

## Water Act 1989

### TEMPORARY QUALIFICATION OF RIGHTS IN THE BROKEN WATER SYSTEM

I, Tim Holding, as Minister administering the *Water Act 1989* (Act), make the following Qualification.

#### Title

1. This Qualification is called the Temporary Qualification of Rights in the Broken Water System July 2009.

#### Background

2. This Qualification qualifies:
  - rights to water held in accordance with section 8(1) of the Act;
  - the water shares issued in relation to the Broken Water System (**Water System**); and
  - the following bulk entitlements, as amended:
    - (a) Bulk Entitlement (Broken System – Goulburn-Murray Water) Conversion Order 2004
    - (b) Bulk Entitlement (Broken System – Tungamah Domestic and Stock, Urban Supplies - Goulburn-Murray Water) Conversion Order 2004
    - (c) Bulk Entitlement (Broken System – Tungamah, Devenish and St James – North East Water) Conversion Order 2004

#### Duration

3. This Qualification comes into effect upon notification pursuant to section 33AAC(1) of the Act or 1 July 2009, whichever is later, and remains in force until 30 June 2011.

#### Authorising provision

4. This Qualification is made under section 33AAA(1) of the Act.

#### Definitions

5. In this Qualification, a reference to -
  - a. the Water System is a reference to that system as defined in the Order Declaring Water Systems in Northern Victoria 2007.

- b. a reference to a year is a year commencing 1 July
- c. ABA is a reference to an Allocation Bank Account, recorded in the Water Register, and linked to a Broken system water entitlement.

### Qualification of rights

- 6. The right of a person to take water under section 8(1) of the Act, in relation to the Water System, is qualified so that where the water allocation to a water share in the Water System is less than 50% the right is comprised of a right to take the volume of water necessary for the following domestic and stock uses only –
  - a) in-house household purposes;
  - b) watering of animals kept as pets;
  - c) watering of cattle and other stock; and
  - d) fire-fighting.
- 7. The right of a person to take water under a water share deemed to be issued pursuant to section 33F (1) of the Act in the Water System is qualified so that where the water allocation to a water share in the water system is 0% the right is comprised of –
  - a) a right to take the volume necessarily only:
    - i. for the following domestic and stock uses;
      - 1. in-house household purposes;
      - 2. watering of animals kept as pets;
      - 3. watering of cattle and other stock; and
      - 4. fire fighting; and
    - ii. for the following commercial and industrial uses;
      - 1. watering of animals in intensive animal industries;
      - 2. washdown;
      - 3. cleaning;
      - 4. cooling;
      - 5. dust suppression for health related reasons; and
      - 6. manufacturing and processing, provided best practice water savings measures have been implemented, or.
  - b) a right to take the volume of water recorded in their ABA, pursuant to clause 10 of this qualification and only when the Storage Operator has notified the person that it is available for delivery.

whichever is the greater

- 8. The right of a person to take water under a water share deemed to be issued pursuant to section 33F (1) of the Act in the Water System is qualified so that

where the water allocation to a water share in the water system is greater than 0% and less than 50% the right is comprised of –

- a) a right to take the volume of water recorded in their ABA, or
- b) a right to take the volume necessarily only:
  - i. for the following domestic and stock uses;
    - 1. in-house household purposes;
    - 2. watering of animals kept as pets;
    - 3. watering of cattle and other stock; and
    - 4. fire fighting; and
  - ii. for the following commercial and industrial uses;
    - 1. watering of animals in intensive animal industries;
    - 2. washdown;
    - 3. cleaning;
    - 4. cooling;
    - 5. dust suppression for health related reasons; and
    - 6. manufacturing and processing, provided best practice water savings measures have been implemented.

whichever is the greater

9. The right of Goulburn-Murray Rural Water Corporation to take water from the Broken River in order to supply primary entitlements under *Bulk Entitlement (Broken System – Goulburn-Murray Water) Conversion Order 2004* is qualified so that –

- a) Where the allocation to a water share in the Water System is zero per cent:
  - i) Goulburn-Murray Rural Water Corporation may release the following water from the Broken system storages:
    - 1. water allocated under clause 6 and 7 of this qualification; and
    - 2. water to cover losses incurred in delivery of water allocated under clause 6 and 7(a) of this qualification
  - ii) The obligation imposed by clause 12.1(a)(i), together with Schedule 5, of the bulk entitlement, to provide minimum environmental flows in the Broken River upstream of Casey Weir between Lake Nillahcootie and Broken Weir during the months of June to November inclusive is removed.
  - iii) The obligation imposed by clause 12.1(a)(ii), together with Schedule 5, of the bulk entitlement, to provide minimum environmental flows in the Broken River upstream of Casey Weir between Broken Weir and Casey Weir, during the months of December to May inclusive, is removed.

- iv) The obligation imposed by clause 12.1(b), together with Schedule 5, of the bulk entitlement, to provide minimum environmental flows in the Holland Creek downstream of Holland Weir when water is being diverted from the Broken River and/or Holland Creek to Lake Mokoan is removed.
  - v) The obligation imposed by clause 12.1(c), together with Schedule 5, of the bulk entitlement, to provide minimum environmental flows in the Broken River downstream of Casey Weir between Lake Nillahcootie and Broken Weir during the months of December to May inclusive, is removed.
10. The right of Goulburn-Murray Rural Water Corporation to take water from the Broken River in order to supply primary entitlements under *Bulk Entitlement (Broken System – Goulburn Murray Water) Conversion Order 2004* is qualified so that when the water allocation to a water share in the Water System is 0%, with agreement of Goulburn-Broken Catchment Management Authority, Goulburn-Murray Rural Water Corporation may release water from the Broken system storages to cover losses incurred in delivery of water allocated under clause 7(b) of this qualification.
11. The right of Goulburn-Murray Rural Water Corporation to take water from the Broken Creek in order to supply primary entitlements under *Bulk Entitlement (Broken System – Tungamah Domestic and Stock, Urban Supplies – Goulburn-Murray Water) Conversion Order 2004* is suspended. When allocations on the Broken system are 1 per cent or greater, water must be set aside in Nillahcootie Reservoir under this entitlement, according to the following formula:
- $B = E * A$
- Where:
- $E = 4,400$  megalitres
- $A =$  Allocation on the Broken system (expressed as a decimal fraction); and
- $B =$  Water set aside in storage (expressed in megalitres)
- but must not be released from storage.
12. The right of North East Region Water Corporation to take water from the Broken system in order to supply the townships of Tungamah, Devenish and St James under *Bulk Entitlement (Broken System – Tungamah, Devenish & St James – North East Water) Conversion Order 2004* is suspended until allocations on the Broken system reach 1 per cent.
13. The right of North East Region Water Corporation to take water from the Broken system is qualified so that –

(a) the right includes the right to take unused water recorded in its bulk entitlement ABA on 30 June of the previous year, up to a maximum volume equivalent to 50 per cent of the bulk entitlement volume recorded in that ABA on 1 July of the current year, minus 5 per cent for losses. This volume of water will be referred to in this qualification as 'carryover'; and

(b) in the current year, the following formula applies:

$$M = E - C$$

where

M = limit on future seasonal determination (megalitres) in the current year, against the bulk entitlement volume recorded in its ABA on 1 July of the current year.

E = the bulk entitlement volume (megalitres) recorded in its ABA at 1 July in the current year

C = the volume of carryover (megalitres).

(c) Any limit on future seasonal determination (M) will not be affected by a transfer or limited term transfer.

Dated: 24/06/2009



**TIM HOLDING MP**  
Minister for Water