

## K. Tranter: Political stupidity and hydrocommerce madness

(Courtesy ABC News Online 15th May 2009)

Water is a unique public commodity, but the New South Wales Government is opening the Sydney and Hunter water markets to multinational privateers, writes lawyer Kellie Tranter\*.

"As the most essential life-sustaining substance and the most critical input to economies around the globe, water is the only commodity that has absolutely no substitute at any price. This fundamental fact creates an intractable demand for water and has historically made global hydrocommerce a stable, non-cyclical, low-risk investment." - Summit Global Management

If it's good enough for international marketeers like Summit Global Management to see water as a "stable, non-cyclical, low-risk investment", why isn't it good enough for the NSW State Government?

Premier Nathan Rees was quick off the mark to announce that Sydney's water supply is secure for the next 50 years with Veolia Water - a private company - being granted a licence to draw from the Fairfield Sewage Treatment Plant, recycle the waste and sell it. On top of the desalination plant - which coincidentally is also being built by Veolia Water and John Holland Group Pty Ltd - this will, we're told, have a positive effect on dam levels.

Media reports confirmed that the 4.3 billion litres of treated water produced by the plant annually will be transported through a 20-kilometre network of retrofitted gas pipes and used at places like Rosehill Racecourse and the Shell refinery at Clyde. What they didn't mention is that another State Government licence permits Jemena Limited - formed when Singapore Power acquired assets and asset management business from the sale of Alinta Ltd in 2007 - to build, own, manage and operate a recycled water network that will initially transport up to 4.3 billion litres of recycled water a year from Veolia Water's recycled water plant to industrial and irrigation customers in Western Sydney. They also fail to mention the involvement of AquaNet Sydney Pty Limited, which also is part of the Jemena group.

All good in terms of our water future? Not if you look more carefully. At the April 2009 Australian Water Summit Maude Barlow, senior adviser on water to the President of the United Nations General Assembly, said:

"...governments at all levels have bought into the notion that water is a commodity, best allocated by the market, and now increasingly in the hands of largely unregulated private water brokers. This development dates back to the 1994 decision to establish an open water market in Australia ... there is no vision and no overall plan to save Australia's water heritage other than a vague belief in the magic of markets and kneeling to the throne of big technology ... The steady slide to a market system of water allocation will have dire consequences: the rich will have preferable access; there will be no incentive to protect source water as it is not profitable to do so; and nature will have to fend for itself ... Australia must declare its water to be a public trust ... Governments simply do not have the power or right to afford water ownership rights to corporations or private

interests, or tradable rights without a mandate from the Australian people who are the rightful owners along with the environment, of Australia's water resources ... privately owned municipal water service providers should be replaced by not-for-profit public systems delivering clean safe water as a public service ... corporations should not determine the allocation of water; that is the role of government..."

During the same summit Ms Barlow noted that:

"Building big desalination plants, weirs, and pipelines such as the Victoria Government's North-South pipeline, (being done without an environmental assessment) also gives control over Australia's water to foreign water corporations. It is ironic that the two big French companies bidding on the Wonthaggi plant - Suez and Veolia - are about to lose their Paris water licenses when they come up for renewal in a few months."

Has Mr Rees bothered to investigate why that might be so?

What Mr Rees doesn't make any statement about is how these recent allotments tie in with the Water Industry Competition Act 2006. It commenced on 8 August 2008, with the backing of the Opposition, opening the doors for private players - including foreign companies - to control, among other things, drinking water for retail consumers.

Where was the Government's mandate to introduce this legislation, which seems to me to be a critical part of the process of privatising by stealth a critical public resource? The NSW Government is only too well aware what voters think about privatising public resources, like electricity: ask former NSW premier Morris Iemma. In a country where water is becoming more scarce, has the Government properly explained the effect of its water legislation to the people of New South Wales, let alone sought or obtained their approval?

The Act was designed to "encourage competition in the water industry and to promote innovative solutions to the water supply-and-demand balance, particularly in so far as the development of infrastructure for the production and distribution of recycled water is concerned". Experts like former CSIRO chief research scientist Mike Young are of the view that Australians don't pay enough for their water, especially during times of shortages, so I assume no water-consuming citizen of New South Wales raised concerns about "industry competition" with the State Government? Where did the impetus for these changes really come from?

I don't have a problem with the involvement of the private sector in water recycling, but I do have a problem with the private management of water without very tight government regulation. Water is a commodity like no other. Perhaps Mr Rees should be reminded that the private sector can't always be trusted to do what's in the best interests of all people.

This view I apparently share with the Public Interest Advocacy Centre, the Council of Social Service of New South Wales and the Nature Conservation Council of NSW who accepted that there may be benefits from competition for the supply of non-potable and recycled water to

the business and industrial sectors, but who do not believe that the potential benefits of retail competition for residential users (in this case, consumers currently serviced by Hunter Water and Sydney Water) outweigh the potential costs of market failure in this area.

Anyone who follows water developments internationally knows that locking in residential consumers is precisely what international corporations are interested in.

I suspect the Water Industry Competition legislation has not been widely reported because people don't yet appreciate the likelihood that recycled water may soon be a necessary source of drinking water, and that the ownership of recycled water supplies and the infrastructure that creates it or which it passes through will then be a very valuable asset.

While the Government may say it is not really privatising water, but rather delegating the management of utilities or operating them in partnership, the fundamental and very real issue is access to water. The key to access is control, and who ultimately controls the tap, Mr Rees?

Under the Water Industry Competition Act 2006 a licensed network operator is the owner of its water industry infrastructure, whether or not the land in, on or over which it is situated is owned by the network operator, and that infrastructure is not to be taken in execution of any judgment against a person other than the network operator under any process of a court. Where exactly does this leave the current and any future State Government if it becomes necessary to cancel a licence in the interests of the public?

Does the State Government propose to call on God as a supplier of last resort if it doesn't own and can't get hold of the water infrastructure?

The Act defines "water industry infrastructure" as water infrastructure or sewerage infrastructure, and "water infrastructure" essentially means any infrastructure that is, or is to be, used for the production, treatment, filtration, storage, conveyance or reticulation of water.

The Government makes assurances about water quality and public health, the construction and maintenance of water industry infrastructure and consumer protection, but we have received assurances like that before which have ended up ringing hollow, especially where Ministers have the ultimate power to grant and cancel licences.

One would have thought that before bringing the legislation into operation a Government that was serious about protecting the interests of people and the environment would have actually put in place a water industry code of conduct, a marketing code of conduct and a transfer code of conduct for the transfer of water supplies or sewerage services to, from or between licensed retail suppliers before it handed over to "private" players the keys to our most importance resource.

To date we have been told that:

\* around 30 per cent of the total cash that is generated by the allegedly better performing water utilities will end up in the Treasury (which arguably creates conflicts in terms of government introducing water saving measures);

\* Sydney Services Pty Ltd was blocked when it wanted to connect to the Sydney sewage system with a proposal to clean and deliver water to any quality standard, a program which would be financed from water rates from customers choosing its sewage services rather than Sydney Water's. Why?

\* in 2007 Lend Lease Corporation Limited's subsidiary, Bovis Lend Lease Limited, as part of Connect Alliance, was awarded the contract for the design and construction of the water delivery pipeline for Sydney's desalination plant. That alliance includes McConnell Dowell, Kellogg Brown and Root (after Halliburton acquired Dresser Industries in 1998, Dresser's engineering subsidiary, The M W Kellogg Co, was merged with Halliburton's construction subsidiary, Brown and Root, to form Kellogg Brown and Root); and

\* a network alliance formed between Sydney Water, Bovis Lend Lease, Veolia Water Network Services and CLM infrastructure to deliver a program aimed at reducing leaks and main breaks from Sydney Water's 21,000-kilometre supply network. Where have you heard those names before?

At the end of the day has the Premier honestly satisfied himself that the legislation in its current form is tight enough to avoid the circumstances previously raised by the Centre for Public Integrity and by the senior advisor on water to the President of the United Nations General Assembly?

No, I bet he hasn't. And I bet he won't, because he can't.

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