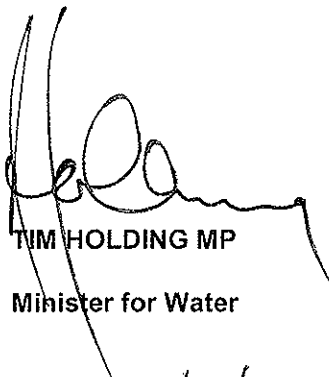


Water Industry Act 1994
STATEMENT OF OBLIGATIONS

I, Tim Holding, Minister for Water, as Minister administering the **Water Industry Act 1994**, pursuant to Section 8 of the **Water Industry Act 1994**, make and issue the attached Statement of Obligations to South East Water Limited.



TIM HOLDING MP
Minister for Water

Dated: 26/06/2009

Water Industry Act 1994

STATEMENT OF OBLIGATIONS

South East Water Limited

Statement of Obligations

PART 1 – PRELIMINARY	
1	Commencement and Term
	This Statement of Obligations commences on 1 July 2009 and operates until 31 December 2014 or until it is revoked, whichever occurs first.
2	Authorising Provision
	This Statement of Obligations is issued by the Water Industry Minister under section 8 of the <i>Water Industry Act 1994</i> .
3	Purpose
	The purpose of this Statement is: <ul style="list-style-type: none"> a. To impose obligations on the Authority in relation to the performance of its functions, specifically the water supply functions established under section 80 of the <i>Water Industry Act 1994</i>, and the exercise of its powers; and b. To clarify the obligations of the Authority together with the other Melbourne retail authorities, as holders of the entitlements listed in Schedule B to this Statement, in relation to the obligations of Melbourne Water as the manager of the Melbourne headworks system.
4	Interpretation
4.1	The definitions of the terms contained in Schedule A to this Statement apply in this Statement.
4.2	The following rules apply in interpreting this Statement, except where the content makes it clear that a rule is not intended to apply. <ul style="list-style-type: none"> a. Terms defined in the <i>Water Act 1989</i> and <i>Water Industry Act 1994</i> have the same meaning as in this Statement. b. Whenever this Statement requires the Authority to make something “available to the public”, the Authority must: <ul style="list-style-type: none"> i. publish that thing on the Authority’s website; ii. make a copy of the thing available for inspection at each of the Authority’s offices; and iii. provide a copy on request at no charge, or where providing the copy involves significant cost to the Authority, for a charge that covers the fair and reasonable costs of making the copy available. c. Whenever this Statement requires an Authority to “develop” something, the Authority must be taken to have complied with that obligation if it has already developed the thing before this Statement commenced.
4.3	This Statement imposes additional obligations on the Authority to those specified in the Statement of Obligations that commenced on 1 July 2007 (as amended at 30 October 2008), and this Statement may be distinguished from that earlier Statement of Obligations by the following naming convention: <ul style="list-style-type: none"> a. Statement of Obligations (System Management) refers to this Statement; and b. Statement of Obligations (General) refers to that earlier Statement of Obligations.
4.4	Nothing in this Statement should be interpreted to limit or otherwise amend the obligations imposed upon the Authority under the Statement of Obligations (General).
5	Availability of Statement
	The Authority must make this Statement available to the public.
PART 2 – THE MELBOURNE HEADWORKS SYSTEM	
6	Definition of the Melbourne Headworks System
	The Melbourne headworks system is defined as: <ul style="list-style-type: none"> a. Thomson, Upper Yarra, Maroondah, O’Shannassy, Sugarloaf, Silvan, Cardinia, Toorourrong, Yan Yan, Greenvale and Tarago Reservoirs and the associated weirs, tunnels, transfer conduits, treatment plants and associated water supply works owned by Melbourne Water; and

	<p>b. The system waterway, meaning:</p> <ul style="list-style-type: none"> i. the Thomson River between Easton Weir and Coopers Creek Gauging Station number 225208, including the pools formed by and immediately upstream of Easton and Swingers Weirs and the Thomson Reservoir; ii. the Yarra River and its tributaries upstream of a point just downstream of the confluence of the Yarra River and the Plenty River, including pools formed by and immediately upstream of Melbourne Water's reservoirs and weirs in the Yarra Basin; and iii. the Silver Creek and Wallaby Creek and their tributaries in the Goulburn Basin including pools formed by and immediately upstream of Melbourne Water's weirs; and <p>c. The flows harvested by the headworks from the system waterway;</p> <p>d. The flows from the Victorian Desalination Project at the point(s) specified in the Water Interface Agreement;</p> <p>e. The flows from the pump well adjacent to the Goulburn River at the off-take point for the Sugarloaf Pipeline at Yea.</p>
PART 3 – MANAGEMENT OF THE BULK ENTITLEMENTS FOR THE MELBOURNE HEADWORKS SYSTEM	
7	General Duties
7.1	The Authority, in conjunction with the other Melbourne retail authorities, must collaboratively manage the bulk entitlements listed in Schedule B in accordance with the orders for these bulk entitlements and to satisfy the objective established under sub-clause 8.1.
8	System Optimisation
8.1	The Authority, in conjunction with the other Melbourne retail authorities, must manage the bulk entitlements in the Melbourne headworks system to ensure the efficient operation and use of water services for the long-term interests of water users, with respect to water security, quality, reliability and price.
8.2	The Authority, in conjunction with the other Melbourne retail authorities and Melbourne Water, must complete an investigation of alternative system optimisation rules, practices and/or models that improve its methods for satisfying the objective established under sub-clause 8.1.
8.3	The investigation under sub-clause 8.2 must be undertaken in accordance with any written guidelines issued by the Department, after consultation with the Department of Treasury and Finance, for that purpose.
8.4	Where the investigation under sub-clause 8.2 establishes the need for alternative system optimisation rules, practices and/or models, the Authority must, in conjunction with the other Melbourne retail authorities and Melbourne Water, develop such rules, practices and/or models.
8.5	<p>The development process established under sub-clause 8.4 must:</p> <ul style="list-style-type: none"> a. Be undertaken in consultation with the other Melbourne retail authorities, Melbourne Water, the Department and other parties likely to be affected by the outcomes of the development process including, where relevant, the holders of the entitlements listed in Schedule B to this Statement; b. Be undertaken in accordance with any written guidelines issued by the Department, after consultation with the Department of Treasury and Finance, for that purpose.
9	Security Guidelines
9.1	<p>In performing its obligations under clauses 7 and 8 of this Statement, the Authority must apply the following Security Guidelines:</p> <ul style="list-style-type: none"> a. The Augmentation Projects must be utilised at maximum permissible capacity in any financial year if: <ul style="list-style-type: none"> i. Total system storage levels are less than 65% on 31 March preceding that financial year, and ii. Sufficient storage capacity is forecast to be available within the Yarra Basin Reservoirs to accept water from the Augmentation Projects without materially increasing the risk of spills; b. Notwithstanding sub-clause 11.1(a), Melbourne's share of the water savings from the

	<p>Northern Victoria Irrigation Renewal Project may be foregone for critical needs in northern Victoria, provided that:</p> <ol style="list-style-type: none"> i. Stage 3 and 4 water restrictions are forecast to be avoided in Melbourne in that financial year, and ii. Appropriate costs are recovered.
9.2	<p>For the avoidance of doubt, the key concepts in sub-clause 9.1(b) should be interpreted to have the following meanings:</p> <ol style="list-style-type: none"> a. "Critical needs" means human needs as indicated by minimum demand under Stage 4 water restrictions being met by regional urban water authorities, rather than commercial needs as indicated by the availability of water to irrigators under seasonal allocations; and b. "Appropriate costs" means costs which, at that point in time, are the greater of: <ol style="list-style-type: none"> i. The market value of water in northern Victoria; and ii. The cost of sourcing and delivering an equivalent supply of water to the Melbourne headworks system from a source other than Melbourne's share of the water savings from the Northern Victoria Irrigation Renewal Project. c. The Commission may be asked by the Water Minister to facilitate the resolution of any dispute between the Authority, the other Melbourne retail authorities, Melbourne Water, any other regulated entity, or any of them, in relation to prices or standards and conditions of service and supply for any foregone water savings in accordance with sub-clauses 9.1, 9.2(a) and 9.2(b).
9.3	<p>The guidelines established under sub-clause 9.1 are to apply until 31 December 2014, or until such earlier time as varied by the Water Industry Minister after consultation with the Water Minister.</p>
PART 4 – COMPLIANCE	
10	Complying With Obligations
10.1	The Authority must monitor compliance with its obligations under Part 3 of this Statement.
10.2	<p>If the Authority becomes aware of a material failure to comply with its obligations under Part 3 of this Statement, the Authority must give the Water Industry Minister a written report, within 30 days after becoming aware of the failure, that includes:</p> <ol style="list-style-type: none"> a. The nature of and reason for the failure; and b. A proposed plan of action to prevent the failure re-occurring.
10.3	The Authority must make any variation to the plan of action referred to in subclause 10.2 requested by the Water Industry Minister in writing.
10.4	<p>The Authority must:</p> <ol style="list-style-type: none"> a. Implement the plan of action referred to in sub-clause 10.2, as varied by the Water Industry Minister; and b. Report its progress in implementing the plan, whenever the Water Industry Minister so requests in writing; and c. Summarise the contents of any plan made under sub-clause 10.2, and its progress in implementing the plan, in its annual report.
11	Dispute Resolution
11.1	If a difference or dispute arises between the Authority, the other Melbourne retail authorities, Melbourne Water or another bulk entitlement holder, or any of them, concerning the interpretation or application of this Statement, the Authority may give written notice to another party requiring the matter to be determined by an independent expert.
11.2	If a difference or dispute arises between the Authority, the other Melbourne retail authorities, another bulk entitlement holder or Melbourne Water, concerning the interpretation or application of this Order, and the other Melbourne retail authorities or the other bulk entitlement holder or Melbourne Water gives written notice to the Authority requiring the matter to be determined by an independent expert, the Authority must comply with the notice.
11.3	The notice requiring that the matter be determined by independent expert under sub-clause 11.1 may be given no sooner than 14 days after the matter has arisen. The independent expert may only commence to determine the matter a further 14 days after the giving of that notice.

11.4	The independent expert will be either: a. A person agreed to by the parties to the difference or dispute; or b. If the parties cannot agree, a person nominated by the President of the Institute of Arbitrators and Mediators, Australia.
11.5	The independent expert must reach a conclusion on the matter within 30 days of it being referred, but has the power to extend the period for reaching a conclusion on the matter by a further 30 days.
11.6	The independent expert must send a copy of the conclusion and its supporting reasons to each party to the difference or dispute.
11.7	In any difference or dispute to which the Water Minister or the Water Industry Minister is a party, the Authority must instruct the independent expert to express the conclusion as a recommendation.
11.8	In any difference or dispute to which the Water Minister or the Water Industry Minister is not a party, any conclusion by an independent expert is final and binding on the parties.
11.9	The parties may request the Water Minister or the Water Industry Minister to determine the apportionment of the costs of and incidental to every reference, including the costs of the independent expert.

SCHEDULE A – DEFINITIONS

The following definitions apply in this Statement:

“Augmentation Projects” means the Victorian Desalination Project and Melbourne’s share of the water savings from the Northern Victoria Irrigation Renewal Project, which will be transported via the Sugarloaf Pipeline.

“Authority” means South East Water.

“Commission” means the Essential Services Commission.

“Department” means the Department of Sustainability and Environment.

“Entitlement Holders” mean the holders of the entitlements listed in Schedule B.

“Environment Minister” has the same meaning as in section 3(1) of the *Water Act 1989*.

“Melbourne headworks system” has the same meaning as in Part 2 of this Statement.

“Melbourne retail authorities” mean any or all of three metropolitan retail water authorities holding the bulk entitlements listed in Schedule B to this Statement, being City West Water Ltd, South East Water Ltd and Yarra Valley Water Ltd.

“Melbourne’s share of the water savings from the Northern Victoria Irrigation Renewal Project” means the bulk entitlements established for that purpose, as listed in Schedule B to this Statement.

“Melbourne Water” means Melbourne Water Corporation.

“Northern Victoria Irrigation Renewal Project” means the program of works and measures to modernise and upgrade aging irrigation infrastructure in northern Victoria.

“Project Co” means the special purpose company established to deliver the Victorian Desalination Project.

“Project Deed” means the Victorian Desalination Project – Project Deed to be entered into between the State and Project Co.

“regulated entity” has the same meaning as in section 4A of the *Water Industry Act 1994*.

“Resource Manager” means a person appointed by the Water Minister under section 43A of the *Water Act 1989* in relation to the Melbourne headworks system.

“Statement” means this Statement of Obligations.

“Statement of Obligations (General)” means the Statement of Obligations that commenced on 1 July 2007 (as amended at 30 October 2008) for the Authority,

“Statement of Obligations (System Management)” means this Statement of Obligations.

“Sugarloaf Pipeline” means the water transmission pipeline between the Goulburn River system and the Melbourne headworks system, which is to be utilised for the transportation of Melbourne’s share of the water savings from the Northern Victoria Irrigation Renewal Project.

“Victorian Desalination Project” means the construction and carrying out of the works, facilities and services and all ancillary and incidental activities associated with the development and operation of a seawater desalination plant in the Bass Coast region, which will have an initial capacity of up to 150GL

per annum but will be capable of being upgraded to an ultimate capacity of up to 200GL per annum in accordance with the provisions of the Project Deed.

“**Water Industry Minister**” means the Minister administering the *Water Industry Act 1994*.

“**Water Minister**” means the Minister administering the *Water Act 1989* and/or, in relation to a provision, a person appointed by the Water Minister to act on the Water Minister's behalf in relation to that provision, or to whom the Minister has delegated the relevant power, discretion, function, authority or duty under section 306 of the *Water Act 1989*.

“**waterway**” has the same meaning as in sub-clause 6(b) of this Statement.

“**Yarra Basin Reservoirs**” mean the Upper Yarra, Sugarloaf, Silvan and Cardinia Reservoirs.

SCHEDULE B – BULK ENTITLEMENTS HELD BY THE MELBOURNE RETAIL AUTHORITIES FOR THE MELBOURNE HEADWORKS SYSTEM

Bulk entitlements in the Yarra River Basin

Bulk Entitlement (Yarra River – Melbourne Water for City West Water Limited) Conversion Order 2006;

Bulk Entitlement (Yarra River – Melbourne Water for South East Water Limited) Conversion Order 2006; and

Bulk Entitlement (Yarra River – Melbourne Water for Yarra Valley Water Limited) Conversion Order 2006.

Bulk entitlements in the Thomson River Basin

Transfer of Bulk Entitlement (Thomson River – Melbourne Water Corporation) Conversion Order 2001 to City West Water Limited 2006;

Transfer of Bulk Entitlement (Thomson River – Melbourne Water Corporation) Conversion Order 2001 to South East Water Limited 2006; and

Transfer of Bulk Entitlement (Thomson River – Melbourne Water Corporation) Conversion Order 2001 to Yarra Valley Water Limited 2006.

Bulk entitlements in the Goulburn River Basin

Bulk Entitlement (Silver & Wallaby Creeks – Melbourne Water for City West Water Limited) Conversion Order 2006;

Bulk Entitlement (Silver & Wallaby Creeks – Melbourne Water for South East Water Limited) Conversion Order 2006;

Bulk Entitlement (Silver & Wallaby Creeks – Melbourne Water for Yarra Valley Water Limited) Conversion Order 2006; and

Bulk entitlements established for Melbourne's share of the water savings from the Northern Victoria Irrigation Renewal Project, which are sourced from the Goulburn River Basin¹.

Bulk entitlements in the Murray River Basin

Bulk entitlements established for Melbourne's share of the water savings from the Northern Victoria Irrigation Renewal Project, which are sourced from the Murray River Basin¹.

Bulk entitlements in the Tarago and Bunyip Rivers Basin

Bulk Entitlement (Tarago and Bunyip Rivers – Melbourne Water for City West Water Limited) Conversion Order 2009;

Bulk Entitlement (Tarago and Bunyip Rivers – Melbourne Water for South East Water Limited) Conversion Order 2009; and

Bulk Entitlement (Tarago and Bunyip Rivers – Melbourne Water for Yarra Valley Water Limited) Conversion Order 2009.

Other bulk entitlements

Bulk entitlements established for desalinated water from the Victorian Desalination Project¹.

Notes:

1. Orders for these bulk entitlements have not yet been established but are proposed to be established during the term of this Statement.