**GROUND WATER (BORDER AGREEMENT) BILL 1985**

**Legislative Assembly, 24 October 1985, pages 1530 -2**

Second reading

 **The Hon. J.W. SLATER (Minister of Water Resources)** obtained leave and introduced a Bill for an Act to approve and provide for carrying out an agreement for the management of ground water adjacent to the border of South Australia and Victoria; to make related amendments to the Water Resources Act 1976; and for other purposes. Read a first time.

The Hon. J.W. SLATER: I move: That this Bill be now read a second time. The purpose of this Bill is to approve and ratify an agreement made between the States of South Australia and Victoria which provides for a coordinated management strategy for the underground water resources in the vicinity of the Victorian and South Australian borders. The agreement is set out as a schedule to the Bill. As some members will know, an examination of ground water resources along the border was commenced some years ago. This stemmed from a South Australian request that a mechanism for the legal sharing of the resource be arranged. In most areas adjacent to the border underground water is the only reliable water source and the agencies of both States responsible for these resources had been concerned that unregulated large scale withdrawals could compete with existing private and urban supplies, perhaps to a point where continuity of supply could not be assured. As well, because there is at present no provision for consideration of the potential effects of such withdrawals across the border, new and large-scale uses of ground water in one State could adversely affect established uses in the other.

Projections of existing and possible development of the resources in the border area have confirmed the advisability of joint management and sharing of the resources between the two States. The management strategy, which is the subject of the agreement, was evolved by a joint committee representing the agencies concerned. These agencies are: the Engineering and Water Supply Department, South Australia: the Rural Water Commission of Victoria; the Department of Mines and Energy, South Australia; and the Office of Minerals and Energy, Victoria.

The joint committee, with the aid of Professor S.D. Clark, Harrison Moore Professor of Law at Melbourne University, prepared a report incorporating a draft agreement and relevant supporting legislation.

The joint committee investigated several possible institutional arrangements for sharing and managing the resource adjacent to the border. It concluded that the most appropriate one was for an inter-State agreement to ensure protection to existing underground water users and facilitate the future use of that resource. Such an agreement forms the schedule to the Bill now before the House. The agreement is expressed to operate in both States within a distance of 20 km from the border along the total length of the border. This strip of border land, which is defined in the agreement as the ‘designated area’, is thus 40 km wide. The joint committee’s investigations have disclosed that the volume of the underground water resources within the designated area is such that existing ground water uses can safely continue and there is opportunity for expanded use in most areas with no significant adverse implications over the next century. The proposed policy is to divide the resource equally between the two States. For South Australia, the proposal will make available of the order of 137 000 ML per annum for agricultural, industrial and urban purposes, in addition to the present use of about 35 000 ML per annum. Whilst not quantified by the joint committee’s investigation, the assured future availability of this resource has obvious potential economic benefits to the community. I seek leave to have the explanation of the scheme of agreement and formal clauses inserted in Hansard without my reading them. Leave granted.

Explanation of Scheme of Agreement and Clauses

Before dealing with the Bill proper, I would now like to explain, generally, the scheme of the agreement. The first two clauses provide definitions of various terms which take account of the different terminology of the South Australian Water Resources Act 1976 and the Victorian Groundwater Act 1969 and apply the usual interpretation provisions. Clauses 3 to 19 are closely based on the provisions of the River Murray Waters Agreement signed by the Premier, the Prime Minister and the Premiers of Victoria and New South Wales on 1 October 1982. Within this group clauses 6 to 8 provide for the appointment, by the responsible Minister in each State, of two members and one deputy member to a review committee, which has the general oversight of the management plan. The remaining clauses in this group deal with formal procedural matters such as terms, powers, and remuneration of members, meeting procedure, and delegation.

Clauses 20 to 23 are again closely based on clauses in the River Murray Waters Agreement. They empower the Review Committee to coordinate studies of the use, control, protection, management or administration of groundwater within the designated area; to make recommendations to contracting Governments on such matters; and to review and recommend alterations to the agreement. Each Government binds itself to furnish the Review Committee with all necessary information for its functions. For the purposes of the management plan the designated area is divided into 11 segments or zones in each State, a total of 22 zones.

Clauses 24 to 26 state the management plan and provide means for applying appropriate management prescriptions to the various zones in each State. The legislation of each State is to be applied to all existing or future wells, except domestic and stock wells, within the zones in that State. No permits are to be granted or renewed within those zones, except in accordance with the management prescription set out in clause 26. In brief, this requires wells to be cased, where appropriate, and prevents further development when the permissible annual volume, or rate of draw-down, has been exceeded. Wells for other than stock and domestic purposes may be constructed within one kilometre of the State border only with the consent of the Review Committee.

Clause 27 obliges each State to prepare an annual report for the purposes of the Review Committee. Clause 28 requires the Review Committee to review the management plan for each zone at not more than five year intervals. It has power to make adjustments to minor aspects of the management plan on its own motion. It may recommend more important changes to the Ministers of both States. These more important changes are the establishment or alteration of permissible levels of salinity and the alteration of the permissible rate of draw-down in any zone. Such more important changes can only occur if both Ministers are in agreement.

Clause 29 gives the Review Committee power to declare restrictions in relation to any zone as the optimum level of development for that zone is approached or exceeded. The effect is not to prevent all future development, but to require all further development to be referred to the Review Committee for comment, before it proceeds. A compulsory cooling-off time of 30 days is also included before the Minister grants any permit in a zone subject to restrictions. In addition, if the Minister decides to grant a permit against the recommendations of the Review Committee he is obliged forthwith to notify the Minister of the other contracting State in order to allow that State to decide whether to exercise the right of appeal given to it. Clause 30 provides that the Review Committee shall report annually to each contracting Government. Clause 31 requires publication of decisions taken by the Review Committee, or by the relevant Minister, with respect to the management prescriptions embodied in the management plan.

I turn now to the provisions of the Bill, generally, as distinct from the agreement which is its schedule. The proposed legislation provides that the day-to-day execution of the management plan should rest with the licensing authorities of the respective States. In other words, no interstate executive body is needed to implement the management plan. This arrangement contrasts with other interstate agreements such as the River Murray Waters Agreement which provide for executive bodies. One advantage of such an arrangement is that no additional costs to Government are anticipated as the proposal will form part of the general management of the State’s underground water resources. The main advantages of the agreement are that it:

(a) commits each State to legislative action to require licensing authorities and appellate bodies to abide by the agreement and the management plan embodied therein:

(b) assumes that the licensing authorities in each State will remain responsible for administering the management plan in zones within that State;

(c) requires interstate consultation between the licensing authorities before granting permits for the construction or use of wells, other than domestic and stock wells, in certain defined circumstances: or in order to change details of the management plan;

(d) provides for the joint imposition of restrictions within any zone, after which interstate consultation becomes obligatory before further development is allowed in that zone; and (e) provides for the regular review, with a view to amendment, of the management plan and the agreement by means of a Review Committee.

In summary, I state that the Government believes this agreement provides a realistic and equitable framework for inter-governmental cooperation in the development of longterm strategies for protecting and harvesting the groundwater resource in the border area. As with any agreement, this one depends on the goodwill of the contracting parties—events so far confirm that this will be forthcoming. Clause 1 is forma,. Clause 2 provides for the commencement of the measure. Clause 3 provides that the Act is to bind the Crown. Clause 4 is the interpretation section. Clause 5 approves the agreement. Clause 6 relates to the appointment of two members and one deputy to the Review Committee constituted under the agreement. Clause 7 makes provision for the remuneration of members of the committee. Clause 8 confirms the powers of the Minister under the Act and the agreement. Clause 9 confirms the powers of the committee. Clause 10 allows members of the committee and other persons authorised by the committee to enter lands and to have access to any bore situated on those lands. Clause 11 allows the acquisition of land by the Minister under the Land Acquisition Act 1969 for the purposes of the agreement. A similar provision is contained in the Water Resources Act 1976. Clause 12 provides for the establishment and maintenance of observation bores. Clause 13 requires the Minister to submit to the Parliament a copy of the annual report received from the committee. Clause 14 provides for consequential amendments to the Water Resources Act 1976. The first schedule contains the amendments to the Water Resources Act 1976. The amendments are designed to prevent the Minister issuing certain licences and permits where to do so would be contrary to the agreement and also provide a right of appeal (given to the Victorian Government) in the event that a licence or permit is granted in contravention of the agreement. The second schedule contains the agreement.

The Hon. P.B. ARNOLD secured the adjournment of the debate.