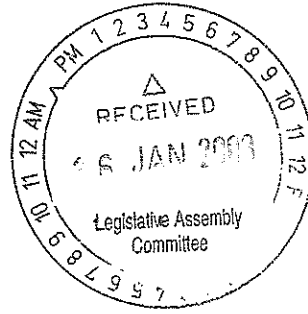


30 October 2007

Hon. John Kobelke MLA  
Minister for Water  
Governor Stirling Tower  
197 St George's Tce  
PERTH WA 6000



Dear Minister

**LICENCE ADMINISTRATION FEES**

In recent months there has been a lot of public attention drawn to the proposal to introduce fees to recoup the cost to the Department of Water of administering water licences.

Harvey Water and the other equally successful irrigation Cooperatives in WA, have been pulled into the public discussion by invalid comparisons made between the licence fees for Cooperatives and self supply irrigators. It has been a disappointment to us that those making the public statements have not had the courtesy to contact Harvey Water before doing this as they might then have been apprised of the facts.

The licence fee issue has become political because of certain actions taken in Parliament. Harvey Water is not a political organisation and seeks to work constructively with government and all political parties. Our interest and focus is on the welfare of our irrigator members, some of whom have expressed disquiet over what has been quoted in the media and in Parliament.

The paper attached seeks to provide factual information on the cost to irrigation Cooperatives of administering the licences which provide us the privileged access to water that we treasure.

Our intention is to add factual information into the debate on licence fees which we understand will continue into the near future.

Please contact the undersigned at Harvey Water should you wish to discuss any of the issues raised.

Yours sincerely

Geoff Calder  
General Manager

cc: Director General, Department of Water  
Leader, Liberal Party of Australia (WA Division)  
Leader, National Party of Australia (WA)  
Leader, The Greens (WA) Inc  
CEO National Water Commission  
Auditor General, WA Government

# LICENCE ADMINISTRATION FEES

**An understanding of the true costs of administering water  
licences in irrigation cooperatives.**

*Harvey Water*

October 2007

## **BACKGROUND**

The introduction of water Licence Administration Fees (LAF) and Water Resource Management Charges (WRMC) for activities undertaken by the Department of Water (DOW) are two of many outcomes of the Blueprint for Water Reform in Western Australia.

Under recommendations 42-47 of the Blueprint, 6 main actions will occur relating to the development of charging for services provided by DoW for water management. Two key recommendations (42 & 47) will impact upon irrigators the most as they involve the introduction of LAF in the short term and WRMC in the medium to long term. Both of these fees will vary in different regions across the State dependent upon the form of licence held (private dam, groundwater or public dam users).

That is, the LAF applies to the cost to the DoW to administer a licence and this bears little relationship to the volume of water involved but is almost entirely dependent on the number, complexity and stringency of licence conditions and the effort involved in satisfying them. That is, licences are NOT all the same. A Self Supply Licence (SSL) is much less detailed than the licences needed for an irrigation water supply Cooperative and far less detailed than a potable water supply licence. The more detailed the licence conditions the greater the cost of administering them.

Recently a great deal of discussion and dissension has centred on the LAF and seems to have been driven out of Self Supply Areas (SSA). Various claims have been made about how the cost has been derived, allocated across users and will ultimately be implemented.

Most contentious has been the tiered scale of LAF when used to compare LAF strictly (and erroneously) on a per Megalitre basis. It has been publicly alleged that larger water users such as Cooperatives (Ord, Harvey and to a lesser degree Gascoyne) benefit from the structure when compared to SSL. Such comparisons, while making entertaining media headlines, are not valid comparisons between the different licences and demonstrate a complete failure to recognize the extensive water and licence administration functions that became the responsibilities of the Cooperatives when they commenced operation.

To make the point perfectly plain, income to the Cooperatives, and therefore the funds it has to spend on costs, comes from its irrigator members. Any cost can be directly attributed to members, so in this paper where it refers to Cooperative costs, it must be clearly understood that these are costs paid for by irrigators.

This briefing paper has been prepared to provide a detailed response to these comparisons. It will demonstrate the following:

- The comparison of a self supply licence with an irrigation water utility licence is not valid because the licence structure and particularly the conditions for compliance are not the same and neither are the costs,
- The comparison of the costs of administering licences by dividing the cost by the water volume licensed is not valid,
- Irrigation Cooperatives, and therefore individual irrigators, fund most of the cost of licence compliance which means that the cost to the Department of Water is much lower.

## LICENCE ADMINISTRATION FEE ACTIVITIES AND COOPERATIVES

In proposing the LAF the DOW provided a document "Original calculations to determine the water licence application and administration fees" (see attachment). This document outlined activities that DOW found essential to fulfill licence administration responsibilities and sought to include in the LAF. These items comprised 5 main activities. Each of these and their applicability to a Cooperative structure is detailed below.

Recommendation 42 of the Blueprint states that the LAF is to recover the costs associated with:

- Licensing -The assessment of licence applications and renewals
- Compliance - Checking compliance with licence conditions
- License Support - Maintaining licensing databases
- Appeals- Management of appeals, and
- Community awareness.

## LICENSING and COMPLIANCE

### LICENSING

*Refers to all receipting and assessment of:*

- *5C Licences to Take Water (including new applications, renewals, amendments);*
- *Transfer, trades and agreements to Take Water (5C);*
- *26D Licences to Construct or Alter Wells (including new applications and amendments); and*
- *11/17/21A Permits to Interfere or Obstruct Bed and Banks (including new applications and amendments).*

*The Rights in Water Irrigation Act 1914 require DoW to have regard to certain matters when assessing an application that include but not limited to:*

- *Determine eligibility to hold a licence;*
- *Advertising of application;*
- *Ecological sustainable;*
- *Environmentally acceptable;*
- *Prejudice current and future needs for water;*
- *Are in keeping with local practice, relevant by-laws and relevant decisions of Committees; and*
- *Consistent with land use planning instruments, policies of other Government Agencies and intergovernmental agreements.*

## COMPLIANCE

*There are costs associated with surveys and enforcement actions. Surveys form an integral part of ensuring the compliance with licence terms and conditions. Surveys are carried out, both during assessment and after the issuing of a licence and include inspection of properties.*

*Enforcement action refers to the action taken by the DoW when there is a breach of licence terms and conditions, or a breach of the Rights in Water and Irrigation Act 1914. This would include meetings and interviews with licensees and the physical gathering of evidences, as well as the preparation for and participation in legal proceedings.*

*Source: Original calculations to determine the water licence application and administration fees (DOW, Sept 2007)*

Cooperatives apply for and renew one or more collective licences on behalf of all their irrigators on a 5 year basis at present. They are required to supply all relevant information asked for by DOW and report annually against the many conditions of their licence.

As well, each Cooperative licence is subject to Operating Conditions which may vary from year to year and include such responsibilities as the release and management of environmental flows. Not only is the management of the environmental water a cost to the irrigators, the release of that water reduces the volume effectively available to irrigators and also has an associated cost.

It should also be noted that in order to obtain a DoW water licence Cooperatives must also have previously obtained a Licence to Operate as a Utility which is issued by the Economic Regulation Authority (ERA). This ERA licence contains many more detailed conditions which have to be reported on and satisfied, including detailed biennial audits, all paid for by the Cooperative. This once again proves the point that comparison of SSL and other licences on a per Megalitre basis is invalid because the total licence structure is different and so are the costs of compliance involved.

Cooperatives continually collect data from individual irrigators at an indirect cost to them which enables the Cooperatives to carry out this work. If the Cooperatives didn't do this task each irrigator would have to apply for a separate licence and for its renewal. In effect, were the Cooperatives not capable of completing this task, DOW would have to collect all the data they require from Harvey Water's 770 irrigators, for example.

All transfers, trades and agreements to take water (more supply points or changes of them) are dealt with by the Cooperatives. All of these issues were previously dealt with by the regulatory arm of WAWA. Cooperatives are now required to provide to DOW a full summary report of all of this activity in relation to water supply and management annually. Cooperatives use their systems to do this. If they didn't DOW would need to do this and a fee would be justified.

It can also be noted that Harvey Water actually has 3 water licences because there are 3 different irrigation districts supplied from 7 different dams. This means that licence compliance costs are multiplied, if not in fact tripled.

Annual reports required by DoW from the Cooperatives can vary, but normally include information on:

- Water use and distribution efficiency
- Water use and demand projections
- All water traded permanently, temporarily or as sale of land
- Water quality monitoring (where required by license condition)
- Management systems
- On farm water use efficiency
- Land & water use trends
- Patterns of flow in water courses for environmental purposes (where license requires)
- Operating strategies (commonly developed in partnership with Water Corporation)
- Restrictions
- Breaches of licence
- Metering, measuring and monitoring (where required by license condition)

This reporting requires constant gathering of information that DOW would normally gather through survey, sites visits and the undertaking of one on one visits in SSA. The Cooperatives fulfill this information gathering, collating and reporting with staff employed by the irrigators.

In addition to these matters the Cooperatives have regularly paid for environmental, ecological and hydrogeology studies considered necessary by DOW for their various activities. Examples of this include the employment by the Ord of an environmental officer, full electromagnetic survey for salinity in the HWIA, comprehensive 3 year study on nutrient and drainage outflows, employment of GIS staff to correlate/ground truth data and multiple creek and river ecology studies within the areas of the Cooperatives' operations.

All Cooperatives financially contribute, in partnership with the DOW, for Western Australia's participation in the National Program for Sustainable Irrigation (NPSI) with Land & Water Australia which provides the opportunity for access to research funds to deliver information on water use and efficiency. Several projects funded through NPSI have had national recognition for the quality of the work and the usefulness of the information produced.

## **LICENSE SUPPORT**

*Licensing support includes costs for:*

- *database maintenance and enhancements, including data validation and cleansing;*
- *delivery of training to regional licensing officers; and*
- *providing supporting expertise for regional licensing staff.*

*Source: Original calculations to determine the water license application and administration fees (DOW, Sept 2007)*

Prior to the Cooperatives licensing support was a task undertaken within WAWA which historically incorporated the regulatory function along with its irrigation storage and delivery functions in what are now the Cooperative irrigation areas. When WAWA was devolved into the Water Corporation and Waters & Rivers Commission it was determined that as part of privatization of the irrigation distribution assets to the Cooperatives they would be accountable for all licensing issues relating to individual irrigators. An individual irrigator's water entitlement was converted to a shareholding within the respective Cooperative.

The Cooperatives have the legal right to water through each DoW water licence held and individual irrigators have equitable rights to water through their shareholdings in the Cooperatives.

In SSA the database of individual irrigator entitlements is currently maintained by DOW. When a sale of land occurs SSL irrigators must inform and get approval from DOW for a transfer of water ownership.

Cooperative irrigators must inform the Cooperatives who administer ownership database records. Cooperatives are legally responsible to ensure the validity of these records.

Cooperatives are now required to ensure that the water entitlement database they manage conforms with all NWI requirements to enable the WA State Government to, in turn, conform with its NWI obligations. DOW has made it clear that all aspects of Cooperatives' databases and irrigators' individual entitlements must be managed in accordance with the NWI/COAG requirements. Failure to comply would see the Cooperatives' bulk water licence role reviewed and could be revoked. DOW recognises that each irrigator owns their own entitlement (which they do) with the Cooperatives holding an overarching license that requires water administration and delivery as per the previous WAWA regime. Each individual irrigator's entitlement must be database managed as if they were a SSL irrigator.

Prior to Cooperatives the regulatory arm of WAWA administered all matters relating to database maintenance, changes and oversight. When Cooperatives commenced the responsibility and cost of operations and administration of all the irrigators individual entitlements database was transferred to them by the State Government. This cost has been internally billed to individual irrigators ever since. In SSA it has remained a responsibility of the State and is undertaken by DOW who is now seeking payment for this function through the LAF on a user pays basis.

Put simply DOW maintains the individual water entitlement database of SSL irrigators but not those within Cooperatives regions. They do reserve a right to request this information. Under NWI Cooperatives must be able to provide this data in a timely manner. The WA Cooperatives are now working toward putting

all their individual irrigator water entitlement data onto an online publicly accessible database. This is a national project being done in collaboration with other locally owned irrigation companies to ensure all Cooperatives comply with our individual States' NWI obligations. This project is largely being internally funded by Cooperative irrigators with some NWI funding support. DOW is also required to do this with all SSL irrigators but using State funds at this time while Cooperatives are charging their irrigators internally.

In regard to database management for individual irrigators Cooperatives manage this task. If Cooperatives didn't DOW would need to do this and charge individual irrigators accordingly.

### **APPEALS to STATE ADMINISTRATIVE TRIBUNAL (SAT)**

*Any appeals against the decision of the Commission are assessed by the State Administrative Tribunal (SAT). Actions include collation of papers, evidence and supporting documents for both the SAT Tribunal and the appellant.*

*With declining availability of water resources there is a corresponding increase in appeals against DOW decisions to refuse applications.*

*Source: Original calculations to determine the water license application and administration fees (DOW, Sept 2007)*

Using Harvey Water as the example, to date neither HW nor any irrigator has ever had an issue go to the SAT over our 11 years of operation. Any disputes in the HW area in regard to allocations, water access or entitlement etc have all been dealt with internally under the customer complaints process required to be set up under our licence. Irrigators do have complaints and issues from time to time. Any resources, be they HW staff time or professional assistance, needed for resolution within the HWIA are collectively paid for by all irrigators of the region. Should any irrigator within the region contact DOW or ERA with an issue they are directed back to HW to first seek resolution there.

It is the responsibility of the Cooperatives to be administratively capable of sorting out disputes. Only a complete failure of Cooperative systems would see an issue end at the Water Ombudsman.

### **COMMUNITY AWARENESS (WATER RESOURCE MANAGEMENT COMMITTEES)**

*Costs associated with managing and supporting community based Water Resource Management Committees and Advisory Committees. The cost includes sitting fees and traveling expenses for members as well as venue and catering expenses.*

*A smaller proportion of the cost goes towards community education on water resources that include the provision of up to date information on water availability and other pressing local issues via the print media.*

*Source: Original calculations to determine the water license application and administration fees (DOW, Sept 2007)*

Advisory Committees existed in Cooperative areas prior to the Cooperatives commencing, with the State paying fees and all supporting costs. These



mechanisms ceased at the time of Cooperatives commencing operations about 10 years ago.

All costs such as attendance by irrigator directors of the Cooperatives, staff or general manager at any water management related meetings, workshops and functions are paid for by Cooperative irrigators. This means that all external liaison with DOW or WC or any other external stakeholder bodies at local, state and national level (and there are very many at present) on behalf of the irrigators is paid for by irrigators. This liaison allows the Cooperatives to keep involved in and well informed on matters in the ever evolving world of water management in Australia at present. Harvey Water has made the decision that it needs to be involved on behalf of its members so that we can have sensible conversations about water and make sensible decisions.

The Cooperative Boards are in every sense the "water resource management committee" due to the level of responsibility that they take on. Board costs (direct & indirect) vary between the Cooperatives but commonly exceed \$100k a year.

Any pressing local water issues that require extension of information are handled by the Cooperatives. Cooperatives distribute and advertise to all individual irrigators via internal newsletters, meetings, websites and regular advertising in local papers and radio throughout the region they operate in. Liaison with DOW/WC does occur with any relevant information incorporated for extension to irrigators on a regular basis. This extension is paid for by the irrigators. DOW does not contribute to this. During the past two years almost all information that DOW has sought to have provided to individual irrigators about water reform has been via the Cooperative mechanisms paid for by the Cooperative irrigators.

## **NATIONAL WATER INTIATIVE AND STATE WATER LICENCES**

The NWI IGA signed by all states requires that the licensor obtains reimbursement of costs associated with administering licences. Harvey Water acknowledges the requirement of the WA DoW to comply with the NWI and therefore accepts the necessity for licence fees.

It can also be noted that by virtue of the size and type of licence which are provided to both Harvey Water and Ord Irrigation Cooperative, we are required to comply with extensive data collection and reporting on our operations. In Harvey Water's case this means that we need to respond to 316 questions each year. Each of these questions requires data collection and reporting systems which have to be established, amended or collated from either our 770 members or other sources. It is a not insignificant task.

## **SUMMARY - WATER ADMINISTRATIVE CHARGE ACTIVITIES AND COOPERATIVES**

When the Cooperative irrigation areas of Gascoyne, Ord and Harvey were transferred to local irrigator ownership as part of the COAG National Competition Policy water reforms in the 1990s a key element was the transfer via a bulk water licence to the principal Cooperative entity as the custodial body for the individual irrigator entitlements. Integral to this process was the acceptance by the Cooperatives that the water administration functions and their cost in relation to individual irrigator entitlements would become the responsibility of the Cooperatives and therefore their individual members.

Irrigators in the scheme regions have been paying for these administrative services to be completed for the past decade. These are the core functions that DOW is now seeking cost recovery on whereas DOW undertakes such functions in SSA.

In seeking to compare SSA, where the whole of catchment/aquifer administration is principally the responsibility of the DOW, to the Cooperative irrigation areas where these functions are primarily undertaken by the Cooperatives with annual reporting to the State, it is clear that the cost requirements to the State will differ substantially.

Indicatively the costs associated with Harvey Water to internally carry out water administration functions for 700 irrigators is conservatively estimated at \$300,000 per year dependent on the water license and operating conditions requirements of DOW from year to year. Where additional work is required such as discussed in Licensing and Compliance this can involve additional one off costs. Comparisons between Cooperative irrigation areas and SSA that fail to adequately recognize the extensive water administration costs internally carried by Cooperative irrigation areas lack validity and credibility.

Fundamentally, from a DOW perspective, it is significantly easier to administer water licensing where there is one dam with an irrigator managed entity that administers all access to that water by individual irrigators who own individual entitlement rights to it. Where 500-800 dams of varying size are spread across a catchment (and where their collective use may constitute half the water of a Cooperative's licenses) requires substantially more resources to administrate given that the individual SSL irrigators don't pay for any collective information gathering. Storage at one collective dam and controlled water access enables enormous administrative efficiency for government when compared to SSL.

Under the LAF proposal, Harvey Water's total fee is \$9 000 for its three licences. We recognize the tasks that DoW has to undertake to administer our licences and as responsible users of water are happy to pay that amount to enable DoW to validate that we are using our water properly and according to the licence conditions we have agreed to. Harvey Water recognizes that access to water is a considerable privilege and absolutely essential to the livelihood of our 700

irrigators, so we cooperate with DoW to the fullest extent to ensure that their access to water continues.

