I think 800 megalitres. That is all it would give. Is that correct?

Mr EDGELL - It depends how much irrigating people do down there. What it will mean is that instead of letting x number of megalitres pass through Bothwell and make sure they have enough, it can be dropped back to a lower figure because there are not all that many people who take water out between Bothwell and Hamilton. The saving will be the accumulation of a daily flow.

Mrs SMITH - Whilst we are still on Meadowbank, it was suggested that the scheme be split into two. It would be fair to say that there has been \$500 000 spent on the Meadowbank process and some more to spend. Wouldn't you think that those at the lower end would have quite an entitlement to have some concern that suddenly they might be lumped with the bill?

Mr EDGELL - I don't think they should be concerned, Mrs Smith, because it was never, to my knowledge, in anyone's thinking that that be the case. The cost of running the scheme, which will be a hydro bill and depreciation on the scheme, will be borne by all irrigators.

Mrs SMITH - So you would have two schemes but under the one banner of management?

Mr EDGELL - Under the one management, that's right.

Mrs SMITH - Okay. If the lower level users all irrigated out of Meadowbank, would there then be the capacity in the upper levels to give pre-1976 full entitlement and post-1976 full entitlement and then add the sleepers at 100 per cent or 50 per cent; in your opinion would there be enough water?

Mr EDGELL - I do not believe so. The argument gets very intense when there is low supply and there have been years when only a few thousand megalitres are available. Meadowbank will have an effect but not get us out of trouble.

Mr FLETCHER - It seems to me that if more water is required in the system Meadowbank is one of the opportunities for more water to be available in that system. It would seem to me that cost is the factor. I use a hypothetical; if water is \$12 a megalitre in the north and \$30 a megalitre in the south, they are going to want to equalise the price. I think you have suggested the price could be equalised, so at \$15 or \$20 a megalitre over the whole of the scheme, whatever that happens to be.

The Water Act, of course, has brought an extra component into that and that is the right to sell water. If people can draw water out of the northern end of the scheme they have a tradeable right to sell to the people in the north end where there is perhaps more activity and more demand, whereas if you have a water right to Meadowbank you cannot sell that upstream. Is that a legitimate concern?

Mr EDGELL - The thinking that I have been involved in is that the process of issuing irrigation rights has to be based on historical use, which was only out of Lake Crescent because if the Meadowbank scheme breaks down it will be necessary to supply the Hamilton irrigators from Lake Crescent or Lake Sorell. They have a right to that water.

What it amounts to is the trust now having another source of supply that can supply irrigators in a particular area with water from another source. That means it is unnecessary for the trust to supply them from Lake Crescent, therefore everybody on the river benefits one way or the other.

The people in the Hamilton scheme benefit by having a very high security supply; they will never have to worry about shortages. Not only shortages of the total allocation but shortages of particular flows on a particular day because the scheme was designed, perhaps too generously, so that everybody could switch on their pump at once so there will not be any necessity for scheduling in that area.

Mr FLETCHER - I do not quite understand your last point but perhaps I need to think about that a bit more. I am across the fact that it is a generous scheme that allows everybody to operate if the need be at the same time. The point I was making was that if you are farming in the southern end and I am farming in the northern end, and if you have rights to the Clyde water scheme and I need those rights, you can sell them to me and we can do business.

If your right is transferred in some way to take water, do you envisage that your water rights might be transferred to take water out of Meadowbank? If you take water out of Meadowbank, and that is the right, you cannot then sell the water to me in the northern end if I want it and you want to sell it, because the water is in the south and there is no way of getting it to the north?

Mr EDGELL - Yes, I think that's right. The trust has elected to supply those irrigators from a source nearby. For them to sell their water right upstream would create an unnecessary demand on the lakes because in fact the water can be supplied in another area.

Mr FLETCHER - Yes, you then argued that if Meadowbank broke down for whatever reason there would still be a need to supply the right from the Clyde.

Mr EDGELL - Yes, absolutely.

Mr FLETCHER - That is what I can't quite envisage. Are you saying that the water right would remain and the water right would be a right to water from the Clyde River Water Trust and it does not matter where it comes from?

Mr EDGELL - I would see it as an obligation on the Clyde River Water Trust to supply the allocation that is made for that, yes. However, let us say there is a restriction of 4 000 megalitres out of Lake Sorell and we are all hurting up this end of the river people in Hamilton can have their full entitlement without any problems and everybody would pay for that, I would say, pay the pumping cost of that.

Mr FLETCHER - But the right to trade water would largely be taken away; the right for a southern owner to trade water to a northern irrigator would be lost. That would be the price they would pay for their security?

Mr EDGELL - Exactly.

Mr WILKINSON - Can I be very brief? Are there any other catchment areas that could be linked into to assist with the water supply in this area? We have heard that there is a couple, whether that is true or not I don't know. What are your views on that?

Mr EDGELL - There were ideas of bringing water from the Shannon. I don't think they have actually got legs. I am not sure how far these proposals went but I would imagine the costs would outweigh the amount of money that people would be prepared to pay for it; it is always something that could be looked at.

Mr FLETCHER - Could we then ask; will operators in this area be constrained in their economic development in the future or are there big areas available for possible expansion of waters?

Mr EDGELL - There are big areas of possible expansion if water is available and markets are available and suitable crops et cetera. It takes a lot of investing in infrastructure to achieve that. There is still a lot of potential in the State. It is not even half developed yet, I would say. The trouble is that the more private dams go in, the more risky it is to get them filled every winter. We have seen evidence in the water management planning process that the river is what they call very 'flashy'; it is either up or down. When it is up it is up for a short time and although there are some big flood peaks that go through, the reliability of getting the dams filled every year is not there. I would suggest that anyone putting in a dam would have to rely on it getting filled every second year.

CHAIR - If there are no further questions would you like to make a short summary, Mr Edgell, to conclude?

Mr EDGELL - Well, only I suggest, Mr Chairman, that you look at all of the arguments and you then, if your report can, inform the Rivers and Water Supply Commission, who will actually do the job of coming up with the megalitres.

CHAIR - Thank you for your evidence.

THE WITNESS WITHDREW.