

Indigenous fight for 'water justice' intensifies as Victoria hands back Murray-Darling entitlement

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For Brendan Kennedy, a Tati Tati traditional owner, the crimes of colonisation are not historical: "Our water is being stolen off us every moment of every day."

"We are river people, we are water people," he says. "Taking our water away from us depletes us. We can't survive without it."

Water is essential to Indigenous spirituality and beliefs, caring for country, looking after totemic species of animals, cultivating plants and foods, as well as cultural expressions, arts and performance.

These are some of the potential uses traditional owners could make of the water entitlements they are receiving for the first time in the southern Murray-Darling Basin as part of a government hand back.

The Victorian government has announced that 1.36 gigalitres has been set aside for traditional owners in northern Victoria as part of the latest audit of the Connections irrigation modernisation project out of a total 433GL recovered.

Kennedy, who is also deputy chair of Murray Lower Darling Rivers Indigenous Nations (MLDRIN), says that, even with the historic allocation, 1.36GL will only water one wetland in northern Victoria. However, there are many traditional owner groups who have several wetlands within country.

“Two-hundred and fifty years ago we owned all the water.”

The chair of MLDRIN, Ngarrindjeri man Grant Rigney, described the move as “an encouraging but long overdue initial step towards water justice for First Nations in the Murray-Darling Basin.”

Bruce Lindsay, a senior lawyer for Environmental Justice Australia, says while the announcement is “an important signal in water justice, it is a very small allocation in the scheme of things”, especially in comparison with the allocation other parties such as irrigators receive.

Lindsay says it highlights a wider issue: “The current water management system that we have was fundamentally designed around the invisibility of Aboriginal people.”

Lindsay says this action signals that more substantial reform to water legislation and governance is needed, such as giving traditional owners the same status as other key actors such as irrigators. Currently “it’s a bit like trying to get a square peg in a round hole”.

Andrew Leahy, the chair of the Victorian Farmers Federation’s Water Council, said the VFF would continue to work with the government to ensure irrigator interests are protected.



The hand back has been described as ‘an encouraging but long overdue initial step towards water justice for First Nations in the Murray-Darling Basin’.

“The costs associated with water for traditional owners cannot be met by existing entitlement holders.”

The VFF told Guardian Australia that delivery and storage costs need to be met by traditional owners or the government so that the costs of running the system do not fall on existing water users to subsidise.

The Central and Gippsland Region Sustainable Water Strategy draft says that because “traditional owners use water in numerous ways, many of which do not generate a direct financial return” they should not be charged water use fees.

It is understood that other water holders will not be responsible for any extra charges as a result of the traditional owners’ allocation.

Prof Sue Jackson, of the Australian Rivers Institute at Griffith University, said: “The current situation facing First Nations is dire.” Her research has shown First Nations people currently hold less than 0.2% of the water that can be extracted across the entire Murray-Darling Basin.

However, she says the Victorian government’s recent decision sets “a very important precedent in establishing First Nations as legitimate deserving parties to these types of water-sharing arrangements”.

While there have been very small amounts of water granted to Aboriginal groups native title settlements around the country, Jackson says they do not compare to this one in size or circumstance.

The announcement represents one-tenth of the water that is currently held by First Nations across the entire basin. The announcement is especially significant given the extreme contest for water in the Murray-Darling Basin, where “every drop is fought over and extremely valuable in economic terms”, she said.

Lindsay said the announcement was also significant in offering access to water that was not constrained in how traditional owners can use it. “Allocating water in any other way if it’s qualified or constrained for Aboriginal people tends to reproduce the exclusionary and patronising basis on which water law has been constructed.”

MLDRIN has challenged other southern basin states including NSW, ACT and South Australia and their respective water ministers to meet this benchmark as a minimum standard.

Rigney also challenged the federal government to “come to the table” so that water dispossession of First Nations groups can be addressed collectively.

Kennedy said “achieving water justice is a major part of self-determination for our people, but it can’t happen unless we’re given access [to government discussions] and are key decision makers”.

Badger Bates is a traditional owner of the Barkandji people, also a people of the river who take their name from the Baaka River.

Bates says the fight for water rights to the Darling-Baaka River has been “all our lives really and I’m 74”.

He hopes the announcement “might wake other governments up and say we need to do the same thing”.

Bates says traditional owners could use water entitlements to make sure the water is managed properly, especially ensuring a healthy environment for fish and wildlife.

“The Murray-Darling would flow for everyone, not just the Barkandji people,” Bates said.



Bruce Lindsay, a senior lawyer for Environmental Justice Australia, says the current water management system ‘was fundamentally designed around the invisibility of Aboriginal people’.

Rigney says First Nations people “sustained our lands, water and people since times immemorial. Yet we are never asked how did you do that? Because the western science platform does not look at cultural science.

“With the federal government’s ongoing failure to act on its 2018 commitment of \$40m for Aboriginal water access for cultural and economic outcomes, it’s time for the southern basin state governments to step up.”

Guardian Australia contacted Keith Pitt, the minister for resources and water, for comment and received the following response: “The program is now managed by Minister for Indigenous Australians, Ken Wyatt, through the National Indigenous Australians Agency and I am aware that the NIAA is consulting with communities across the basin to deliver this funding.

“The Australian government is also investing in Indigenous river rangers across the Murray-Darling Basin, to ensure there is support for on-ground jobs that matter to Indigenous people and improve the health of our rivers.”