

**ECONOMICS AND INDUSTRY  
STANDING COMMITTEE**

**Inquiry into Water Licensing and Services**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
THURSDAY, 24 JANUARY 2008**

**Members**

**Mr R.C. Kucera (Chairman)**  
**Mr G.A. Woodhams (Deputy Chairman)**  
**Dr J.M. Edwards**  
**Mr M.P. Murray**  
**Mr A.J. Simpson**

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**Hearing commenced at 2.00 pm**

**ROBERTS, MR EDWARD JOHN**

**Project Director - Water Law Reform, Department of Water,  
168 St Georges Terrace,  
Perth 6000, examined:**

**WESTERN, MS ELIZABETH**

**Manager, Water Licensing, Department of Water,  
168 St Georges Terrace,  
Perth 6000, examined:**

**RUPRECHT, MR JOHN**

**Acting Director General, Department of Water,  
168 St Georges Terrace,  
Perth 6000, examined:**

**ROWE, MR MICHAEL CHARLES**

**Manager, Policy Coordination and Reform, Department of Water,  
168 St Georges Terrace,  
Perth 6000, examined:**

**The CHAIRMAN:** Thanks for coming back. It is a formal hearing today, so I have a few other things that I just need to read out and reiterate while we go through. Firstly, and this applies to each and every one of you individually as well as a group, the committee hearing is a proceeding of Parliament and warrants the same respect proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Firstly, individually, have you completed the "Details of Witness" form, Mr Roberts?

**Mr Roberts:** Yes.

**The CHAIRMAN:** Liz?

**Ms Western:** Yes.

**The CHAIRMAN:** John?

**Mr Ruprecht:** Yes.

**Mr Rowe:** Yes.

**The CHAIRMAN:** Do all of you understand the notes at the bottom of the form?

**The Witnesses:** Yes.

**The CHAIRMAN:** Yes from all four. Individually if I could get you to say that. John?

**Mr Roberts:** Yes.

**The CHAIRMAN:** Liz?

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**Ms Western:** Yes.

**The CHAIRMAN:** John?

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** And Mike?

**Mr Rowe:** Yes.

**The CHAIRMAN:** Thank you very much. Did you receive an information for witnesses briefing sheet regarding giving evidence before the parliamentary committee; again, individually, if I can get you to say yes?

**Mr Roberts:** Yes.

**Ms Western:** Yes.

**Mr Ruprecht:** Yes.

**Mr Rowe:** Yes.

**The CHAIRMAN:** Do any of you individually or as a group have any questions relating to your appearance before the committee today?

**The Witnesses:** No.

**The CHAIRMAN:** The committee has received submissions from your department. Do you wish to propose any amendments to the submission, individually or as a group?

**Mr Ruprecht:** No.

**The CHAIRMAN:** You will have an opportunity to address them anyway. Before we ask any questions, did you wish to make any statement in addition to the submission that you have put before us?

**Mr Ruprecht:** We are happy with the submission as it reads.

**The CHAIRMAN:** Thanks, John. Arising out of the meetings and the briefings that we have had since we saw you last, there are quite a few questions that the members of the committee have and which we would like to put to you and work through. Obviously there will be other issues that come up as we go through. Firstly, if I can go back to the terms of reference, the first term of reference deals with the benefits to, costs to and imposts on irrigators, the community and the environment of a licensing system for the taking of water from groundwater or stream flow. Just in relation to that, the submissions have revealed to us, I suppose, what appear to be considerable differences regarding what various users or various licensees see what is or is not a benefit. Some people agree with you that some parts of the licensing process are a benefit; others say they do not see it as a benefit, which is understandable. For example, trading is seen by some as a distinct advantage coming from the separation of land and water rights, while others see that as not the case, and, in fact, see it as a cost or an impost, I should say. There is also recognition by all people that we have had submissions from - in fact everybody that has given evidence before the committee - that licensing will come at a cost. I suppose the greatest controversy in the submissions is what constitutes a fair and equitable break-up of that cost, and that seems to be the overriding issue that has arisen throughout the hearings. It would be good for us to get on record a clarification of just what the licensing fees that we are discussing are for; that is, for licensing only as required under the 1914 Rights in Water and Irrigation Act and not for water access entitlements that would be allocated under statutory management plans when they and the relevant legislation are eventually put in place. So bearing all that in mind, page 9 of the submission contains a table of water licences by region as at 11 December 2007. The committee would like a breakdown of the classes of licence as per the gazetted schedule of fees; that is, for example, of the 2 290 groundwater licences in the south west, how many are class 1, class 2 etc - are you able to give that to us?

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**Ms Western:** Yes, we are. I have actually got that information with me today, I think. Let me just check. We do.

**The CHAIRMAN:** Is the list that you are going to give us based on the licences that are issued under the disallowed regulations?

**Ms Western:** Is that on the licences that are issued under the disallowed regulations?

**The CHAIRMAN:** Yes.

**Ms Western:** I have a breakdown by class. No, this is a breakdown under the new fee schedule and the number of licences that fall into each category. There would not be a great deal of difference between that breakdown by class, whether it is the disallowed regs or the new regs, because the classes themselves have not changed. It is only the fee attached to that class that has changed, so the numbers of licences in each category remain close to the same.

**The CHAIRMAN:** That was going to be my next question. What impact have the newly gazetted fees had on the number of licences issued? Has there been any change?

**Ms Western:** No, not in the numbers of licences issued themselves. There has been an impact on the number of licences we have in totality in the system between about April this year and probably ongoing until December; and we are expecting to see a flurry of activity because licensees were offered the opportunity to amend their licences through this process to bring licences together under one instrument so that the impact of the fees was lessened if there was that opportunity for licensees. So, there has been a flurry of activity in the licensing process for amendments, cancellations and licences that are no longer required that have been transferred or fallen through the system.

[2.10 pm]

There has been quite a data-cleansing process and, I guess, an opportunity for licensees to clarify their real licence needs. We have had a lot of activity. There has been a shift in the total number of licences over that time frame. However, I must say, the total number of licences in the system is never static; it is a dynamic number because it is an ongoing annual process.

**The CHAIRMAN:** How then does that affect the cost of the individual licences, or does it, in fact, affect the cost of the individual licence?

**Ms Western:** No, it does not affect the cost of the individual licence because the fee is ascribed to a class, which has a volumetric basis. The fee schedule is based on classes of licences. For example, the lowest class of licence is 1 501 kilolitres to 5 000 kilolitres, and the highest class is now above 10 gigalitres. Therefore, the fluctuating number of licences in the system does not affect the fee that is paid by licensees.

**The CHAIRMAN:** Does it affect the number of licensees in the system?

**Ms Western:** It can, yes.

**The CHAIRMAN:** It seems to me that you are dividing the overall cost of the administration fees among the number of licensees.

**Ms Western:** It is not quite so easy to clarify that with the new fee schedule because we are now operating on a partial rather than a full cost recovery basis. Let me be very clear about this: the first fee schedule in place from 1 July 2007 was based on the number of hours ascribed to each class of licence for the activities that need to be undertaken. It was based on the amount of work that needed to be carried out, and that amount of work was then averaged across each class.

**The CHAIRMAN:** It was not a reflection of the individual licence but was a reflection of the average cost across all licences.

**Ms Western:** Yes. Each class of licence was ascribed an average work amount -

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**The CHAIRMAN:** In terms of the equity of the system, one of the issues raised with the committee is that there does not seem to be a balance between the work that is done on the individual licensing; that is, costs are being spread across to those people for whom it is not necessary to have as much work done. I use an example that was given to us: the Harvey Water irrigation area holds three licences for a very large volumetric amount, whereas in another catchment area, perhaps towards Manjimup, 700 individual licensees are essentially paying the same fees etc, albeit not the same volumetric charges, as the one licensee who holds those three licences. That issue was raised with the committee.

**Ms Western:** Yes, that issue was raised throughout the course of the debate. That issue has been considered, and there was some input to the debate from the cooperatives. On balance, the cost of being a part of a cooperative and having water rights protected include the charges that come with belonging to a cooperative as well. A very large licence, such as that of the Harvey cooperative, in itself has a lot of administration, and it certainly has a lot of activity around it.

**The CHAIRMAN:** The cost of that activity is not picked up by the department, is it? It is actually picked up by the cooperative.

**Ms Western:** There are probably both levels within that, yes.

**The CHAIRMAN:** So, yes, it is paid for by the department or -

**Ms Western:** It is paid for by the cooperative members themselves, but I do not think that I can comment on the charges that come to it.

**The CHAIRMAN:** No. I am not asking you to; I am asking about the source. As I understand it, all the same things that you would get in an individual licence area, including monitoring, measurement, volumetric measurement etc, apply to a management structure such as the Harvey Water irrigation area. Is that correct?

**Mr Ruprecht:** Are you talking about within Harvey Water or an example within an irrigation cooperative?

**The CHAIRMAN:** Yes, within their licence. However, they do that themselves; the Department of Water does not do that.

**Mr Ruprecht:** No.

**The CHAIRMAN:** If I was an individual licensee operating in Wanneroo or Manjimup or in any other part of the state as an individual water taker, who would pay for the monitoring and measuring?

**Mr Ruprecht:** In the case of an irrigation cooperative, members have their charges on the cooperative, and then they have the licence fee. In the case of a very small irrigation user, the individual would incur those costs themselves.

**The CHAIRMAN:** Who would actually carry out the monitoring and measurement?

**Mr Ruprecht:** The licensees would carry out their own measurement and monitoring as part of managing their own business.

**The CHAIRMAN:** What costs are then imposed on those individual licensees by the Department of Water?

**Mr Ruprecht:** Those costs relate to the administration of the licence fee rather than to the broader water resource management. They relate to the administration of reviewing the licence and reviewing any information that comes in from the licensee, or, in this case, from the cooperative. We estimate, from our submission, that it will be 10 hours of work for a small licence, and 80 to 100 hours of work for a very large licence. We have some estimates concerning what we think it will cost in broad terms to review, audit and evaluate each individual licence.

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**The CHAIRMAN:** We will move onto that in a moment.

**Dr J.M. EDWARDS:** What class of licence does the Harvey cooperative hold? They would be very big licences, would they not?

**Ms Western:** They are big licences. I am not familiar with the Harvey cooperative, but I imagine that they would be in the highest bracket - above 10 gigalitres.

**Mr Ruprecht:** The Harvey, Waroona and Collie irrigation districts would all be in the highest class.

**Ms Western:** Yes.

**The CHAIRMAN:** Paragraph 57 on page 12 of your submission reads -

Detailed estimates of water licence administration costs for 2006-07 and 2007-08 are not available . . .

You simply provide estimates. I suppose it is reasonable to say that the 2007-08 figures are not available, but why are the 2006-07 costs not available?

**Ms Western:** Those figures were not available at the time we made this submission purely because it required a financial analysis of budgets, and projects within the organisation had changed since the original work was done in 2005-06 because of the changes in the department and changes in the way in which the project management system had been operating.

**The CHAIRMAN:** Are those figures now available to us?

**Ms Western:** We can make those figures available.

**Mr Ruprecht:** We can take that as a question on notice.

**The CHAIRMAN:** Yes, please; if you would.

Paragraph 68 of the National Water Initiative requires Western Australia to report annually on cost recovery for water planning and management, including total cost; the proportion of the total cost attributable to water access entitlement holders; and the basis for determining this proportion. Taking that paragraph into account first, does Western Australia meet this reporting requirement?

**Mr Rowe:** I will need to double-check that information. It would be helpful if I can take that question on notice. At this stage, I understand that nationally agreed performance indicators around this source are yet to be confirmed. As far as I am aware, Western Australia has not yet publicly reported that information. I think that has more to do with the fact that we have not been requested to report by the National Water Commission. I am also not aware of any other jurisdiction having reported on this matter. However, I would like to check and confirm that, if I may.

**The CHAIRMAN:** So, there has not been a report made.

**Mr Rowe:** The National Water Commission completed a biennial assessment of progress against the National Water Initiative last year. However, to my recollection, the issue of cost recovery and the proportion, as outlined in paragraph 68, has not been explicitly addressed as part of that process. So, I would prefer to be able to check that information.

**The CHAIRMAN:** Whilst you are checking that information, is it possible to tell us now or perhaps in your answer when it comes in, what is the proportion of costs allocated to Western Australian water access entitlement holders?

[2.20 pm]

**Mr Rowe:** Yes, I think we can in general terms, because at this stage - as far as I am aware - the only cost from the department's budget that is allocated directly to licensed water users is through the water licence administration fee. We do not have other cost recovery arrangements in place in Western Australia.

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**The CHAIRMAN:** What is the basis of your calculations at the moment?

**Mr Rowe:** It is the basis that is outlined in the submission. Ms Western may wish to address that in more detail.

**Dr J.M. EDWARDS:** Is that the number of hours you estimate it takes to administer various classes of licence?

**Ms Western:** Yes.

**Dr J.M. EDWARDS:** How did you work that out?

**Ms Western:** That was a calculation made in 2005-06 for the irrigation review and blueprint discussions. It was based on the requirement for full cost recovery of the administration of the licensing fee system. To recover the full cost, there was an analysis done of the activities that were identified as administration activities carried out in the licensing process. It does not include measuring, monitoring, planning or groundwater investigations. None of those things are included in those costs. It is purely to do with those activities that are identified as carrying out the requirements under part 3 of the act, under which licensing decisions are made. It is those things that are related to assessment of a licence and application. That includes amendments, transfers, trades, bed and banks approvals and construction of wells, as well as the licence to take. Those activities were identified. They included the licensing assessment activity; the receipting and assessing of an application within the system and assessing it against those licences that might have already been a particular resource, to make sure that there will not be any impacts on other users. It is the compliance activity, to make sure that licensees conform to the conditions of their licences. Sometimes, on an annual basis, licensees provide monitoring data. There are assessments done on licensing conditions. There are also surveys undertaken regularly throughout the state in various areas, sometimes in priority areas. If, for example, a particular resource is approaching full allocation, surveys are carried out to make sure that licensees are complying with the amount they are licensed to take and that they are meeting the conditions of their licenses. They happen regularly throughout the state. There are activities related to the State Administrative Tribunal. We sought legal advice as to whether this actually constituted an administration activity, and we were advised that it was those activities that contribute to a decision under part 3 of the act - a decision relating to the instrument. It was also the advisory input into the -

**The CHAIRMAN:** Before you move off that point, could you explain it a little more fully to the committee? I think your department would be one of the few departments that actually spread the cost recovery for SAT appeals. In most cases, the person appealing pays his costs and the department defending pays its costs, or vice versa. Are you are saying that those costs are actually spread across every licensee?

**Ms Western:** The costs are spread across the licensing program. The licensing officers deal with a particular licensing assessment.

**The CHAIRMAN:** So if I am a licensee who has never had an appeal or is not part of an appeal process, I am actually paying a proportion of the costs for a licensee who has made an appeal and is part of the process. Is that what you are saying?

**Ms Western:** I think it is a proportion of the costs of administering a licensing system, rather than administering a particular licence. It is the average cost of administering the licensing system.

**The CHAIRMAN:** I can understand why you would take legal advice on it. Let us say there are five appeals during the year and there are 700 licensees. My understanding of what you have just said is that the cost of appeals by those particular five licensees will actually be spread across all 700 licensees. Is that correct?

**Ms Western:** I guess it is one interpretation, yes.

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**The CHAIRMAN:** I raise the matter because that is one of the interpretations that have been placed on it by the submissions that have been put to the committee.

**Mr Ruprecht:** There are two points to make about that. The State Administrative Tribunal costs are less than five per cent of the total licence fee administration costs, so they are a small component. Given that we are not looking at full cost recovery with new licences, although they are part of the original submission, there is certainly an argument that some of those costs are no longer covered by the new licence fees.

**Ms Western:** I am talking about how the original and now disallowed fees were calculated. These calculations are now quite proportional to the amended fee schedule.

**The CHAIRMAN:** Any questions or comments the committee makes about that are not critical of the process; we are just putting to you the issues that have been raised in various submissions. In relation to the NWI, paragraph 75 of NWI requires benchmarking of pricing and service quality to be reported independently, publicly and annually. Does Western Australia meet that reporting requirement?

**Mr Rowe:** I think the reporting requirement is more to do with water service provision. Of the benchmarking activity that has been reported publicly, it is more to do with benchmarking of quality and service indicators of water service providers; for example, in our case, the Water Corporation and the two water boards, compared with all other water service providers in other jurisdictions. The benchmarking activity and public reporting of service quality that has been done to date relates to service delivery - in other words, water service delivery - as opposed to service delivery by agencies such as ours in terms of our performance in relation to licensing. It is about the quality of water service delivery as opposed to the quality of regulatory controls or what-have-you that we might be doing as an agency.

**Dr J.M. EDWARDS:** Was that not previously picked up with all the Council of Australian Governments work?

**Mr Rowe:** The expectation that there would be benchmarking and reporting?

**Dr J.M. EDWARDS:** No, the actual activity.

**Mr Rowe:** It is continuing.

**Dr J.M. EDWARDS:** So it is rolled into the NWI?

**Mr Rowe:** That is correct. I cannot comment on whether that aspect has been done before. I am not familiar with work that might have been done under the earlier arrangement, but certainly a very active part of our cooperation with other jurisdictions involves ensuring that reporting is done on water service provision nationally. In our state, the Economic Regulatory Authority is involved with that as the licence manager for the water service providers and our agency, the Department of Water. As I said, it is to do with the quality, timeliness and so on of the actual water that is delivered through Water Corporation and other similar bodies, as opposed to our department at this stage.

**The CHAIRMAN:** So NWI does not require benchmarking of your actual pricing procedures?

**Mr Rowe:** As an agency?

**The CHAIRMAN:** Yes.

**Mr Rowe:** Not as far as I am aware. A national stocktake of approaches to cost recovery has been undertaken. We refer to that activity in this submission. That is publicly available from the National Water Commission's website. As a national body, it has compared all jurisdictions in its approaches to cost recovery for the sorts of things that are contemplated here. That report is publicly available. I guess that is a form of benchmarking. It is certainly a form of comparison in terms of what each of the jurisdictions do in this area.

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**The CHAIRMAN:** I noticed when I read this year's report from NWI that, with regard to the stocktake to which you refer, there is no information available for Western Australia in any of the columns.

**Mr Rowe:** I would have to check the stocktake report.

**Ms Western:** I think it pre-dated the licence fees.

**Mr Rowe:** We would need to check when that was conducted. Western Australia, as the committee knows, only joined the National Water Initiative in 2006. I would need to go back and check that report. At the time the report was produced, it was definitely the case that we did not have a form of cost recovery in place. In other words, we did not have water licence administration fees in place, whereas other jurisdictions have had a form of cost recovery in place for many years in most cases.

**The CHAIRMAN:** If, when you check, you find that there are figures available, I wonder if you could supply them to the committee. In the most recent stocktake report for NWI, in the columns where it refers to Western Australia and the various breakdowns, it simply says there is no information available. If you want to clarify that, Loraine can provide you with copies of the reports.

**Mr Rowe:** Yes, I think we can certainly clarify that issue.

[2.30 pm]

**The CHAIRMAN:** As far as you are concerned, under paragraph 75, we are actually meeting the requirements.

**Mr Rowe:** Sorry; do you have a reference to our submission number in relation to that?

**The CHAIRMAN:** No; I am talking about paragraph 75 of the National Water Initiative, not your submission.

**Mr Rowe:** Okay. I do not have the text of that paragraph in front of me.

**The CHAIRMAN:** Perhaps out of session you can clarify that with our research officer.

**Mr Rowe:** Yes, I would like the opportunity to do that, please.

**The CHAIRMAN:** Going back to the difficulty you had with costs before, not the difficulty with the fact that we were not able to get those, the Auditor General's report 2004 states that each agency must submit to the Department of Treasury and Finance proposals for fees, fee changes, revenue and cost recovery information. In relation to the fees that were imposed in July and, again, the amended fees, has the Department of Water done this? Have you supplied to the Department of Treasury and Finance the schedule of fees that you are intending to charge?

**Mr Ruprecht:** As far as I am aware we have, and I will confirm that. We have had ongoing discussions with Treasury regarding the disallowed fees and the new fees, but I can confirm that. We have had considerable discussions with Treasury over the licence fees.

**The CHAIRMAN:** Could you also clarify whether the procedure was carried out for the licence administration fees?

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** Would you also clarify, unless you are able to do it now, whether the Department of Water reported the extent of cost recovery in its submission?

**Mr Ruprecht:** Yes, that is something I will confirm as well regarding the administration fees.

**The CHAIRMAN:** Agencies are also required to have their own internal costing and pricing policies to ensure that their fee-setting practices comply with management strategies and are consistent with and supplement government policy. What are the Department of Water internal

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costing and pricing policies? How does the department ensure that their fees are consistent with government policy?

**Mr Ruprecht:** Chair, I think we will need to confer with our finance group. We do have costing policies and the like, but I would need to confirm the specifics of this one with our director of corporate services.

**The CHAIRMAN:** Agencies are also required to certify to the department that their fee-setting practices are materially accurate and that the fees reasonably reflect costs. How does DOW do that?

**Mr Ruprecht:** We have done a rigorous analysis in the past regarding the fees as part of the water reform process. The rigorous analysis that Ms Western referred to was done as part of understanding what those licence fee costs are. As we now stand, whereby we are looking not at full cost recovery but only partial cost recovery, there are significantly greater administration fees than we were going to recover through the cost. However, with regard to the formal review and evaluation of those current fees, I will also take that on notice.

**The CHAIRMAN:** In a moment I want to get on to the whole issue of cost recovery and your understanding of that, but before I do I have a couple of matters. Paragraphs 69 and 70 at page 14 of your submission - this is getting to the nub of it - concern how the fees were constructed. The fee calculations included the amount of work hours for volume licensed, the portion of the budget spent in that category, licence support, the community advisory committee costs, compliance, enforcement and appeals cost. Would that be correct?

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** They are the elements that you take into account when you estimate what the individual licensee or, in the case of Harvey Water, the collective would pay for the licence.

**Mr Ruprecht:** In the broad categories, yes.

**The CHAIRMAN:** Paragraph 75 on page 17 of your submission states that the fees recover most of the cost of administering the licensing system. Paragraph 58 of the submission also states that a proportion of the costs are recovered. Can you explain this to us, and what is meant by “most” and “proportion” in that context?

**Mr Ruprecht:** The original intent of the licence fees was to cover the full cost of the administration of the licence fees, but it does not cover any of the broader water resource management planning costs - the measurement and monitoring of the broader resource through to allocation planning and technical resource assessment. Those broader costs are not included in that. The cost of administering the licence is included. Does that answer your question?

**The CHAIRMAN:** No; it probably confuses it even more. There is certainly an understanding by licensees that the fees that you are suggesting, and in fact are now being imposed by the regulation, include a lot of that resource management cost.

**Mr Ruprecht:** They do not include any of those resource management costs. The costs involved are with regard to administering the licence. The stream gauging, groundwater monitoring and technical hydrogeological assessment and the allocation plans, regional water plans and broader policies are not included as a cost in this licence fee.

**The CHAIRMAN:** It is all the more important that you give us some kind of breakdown of how your costing is structured. I do not know what the view is of other committee members, but in all the submissions that we have received, other than Harvey Water, which does its own measurements, it certainly appeared to us that some of the costs are included. This is where we are finding what you actually mean by cost recovery very confusing.

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**Mr Ruprecht:** As Ms Liz Western mentioned, it was the administration of the licence. As a licence is received or audited, it is the survey of use in broad terms that they are meeting their licence conditions.

**The CHAIRMAN:** Is that not part of the overall resource management?

**Mr Ruprecht:** When you talk about broader resource management in the stream gauging and groundwater monitoring, no; those costs are quite separate and are very large. The department spends in the order of \$5 million a year on groundwater monitoring, surface water monitoring, database management and the provision of information to a range of community stakeholders and industry. There are very large costs involved in the -

**The CHAIRMAN:** Where do you recoup that cost from?

**Mr Ruprecht:** Those costs come from government revenue.

**The CHAIRMAN:** Consolidated revenue.

**Mr Ruprecht:** Consolidated revenue directly, yes.

**Mr Rowe:** Can I offer some clarification on the original question? In so doing, I want to be looking carefully towards Liz and John to confirm this. For paragraph 75, Chair, which was your original question about licence administration fees recovering most of the cost of administering the licence system but not recovering other water resource management or recovery costs. The initial construction of the licence administration fee assumed some categories of licence to do with, for example, domestic bores in Albany, which were then exempted by the minister following a decision that was made by the minister. They were exempted from the licence fee. The version that was introduced on 1 July, as far as I am aware, did not include some categories of licence. There are a couple of situations in Western Australia whereby domestic water users are licensed by virtue of some very special circumstances of the water resource that they exist in. Albany is one circumstance and around Exmouth is another. The government took the decision that those categories of water licensees should be exempted from having to pay a water licence fee. My recollection of what this paragraph is intended to mean is that the full cost of licensing would have been in the order of \$5.8 million and would have included those other categories of licence in the first instance, but a small number of licensees were subsequently exempted from having to pay the licence fee. Although they are still licensed, they are exempted from having to pay the fee. I think reference to “most” there is intended to imply that, but for a small number licensees that are exempted for particular reasons. That is what the use of the word “most” is meant to imply there.

[2.40 pm]

**Mr A.J. SIMPSON:** How do you determine what is a domestic bore and what is any other bore? If I operated a business growing something, I would understand, but a domestic bore would not be levied a fee. How do you classify a domestic bore and how do you recognise it?

**Ms Western:** Domestic bores are used to water households and gardens up to two hectares, for fire fighting purposes and for general usage where there is no alternative water supply. I am separating out the garden bores in Perth from this. Large parts of WA require domestic bores for domestic purposes. Generally speaking, they are not licensed and there is access to water. I am just confirming what Michael has said, but in some parts of the state we do license those domestic bores because there are specific circumstances where we need to really monitor what is going on with the particular water resources. It is a way of knowing how many domestic bores there are within a particular resource. Albany and Exmouth provide us with those circumstances because we need to make sure that the saltwater interface with domestic bores is not encroaching on the town water supply. That is why the licensing applies. The issue is that they are not required to pay a fee because they are domestic bores. Generally, domestic bores are classed as those that are used for up to two hectares of gardens and stock. It is a very old definition under the 1914 act, at a time when

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households had servants, horses, cows and all those sorts of things. It is a very old definition which has been translated into the modern arena where we still have household supplies requiring bores.

**Mr A.J. SIMPSON:** Would you ever knock back someone who applied for a domestic bore?

**Ms Western:** It is highly unlikely.

**The CHAIRMAN:** Just before we move off the whole question of the administration fees and recovering a proportion of your costs, in your submission paragraph 58 says that the water licence administration fees recover a proportion of the Department of Water's costs - as we said in the previous question - including, once again, assessment, compliance and enforcement, community input, appeals, defence and licensing support. It also provides table 5 in your submission as the departments costs associated with licensing for 2005-06, and other tables that describe the licence and the assessment hours required, and the budget requirement for the seven licence classes. We have heard a lot in submissions about the figure of \$5.8 million that arises as a result of that process. Five issues have arisen out of the submission. First, how did you arrive at the amount of \$5.8 million?

**Ms Western:** An analysis was done of the activities. A decision was made about which types of activities that we undertake in licensing amount to administrative activities, and so the administration of a licensing system.

**The CHAIRMAN:** What was the science behind that? What did you actually do?

**Ms Western:** We had economists involved and we took legal advice about what constituted an administrative activity when the fee for service was being described.

**The CHAIRMAN:** If I can take one of those issues, which is compliance and enforcement, what does that entail?

**Ms Western:** It entails the assessment of whether licensing conditions are being met. It may include assessment of monitoring reports that come back from the licensees. For example, the conditions of a licence may require a company to monitor the impacts and the amount of water that is being taken, to report on how the water is being used, and to report on water quality and a range of things. They may come back in an annual report. For example, a condition may be an annual report on all of those things. It is very common for very large licensees to have those types of annual reports as a condition of a licence. It is the assessment of those and the monitoring of reports that come back from licensees. It may be surveys carried out in the field to make sure that licensees are operating to their licence entitlements.

**The CHAIRMAN:** Where does that differ from water resource management?

**Ms Western:** It is a condition of the licence itself.

**The CHAIRMAN:** No; I refer to the activity that the department would carry out.

**Ms Western:** It is because this activity is related to the licences themselves; it is not about the water resource. It is not about measuring, assessing and investigating technically; it is about monitoring the licences themselves to make sure the licensees are conforming to the conditions that have been assigned to them.

**The CHAIRMAN:** Excuse my ignorance, but involved in that would there not be a gauging of the water level and the quality of the water? Isn't it the same activity?

**Ms Western:** No, it is assessing the licensee. It is requiring the licensees to conform with their licence and the licence conditions. It may mean requiring the licensees to supply information for an assessment of their licence and whether they are carrying it out and complying with their licence and their entitlement. It may mean for some licensees providing measuring information to make sure that they are actually taking the amount of water that they are entitled to. It may mean doing field surveys and checking that, for example, the water is being used over the area where they are

entitled to use it. Licences have a volume, usually an annual period and usually a purpose, so licence surveys check that the licence is being used for the purpose for which it was provided. There are surveys carried out regularly through the regions to check and make sure that the water is being used according to the licence.

**The CHAIRMAN:** Were you carrying out those activities before this regime was put in place?

**Ms Western:** Before the licence fee was put in place, yes, we were.

**The CHAIRMAN:** How did you then apportion the amounts to each individual licensee as part of the overall \$5.8 million?

**Ms Western:** Table 6 gives a description of the licence classes on page 15. Because we were aiming for total cost recovery, this went out for public consultation and adjustments were made to this table and to the schedule of fees. Mike can confirm that. It was after the very public consultation process that we went through. For each of the entitlement classes, an assessment was done of the amount of work that would go into managing a licence within that class and each of those activities, such as the compliance activity and the community advisory committee input into those sorts of licensing processes; for example, the amount of licensing database support that is needed for an assessment process within a particular resource each time a licence comes through. Each class has a description of the activities that would be carried out and the number of hours that it would take. The proportion of the spread of licences across those licensees was taken into account. Then the licence fee was calculated across that spread.

**The CHAIRMAN:** Essentially, you are still carrying out the same activities that were originally being paid for by consolidated revenue. You have estimated that to be \$5.8 million a year for the existing number of licensees. In your cost-recovery process you have transferred that to be imposed on the licensees. This raises some difficulties. How did you apportion that and how did you get it to add up to \$5.8 million? Did you make a guesstimate or estimate of what the activity was in the case of each licensee and add it all together or did you just divide it up based on the number of licences that were in place or that you expected to be in place?

[2.50 pm]

**Mr Rowe:** Table 7 outlines what I think might be an answer to your question. The estimates obtained in table 6 on the hours of activity by the department per licence are transferred across to the licences in force at the time, which number 13 541. That proportion of the licences in that class are then apportioned across the total amount, which we know to be the amount that this activity cost the department - that is, \$5.8 million. That allowed us to arrive at the figures in the last column of an average cost per annum to that class of licence. The calculation was predicated on some assumptions about the total amount of effort by licence class that is required for a certain type of licence, and that was extrapolated against the total number of licences that exist in each of those classes. That portion was then apportioned across the total cost to the department of \$5.8 million, which allowed us to come out with those licence fees.

**The CHAIRMAN:** Once you had made that estimate, what happened to your global budget; that is, the budget that would normally come from consolidated revenue? Was it adjusted? The Department of Treasury and Finance gives you a budget of X amount of dollars each year to operate the Department of Water. Was that taken into consideration once you factored this in as being part of your cost-recovery process? In other words, was your budget reduced by that amount?

**Ms Western:** Yes.

**Mr Ruprecht:** Yes. Our budget was reduced accordingly, so that the licence fees would recover those costs.

**The CHAIRMAN:** Okay. That answers those five points anyway. What will happen if the number of licences goes up or down?

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**Mr Ruprecht:** The cost that the department will incur will go up or down and the fee that we charge will also go up or down. The costs of the service will be a lot more dynamic. If the annual growth of licences of between five and eight per cent continues, we will need the resources to administer those licences into the future.

**The CHAIRMAN:** I note also that there is provision for the application fee to be deducted from the annual licence fee. There has been a change following the change to the regulations. The fee payable on the grant of a licence is the amount set out in schedule 1, division 1, item 3 for the water entitlement under licence, less the amount already paid by way of the relevant application fee. I note that that has not changed. The application fee of \$200 under the disallowed regulations was also deductible; however, under the new regulations, the class fee is now \$100.

**Ms Western:** Yes.

**The CHAIRMAN:** What happens? Do the farmers get a refund or are they in credit?

**Ms Western:** Yes; either/or.

**The CHAIRMAN:** Either/or?

**Ms Western:** Yes. Licensees are being offered the option of being given either a credit or a refund.

**The CHAIRMAN:** Would that not then impact on all the calculations that have been done to average things out?

**Ms Western:** Yes.

**The CHAIRMAN:** What then happens?

**Ms Western:** We are now basically operating on partial cost recovery. Given the new fee schedule, a lesser amount of the average cost per licence class is able to translate across. We are basically talking, I guess, about proportional cost recovery of about half for each class.

**The CHAIRMAN:** I refer to the schedules. All users are allowed 1 500 kilolitres.

**Ms Western:** Yes.

**The CHAIRMAN:** Is there an estimate of what the average backyard, domestic or suburban bore uses per year?

**Ms Western:** Yes. The estimates are based on use of around 800 kilolitres per year.

**The CHAIRMAN:** So it would be well below that.

**Ms Western:** Yes.

**The CHAIRMAN:** That essentially would support an argument that bores should not be licensed.

**Mr A.J. SIMPSON:** Unless there is a meter on the bore, you will not know how much has been used.

**Ms Western:** Not exactly, no.

**Mr A.J. SIMPSON:** Under the licensing fee structure, if somebody said that he had used this much but he actually used that much, would you know?

**Ms Western:** No, but -

**Mr Ruprecht:** We can do calculations based on the crop that is being grown and the water use. An indirect calculation can be made. That would be done as part of the survey.

**Mr Rowe:** It might be worth noting that there is a requirement for meters to be in place for licences of above 500 000 kilolitres.

**Mr A.J. SIMPSON:** Who pays for that?

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**Ms Western:** At the moment, the licensee.

**Mr Rowe:** The licensee meets that cost.

**The CHAIRMAN:** Is that regardless of where the water comes from - whether it comes from a bore or a dam?

**Ms Western:** I think that is correct. I can check that. It tends to be the larger licences that have that condition.

**Mr A.J. SIMPSON:** On the dam issue, one issue that has come up quite regularly in this inquiry is that there has been talk of a property being sold and the water licence not going with it, which does not seem to be a very good scenario.

**The CHAIRMAN:** The unbundling of the water rights.

**Mr A.J. SIMPSON:** It is pretty clear that the community believes that they should be linked in some way. Is there any way of looking at legislation or bringing in something that would tie them together? If I bought 150 acres of land on which something could be grown and then found out that the previous owner had sold the water rights to the neighbour, I would be left with 150 acres of barren land that I could not use. People will come to members of Parliament and ask what to do in those situations. They will have to apply for a licence and undertake that sort of process. It does not make sense to separate water licences from land ownership - the two should be married together.

**Mr Roberts:** The sort of scenario that you are proposing is not in place as yet because there is no separation of water and land title. That will be given effect under the new legislation. The argument for the separation of water and land title is to provide for a more effective market for water. In the situation that you are describing, if a person bought a farm that he thought had a water access entitlement and it did not, it is not the end of the day, because he would just need to stand in the market and purchase the water access entitlement, assuming that he could draw the water. The market will work in that respect. From our point of view, we do not see it as a strong argument that you need to bundle them together.

**Mr A.J. SIMPSON:** Water becomes a commodity to be sold or traded.

**Mr Roberts:** Yes.

**Dr J.M. EDWARDS:** That is one of the tenets of the National Water Initiative.

**Mr Roberts:** Yes, it is one of about three pillars.

**Mr Rowe:** Certainly the notion of water trading is an important element of the National Water Initiative, not necessarily as an end in its own right but so that there is a better resource management outcome in the sense that people will value water more. The other point I wanted to make is that the current situation, which is that a licence provides for the water and land to be held together in essence, will be preserved into the future as well; it is just that we are offering another form of entitlement under which those things are unbundled. For much of Western Australia, the existing water licensing arrangement will continue. The new bit that the National Water Initiative asks us to contemplate is the notion of perpetual water access entitlements issued as a share of a consumptive pool in those areas in which it makes sense to have those arrangements. In Western Australia, there may be relatively few of those areas compared with a preponderance of this situation in the eastern states.

**Dr J.M. EDWARDS:** Are they areas that are at or near full allocation?

**Mr Rowe:** That is certainly one of the criteria that you would contemplate, but there are other, more practical issues about whether water trading will work in a given area, for example. I think many people are concerned about the prospect of the separation of land and water title. They fear that separation, for whatever reason. That is certainly a tenet of the National Water Initiative as it

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applies to a particular form of entitlement, which we cannot do at the moment because we do not have the legislation to do it. When it is enabled, it will be up to a localised statutory water management plan in a given area to determine whether that form of water access entitlement and consumptive pool should exist there. Where that is determined, those titles will be separated. Where it does not make sense to do that, the existing licensing arrangement will continue.

[3.00 pm]

**Mr M.P. MURRAY:** Just to follow up a little on that - you have answered this to some degree - but say there is a major industry in an area with very good water. The industry then buys all the properties around that area to get its allocation to be able to run its industry. Would that not have a detrimental effect on the land? I am talking about a large industry and it is happening to some degree in the south west where, if you buy up 55 farms around your area and they all have a water licence, and then say that I want to use that water in my wash plant - you have got a problem.

**Mr Rowe:** I guess that becomes an issue as to whether the government wants to stand in the market and determine under which circumstances people can buy and sell their land.

**The CHAIRMAN:** Just on that same question: does that not come back to what the NWI is talking about? Before you can actually start to impose trading per se, a whole range of things have to be in place -

**Mr Rowe:** Absolutely.

**The CHAIRMAN:** - and that cost recovery is only one element of it.

**Mr Rowe:** Cost recovery, in a sense, is another component of the National Water Initiative, not directly linked to whether you have a separation of land and water entitlements. You are quite right about these things needing to be in place; that is essential.

**The CHAIRMAN:** Fine, but in terms of the application of cost recovery, I can understand where that is fairly simple to do in a place like, for instance, Harvey or Carnarvon, where there are fairly strong regimes in place and good monitoring and metering facilities. The argument seems to arise in areas, such as the south west and certainly in Manjimup and those areas down there, where there is a whole range of individual water users who by and large have applied and built their own infrastructure. If you go to the schedule of costs in your submission, you have applied sort of a one size fits all model based on volume, and within that size, you have then said that five elements will apply - the elements that we have talked about. How do you arrive at an estimate of the cost, for instance, of monitoring an area that has put its own infrastructure in place and has been monitoring for years? Surely, there should be a great difference between the cost of assessment there and somewhere that has new infrastructure being put in. How can you then use a volumetric model to do that?

**Mr Ruprecht:** You still have the administration of the licence fee and to some extent there would be an argument where you have lots of small users who, perhaps, do not have the capacity to monitor and evaluate. There is an argument that there is more intense evaluation of their licence than there would be for the larger party. Certainly, there are arguments either way for which way you should -

**The CHAIRMAN:** I do not disagree with you there, but that would be the case if the whole of the structure proposed by the NWI was in place in that catchment area. The NWI says - we will get back to the same description we have had all the time - you divide the whole pool of water as being the pool that is available for allocation in Western Australia. That pool is then divided up into catchment areas or consumptive pools, which is a term that has been used right throughout. The idea under the NWI is to put a total management plan in place for that consumptive pool and the fee schedules, assessments and everything else should then be based on that particular consumptive pool because that seems to be the model you have applied at Harvey, for instance. Is that correct or have you simply spread the costs over everybody?

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**Mr Ruprecht:** We have spread the cost based on the level of costs involved in administering that licence, so the larger licences will have greater costs. However, for example, the irrigation cooperatives have their own charges within their own cooperative for the management of that resource as well, so each individual farmer in those cooperatives is incurring additional costs.

**The CHAIRMAN:** You were saying earlier that the administration fees do not include those costs?

**Mr Ruprecht:** No.

**Mr Rowe:** Our administration fees do not include the costs, but the Harvey cooperative and other cooperatives would pass on the costs of their day-to-day running of the cooperatives, including other bits of compliance that they may have to do, back onto their individual cooperative members. Therefore, it is true to say -

**The CHAIRMAN:** But the individual cooperative members do not pay a licence fee, do they?

**Mr Rowe:** The cooperative as a whole does, but that does not mean that the individual cooperative members do not pay anything. They pay a considerable amount and -

**The CHAIRMAN:** I realise that but I suppose the point I am making is that the Harvey area complies with all the requirements of NWI already. Their management structure is in place, they are monitoring, they are regulating, whereas the individual operators in other places have no management structure in place at this time.

**Mr Rowe:** I think it has come down to a discussion of some principles about cost recovery, in essence. The notion of cost recovery has been around for quite some time and predates the National Water Initiative. Therefore, the notion of cost recovery is also in the 1994 COAG agreement that governments signed up to. The National Water Initiative is certainly a lot more specific about the expectations it has about governments across Australia to undertake a form of cost recovery, but it does not mean that it is the first time it has ever been contemplated in an intergovernmental agreement. Therefore, I guess our assessment would be that water licence administration fees, even though we are some years off from having a consumptive pool setting, are still a reasonable undertaking for a government to make, consistent with the requirement that water users should pay a portion of the costs associated with the management of the resource.

**The CHAIRMAN:** I must say that every submission we received agrees with that: there is general support for a licensing system and a recognition that it comes at a cost. However, the argument from the individual users has constantly been that they cannot understand what comprises the cost of their licences in comparison to an area of the state where there is a full management regime in place. Their view is that there is no equity in that.

**Mr Rowe:** This is speculation, but it might be that individual licensees, perhaps, do not realise the work that goes on behind the scenes to be conducted by the Department of Water in relation to the administration of their licences.

**The CHAIRMAN:** Or maybe that the department should be clarifying exactly what the breakdown of those licence fees is. It could equally be said that is the case because that is the criticism that has been coming in from the various submissions.

**Mr Ruprecht:** I would consider that we have gone through a process to try to outline the various components of that licence fee in a way that gives some outline of the costs involved with the licence fee; the licensing, the compliance, the auditing through to the database administration. There are some clear signals that they are the costs that are engaged, whether the licence is for Harvey Water or the Water Corporation or an individual farmer, they are still incurring those costs.

**The CHAIRMAN:** The submissions are of the view, and this has been put to us, that the rationale for the averaging of costs across all licence holders still has not been clearly explained. The view that was put last week by some of the submitters was that you have costed how much it costs to run the licensing program - \$5.8 million - and you just simply said, "Okay, let's divide that by all the

classes of licences and then divide that further by all the numbers of licensees within each class.” Now, they are the submissions that have been put to us. We are trying to establish whether that has been your approach or whether there are scientific criteria for the application of each individual licence?

**Mr Ruprecht:** I would argue that the submission we have put does give you some outline of the process, which is of reasonable rigour to get those values. I think we have at least gone part of the way to demonstrating that there is some rigour in the process we have applied.

**The CHAIRMAN:** Nobody is saying that you do not apply rigour in your process, but it is still not clear what the rationale is for the breakdown that you are applying.

**Mr Roberts:** Just picking up on a point that Ms Western made: Table 7 actually has the information you need to arrive at that. I think the third column, the “Hours per licence”, is to me one of the critical things that underpins the analysis we have gone to. In a sense, what I can hear from the other people talking about this is that it is not necessarily a linear cost function that we are dealing with. Although the number of hours per licence goes up, it does not necessarily go up in a linear fashion. I guess we could have another look at that table and perhaps draw that out a little bit more.

[3.10 pm]

**The CHAIRMAN:** Can I give you an example? For instance, the self-supply farmers who spoke to us last week have had a dam on the farm for many years. They know exactly how much the dam holds and how much they will use in a given period.

Just because they fall within, let us say, a category 5, they are charged a fee that is equivalent to that particular category, even though the assessment may cost far, far less or involve far less hours than would perhaps the assessment for a farmer who was putting in new infrastructure. Do you see where I am coming from in terms of their view of the criteria that you are applying for each licence?

**Mr Ruprecht:** Right. These are averages, that is right, and for individuals within that, the actual cost may be above or below that from year to year. I suppose that over a period of time the licence administration cost is likely to come up to that average. In an individual year there may be less time spent on an individual licence, but at other times there may be considerably greater time. The averaging means that the licence holder does not incur extraordinary costs in one year, because it is averaged over a longer period of time. That is part of the argument for going to an averaging approach rather than going to a specific cost per licence.

**The CHAIRMAN:** So it is the averaging approach that you are applying within your fee structure at the moment?

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** So if one person has had infrastructure on his property for 50 years and another person is putting in brand new infrastructure, that does not matter; they pay an average cost?

**Mr Ruprecht:** It does not relate to the infrastructure. It relates to the administration of that licence. The review will look at what sort of crop they are growing, not at whether they have expensive infrastructure or no infrastructure. That may not be on an annual basis, but it will be on some sort of frequency, which means that the cost will be greater in that year. What is important is not so much what infrastructure they have in place, but the review of the licence to ensure that they are meeting the operating requirements, which might mean metering information, or water level information, or there might be a high value environment that needs to be protected, which means information is needed on an annual basis.

**The CHAIRMAN:** And those schedules have not altered, regardless of the disallowance of the regulations?

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**Ms Western:** Certainly, the average hour per work per class has not altered, even though the schedule has been amended.

**Mr Ruprecht:** So there is only partial recovery of those costs now.

**The CHAIRMAN:** If I can move on, in paragraph 72 of your submission you state -

The cost of implementation and ongoing administration of the licence administration fee has not been quantified and therefore is not included in the above estimates.

We can understand that the cost of information would not be included in the licence fees. However, it is of concern that we have embarked upon a reform program without perhaps a better understanding of the cost of implementation. The concern has been expressed to us that the fee structures have been put in place, yet many of the elements of the total reform package that is suggested by the NWI - and in fact which we have signed up to under the NWI - are not in place. Is the sole reason for the non inclusion of the ongoing administration costs the fact that they have not been quantified?

**Mr Ruprecht:** At the point in time of this submission, the original licence fees had been disallowed, and we now have the new licence fees. One part of implementing the new licence fees will be to work through some of those costs involved in that total reform package. Notwithstanding that, we see considerable benefits in at least partial cost recovery of licence fees, right through to the water reform itself.

**The CHAIRMAN:** But those benefits cannot be realised, can they, for those licensees who live in areas where the total reform package is not yet in place. You only need to compare Harvey, for instance, where almost a total management package is in place, with areas where there are self-suppliers. My understanding is that a statutory management plan needs to be in place in order for there to be total management of that given consumptive pool.

**Mr Rowe:** If it is appropriate for a consumptive pool to be defined in that area, yes. I think an argument can be put that licensees in and of themselves are getting a benefit by virtue of having a licence, because it does offer them certain protections.

**The CHAIRMAN:** They do not argue about that. The point I want to make is that your overall fee structure is made up of a number of elements, such as an application fee, an annual licence fee etc. It seems to be the case - and the submissions are contending - that it is premature to charge all of the elements of cost recovery at this phase of the reform process when all of the benefits that will flow from that total licensing package are not yet in place.

**Mr Ruprecht:** That is why we are really looking just at partial cost recovery of the water licence fee. I think all those other aspects, such as the increased assessment, the reinvigorated groundwater investigation program, and the regional and catchment water management planning that is now coming through, are going to lead to better water management. Those costs are really being incurred by government at this point in time. The south west regional water plan is one example of some of the work that is now starting to flow through, and that work is providing better certainty and guidance as to how water should be managed given our drying climate and the rapid economic growth even in the south west.

**The CHAIRMAN:** The submission that was put to us is that people understand that they need to pay for a water licence, the same as I have to pay for a motor driver's licence or any other kind of licence. People understand that side of it. However, the submission that was put to us was that to charge for the other elements of it, such as the monitoring and the measuring, is premature.

**Mr Rowe:** I think the government, by virtue of the agreement that the minister has reached with the Greens, would tend to reinforce that. In other words, our understanding is that the current fee structure will exist for three years, and that further cost recovery will not be undertaken until the new legislation is in place. So, as it stands, the only agreement the government has made is to

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undertake cost recovery in relation to water licence administration fees. What happens into the future is yet to be resolved.

**Dr J.M. EDWARDS:** I would just like to clarify that. Are you saying that the only cost recovery that we are dealing with at the moment is for the administration of water licences?

**Mr Rowe:** Correct.

**Dr J.M. EDWARDS:** What about the further water resource management activity that is taking place at varying degrees in different parts of the state?

**Mr Rowe:** There is no cost recovery for that at this stage.

**Dr J.M. EDWARDS:** Is that what the National Water Initiative envisages when it talks about all the other planks being in place?

**Mr Rowe:** Potentially. What the National Water Initiative envisages is that nationally there will be agreement about principles for cost recovery of water resource management and planning. That is much broader than just water licence administration fees. Therefore, it envisages national agreement about the principles. Individual jurisdictions will then decide how they are going to apply those locally. In this state, the government has made a decision that it wishes to introduce water licence administration fees, and that is being done. No decision has been taken in relation to what other form of cost recovery, if any, may apply into the future.

**The CHAIRMAN:** What I need to ask you, based on the submissions that we received last week, is how can you actually apply that when no management plan is in place for a particular consumptive pool?

**Mr Rowe:** I think the expectation would be that any further form of cost recovery would flow once a statutory water management plan is in place, but only after the government has made a firm decision to go down the path of undertaking further cost recovery.

**The CHAIRMAN:** But what the submissions are contending is that the processes that attach to the current charges, particularly in the Manjimup area, are not actually being done, so they are paying for something that is not being done.

**Dr J.M. EDWARDS:** But they are not paying for that.

**Ms Western:** They are paying for the administration of their licences. They are not paying for water resource management.

**The CHAIRMAN:** Obviously, there is not a clear separation between those two things, so there is not a clear understanding of that. Part of the criticism that arose out of the submissions, I suppose, is that you used a volumetric measure for dividing the various classes of licence, so there is a natural assumption that that then - to use a pun - flows on to the remainder of the administrative costs.

[3.20 pm]

**Mr Ruprecht:** That was more a way of identifying the additional costs involved in administering a licence. More effort is required for a larger licence just to administer it on an annual basis.

It is not meant to be in any way an indication of volumetric charge, and it was meant to help the smaller users potentially in areas like Manjimup or Geographe that are smaller users so that we are really just applying the part of the costs that would occur in those licences.

**The CHAIRMAN:** But their contention is that you divide 700 licences and average them out, as against the three licences that are held by an irrigation area.

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** Whether or not that is a flawed argument -

**Dr J.M. EDWARDS:** It is a flawed argument.

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**The CHAIRMAN:** I know it is a flawed argument, but that is the impression, and as anybody who has been a member of Parliament knows, perception is far stronger than reality in most instances.

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** So that seems to have caused a view to arise that, as I say, there are things being done and not being done that they are actually paying for.

**Mr Ruprecht:** When you look at a larger cooperative where we are not auditing individual farmers within that cooperative with our licence admin costs, we are looking at the cooperative as a whole. So we are not incurring the costs of 100 sublicences; we are incurring the costs of looking at that as a whole. So that is why they are larger but not significantly larger than a small licence, because they have their own auditing and review of licence within a cooperative that we do not incur any cost for; so, I suppose there is that argument as well.

**The CHAIRMAN:** What happens, let us take the south west area for instance around Manjimup, once you establish a statutory management authority there? What effect will that have on the charges if that is in place?

**Mr Ruprecht:** I think the first thing is the benefits of greater security about the amount of water there, you know. The drying climate and all those sorts of aspects mean that -

**The CHAIRMAN:** But our understanding is that only 30 per cent of that particular consumptive pool is actually allocated.

**Mr Rowe:** It might be worth noting - you mentioned statutory management authority - that what we are talking about, I think, is a plan, not a new -

**The CHAIRMAN:** I am sorry, I meant statutory management plan; my apologies.

**Mr Rowe:** So going forward in the case of Manjimup, assuming the new legislation is through and assuming the state has an ability to issue water access entitlements or what have you, it would still be the case that the Department of Water, in consultation with the local community and ultimately the government, would need to decide what form of entitlements should exist in the Manjimup area. At the moment, I think, we understand that the Manjimup community are largely quite happy with their existing licensing water arrangements and they seem -

**The CHAIRMAN:** They are happy with the arrangements; I would not say that they are happy with what you are charging them for.

**Mr Rowe:** I did not say they were happy with the fee, but certainly there is a long tradition of local community engagement in the management of water resources in that area.

**The CHAIRMAN:** Exactly.

**Mr Rowe:** Now, whether or not the Department of Water would ever contemplate that it is appropriate for a consumptive pool, and therefore a separation of land, water entitlement and all the things that might follow from that that might work in that area, is another decision that has not yet been taken. It might well be the case that a consumptive pool does not work for the surface water in the Manjimup area. It might well be a preservation of the existing arrangement; in other words licences will continue instead of water access entitlements being issued.

**The CHAIRMAN:** But, again, that raises the argument that was put to us in the submissions that the setting of fees for that area, apart from an application fee and an actual licence, is premature.

**Mr Ruprecht:** I think some of the benefits you get from having the licence and the management is that when you have lots of smaller users, it is the user-to-user conflict and the impacts of one user on another, particularly if it is in stream dams, sort of upstream and downstream. There are considerable costs involved to actually facilitate some of those and that is where some of the disputes have not been with the Department of Water but have been with individual to individual.

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There are considerable costs just in the licence itself rather than the broader benefits of water access entitlements through to trading and the like.

**The CHAIRMAN:** Given the Auditor General's 2003 report, which estimated that the then Water and Rivers Commission needed an extra \$3 million to maintain investigations programs, another issue that has come up from the submissions is that, given that report and unless your budget has significantly increased since that time and I am not aware of that, is the department in a position to actually operate the proposed licensing schemes and actually implement the state water plan?

**Mr Ruprecht:** There are perhaps a number of questions. On the first one, the investigations program has had some considerable increase in funds particularly with regard to groundwater investigations and the growing reliance in a lot of areas on groundwater. So there has been a significant groundwater investigation program established. With regard to some of the other aspects of the water reform, we have received additional funding through Treasury for parts of that, and we are also looking at new funding for next financial year.

**The CHAIRMAN:** So are you in a position to operate the licensing process?

**Mr Ruprecht:** With our budget submissions for next financial year, we are looking at being able to operate, yes, through the licence fee administration.

**The CHAIRMAN:** Providing those budget submissions are perhaps successful. I have a few more issues, if I may. There was a decrease in the number of licences, or there seemed to be, in December 2007 as per table 1, down to 12 889 from the original number of 13 541 when the fees were calculated. What impact is that likely to have on your cost recovery, if any?

**Ms Western:** The decision was made that there would be no impact on the licence fees themselves and that the department would assume and cover the costs of any shortfalls that may have arisen out of what was essentially a data-cleansing process.

**The CHAIRMAN:** I also notice in paragraph 67 on page 14 of your submission that as a consequence of the disallowance motion on the fees gazetted in June you were seeking legal advice on the status of the funds that had been collected as a result of that original July set of regulations. Can you tell us what the advice was that you received in relation to those fees that had been collected?

**Ms Western:** It was very detailed.

**Mr Ruprecht:** Our decision will be looking at crediting those fees at the anniversary or the next time those fees are due; so, that is our prime focus. If there are concerns then we will look at refunds of those fees.

**The CHAIRMAN:** What about those fees that were not paid because people -

**Mr Ruprecht:** Because we are looking at a credit or refund into the next year, then those people will just wait until the anniversary of their licence fee before they pay those fees.

**Ms Western:** And there is an adjustment, so any adjustments are made to fees that have been paid, and adjustments are also made to any outstanding debt to bring it in line with our current fee schedule.

**The CHAIRMAN:** We have quite a few more questions here. If people are comfortable, rather than have another day of hearing, would you be comfortable for us simply to carry on?

**Mr Ruprecht:** Yes.

**The CHAIRMAN:** Perhaps at least until four. I know that is running over a bit, but if you are comfortable.

**Mr Rowe:** Yes.

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**The CHAIRMAN:** If we can clear everything up in the one hit, let us start. The committee understands the fee is not a volumetric charge, but that is not a clear understanding that seems to be out in the community. It is a fee to administer licences for the right to take water. That is our understanding and that is as you explained it to us last time, but, as I have already raised, the schedule of licence classes is structured in kilolitre-based increments and this has caused considerable confusion, I have to tell you, from the submissions that have come in. Also apprehension was raised that there may be future changes to fee structures based on that style of allocation. Can you explain the rationale for using that kilolitre-per-year entitlement for the class schedule? Is there a rationale behind that?

**Mr Ruprecht:** It purely relates as an indicator of the level of work required. So it is a surrogate for, sort of, the amount of work required. A larger licence like the cooperative will take more work than would a 1 500-kilolitre licence in Manjimup or wherever. So it is just an indication of the level of effort required, and it is unfortunate if it has given the impression of being volumetric, but it is not intended. It is intended to be an indicator of effort.

[3.30pm]

**The CHAIRMAN:** In the event that individuals in the Manjimup catchment area form a cooperative - if indeed they ever did - what would be the impact on the individual licence fees of 700 licensees entering into an arrangement similar to that of Harvey Water and suddenly becoming three or four licensees?

**Mr Ruprecht:** If they did become a cooperative, they could potentially have a much lower licence fee from the Department of Water. However, they would face internal cooperative costs that may in fact lead to them paying more as individual farmers than they do now. The cooperative may lead to a higher cost per farmer than if they had individual licences.

**The CHAIRMAN:** Is that because the cost of monitoring compliance would move from the Department of Water to the cooperative, as is currently the situation at Harvey?

**Mr Ruprecht:** Yes.

**Mr Rowe:** There may also be other practical considerations, such as whether a cooperative setting may work in that physical environment; that may be something they have to grapple with.

**The CHAIRMAN:** If a statutory management plan is in place - obviously that would not have the same effect as a cooperative because you have individual licensees - would the same process apply within that plan?

**Mr Rowe:** The statutory management plan going forward is intended to provide greater certainty to water users and the environment about the amount of water that is available for sharing. It will clarify water-sharing rules and, of most interest to the people of Manjimup, it will confirm what forms of water entitlement will exist in that area. I made this point earlier: it will determine whether it will end up being a consumptive pool with water access entitlements or whether water licences will continue into the future. One of the other things that we contemplate statutory management plans usefully doing is talking about forms of potential community engagement in local areas.

**The CHAIRMAN:** In the Department of Water publication "Water Reform Made Simple", a section relating to cost recovery states that -

Commonwealth and State Governments have agreed in principle that water users should contribute to the cost of planning and managing water resources.

Further, it states that licence administration fees are introduced as part of this cost-recovery process. It then goes on to say that -

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The Western Australian Government is also participating in a national committee to review and develop principles for cost recovery for water resource management and planning.

This suggests that the fees were developed prior to the principles being developed. Is that the case?

**Mr Rowe:** Yes. The water licence administration fees have been developed both in advance of and in parallel with the national principles that are being developed in relation to broader cost recovery for water resources management and planning, remembering that the administration of water licences is only one portion of the total amount of activity that could be considered to be a part of water resources management and planning. Therefore, the national effort is much broader and looks at the whole suite of activities that theoretically could be attributed to water users beyond just water licence administration.

**Dr J.M. EDWARDS:** Do other states charge for water licence administration?

**Mr Rowe:** They do, and much more beyond that.

**Mr Ruprecht:** Yes.

**Mr Rowe:** New South Wales certainly has a comprehensive cost-recovery arrangement in place that goes far beyond just water licence administration.

**The CHAIRMAN:** Again, I return to the in-principle agreement: what are the in-principle criteria or factors that have been used from that in your current calculations?

**Mr Rowe:** I guess we would be referring primarily to the fact that the state has joined the National Water Initiative, which carries with it a certain set of obligations in relation to the notion of cost recovery and user pays going forward. It also refers to the fact that we were party to the 1994 COAG agreement which also talked about principles of cost recovery.

**The CHAIRMAN:** However, that actually applies only to the individual projects that have been signed under the NWI - or is it broader than that?

**Mr Rowe:** It is a little more complicated than that in the sense that the previous COAG agreement from 1994 was part of the then national competition policy arrangement whereby our compliance across a whole range of commonwealth-state agreements was assessed annually; based on our compliance, we would receive progress payments. That is not the case under the National Water Initiative. The only form of funding that has been made available to states and territories as a result of signing the National Water Initiative is by virtue of grant funding under the Australian government water fund, which is administered by the National Water Commission. It is true to say that a condition of funding placed on the Department of Water for the funding it has received from the Australian government water fund is to progress cost recovery.

**The CHAIRMAN:** I notice that the review processes involves - in two years - a review by the ERA. Has the ERA been involved in the calculation of this current set of fees?

**Mr Rowe:** Not that I am aware of.

**The CHAIRMAN:** Was any consideration given to involving the ERA in calculating this current fee structure?

**Ms Western:** Not as far as I am aware.

**Mr Rowe:** No; not as far as I am aware.

**The CHAIRMAN:** Again, that is one of the criticisms or concerns that have been raised in some of the submissions made to the committee. Would involving the ERA as an independent arbiter in the process of setting the fees have made it any simpler for the department?

**Mr Ruprecht:** I think it is appropriate to conduct that review after we have applied the fees. The ERA does have a very strong view on cost recovery. Given the rigour of the process that we have gone through in determining the calculations - and I know it is only partial cost recovery - I think



having the fees in place and then having the review in two years will add value. I certainly look forward to the ERA review.

**The CHAIRMAN:** Would it not be of value to have the ERA involved, from the outset, in the process of establishing the fees? There seems to be an independent arbiter in other states.

**Ms Western:** The ERA has been involved in discussions around the best approach for the review process and it has stated a preference that a review process would be more appropriate. I would have to check, but I understand that it is a review process that the ERA undertakes rather than it being involved in the establishment phase of fees.

**Mr Rowe:** Ultimately, the work of the ERA is determined by reference from the Treasurer. Under its act, it will do whatever the Treasurer asks of it so long as it is within the confines of its responsibility. Ultimately, it is a government policy decision as to at which point the ERA would be involved in a process such as this.

**Dr J.M. EDWARDS:** Is the ERA mainly concerned with the economic activity and the cost of that activity rather than other public goods?

**Mr Rowe:** In my understanding it all depends on the terms of reference that are issued to the ERA. It will act within the terms of reference given to it by the government.

**The CHAIRMAN:** If I may move on to the NWI and the extent to which the water licence administration fees meet the cost recovery requirements, the short answer to this particular term of reference is that the state does meet the requirements because the NWI is silent on this matter.

**Mr Rowe:** That is correct - the NWI is silent on this matter. However, it does outline a commitment to develop these national principles and frameworks for broader cost recovery. It does contain an element of user pays, which obviously we are acting on in relation to water licence administration fees. Specifically, it is in the way that all states and territories respond to the water initiative that gives us confidence that we are acting in accordance with the NWI requirements by virtue of our water administration fees. By that I mean that upon signing the National Water Initiative the first act of any jurisdiction, by agreement, is to develop an implementation plan as to how that state is going to apply the National Water Initiative principles and objectives in that jurisdiction. In the case of the Western Australian implementation plan, the government made it quite clear that it intended to introduce water licence administration fees consistent with the principles of cost recovery for water resources management planning. That has, of course, been confirmed by the funding conditions that I have already alluded to that the National Water Commission has placed on the Department of Water to progress cost recovery in this state. By virtue of all those directions, our assessment is that we are complying with the intention of the National Water Initiative.

**The CHAIRMAN:** That being the case, one aim of the NWI is, as we have said, to bring into effect a consistent approach to pricing and to also identify the portion of the costs that can be attributed to water access entitlement holders. Why then are we introducing licence fees when, firstly, the Steering Group on Water Charging is yet to report on the full cost-recovery criteria - this is the NWI I am talking about - and, secondly, the state does not yet have water access entitlements?

[3.40 pm]

**Mr Rowe:** In and of itself, the National Water Initiative is not the only reason we are introducing water licence administration fees. The government in essence made the decision to introduce water licence administration fees through the process of considering the blueprint for water reform prior to that. By signing the National Water Initiative, we have confirmed that the action of the state is consistent with the intention of the National Water Initiative.

**The CHAIRMAN:** But how can you do that if they have not yet developed those criteria?

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**Mr Rowe:** The fact is that all jurisdictions, with the exception of Western Australia and the Northern Territory, had a form of cost recovery in place at the time of signing the National Water Initiative, so these national principles are in many cases building on well-established activity that is already happening in other jurisdictions.

**Mr Ruprecht:** The NWI is focusing on the planning and management costs as the direction in which its principles apply, notwithstanding the licence administration fees.

**Mr Rowe:** I think that most other jurisdictions, in terms of cost recovery already being undertaken, already recover similar sorts of costs as we do through the water licence administration fee. Some go far beyond that.

**The CHAIRMAN:** But you can see why the committee is getting submissions that essentially say there has been no accurate determination of costs; there has been no ERA involvement - there will not be for at least two years - and the legislation is not yet in place. Paragraph 82 of the submission states -

... cost recovery arrangements will be informed by an independent review by the Economic Regulation Authority ...

You put that in your submission. The implementation plan also states -

... cost recovery would commence in July 2008, but completion is “ongoing”

The funding agreement for the state’s Water Smart grants requires the state to have commenced some cost recovery by December 2008.

**Mr Rowe:** Our interpretation of that back to the commonwealth was that the very adoption of water licence administration fees was in itself commencement of cost recovery, and we made it quite clear that -

**The CHAIRMAN:** Even though the criteria had not yet been determined by the National Water Initiative?

**Mr Rowe:** My assumption is that it would be very safe to assume - sorry about the circular language! - that whatever comes from the national principles is very likely to include recovery of costs associated with water licence administration as a bare minimum. The question of what else we would arguably or theoretically wish to recover from water users will be the subject of the principles that will be developed nationally. Based on what we understand other jurisdictions to be doing -

**The CHAIRMAN:** Some of the submissions argue that some of the stuff you already have should not be there.

**Mr Rowe:** Ultimately, the decision about what was included was a decision for government to make.

**The CHAIRMAN:** Of course.

**Mr Ruprecht:** It would help the ERA review to some extent if some of the national principles were to be developed. We already have the licence fee in place. The ERA review could potentially look at some of these broader aspects. The scope and terms of reference of the ERA review are yet to be determined.

**The CHAIRMAN:** Given that the funding agreement was to commence by December, why was it initially introduced in July 2007?

**Mr Rowe:** The water licence administration fee? That was the timetable the government agreed to by virtue of its response to the blueprint for the water reform process.

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**The CHAIRMAN:** I have already touched on this, but it has been suggested to the committee that other states use an independent third party to help determine the appropriate time periods right through to cost recovery. Did you not consider doing that?

**Mr Rowe:** The process to be undertaken in finally arriving at a form of water administration fee in this state was a decision for the government to make.

**The CHAIRMAN:** How is Western Australia's time to full cost recovery calculated? How is it arrived at?

**Mr Rowe:** Sorry; what was the question?

**The CHAIRMAN:** How did you arrive at the timetable for full cost recovery?

**Mr Rowe:** Do you mean in terms of progress by July 2009?

**The CHAIRMAN:** Yes.

**Mr Rowe:** That was fairly strongly enforced by the commonwealth government, which was very keen for Western Australia to catch up with other jurisdictions. In comparison we were a long way behind in cost recovery for water resources management and planning. The funding condition contained within the deed talks about commencing a form of cost recovery by December 2008, which as we confirmed with the commonwealth government would be the adoption of a water licence administration fee. Further charging elements were to be in place by 2009. That was a funding condition that the commonwealth government was very keen for us to adopt. In responding to that, we pointed out to the commonwealth government - as we said in our submission - that it would depend on the passage of new legislation and a range of other factors.

**The CHAIRMAN:** There is no system of progress payment attached to individual projects, is there?

**Mr Rowe:** There is a system of progress payments attached to individual projects. We are talking about four projects that receive a total of \$14.9 million across all four projects. The projects cover water planning activities in discrete areas of the state. The milestone payments referred to in the deeds concern the progress that individual projects will make in delivering activities. There is a general funding condition that applies across all four projects, expressed in each of the funding deeds, which talks about cost recovery more generally. Our interpretation is that it is clear - as correspondence from the commonwealth government would suggest - that the commonwealth government is holding us to account over our progress on individual projects. In other words, the commonwealth government expects us to deliver the individual milestones within those projects. We are also aiming to achieve the broader general funding conditions, of which cost recovery is one.

**The CHAIRMAN:** If that did not happen, how would the commonwealth government apply a penalty?

**Mr Rowe:** That is unclear. It has indicated to us that it would be by negotiation between governments.

**The CHAIRMAN:** Would that not relate to each individual project?

**Mr Rowe:** As it is a funding condition that applies to all four, it is unclear as to how the commonwealth government would penalise the state - if that is not too strong a word - were it not to meet the cost recovery time frames.

**The CHAIRMAN:** If I may use an example, the bore metering policy for licensed bores extracting 50 megalitres is to be implemented by December 2008. Where are we at with that?

**Mr Rowe:** There is still work to be done on that area, but we are confident we can meet the time frame of that funding condition.

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**The CHAIRMAN:** There is provision for a 15 per cent penalty to apply for failing to meet milestones. Is that what you are referring to?

**Mr Rowe:** That is right, but I think it is questionable as to whether these general funding conditions are considered milestones in the same way that the deed construes milestones as being progress against individual projects.

**The CHAIRMAN:** The fact is that you have changed the schedules and gone back to partial cost recovery.

**Mr Rowe:** We would argue that we are still meeting the first part of the funding condition, which says that Western Australia has moved towards adopting cost recovery by December 2008. In essence, we still have a licence fee arrangement in place, even though there was a delay through the disallowance process.

**The CHAIRMAN:** I realise you cannot speak for the commonwealth government, but from the state's perspective, would it be a fair assessment to say that any penalty to be applied is negotiable? It appears from our reading that it is not the desire of the NWC to withhold payments unless there is a severe breach.

**Mr Rowe:** I cannot comment on the latter matter, but the commonwealth government has indicated to us - this is expressed in the deeds - that in the event of any form of delay, it would attempt to negotiate an arrangement before it took any punitive action.

**The CHAIRMAN:** The risk of the state losing a significant amount of funding is relatively low, is it not?

**Mr Rowe:** I cannot comment on that.

**The CHAIRMAN:** If the NWC decided to invoke the penalty clauses, is it your understanding that the 15 per cent would apply only to particular milestones that have not been achieved, or would it apply across the board?

**Mr Rowe:** Again, my understanding is that the 15 per cent penalty clause would apply to those milestones embedded within the schedule to individual deeds, so it would relate to -

**The CHAIRMAN:** If we were to look at Collie, for instance -

**Mr Rowe:** For example, if one of the milestones was not achieved, it would be 15 per cent against that milestone payment which might be levied. I emphasise "might", because there is a process of negotiation.

**The CHAIRMAN:** But it would not necessarily apply to the other three projects?

**Mr Rowe:** No; that is my understanding. It is unique to the individual project and the deed, as I understand it.

**Mr Ruprecht:** One could argue that it could place at risk any future grants if we were seen not to be delivering on existing proposals. That is probably a point of concern.

**The CHAIRMAN:** There is the other spectre of the competition policy that you applied earlier on.

**Mr Rowe:** That no longer exists. The previous competition policy agreement dating back to 1994 finished in 2005. It is done. There are no additional progress payments tied into that.

**The CHAIRMAN:** I turn to licences for currently exempt extraction, which is one of the issues, particularly in the south west. According to the department's submission - I draw your attention to paragraphs 111 and 113 on page 25 - there are 170 000 garden bores across the state, 155 000 of which are in the Perth area. Paragraph 113 states that licensing garden bores across the state would require an additional \$30 million and would be unlikely to improve management of water resources. What is the basis of that calculation, and how is that figure determined?

[3.50 pm]

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**Ms Western:** The 155 000 garden bores have been determined over two surveys carried out in 1996 and 2001, and we have a register of garden bores through the Water Corporation's activities and its database. Around 120 000 garden bores are currently registered with the Water Corporation, so the surveys that have been carried out have been the basis of the estimates of the numbers of bores that exist in the metropolitan region. Sorry; the other part of your question?

**The CHAIRMAN:** How was the figure determined?

**Ms Western:** The \$30 million was extrapolated out of the basic cost that we have for licence fees for -

**The CHAIRMAN:** So you apply a licence fee, yes.

**Mr Ruprecht:** If you apply about \$200, you get around \$30 million. It gives you an indication. If the cost were about \$200 a licence, you would get \$34 million.

**The CHAIRMAN:** An argument has been put to us by people in the country that it would improve the management of water if bores were licensed. If that occurred, would that be likely to improve management?

**Mr Ruprecht:** We do not think that by incurring that cost there would be additional benefits to managing water certainly for Perth and Gnangara, where a lot of domestic bores are in the shallow groundwater, so they are separate from a lot of the horticulture and drinking water supplies. There is also stormwater recharge and urban increase in recharge that domestic bores pick up, so there is a bit of recirculation. We have gone down a path of efficiency and awareness with restrictions on garden bores.

**The CHAIRMAN:** The view that was put to us from another direction was that you can manage large users by allocation and small metropolitan users by restriction.

**Mr Ruprecht:** And awareness and other aspects as well; that is right. By restricting use and also by raising awareness about water conservation, users as a broader group are seeing that that is a benefit in some areas. It takes demand off drinking water, the integrated water supply, so that there is less demand on that system as well.

**The CHAIRMAN:** Issues were raised in the submissions about a perceived inequity between domestic bore users and the people in agricultural areas who are required to be licensed. Inherent in that appears to be the view that the people who are being licensed are paying part of the water resource management costs.

**Mr Ruprecht:** Which is clearly not the case. The focus is that licence fees are for those people who are a commercial entity gaining benefit out of the water. Domestic bores are really more a requirement for living rather than for a commercial entity.

**The CHAIRMAN:** Given that they are not paying for the water resource management process, your consultation process, or certainly your explanation process, for the licensing fee appears to have failed in that regard. How would comment on that?

**Mr Ruprecht:** I think we can always improve the way that we provide information. Certainly, we are hearing that we need to improve the way that we bring this information to the community, and that is something that we will continue to work on and improve.

**The CHAIRMAN:** The view that came up in the submissions is that nobody argues with spreading a resource management charge across all users, including metropolitan users.

**Mr M.P. MURRAY:** I am certainly copping it in my area. When recreational resources such as Logue Brook are shut down to supply water to the city area, the people who use that dam say that the people in the city do not have to pay for their water bores. Harvey Water is now going to charge the Yarloop fire brigade for its water. I can understand the sentiments that are coming out of that area.

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**Mr Ruprecht:** Yes. I do not want to comment too much on Logue Brook, but there are some good opportunities with recreation offsets with the \$10 million program. There are some benefits out of some of these aspects as well, and there are some real opportunities for the Shires of Waroona and Harvey, and potentially Collie.

**Mr M.P. MURRAY:** People want to ski; they do not want to bush walk. There is a difference.

**Mr Ruprecht:** There may be some other water-related recreation that they can do in some of the other reservoirs, including Lake Kepwari and Harvey Dam. It would be good to be -

**Mr M.P. MURRAY:** I reckon that is unfair, and I will argue that very strongly. The argument is that the kids at Yarloop could ride there on their pushbikes. They cannot ride another 70 kilometres to go for a swim because their waterhole has been taken away from them under this plan. It is an insult to the people in that area to say that there is another one 70 kilometres down the road. I am not talking about just Yarloop; there is Waroona at one end and Harvey at the other end. You can say that they can recreate at another area, but it might be a noise problem there. Certainly, country people are saying that they are losing. No-one has done an economic assessment of what the area was worth to that region. There are 2 000 litres of fuel in one boat.

**The CHAIRMAN:** I will give an example. I recently returned from Israel and I discussed at length with the water management people there the elements that are built into the cost of water, including public amenity, public land, forestation, plantations and all areas of use. That is the total cost element of that. Are those sorts of elements built in to your cost factoring when you start to talk about things like statutory management areas?

**Mr Ruprecht:** We are starting to look at the total water cycle and aspects like the amount of water that plantations use and we are taking that into account. We are certainly starting to look in a lot more detail at some of those aspects with regard to how much water is used so that we can, given the reduced rainfall -

**The CHAIRMAN:** One of the issues that have come up is why you do not license plantations.

**Mr Ruprecht:** We are working through a plantation policy that is looking at the best way to manage those plantations into the future. There may well be areas that will be licensed, but that is something that we are looking at.

**Mr Rowe:** It is also worth noting that under our current legislation, we cannot license plantations because they are not a form of use that is recognised under the act. Having said that, the National Water Initiative talks about a greater focus on what is termed interception by water-using activities that are not traditionally covered under a licensing arrangement. Certainly, South Australia, for example, has a form of water licence that is issued to plantations under certain circumstances to directly account for their water use and to bind them in a regulatory sense. We are looking at those sorts of options as part of our new legislation regime.

**The CHAIRMAN:** However, will the costs of monitoring and measuring in a consumptive pool area simply be passed on to licensees, or is there an intention to divide up the elements of those costs, such as public use and plantations? Is there an intention to impose some equity on those users of water? Again, the view that has been expressed to us in the submissions is that the licensees are paying the total cost of the management of that consumptive pool and nothing else is being passed on.

**Mr Rowe:** We need to be really clear that the only decision the state government has made at the moment is in relation to water licensing administration fees. There is a national process to look at the principles and the sorts of activities that could be - could be - incorporated into a cost recovery arrangement for broader water resources management and planning. Theoretically, there could be a whole range of activities that the Department of Water is undertaking that are funded through consolidated revenue - that is, by the general community - in relation to water resources management planning that theoretically could be passed back to water users. However, the process

that would need to be gone through, if the state government wanted to do this, would be to look at all those sorts of activities and then make a call about the apportionment of those activities that could legitimately be argued should be borne in some part, in full or not at all by a water user compared with the general community; that is, the taxpayer. There is a whole other process of deliberation that would need to be gone through.

[4.00 pm]

**The CHAIRMAN:** How can they be applied, though, without the establishment of statutory management areas or statutory management plans for that given consumptive pool?

**Mr Rowe:** I guess the answer is that it depends on the level of finessing that you would go through in terms of that analysis, because, theoretically, right now you could look at our state Department of Water's budget and make a call, on balance, on which of the activities we undertake are more of a benefit to an individual licensed water user versus more of a benefit to the greater community and which are a shared benefit and so on. You could undertake that analysis at a statewide level using our whole budget or you could do it at a localised level. Those decisions have yet to be made about what, when and if that analysis will be undertaken.

**The CHAIRMAN:** There are quite a few questions still. I will just fire a couple of short ones, if I may. I wonder if it would be possible for us to put in writing any that we do not get through today, give them to you next week and ask you to respond. You mention in paragraph 117 of your submission a recent study of the status of Perth's groundwater, which concluded that garden bores were not a major factor in influencing groundwater table levels in Perth. Is it possible for us to have a copy of that report, because one of the terms of reference refers specifically to the use of residential bores?

**Mr Ruprecht:** The report was on the state of the mound. We will supply a copy of that.

**The CHAIRMAN:** Thanks for that. On that same issue, paragraph 120 of the submission says that the department's approach to garden bores includes the discouraging of sinking bores in areas considered unsuitable. Why, if that is the case, do you discourage; why not simply disallow?

**Mr Ruprecht:** It really is about those areas that, I suppose, might have seawater intrusion or whatever. That is where we are really discouraging that use.

**The CHAIRMAN:** I have touched on blue gum plantations and we have already talked about them. The whole issue of plantations arose in every submission, not just in the Manjimup area but right across the state. I think you have already answered that question, but I would make quite clear the strength of the submissions on plantations. I would say it is imperative that the issue be visited as a matter of urgency in the future. I am only forming the basis of a recommendation, but it was one of the strongest set of issues raised. Just quickly, bores in local government activities are essentially for the provision of public open space, sporting facilities and so on. How do you work that into the cost of licensing? Again, I suppose this relates back to whether or not you are charging for the management of the water resource.

**Mr Ruprecht:** We would be looking at them as we would at any other licence user and the cost involved in administering that licence, so we would not see a farmer owner in Manjimup as any different from a local government in Perth. It would be the cost, what category they are in and, ultimately, the cost involved in administering that licence.

**The CHAIRMAN:** Could it be argued that that is a double dip; in other words, local governments are going to pass that on to their ratepayers and at the same time their ratepayers are paying through consolidated revenue for that monitoring?

**Mr Ruprecht:** The ratepayers will be paying for the broader water resource management activities, but in this regard it is about the cost of the administration fee going against the people who are using the water.

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**The CHAIRMAN:** I refer to the recognition of costs incurred by self-supply farmers. Virtually all the submissions of those self-supply farmers in the south west called for recognition of the costs, including the cost of dam constructions, that are incurred by them individually in harvesting water so that they can apply their entitlement. What consideration, if any, has the department given to recognition of that? A number of issues were raised, such as their providing habitats for water birds and Mr Murray mentioned the supply of water for bushfire control. Is that public good element taken into consideration?

**Mr Ruprecht:** I suppose because the broader water resource management, planning and assessment is not charged for and it is only partial cost recovery, you could argue there is already considerable public good in the administration fee and also in not paying for those other aspects of water resource management.

**The CHAIRMAN:** I refer to the extent to which the NWI provides for a range of different licensing systems. A significant number of the submissions said that you are basically buying a Murray-Darling model and it is one size fits all. If we look at the other states, what consideration has been given to variable charges within the various catchment areas of WA, as opposed to this model where you have applied a volumetric charge across a whole set of schedules? First, what is the relevance of the criticism?

**Mr Rowe:** I suspect there are a couple of issues here. It might be that people are concerned that the state is going to universally adopt the notion of consumptive pool water access entitlements and the separation of land and water everywhere, and that is clearly not the case. The National Water Initiative certainly does provide for that as the predominant form of entitlement going forward, but there is a specific paragraph - paragraph 33 - that allows for jurisdictions, and it particularly highlights Western Australia, to continue to preserve existing water arrangements where it makes sense to do so and where it is appropriate to do so. From our perspective, we would be arguing that the statutory water management plans that will be developed in the future will be sufficiently flexible to apply an appropriate form of water management in that area. If a consumptive pool is appropriate in areas where there is high competition for resources, close to full allocation, where there are shared aquifers and so on and so forth, and where there are benefits from water trading, then it might make sense to have a consumptive pool. Where that is not the case, there would be the preserving of existing water licensing arrangements. Our case would be that the National Water Initiative gives us a great deal of flexibility to preserve our existing water licensing arrangements where it makes sense to do so but encourages the adoption of a new form of consumptive pool perpetual water access entitlement where that makes sense to do so, so we think it is sufficiently flexible. To the other question about to what extent different jurisdictions cost recover on the basis of catchment, say, versus statewide, the short answer is that it varies. In some cases the charges are more localised; in some cases they are statewide; in some cases they are a combination of both. Again, I would refer you to the stocktake report done by the National Water Commission, which does a bit of an analysis around those matters across Australia.

**The CHAIRMAN:** It was a bit difficult to relate it back to Western Australia, because in most instances there was no information available.

**Mr Rowe:** Probably, and again we will get back to you with that.

**The CHAIRMAN:** I think you probably need to answer that rather than refer us back. We cannot read things that do not have anything in them. What I will do to make it easier for us is this: some eight issues came up under this matter of the separation of land and water titles. I will get Loraine to give you specific questions on those and also ask you a general question on the variable charge system etc. The submissions suggest it is not being applied here, but what you are saying is that there is room for variation.

**Mr Rowe:** Sorry, I am saying there is room for variation in terms of the form of water management that may be undertaken going forward once we have the new legislation in place, bearing in mind



that we can only do water licences and the matter of how future charges may be levied, whether it is statewide or whatever is still unresolved. A whole new piece of work needs to be done on that.

**The CHAIRMAN:** It may very well be in the future that in each of the managed areas, apart from applying a separate charge for a licence, there may be variations of charges within that management area.

**Mr Rowe:** That is certainly possible; in fact, part of the agreement that our Minister for Water Resources has reached with the Greens as part of the new fee arrangement is that a future ERA inquiry will look at catchment level fees in essence, so I would say that it is possible and it sounds as though it will be part of a consideration of a future ERA inquiry.

**The CHAIRMAN:** The current set of fees was set by the agreement, as I understand it, that was reached between the minister and the Greens and then passed through as part of this arrangement, but I also have to say that submissions have drawn attention to the state government's implementation plan that states that any introduction of further cost recovery will occur only after extensive consultation, the completion of statutory water plans and the establishment of longer-term secure water access entitlement. You say that clearly at page 56.

[4.10 pm]

**Mr Rowe:** That is right.

**The CHAIRMAN:** One suggestion that has come to us is that this puts you outside of compliance within Western Australia.

**Mr Rowe:** I am sure that that clause contemplates the adoption of a water licence administration fee first, so it assumes that the fee is done. When it refers to any other cost recovery, it is cost recovery beyond a water licence administration fee. The implementation plan implies that any further cost recovery would be done only when those preconditions are met; in other words, when there has been significant additional consultation, when new legislation and the statutory plans are in place, and when new forms of water access entitlement are rolled out. I do not think it is inconsistent.

**Mr Ruprecht:** There has been considerable consultation on the forms of water administration licence fees through the various committees that have looked at some of these water reform issues. Although that may not be exactly on the fees that we have now in terms of the specific dollars, there has been significant consultation about licence administration fees during the irrigation reform through to the blueprint and the government response to the blueprint. In broad terms, there has been quite a bit of consultation and awareness of water licence fees at least.

**The CHAIRMAN:** Has that consultation extended to mining companies and other major stakeholders?

**Mr Ruprecht:** Yes, we have had state water forums, regional forums and specific forums as well.

**The CHAIRMAN:** One of the most important questions for us as a committee is: how do we explain the introduction of fees prior to the completion of statutory water plans? Stakeholders were not concerned about there being some kind of administration fee. However, it has been said that all you have done is to impose a fee - you have done nothing else that the NWI suggested in terms of the establishment of those plans.

**Mr Rowe:** As I have alluded to before, it may be that people do not perhaps recognise, understand or appreciate the benefits that their water licences already give them. It has been quite clear for a number of years that the state government has intended to introduce a water licence administration fee. In the future, with new arrangements, new statutory water management plans and perhaps further consideration of other cost recovery arrangements and a review by the Economic Regulation Authority, they may change. However, the point is that the fees have been on the table for some years.

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**The CHAIRMAN:** I do not think that anybody is arguing with that. The issue that has been raised with us is that you have taken one portion of what the NWI has suggested and have imposed that without putting in place all the other elements of water management. As I said, that is not a criticism of the committee; they are the kinds of things that we will have to answer as a committee.

**Mr Ruprecht:** A lot of activities have commenced over the past six to 12 months that are part of that broader reform. The state water plan has come out. The south west regional water plan is in draft form. Quite a number of water management plans are now complete and more are now out for public comment. We are about to release the Gngangara water management plan and the south west groundwater management plan for public comment. A fair bit of work has gained some momentum, which in broad terms is part of that water reform. Unfortunately, they have not come out as quickly as we would have liked, but they are certainly part of the implementation of new ways of doing water.

**The CHAIRMAN:** I will finally touch on future charges, because again there was a view in many of the submissions from the south west that this was part of a larger agenda. The licence administration charge is for licensing as it currently exists under the 1914 act. The view expressed was that this schedule would not apply to any water access entitlements that might be established under statutory management plans. Is that a fair assessment?

**Mr Rowe:** My understanding of the process is that the minister has agreed, in essence, that the Economic Regulation Authority will look at that issue once the new legislation is in place.

**The CHAIRMAN:** Are you able to confirm, for instance, whether water access entitlements will also be accompanied by administration fees to meet NWI full cost-recovery obligations?

**Mr Rowe:** We can speculate that they might be, but that is still subject to a future inquiry by the Economic Regulation Authority and decision by government.

**The CHAIRMAN:** That being the case, I will just go back to our original question about the ERA. Would it not be helpful to have the ERA on board now as opposed to waiting for two years? It may very well be, for instance - let us speculate - that down the track it may consider your fee structure to be totally inappropriate. Would it not be better to work in tandem or together?

**Mr Ruprecht:** It is potentially government policy, but the government has been very clear about implementing water licence fees. We will work with the ERA in time to review the licence fees. We see that as being the most appropriate way forward.

**The CHAIRMAN:** Thank you for your forbearance today. It has been a fairly lengthy session. There are some other issues that I will get Loraine to raise with you. Are there any issues that you would like to raise with us?

**Mr Roberts:** I will just pick up on the last point about charges that might attach to water access entitlements. One thing we have had to be careful about is that there is no legislation at the moment that allows water access entitlements to be put in place. That legislation is currently being drafted and in that drafting process the way in which those things will look and feel is still being determined. To actually ask the ERA to comment on whether we should be attaching charges to water access entitlements would, I think, probably pre-empt what they might look like.

**The CHAIRMAN:** No, my questions were not related to that. My questions were about the current charges that apply rather than waiting for a review as to whether the ERA should be involved in that particular side of it. I am sorry.

**Mr Roberts:** That is just what I heard.

**The CHAIRMAN:** My apologies. It really applies to that side. Thank you for your evidence before the committee today. A transcript of the hearing will be forwarded to each of you for the correction of any minor errors. Please make any corrections and return the transcript within 10 days of receipt. If it is not returned within that period, it will be deemed to be correct. Thank you for

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your time today and for your forbearance. Please do not take anything that the committee has put to you today as being a criticism of any of your processes. This inquiry is allied to the terms of reference. What we have put to you today has come, by and large, from the submissions that we have received from various stakeholders. Thank you for your time.

**Hearing concluded at 4.17 pm**