

April/May 2010 [*in-Business South Australia*](#) magazine article transcript

University of SA Professor, Jennifer McKay has had several visits over the last 18 months in the USA telling legislators, legal practitioners in Washington, Utah and California, along with industry professionals, how Australia manages its precious water resources.

At the American Bar Association's 28th Annual Water Law Conference in San Diego in February, Prof McKay delivered a paper *Transitions toward Sustainability in Water Management Laws in Australia: Lessons for the Sister Federation – the USA*.

The paper reviews court decisions in NSW, Victoria and South Australia relating to ministerial discretions to review water allocations under water plans to achieve sustainable allocations. The paper also considers the recent Water Act and objects of it to manage water in the national interest.

It was food for thought on how Australia's experience could inform decisions for the Sacramento-San Joaquin River basin, Columbia River basin and the Colorado River basin.

“Water industry professionals are very keen to change the way water management is done in the USA, which is very fragmented,” Prof McKay says, noting the fragmentation is stalling debate over solutions as USA authorities struggle to reconcile competing interests.

“I have been telling them how Australia’s different policy frameworks include multiple solutions to problems,” Prof McKay says. Americans don’t yet understand how to imitate the sustainability ethos Australia has embedded in public policy.

“They (the Californian water industry) are looking to encourage their state government to take more of a planning role.”

Prof McKay says California is starting to yield opportunities for Australian water products and services, such as water recycling technology, but the situation is not yet so urgent as to force California to action. Decreasing snow melt water supply is the only evident cause for concern.

The American system of water supply control poses intractable legal problems. “One (jurisdiction) can build a desalination plant which then directly reduces the water supply available in another,” Prof McKay explains. “What’s lacking is a cohesive policy to get the parties speaking to each other. The allocation laws are making it difficult to achieve sustainable water use.”

Prof McKay says the legal hurdle of allocation has to be cleared before Australian innovations such as water rights trading can have widespread use.

“Water trading can help if it’s embedded in an allocation regime,” she says, “but at the moment I’m being asked questions like, ‘How did Australia make the transition?’”

After Prof McKay testified before a hearing of the California Assembly's Select Committee on Regional Approaches to Addressing the State's Water Crisis in February, the Committee chairman, Jose Solorio, said it was “important to look to other states for their best practices, and every now and then it's good to look to other countries as well”.

Mr Solorio noted Australia's success at reducing per capita water use “to 30 to 50 gallons a day, compared with about 180 gallons in California” through water restrictions, recycling water and widespread use of water-efficient appliances.

Last year California lawmakers set a goal of reducing urban water use by 20% by 2020.

"We are shameful in the volume of water we use in this state. It's embarrassing when we talk to people in other places around the world ... people fall out of their chairs when they hear how much water we use," statewide drought coordinator for the Department of Water Resources, Wendy Martin told the Select Committee. Ms Martin was a delegate in the November 2009 USA water industry mission to Australia.

"These guys really know how to do conservation, recycling, and storm-water management. They are world leaders in these areas. And there is much for us to learn," she said. "And they have mastered desalination."

Other delegates, from water authorities from several western states of the USA and Mexico, are talking up Australian water innovation at home.

"Australia is truly the canary in the coal mine with the most severe impacts of climate change," Tim Brick, chairman of the Pasadena Metropolitan Water District board told the Select Committee.

Mr Brick said California is “10 years behind Australia in making the sea change that country did”.

He noted water infrastructure investments had raised the cost of water in Australia to twice what Californians pay. While a desalination plant is under construction near Carlsbad on California's coast, Mr Brick told media there was more to be done in water conservation.

While the idea of ceding control of water infrastructure to Federal authorities “shocked” California's legislators, Mr Brick advocated Federal control as a sensible move.

"You have these river systems that go through four, five, six, seven states, and yet there is such a minimal federal role ... we have a Department of Energy, we have a Department of Education, but we don't have a Department of Water," he told the Select Committee.