

Fwd: FW: MDBA SDL Reporting and Compliance framework - third draft - for review by COB by 12 October 2018 [DLM=For-Official-Use-Only]

From: Andrew Brown
To: Andrew Davidson
Date: Sun, 14 Oct 2018 22:28:41 +0000
Attachments: Unnamed Attachment (68 bytes)

the other Andrew in the response list wasn't you sorry.
 Andrew Brown | Principal Modeller, Water Modelling
 NSW Department of Industry | Water
 11 Farrer Place Queanbeyan | PO Box 189 Queanbeyan NSW 2620

W: www.industry.nsw.gov.au/water

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From: Andrew Brown
Date: Wed, Oct 10, 2018 at 9:32 AM
Subject: Re: FW: MDBA SDL Reporting and Compliance framework - third draft - for review by COB by 12 October 2018 [DLM=For-Official-Use-Only]
To: Richard Beecham
Cc: Peter Hyde , Kate Masters
 Beth Overton Danielle Baker
 Tim Golland Andrew Goulstone

Some comments on Davo's observations (and my apologies to him for leaving him to try and make sense of this mess cold)

MDBA does imagine that we will do a clunk style model run each year, but the BP text doesn't specifically require this and MDBA has been very clear about its formal position that it is up to us what we propose as the permitted take method.

We have quite a lot of freedom here, with the key limitations being the best available information test closely followed by the running it over the 1895 to 2009 period demonstrates the SDL. MDBA has been attempting to add a fake requirement that methods be climatically varying, but have failed thus far. This is an expression of thier desire for an all encompassing clunk type model that we cannot deliver on for a number of years yet.

On the question of hot starts and account/storage initialisation, this is the same underlying issue as Peter recently raised with MDBA related to Barwon-Darling account balances and I think it has been resolved based on my skim read, someone might forward that text to Davo for a proper read through. Also material for carryover, and continuous account balances on 1/7/2019.

The suggestion about hot starting a model each year to minimise accumulating errors would pass the test if we offered it as long as we hot started that same model for every year 1895 to 2009 as well to demonstrate that it works, and I can't see how we might do that short of "hot starting" it with a long term model derived set of values which kind of ruins the point.

Once we passed that hurdle, if it is the same underlying model, we already know that the errors + and - will accumulate back to the SDL eventually, so I'm not convinced we have gained much.

However, the technique does strike me as a very useful check once we fail our first SDL accounting year to hot start it every year since 2019 to see if we get the same outcome, and if we don't, we might then make the argument that we needn't take action because its a false breach due to cumulative model error.

The paragraph on permitted use method taking growth in use strategy into account is just saying that our permitted take method must contain a knob that is set to the current growth in use setting.

For example, does the IQQM model allow for a setting that limits supplementary allocations or general security allocations to some maximum number. If we do a growth in use response, the permitted take model needs to reflect the new rules (actually the current rules).

Yes I agree that reasonable excuse is a mess, but we don't have to repay excess take cause by under recovery. I think a better way to consider reasonable excuse is that it provides a justification to sit on your hands and do nothing because you believe that the valley will un-breach itself over time.

So the "repayment" will happen all by itself in effect. The key is the part about reducing our use. The reasonable excuse paperwork includes some bits about states proposing a means to return to SDL compliance over a reasonable (undefined) time frame. Tony has said verbally that a means may well be to do nothing, or in Carl Binnings words, actively monitor and evaluate.

On the idea of a steering mechanism for the WSP to hunt compliance towards a target both up and down, I'm inclined to agree with you, and I know Sally Dye has previously proposed that as well. I think Peter said no?

However, I'm more of the view that these WSP's will have to be redone every 10 years or so anyway and we probably won't have a true picture of if we have over restricted take in less than that time frame anyway so we could just fix it when the plan's roll over?

Andrew (Brown)

Andrew Brown | Principal Modeller, Water Modelling

NSW Department of Industry | Water

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On Wed, Oct 10, 2018 at 8:40 AM Richard Beecham

wrote:

Dear all

Andrew Davidson has reviewed the DRAFT Sustainable Diversion Limit Reporting and Compliance Framework, and has provided a number of comments, both in document and in the trailing email.

There do appear to be substantive issues with what is set out in the document, both in terms with letter of the Basin Plan, and with proposed methodology and actions (eg, even if we have a reasonable excuse we still need to reduce diversions).

Could have a telecon later today (after FPH consultation) to discuss action. Would recommend providing these comments in some form directly to MDBA for discussion, and in parallel would think we should get legal to look at how compliant the document is with the Basin Plan itself.

Cheers

Richard

Richard Beecham | Manager Water Modelling

Lands & Water Division

Department of Industry

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From: **Andrew Davidson**

Date: Tue, 9 Oct 2018 at 15:37

Subject: Re: FW: MDBA SDL Reporting and Compliance framework - third draft - for review by COB by 12 October 2018 [DLM=For-Official-Use-Only]

To: Richard Beecham

First off I know that there is a mass of what is in effect "case law" that goes along with the BP, but I'm not across that so I can only comment on what is written here.

I have attached a copy of the report with my comments added.

I was wondering if you want me to write something up about this. There are a number of issues in this that my comments cover but don't really have an overarching explanation.

So the interesting things are:

1. The difference between a permitted take method and a permitted take model.
2. The pointlessness of the reasonable excuse mechanism.
3. The over prescribing of how permitted take model should work.

In reverse order:

How we run our permitted take method.

They seem to have assumed that our permitted take method is going to be a clunk style run of the WRP model starting from 2019. However, this may not be the best way of doing it. For example we may want to run our take method with a hot start of the storage volumes/account balances. Provided that this returns a long-term average mean take at or below the SDL then this meets the Plan requirements. This might be useful because we might expect the year-to-year variation to be reduced if we don't have accumulating errors.

I'm also not quite clear about what the requirement in the Plan at s.10.12(1)(g) means. It says that our take method needs to account for "changes over time in the extent to which water allocations in the unit are utilised". This is followed up with a note that says: "Paragraph (g) includes what is commonly known as a growth-in-use strategy". What does this mean? Does it mean that our permitted take method needs to have a built in growth-in-use strategy? Otherwise, how does a change in the utilisation affect the amount of water you are allowed to take?

The pointlessness of the reasonable excuse mechanism.

So it would appear that there are two approaches to dealing with an exceedance of the SDL:

1. Make a declaration under s.71(1)(h) of the Act and start reducing water use.
2. Make a claim for a reasonable excuse under s.6.12 of the Plan by producing a report outline our reasons, go through the process of arguing our case with the MDBA and then if we are successful we have to start reducing our water use.

Kind of beggars the question of why any Basin State would bother applying for a reasonable excuse as the outcome is the same if not worse (ie: be required to "pay back" the 20% plus the excess rather than just the excess) than if you just "fess up".

The difference between a permitted take method and a permitted take model

Lastly there is a question of semantics. If we declare our permitted take method is a method rather than a model then we can avoid the endless arguments with the MDBA about "best available information". However, it does mean that the permitted take is no longer a prediction of what take would have occurred under some sort of assumed conditions. Rather the permitted take becomes an arbitrary limit on what water can be taken. We also couldn't really make a claim that the usage had gone over the limit by "chance" because the limit is arbitrary. Regardless of whether we choose to call our process a permitted take method or permitted take model; the fact that we are obliged under the Plan to intervene when the cumulative usage gets too far in advance of the permitted take, means that we should have a steering mechanism in the WSP to intervene when the cumulative take falls too far behind the permitted take. Otherwise, if we only intervene in one direction then the long-term take will be reduced.

On 2 October 2018 at 10:39, Richard Beecham

wrote:

Hi Davo

in Brownny's absence could you please review this report and provide some commentary

Ta

BTW in AB's absence, you can be acting him.

Cheers

Richard

Richard Beecham | Manager Water Modelling

Lands & Water Division

Department of Industry

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From: **Peter Hyde**
Date: Tue, 2 Oct 2018 at 09:53
Subject: FW: MDBA SDL Reporting and Compliance framework - third draft - for review by COB by 12 October 2018 [DLM=For-Official-Use-Only]
To: Beth Overton
Andrew Goulstone
Richard Beecham

Cc: Kate Masters · Tim Golland

Beth, Andy & Richard

Missed this one in the rush. If you have any comments please get them back to Kate and I and we will try to get something together for MDBA

Thanks

Peter Hyde | Director Water Planning

Lands & Water Division

From: On
Behalf Of MDB Secretariat
Sent: Tuesday, 2 October 2018 9:17 AM
To: Kate Masters; Tim Golland
Cc: Peter Hyde; Vanessa O'Keefe
Subject: Fwd: MDBA SDL Reporting and Compliance framework - third draft - for review by COB by 12 October 2018 [DLM=For-Official-Use-Only]

FYI

Murray Darling Basin Committees
Strategic Relations | Water
Lands and Water Division | NSW Department of Industry
Level 10, 10 Valentine Avenue, Parramatta NSW 2150
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From: **WRPVG Secretariat**
Date: Fri, Sep 28, 2018 at 4:53 PM
Subject: MDBA SDL Reporting and Compliance framework - third draft - for review by COB by 12 October 2018 [DLM=For-Official-Use-Only]
To: Andrea Wilson

Belinda Wilson

Buckle, Susan

Jessica Freame
Kate Masters

Judith Kirk
Lyndal Betteridge
Melissa Hill

Marcus Finn

NSW secretariat email address

Hyde

Peta Derham
Sabrina Teodorowski

Peter

Sara

Bundze

Sichter, Amanda
Stewart Chapman
Stribley, Lisa (DEWNR)Theresa Heneker
Farrar (Tracey
WOOD Diana

WRPVG Secretariat

Cc: Samantha Lucas

Tony McLeod

Julianne Tanner

Dear WRPVG members,

Please find attached Draft 3 of the SDL reporting and compliance framework for your review. As per the below email, this has been sent to your BPIC members, and comments are requested by **12 October 2018**.

In addition to the changes listed in the below email to BPIC, a summary of the major changes from Draft 2 of the SDL reporting and compliance framework, provided to the Basin states in May, are listed below:

1. Draft 3 of the framework includes an executive summary to provide key points
2. Chapter 1 summarises the chapters in framework.
3. Chapter 2 is now called 'Application of SDL's for compliance' and provides key concepts such as permitted and actual take.
4. Chapter 3 remains 'Reporting compliance with the SDL' - this chapter has been updated to include the process for adjustments to the register of take for incomplete water recovery.
5. Chapter 4 remains 'Assessing SDL compliance' – the chapter also now includes the assessment of incomplete water recovery beyond a basin states control.
6. Chapter 5 remains 'Reasonable Excuse' and outlines the assessment process. This process has been updated with the option for an additional year for 'investigating' an issue as was discussed with the Basin states at the joint sap and gap workshop in August. The language of the reasonable excuse classifications has also been updated.
7. Audit and assurance has been moved to Chapter 6, from Chapter 4.
8. Some further updates to the appendices will also be made before finalisation of the framework.

Please get in touch with Sam Lucas or with any concerns or questions in relation to the framework.

Cheers,

Sam

Assistant Director, Surface Water

SDL Accounting & Aboriginal Partnerships Branch | Partnerships Division

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In the spirit of strengthening partnerships with Aboriginal people the MDBA acknowledges the cultural authority of the Traditional Owners in the Murray–Darling Basin.

From: Julianne Tanner
Sent: Friday, 28 September 2018 4:22 PM
To: BPIC Secretariat ; 'Chapman, Stewart'
; Carl Binning

Marcus Finn

Cc: Samantha Lucas ; Tony McLeod ; Judy
Robertson ; BPIC Secretariat

Subject: BPIC: MDBA SDL Reporting and Compliance framework - third draft [DLM=For-Official-Use-Only]

Dear BPIC members,

Please find attached the third draft of the MDBA's SDL Reporting and Compliance framework for your review.

We intend to take a final draft of the framework to the 23 October meeting of the Authority for approval. To meet this timeframe, we would appreciate any final comments focusing on policy issues **by 12 October 2018**.

Please note that there may be some changes to wording over the coming weeks to improve clarity and readability prior to publication. We will share a final draft once it has been prepared.

In this third version we have added content in response to the recent amendments to the Basin Plan (which changed the groundwater compliance method and provide for an adjustment to occur in the event of incomplete water recovery that is beyond a Basin states control). We have also considered comments received from states on the earlier drafts. On a couple of matters, we have sought the advice of the Authority who agreed that:

- if the SDL compliance trigger is exceeded, *up to* three years is allowed for an investigation to occur before a decision is made to implement a response. This is referred to as the 'discovery phase'. The second and third years of this phase would only be granted on a merits based assessment of the circumstances by the Authority

- the document be maintained as a framework (rather than a guideline), however we have more clearly identified where tools are used as guidance (only) within the framework

- if the SDL compliance trigger is exceeded and an investigation is initiated, data for all forms of take in a resource unit should be checked, however we have changed the language to clarify that this is not intended to entail a significant body of work

- rolling audits of up to two SDL resource units will be undertaken each year to ensure the integrity of the data being used to assess SDL compliance.

Four webinars on the SDLs and the draft framework were held over August, which were attended by about 60 participants. A summary of "what we heard" from the webinars is currently being finalised, and will be shared with states before being published.

Please don't hesitate to contact either myself, Tony McLeod or Sam Lucas if you would like to discuss the draft report or have any questions.

Kind regards,

Julianne

Julianne Tanner
Director, Surface Water Management
SDL Accounting and Aboriginal Partnerships
Partnerships Division

Murray–Darling Basin Authority

www.mdba.gov.au



In the spirit of strengthening partnerships with Aboriginal people the MDBA acknowledges the cultural authority of the Traditional Owners in the Murray–Darling Basin.

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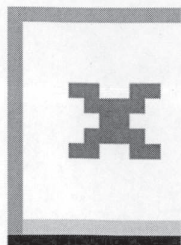
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Andrew Davidson | Senior Hydrologist

Surface Water Modelling



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