

Our ref: 504/187

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Your ref: Independent Inquiry into the EPA

30 October 2015

EPA Inquiry Secretariat
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Independent Inquiry into the EPA Submission

Thank you for the opportunity that has been made available to Coliban Water to provide a submission to the Ministerial Advisory Committee's Independent Inquiry into the EPA. As a regional Victorian water corporation, Coliban Water works with the EPA in a variety of ways to provide appropriate protection of the environment, while providing drinking water and wastewater services to communities across central and northern Victoria.

Coliban Water participated in the preparation of the Victorian Water Industry Association's (VicWater's) submission on behalf of the Victorian water industry, and supports the issues raised in their submission. We are providing our own separate submission to emphasise issues of particular interest to our business, as well as issues specific to our region of operations in north-central Victoria. We have utilised the 13 questions posed in the EPA Inquiry discussion paper to structure our submission.

The issues that we would like to raise are detailed below.

1. What do you think are the key environmental challenges which will impact the EPA in the future?

Managing diffuse pollution sources

Waterways are significantly impacted by diffuse contaminant sources that continue to be unregulated. These contaminant sources include stormwater, runoff from poorly-managed agricultural activity, and other industrial activities, and runoff from poorly performing on-site wastewater management systems. Wastewater treatment plant discharges are heavily regulated, as they should be, with licenses that prescribe water quality targets and discharge volumes that are designed to protect receiving waterways and the environment, but the same level of rigour is not currently applied to diffuse sources. The evolution of risk-based regulation by the EPA needs to target the sources of pollution that are responsible for the greatest impact to the environment, whether they be point or diffuse sources.

Meeting the demands of public expectation

The EPA North West office is responsible for a particularly large region of Victoria. There is a high degree of community expectation for the EPA North West office to be

responsive to public notifications of odour, noise, illegal dumping and other unlicensed or illegal industrial activities. Meeting all these expectations across such a large area, and with the current staff numbers and structure, is likely to be unachievable. Further resources, including staff or zone redistribution, are required to fulfil current public expectations around the role that EPA should play.

While the EPA would have to expand its current environmental legislative responsibilities to meet all of the public's expectations, defined regulatory boundaries are still required between the different agencies that set policy, produce standards and regulate performance. The EPA requires the support of sound scientific intelligence and continual research in order to be able to set realistic and appropriate performance standards for industry and diffuse pollution sources.

The VicWater submission refers to the acceptance, assessment and regulation of innovative, cost-effective solutions that possibly contradict historical standards and good-practice. Exploring innovative solutions and embracing new ideas will be a necessary step in implementing processes that achieve positive environmental outcomes by maintaining or improving environmental health. These innovative solutions could include using suitably treated wastewater to provide environmental flows, constructing wetlands for water treatment that are also available for community recreation, and the efficient combustion of waste for energy generation.

2. What aspects of the EPA's work do you value and wish to preserve in the future?

Coliban Water have established an effective working relationship with staff in EPA's North West Office. The continuation of this partnership is considered to be greatly beneficial to the management of our environmental compliance obligations, including the provision of guidance on following the appropriate approval pathways, when required.

Furthermore, the EPA Water Industry Reference Group is a valuable forum for discussing industry-related issues and compliance challenges. It is an effective way for the water industry to receive consistent messages from the EPA, as well as being a convenient means for the water industry to provide the EPA with consolidated information regarding emerging issues within the water industry. Coliban Water would encourage the establishment of industry reference groups for other industries, if they do not already exist.

Coliban Water have been invited to participate in the EPA's Earned Autonomy trial. We are pleased to be a part of this process and encourage the EPA to continue developing the program and utilise appropriately-earned autonomy as a model, or basis, for risk-based regulation. We look forward to being a part of its ongoing development and are excited to see the future results of the trial process.

Recently, the EPA have become more active in planning scheme approvals in close proximity to industrial premises. In a recent case, the EPA made a submission emphasising the importance of adherence to the existing buffer distance guidelines, which assisted Coliban Water in defending its decision to reject a planning scheme

application for the development of land for residential use adjacent to one of Coliban Water's wastewater treatment facilities. We would like to advocate for EPA's ongoing involvement in such cases, especially where involvement allows EPA to support its own document policy positions and guidelines, and we also support the EPA being granted referral authority rights for planning scheme applications to ensure that environmental considerations are assessed as part of all relevant planning decisions.

3. How can the EPA effectively work in partnership with other government agencies to meet the environmental challenges of the future?

The VicWater submission references the relationship between the water industry and the EPA as being multi-faceted, with, at times, water corporations acting as co-regulators, and the reliance that the water industry has on the EPA to protect the health of Victoria's catchment areas, and protect water industry premises from encroachment.

There are opportunities for the EPA to collaborate with the water industry, with the water industry being very much seen as environmental stewards with respect to the management of catchment areas, receiving waterways, trade waste producers and customers of recycled water products.

The possible over regulation by the EPA of the use of recycled water and biosolids has potentially been ineffective and inefficient. An alternate approach could be that water corporations are entrusted to ensure the sustainable use of their products in order to secure long term solutions for their production. Water corporations have a strong and documented incentive to produce fit-for-purpose products that do not pose an unacceptable risk to public health or the environment.

More broadly, it is suggested that a potentially collaborative approach to the setting of performance standards and good practice guidelines could be explored, which would be inclusive of appropriately experienced and knowledgeable government agencies and industries. An example of this is using a 1-in-5 year rainfall event as the standard for sizing sewer networks. Standards such as these require the justification of sound scientific evidence and industry experience that do not currently appear to exist. Other considerations include affording flexibility to weather-dependent management issues due to changing climatic conditions, such as less frequent rain events of greater magnitude. This collaborative approach could be achieved through working groups and engagement groups, as previously discussed. Appropriate checks and balances would need to be put in place to ensure an adequate level of governance and separation between the regulator and regulated entities.

Proactive delegation to more appropriate entities with regard to standard and objective setting would also assist in the segregation of the regulator, as previously discussed.

4. How can the EPA's role in safeguarding the community against the health impacts of pollution be clarified or strengthened?

It is Coliban Water's view that the EPA's sole focus should be on impacts to environmental health. The protection and maintenance of a community's environment indirectly safeguards the community from health impacts. We recommend that the EPA be responsible for community engagement and communication regarding environmental impacts and environmental health, while possible health concerns stemming from environmental issues should be referred to the Department of Health and Human Services (DHHS). The EPA and DHHS should work collaboratively in mitigation activities, with clear and separate desired outcomes for environmental and public health issues. The relationship between Victoria police and CFA/MFB could be used as an example, whereby CFA/MFB manages and communicates issues specifically relating to a fire, while VicPol manage and communicate legislative implications, such as breaches of the law.

Management of onsite wastewater

Onsite wastewater management is a risk to Coliban Water's water supply catchments and impacts on our decisions to provide sewer infrastructure to communities; however, our general view of onsite wastewater issues is that it is primarily a public health issue. Onsite wastewater systems should be regulated by the EPA, but local government should be required to report to DHHS, and be audited by DHHS, much in the same way as water corporations provide Safe Drinking Water Act compliance information to DHHS. Poor functioning onsite wastewater systems pose a significant health risk to the community, whether they discharge off-site or not, however the current regulatory framework only allows involvement in a poor performing system if there is an off-site discharge. If one owner is not able to manage their system they become a public health risk. Evidence based assessment of unsewered small towns and their need for reticulated sewerage is required to ensure poor performing systems are identified, however owners that can manage their systems should not be unduly penalised.

5. How could statutory frameworks more effectively prevent future environmental risks and land use conflicts?

The VicWater submission makes reference to the fact that despite EPA's range of planning and referral powers, the historical emphasis has been on post-harm responses and clean-up. Coliban Water supports re-emphasising the use of preventative tools and advocates assigning the EPA powers as a referral agency for planning scheme applications to ensure environmental considerations are assessed as part of all relevant planning decisions.

With regard to the management of domestic wastewater, the effectiveness of the statutory framework hinges a lot on whether the EPA acts as a regulator or just provides guidance. At present there is little drive for local governments to apply domestic wastewater management plans (DWMPs) stringently, as there is no regulator enforcing the implementation and maintenance of such programs. Those Councils that do not allocate adequate resources or budgets to DWMPs, and are therefore not compliant with their regulatory obligations, face no penalty. Coliban Water supports the regulation of

DWMPs in a similar manner to scheduled premises, such as wastewater treatment plants. Applying a Licence which requires the reporting of compliance to obligations regarding the maintenance of DWMPs would allow the EPA to regulate the performance of Councils, ensuring that there is a level playing field, as well as providing a mechanism to apply notices to implement attainment actions.

6. What role should the EPA play in emergency management?

The EPA should be empowered to provide an expert opinion on environment management and environmental impacts in emergency situations, however rarely be the lead agency. In recent examples, such as the Morwell Mine Fires, the most significant impacts were to public health as a result of poor air quality. It is our opinion that the EPA should be placed to comment on air quality and associated impacts to the environment, and provide support in environmental management issues. It should be the responsibility of DHHS to comment on the implications to public health, and the CFA/MFB who coordinate and comment on the management of the actual fire itself.

The EPA's role would also extend to investigating and issuing sanctions for breaches of environmental law that led to the emergency incident, and be active in developing preventative measures to mitigate a repeat event.

7. How can the EPA better identify and, where necessary, address problems that are the result of past activity?

The identification of pollution and associated impacts from past activities is limited to reports and risk-based investigations. These issues will be difficult to address without EPA having the appropriate levels of resources. While the continuation of a polluter pays approach to mitigating impacts from past activities is supported, consideration should be given to calibrating enforcement action on demonstrable levels of risk and impact. Furthermore, if the past activity was conducted in compliance with best practice at the time, then the culpability of the polluter should be considered as being negligible, noting that the state may support any associated remedial actions.

8. What can the EPA do to avoid potential future problems?

Our observations are that the EPA needs to reconsider its community engagement efforts and focus on community notifications, compared to continued enforcement of Licenced industry activities. Our community appears to be engaged and willing to assist the EPA by identifying and notifying environmental issues. In order to harness this opportunity we suggest that the EPA provide the community with clarity on the role and responsibilities of the EPA.

Furthermore, the EPA should continue with industry reference groups to create awareness of emerging issues alongside industry. These types of partnerships will assist both the EPA and industry to identify, prevent, control and/or mitigate emerging issues.

9. What role should the EPA play in improving environmental outcomes beyond those necessary to safeguard human health?

Human health should no longer be the driver for environmental protection. The general public appears to accept that taking care of the environment decreases the risks to public health caused by the environment that they live in. Furthermore, a significant level of intrinsic and aesthetic value is also placed on healthy environmental systems.

The EPA should focus on environmental conditions, with an aim of continual improvement or maintaining quality, where appropriate, by identifying, preventing and mitigating environmental risks. As previously stated, the EPA should be placed to provide information and communication relating to the health of the environment. Where the diminished health of the environment presents possible public health issues, these should be referred to DHHS, for their management and response.

10. What role should the EPA play in reducing greenhouse gas emissions?

There is an increasing focus on energy use and greenhouse gas (GHG) emissions within industry, and a community expectation of increased efficiency. We suspect that the EPA will increasingly be asked to make decisions that balance traditional issues of water quality and odour, with energy consumption and GHG emissions. This is particularly relevant for waste management activities, such as landfills and sewage treatment. It is our view that the EPA needs to be suitably resourced to interpret and assess these competing requirements in order to effectively make mature decisions that consider whole-of-lifecycle impacts. This may require the acquisition of new, suitable resources and guidance into the EPA's existing framework and possibly changes to regulations and legislation.

11. How do you see environmental justice being applied to the work of the EPA?

There is an inconsistency in the regulation of water corporations across Victoria with regard to certain issues. Inconsistencies are expected when corporations predominantly deal with different local offices. The Victorian water industry is collaborative and openly shares experiences for the benefit of the industry. The collaborative forums have provided cases where different corporations have been managed differently by the EPA with regard to, on the surface, similar issues, such as sewer spills and emergency discharges from wastewater treatment plants.

As previously stated, it is our view that the EPA should develop methods to regulate diffuse pollution sources in order to apply risk-based regulation, where the greatest emphasis is on the issues that have the greatest impact. For example, the management and control of wastewater treatment plant discharges far exceeds the management and control of stormwater discharges, and uncontrolled agricultural run-off, however there are cases where stormwater flows impact the receiving environment more significantly than regulated effluent discharges.

12. What can we adopt from other regulators and regulatory models to implement best-practice approaches and ensure that the EPA can rise to key future challenges?

Utilising a similar model to the DHHS for the management of drinking water supplies for wastewater treatment and reuse. Development of appropriate science based parameter to protect the receiving environment and a risk based system where water corporations are permitted to undertake process improvements to reduce the overall risk profile with an appropriate external auditing program that evaluates and ensures compliance.

13. Are there any other issues relevant to the Terms of Reference that you would like to raise?

It is our observation that North West Victoria community expectations far exceed current capacity of the EPA's North West Office to meet these expectations. As previously stated, we have a very effective relationship with the EPA's North West Office, and are confident of the abilities and commitment of the staff in this office to their role. However, the North West jurisdiction is so large that it is not possible to address all issues to the likely expectation of the broader community. For example, timely responses to odour reports in regional areas in northern areas of the state.

As per the VicWater submission,

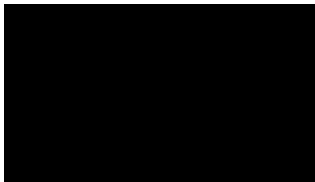
- Appropriate enforcement should consider cost effective alternatives to capital investment in energy intensive treatment. The water industry operates under a customer-pays expenditure model, with capital investments and customer service prices approved by the Essential Services Commission (ESC). Overall, positive environmental outcomes are possible, through innovative, broader catchment measures, such as investing in public wetlands and offsetting discharge impacts with investments in waterway improvement works. The EPA should be appropriately resourced to assess these alternative solutions and options and, if necessary, change regulatory and legislative tools to support innovative ways of achieving beneficial environmental outcomes.
- Coliban Water would also like to see greater empowerment of regional office staff to work with industry to approve innovative management activities and investment decisions.
- We support the continuation of fast-tracking and reducing approval processes for heavily regulated government entities, such as the water industry, for environmentally benign activities within operational premises, or the review of apparently ineffective or inefficient regulatory processes, such as those that apply to recycled water and biosolids reuse schemes.

Coliban Water also believes that better environmental and health outcomes can be achieved at lower overall cost to the community by adhering to the following principles outlined in the VicWater submission, when designing and implementing environment-based regulation:

- Clear objectives and targets, but flexible structures for implementation
- A risk-based regulatory approach
- A clear mandate, and the supporting resourcing, to tackle more pollution at its source
- Targeting lowest community cost solutions
- EPA officers empowered and resourced to contribute to flexible, sophisticated solutions to environmental issues
- Using the planning scheme to proactively manage diffuse sources of pollution
- Adequate resourcing of the EPA, commensurate with the public's demand for a strong, active environmental regulator
- Separation between the policy/strategy setting roles, the implementing role and the regulatory role
- A robust evaluation framework, including objectives and targets that are linked to broad-based outcomes

Should you wish to discuss any of the details contained in this submission please feel free to contact [REDACTED], Coliban Water's Regulatory and Risk Framework Coordinator, or [REDACTED].

Yours faithfully

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