

Decision on Amendment to Harvey Water's Operating Licence 31

4 October 2010

Economic Regulation Authority
 WESTERN AUSTRALIA

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DECISION

1. Pursuant to section 31 of the *Water Services Licensing Act 1995 (Act)*, the Economic Regulation Authority (**Authority**) has approved an amendment to the South West Irrigation Management Cooperative Ltd's (trading as **Harvey Water**) Operating Licence. The amendment expands Harvey Water's existing operating area (map OWR-OA-178/3 D) and creates a new operating area in the Upper Collie Basin (map OWR-OA-300).
2. As required under section 31(4)(b) of the Act, the Authority will publish a notice of its approval of the licence amendment in the *Government Gazette* as soon as is practicable.

BACKGROUND

3. On 13 July 2010, the Authority received an application from Harvey Water to amend their operating licence by proposing to expand their existing operating area and create a new operating area in the Upper Collie Basin.
4. Harvey Water requested an expansion to their existing operating area because the 2009 operational audit found that Harvey Water was, in a few instances, operating outside of its operating area. The expanded operating area incorporates the areas where Harvey Water was operating outside its operating area.
5. The request by Harvey Water for a new operating area in the Upper Collie Basin was due to recent negotiations between Harvey Water and Perdaman Chemicals (**Perdaman**) regarding the long term supply of industrial water to Perdaman's proposed plant. The new operating area that was proposed by Harvey Water covers an area much larger than just Perdaman's plant. Harvey Water believes there will be a demand in the future for more industrial water in that particular region. Therefore, the new operating area encompasses the known industrial areas and companies in the Upper Collie Basin.
6. On 28 July 2010, the Authority published a notice seeking public submissions on Harvey Water's licence amendment application. The period for public submissions closed on 18 August 2010. One submission was received, which was from the Department of Water (**DoW**).
7. The DoW stated they had no objection to the proposed amendment, providing that Harvey Water demonstrates that it has the financial and technical ability to deliver a water service in the new operating area. The DoW also stated that Harvey Water has an obligation to provide water services or the intention to provide a water service in the new operating area.
8. A copy of the DoW's submission in full can be viewed on the Authority's website.

REASONS

9. The application for this licence amendment was made pursuant to section 31 of the Act.
10. In relation to the issues raised in the submission received, the Authority notes that:
 - a) Section 23 of the Act states that financial and technical assessments are required for the grant of a new licence. The Act makes no reference to financial and technical assessments in relation to the amendment of a licence.
 - b) Section 32(1)(a) of the Act requires Harvey Water to provide the water services specified in the licence. Harvey Water has demonstrated its intention to supply a service in its letter of request to the Authority. Harvey Water is requesting that the new operating area covers the known industrial areas in the Upper Collie Basin (and not just the site of Perdaman Chemicals) as Harvey Water believes it will receive future requests from companies in this area for the supply of water for industrial use.
11. No significant issues were found in the most recent operational audit and asset management system review (for the 27 month period ending December 2009) and the Authority extended the period of time until the next audit and review from 27 months to 36 months.
12. Under section 31(1a) of the Act, the Authority is not to make a determination that a licence is to be amended unless the Authority is satisfied that it would not be contrary to the public interest to do so. Section 31A provides that, when determining whether something would be contrary to the public interest, the Authority may take into account one or more matters referred to in section 19(1b) of the Act.
13. Following public consultation, the Authority has not found any evidence that granting the amendment would be contrary to the public interest. Therefore, the Authority proposes that it would not be contrary to the public interest to grant the licence amendment.

**LYNDON ROWE
CHAIRMAN**